

2005 DRAFTING REQUEST

Bill

Received: 09/30/2004

Received By: chanaman

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Ziegler

This file may be shown to any legislator: NO

Drafter: chanaman

May Contact:

Addl. Drafters:

Subject: **Employ Pub - collective bargain**

Extra Copies:

Submit via email: NO

Pre Topic:

DOA:.....Ziegler, BB0219 -

Topic:

Repeal qualified economic offer

Instructions:

See Attached--05-0213

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>
/?	chanaman 09/30/2004	wjackson 09/30/2004		_____			State
/1	chanaman 10/14/2004	wjackson 10/14/2004	rschluet 09/30/2004	_____	mbarman 09/30/2004		S&L
/2			rschluet 10/15/2004	_____	lemery 10/15/2004		S&L
/3	chanaman 10/26/2004	wjackson 10/27/2004	rschluet 10/27/2004	_____	lnorthro 10/27/2004		S&L
/4	chanaman 01/26/2005	wjackson 01/26/2005	rschluet 01/26/2005	_____	lemery 01/26/2005		

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/3 WLj 1/26

LRB-0352

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Page 2

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For: **Public Instruction 266-1771**

By/Representing: **Tony Evers**

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Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - collective bargain**

Extra Copies:

Submit via email: **YES**

Requester's email: **anthony.evers@dpi.state.wi.us**

Carbon copy (CC:) to: **Michael.Bornett@dpi.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Repeal qualified economic offer

Instructions:

See Attached--05-0213

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<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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Addl. Drafters:

Subject: Employ Pub - collective bargain

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Submit via email: YES

Requester's email: anthony.evers@dpi.state.wi.us

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Page 2

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Extra Copies: *PAC*

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Requester's email: **anthony.evers@dpi.state.wi.us**

Carbon copy (CC:) to: **Michael.Bormett@dpi.state.wi.us**

Pre Topic:

No specific pre topic given

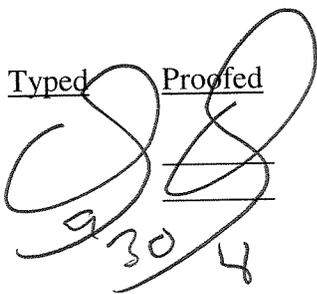
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FE Sent For:

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**DEPARTMENT OF PUBLIC INSTRUCTION
2005-07 BIENNIAL BUDGET
DRAFTING REQUEST TO THE LEGISLATIVE REFERENCE BUREAU**

Draft for Possible 2005-07 Budget Bill Introduction (*Agency Decision Item No. 6004*)

Subject: Elimination of Qualified Economic Offer

Request Date: September 15, 2004

Agency Contact: Tony Evers, 266-1771
Michael Bormett, 266-2804

Brief Description of Intent:

The department proposes to repeal the Qualified Economic Offer (QEO) provisions related to teacher collective bargaining under s. 111.70, Wis. Stats.

Related Stat. Citations:

Amend s. 111.70, Wis. Stats., to repeal provisions related to the QEO effective upon passage of the budget bill.

0352/1

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SOON

done for
out

1 AN ACT ...; **relating to:** qualified economic offers under the Municipal
2 Employment Relations Act.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

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 submit to the parties a list of 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 (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 percent 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 percent 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.

This bill eliminates the QEO exception from the compulsory, final, and binding arbitration process.

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.** 111.70 (1) (dm) of the statutes is repealed.

2 **SECTION 2.** 111.70 (1) (fm) of the statutes is repealed.

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

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

5 **SECTION 5.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

6 111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one
7 or more issues, ~~qualifying for interest arbitration under subd. 5s. in a collective~~
8 ~~bargaining unit to which subd. 5s. applies,~~ has not been settled after a reasonable
9 period of negotiation and after mediation by the commission under subd. 3. and other
10 settlement procedures, if any, established by the parties have been exhausted, and
11 the parties are deadlocked with respect to any dispute between them over wages,
12 hours and conditions of employment to be included in a new collective bargaining
13 agreement, either party, or the parties jointly, may petition the commission, in

1 writing, to initiate compulsory, final and binding arbitration, as provided in this
2 paragraph. At the time the petition is filed, the petitioning party shall submit in
3 writing to the other party and the commission its preliminary final offer containing
4 its latest proposals on all issues in dispute. Within 14 calendar days after the date
5 of that submission, the other party shall submit in writing its preliminary final offer
6 on all disputed issues to the petitioning party and the commission. If a petition is
7 filed jointly, both parties shall exchange their preliminary final offers in writing and
8 submit copies to the commission at the time the petition is filed.

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

10 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
11 commission shall make an investigation, with or without a formal hearing, to
12 determine whether arbitration should be commenced. If in determining whether an
13 impasse exists the commission finds that the procedures set forth in this paragraph
14 have not been complied with and such compliance would tend to result in a
15 settlement, it may order such compliance before ordering arbitration. The validity
16 of any arbitration award or collective bargaining agreement shall not be affected by
17 failure to comply with such procedures. Prior to the close of the investigation each
18 party shall submit in writing to the commission its single final offer containing its
19 final proposals on all issues in dispute that are subject to interest arbitration under
20 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~
21 ~~applies.~~ If a party fails to submit a single, ultimate final offer, the commission shall
22 close the investigation based on the last written position of the party. ~~The municipal~~
23 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~
24 ~~of the investigation.~~ Such final offers may include only mandatory subjects of
25 bargaining, except that a permissive subject of bargaining may be included by a

1 party if the other party does not object and shall then be treated as a mandatory
2 subject. No later than such time, the parties shall also submit to the commission a
3 stipulation, in writing, with respect to all matters which are agreed upon for
4 inclusion in the new or amended collective bargaining agreement. The commission,
5 after receiving a report from its investigator and determining that arbitration should
6 be commenced, shall issue an order requiring arbitration and immediately submit
7 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
8 alternately strike names until a single name is left, who shall be appointed as
9 arbitrator. The petitioning party shall notify the commission in writing of the
10 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
11 formally appoint the arbitrator and submit to him or her the final offers of the
12 parties. The final offers shall be considered public documents and shall be available
13 from the commission. In lieu of a single arbitrator and upon request of both parties,
14 the commission shall appoint a tripartite arbitration panel consisting of one member
15 selected by each of the parties and a neutral person designated by the commission
16 who shall serve as a chairperson. An arbitration panel has the same powers and
17 duties as provided in this section for any other appointed arbitrator, and all
18 arbitration decisions by such panel shall be determined by majority vote. In lieu of
19 selection of the arbitrator by the parties and upon request of both parties, the
20 commission shall establish a procedure for randomly selecting names of arbitrators.
21 Under the procedure, the commission shall submit a list of 7 arbitrators to the
22 parties. Each party shall strike one name from the list. From the remaining 5
23 names, the commission shall randomly appoint an arbitrator. Unless both parties
24 to an arbitration proceeding otherwise agree in writing, every individual whose
25 name is submitted by the commission for appointment as an arbitrator shall be a

1 resident of this state at the time of submission and every individual who is
2 designated as an arbitration panel chairperson shall be a resident of this state at the
3 time of designation.

4 **SECTION 7.** 111.70 (4) (cm) 8p. of the statutes is amended to read:

5 111.70 (4) (cm) 8p. 'Professional school employee salaries.' In every collective
6 bargaining unit covering municipal employees who are school district professional
7 employees in which the municipal employee positions were, on July 29, 1995,
8 assigned to salary ranges with steps that determine the levels of progression within
9 each salary range, unless the parties otherwise agree, no new or modified collective
10 bargaining agreement may contain any provision altering the salary range
11 structure, the number of steps or the requirements for attaining a step or assignment
12 of a position to a salary range, ~~except that if the cost of funding the attainment of a~~
13 ~~step is greater than the amount required for the municipal employer to submit a~~
14 ~~qualified economic offer, the agreement may contain a provision altering the~~
15 ~~requirements for attaining a step to no greater extent than is required for the~~
16 ~~municipal employer to submit a qualified economic offer at the minimum possible~~
17 ~~cost to the municipal employer.~~

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

19 111.70 (4) (cm) 8s. 'Forms for determining costs.' The commission shall
20 prescribe forms for calculating the total increased cost to the municipal employer of
21 compensation and fringe benefits provided to school district professional employees.
22 The cost shall be determined based upon the total cost of compensation and fringe
23 benefits provided to school district professional employees who are represented by
24 a labor organization on the 90th day before expiration of any previous collective
25 bargaining agreement between the parties, or who were so represented if the

1 effective date is retroactive, or the 90th day prior to commencement of negotiations
2 if there is no previous collective bargaining agreement between the parties, without
3 regard to any change in the number, rank or qualifications of the school district
4 professional employees. For purposes of such determinations, any cost increase that
5 is incurred on any day other than the beginning of the 12-month period commencing
6 with the effective date of the agreement or any succeeding 12-month period
7 commencing on the anniversary of that effective date shall be calculated as if the cost
8 increase were incurred as of the beginning of the 12-month period beginning on the
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14 ~~employees covered by the agreement as soon as possible after the effective date of the~~
15 ~~agreement.~~

16 **SECTION 9315. Initial applicability; employment relations commission.**

17 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (dm), (fm),
18 and (nc) and (4) (cm) 5s., 6. a. and am., 8p., and 8s. of the statutes first applies to
19 petitions for arbitration that relate to collective bargaining agreements that cover
20 periods beginning on or after July 1, 2005, and that are filed under section 111.70 (4)
21 (cm) 6. of the statutes, as affected by this act, on the effective date of this subsection.

22 (END)

2005 BILL

1 AN ACT ...; *don't get car ✓* relating to: qualified economic offers under the Municipal
2 Employment Relations Act.

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EMPLOYMENT

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 submit to the parties a list of 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.

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BILL

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BILL**SECTION 6**

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BILL

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 14 ~~employees covered by the agreement as soon as possible after the effective date of the~~
 15 ~~agreement.~~

16 **SECTION 9315. Initial applicability; employment relations commission.**

17 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (dm), (fm),
 18 and (nc) and (4) (cm) 5s., 6. a. and am., 8p., and 8s. of the statutes first applies to
 19 petitions for arbitration that relate to collective bargaining agreements that cover
 20 periods beginning on or after July 1, 2005, and that are filed under section 111.70 (4)
 21 (cm) 6. of the statutes, as affected by this act, on the effective date of this subsection.

(END)

MS
6-16

50

70 ↑ 790 ↑ 70 (intro) ↑ 120 ↑ and 100 ↑ 80000 ↑
(b) ↑ 60 ↑ and 100 ↑

and (d) 2000

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0352/2ins
CMH:wjl:rs

or arbitration panel

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Insert A

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 and, instead, requires that the arbitrator or arbitration panel simply considers these as factors.

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.

Finally, the bill eliminates a 3.8 percent cap imposed on salary and fringe benefit annual cost increases for all nonrepresented professional school district employees.

Insert 2-1

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

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

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Insert 2-5

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

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

Insert 5-4

~~SECTION #~~ 111.70 (4) (cm) 7. of the statutes is repealed.

~~SECTION #~~ 111.70 (4) (cm) 7g. of the statutes is repealed.

~~SECTION #~~ 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

111.70 (4) (cm) 7r. '~~Other factors~~ Factors considered.' (intro.) In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:

~~SECTION #~~ 111.70 (4) (cm) 7r. ie. of the statutes is created to read:

111.70 (4) (cm) 7r. ie. Any state law or directive lawfully issued by a state legislative or administrative officer, body, or agency which places limitations on

that

1 expenditures that may be made or revenues that may be collected by a municipal
2 employer.

3 **SECTION ~~7~~** 111.70 (4) (cm) 7r. ir. [✓] of the statutes is created to read:

4 111.70 (4) (cm) 7r. ir. Economic conditions in the jurisdiction of the municipal
5 employer.

6 **SECTION ~~8~~** 111.70 (4) (cm) 8m. a. [✓] and c. [✓] of the statutes are consolidated,
7 renumbered 111.70 (4) (cm) 8m. [✓] and amended to read:

8 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for
9 the initial collective bargaining agreement between the parties ~~and~~, except as the
10 parties otherwise agree, and except as provided in par. (cn), [✓] every collective
11 bargaining agreement covering municipal employees subject to this paragraph ~~other~~
12 ~~than school district professional employees~~ shall be for a term of 2 years. ~~No, but in~~
13 no case may a collective bargaining agreement for any collective bargaining unit
14 consisting of municipal employees ~~subject to this paragraph other than school~~
15 ~~district professional employees~~ shall be for a term exceeding 3 years. e. No
16 arbitration award may contain a provision for reopening of negotiations during the
17 term of a collective bargaining agreement, unless both parties agree to such a
18 provision. The requirement for agreement by both parties does not apply to a
19 provision for reopening of negotiations with respect to any portion of an agreement
20 that is declared invalid by a court or administrative agency or rendered invalid by
21 the enactment of a law or promulgation of a federal regulation.

22 **SECTION ~~9~~** 111.70 (4) (cm) 8m. b. [✓] of the statutes is repealed.

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1 Insert 6-16

2 **SECTION 10.** 111.70 (4) (d) 2. a.[✓] of the statutes is amended to read:

3 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
4 bargaining unit for the purpose of collective bargaining and shall whenever possible,
5 unless otherwise required under this subchapter, avoid fragmentation by
6 maintaining as few collective bargaining units as practicable in keeping with the size
7 of the total municipal work force. In making such a determination, the commission
8 may decide whether, in a particular case, the municipal employees in the same or
9 several departments, divisions, institutions, crafts, professions, or other
10 occupational groupings constitute a collective bargaining unit. Before making its
11 determination, the commission may provide an opportunity for the municipal
12 employees concerned to determine, by secret ballot, whether or not they desire to be
13 established as a separate collective bargaining unit. ~~The commission shall not~~
14 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
15 ~~collective bargaining unit if the group includes both municipal employees who are~~
16 ~~school district professional employees and municipal employees who are not school~~
17 ~~district professional employees.~~ The commission shall not decide, however, that any
18 ~~other~~ group of municipal employees constitutes an appropriate collective bargaining
19 unit if the group includes both professional employees and nonprofessional
20 employees, unless a majority of the professional employees vote for inclusion in the
21 unit. The commission shall not decide that any group of municipal employees
22 constitutes an appropriate collective bargaining unit if the group includes both craft
23 employees and noncraft employees unless a majority of the craft employees vote for
24 inclusion in the unit. The commission shall place the professional employees who are
25 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in

1 a separate collective bargaining unit from a unit that includes any other professional
2 employees whenever at least 30% of those professional employees request an election
3 to be held to determine that issue and a majority of the professional employees at the
4 charter school who cast votes in the election decide to be represented in a separate
5 collective bargaining unit. Any vote taken under this subsection shall be by secret
6 ballot.

7 **SECTION ~~11~~** 118.245[✓] of the statutes is repealed.

8 **SECTION ~~12~~** 119.04 (1)[✓] of the statutes is amended to read:

9 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
10 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
11 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to
12 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,
13 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), ~~118.245~~, 118.255, 118.258, 118.291,
14 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (26), 120.125, 120.13
15 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and 120.25 are
16 applicable to a 1st class city school district and board.

2005-07 Budget Bill Statutory Language Drafting Request

- Topic: QEO Repeal
- Tracking Code: BB 0219
- SBO team: Education, Workforce and Local Government Team
- SBO analyst: Paul Ziegler
 - Phone: 266-5468
 - Email: paul.ziegler@doa.state.wi.us
- Agency acronym: DPI
- Agency number: 255



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

JAMES E. DOYLE
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Madison, WI 53707-7864
Voice (608) 266-1736
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Date: October 22, 2004

To: Steve Miller, Chief
Legislative Reference Bureau

From: Paul Ziegler, Policy and Budget Analyst
State Budget Office, DOA

Subject: Drafting request for 2005-07 Biennial Budget Bill

Please have the following item drafted for possible inclusion in the 2005-07 biennial budget bill:

Topic:

QEO Repeal

Drafting Request:

Repeal the provision that allows a school district to avoid binding arbitration if the school district offers a QEO (Qualified Economic Offer).

Please see the attachment for further detail.

Please contact me at 266-5468 or by email at paul.ziegler@doa.state.wi.us with any questions.

Thank you.

**DEPARTMENT OF PUBLIC INSTRUCTION
2005-07 BIENNIAL BUDGET
DRAFTING REQUEST TO THE LEGISLATIVE REFERENCE BUREAU**

Draft for Possible 2005-07 Budget Bill Introduction (*Agency Decision Item No. 6004*)

Subject: Elimination of Qualified Economic Offer

Request Date: September 15, 2004

Agency Contact: Tony Evers, 266-1771
Michael Bormett, 266-2804

Brief Description of Intent:

The department proposes to repeal the Qualified Economic Offer (QEO) provisions related to teacher collective bargaining under s. 111.70, Wis. Stats.

Related Stat. Citations:

Amend s. 111.70, Wis. Stats., to repeal provisions related to the QEO effective upon passage of the budget bill.