



2005 SENATE BILL 348

September 28, 2005 - Introduced by Senators HANSEN, DECKER, ERPENBACH, CARPENTER and MILLER, cosponsored by Representatives SHERIDAN, SINICKI, KESSLER, TURNER, ZEPNICK, BERCEAU, POPE-ROBERTS, VAN AKKEREN, BLACK, POCAN, SEIDEL, BOYLE, FIELDS and LEHMAN. Referred to Committee on Labor and Election Process Reform.

1 **AN ACT to amend** 111.02 (3), 111.02 (5), 111.05 (1), 111.05 (2), 111.05 (3), 111.05
2 (3m) and 111.05 (4); and **to create** 111.02 (1m) of the statutes; **relating to:**
3 authorization cards for collective bargaining representation.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Employment Relations Commission (WERC) determines representatives of collective bargaining units by certifying the results of an employees' vote by secret ballot. The current law applies only to employees who are not under the jurisdiction of the National Labor Relations Act (NLRA) or other federal law. These employees include agricultural employees, domestic employees, state and local employees, and supervisors.

This bill permits the WERC to determine representatives of collective bargaining units by certifying the results of confidential authorization cards submitted by employees who are not under the jurisdiction of the NLRA or other federal law. "Authorization cards" are cards that employees complete to indicate their preferences regarding collective bargaining representation.

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

4 **SECTION 1.** 111.02 (1m) of the statutes is created to read:

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1 111.02 (1m) "Authorization card" means a signed card that employees
2 complete to indicate their preferences regarding collective bargaining
3 representation.

4 **SECTION 2.** 111.02 (3) of the statutes is amended to read:

5 111.02 (3) "Collective bargaining unit" means all of the employees of one
6 employer, employed within the state, except as provided in s. 111.05 (5) and except
7 that where a majority of the employees engaged in a single craft, division,
8 department, or plant have voted by secret ballot, or have submitted confidential
9 authorization cards, as provided in s. 111.05 (2) to constitute such group a separate
10 bargaining unit they shall be so considered, but, in appropriate cases, and to aid in
11 the more efficient administration of ss. 111.01 to 111.19, the commission may find,
12 where agreeable to all parties affected in any way thereby, an industry, trade, or
13 business comprising more than one employer in an association in any geographical
14 area to be a "collective bargaining unit". A collective bargaining unit thus
15 established by the commission shall be is subject to all rights by termination or
16 modification given by ss. 111.01 to 111.19 in reference to collective bargaining units
17 otherwise established under ss. 111.01 to 111.19. Two or more collective bargaining
18 units may bargain collectively through the same representative where a majority of
19 the employees in each separate unit have voted by secret ballot, or have submitted
20 confidential authorization cards, as provided in s. 111.05 (2) so to do.

21 **SECTION 3.** 111.02 (5) of the statutes is amended to read:

22 111.02 (5) ~~The term "election" shall mean~~ "Election" means a proceeding in
23 which the employees in a collective bargaining unit cast a secret ballot ~~for~~ or submit
24 confidential authorization cards to determine collective bargaining representatives
25 or for any other purpose specified in this subchapter and ~~shall include~~ includes

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1 elections conducted by the commission, or, unless the context clearly indicates
2 otherwise, by any tribunal having competent jurisdiction or whose jurisdiction was
3 accepted by the parties.

4 **SECTION 4.** 111.05 (1) of the statutes is amended to read:

5 111.05 (1) Representatives chosen for the purposes of collective bargaining by
6 a majority of the employees voting or submitting confidential authorization cards in
7 a collective bargaining unit shall be the exclusive representatives of all of the
8 employees in such unit for the purposes of collective bargaining, provided that any
9 individual employee or any minority group of employees in any collective bargaining
10 unit shall have the right at any time to present grievances to their employer in person
11 or through representatives of their own choosing, and the employer shall confer with
12 them in relation thereto.

13 **SECTION 5.** 111.05 (2) of the statutes is amended to read:

14 111.05 (2) Except as provided in sub. (5), whenever a question arises concerning
15 the determination of a collective bargaining unit as defined in s. 111.02 (3), it shall
16 be determined by secret ballot, ~~and the~~ or by confidential authorization cards. The
17 commission, upon request, shall cause the ballot to be taken, or the confidential
18 authorization cards to be submitted, in such manner as to show separately the
19 wishes of the employees in any craft, division, department, or plant as to the
20 determination of the collective bargaining unit.

21 **SECTION 6.** 111.05 (3) of the statutes is amended to read:

22 111.05 (3) Whenever a question arises concerning the representation of
23 employees in a collective bargaining unit the commission shall determine the
24 representatives thereof by taking a secret ballot of employees, or by collecting
25 confidential authorization cards, and certifying in writing the results ~~thereof of the~~

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1 ballot or the collection to the interested parties and to their employer or employers.
2 There shall be included on any ballot or authorization card for the ~~election~~ selection
3 of representatives the names of all persons submitted by an employee or group of
4 employees participating ~~in the election~~, except that the commission may, in its
5 discretion, exclude ~~from the ballot~~ a person who, at the time of the election, stands
6 deprived of the person's rights under this subchapter by reason of a prior
7 adjudication of the person's having engaged in an unfair labor practice. The ballot
8 or card shall be so prepared so as to permit of a vote or statement against
9 representation by anyone named on the ballot. The commission's certification of the
10 results of any election ~~shall be~~ or card collection is conclusive as to the findings
11 included therein unless reviewed in the same manner as provided by s. 111.07 (8) for
12 review of orders of the commission.

13 **SECTION 7.** 111.05 (3m) of the statutes is amended to read:

14 111.05 (3m) Whenever an election or card collection has been conducted
15 pursuant to sub. (3) in which the name of more than one proposed representative
16 appears on the ballot or authorization card and results in no conclusion, the
17 commission may, in its discretion, if requested by any party to the proceeding within
18 30 days from the date of the certification of the results ~~of such election~~, conduct a
19 runoff election or card collection. In such runoff election or card collection, the
20 commission may drop ~~from the ballot~~ the name of the representative that received
21 ~~the least number of votes~~ for whom the fewest ballots were cast or cards submitted
22 at the original election or collection, or the privilege of voting against any
23 representative when the ~~least number of votes cast~~ fewest ballots cast or cards
24 submitted at the first election ~~was~~ or collection were against representation by any
25 named representative.

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1 **SECTION 8.** 111.05 (4) of the statutes is amended to read:

2 111.05 (4) Questions concerning the determination of collective bargaining
3 units or representation of employees may be raised by petition of any employee or the
4 employee's employer, or the representative of either of them. Where it appears by
5 the petition that any emergency exists requiring prompt action, the commission
6 shall act on the petition immediately and hold the election or authorization card
7 collection requested within such time as will meet the requirements of the emergency
8 presented. The fact that one election or collection has been held does not prevent the
9 holding of another election or collection among the same group of employees,
10 provided that it appears to the commission that sufficient reason for another election
11 exists.

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(END)