



2005 ASSEMBLY BILL 185

March 10, 2005 - Introduced by Representatives BIES, AINSWORTH, ALBERS, GUNDERSON, HINES, KERKMAN, LEHMAN, MUSSER, OTT and TOWNSEND, cosponsored by Senators STEPP and KANAVAS. Referred to Committee on Corrections and the Courts.

- 1 **AN ACT to amend** 62.13 (5) (i) of the statutes; **relating to:** disciplinary
2 procedures for certain local law enforcement officers and fire fighters.

Analysis by the Legislative Reference Bureau

Generally, under current law, a law enforcement officer or fire fighter employed by a city, village, town, or county (local public safety officer) may be disciplined by a police or fire chief, sheriff, county board, civil service commission, grievance committee, or board of police and fire commissioners, depending on the unit of government for which the officer works and whether the county for which the officer works has in effect a civil service system. Discipline, under current law, includes suspension, reduction in rank, suspension, and reduction in rank and dismissal.

Also under current law, except with regard to police officers and fire fighters employed by a first class city (presently only Milwaukee), no local public safety officer may be suspended, reduced in rank, suspended and reduced in rank, or dismissed by a grievance committee, civil service commission, county board, or board of police and fire commissioners (tribunal) unless the tribunal determines that there is "just cause," as described in the statutes, to sustain the charges that have been brought against the local public safety officer. If the charges are sustained and the officer is disciplined under an order of the tribunal, he or she may appeal the order to the circuit court, except that a county law enforcement officer, under a recent decision of the Wisconsin Supreme Court, may proceed either with an appeal to the circuit court or with the grievance procedures, including arbitration, in the officer's collective bargaining agreement. The trial based on the appeal is before the court. The court must determine whether, upon the evidence and based on the statutory

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description of “just cause,” to sustain the charges against the accused officer and the tribunal’s order. If the charges and the tribunal’s order are sustained, the tribunal’s order is final and conclusive. If the court reverses the tribunal’s order, the officer is reinstated and entitled to pay as though he or she were in continuous service. Similar procedures, other than the “just cause” standard, apply to police officers employed by a first class city.

Under this bill, for city, village, or town public safety officers, if an accused officer is subject to the terms of a collective bargaining agreement that provides an alternative to the appeal process to a circuit court, the appeal process in the collective bargaining agreement applies to the accused officer and not the current law process that involves an appeal to a circuit court, unless the officer chooses to appeal the tribunal’s decision to a circuit court. If the alternative to the appeals process includes a hearing, the hearing must be open to the public. An accused officer who chooses to appeal the tribunal’s decision through a collectively bargained alternative to the current law appeal process is considered to have waived his or her right to circuit court review of the tribunal’s decision. The provisions of this bill do not apply to police officers or fire fighters employed by a first class city.

For further information see the *state and local* 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.** 62.13 (5) (i) of the statutes is amended to read:

2 62.13 **(5)** (i) Any person suspended, reduced, suspended and reduced, or
3 removed by the board may appeal from the order of the board to the circuit court by
4 serving written notice of the appeal on the secretary of the board within 10 days after
5 the order is filed. Within 5 days after receiving written notice of the appeal, the board
6 shall certify to the clerk of the circuit court the record of the proceedings, including
7 all documents, testimony and minutes. The action shall then be at issue and shall
8 have precedence over any other cause of a different nature pending in the court,
9 which shall always be open to the trial thereof. The court shall upon application of
10 the accused or of the board fix a date of trial, which shall not be later than 15 days
11 after such application except by agreement. The trial shall be by the court and upon
12 the return of the board, except that the court may require further return or the taking

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1 and return of further evidence by the board. The question to be determined by the
2 court shall be: Upon the evidence is there just cause, as described under par. (em),
3 to sustain the charges against the accused? No costs shall be allowed either party
4 and the clerk's fees shall be paid by the city. If the order of the board is reversed, the
5 accused shall be forthwith reinstated and entitled to pay as though in continuous
6 service. If the order of the board is sustained it shall be final and conclusive. This
7 paragraph does not apply to any person who is suspended, reduced, suspended and
8 reduced, or removed by the board or by a committee or person acting under this
9 subsection in place of a board, and who is subject to the terms of a collective
10 bargaining agreement entered into under subch. IV of ch. 111 that provides an
11 alternative to the appeals procedure specified in this paragraph, unless the person
12 chooses to appeal the order to circuit court. If the alternative to the appeals
13 procedure includes a hearing, the hearing shall be open to the public with reasonable
14 advance notice given by the employer. An accused person who chooses to appeal the
15 decision of the board through a collectively bargained alternative to the appeals
16 procedure specified in this paragraph is considered to have waived his or her right
17 to circuit court review of the board decision.

SECTION 2. Initial applicability.

18
19 (1) This act first applies to any city, village, or town whose employees are
20 covered by a collective bargaining agreement that is in effect on the effective date of
21 this subsection upon the expiration, extension, renewal, or modification of the
22 agreement.

23 (END)