



## 2005 ASSEMBLY BILL 857

December 6, 2005 - Introduced by Representatives GOTTLIEB, NISCHKE, ALBERS, GIELOW, HINES, F. LASEE, LEMAHIEU, MUSSER, NASS, TOWNS, UNDERHEIM, VOS, WOOD and NERISON, cosponsored by Senators DARLING and REYNOLDS. Referred to Committee on Labor.

1     **AN ACT to amend** 111.70 (4) (cm) 6. am., 111.70 (4) (cm) 6. b. and 111.70 (4) (cm)  
2             7. of the statutes; **relating to:** final offer limits under the Municipal  
3             Employment Relations Act.

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### *Analysis by the Legislative Reference Bureau*

The Municipal Employment Relations Act does not limit collective bargaining agreements to any specific maximum expenditures or increases in expenditures. This bill prohibits any final offer that is submitted to the Wisconsin Employment Relations Commission for interest arbitration from requiring the expenditure for compensation and fringe benefits per employee to be more than the amount spent under the previous agreement increased by the allowable percentage increase in expenditures or revenue if the employer is subject to limitations on expenditures or revenue under state law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

4             **SECTION 1.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:  
5             111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the  
6             commission shall make an investigation, with or without a formal hearing, to

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1 determine whether arbitration should be commenced. If in determining whether an  
2 impasse exists the commission finds that the procedures set forth in this paragraph  
3 have not been complied with and such compliance would tend to result in a  
4 settlement, it may order such compliance before ordering arbitration. The validity  
5 of any arbitration award or collective bargaining agreement shall not be affected by  
6 failure to comply with such procedures. Prior to the close of the investigation each  
7 party shall submit in writing to the commission its single final offer containing its  
8 final proposals on all issues in dispute that are subject to interest arbitration under  
9 this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s.  
10 applies. If, under state law, the municipal employer is subject to limitations on  
11 expenditures or revenue, a final offer may not require the expenditure for  
12 compensation and fringe benefits per employee to be more than the amount spent  
13 under the previously negotiated contract for compensation and fringe benefits per  
14 employee increased by the allowable percentage increase in expenditures or revenue  
15 between the last year of the previously negotiated contract and the first year of the  
16 contract that is being negotiated. If the commission determines that a final offer  
17 requires greater expenditure, the commission shall return the offer to the party and  
18 the party shall revise it before submitting it again. If a party fails to submit a single,  
19 ultimate final offer, the commission shall close the investigation based on the last  
20 written position of the party. If the last written position requires greater expenditure  
21 than permitted under this subd. 6. am., the party is considered to have not submitted  
22 an offer. The municipal employer may not submit a qualified economic offer under  
23 subd. 5s. after the close of the investigation. ~~Such final~~ Final offers may include only  
24 mandatory subjects of bargaining, except that a permissive subject of bargaining  
25 may be included by a party if the other party does not object and shall then be treated

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1 as a mandatory subject. No later than such time, the parties shall also submit to the  
2 commission a stipulation, in writing, with respect to all matters which are agreed  
3 upon for inclusion in the new or amended collective bargaining agreement. The  
4 commission, after receiving a report from its investigator and determining that  
5 arbitration should be commenced, shall issue an order requiring arbitration and  
6 immediately submit to the parties a list of 7 arbitrators. Upon receipt of such list,  
7 the parties shall alternately strike names until a single name is left, who shall be  
8 appointed as arbitrator. The petitioning party shall notify the commission in writing  
9 of the identity of the arbitrator selected. Upon receipt of such notice, the commission  
10 shall formally appoint the arbitrator and submit to him or her the final offers of the  
11 parties. The final offers shall be considered public documents and shall be available  
12 from the commission. In lieu of a single arbitrator and upon request of both parties,  
13 the commission shall appoint a tripartite arbitration panel consisting of one member  
14 selected by each of the parties and a neutral person designated by the commission  
15 who shall serve as a chairperson. An arbitration panel has the same powers and  
16 duties as provided in this section for any other appointed arbitrator, and all  
17 arbitration decisions by such panel shall be determined by majority vote. In lieu of  
18 selection of the arbitrator by the parties and upon request of both parties, the  
19 commission shall establish a procedure for randomly selecting names of arbitrators.  
20 Under the procedure, the commission shall submit a list of 7 arbitrators to the  
21 parties. Each party shall strike one name from the list. From the remaining 5  
22 names, the commission shall randomly appoint an arbitrator. Unless both parties  
23 to an arbitration proceeding otherwise agree in writing, every individual whose  
24 name is submitted by the commission for appointment as an arbitrator shall be a  
25 resident of this state at the time of submission and every individual who is

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1 designated as an arbitration panel chairperson shall be a resident of this state at the  
2 time of designation.

3 **SECTION 2.** 111.70 (4) (cm) 6. b. of the statutes is amended to read:

4 111.70 (4) (cm) 6. b. The arbitrator shall, within 10 days of his or her  
5 appointment, establish a date and place for the conduct of the arbitration hearing.  
6 Upon petition of at least 5 citizens of the jurisdiction served by the municipal  
7 employer, filed within 10 days after the date on which the arbitrator is appointed, the  
8 arbitrator shall hold a public hearing in the jurisdiction for the purpose of providing  
9 the opportunity to both parties to explain or present supporting arguments for their  
10 positions and to members of the public to offer their comments and suggestions. The  
11 final offers of the parties, as transmitted by the commission to the arbitrator, shall  
12 serve as the basis for continued negotiations, if any, between the parties with respect  
13 to the issues in dispute. At any time prior to the arbitration hearing, either party,  
14 with the consent of the other party, and subject to the expenditure limit in subd. 6.  
15 am., may modify its final offer in writing.

16 **SECTION 3.** 111.70 (4) (cm) 7. of the statutes is amended to read:

17 111.70 (4) (cm) 7. '~~Factor~~ Factors given greatest weight.' In making any  
18 decision under the arbitration procedures authorized by this paragraph, the  
19 arbitrator or arbitration panel shall consider and shall give the greatest weight to  
20 the expenditure limit in subd. 6. am. and any state law or directive lawfully issued  
21 by a state legislative or administrative officer, body or agency which places  
22 limitations on expenditures that may be made or revenues that may be collected by  
23 a municipal employer. The arbitrator or arbitration panel shall give an accounting  
24 of the consideration of this factor these factors in the arbitrator's or panel's decision.

25 **SECTION 4. Initial applicability.**

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1           (1) The treatment of section 111.70 (4) (cm) 6. am. of the statutes first applies  
2           to petitions for arbitration that relate to collective bargaining agreements that cover  
3           periods beginning on or after July 1, 2006, and that are filed under section 111.70 (4)  
4           (cm) 6. of the statutes, as affected by this act, on the effective date of this subsection.

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(END)