

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 1032**

February 21, 2006 – Offered by Representative TOLES.

1 **AN ACT** *to renumber and amend* 62.50 (18); *to amend* 62.50 (14) and 62.50
2 (16); and *to create* 62.50 (18) (b) of the statutes; **relating to:** payment and
3 repayment of a 1st class city police officer’s pay and benefits after suspension
4 or discharge.

Analysis by the Legislative Reference Bureau

Under current law, no member of the police force of a first class city (presently only Milwaukee) may be suspended or discharged without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the Board of Fire and Police Commissioners (board) or the time for an appeal passes without an appeal being made. Currently, no member of a police force of a second, third, or fourth class city may be deprived of compensation while suspended, pending disposition of the charges.

Also under current law, if the board’s decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her former position in the department and is entitled to pay as if he or she was not suspended or discharged. Similar provisions apply to a second, third, or fourth class city police officer whose suspension or removal is reversed.

Under this substitute amendment, if a member of either the police or fire departments of a first class city is discharged, the member is not entitled to any salary, pay, wages, or benefits from either department pending his or her appeal to

the board if criminal charges, which arose out of the same conduct or incident that led to the discharge, are pending against the member. Also under the substitute amendment, if a member of the police department appeals his or her discharge and the discharge is sustained, or if the appeal is not conducted due to the police officer's resignation, retirement, or other action taken by the officer, the officer is required to reimburse the city for any salary, pay, wages, or benefits he or she received, as a police officer, from the time that he or she was given notice of the discharge until the dismissal is disposed of by the board.

Currently, if the board receives a notice of appeal, it must schedule a trial within five and 15 days after service of the notice and copy of the complaint. This substitute amendment changes the time frame for scheduling a trial to between 30 and 60 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. The substitute amendment repeals this provision.

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

1 **SECTION 1.** 62.50 (14) of the statutes is amended to read:

2 **62.50 (14) COMPLAINT.** The board, after receiving the notice of appeal shall,
3 within 5 days, serve the appellant with a copy of the complaint and a notice fixing
4 the time and place of trial, which time of trial may not be less than ~~5~~ 30 days nor more
5 than ~~15~~ 60 days after service of the notice and a copy of the complaint.

6 **SECTION 2.** 62.50 (16) of the statutes is amended to read:

7 **62.50 (16) TRIAL; ADJOURNMENT.** ~~The accused and the chief shall have the right~~
8 ~~to an adjournment of the trial or investigation of the charges, not to exceed 15 days.~~
9 In the course of any trial or investigation under this section each member of the fire
10 and police commission may administer oaths, secure by its subpoenas both the
11 attendance of witnesses and the production of records relevant to the trial and
12 investigation, and compel witnesses to answer and may punish for contempt in the
13 same manner provided by law in trials before municipal judges for failure to answer
14 or to produce records necessary for the trial. The trial shall be public and all

1 witnesses shall be under oath. The accused shall have full opportunity to be heard
2 in defense and shall be entitled to secure the attendance of all witnesses necessary
3 for the defense at the expense of the city. The accused may appear in person and by
4 attorney. The city in which the department is located may be represented by the city
5 attorney. All evidence shall be taken by a stenographic reporter who first shall be
6 sworn to perform the duties of a stenographic reporter in taking evidence in the
7 matter fully and fairly to the best of his or her ability.

8 **SECTION 3.** 62.50 (18) of the statutes is renumbered 62.50 (18) (a) and amended
9 to read:

10 62.50 **(18)** (a) No chief officer of either department or member of the fire
11 department may be deprived of any salary ~~or, pay, wages, or benefits~~ for the period
12 of time suspended preceding an investigation or trial, unless the charge is sustained.
13 ~~No~~ Except as provided in par. (b), no member of the police force may be suspended
14 or discharged under sub. (11) or (13) without salary, pay, wages, or benefits until the
15 matter that is the subject of the suspension or discharge is disposed of by the board
16 or the time for appeal under sub. (13) passes without an appeal being made. If a
17 member of the police force appeals and if the discharge of the member is sustained
18 by the board, or if the appeal is not conducted due to the member's resignation,
19 retirement, or other action taken by the member, the member shall reimburse the
20 city for all salary, pay, wages, or benefits he or she received as a member of the police
21 force from the time that he or or she was given notice of the discharge until the date
22 that his or her discharge is disposed of by the board.

23 **SECTION 4.** 62.50 (18) (b) of the statutes is created to read:

24 62.50 **(18)** (b) Following a discharge under sub. (11) or (13), no member of either
25 department is entitled to any salary, pay, wages, or benefits from either department

1 pending an appeal of the discharge to the board of fire and police commissioners if
2 criminal charges are also pending against the member and such charges arose out
3 of the same conduct or incident that serves as the basis for the discharge.

4 **SECTION 5. Initial applicability.**

5 (1) This act first applies to any member of the police force or fire department
6 who is covered by a collective bargaining agreement that contains provisions
7 inconsistent with this act on the day on which the collective bargaining agreement
8 expires or is extended, modified, or renewed, whichever occurs first.

9 (END)