

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2007-08

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on
Corrections and
Courts
(AC-CC)**

(Form Updated: 07/24/2009)

COMMITTEE NOTICES ...

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** **07hr_ab0185_AC-CC_pt01**

➤ Miscellaneous ... Misc
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Nowlan, Andrew

From: Jim Palmer [palmer@wppa.com]
Sent: Thursday, January 18, 2007 12:47 PM
To: Nowlan, Andrew
Subject: RE: AB 185, Retrial of Protective Employees
Attachments: LaCrosse Editorial.pdf

I am glad to provide a response to the concerns raised by Mr. Brehm. Please find a guest editorial that I wrote on this issue in 2005. I think it adequately and succinctly addresses many of Mr. Brehm's arguments, but I will add the following:

2. The bill does not include Milwaukee, who as a city of the first class, is governed by a different law and which provides for a much different process (as you know).
4. I won't directly address this one, but it's worth noting that PFC members are appointed by the mayor (and not "the body politic").
5. The Janesville decision essentially held that arbitration of discipline was not identified as a subject of bargaining and therefore could not be bargained. This legislation aims to correct that.
6. The bill does not remove anyone's standing...the PFC continues to operate just as they do today, only the avenue for an appeal would change, and only if the municipality agrees to offer it in the collective bargaining process (which, as is stated in the attached editorial, would require the officers to give something up in order to get it).
7. Municipalities are very intelligent, and the scope of review for the arbitration can be something that is addressed in bargaining between the local police union and their employer. Every other class of public employees can bargain over this stuff, and officers in towns, villages, and cities should have the same rights afforded to them. In fact, legislation changing those rights for other public employees has never been introduced, indicating that no one seems to think the law is bad. In addition, the practice of arbitration of discipline was considered lawful for 12 years prior to the Janesville decision, and no one ever sought to legislatively change it.
8. Senator Ellis's compromise struck a very different piece of legislation. In 1993 when the "Seven Just Cause Standards" were established, that legislation would have allowed an officer to go to arbitration rather than the PFC. By contrast, this bill would simply allow an officer to appeal a PFC decision to an arbitrator, rather than circuit court, and only where agreed to in the bargaining process. Senator Ellis voted for the arbitration of discipline legislation as it stands in its current form the last time the State Senate considered the measure in 2001 (see 2001 Senate Bill 185).
9. This one is so absurd that I don't even know how to respond. Arbitrators are arbitrary? If they truly act in their own self-interest, as asserted by Mr. Brehm, then it is in their interests to rule fairly. If they do not, employers will strike them as arbitrators and the arbitrator will get less work.
10. No it's not...see Milwaukee.

I hope this helps. Don't hesitate to let me know if I can provide additional information. Thanks.

Jim

From: Nowlan, Andrew [mailto:Andrew.Nowlan@legis.wisconsin.gov]
Sent: Thursday, January 18, 2007 10:56 AM
To: Jim Palmer
Subject: FW: AB 185, Retrial of Protective Employees

Jim,

Is there a response for us?

Andrew Nowlan

03/07/2007

Research Assistant
Office of Rep. Garey Bies

From: Brehm, Mike [mailto:Mike@ci.marshfield.wi.us]
Sent: Wednesday, January 17, 2007 10:24 AM
To: Rep.Vruwink; Sen.Lassa; Rep.Schneider; Rep.Suder
Cc: Meyers, Michael
Subject: AB 185, Retrial of Protective Employees

Good Morning,

I am writing to request your support in opposing the above-mentioned bill for the following reasons:

1. The bill is a non-funded mandate.
2. The bill does not include all cities and villages.
3. Sheriffs derive their powers from the State's Constitution and Police Chiefs derive their powers from the people.
4. Police and Fire Commissions represent the body politic, not the City.
5. The Janesville decision that made discipline a forbidden subject of bargaining did so to protect the public.
6. The bill would remove the publics' standing. A deal could be cut between the city and the union before arbitration, even if the case were prompted by a citizen complaint. Citizens now have the same standing as any Chief.
7. This bill is not about appeal, but creates a whole new hearing.
8. This bill was combined with the "Seven Just Cause Standards" at one time. Under the direction of then Majority Leader Ellis a compromise was struck that avoided arbitration and put the standards in the statutes. This recommendation was made by the Alliance of Cities.
9. Arbitrators are arbitrary and consistently make decisions based on their own self-interest.
10. The current system is the same for all larger cities.

Please reject this legislation. If you should want to discuss this further let me know. Thanks for your consideration.

Michael F. Brehm

City Administrator

715-387-6597

03/07/2007