



2007 SENATE BILL 390

January 15, 2008 – Introduced by Senators TAYLOR, PLALE and GROTHMAN. Referred to Committee on Judiciary, Corrections, and Housing.

1 **AN ACT to amend** 62.50 (1), 62.50 (14), 62.50 (16) and 62.50 (19) of the statutes;
2 **relating to:** increasing the size of the city of Milwaukee Board of Fire and
3 Police Commissioners, authorizing a panel of the board to decide certain cases,
4 and the adjournment of a trial or investigation relating to charges brought
5 against an officer.

Analysis by the Legislative Reference Bureau

Under current law in first class cities (presently only Milwaukee), there is a Board of Fire and Police Commissioners (board) that consists of five members. Three members of the board constitute a quorum and no more than two members may belong to the same political party. Each member is appointed to a staggered five-year term by the mayor of Milwaukee, subject to confirmation by the Milwaukee Common Council.

This bill increases the number of members on the board to seven or nine, and authorizes the mayor of Milwaukee to appoint two or four additional members of the board upon the bill's effective date. Generally, the bill increases the quorum requirement to four or five members, depending on the size of the board, but the bill also authorizes a three-member panel of the board to conduct and decide by majority vote disciplinary trials and to hear and decide by majority vote complaints filed by an aggrieved person. Currently, a quorum of the board may conduct such a trial or may hear and rule on such a complaint. The bill also authorizes the mayor to reduce the size of the board from nine to seven members. Finally, the bill eliminates the

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current law limitation on the number of board members who may belong to the same political party.

Members of the board who are appointed on or after the effective date of the bill are still subject to confirmation by the Milwaukee Common Council and are appointed to five-year terms.

Currently, if the board receives a notice of appeal, it must schedule a trial within 5 and 15 days after service of the notice and copy of the complaint. This bill changes the time frame for scheduling a trial to between 60 and 120 days.

Currently, both the accused and the chief of a department have the right to request up to a 15-day adjournment of the trial or investigation of the charges. Once such a request is made, it is granted automatically. Under the bill, the board may grant an adjournment, for cause, to either party.

For further information see the *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.** 62.50 (1) of the statutes is amended to read:

2 62.50 (1) In all 1st class cities, however incorporated, there shall be a board of
3 fire and police commissioners, consisting of 5 either 7 or 9 citizens, ~~not more than 2~~
4 ~~of whom shall at any time belong to the same political party.~~ The staff and members
5 of the board shall receive the salary or other compensation for their services fixed by
6 the common council. The salary shall be fixed at the same time and in the same
7 manner as the salary of other city officials and employees. ~~Three members~~ Except
8 as otherwise provided in this subsection, a majority of the members-elect, as that
9 term is used in s. 59.001 (2m), of the board shall constitute a quorum necessary for
10 the transaction of business. A 3-member panel of the board may conduct, and decide
11 by majority vote, a trial described under sub. (12) or may hear and decide, by majority
12 vote, charges filed by an aggrieved person under sub. (19). It shall be the duty of the
13 mayor of the city, on or before the 2nd Monday in July, to appoint ~~5~~ 7, or 9, members
14 of the board, designating the term of office of each, one to hold one year, ~~one~~ 2 to hold

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1 2 years, ~~one~~ 2 to hold 3 years, one to hold 4 years if the board has 7 members, and
2 2 to hold 4 years if the board has 9 members, and one to hold 5 years if the board has
3 7 members, and 2 to hold 5 years if the board has 9 members, and until their
4 respective successors shall be appointed and qualified. Thereafter the terms of office
5 shall be 5 years from the 2nd Monday in July, and until a successor is appointed and
6 qualified. The mayor may reduce the size of the board from 9 to 7 members by failing
7 to appoint 2 successors for individuals whose terms expire at the same time. Every
8 person appointed a member of the board shall be subject to confirmation by the
9 common council and every appointed member shall, before entering upon the duties
10 of the office take and subscribe the oath of office prescribed by article IV, section 28,
11 of the constitution, and file the same duly certified by the officer administering it,
12 with the clerk of the city. Appointments made prior to the time this subchapter first
13 applies to a 1st class city shall not be subject to confirmation by the common council.

14 **SECTION 2.** 62.50 (14) of the statutes is amended to read:

15 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,
16 within 5 days, serve the appellant with a copy of the complaint and a notice fixing
17 the time and place of trial, which time of trial may not be less than ~~5~~ 60 days nor more
18 than ~~15~~ 120 days after service of the notice and a copy of the complaint.

19 **SECTION 3.** 62.50 (16) of the statutes is amended to read:

20 62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused and or the
21 chief shall have the right to an adjournment of the trial or investigation of the
22 charges, for cause, not to exceed 15 days. In the course of any trial or investigation
23 under this section each member of the fire and police commission may administer
24 oaths, secure by its subpoenas both the attendance of witnesses and the production
25 of records relevant to the trial and investigation, and compel witnesses to answer and

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1 may punish for contempt in the same manner provided by law in trials before
2 municipal judges for failure to answer or to produce records necessary for the trial.
3 The trial shall be public and all witnesses shall be under oath. The accused shall
4 have full opportunity to be heard in defense and shall be entitled to secure the
5 attendance of all witnesses necessary for the defense at the expense of the city. The
6 accused may appear in person and by attorney. The city in which the department is
7 located may be represented by the city attorney. All evidence shall be taken by a
8 stenographic reporter who first shall be sworn to perform the duties of a stenographic
9 reporter in taking evidence in the matter fully and fairly to the best of his or her
10 ability.

11 **SECTION 4.** 62.50 (19) of the statutes is amended to read:

12 **62.50 (19) CHARGES BY AGGRIEVED PERSON.** In cases where duly verified charges
13 are filed by any aggrieved person with the board of fire and police commissioners,
14 setting forth sufficient cause for the removal of any member of either of the
15 departments, including the chiefs or their assistants, the board or chief may suspend
16 such member or officer pending disposition of such charges. The board shall cause
17 notice of the filing of the charges with a copy to be served upon the accused and shall
18 set a date for the trial and investigation of the charges, following the procedure under
19 this section. The board, or a 3-member panel of the board, shall decide by a majority
20 vote and subject to the just cause standard described in sub. (17) (b) whether the
21 charges are sustained. If sustained, the board shall immediately determine whether
22 the good of the service requires that the accused be removed, suspended from office
23 without pay for a period not exceeding 60 days or reduced in rank. If the charges are
24 not sustained, the accused shall be immediately reinstated without prejudice. The
25 secretary of the board shall make the decision public.

SENATE BILL 390**1 SECTION 5. Nonstatutory provisions.**

2 (1) On the effective date of this subsection, the mayor of a 1st class city shall
3 make 2 or 4 additional appointments to the board of fire and police commissioners
4 under section 62.50 (1) of the statutes such that the additional appointments are for
5 terms that are consistent with the requirements, and with the terms of the existing
6 commissioners, that are specified under section 62.50 (1) of the statutes.

7 SECTION 6. Initial applicability.

8 (1) The treatment of section 62.50 (14) and (16) of the statutes first applies to
9 any member of the police force who is covered by a collective bargaining agreement
10 that contains provisions inconsistent with this section on the day on which the
11 collective bargaining agreement expires or is extended, modified, or renewed,
12 whichever occurs first.

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(END)