

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB1032)

Received: **02/20/2006**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Barbara Toles (608) 266-5580**

By/Representing: **Denise, Rachel Letzing**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - 1st class cities**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Toles@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Payment of a 1st class city police officer's salary after discharge

Instructions:

See Attached. Based on AB 1032 (LRB 4310/3), but add attached language to prevent loophole of an officer retiring/resigning right before final appeal, thus avoiding the need to pay back salary, etc., if appeal is denied.

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>
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/1	mshovers 02/20/2006	jdye 02/20/2006	pgreensl 02/20/2006	_____	sbasford 02/20/2006	sbasford 02/20/2006	

FE Sent For:

<END>

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/?	mshovers	1/20/06	20	2/20/06			
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1/1 MEG

2/20/06

PS

2/20/06
PST

FE Sent For:

<END>

Shovers, Marc

From: Stromme, Denise
Sent: Monday, February 20, 2006 9:25 AM
To: Shovers, Marc
Subject: FW: Proposed revision to Police Pay Bill amending sec. 62.50(18),St

Attachments: 33z701_.DOC



33z701_.DOC (20
KB)

-----Original Message-----

From: Jennifer Gonda [mailto:JGONDA@milwaukee.gov]
Sent: Friday, February 17, 2006 4:38 PM
To: Toles, Barbara; Stromme, Denise
Cc: MARIA MONTEAGUDO; Sharon Cook
Subject: Proposed revision to Police Pay Bill amending sec. 62.50(18),St

Barbara-

Attached is the proposed revision. Once again I am so sorry that our City Attorney's office did not have a chance to review this language before we finalized it yesterday. We really do appreciate the work you are doing for us and hate to cause more stress for you.

In a nutshell, this revision will provide that an officer who appeals their termination must actually carry through their appeal. It eliminates the possibility that someone could resign/retire right before the hearing and not have to reimburse the city.

I think when you read this language, you will see why it is so much more clear and better meets the intent.

Thank you again Barbara. You are doing a great job for the City and we all appreciate that. Maria Monteagudo will again be testifying on our behalf Wednesday. I will be out of the office Monday and Tuesday, so please contact her or Sharon if you need anything before then.

Jennifer

Jennifer C. Gonda
Legislative Fiscal Manager - Sr
City of Milwaukee - Intergovernmental Relations Division
Phone: 414.286.3492
FAX: 414.286.8547

>>> Thomas Beamish 2/17/2006 4:23:40 PM >>>
As discussed. TJB

Proposed revision to 2005 Bill (February 17th p.m. version) amending sec. 62.50(18), Stats.

- 1) Delete underlined language on page 3 of the draft, in Section 3, beginning with the words "If the charges..." at the end of line 14 and carrying through to the end of that sentence, ending with "or discharge is final" on line 18. See attached Feb. 17th, pm draft.
- 2) Substitute the following language in place of that deleted:

In the event of an appeal, if the discharge of the member of the police force is sustained by the board, or if the appeal is not conducted due to the member's resignation, retirement, or other action attributable to the member, the member shall reimburse the city for all salary, pay, wages, or benefits he or she received as a member of the police force from the time that he or she was given notice of the discharge until the date that his or her discharge is disposed of by the board.

102151

Tokes' cell: 414 899. 7506

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amending sec. 62.50(18), Stats.

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102151

city attorney saw loophole - intent to stop pay after term. - some have crim charges pending - but must be addressed before term. can proceed. If appeal is 60 days after being day 59 could resign retroactive, so wouldn't pay back & bc charges re: appeal would not be sustained

CITY OF MILWAUKEE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL RELATIONS DIVISION

Phone: 414/286-3747

Fax: 414/286-8547



Tues, 9:50

FAX COVER SHEET

To: Ms. Rachel Letzing

From: Tom Beamish

Date: _____ No. of Pages: _____

Phone: _____ Fax: 608-266-3830

Message: As is



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0559/?
MES:.....

Handwritten initials: jld, RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 2005 ASSEMBLY BILL 1032

Handwritten note in a circle: WANTED; Today - 3pm

Handwritten initials: gen

- 1 AN ACT ...; relating to: payment and repayment of a 1st class city police officer's
- 2 pay and benefits after suspension 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, 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

Handwritten note: ✓ pay

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
15 witnesses shall be under oath. The accused shall have full opportunity to be heard

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

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

9 62.50 (18) (a) No chief officer of either department or member of the fire
10 department may be deprived of any salary ~~or~~, pay, wages, or benefits for the period
11 of time suspended preceding an investigation or trial, unless the charge is sustained.
12 ~~No~~ Except as provided in par. (b), no member of the police force may be suspended
13 or discharged under sub. (11) or (13) without salary, pay, wages, or benefits until the
14 matter that is the subject of the suspension or discharge is disposed of by the board
15 or the time for appeal under sub. (13) passes without an appeal being made. If the
16 member appeals and if the discharge of the member of the police force is sustained
17 by the board, or if the appeal is not conducted due to the member's resignation,
18 retirement, or other action taken by the member, the member shall reimburse the
19 city for all salary, pay, wages, or benefits he or she received as a member of the police
20 force from the time that he or or she was given notice of the discharge until the date
21 that his or her discharge is disposed of by the board.

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

23 62.50 (18) (b) Following a discharge under sub. (11) or (13), no member of either
24 department is entitled to any salary, pay, wages, or benefits from either department
25 pending an appeal of the discharge to the board of fire and police commissioners if

1 criminal charges are also pending against the member and such charges arose out
2 of the same conduct or incident that serves as the basis for the discharge.

3 **SECTION 5. Initial applicability.**

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

8 (END)