

Employment Relations Commission – Creates Chs. ERC 90& 100 - EmR1203

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The statement of scope for this rule, SS 005-11, was approved by the governor on August 31, 2011, published in Register No. 669, on September 14, 2011, and approved by the Employment Relations Commission on September 19, 2011.

This emergency rule was approved by the governor on March 30, 2012.

ORDER OF THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

The Wisconsin Employment Relations Commission hereby creates emergency rules ERC 90 and ERC 100 relating to the calculation and distribution of collectively bargained base wages.

Analysis Prepared by the Wisconsin Employment Relations Commission

Statutes Interpreted

These emergency administrative rules interpret ss. 111.70 (4)(mb) and (mbb), Stats. and ss. 111.91 (3)(b) and (3q), Stats.

Statutory Authority

Sections 111.71, 111.94, 227.11 and 227.24, Stats.

Explanation of Agency Authority

The Municipal Employment Relations Act and the State Employment Labor Relations Act both allow the Commission to adopt administrative rules relative to the exercise of its power and authority.

Related Statute or Rule

None.

Rule Summary

These emergency administrative rules calculate the maximum dollar amount subject to collectively bargained increases in a general municipal employee and general State employee bargaining unit's base wages without an authorizing referendum. The rules also specify that the manner of distribution of any collectively bargained increase in base wages is a mandatory subject of bargaining.

Summary of, and comparison with, existing or proposed federal regulations

None applicable.

Comparison of proposed rules with rules promulgated by adjacent state labor relations agencies

None applicable.

Summary of factual data

Not applicable.

Effect on small business.

None.

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CHAPTER ERC 90

CALCULATION OF MAXIMUM AMOUNT SUBJECT TO COLLECTIVE BARGAINING FOR REPRESENTED GENERAL MUNICIPAL EMPLOYEES

ERC 90.01 Scope. This chapter implements ss. 111.70 (4) (mb) 2. and (mbb), Stats. by defining how to calculate the maximum dollar amount subject to collectively bargained increases in a general municipal employee bargaining unit's base wages without an authorizing referendum.

ERC 90.02 Definitions. As used in this chapter, the following definitions shall apply:

- (1) "Authorized positions" are those positions in the bargaining unit that are filled.
- (2) "Consumer price index change" is percentage increase provided by the Wisconsin Department of Revenue to the Commission for the specific term of a contract.
- (3) "General municipal employee" is an employee of a municipal employer who is not a public safety employee or a transit employee.
- (4) "Subject to collective bargaining" includes both the dollar amount identified in ERC 90.03(5) and the distribution thereof to employees in the bargaining unit.

ERC 90.03 Calculation of Maximum Amount Subject to Collective Bargaining. To calculate the maximum dollar amount subject to collective bargaining over base wages for collective bargaining agreements entered into on or after June 29, 2011, do all of the following:

- (1) Identify all of the authorized positions that existed 180 days prior to the expiration date of the most recent collective bargaining agreement. If this is the initial bargaining agreement for this bargaining unit, identify the authorized positions that existed 180 days prior to the last day before the first day of the agreement.
 - (2) Determine the hourly, or annual, if applicable, base wage rate for each authorized position. The hourly, or annual, base wage rate is the hourly or annual rate applicable to the position excluding supplemental compensation which includes but is not limited to, education credits or credentials in pay schedules, overtime, premium pay, lump sum merit pay, performance pay, and extra duty pay.
 - (3) If applicable, multiply the hourly base wage rate by the annual number of regularly scheduled hours for each authorized position.
 - (4) Total the annual base wages for all authorized positions.
 - (5) Multiply the total base wage amount by the applicable consumer price index change.
- The resulting dollar amount is the maximum amount subject to collective bargaining.

CHAPTER ERC 100

CALCULATION OF MAXIMUM AMOUNT SUBJECT TO COLLECTIVE BARGAINING FOR REPRESENTED GENERAL STATE EMPLOYEES

ERC 100.01 Scope. This chapter implements ss. 111.91 (3)(b) and (3q), Stats. by defining how to calculate the maximum dollar amount subject to collectively bargained increases in a general

state employee bargaining unit's base wages without an authorizing referendum.

ERC 100.02 Definitions. As used in this chapter, the following definitions shall apply:

- (1) "Authorized positions" are those positions in the bargaining unit that are filled
- (2) "Consumer price index change" is percentage increase provided by the Wisconsin Department of Revenue to the Commission for the specific term of a contract.
- (3) "General state employee" is an employee of the state who is not a public safety employee.
- (4) "Subject to collective bargaining" includes both the dollar amount identified in ERC 100.03(5) and the distribution thereof to employees in the bargaining unit.

ERC 100.03 Calculation of Maximum Amount Subject to Collective Bargaining.. To calculate the maximum dollar amount subject to collective bargaining over base wages for collective bargaining agreements entered into on or after June 29, 2011, do all of the following:

- (1) Identify all of the authorized positions that exist 180 days prior to the expiration date of the most recent collective bargaining agreement. If there is no current collective bargaining agreement for a bargaining unit, identify the authorized positions that existed 180 days prior to the June 30th immediately preceding the fiscal year of the anticipated agreement.
 - (2) Determine the hourly base wage rate for each authorized position. The hourly base wage rate is the hourly wage rate applicable to a position excluding supplemental compensation which includes but is not limited to education credits or credentials in pay schedules, overtime, premium pay, lump sum merit pay, performance pay, and extra duty pay
 - (3) Annualize the hourly base wage rate for each authorized full-time position by multiplying the rate by 2,088. For positions that are less than full-time, prorate the annualized base wages by the budgeted full-time equivalent status of the position.
 - (4) Total the annualized base wages for all authorized positions.
 - (5) Multiply the total base wage amount by the applicable consumer price index change.
- The resulting dollar amount is the maximum amount subject to collective bargaining.

These rules shall take effect upon publication in the official state newspaper as emergency rules pursuant to s. 227.24(1)(a) and (c), Stats.

An emergency exists because the public peace, health, safety and welfare necessitate putting these rules in effect so that the State of Wisconsin and municipal employers can proceed to bargain over base wages with labor organizations that represent State and municipal employees.

Dated at Madison, Wisconsin this 11th day of April, 2012.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

(s) James R. Scott, Chair

(s) Rodney G. Pasch, Commissioner

I dissent.

(s) Judith Neumann, Commissioner**

** The text of Commissioner Neumann's dissent can be found on the Commission's website.