



## 1995 SENATE BILL 228

June 1, 1995 - Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Education and Financial Institutions.

1 **AN ACT to amend** 19.82 (1) and 111.70 (1) (a); and **to create** 118.39 of the  
2 statutes; **relating to:** school district employe performance recognition plans.

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### *Analysis by the Legislative Reference Bureau*

This bill authorizes a school board to establish a performance recognition plan that annually allocates at least 2% of the school district's payroll, excluding the cost of fringe benefits, for performance recognition awards to school district employes. The bill provides that the school board is not required to bargain collectively concerning any decision to create such a performance recognition plan or concerning the amount of any performance recognition award made under such a plan. (Currently, a school board is required to bargain collectively with a recognized or certified representative of employes on all matters affecting wages.)

If a school board adopts a performance recognition plan, it must establish a committee to develop employe performance standards and a committee to develop a process to review employe performance and make recommendations to each principal regarding award recipients and the amount of each award. The committees are composed of school district employes, school administrators and parents or guardians of pupils enrolled in the school district. The principal of each school determines award recipients and award amounts, subject to the total amount allocated to that school.

Currently, with certain exceptions, governmental bodies are required to provide public notice of their meetings and meet in open session. The bill excludes committees that make recommendations concerning school district performance recognition awards from the application of this law.

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

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

1           19.82 (1) “Governmental body” means a state or local agency, board,  
2 commission, committee, council, department or public body corporate and politic  
3 created by constitution, statute, ordinance, rule or order; a governmental or  
4 quasi-governmental corporation except for the Bradley center sports and  
5 entertainment corporation; a local exposition district under subch. II of ch. 229; any  
6 public purpose corporation, as defined in s. 181.79 (1); a nonprofit corporation  
7 operating the Olympic ice training center under s. 42.11 (3); or a formally constituted  
8 subunit of any of the foregoing, but excludes any such body or committee or subunit  
9 of such body which is formed for or meeting for the purpose of collective bargaining  
10 under subch. IV or V of ch. 111 or any committee established under s. 118.39 (2) (a)  
11 2. to review the performance of school district employes.

12           **SECTION 2.** 111.70 (1) (a) of the statutes is amended to read:

13           111.70 (1) (a) “Collective bargaining” means the performance of the mutual  
14 obligation of a municipal employer, through its officers and agents, and the  
15 representatives of its employes, to meet and confer at reasonable times, in good faith,  
16 with the intention of reaching an agreement, or to resolve questions arising under  
17 such an agreement, with respect to wages, hours and conditions of employment, and  
18 with respect to a requirement of the municipal employer for a municipal employe to  
19 perform law enforcement and fire fighting services under s. 61.66, except as provided  
20 in s. 40.81 (3), except that a municipal employer that is a school district is not  
21 required to meet and confer concerning any decision to create a performance  
22 recognition plan under s. 118.39 or concerning the amount of any performance  
23 recognition award made under such a plan, and except that a municipal employer  
24 shall not meet and confer with respect to any proposal to diminish or abridge the  
25 rights guaranteed to municipal employes under ch. 164. The duty to bargain,

1 however, does not compel either party to agree to a proposal or require the making  
2 of a concession. Collective bargaining includes the reduction of any agreement  
3 reached to a written and signed document. The employer shall not be required to  
4 bargain on subjects reserved to management and direction of the governmental unit  
5 except insofar as the manner of exercise of such functions affects the wages, hours  
6 and conditions of employment of the employes. In creating this subchapter the  
7 legislature recognizes that the public employer must exercise its powers and  
8 responsibilities to act for the government and good order of the municipality, its  
9 commercial benefit and the health, safety and welfare of the public to assure orderly  
10 operations and functions within its jurisdiction, subject to those rights secured to  
11 public employes by the constitutions of this state and of the United States and by this  
12 subchapter.

13 **SECTION 3.** 118.39 of the statutes is created to read:

14 **118.39 Performance recognition plans. (1)** A school board may adopt a  
15 performance recognition plan that annually allocates at least 2% of its total payroll,  
16 excluding the cost of fringe benefits, for performance recognition awards to school  
17 district employes. The school board shall determine which categories of school  
18 district employes are eligible for such awards.

19 **(2) (a)** If a school board adopts a performance recognition plan under this  
20 section, it shall establish all of the following committees:

21 1. A committee to develop employe performance standards.

22 2. A committee to develop a process to review employe performance, and to  
23 review and make recommendations regarding award recipients and the amount of  
24 each award.

1 (b) The committees established under par. (a) shall be composed of an equal  
2 number of employes, school administrators, and parents or guardians of pupils  
3 enrolled in the school district, and shall be appointed or elected as follows:

4 1. The school board shall appoint school administrators and parents.

5 2. The school board shall afford the school district employes the opportunity to  
6 participate in an election of employe representatives. The department shall  
7 promulgate rules prescribing procedures for conducting such elections. If any  
8 portion of the employes is represented by a representative that is recognized or  
9 certified under subch. IV of ch. 111 to represent those employes, the school board  
10 shall, in lieu of permitting those employes to elect employe representatives, afford  
11 the representative the opportunity to appoint employe representatives. Appointed  
12 representatives shall be in the same proportion as the number of employes  
13 represented by the representative bears to the total number of school district  
14 employes.

15 **(3)** Annually, the school board shall do all of the following:

16 (a) Provide a copy of the employe performance standards developed by the  
17 committee under sub. (2) (a) 1. to each school district employe.

18 (b) Notify the parent or guardian of each pupil enrolled in the school district  
19 that the school board has adopted a performance recognition plan and encourage  
20 parents and guardians to submit comments on employe performance to the school  
21 district administrator.

22 (c) Submit a copy of its performance recognition plan to the department.

23 **(4)** After considering comments submitted by parents under sub. (3) (b), the  
24 committee established under sub. (2) (a) 2. shall make its recommendations to the  
25 principal of each school. The principal shall determine award recipients and the

1 amount of each award, subject to the total amount allocated to the school by the  
2 committee. If the principal's decisions differ in any way from the committee's  
3 recommendations, the principal shall provide the committee and the school board  
4 with a written explanation.

5 (5) (a) Upon request of any school district employe, the school board shall  
6 provide the employe with a private conference with the school board. The principal  
7 shall attend the conference and, upon request, shall explain the rationale for the  
8 performance recognition decision that affects that employe.

9 (b) Annually, the school board shall submit to the department a report  
10 specifying the number of private conferences requested under par. (a) and  
11 summarizing any changes in performance recognition awards made as a result.

12 (6) The information and materials relating to an individual employe's  
13 performance review are not subject to public inspection under s. 19.35 (1).

14 **SECTION 4. Initial applicability.**

15 (1) BARGAINING CONCERNING PERFORMANCE RECOGNITION PLANS. The treatment  
16 of section 111.70 (1) (a) of the statutes first applies with respect to collective  
17 bargaining agreements that are entered into, extended, renewed or modified on the  
18 effective date of this subsection.

19 (END)