

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2003 SENATE BILL 286**

January 15, 2004 - Offered by Senators BROWN, REYNOLDS, A. LASEE, LEIBHAM and LAZICH.

1 **AN ACT to amend** 111.70 (1) (a), 111.70 (1) (dm), 111.70 (4) (cm) 5s. and 111.70  
2 (4) (m) (title); and **to create** 111.70 (4) (nm) of the statutes; **relating to:**  
3 permissive subjects of collective bargaining under the Municipal Employment  
4 Relations Act.

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***Analysis by the Legislative Reference Bureau***

Currently, under the Municipal Employment Relations Act (MERA), municipal employers and employees must bargain all issues related to wages, hours, and conditions of employment. These issues are referred to as mandatory subjects of collective bargaining. In addition, under MERA, there is a class of issues involving management decisions that the municipal employer is not required to bargain collectively. These issues are referred to as permissive subjects of collective bargaining. This substitute amendment provides that a municipal employer is not required to bargain collectively a decision to contract with any person who is not a municipal employee for the performance of municipal services; to contract with any other municipal employer for the performance of municipal services; or to contract with any other municipal employer to consolidate municipal services or units of government. A municipal employer is also not required to bargain collectively the

impact of any such decision on the wages, hours, and conditions of employment of its municipal employees.

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

1           **SECTION 1.** 111.70 (1) (a) of the statutes is amended to read:

2           111.70 (1) (a) "Collective bargaining" means the performance of the mutual  
3 obligation of a municipal employer, through its officers and agents, and the  
4 representative of its municipal employees in a collective bargaining unit, to meet and  
5 confer at reasonable times, in good faith, with the intention of reaching an  
6 agreement, or to resolve questions arising under such an agreement, with respect to  
7 wages, hours and conditions of employment, and with respect to a requirement of the  
8 municipal employer for a municipal employee to perform law enforcement and fire  
9 fighting services under s. 61.66, except as provided in sub. (4) (m) and (nm) and s.  
10 40.81 (3) and except that a municipal employer shall not meet and confer with respect  
11 to any proposal to diminish or abridge the rights guaranteed to municipal employees  
12 under ch. 164. The duty to bargain, however, does not compel either party to agree  
13 to a proposal or require the making of a concession. Collective bargaining includes  
14 the reduction of any agreement reached to a written and signed document. The  
15 municipal employer shall not be required to bargain on subjects reserved to  
16 management and direction of the governmental unit except insofar as the manner  
17 of exercise of such functions affects the wages, hours and conditions of employment  
18 of the municipal employees in a collective bargaining unit. In creating this  
19 subchapter the legislature recognizes that the municipal employer must exercise its  
20 powers and responsibilities to act for the government and good order of the  
21 jurisdiction which it serves, its commercial benefit and the health, safety and welfare

1 of the public to assure orderly operations and functions within its jurisdiction,  
2 subject to those rights secured to municipal employees by the constitutions of this  
3 state and of the United States and by this subchapter.

4 **SECTION 2.** 111.70 (1) (dm) of the statutes is amended to read:

5 111.70 (1) (dm) "Economic issue" means salaries, overtime pay, sick leave,  
6 payments in lieu of sick leave usage, vacations, clothing allowances in excess of the  
7 actual cost of clothing, length-of-service credit, continuing education credit, shift  
8 premium pay, longevity pay, extra duty pay, performance bonuses, health insurance,  
9 life insurance, dental insurance, disability insurance, vision insurance, long-term  
10 care insurance, worker's compensation and unemployment insurance, social  
11 security benefits, vacation pay, holiday pay, lead worker pay, temporary assignment  
12 pay, retirement contributions, supplemental retirement benefits, severance or other  
13 separation pay, hazardous duty pay, certification or license payment, and limitations  
14 on layoffs that create a new or increased financial liability on the employer ~~and~~  
15 ~~contracting or subcontracting of work that would otherwise be performed by~~  
16 ~~municipal employees in the collective bargaining unit with which there is a labor~~  
17 ~~dispute.~~

18 **SECTION 3.** 111.70 (4) (cm) 5s. of the statutes is amended to read:

19 111.70 (4) (cm) 5s. 'Issues subject to arbitration.' In a collective bargaining unit  
20 consisting of school district professional employees, the municipal employer or the  
21 labor organization may petition the commission to determine whether the municipal  
22 employer has submitted a qualified economic offer. The commission shall appoint an  
23 investigator for that purpose. If the investigator finds that the municipal employer  
24 has submitted a qualified economic offer, the investigator shall determine whether  
25 a deadlock exists between the parties with respect to all economic issues. If the

1 municipal employer submits a qualified economic offer applicable to any period  
2 beginning on or after July 1, 1993, no economic issues are subject to interest  
3 arbitration under subd. 6. for that period, ~~except that only the impact of contracting~~  
4 ~~out or subcontracting work that would otherwise be performed by municipal~~  
5 ~~employees in the collective bargaining unit is subject to interest arbitration under~~  
6 ~~subd. 6.~~ In such a collective bargaining unit, economic issues concerning the wages,  
7 hours or conditions of employment of the school district professional employees in the  
8 unit for any period prior to July 1, 1993, are subject to interest arbitration under  
9 subd. 6. for that period. In such a collective bargaining unit, noneconomic issues  
10 applicable to any period on or after July 1, 1993, are subject to interest arbitration  
11 after the parties have reached agreement and stipulate to agreement on all economic  
12 issues concerning the wages, hours or conditions of employment of the school district  
13 professional employees in the unit for that period. In such a collective bargaining  
14 unit, if the commission's investigator finds that the municipal employer has  
15 submitted a qualified economic offer and that a deadlock exists between the parties  
16 with respect to all economic issues, the municipal employer may implement the  
17 qualified economic offer. On the 90th day prior to expiration of the period included  
18 within the qualified economic offer, if no agreement exists on that day, the parties are  
19 deemed to have stipulated to the inclusion in a new or revised collective bargaining  
20 agreement of all provisions of any predecessor collective bargaining agreement  
21 concerning economic issues, or of all provisions of any existing collective bargaining  
22 agreement concerning economic issues if the parties have reopened negotiations  
23 under an existing agreement, as modified by the terms of the qualified economic offer  
24 and as otherwise modified by the parties. In such a collective bargaining unit, on and  
25 after that 90th day, a municipal employer that refuses to bargain collectively with

1 respect to the terms of that stipulation, applicable to the 90-day period prior to  
2 expiration of the period included within the qualified economic offer, does not violate  
3 sub. (3) (a) 4. Any such unilateral implementation after August 11, 1993, during the  
4 90-day period prior to expiration of the period included within a qualified economic  
5 offer, operates as a full, final and complete settlement of all economic issues between  
6 the parties for the period included within the qualified economic offer. The failure  
7 of a labor organization to recognize the validity of such a lawful qualified economic  
8 offer does not affect the obligation of the municipal employer to submit economic  
9 issues to arbitration under subd. 6.

10 **SECTION 4.** 111.70 (4) (m) (title) of the statutes is amended to read:

11 111.70 (4) (m) (title) *Prohibited subjects of bargaining; school districts.*

12 **SECTION 5.** 111.70 (4) (nm) of the statutes is created to read:

13 111.70 (4) (nm) *Permissive subjects of bargaining; all municipal employers.* A  
14 municipal employer is not required to bargain collectively a decision to contract with  
15 any person who is not a municipal employee for the performance of municipal  
16 services; to contract with any other municipal employer for the performance of  
17 municipal services; or to contract with any other municipal employer to consolidate  
18 municipal services or units of government. A municipal employer is also not required  
19 to bargain collectively the impact of any such decision on the wages, hours, and  
20 conditions of employment of its municipal employees.

21 **SECTION 6. Initial applicability.**

22 (1) This act first applies to collective bargaining agreements under subchapter  
23 IV of chapter 111 for which a notice of commencement of contract negotiations has  
24 been filed by either party on the effective date of this subsection.

25 (END)