



## 2003 ASSEMBLY BILL 189

March 25, 2003 - Introduced by Representatives GUNDERSON, KRAWCZYK, JENSEN, ALBERS, BIES, FREESE, HINES, KREIBICH, LADWIG, KERKMAN, McCORMICK, MUSSER, NASS, OWENS, STONE and VAN ROY, cosponsored by Senators LAZICH and SCHULTZ. Referred to Committee on Urban and Local Affairs.

1     **AN ACT** *to repeal* 59.26 (1) (c); *to amend* 17.03 (4) (d), 60.37 (1), 62.13 (4) (d),  
2           63.08 (1) (a) and 63.25 (1) (a); and *to create* 66.0502 of the statutes; **relating**  
3           **to:** prohibiting cities, villages, towns, counties, and school districts from  
4           imposing residency requirements on certain employees.

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### ***Analysis by the Legislative Reference Bureau***

With some exceptions, this bill prohibits local governmental units (cities, villages, towns, counties, and school districts) from requiring, as a condition of employment, that any nonelective employee or prospective employee reside within any jurisdictional limits. Exceptions to the general prohibition include certain public officials appointed by the mayor of a 1st class city (presently only Milwaukee) and certain school board officials. In addition, the prohibition does not apply to any other state law requiring residency for a municipal position or to any state or municipal requirement for state residency.

The bill also allows a local governmental unit to impose a residency requirement on police officers or fire fighters that may not require such personnel to live closer than 15 miles outside of the boundary of the local governmental unit, although such personnel may choose to live closer to the boundary of the local governmental unit than the distance specified in the ordinance. If a local governmental unit does not have a residency requirement in effect on the effective date of the bill or if a local governmental unit has in effect a less restrictive residency requirement on the effective date of the bill that applies to police officers or fire fighters who are employed by the local governmental unit on the effective date of the

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bill, the local governmental unit may not enact or impose the residency requirement that is created in the bill, but could continue to enforce its existing residency requirement.

Finally, the bill prohibits a local governmental employer from bargaining collectively with respect to a decision to impose a residency requirement.

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

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

1           **SECTION 1.** 17.03 (4) (d) of the statutes is amended to read:

2           17.03 (4) (d) If the office is local and appointive, and residency, subject to s.  
3 66.0502, is a local requirement, the county, city, village, town, district, or area within  
4 which the duties of the office are required to be discharged.

5           **SECTION 2.** 59.26 (1) (c) of the statutes is repealed.

6           **SECTION 3.** 60.37 (1) of the statutes is amended to read:

7           60.37 (1) **GENERAL.** The town board may employ on a temporary or permanent  
8 basis persons necessary to carry out the functions of town government including,  
9 subject to sub. (4), any elected officer of the town. The board may establish the  
10 qualifications and terms of employment, which may not include the residency of the  
11 employee. The board may delegate the authority to hire town employees to any town  
12 official or employee.

13           **SECTION 4.** 62.13 (4) (d) of the statutes is amended to read:

14           62.13 (4) (d) The examination shall be free for all U.S. citizens over 18 and  
15 under 55 years of age, with proper limitations as to ~~residence~~, health and, subject to  
16 ss. 111.321, 111.322, and 111.335, arrest and conviction record. The examination,  
17 including minimum training and experience requirements, shall be job-related in  
18 compliance with appropriate validation standards and shall be subject to the

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1 approval of the board and may include tests of manual skill and physical strength.  
2 All relevant experience, whether paid or unpaid, shall satisfy experience  
3 requirements. The board shall control examinations and may designate and change  
4 examiners, who may or may not be otherwise in the official service of the city, and  
5 whose compensation shall be fixed by the board and paid by the city. Veterans and  
6 their spouses shall be given preference points in accordance with s. 230.16 (7).

7 **SECTION 5.** 63.08 (1) (a) of the statutes is amended to read:

8 63.08 (1) (a) Any applicant for an examination under s. 63.05, other than an  
9 applicant for a deputy sheriff position under s. 59.26 (8) (a), shall be a resident of this  
10 state before applying for an examination, but the commission may not require any  
11 period of residency in the county for entrance to an examination or employment in  
12 the county. The commission may require an applicant to file a written application  
13 form which bears upon the applicant's fitness for a vacant position and which the  
14 commission deems necessary. For a position offering a skilled, technical, or  
15 professional service, upon a finding that a suitable number of qualified applicants  
16 cannot be obtained from within the state, the commission may open the examination  
17 to residents of other states. Residency in this state may be waived for an applicant  
18 for an examination for a position which requires a license in a health care field. No  
19 question pertaining to political affiliation or religious faith may be asked of any  
20 applicant for an examination.

21 **SECTION 6.** 63.25 (1) (a) of the statutes is amended to read:

22 63.25 (1) (a) For open, competitive examinations and for other examinations  
23 by which to test applicants for office or for employment as to their practical fitness  
24 to discharge the duties of the positions which they desire to fill, which examinations

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1 shall be public and free to all persons with proper limitations as to residence, age,  
2 health, and, subject to ss. 111.321, 111.322, and 111.335, arrest and conviction record.

3 **SECTION 7.** 66.0502 of the statutes is created to read:

4 **66.0502 Employee residency requirements prohibited.** (1) The  
5 legislature finds that public employee residency requirements are a matter of  
6 statewide concern.

7 (2) In this section:

8 (a) “Emergency personnel” means a law enforcement officer, emergency  
9 medical technician, or a fire fighter.

10 (b) “Local governmental unit” means any city, village, town, county, or school  
11 district.

12 (3) Except as provided in sub. (4), no local governmental unit may require, as  
13 a condition of employment, that any employee or prospective employee reside within  
14 any jurisdictional limit.

15 (4) (a) This section does not affect any statute that requires residency within  
16 the jurisdictional limits of any local governmental unit or any provision of law that  
17 requires residency in this state.

18 (b) Subject to par. (c), a local governmental unit may impose a residency  
19 requirement on emergency personnel that does not require the emergency personnel  
20 to live closer than 15 miles outside of the boundary of the local governmental unit,  
21 although such emergency personnel may choose to live closer to the boundary of the  
22 local governmental unit than the distance specified in the requirement.

23 (c) If a local governmental unit does not have a residency requirement that is  
24 in effect on the effective date of this paragraph .... [revisor inserts date], that applies  
25 to emergency personnel, or if a local governmental unit has a residency requirement

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1 that is in effect on the effective date of this paragraph .... [revisor inserts date], that  
2 applies to emergency personnel and that requirement is less stringent than a  
3 residency requirement described under par. (b), the local governmental unit may not  
4 enact or impose a residency requirement under par. (b), but the local governmental  
5 unit may continue to enforce its residency requirement that is in effect on the  
6 effective date of this paragraph .... [revisor inserts date], that is less stringent than  
7 a residency requirement described under par. (b).

8 **SECTION 8.** 111.70 (1) (a) of the statutes is amended to read:

9 111.70 (1) (a) "Collective bargaining" means the performance of the mutual  
10 obligation of a municipal employer, through its officers and agents, and the  
11 representative of its municipal employees in a collective bargaining unit, to meet and  
12 confer at reasonable times, in good faith, with the intention of reaching an  
13 agreement, or to resolve questions arising under such an agreement, with respect to  
14 wages, hours, and conditions of employment, and with respect to a requirement of  
15 the municipal employer for a municipal employee to perform law enforcement and  
16 fire fighting services under s. 61.66, except as provided in sub. (4) (m) and (o) and s.  
17 40.81 (3) and except that a municipal employer shall not meet and confer with respect  
18 to any proposal to diminish or abridge the rights guaranteed to municipal employees  
19 under ch. 164. The duty to bargain, however, does not compel either party to agree  
20 to a proposal or require the making of a concession. Collective bargaining includes  
21 the reduction of any agreement reached to a written and signed document. The  
22 municipal employer shall not be required to bargain on subjects reserved to  
23 management and direction of the governmental unit except insofar as the manner  
24 of exercise of such functions affects the wages, hours, and conditions of employment  
25 of the municipal employees in a collective bargaining unit. In creating this

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1 subchapter the legislature recognizes that the municipal employer must exercise its  
2 powers and responsibilities to act for the government and good order of the  
3 jurisdiction which it serves, its commercial benefit and the health, safety, and  
4 welfare of the public to assure orderly operations and functions within its  
5 jurisdiction, subject to those rights secured to municipal employees by the  
6 constitutions of this state and of the United States and by this subchapter.

7 **SECTION 9.** 111.70 (4) (m) (title) of the statutes is amended to read:

8 111.70 (4) (m) (title) *Prohibited subjects of bargaining; school districts.*

9 **SECTION 10.** 111.70 (4) (m) 5m. of the statutes is created to read:

10 111.70 (4) (m) 5m. A decision to impose a residency requirement under s.  
11 66.0502 (4) (b).

12 **SECTION 11.** 111.70 (4) (o) of the statutes is created to read:

13 111.70 (4) (o) *Prohibited subjects of bargaining.* In a city, village, town, or  
14 county, the municipal employer is prohibited from bargaining collectively with  
15 respect to a decision to impose a residency requirement under s. 66.0502 (4) (b).

16 **SECTION 12. Initial applicability.**

17 (1) This act first applies to the imposition of any residency requirement for an  
18 employee of any city, village, town, county, or school district who is covered by a  
19 collective bargaining agreement that is in effect on the effective date of this  
20 subsection upon the expiration, extension, renewal, or modification of the  
21 agreement.

22 (END)