



1995 ASSEMBLY BILL 548

September 6, 1995 - Introduced by Representatives BALDWIN, PROSSER, BALDUS, BLACK, BOCK, BOYLE, CARPENTER, CULLEN, GROBSCHMIDT, GRONEMUS, HANSON, HUBER, HUEBSCH, KAUFERT, KREIBICH, KREUSER, LA FAVE, LEHMAN, MEYER, MUSSER, NOTESTEIN, OLSEN, OTT, PLACHE, PLOMBON, R. POTTER, RILEY, ROBSON, RYBA, SPRINGER, TRAVIS, TURNER, VANDER LOOP, WILDER, WIRCH, L. YOUNG and R. YOUNG, cosponsored by Senators ZIEN, ANDREA, BRESKE, BURKE, CHVALA, DECKER, MOEN, PLEWA and RISSER. Referred to Committee on Labor and Employment.

1 **AN ACT to create** 111.81 (7) (d) and 111.825 (2) (e) of the statutes; **relating to:**
2 employment relations for attorneys employed in the office of the state public
3 defender.

Analysis by the Legislative Reference Bureau

This bill extends the state employment labor relations act to cover attorneys employed in the office of the state public defender. Excluded from coverage are supervisors and management and confidential employees.

Under the bill, attorneys employed in the office of the state public defender are expressly guaranteed the right of self-organization. Collective bargaining is expressly authorized and required with certified representative organizations in relation to specified subjects of bargaining. Mandatory subjects of bargaining are salaries, fringe benefits, hours and conditions of employment; however, bargaining is not required on certain subjects reserved to the management and direction of the employer, except that procedures for the adjustment of grievances arising out of disciplinary actions are a mandatory subject of bargaining. In addition, bargaining is not permitted regarding the mission and goals of the office of the state public defender.

The bill places the attorney positions in the office of the state public defender in a separate collective bargaining unit from the units that currently comprise the attorney positions in state service. Currently, one unit is comprised of attorneys in the classified service and another unit is comprised of assistant district attorneys.

Under the bill, attorneys employed in the office of the state public defender have the right to vote in an election conducted by the employment relations commission as to whether there shall be collective bargaining and if so, with which representative. Responsibilities of the state as an employer are handled under the bill by the department of employment relations.

The unfair labor practices currently applicable to represented employes are extended to apply to the attorneys employed in the office of the state public defender, to their representative and to the state as their employer.

No compulsory means of dispute settlement are provided.

Strikes are prohibited. Strikes constitute an unfair labor practice and may be enjoined by a court. Currently, strikes by attorneys employed in the office of the state public defender are not authorized, but no law specifically treats the matter.

“Fair share” (agency shop) and “maintenance of membership” agreements similar to those currently provided for represented employes are authorized. Under a fair-share agreement, the state must deduct the amount of dues uniformly required of all members of a union for the cost of the collective bargaining process and contract administration from the paychecks of all employes in the bargaining unit represented by that union, regardless of whether the employes are union members, and pay the total amount deducted to the union. A fair-share agreement requires the approval of two-thirds of the employes voting in a unit before it may take effect; it may also be discontinued according to a similar procedure. Under a maintenance of membership agreement, the state must deduct the amount of dues uniformly required of all members of a union for the cost of the collective bargaining process and contract administration from the paychecks of all employes in the bargaining unit who are members of the union, and all employes who are hired after the effective date of the agreement, and pay the total amount deducted to the union. A maintenance of membership agreement requires the approval of a majority of the employes voting in a unit before it may become effective, and may also be discontinued according to a similar procedure.

Currently, no employment relations act applies to attorneys employed in the office of the state public defender. Although such attorneys may organize and join labor unions, the state is not required to recognize or bargain collectively with them by statute. The employment relations commission has no responsibility to conduct elections, mediate disputes, arbitrate grievances or adjudicate alleged unfair labor practices involving attorneys employed in the office of the state public defender and their employer.

For further information see the *state* 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.** 111.81 (7) (d) of the statutes is created to read:
- 2 111.81 (7) (d) Attorneys employed in the office of the state public defender,
- 3 except supervisors, management employes or individuals who are privy to
- 4 confidential matters affecting the employer-employe relationship.

