

1999 DRAFTING REQUEST

Bill

Received: 01/19/99

Received By: **champra**

Wanted: **As time permits**

Identical to LRB:

For: **Richard Grobschmidt (608) 266-7505**

By/Representing: **Lisa**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - collective bargain**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Repeal of qualified economic offer provisions of MERA

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	champra 02/6/99	chanaman 02/9/99		_____			S&L
/1			jfrantze 02/9/99	_____	lrb_docadmin 02/9/99	lrb_docadmin 04/15/99	

FE Sent For:

05-20-99

<END>

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sent to
Sen. Shibilski's office
(Oked by Lisa in
Grohschmidt's)
MB

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1?	champra	CMM / 2/8	J/2/9	J/2/9			

FE Sent For:

<END>

B I L L
REQUEST FORM

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach more pages if necessary.

Legislator, agency or other body requesting this draft: Sen. Mubschmidt

Date: 1-15-99 Person submitting request (name, phone number): Lisa Molen -
Sen. Mubschmidt's office 6-7505

Persons to contact for questions about this draft (names, phone numbers):
Bob Burke - WEAC 276-7711 ext 254

Describe the problem, including any helpful examples.

How do you want to solve the problem?

Attached are a number of Bills/drafts from last session. We just need them redrafted - only changes I know of are date changes. Please call Bob if you have any additional questions.
Thanks! Lisa

Please attach a copy of any correspondence or other material that may help us.

If you know of any statute sections that might be affected, list them or provide a marked-up (not re-typed) copy. _____

You may attach a marked-up (not re-typed) copy of any LRB draft, or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67): _____

Requests are confidential unless stated otherwise.

- May we tell others that we are working on this for you? Yes No
- If yes: Anyone who asks? Yes No Any legislator? Yes No Only the following persons: _____

Do you consider this request urgent? Yes No If yes, please indicate why: _____

Should we give this request priority over any other pending request of this legislator, agency or body? Yes No If yes, sign your name here: _____

Yes No



State of Wisconsin
 1997-1998 LEGISLATURE
 (1999-2001)

LRB-4385/1
 RAC:jlg&mfd:jf

1999
 1997 ASSEMBLY BILL 681

LRB-1862/1
 RAC
 cmh/ksn

December 23, 1997 - Introduced by Representatives BALDWIN, WOOD, LINTON, BYBA, PLOUFF, J. LEHMAN, BOYLE, RILEY, BOCK, HANSON, B. YOUNG, BLACK and REYNOLDS, cosponsored by Senators SHIBILSKI, WINEKE, BURKE, GEORGE, BRESKE, RISSER and CLAUSING. Referred to Committee on Ways and Means.

- gen. cat.

1 AN ACT to repeal 111.70 (1) (dm), 111.70 (1) (nc), 111.70 (4) (cm) 5s., 111.70 (4)
 2 (cm) 7., 111.70 (4) (cm) 7g., 111.70 (4) (cm) 8m. b., 111.70 (4) (cm) 8p. and 111.70
 3 (4) (cn); to renumber and amend 111.70 (4) (cm) 7r.; to consolidate,
 4 renumber and amend 111.70 (4) (cm) 8m. a. and c.; and to amend 111.70 (1)
 5 (b), 111.70 (4) (cm) 5., 111.70 (4) (cm) 6. a., 111.70 (4) (cm) 6. am., 111.70 (4) (cm)
 6 8s. and 111.70 (4) (d) 2. a. of the statutes; relating to: dispute settlement
 7 procedures in local government employment other than law enforcement and
 8 fire fighting employment.

Analysis by the Legislative Reference Bureau

This bill does all of the following:

1. Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin employment relations commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final and binding arbitration with respect to any dispute relating to wages, hours and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must

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submit to the parties a list of ^{or seven} arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator, WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of ^{seven} names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

~~Under current law, however, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district professional employees if WERC determines, subsequent to an investigation, that the employer has submitted a qualified economic offer. Under current law, a qualified economic offer consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to generally provide, with certain exceptions, for an annual average salary increase having a cost to the employer at least equal to 2.1% of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit.~~

Insert Analysis

This bill eliminates the qualified economic offer exception from the compulsory, final and binding arbitration process.

2. Current law provides that in reaching a decision, the arbitrator or arbitration panel must give weight to many factors, including the lawful authority of the municipal employer, the stipulations of the parties, the interest and welfare of the public and the financial ability of the unit of government to meet the costs of the proposed agreement, comparison of wages, hours and conditions of employment with those of other public and private sector employees, the cost of living, the overall compensation and benefits that the employees currently receive and other similar factors. But, under current law, the arbitrator is required to give greater weight to economic conditions in the jurisdiction of the employer and the greatest weight to any state law or directive that places expenditure or revenue limitations on an employer.

This bill eliminates the authorization for the arbitrator or arbitration panel to give any weight to economic conditions in the jurisdiction of the employer or to any state law or directive that places expenditure or revenue limitations on an employer.

3. Under current law, every collective bargaining agreement covering school district professional employees must expire on June 30 of the odd-numbered years. For all other local government employees, the term of a collective bargaining agreement must be ^{two} 2 years, except for an initial agreement and except as the parties otherwise agree, and in no case may exceed ^{three} 3 years. This bill treats the terms of collective bargaining agreements for school district professional employees the same as those of other local government employees.

4. Finally, under current law, school district professional employees are required to be placed in a collective bargaining unit that is separate from the units of other school district employees. This bill eliminates this requirement.

ASSEMBLY BILL 681

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. 111.70 (1) (b) of the statutes is amended to read:

2 111.70 (1) (b) "Collective bargaining unit" means a unit consisting of municipal
3 employees who are school district professional employees or of municipal employees who
4 are not school district professional employees that is determined by the commission
5 to be appropriate for the purpose of collective bargaining.

proof w/ stats
Insert 3-6

6 SECTION 2. 111.70 (1) (dm) of the statutes is repealed.

7 SECTION 3. 111.70 (1) (nc) of the statutes is repealed.

8 SECTION 4. 111.70 (4) (cm) 5. of the statutes is amended to read:

9 111.70 (4) (cm) 5. 'Voluntary impasse resolution procedures.' In addition to the
10 other impasse resolution procedures provided in this paragraph, a municipal
11 employer and labor organization may at any time, as a permissive subject of
12 bargaining, agree in writing to a dispute settlement procedure, including
13 authorization for a strike by municipal employees or binding interest arbitration,
14 which is acceptable to the parties for resolving an impasse over terms of any
15 collective bargaining agreement under this subchapter. A copy of such agreement
16 shall be filed by the parties with the commission. If the parties agree to any form of
17 binding interest arbitration, the arbitrator shall give weight to the factors
18 enumerated under subs. subd. 7^b, 7^g, and 7^r plain period

proof w/ stats

19 SECTION 5. 111.70 (4) (cm) 5s. of the statutes is repealed.

20 SECTION 6. 111.70 (4) (cm) 6. a. of the statutes is amended to read:

ASSEMBLY BILL 681

SECTION 6

1 111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one
2 or more issues, qualifying for interest arbitration under subd. 5s. in a collective
3 bargaining unit to which subd. 5s. applies, has not been settled after a reasonable
4 period of negotiation and after mediation by the commission under subd. 3. and other
5 settlement procedures, if any, established by the parties have been exhausted, and
6 the parties are deadlocked with respect to any dispute between them over wages,
7 hours and conditions of employment to be included in a new collective bargaining
8 agreement, either party, or the parties jointly, may petition the commission, in
9 writing, to initiate compulsory, final and binding arbitration, as provided in this
10 paragraph. At the time the petition is filed, the petitioning party shall submit in
11 writing to the other party and the commission its preliminary final offer containing
12 its latest proposals on all issues in dispute. Within 14 calendar days after the date
13 of that submission, the other party shall submit in writing its preliminary final offer
14 on all disputed issues to the petitioning party and the commission. If a petition is
15 filed jointly, both parties shall exchange their preliminary final offers in writing and
16 submit copies to the commission at the time the petition is filed.

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17 **SECTION 7.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

18 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
19 commission shall make an investigation, with or without a formal hearing, to
20 determine whether arbitration should be commenced. If in determining whether an
21 impasse exists the commission finds that the procedures set forth in this paragraph
22 have not been complied with and such compliance would tend to result in a
23 settlement, it may order such compliance before ordering arbitration. The validity
24 of any arbitration award or collective bargaining agreement shall not be affected by
25 failure to comply with such procedures. Prior to the close of the investigation each

ASSEMBLY BILL 681

1 party shall submit in writing to the commission its single final offer containing its
2 final proposals on all issues in dispute that are subject to interest arbitration under
3 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~
4 applies. If a party fails to submit a single, ultimate final offer, the commission shall
5 close the investigation based on the last written position of the party. ~~The municipal~~
6 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~
7 ~~of the investigation.~~ Such final offers may include only mandatory subjects of
8 bargaining, except that a permissive subject of bargaining may be included by a
9 party if the other party does not object and shall then be treated as a mandatory
10 subject. No later than such time, the parties shall also submit to the commission a
11 stipulation, in writing, with respect to all matters which are agreed upon for
12 inclusion in the new or amended collective bargaining agreement. The commission,
13 after receiving a report from its investigator and determining that arbitration should
14 be commenced, shall issue an order requiring arbitration and immediately submit
15 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
16 alternately strike names until a single name is left, who shall be appointed as
17 arbitrator. The petitioning party shall notify the commission in writing of the
18 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
19 formally appoint the arbitrator and submit to him or her the final offers of the
20 parties. The final offers shall be considered public documents and shall be available
21 from the commission. In lieu of a single arbitrator and upon request of both parties,
22 the commission shall appoint a tripartite arbitration panel consisting of one member
23 selected by each of the parties and a neutral person designated by the commission
24 who shall serve as a chairperson. An arbitration panel has the same powers and
25 duties as provided in this section for any other appointed arbitrator, and all

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ASSEMBLY BILL 681

SECTION 7

1 arbitration decisions by such panel shall be determined by majority vote. In lieu of
 2 selection of the arbitrator by the parties and upon request of both parties, the
 3 commission shall establish a procedure for randomly selecting names of arbitrators.
 4 Under the procedure, the commission shall submit a list of 7 arbitrators to the
 5 parties. Each party shall strike one name from the list. From the remaining 5
 6 names, the commission shall randomly appoint an arbitrator. Unless both parties
 7 to an arbitration proceeding otherwise agree in writing, every individual whose
 8 name is submitted by the commission for appointment as an arbitrator shall be a
 9 resident of this state at the time of submission and every individual who is
 10 designated as an arbitration panel chairperson shall be a resident of this state at the
 11 time of designation.

12 SECTION 8. 111.70 (4) (cm) ^X7. of the statutes is repealed.

13 SECTION 9. 111.70 (4) (cm) ^X7g. of the statutes is repealed.

14 SECTION 10. 111.70 (4) ^X(cm) 7r. of the statutes is renumbered 111.70 (4) (cm) 7.,
 15 and 111.70 (4) (cm) 7. (intro.), as renumbered, is amended to read:

16 111.70 (4) (cm) ^X7. (title) ~~Other factors~~ Factors considered.' (intro.) In making
 17 any decision under the arbitration procedures authorized by this [✓]paragraph, the
 18 arbitrator or arbitration panel shall also give weight to the following factors:

19 SECTION 11. 111.70 ^X(4) (cm) 8m. a. and c. of the statutes are consolidated,
 20 renumbered 111.70 (4) (cm) 8m. and amended to read:

21 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for
 22 the initial collective bargaining agreement between the parties and except as the
 23 parties otherwise agree, every collective bargaining agreement covering municipal
 24 employes subject to this paragraph ~~other than school district professional employes~~
 25 shall be for a term of 2 years. ~~No, but in no case may a~~ collective bargaining

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1 agreement for any collective bargaining unit consisting of municipal employes
 2 ~~subject to this paragraph other than school district professional employes shall be~~
 3 for a term exceeding 3 years. e. No arbitration award may contain a provision for
 4 reopening of negotiations during the term of a collective bargaining agreement,
 5 unless both parties agree to such a provision. The requirement for agreement by both
 6 parties does not apply to a provision for reopening of negotiations with respect to any
 7 portion of an agreement that is declared invalid by a court or administrative agency
 8 or rendered invalid by the enactment of a law or promulgation of a federal regulation.

9 **SECTION 12.** 111.70 (4) (cm) ~~8m.~~ b. of the statutes is repealed.

10 **SECTION 13.** 111.70 (4) (cm) ~~8p.~~ of the statutes is repealed.

11 **SECTION 14.** 111.70 (4) (cm) 8s. of the statutes is amended to read:

12 111.70 (4) (cm) 8s. 'Forms for determining costs.' The commission shall
 13 prescribe forms for calculating the total increased cost to the municipal employer of
 14 compensation and fringe benefits provided to school district professional employes.
 15 The cost shall be determined based upon the total cost of compensation and fringe
 16 benefits provided to school district professional employes who are represented by a
 17 labor organization on the 90th day before expiration of any previous collective
 18 bargaining agreement between the parties, or who were so represented if the
 19 effective date is retroactive, or the 90th day prior to commencement of negotiations
 20 if there is no previous collective bargaining agreement between the parties, without
 21 regard to any change in the number, rank or qualifications of the school district
 22 professional employes. For purposes of such determinations, any cost increase that
 23 is incurred on any day other than the beginning of the 12-month period commencing
 24 with the effective date of the agreement or any succeeding 12-month period
 25 commencing on the anniversary of that effective date shall be calculated as if the cost

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ASSEMBLY BILL 681

1 increase were incurred as of the beginning of the 12-month period beginning on the
 2 effective date or anniversary of the effective date in which the cost increase is
 3 incurred. ~~In each collective bargaining unit to which subd. 5s. applies, the municipal~~
 4 ~~employer shall transmit to the commission and the labor organization a completed~~
 5 ~~form for calculating the total increased cost to the municipal employer of~~
 6 ~~compensation and fringe benefits provided to the school district professional~~
 7 ~~employees covered by the agreement as soon as possible after the effective date of the~~
 8 agreement.

9 SECTION 15. 111.70 (4)^X (cn) of the statutes is repealed.

10 SECTION 16. 111.70 (4) (d)^X 2. a. of the statutes is amended to read:

11 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
 12 bargaining unit for the purpose of collective bargaining and shall whenever possible,
 13 unless otherwise required under this subchapter, avoid fragmentation by
 14 maintaining as few collective bargaining units as practicable in keeping with the size
 15 of the total municipal work force. In making such a determination, the commission
 16 may decide whether, in a particular case, the municipal employees in the same or
 17 several departments, divisions, institutions, crafts, professions or other
 18 occupational groupings constitute a collective bargaining unit. Before making its
 19 determination, the commission may provide an opportunity for the municipal
 20 employees concerned to determine, by secret ballot, whether or not they desire to be
 21 established as a separate collective bargaining unit. ~~The commission shall not~~
 22 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
 23 ~~collective bargaining unit if the group includes both municipal employees who are~~
 24 ~~school district professional employees and municipal employees who are not school~~
 25 ~~district professional employees.~~ The commission shall not decide, however, that any

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ASSEMBLY BILL 681

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1 ~~other~~ group of municipal employes constitutes an appropriate collective bargaining
 2 unit if the group includes both professional employes and nonprofessional employes,
 3 unless a majority of the professional employes vote for inclusion in the unit. The
 4 commission shall not decide that any group of municipal employes constitutes an
 5 appropriate collective bargaining unit if the group includes both craft employes and
 6 noncraft employes unless a majority of the craft employes vote for inclusion in the
 7 unit. The commission shall place the professional employes who are assigned to
 8 perform any services at a charter school, as defined in s. 115.001 (1), in a separate
 9 collective bargaining unit from a unit that includes any other professional employes
 10 whenever at least 30% of those professional employes request an election to be held
 11 to determine that issue and a majority of the professional employes at the charter
 12 school who cast votes in the election decide to be represented in a separate collective
 13 bargaining unit. Any vote taken under this subsection shall be by secret ballot.

SECTION 17. Nonstatutory provisions.

14
 15 (1) The employment relations commission may not accept any petition for
 16 arbitration filed under section 111.70 (4) (cm) 6. of the statutes, in any collective
 17 bargaining unit concerning a labor dispute about which the commission has, prior
 18 to the effective date of this subsection, already accepted a petition for arbitration
 19 filed under section 111.70 (4) (cm) 6. of the statutes.

SECTION 18. Initial applicability.

20
 21 (1) This act first applies to petitions for arbitration filed under section 111.70
 22 (4) (cm) 6. of the statutes, as affected by this act, on the effective date of this
 23 subsection.

(END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1862/?ins

.....

Insert Analysis:

9

Under current law, however, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district professional employees if WERC determines, subsequent to an investigation, that the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1% of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings. Fringe benefit savings is that amount, if any, by which 1.7% of the total compensation and fringe benefit costs for all municipal employees in a collective bargaining unit for any 12-month period covered by a proposed collective bargaining agreement exceeds the increased cost required to maintain the percentage contribution by the municipal employer to the municipal employees' existing fringe benefit costs and to maintain all fringe benefits provided to the municipal employees.

Insert 3-6:

(END OF INSERT)

SECTION 1. 111.70 (1) (fm) of the statutes is repealed.

(END OF INSERT)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 2/9/99

To: Senator Grobschmidt

Shibileki

Relating to LRB drafting number: LRB-1862

Topic

Repeal of qualified economic offer provisions of MERA

Subject(s)

Employ Pub - collective bargain

1. JACKET the draft for introduction

in the Senate or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. REDRAFT. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain FISCAL ESTIMATE NOW, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Richard A. Champagne, Legislative Attorney
Telephone: (608) 266-9930