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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1500/~~P4~~ P5
CMH&RAC:kjf&bjk:jf

RMR

DOA:.....Rhodes, BB0408 - Collective bargaining for University of Wisconsin System faculty and academic staff

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Under current law, faculty and academic staff of the UW System do not have collective bargaining rights under the State Employment Labor Relations Act (SELRA). This bill provides faculty and academic staff of the UW System collective bargaining rights under state law in a manner similar to that provided other state employees under SELRA.

This bill provides all UW System academic staff and all faculty, including specifically faculty who are supervisors or managers, with the right to collectively bargain over wages, hours, and conditions of employment. Collective bargaining units are structured with separate units for faculty at UW-Madison, at UW-Milwaukee, and at each of the UW System campuses and for academic staff at UW-Madison, at UW-Milwaukee, and at each of the UW System campuses. The bill also provides that, if the employees approve by vote, any two or more units for faculty may be combined into a single unit and any two or more units for academic staff may be combined into a single unit. Representatives for each unit are chosen by election.

Unfair labor practices for UW System academic staff and faculty collective bargaining are generally the same as those under SELRA, except that the bill specifically provides that it is not an unfair labor practice for the Board of Regents of the UW System to implement changes in salaries or conditions of employment for

members of the faculty or academic staff at one UW institution and not for such persons at other UW institutions if certain conditions are met. The bill specifically authorizes fair-share and maintenance of membership agreements for UW academic staff and faculty collective bargaining, as is the case under SELRA. The bill also prohibits strikes.

Under the bill, the subjects of collective bargaining are the same as under SELRA, except that collective bargaining is prohibited on the mission and goals of the Board of Regents of the UW System; the diminution of the right of tenure provided faculty; the rights granted faculty and academic staff under current law; and academic freedom. Finally, under the bill, collective bargaining agreements covering UW faculty and academic staff must be approved by the Joint Committee on Employment Relations and adopted by the legislature.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 7.33 (4) of the statutes is amended to read:

2 7.33 **(4)** Except as otherwise provided in this subsection, each local
3 governmental unit, as defined in s. 16.97 (7), may, and each state agency shall, upon
4 proper application under sub. (3), permit each of its employees to serve as an election
5 official under s. 7.30 without loss of fringe benefits or seniority privileges earned for
6 scheduled working hours during the period specified in sub. (3), without loss of pay
7 for scheduled working hours during the period specified in sub. (3) except as provided
8 in sub. (5), and without any other penalty. For employees who are included in a
9 collective bargaining unit for which a representative is recognized or certified under
10 subch. V <u>or VI</u> of ch. 111, this subsection shall apply unless otherwise provided in a
11 collective bargaining agreement.

12 **SECTION 2.** 13.111 (2) of the statutes is amended to read:

13.111 **(2)** DUTIES. The joint committee on employment relations shall perform the functions assigned to it under ~~subch.~~ subchs. V and VI of ch. 111, subch. II of ch. 230 and ss. 16.53 (1) (d) 1., 20.916, 20.917, 20.923 and 40.05 (1) (b).

SECTION 3. 16.50 (3) (e) of the statutes is amended to read:

16.50 **(3)** (e) No pay increase may be approved unless it is at the rate or within the pay ranges prescribed in the compensation plan or as provided in a collective bargaining agreement under subch. V or VI of ch. 111.

SECTION 4. 16.705 (3) (c) of the statutes is amended to read:

16.705 **(3)** (c) Do not enter into any contract for contractual services in conflict with any collective bargaining agreement under subch. V or VI of ch. 111.

SECTION 5. 19.82 (1) of the statutes is amended to read:

19.82 **(1)** "Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a long-term care district under s. 46.2895; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV ~~or~~, V, or VI of ch. 111.

SECTION 6. 19.85 (3) of the statutes is amended to read:

19.85 **(3)** Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under subch. I, IV ~~or~~, V, or VI of ch. 111 which has been negotiated by such body or on its behalf.

1 **SECTION 7.** 19.86 of the statutes is amended to read:

2 **19.86 Notice of collective bargaining negotiations.** Notwithstanding s.
3 19.82 (1), where notice has been given by either party to a collective bargaining
4 agreement under subch. I, IV ~~or~~, V, or VI of ch. 111 to reopen such agreement at its
5 expiration date, the employer shall give notice of such contract reopening as provided
6 in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be given
7 by the employer's chief officer or such person's designee.

8 **SECTION 8.** 20.425 (1) (a) of the statutes is amended to read:

9 20.425 **(1)** (a) *General program operations.* The amounts in the schedule for
10 the purposes provided in subchs. I, IV ~~and~~, V, and VI of ch. 111 and s. 230.45 (1).

11 **SECTION 9.** 20.425 (1) (i) of the statutes is amended to read:

12 20.425 **(1)** (i) *Fees, collective bargaining training, publications, and appeals.*
13 The amounts in the schedule for the performance of fact-finding, mediation, and
14 arbitration functions, for the provision of copies of transcripts, for the cost of
15 operating training programs under ss. 111.09 (3), 111.71 (5), and 111.94 (3), for the
16 preparation of publications, transcripts, reports, and other copied material, and for
17 costs related to conducting appeals under s. 230.45. All moneys received under ss.
18 111.09 (1) and (2), 111.71 (1) and (2), 111.94 (1) and (2), 111.9993, and 230.45 (3), all
19 moneys received from arbitrators and arbitration panel members, and individuals
20 who are interested in serving in such positions, and from individuals and
21 organizations who participate in other collective bargaining training programs
22 conducted by the commission, and all moneys received from the sale of publications,
23 transcripts, reports, and other copied material shall be credited to this appropriation
24 account.

25 ~~**SECTION 10.** 20.545 (1) (a) of the statutes is amended to read:~~

20.545 **(1)** (a) *General program operations.* The amounts in the schedule to administer the employment relations functions and the civil service system under ~~subch.~~ subchs. V and VI of ch. 111 and ch. 230, to pay awards under s. 230.48 and to defray the expenses of the state employees suggestion board.

SECTION 11. 20.545 (1) (km) of the statutes is amended to read:

20.545 **(1)** (km) *Collective bargaining grievance arbitrations.* The amounts in the schedule for the payment of the state's share of costs related to collective bargaining grievance arbitrations under s. 111.86 and related to collective bargaining grievance arbitrations under s. 111.993. All moneys received from state agencies for the purpose of reimbursing the state's share of the costs related to grievance arbitrations under s. 111.86 and to reimburse the state's share of costs for training related to grievance arbitrations, and all moneys received from institutions, as defined in s. 36.05 (9), for the purpose of reimbursing the state's share of the costs related to grievance arbitrations under s. 111.993 and to reimburse the state's share of costs for training related to grievance arbitrations shall be credited to this appropriation account.

SECTION 12. 20.865 (1) (ci) of the statutes is amended to read:

20.865 **(1)** (ci) *Nonrepresented university system senior executive, faculty and academic pay adjustments.* A sum sufficient to pay the cost of pay and related adjustments approved by the joint committee on employment relations under s. 230.12 (3) (e) for University of Wisconsin System employees under ss. 20.923 (4g), (5) and (6) (m) and 230.08 (2) (d) who are not included within a collective bargaining unit for which a representative is certified under subch. V or VI of ch. 111, as determined under s. 20.928, other than adjustments funded under par. (cj).

SECTION 13. 20.865 (1) (cm) of the statutes is created to read:

1 20.865 **(1)** (cm) *Represented university faculty and academic staff pay*
2 *adjustments.* A sum sufficient to supplement the appropriations to the Board of
3 Regents of the University of Wisconsin System for the cost of compensation and
4 related adjustments approved by the legislature under s. 111.9991 for University of
5 Wisconsin System employees under s. 230.08 (2) (d) who are included within a
6 collective bargaining unit for which a representative is certified under subch. VI of
7 ch. 111, as determined under s. 20.928.

8 **SECTION 14.** 20.865 (1) (ic) of the statutes is amended to read:

9 20.865 **(1)** (ic) *Nonrepresented university system senior executive, faculty and*
10 *academic pay adjustments.* From the appropriate program revenue and program
11 revenue-service accounts, a sum sufficient to supplement the appropriations to the
12 University of Wisconsin System to pay the cost of pay and related adjustments
13 approved by the joint committee on employment relations under s. 230.12 (3) (e) for
14 University of Wisconsin System employees under ss. 20.923 (4g), (5) and (6) (m) and
15 230.08 (2) (d) who are not included within a collective bargaining unit for which a
16 representative is certified under subch. V <u>or VI</u> of ch. 111, as determined under s.
17 20.928, other than adjustments funded under par. (cj).

18 **SECTION 15.** 20.865 (1) (im) of the statutes is created to read:

19 20.865 **(1)** (im) *Represented university system faculty and academic staff pay*
20 *adjustments; program revenue.* From the appropriate program revenue and program
21 revenue-service accounts, a sum sufficient to supplement the appropriations to the
22 Board of Regents of the University of Wisconsin System for the cost of compensation
23 and related adjustments approved by the joint committee on employment relations
24 under s. 230.12 (3) (e) for University of Wisconsin System employees under s. 230.08

1 (2) (d) who are included within a collective bargaining unit for which a representative
2 is certified under subch. VI of ch. 111, as determined under s. 20.928.

3 **SECTION 16.** 20.865 (1) (si) of the statutes is amended to read:

4 20.865 **(1)** (si) *Nonrepresented university system senior executive, faculty and*
5 *academic pay adjustments.* From the appropriate segregated funds, a sum sufficient
6 to supplement the appropriations to the University of Wisconsin System to pay the
7 cost of pay and related adjustments approved by the joint committee on employment
8 relations under s. 230.12 (3) (e) for University of Wisconsin System employees under
9 ss. 20.923 (4g), (5) and (6) (m) and 230.08 (2) (d) who are not included within a
10 collective bargaining unit for which a representative is certified under subch. V <u>or</u>
11 <u>VI</u> of ch. 111, as determined under s. 20.928.

12 **SECTION 17.** 20.865 (1) (sm) of the statutes is created to read:

13 20.865 **(1)** (sm) *Represented university faculty and academic staff pay*
14 *adjustments; segregated revenues.* From the appropriate segregated funds, a sum
15 sufficient to supplement the appropriations to the Board of Regents of the University
16 of Wisconsin System for the cost of compensation and related adjustments approved
17 by the joint committee on employment relations under s. 230.12 (3) (e) for University
18 of Wisconsin System employees under s. 230.08 (2) (d) who are included within a
19 collective bargaining unit for which a representative is certified under subch. VI of
20 ch. 111, as determined under s. 20.928.

21 **SECTION 18.** 20.917 (3) (b) of the statutes is amended to read:

22 20.917 **(3)** (b) This subsection applies to employees in all positions in the civil
23 service, including those employees in positions included in collective bargaining
24 units under subch. V <u>or VI</u> of ch. 111, whether or not the employees are covered by
25 a collective bargaining agreement.

1 **SECTION 19.** 20.923 (6) (intro.) of the statutes is amended to read:

2 20.923 **(6)** SALARIES SET BY APPOINTING AUTHORITIES. (intro.) Salaries for the
3 following positions may be set by the appointing authority, subject to restrictions
4 otherwise set forth in the statutes and the compensation plan under s. 230.12, except
5 where the salaries are a subject of bargaining with a certified representative of a
6 collective bargaining unit under s. 111.91 <u>or 111.998</u>:

7 **SECTION 20.** 20.928 (1) of the statutes is amended to read:

8 20.928 **(1)** Each state agency head shall certify to the department of
9 administration, at such time and in such manner as the secretary of administration
10 prescribes, the sum of money needed by the state agency from the appropriations
11 under s. 20.865 (1) (c), (ci), <u>(cm),</u> (cj), (d), (i), (ic), <u>(im),</u> (j), (s), (si), <u>(sm),</u> and (t). Upon
12 receipt of the certifications together with such additional information as the
13 secretary of administration prescribes, the secretary shall determine the amounts
14 required from the respective appropriations to supplement state agency budgets.

15 **SECTION 21.** 36.09 (1) (j) of the statutes is amended to read:

16 36.09 **(1)** (j) Except where such matters are a subject of bargaining with a
17 certified representative of a collective bargaining unit under s. 111.91 <u>or 111.998</u>, the
18 board shall establish salaries for persons not in the classified staff prior to July 1 of
19 each year for the next fiscal year, and shall designate the effective dates for payment
20 of the new salaries. In the first year of the biennium, payments of the salaries
21 established for the preceding year shall be continued until the biennial budget bill
22 is enacted. If the budget is enacted after July 1, payments shall be made following
23 enactment of the budget to satisfy the obligations incurred on the effective dates, as
24 designated by the board, for the new salaries, subject only to the appropriation of
25 funds by the legislature and s. 20.928 (3). This paragraph does not limit the

authority of the board to establish salaries for new appointments. The board may not increase the salaries of employees specified in ss. 20.923 (5) and (6) (m) and 230.08 (2) (d) under this paragraph unless the salary increase conforms to the proposal as approved under s. 230.12 (3) (e) or the board authorizes the salary increase to correct salary inequities under par. (h), to fund job reclassifications or promotions, or to recognize competitive factors. The board may not increase the salary of any position identified in s. 20.923 (4g) under this paragraph unless the salary increase conforms to the proposal as approved under s. 230.12 (3) (e) or the board authorizes the salary increase to correct a salary inequity or to recognize competitive factors. The board may not increase the salary of any position identified in s. 20.923 (4g) (ae) and (am) to correct a salary inequity that results from the appointment of a person to a position identified in s. 20.923 (4g) (ae) and (am) unless the increase is approved by the office of state employment relations. The granting of salary increases to recognize competitive factors does not obligate inclusion of the annualized amount of the increases in the appropriations under s. 20.285 (1) for subsequent fiscal bienniums. No later than October 1 of each year, the board shall report to the joint committee on finance and the secretary of administration and director of the office of state employment relations concerning the amounts of any salary increases granted to recognize competitive factors, and the institutions at which they are granted, for the 12-month period ending on the preceding June 30.

SECTION 22. 40.02 (25) (b) 8. of the statutes is amended to read:

40.02 **(25)** (b) 8. Any other state employee for whom coverage is authorized under a collective bargaining agreement pursuant to subch. I ~~or~~, V, or VI of ch. 111 or under s. 230.12 or 233.10.

SECTION 23. 40.05 ~~(1)~~ (b) of the statutes is amended to read:

40.05 **(1)** (b) In lieu of employee payment, the employer may pay all or part of the contributions required by par. (a), but all the payments shall be available for benefit purposes to the same extent as required contributions deducted from earnings of the participating employees. Action to assume employee contributions as provided under this paragraph shall be taken at the time and in the form determined by the governing body of the participating employer. The state shall pay under this paragraph for employees who are covered by a collective bargaining agreement under subch. V <u>or VI</u> of ch. 111 and for employees whose fringe benefits are determined under s. 230.12 an amount equal to 4% <u>4 percent</u> of the earnings paid by the state unless otherwise provided in a collective bargaining agreement under subch. V <u>or VI</u> of ch. 111 or unless otherwise determined under s. 230.12. The University of Wisconsin Hospitals and Clinics Authority shall pay under this paragraph for employees who are covered by a collective bargaining agreement under subch. I of ch. 111 and for employees whose fringe benefits are determined under s. 233.10 an amount equal to 4% <u>4 percent</u> of the earnings paid by the authority unless otherwise provided in a collective bargaining agreement under subch. I of ch. 111 or unless otherwise determined under s. 233.10. The state shall pay under this paragraph for employees who are not covered by a collective bargaining agreement under subch. V <u>or VI</u> of ch. 111 and for employees whose fringe benefits are not determined under s. 230.12 an amount equal to 4% <u>4 percent</u> of the earnings paid by the state unless a different amount is recommended by the director of the office of state employment relations and approved by the joint committee on employment relations in the manner provided for approval of changes in the compensation plan under s. 230.12 (3). The University of Wisconsin Hospitals and Clinics Authority shall pay under this paragraph for its employees who are not covered by a collective

bargaining agreement under subch. I of ch. 111 an amount equal to 4% 4 percent of the earnings paid by the authority unless a different amount is established by the board of directors of the authority under s. 233.10.

SECTION 24. 40.05 (4) (ag) (intro.) of the statutes is amended to read:

40.05 **(4)** (ag) (intro.) Beginning on January 1, 2004, except as otherwise provided in accordance with a collective bargaining agreement under subch. I ~~or~~, V, or VI of ch. 111 or s. 230.12 or 233.10, the employer shall pay for its currently employed insured employees:

SECTION 25. 40.05 (4) (ar) of the statutes is amended to read:

40.05 **(4)** (ar) The employer shall pay under par. (a) for employees who are not covered by a collective bargaining agreement under subch. I ~~or~~, V, or VI of ch. 111 and for employees whose health insurance premium contribution rates are not determined under s. 230.12 or 233.10 an amount equal to the amount specified in par. (ag) unless a different amount is recommended by the director of the office of state employment relations and approved by the joint committee on employment relations in the manner provided for approval of changes in the compensation plan under s. 230.12 (3).

SECTION 26. 40.05 (4) (b) of the statutes is amended to read:

40.05 **(4)** (b) Except as provided under pars. (bc) and (bp), accumulated unused sick leave under ss. 13.121 (4), 36.30, 230.35 (2), 233.10, and 757.02 (5) and subch. I ~~or~~, V, or VI of ch. 111 of any eligible employee shall, at the time of death, upon qualifying for an immediate annuity or for a lump sum payment under s. 40.25 (1) or upon termination of creditable service and qualifying as an eligible employee under s. 40.02 (25) (b) 6. or 10., be converted, at the employee's highest basic pay rate he or she received while employed by the state, to credits for payment of health

1 insurance premiums on behalf of the employee or the employee's surviving insured
2 dependents. Any supplemental compensation that is paid to a state employee who
3 is classified under the state classified civil service as a teacher, teacher supervisor,
4 or education director for the employee's completion of educational courses that have
5 been approved by the employee's employer is considered as part of the employee's
6 basic pay for purposes of this paragraph. The full premium for any eligible employee
7 who is insured at the time of retirement, or for the surviving insured dependents of
8 an eligible employee who is deceased, shall be deducted from the credits until the
9 credits are exhausted and paid from the account under s. 40.04 (10), and then
10 deducted from annuity payments, if the annuity is sufficient. The department shall
11 provide for the direct payment of premiums by the insured to the insurer if the
12 premium to be withheld exceeds the annuity payment. Upon conversion of an
13 employee's unused sick leave to credits under this paragraph or par. (bf), the
14 employee or, if the employee is deceased, the employee's surviving insured
15 dependents may initiate deductions from those credits or may elect to delay
16 initiation of deductions from those credits, but only if the employee or surviving
17 insured dependents are covered by a comparable health insurance plan or policy
18 during the period beginning on the date of the conversion and ending on the date on
19 which the employee or surviving insured dependents later elect to initiate
20 deductions from those credits. If an employee or an employee's surviving insured
21 dependents elect to delay initiation of deductions from those credits, an employee or
22 the employee's surviving insured dependents may only later elect to initiate
23 deductions from those credits during the annual enrollment period under par. (be).
24 A health insurance plan or policy is considered comparable if it provides hospital and

1 medical benefits that are substantially equivalent to the standard health insurance
2 plan established under s. 40.52 (1).

3 **SECTION 27.** 40.05 (4) (bw) of the statutes is amended to read:

4 40.05 **(4)** (bw) On converting accumulated unused sick leave to credits for the
5 payment of health insurance premiums under par. (b), the department shall add
6 additional credits, calculated in the same manner as are credits under par. (b), that
7 are based on a state employee's accumulated sabbatical leave or earned vacation
8 leave from the state employee's last year of service prior to retirement, or both. The
9 department shall apply the credits awarded under this paragraph for the payment
10 of health insurance premiums only after the credits awarded under par. (b) are
11 exhausted. This paragraph applies only to state employees who are eligible for
12 accumulated unused sick leave conversion under par. (b) and who are entitled to the
13 benefits under this paragraph pursuant to a collective bargaining agreement under
14 subch. V <u>or VI</u> of ch. 111.

15 **SECTION 28.** 40.05 (4g) (a) 4. of the statutes is amended to read:

16 40.05 **(4g)** (a) 4. Has received a military leave of absence under s. 230.32 (3) (a)
17 or 230.35 (3), under a collective bargaining agreement under subch. V <u>or VI</u> of ch. 111
18 or under rules promulgated by the director of the office of state employment relations
19 or is eligible for reemployment with the state under s. 321.64 after completion of his
20 or her service in the U.S. armed forces.

21 **SECTION 29.** 40.05 (5) (intro.) of the statutes is amended to read:

22 40.05 **(5)** INCOME CONTINUATION INSURANCE PREMIUMS. (intro.) For the income
23 continuation insurance provided under subch. V the employee shall pay the amount
24 remaining after the employer has contributed the following or, if different, the

amount determined under a collective bargaining agreement under subch. I ~~or~~, V, or VI of ch. 111 or s. 230.12 or 233.10:

SECTION 30. 40.05 (5) (b) 4. of the statutes is amended to read:

40.05 **(5)** (b) 4. The accrual and crediting of sick leave shall be determined in accordance with ss. 13.121 (4), 36.30, 230.35 (2), 233.10 and 757.02 (5) and subch. I ~~or~~, V, or VI of ch. 111.

SECTION 31. 40.05 (6) (a) of the statutes is amended to read:

40.05 **(6)** (a) Except as otherwise provided in accordance with a collective bargaining agreement under subch. I ~~or~~, V, or VI of ch. 111 or s. 230.12 or 233.10, each insured employee under the age of 70 and annuitant under the age of 65 shall pay for group life insurance coverage a sum, approved by the group insurance board, which shall not exceed 60 cents monthly for each $1,000 of group life insurance, based upon the last amount of insurance in force during the month for which earnings are paid. The equivalent premium may be fixed by the group insurance board if the annual compensation is paid in other than 12 monthly installments.

SECTION 32. 40.62 (2) of the statutes is amended to read:

40.62 **(2)** Sick leave accumulation shall be determined in accordance with rules of the department, any collective bargaining agreement under subch. I ~~or~~, V, or VI of ch. 111, and ss. 13.121 (4), 36.30, 230.35 (2), 233.10, 757.02 (5) and 978.12 (3).

SECTION 33. 40.80 (3) of the statutes is amended to read:

40.80 **(3)** Any action taken under this section shall apply to employees covered by a collective bargaining agreement under subch. V or VI of ch. 111.

SECTION 34. 40.81 (3) of the statutes is amended to read:

40.81 **(3)** Any action taken under this section shall apply to employees covered by a collective bargaining agreement under subch. IV ~~or~~, V, or VI of ch. 111.

1 **SECTION 35.** 40.95 (1) (a) 2. of the statutes is amended to read:

2 40.95 **(1)** (a) 2. The employee has his or her compensation established in a
3 collective bargaining agreement under subch. V <u>or VI</u> of ch. 111.

4 **SECTION 36.** Subchapter VI of chapter 111 of the statutes [precedes 111.95] is
5 created to read:

6 **CHAPTER 111**

7 SUBCHAPTER VI

8 UNIVERSITY OF WISCONSIN SYSTEM

9 FACULTY AND ACADEMIC STAFF

10 LABOR RELATIONS

11 **111.95 Declaration of policy.** The public policy of the state as to labor
12 relations and collective bargaining involving faculty and academic staff at the
13 University of Wisconsin System, in furtherance of which this subchapter is enacted,
14 is as follows:

15 **(1)** The people of the state of Wisconsin have a fundamental interest in
16 developing harmonious and cooperative labor relations within the University of
17 Wisconsin System.

18 **(2)** It recognizes that there are 3 major interests involved: that of the public,
19 that of the employee, and that of the employer. These 3 interests are to a considerable
20 extent interrelated. It is the policy of this state to protect and promote each of these
21 interests with due regard to the rights of the others.

22 **111.96 Definitions.** In this subchapter:

23 **(1)** "Academic staff" has the meaning given under s. 36.05 (1), but does not
24 include any individual holding an appointment under s. 36.13 or 36.15 (2m) or who
25 is appointed to a visiting faculty position.

1 **(2)** "Board" means the Board of Regents of the University of Wisconsin System.
2 **(3)** "Collective bargaining" means the performance of the mutual obligation of
3 the state as an employer, by its officers and agents, and the representatives of its
4 employees, to meet and confer at reasonable times, in good faith, with respect to the
5 subjects of bargaining provided in s. 111.998 with the intention of reaching an
6 agreement, or to resolve questions arising under such an agreement. The duty to
7 bargain, however, does not compel either party to agree to a proposal or require the
8 making of a concession. Collective bargaining includes the reduction of any
9 agreement reached to a written and signed document.
10 **(4)** "Collective bargaining unit" means a unit established under s. 111.98 (1).
11 **(5)** "Commission" means the employment relations commission.
12 **(6)** "Election" means a proceeding conducted by the commission in which the
13 employees in a collective bargaining unit cast a secret ballot for collective bargaining
14 representatives, or for any other purpose specified in this subchapter.
15 **(7)** "Employee" includes:
16 (a) All faculty, including specifically faculty who are supervisors or
17 management employees, but not including faculty holding a limited appointment
18 under s. 36.17 or deans.
19 (b) All academic staff, except for supervisors, management employees, and
20 individuals who are privy to confidential matters affecting the employer-employee
21 relationship.
22 **(8)** "Employer" means the state of Wisconsin.
23 **(9)** "Faculty" has the meaning given in s. 36.05 (8), except for an individual
24 holding an appointment under s. 36.15.

1 **(10)** "Fair-share agreement" means an agreement between the employer and
2 a labor organization representing employees under which all of the employees in a
3 collective bargaining unit are required to pay their proportionate share of the cost
4 of the collective bargaining process and contract administration measured by the
5 amount of dues uniformly required of all members.

6 **(11)** "Institution" has the meaning given in s. 36.05 (9).

7 **(12)** "Labor dispute" means any controversy with respect to the subjects of
8 bargaining provided in this subchapter.

9 **(13)** "Labor organization" means any employee organization whose purpose is
10 to represent employees in collective bargaining with the employer, or its agents, on
11 matters pertaining to terms and conditions of employment, but does not include any
12 organization that does any of the following:

13 (a) Advocates the overthrow of the constitutional form of government in the
14 United States.

15 (b) Discriminates with regard to the terms or conditions of membership
16 because of race, color, creed, sex, age, sexual orientation, or national origin.

17 **(14)** "Maintenance of membership agreement" means an agreement between
18 the employer and a labor organization representing employees that requires that all
19 of the employees whose dues are being deducted from earnings under s. 20.921 (1)
20 or 111.992 at or after the time the agreement takes effect shall continue to have dues
21 deducted for the duration of the agreement and that dues shall be deducted from the
22 earnings of all employees who are hired on or after the effective date of the
23 agreement.

24 **(15)** "Management employees" include those personnel engaged
25 predominately in executive and managerial functions.

1 **(16)** "Office" means the office of state employment relations in the department
2 of administration.

3 **(17)** "Referendum" means a proceeding conducted by the commission in which
4 employees, or supervisors specified in s. 111.98 (5), in a collective bargaining unit
5 may cast a secret ballot on the question of directing the labor organization and the
6 employer to enter into a fair-share or maintenance of membership agreement or to
7 terminate such an agreement.

8 **(18)** "Representative" includes any person chosen by an employee to represent
9 the employee.

10 **(19)** "Strike" includes any strike or other concerted stoppage of work by
11 employees, any concerted slowdown or other concerted interruption of operations or
12 services by employees, or any concerted refusal to work or perform their usual duties
13 as employees of the state.

14 **(20)** "Supervisor" means any individual whose principal work is different from
15 that of the individual's subordinates and who has authority, in the interest of the
16 employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign,
17 reward, or discipline employees, or to adjust their grievances, or to authoritatively
18 recommend such action, if the individual's exercise of such authority is not of a
19 merely routine or clerical nature, but requires the use of independent judgment.

20 **(21)** "Unfair labor practice" means any unfair labor practice specified in s.
21 111.991.

22 **111.965 Duties of the state. (1)** In the furtherance of this subchapter, the
23 state shall be considered as a single employer. The board shall negotiate and
24 administer collective bargaining agreements. To coordinate the employer position
25 in the negotiation of agreements, the board shall maintain close liaison with the

office relative to the negotiation of agreements and the fiscal ramifications of those agreements. The board shall coordinate its collective bargaining activities with the office. The legislative branch shall act upon those portions of tentative agreements negotiated by the board that require legislative action.

(2) The board shall establish a collective bargaining capacity and shall represent the state in its responsibility as an employer under this subchapter. The board shall coordinate its actions with the director of the office.

111.97 Rights of employees. Employees shall have the right of self-organization and the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing under this subchapter, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection. Employees shall also have the right to refrain from any such activities.

111.98 Collective bargaining units. (1) Collective bargaining units for faculty and staff in the unclassified service of the state shall be structured with a collective bargaining unit for each of the following groups:

(a) Faculty of the University of Wisconsin-Madison.

(b) Faculty of the University of Wisconsin-Milwaukee.

(c) Faculty of all of the following groups:

1. The University of Wisconsin-Extension.
2. The University of Wisconsin-Eau Claire.
3. The University of Wisconsin-Green Bay.
4. The University of Wisconsin-La Crosse.
5. The University of Wisconsin-Oshkosh.
6. The University of Wisconsin-Parkside.

1 7. The University of Wisconsin-Platteville.

2 8. The University of Wisconsin-River Falls.

3 9. The University of Wisconsin-Stevens Point.

4 10. The University of Wisconsin-Stout.

5 11. The University of Wisconsin-Superior.

6 12. The University of Wisconsin-Whitewater.

7 13. The University of Wisconsin Colleges.

8 (d) Academic staff of the University of Wisconsin-Madison.

9 (e) Academic staff of the University of Wisconsin-Milwaukee.

10 (f) Academic staff of all of the following groups:

11 1. The University of Wisconsin-Extension.

12 2. The University of Wisconsin-Eau Claire.

13 3. The University of Wisconsin-Green Bay.

14 4. The University of Wisconsin-La Crosse.

15 5. The University of Wisconsin-Oshkosh.

16 6. The University of Wisconsin-Parkside.

17 7. The University of Wisconsin-Platteville.

18 8. The University of Wisconsin-River Falls.

19 9. The University of Wisconsin-Stevens Point.

20 10. The University of Wisconsin-Stout.

21 11. The University of Wisconsin-Superior.

22 12. The University of Wisconsin-Whitewater.

23 13. The University of Wisconsin Colleges.

24 **(2)** (a) Notwithstanding sub. (1), 2 or more collective bargaining units described

25 under sub. (1) (a) to (c) may be combined into a single unit and 2 or more collective

1 bargaining units described under sub. (1) (d) to (f) may be combined into a single unit.
2 If 2 or more collective bargaining units seek to combine into a single collective
3 bargaining unit, the commission shall, upon the petition of at least 30 percent of the
4 employees in each unit, hold an election to determine whether a majority of those
5 employees voting in each unit desire to combine into a single unit. A combined
6 collective bargaining unit shall be formed including all employees from each of those
7 units in which a majority of the employees voting in the election approve a combined
8 unit. The combined collective bargaining unit shall be formed immediately if there
9 is no existing collective bargaining agreement in force in any of the units to be
10 combined. If there is a collective bargaining agreement in force at the time of the
11 election in any of the collective bargaining units to be combined, the combined unit
12 shall be formed upon expiration of the last agreement for the units concerned.

13 (b) If 2 or more collective bargaining units have combined under par. (a), the
14 commission shall, upon petition of at least 30 percent of the employees in any of the
15 original units, hold an election of the employees in the original unit to determine
16 whether the employees in that unit desire to withdraw from the combined collective
17 bargaining unit. If a majority of the employees voting desire to withdraw from the
18 combined collective bargaining unit, separate units consisting of the unit in which
19 the election was held and a unit composed of the remainder of the combined unit shall
20 be formed. The new collective bargaining units shall be formed immediately if there
21 is no collective bargaining agreement in force for the combined unit. If there is a
22 collective bargaining agreement in force for the combined collective bargaining unit,
23 the new units shall be formed upon the expiration of the agreement. While there is
24 a collective bargaining agreement in force for the combined collective bargaining

1 unit, a petition for an election under this paragraph may be filed only during October
2 in the calendar year prior to the expiration of the agreement.

3 **(3)** The commission shall assign employees to the appropriate collective
4 bargaining units described under sub. (1) or (2).

5 **(4)** Any labor organization may petition for recognition as the exclusive
6 representative of a collective bargaining unit described under sub. (1) or (2) in
7 accordance with the election procedures under s. 111.990 if the petition is
8 accompanied by a 30 percent showing of interest in the form of signed authorization
9 cards. Any additional labor organization seeking to appear on the ballot shall file a
10 petition within 60 days of the date of filing of the original petition and prove, through
11 signed authorization cards, that at least 10 percent of the employees in the collective
12 bargaining unit want it to be their representative.

13 **(5)** Although academic staff supervisors are not considered employees for the
14 purpose of this subchapter, the commission may consider a petition for a statewide
15 collective bargaining unit consisting of academic staff supervisors, but the
16 representative of the supervisors may not be affiliated with any labor organization
17 representing employees. For purposes of this subsection, affiliation does not include
18 membership in a national, state, county, or municipal federation of national or
19 international labor organizations. The certified representative of the supervisors
20 may not bargain collectively with respect to any matter other than wages and fringe
21 benefits.

22 **111.990 Representatives and elections. (1)** A representative chosen for the
23 purposes of collective bargaining by a majority of the employees voting in a collective
24 bargaining unit shall be the exclusive representative of all of the employees in such
25 unit for the purposes of collective bargaining. Any individual employee, or any

1 minority group of employees in any collective bargaining unit, may present any
2 grievance to the employer in person, or through representatives of their own
3 choosing, and the employer shall confer with the individual employee or group of
4 employees with respect to the grievance if the majority representative has been
5 afforded the opportunity to be present at the conference. Any adjustment resulting
6 from such a conference may not be inconsistent with the conditions of employment
7 established by the majority representative and the employer.

8 **(2)** Whenever a question arises concerning the representation of employees in
9 a collective bargaining unit, the commission shall determine the representation by
10 taking a secret ballot of the employees and certifying in writing the results to the
11 interested parties and to the board. There shall be included on any ballot for the
12 election of representatives the names of all labor organizations having an interest
13 in representing the employees participating in the election as indicated in petitions
14 filed with the commission. The name of any existing representative shall be included
15 on the ballot without the necessity of filing a petition. The commission may exclude
16 from the ballot one who, at the time of the election, stands deprived of his or her rights
17 under this subchapter by reason of a prior adjudication of his or her having engaged
18 in an unfair labor practice. The ballot shall be so prepared as to permit a vote against
19 representation by anyone named on the ballot. For elections in a collective
20 bargaining unit composed of employees who are members of the faculty or academic
21 staff, whenever more than one representative qualifies to appear on the ballot, the
22 ballot shall be prepared to provide separate votes on 2 questions. The first question
23 shall be: "Shall the employees of the ... (name of collective bargaining unit)
24 participate in collective bargaining?". The 2nd question shall be: "If the employees
25 of the ... (name of collective bargaining unit) elect to participate in collective

1 bargaining, which labor organization do you favor to act as representative of the
2 employees?". The 2nd question shall not include a choice for no representative. All
3 employees in the collective bargaining unit may vote on both questions. Unless a
4 majority of those employees voting in the election vote to participate in collective
5 bargaining, no votes for a particular representative may be counted. If a majority
6 of those employees voting in the election vote to participate in collective bargaining,
7 the ballots for representatives shall be counted. The commission's certification of the
8 results of any election is conclusive as to the findings included therein unless
9 reviewed under s. 111.07 (8).

10 **(3)** Whenever an election has been conducted under sub. (2) in which a majority
11 of the employees voting indicate a desire to participate in collective bargaining but
12 in which no named representative is favored by a majority of the employees voting,
13 the commission may, if requested by a party to the proceeding within 30 days from
14 the date of the certification of the results of the election, conduct a runoff election.
15 In that runoff election, the commission shall drop from the ballot the name of the
16 representative who received the least number of votes at the original election.

17 **(4)** While a collective bargaining agreement between a labor organization and
18 an employer is in force under this subchapter, a petition for an election in the
19 collective bargaining unit to which the agreement applies may only be filed during
20 October in the calendar year prior to the expiration of that agreement. An election
21 held under that petition may be held only if the petition is supported by proof that
22 at least 30 percent of the employees in the collective bargaining unit desire a change
23 or discontinuance of existing representation. Within 60 days of the time that an
24 original petition is filed, another petition may be filed supported by proof that at least
25 10 percent of the employees in the same collective bargaining unit desire a different

representative. If a majority of the employees in the collective bargaining unit vote for a change or discontinuance of representation by any named representative, the decision takes effect upon expiration of any existing collective bargaining agreement between the employer and the existing representative.

111.991 Unfair labor practices. (1) It is an unfair labor practice for an employer individually or in concert with others:

(a) To interfere with, restrain, or coerce employees in the exercise of their rights guaranteed under s. 111.97.

(b) Except as otherwise provided in this paragraph, to initiate, create, dominate, or interfere with the formation or administration of any labor or employee organization or contribute financial support to it. Except as provided in ss. 40.02 (22) (e) and 40.23 (1) (f) 4., no change in any law affecting the Wisconsin Retirement System under ch. 40 and no action by the employer that is authorized by such a law is a violation of this paragraph unless an applicable collective bargaining agreement specifically prohibits the change or action. No such change or action affects the continuing duty to bargain collectively regarding the Wisconsin Retirement System under ch. 40 to the extent required by s. 111.998. It is not an unfair labor practice for the employer to reimburse an employee at his or her prevailing wage rate for the time spent during the employee's regularly scheduled hours conferring with the employer's officers or agents and for attendance at commission or court hearings necessary for the administration of this subchapter.

(c) To encourage or discourage membership in any labor organization by discrimination in regard to hiring, tenure, or other terms or conditions of employment. This paragraph does not apply to fair-share or maintenance of membership agreements.

1 (d) To refuse to bargain collectively on matters set forth in s. 111.998 with a
2 representative of a majority of its employees in an appropriate collective bargaining
3 unit. Whenever the employer has a good faith doubt as to whether a labor
4 organization claiming the support of a majority of its employees in an appropriate
5 collective bargaining unit does in fact have that support, it may file with the
6 commission a petition requesting an election as to that claim. The employer is not
7 considered to have refused to bargain until an election has been held and the results
8 of the election are certified to the employer by the commission. A violation of this
9 paragraph includes the refusal to execute a collective bargaining agreement
10 previously orally agreed upon.

11 (e) To violate any collective bargaining agreement previously agreed upon by
12 the parties with respect to wages, hours, and conditions of employment affecting the
13 employees, including an agreement to arbitrate or to accept the terms of an
14 arbitration award, when previously the parties have agreed to accept such award as
15 final and binding upon them.

16 (f) To deduct labor organization dues from an employee's earnings, unless the
17 employer has been presented with an individual order therefor, signed by the
18 employee personally, and terminable by at least the end of any year of its life or
19 earlier by the employee giving at least 30 but not more than 120 days' written notice
20 of such termination to the employer and to the representative labor organization,
21 except if there is a fair-share or maintenance of membership agreement in effect.
22 The employer shall give notice to the labor organization of receipt of such notice of
23 termination.

24 **(1m)** Notwithstanding sub. (1), it is not an unfair labor practice for the board
25 to implement changes in salaries or conditions of employment for members of the

1 faculty or academic staff at one institution, and not for other members of the faculty
2 or academic staff at another institution, but this may be done only if the differential
3 treatment is based on comparisons with the compensation and working conditions
4 of employees performing similar services for comparable higher education
5 institutions or based upon other competitive factors.

6 **(2)** It is unfair practice for an employee individually or in concert with others:

7 (a) To coerce or intimidate an employee in the enjoyment of the employee's legal
8 rights, including those guaranteed under s. 111.97.

9 (b) To coerce, intimidate, or induce any officer or agent of the employer to
10 interfere with any of the employer's employees in the enjoyment of their legal rights
11 including those guaranteed under s. 111.97 or to engage in any practice with regard
12 to its employees which would constitute an unfair labor practice if undertaken by the
13 officer or agent on the officer's or agent's own initiative.

14 (c) To refuse to bargain collectively on matters specified in s. 111.998 with the
15 authorized officer or agent of the employer that is the recognized or certified
16 exclusive collective bargaining representative of employees in an appropriate
17 collective bargaining unit. Such refusal to bargain shall include a refusal to execute
18 a collective bargaining agreement previously orally agreed upon.

19 (d) To violate the provisions of any written agreement with respect to terms and
20 conditions of employment affecting employees, including an agreement to arbitrate
21 or to accept the terms of an arbitration award, when previously the parties have
22 agreed to accept such awards as final and binding upon them.

23 (e) To engage in, induce, or encourage any employees to engage in a strike or
24 a concerted refusal to work or perform their usual duties as employees.

1 (f) To coerce or intimidate a supervisory employee, officer, or agent of the
2 employer, working at the same trade or profession as the employer's employees, to
3 induce the person to become a member of or act in concert with the labor organization
4 of which the employee is a member

5 **(3)** It is an unfair labor practice for any person to do or cause to be done on
6 behalf of or in the interest of employers or employees, or in connection with or to
7 influence the outcome of any controversy as to employment relations, any act
8 prohibited by subs. (1) and (2).

9 **(4)** Any controversy concerning unfair labor practices may be submitted to the
10 commission as provided in s. 111.07, except that the commission shall schedule a
11 hearing on complaints involving alleged violations of sub. (2) (e) within 3 days after
12 filing of a complaint, and notice shall be given to each party interested by service on
13 the party personally, or by telegram, advising the party of the nature of the complaint
14 and of the date, time, and place of hearing. The commission may appoint a substitute
15 tribunal to hear unfair labor practice charges by either appointing a 3-member panel
16 or submitting a 7-member panel to the parties and allowing each to strike 2 names.
17 Any such panel shall report its finding to the commission for appropriate action.

18 **111.992 Fair-share and maintenance of membership agreements. (1)**
19 (a) No fair-share or maintenance of membership agreement may become effective
20 unless authorized by a referendum. The commission shall order a referendum
21 whenever it receives a petition supported by proof that at least 30 percent of the
22 employees or supervisors specified in s. 111.98 (5) in a collective bargaining unit
23 desire that a fair-share or maintenance of membership agreement be entered into
24 between the employer and a labor organization. A petition may specify that a

1 referendum is requested on a maintenance of membership agreement only, in which
2 case the ballot shall be limited to that question.

3 (b) For a fair-share agreement to be authorized, at least two-thirds of the
4 eligible employees or supervisors voting in a referendum shall vote in favor of the
5 agreement. For a maintenance of membership agreement to be authorized, at least
6 a majority of the eligible employees or supervisors voting in a referendum shall vote
7 in favor of the agreement. In a referendum on a fair-share agreement, if less than
8 two-thirds but more than one-half of the eligible employees or supervisors vote in
9 favor of the agreement, a maintenance of membership agreement is authorized.

10 (c) If a fair-share or maintenance of membership agreement is authorized in
11 a referendum, the employer shall enter into such an agreement with the labor
12 organization named on the ballot in the referendum. Each fair-share or
13 maintenance of membership agreement shall contain a provision requiring the
14 employer to deduct the amount of dues as certified by the labor organization from the
15 earnings of the employees or supervisors affected by the agreement and to pay the
16 amount so deducted to the labor organization. Unless the parties agree to an earlier
17 date, the agreement shall take effect 60 days after certification by the commission
18 that the referendum vote authorized the agreement. The employer shall be held
19 harmless against any claims, demands, suits, and other forms of liability made by
20 employees or supervisors or local labor organizations which may arise for actions
21 taken by the employer in compliance with this section. All such lawful claims,
22 demands, suits, and other forms of liability are the responsibility of the labor
23 organization entering into the agreement.

24 (d) Under each fair-share or maintenance of membership agreement, an
25 employee or supervisor who has religious convictions against dues payments to a

1 labor organization based on teachings or tenets of a church or religious body of which
2 he or she is a member shall, on request to the labor organization, have his or her dues
3 paid to a charity mutually agreed upon by the employee or supervisor and the labor
4 organization. Any dispute concerning this paragraph may be submitted to the
5 commission for adjudication.

6 **(2)** (a) Once authorized, a fair-share or maintenance of membership
7 agreement shall continue in effect, subject to the right of the employer or labor
8 organization concerned to petition the commission to conduct a new referendum.
9 Such a petition must be supported by proof that at least 30 percent of the employees
10 or supervisors in the collective bargaining unit desire that the fair-share or
11 maintenance of membership agreement be discontinued. Upon so finding, the
12 commission shall conduct a new referendum. If the continuance of the fair-share or
13 maintenance of membership agreement is approved in the referendum by at least the
14 percentage of eligible voting employees or supervisors required for its initial
15 authorization, it shall be continued in effect, subject to the right of the employer or
16 labor organization to later initiate a further vote following the procedure prescribed
17 in this subsection. If the continuation of the agreement is not supported in any
18 referendum, it is considered terminated at the termination of the collective
19 bargaining agreement, or one year from the date of the certification of the result of
20 the referendum, whichever is earlier.

21 (b) The commission shall declare any fair-share or maintenance of
22 membership agreement suspended upon such conditions and for such time as the
23 commission decides whenever it finds that the labor organization involved has
24 refused on the basis of race, color, sexual orientation, or creed to receive as a member
25 any employee or supervisor in the collective bargaining unit involved, and the

1 agreement shall be made subject to the findings and orders of the commission. Any
2 of the parties to the agreement, or any employee or supervisor covered under the
3 agreement, may come before the commission, as provided in s. 111.07, and petition
4 the commission to make such a finding.

5 **(3)** A stipulation for a referendum executed by an employer and a labor
6 organization may not be filed until after the representation election has been held
7 and the results certified.

8 **(4)** The commission may, under rules adopted for that purpose, appoint as its
9 agent an official of a state agency whose employees are entitled to vote in a
10 referendum to conduct a referendum under this section.

11 **111.993 Grievance arbitration. (1)** Parties to the dispute pertaining to the
12 interpretation of a collective bargaining agreement may agree in writing to have the
13 commission or any other appointing state agency serve as arbitrator or may
14 designate any other competent, impartial, and disinterested persons to so serve.
15 Such arbitration proceedings shall be governed by ch. 788.

16 **(2)** The board shall charge an institution for the employer's share of the cost
17 related to grievance arbitration under sub. (1) for any arbitration that involves one
18 or more employees of the institution. Each institution so charged shall pay the
19 amount that the board charges from the appropriation account or accounts used to
20 pay the salary of the grievant. Funds received under this subsection shall be credited
21 to the appropriation account under s. 20.545 (1) (km).

22 **111.994 Mediation.** The commission may appoint any competent, impartial,
23 disinterested person to act as mediator in any labor dispute either upon its own
24 initiative or upon the joint request of both parties to the dispute. It is the function
25 of a mediator to bring the parties together voluntarily under such favorable auspices

1 as will tend to effectuate settlement of the dispute, but neither the mediator nor the
2 commission shall have any power of compulsion in mediation proceedings.

3 **111.995 Fact-finding. (1)** If a dispute has not been settled after a reasonable
4 period of negotiation and after the settlement procedures, if any, established by the
5 parties have been exhausted, the representative that has been certified by the
6 commission after an election, as the exclusive representative of employees in an
7 appropriate bargaining unit, and the employer, its officers, and agents, after a
8 reasonable period of negotiation, are deadlocked with respect to any dispute between
9 them arising in the collective bargaining process, the parties jointly may petition the
10 commission, in writing, to initiate fact-finding under this section, and to make
11 recommendations to resolve the deadlock.

12 **(2)** Upon receipt of a petition to initiate fact-finding, the commission shall
13 make an investigation with or without a formal hearing, to determine whether a
14 deadlock in fact exists. The commission shall certify the results of the investigation.
15 If the commission decides that fact-finding should be initiated, it shall appoint a
16 qualified, disinterested person or, when jointly requested by the parties, a 3-member
17 panel to function as a fact finder.

18 **(3)** The fact finder may establish dates and place of hearings and shall conduct
19 the hearings under rules established by the commission. Upon request, the
20 commission shall issue subpoenas for hearings conducted by the fact finder. The fact
21 finder may administer oaths. Upon completion of the hearing, the fact finder shall
22 make written findings of fact and recommendations for solution of the dispute and
23 shall cause the same to be served on the parties and the commission. In making
24 findings and recommendations, the fact finder shall take into consideration among
25 other pertinent factors the principles vital to the public interest in efficient and

1 economical governmental administration. Upon the request of either party, the fact
2 finder may orally present the recommendations in advance of service of the written
3 findings and recommendations. Cost of fact-finding proceedings shall be divided
4 equally between the parties. At the time the fact finder submits a statement of his
5 or her costs to the parties, the fact finder shall submit a copy thereof to the
6 commission at its Madison office.

7 **(4)** A fact finder may mediate a dispute at any time prior to the issuance of the
8 fact finder's recommendations.

9 **(5)** Within 30 days of the receipt of the fact finder's recommendations or within
10 a time period mutually agreed upon by the parties, each party shall advise the other,
11 in writing, as to the party's acceptance or rejection, in whole or in part, of the fact
12 finder's recommendations and, at the same time, send a copy of the notification to
13 the commission at its Madison office. Failure to comply with this subsection, by the
14 employer or employee representative, is a violation of s. 111.991 (1) (d) or (2) (c).

15 **111.996 Strike prohibited. (1)** Upon establishing that a strike is in progress,
16 the employer may either seek an injunction or file an unfair labor practice charge
17 with the commission under s. 111.991 (2) (e) or both. It is the responsibility of the
18 board to decide whether to seek an injunction or file an unfair labor practice charge.
19 The existence of an administrative remedy does not constitute grounds for denial of
20 injunctive relief.

21 **(2)** The occurrence of a strike and the participation in the strike by an employee
22 do not affect the rights of the employer, in law or in equity, to deal with the strike,
23 including all of the following:

24 (a) The right to impose discipline, including discharge, or suspension without
25 pay, of any employee participating in the strike.

1 (b) The right to cancel the reinstatement eligibility of any employee engaging
2 in the strike.
3 (c) The right of the employer to request the imposition of fines, either against
4 the labor organization or the employee engaging in the strike, or to sue for damages
5 because of such strike activity.
6 **111.997 Management rights.** Nothing in this subchapter shall interfere with
7 the right of the board, in accordance with this subchapter, to do any of the following:
8 **(1)** Carry out the statutory mandate and goals assigned to the board by the
9 most appropriate and efficient methods and means and utilize personnel in the most
10 appropriate and efficient manner possible.
11 **(2)** Suspend, demote, discharge, or take other appropriate disciplinary action
12 against the employee; or to lay off employees in the event of lack of work or funds or
13 under conditions where continuation of such work would be inefficient and
14 nonproductive.
15 **111.998 Subjects of bargaining. (1)** (a) Except as provided in pars. (b) to (f),
16 matters subject to collective bargaining to the point of impasse are salaries; fringe
17 benefits consistent with sub. (2); and hours and conditions of employment.
18 (b) The board is not required to bargain on management rights under s.
19 111.997, except that procedures for the adjustment or settlement of grievances or
20 disputes arising out of any type of disciplinary action in s. 111.997 (2) is a subject of
21 bargaining.
22 (c) The board is prohibited from bargaining on matters contained in sub. (2).
23 (d) Except as provided in sub. (2) (d) and (e) and ss. 40.02 (22) (e) and 40.23 (1)
24 (f) 4., all laws governing the Wisconsin Retirement System under ch. 40 and all
25 actions of the board that are authorized under any such law which apply to

1 nonrepresented individuals employed by the state shall apply to similarly situated
2 employees, unless otherwise specifically provided in a collective bargaining
3 agreement that applies to those employees.

4 (e) Demands relating to retirement and group insurance shall be submitted to
5 the board at least one year prior to commencement of negotiations.

6 (f) The board is not required to bargain on matters related to employee
7 occupancy of houses or other lodging provided by the state.

8 **(2)** The board is prohibited from bargaining on:

9 (a) The mission and goals of the board as set forth in the statutes; the
10 diminution of the right of tenure provided the faculty under s. 36.13, the rights
11 granted faculty under s. 36.09 (4) and academic staff under s. 36.09 (4m), or the
12 rights of appointment provided academic staff under s. 36.15; or academic freedom.

13 (b) Amendments to this subchapter.

14 (c) Family leave and medical leave rights below the minimum afforded under
15 s. 103.10. Nothing in this paragraph prohibits the board from bargaining on rights
16 to family leave or medical leave which are more generous to the employee than the
17 rights provided under s. 103.10.

18 (d) An increase in benefit adjustment contribution rates under s. 40.05 (2n) (a)
19 3.

20 (e) The rights of employees to have retirement benefits computed under s.
21 40.30.

22 (f) Honesty testing requirements that provide fewer rights and remedies to
23 employees than are provided under s. 111.37.

24 (h) Creditable service to which s. 40.285 (2) (b) 4. applies.

(i) Compliance with the health benefit plan requirements under ss. 632.746 (1) to (8) and (10), 632.747, and 632.748.

(j) Compliance with the insurance requirements under s. 631.95.

(k) The definition of earnings under s. 40.02 (22).

(L) The maximum benefit limitations under s. 40.31

(m) The limitations on contributions under s. 40.32.

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(n) The provision to employees of the health insurance coverage required under s. 632.895 (11) to (14).

(o) The requirements related to coverage of and prior authorization for treatment of an emergency medical condition under s. 632.85.

(p) The requirements related to coverage of drugs and devices under s. 632.853.

(q) The requirements related to experimental treatment under s. 632.855.

(r) The requirements under s. 609.10 related to offering a point-of-service option plan.

(s) The requirements related to internal grievance procedures under s. 632.83 and independent review of certain health benefit plan determinations under s. 632.835.

(3) Upon request, the chancellor at each institution, or his or her designee, shall meet and confer with the collective bargaining representative, if any, with regard to any issue that is a permissive subject of bargaining, except when the issue is under active consideration by a governance organization under s. 36.09 (4) or (4m).

111.999 Labor proposals. The board shall notify and consult with the joint committee on employment relations, in such form and detail as the committee requests, regarding substantial changes in wages, employee benefits, personnel management, and program policy contract provisions to be included in any contract

1 proposal to be offered to any labor organization by the state or to be agreed to by the
2 state before such proposal is actually offered or accepted.

3 **111.9991 Agreements. (1)** Any tentative agreement reached between the
4 board, acting for the state, and any labor organization representing a collective
5 bargaining unit specified in s. 111.98 shall, after official ratification by the labor
6 organization, be submitted by the board to the joint committee on employment
7 relations, which shall hold a public hearing before determining its approval or
8 disapproval. If the committee approves the tentative agreement, it shall introduce
9 in a bill or companion bills, to be put on the calendar or referred to the appropriate
10 scheduling committee of each house, that portion of the tentative agreement which
11 requires legislative action for implementation, such as salary and wage adjustments,
12 changes in fringe benefits, and any proposed amendments, deletions, or additions to
13 existing law. Such bill or companion bills are not subject to ss. 13.093 (1), 13.50 (6)
14 (a) and (b), and 16.47 (2). The committee may, however, submit suitable portions of
15 the tentative agreement to appropriate legislative committees for advisory
16 recommendations on the proposed terms. The committee shall accompany the
17 introduction of such proposed legislation with a message that informs the legislature
18 of the committee's concurrence with the matters under consideration and that
19 recommends the passage of such legislation without change. If the joint committee
20 on employment relations does not approve the tentative agreement, it shall be
21 returned to the parties for renegotiation. If the legislature does not adopt without
22 change that portion of the tentative agreement introduced by the joint committee on
23 employment relations, the tentative agreement shall be returned to the parties for
24 renegotiation.

25 **(2)** No portion of any tentative agreement shall become effective separately.

1 **(3)** Agreements shall coincide with the fiscal year or biennium.

2 **(4)** The negotiation of collective bargaining agreements and their approval by
3 the parties should coincide with the overall fiscal planning and processes of the state.

4 **(5)** All compensation adjustments for employees shall be effective on the
5 beginning date of the pay period nearest the statutory or administrative date.

6 **111.9992 Status of existing benefits and rights.** Unless a prohibited
7 subject of bargaining under s. 111.998 (2), and except as provided in ss. 7.33 (4),
8 40.05, 40.80 (3), 111.998 (1) (d), and 230.35 (2d) and (3) (e) 6., all statutes and rules
9 governing the salaries, fringe benefits, hours, and conditions of employment apply
10 to each employee, unless otherwise provided in a collective bargaining agreement.

11 **111.9993 Rules, transcripts, fees. (1)** The commission may adopt
12 reasonable and proper rules relative to the exercise of its powers and authority and
13 proper rules to govern its proceedings and to regulate the conduct of all elections and
14 hearings under this subchapter. The commission shall, upon request, provide a
15 transcript of a proceeding to any party to the proceeding for a fee, established by rule,
16 by the commission at a uniform rate per page. All transcript fees shall be credited
17 to the appropriation account under s. 20.425 (1) (i).

18 **(2)** The commission shall assess and collect a filing fee for filing a complaint
19 alleging that an unfair labor practice has been committed under s. 111.991. The
20 commission shall assess and collect a filing fee for filing a request that the
21 commission act as an arbitrator to resolve a dispute involving the interpretation or
22 application of a collective bargaining agreement under s. 111.993. The commission
23 shall assess and collect a filing fee for filing a request that the commission initiate
24 fact-finding under s. 111.995. The commission shall assess and collect a filing fee
25 for filing a request that the commission act as a mediator under s. 111.994. For the

1 performance of commission actions under ss. 111.993, 111.994, and 111.995, the
2 commission shall require that the parties to the dispute equally share in the payment
3 of the fee and, for the performance of commission actions involving a complaint
4 alleging that an unfair labor practice has been committed under s. 111.991, the
5 commission shall require that the party filing the complaint pay the entire fee. If any
6 party has paid a filing fee requesting the commission to act as a mediator for a labor
7 dispute and the parties do not enter into a voluntary settlement of the labor dispute,
8 the commission may not subsequently assess or collect a filing fee to initiate
9 fact-finding to resolve the same labor dispute. If any request concerns issues arising
10 as a result of more than one unrelated event or occurrence, each such separate event
11 or occurrence shall be treated as a separate request. The commission shall
12 promulgate rules establishing a schedule of filing fees to be paid under this
13 subsection. Fees required to be paid under this subsection shall be paid at the time
14 of filing the complaint or the request for fact-finding, mediation, or arbitration. A
15 complaint or request for fact-finding, mediation, or arbitration is not filed until the
16 date such fee or fees are paid. Fees collected under this subsection shall be credited
17 to the appropriation account under s. 20.425 (1) (i).

18 **SECTION 37.** 230.01 (3) of the statutes is amended to read:

19 230.01 **(3)** Nothing in this chapter shall be construed to either infringe upon
20 or supersede the rights guaranteed state employees under subch. V <u>or VI</u> of ch. 111.

21 **SECTION 38.** 230.046 (10) (a) of the statutes is amended to read:

22 230.046 **(10)** (a) Conduct off-the-job employee development and training
23 programs relating to functions under this chapter or subch. V <u>or VI</u> of ch. 111.

24 **SECTION 39.** 230.12 (3) (e) 1. of the statutes is amended to read:

1 230.12 **(3)** (e) 1. The director, after receiving recommendations from the board
2 of regents, shall submit to the joint committee on employment relations a proposal
3 for adjusting compensation and employee benefits for employees under ss. 20.923
4 (4g), (5) and (6) (m) and 230.08 (2) (d) who are not included in a collective bargaining
5 unit under subch. V <u>or VI</u> of ch. 111 for which a representative is certified. The
6 proposal shall include the salary ranges and adjustments to the salary ranges for the
7 university senior executive salary groups 1 and 2 established under s. 20.923 (4g).
8 The proposal shall be based upon the competitive ability of the board of regents to
9 recruit and retain qualified faculty and academic staff, data collected as to rates of
10 pay for comparable work in other public services, universities and commercial and
11 industrial establishments, recommendations of the board of regents and any special
12 studies carried on as to the need for any changes in compensation and employee
13 benefits to cover each year of the biennium. The proposal shall also take proper
14 account of prevailing pay rates, costs and standards of living and the state's
15 employment policies. The proposal for such pay adjustments may contain
16 recommendations for across-the-board pay adjustments, merit or other
17 adjustments and employee benefit improvements. Paragraph (b) and sub. (1) (bf)
18 shall apply to the process for approval of all pay adjustments for such employees
19 under ss. 20.923 (4g), (5) and (6) (m) and 230.08 (2) (d). The proposal as approved
20 by the joint committee on employment relations and the governor shall be based
21 upon a percentage of the budgeted salary base for such employees under ss. 20.923
22 (4g), (5) and (6) (m) and 230.08 (2) (d). The amount included in the proposal for merit
23 and adjustments other than across-the-board pay adjustments is available for
24 discretionary use by the board of regents.

25 **SECTION 40.** 230.35 (2d) (e) of the statutes is amended to read:

1 230.35 **(2d)** (e) For employees who are included in a collective bargaining unit
2 for which a representative is recognized or certified under subch. V or VI of ch. 111,
3 this subsection shall apply unless otherwise provided in a collective bargaining
4 agreement.

5 **SECTION 41.** 230.35 (3) (e) 6. of the statutes is amended to read:

6 230.35 **(3)** (e) 6. For employees who are included in a collective bargaining unit
7 for which a representative is recognized or certified under subch. V or VI of ch. 111,
8 this paragraph shall apply unless otherwise provided in a collective bargaining
9 agreement.

10 **SECTION 42.** 230.88 (2) (b) of the statutes is amended to read:

11 230.88 **(2)** (b) No collective bargaining agreement supersedes the rights of an
12 employee under this subchapter. However, nothing in this subchapter affects any
13 right of an employee to pursue a grievance procedure under a collective bargaining
14 agreement under subch. V or VI of ch. 111, and if the division of equal rights
15 determines that a grievance arising under such a collective bargaining agreement
16 involves the same parties and matters as a complaint under s. 230.85, it shall order
17 the arbitrator's final award on the merits conclusive as to the rights of the parties
18 to the complaint, on those matters determined in the arbitration which were at issue
19 and upon which the determination necessarily depended.

20 **(END)**

INS 36-5

(kr) The employer payment of employee required contributions under s. 40.05 (1) (b)

**** NOTE: This is reconciled s. 111.998 (2) (kr) and its inclusion is based on LRB-1480 remaining in the compiled bill.

LRB-1500/P5dn
RAC:kjf

D-Note Date

This draft reconciles LRB-1500/P4, 1480/5, and 1459/4, with respect to the treatment of ss. 20.545(1)(a), 40.05(1)(b). All drafts should continue to appear in the compiled bill.

RAC

, and 111.998(2)(kr)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1500/P5dn
RAC:kjf:md

January 30, 2009

This draft reconciles LRB-1500/P4, 1480/5, and 1459/4, with respect to the treatment of ss. 20.545 (1) (a), 40.05 (1) (b), and 111.998 (2) (kr). All drafts should continue to appear in the compiled bill.

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