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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Judiciary, Corrections and Privacy...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (July 2012)

Moved by Senator Grothman, seconded by Senator Roessler that
Senate Substitute Amendment LRBS0646/2 be recommended for
introduction and adoption.

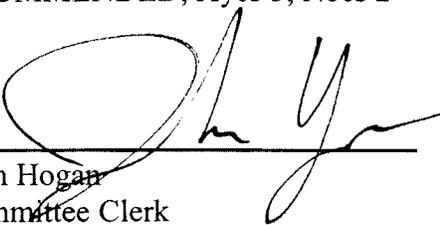
Ayes: (3) Senators Zien, Roessler and Grothman.
Noes: (2) Senators Taylor and Risser.

INTRODUCTION AND ADOPTION OF SENATE
SUBSTITUTE AMENDMENT LRBS0646/2 RECOMMENDED,
Ayes 3, Noes 2

Moved by Senator Grothman, seconded by Senator Zien that
Senate Bill 649 be recommended for passage as amended.

Ayes: (3) Senators Zien, Roessler and Grothman.
Noes: (2) Senators Taylor and Risser.

PASSAGE AS AMENDED RECOMMENDED, Ayes 3, Noes 2



John Hogan
Committee Clerk

Recess to 3:30 PM

Vote Record

Committee on Judiciary, Corrections and Privacy

Date: 3/8/06

Moved by: Grothman

Seconded by: Roessler

Any Amds? - Need Sub 2

AB _____

SB 649

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt 0646/2

LRBs 0646/1 -> Need the 1/2

A/S Amdt _____

to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____

to A/S Sub Amdt _____

A/S Amdt _____

to A/S Amdt _____ to A/S Sub Amdt _____

add p. 2 Lul after Res 3-4 or b/c the member position has been vacated

Be recommended for:

- Passage
- Adoption
- Confirmation
- Concurrence
- Indefinite Postponement
- Introduction
- Rejection
- Tabling
- Nonconcurrency

Committee Member

Senator David Zien, Chair

Aye No Absent Not Voting

Senator Carol Roessler

Senator Glenn Grothman

Senator Lena Taylor

Senator Fred Risser

Totals: 3 2

Effective date - affects pay (?) after accruing upon of this bill.

John Blaczyk Sharon Cook - City of Mt W

AB 1032 sub 7 showed up @ 11am

~~AB 1032~~

Motion Carried

Motion Failed

Vote Record
Committee on Judiciary, Corrections and Privacy

Date: 3/8/06

Moved by: Groth

Seconded by: Zien

AB _____ SB 649 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

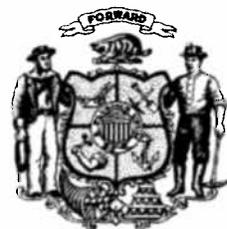
Be recommended for: as amended by SLS 0646/2

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator David Zien, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Lena Taylor	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Fred Risser	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>3</u>	<u>2</u>	_____	_____



WISCONSIN STATE LEGISLATURE



To: Members of the Senate Committee on Committee on Judiciary,
Corrections and Privacy

From: Senator Glenn Grothman

Date: March 6, 2006

Re: Testimony for Senate Bill 649

Thank you Chairman Zien and committee members for holding a public hearing on Senate Bill 649 today. This bill is the *substitute amendment* to companion bill Assembly Bill 1032 which was passed out of the Assembly Committee on Corrections and the Courts 8 to 1.

Currently, police officers in the City of Milwaukee have a benefit that most citizens don't. They are statutorily guaranteed the right to collect salary and benefits after they have been criminally charged and suspended or discharged from the job. The officers are then allowed to continue to collect pay and benefits while they appeal the charges against them to the board of Fire and Police Commissioners. This process can take months and it is costing the taxpayers of the Milwaukee hundreds of thousands of dollars.

Senate Bill 649 takes away the entitlement of criminally charged Milwaukee police officers to receive pay after being suspended or discharged. This bill will also help to expedite the appeals process by taking away the ability for officers and lawyers to drag out these cases for long periods of time in order to abuse the system.

Thank you again for your time and I ask for your support of Senate Bill 649.



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Original Story URL:
<http://www.jsonline.com/story/index.aspx?id=406000>

Many fired cops drop appeals at 11th hour

They collect pay, then quit MPD days before job hearings

By **JOHN DIEDRICH**
jdiedrich@journalsentinel.com

Posted: Mar. 4, 2006

Byron Andrews was fired as a Milwaukee police detective in September 2004 as he sat in jail on battery and drunken driving charges.

Advertisement But he continued to collect his \$65,000-a-year salary.

His taxpayer-funded wages continued to roll in even after Andrews was convicted and sent to jail. From behind bars, he drew out his appeal before the Fire and Police Commission for months, using provisions under a state law unique to Milwaukee police.

Four months later, Andrews' appeal was finally set.

Two days before the hearing, he quit.

Andrews' case is among several in which fired officers appealed their terminations as long as possible and continued to be paid, only to quit days before the appeal hearing, according to the Fire and Police Commission.

Nearly 40% of the 18 officers fired in the last two years who appealed - and whose appeals are no longer pending - either quit or retired shortly before their appeal hearing. Salaries for those seven officers cost city taxpayers nearly \$170,000, commission records show.

City officials and supporters of an Assembly bill to change the 26-year-old law label the last-minute resignations evidence that the state-mandated system rewards fired officers who drag out their appeals.

"This is a case of officers playing the system, clearly doing what they can get away with, and they know they will get paid," said Rep. Barbara Toles (D-Milwaukee), who sponsored a bill to change the law requiring payment to fired Milwaukee officers.

"They are guilty and they know it, so they resign just before their hearing date," she said.

Union head defends process

The police union president defended the resignations, saying officers must file appeals to get a full picture of the city's case against them. He said officers also need time to make a decision that will change their lives.

"What other choice do they have?" said John Balcerzak, president of the Milwaukee Police Association, which is lobbying against Toles' bill. Balcerzak and another officer, Joseph Gabrish, were fired in 1991 after they turned a 14-year-old boy over to serial killer Jeffrey Dahmer months before police discovered Dahmer's crimes. Dahmer killed the boy. A judge later overturned the terminations, and they were reinstated in 1994.

Balcerzak said the union has its own bill to be considered by the Legislature next year. He declined to give details.

Toles' bill calls for ending pay to fired Milwaukee officers charged with crimes, speeding up the appeal process and making fired officers who lose their appeals reimburse the city for wages and benefits paid after termination. It is a compromise from an earlier bill that would have stopped pay to all fired MPD officers. It passed a committee 8-1 but has not gone to the full Assembly.

Assembly Speaker John Gard (R-Peshtigo) has refused to bring the bill to a vote, saying Toles needs to do more work to guarantee it will pass. He also said the city and police union need to come to a compromise. The current legislative session ends Thursday.

Gard also expressed concerns that the bill will hurt good officers who face trumped up disciplinary actions. However, when told so many fired officers appeal then quit when their hearings are imminent, Gard said that needed to change.

"That is an abuse of the law," Gard said. "That's the kind of thing that they can sit down and work through on this."

The Milwaukee police union is a politically powerful player in Madison, giving endorsements and contributions. The union gave Gard's Congressional campaign \$5,000 last year. Gard said that has not influenced his position on the bill.

Perhaps the union's biggest victory in Madison was the 1980 law that, among other things, required the city to pay fired officers until their appeals are exhausted with the commission, a process that takes an average of nine months.

Since 1990, the city has paid more than \$2.5 million in wages and benefits to fired officers, according to city records. Officers who lose appeals do not have to repay the salary they've earned since termination.

Police officers elsewhere in Wisconsin don't get paid after they're fired, though outside Milwaukee, fire and police commissions, not chiefs, do the firing.

Mayor backs legislation

In response to Gard's call for a compromise, Mayor Tom Barrett said Toles' bill is a compromise, one that addresses the worst cases: fired officers who also are charged with crimes.

Barrett pointed out that since at least 1994, no Milwaukee officer who has been fired and charged with a crime has ever been reinstated. Thirty-two officers were fired and charged with crimes, and none of them got their jobs back, he said.

"It tells me if you are fired and charged with a crime, you are not coming back to the Milwaukee Police Department, and to continue to pay them is only costing taxpayers more money," Barrett said. "This is the most glaring problem and we are trying to address it."

Speeding the process

Barrett acknowledged that city staff will have to move appeals along faster. The practice of dragging out an appeal and quitting at the end would be addressed by the bill, he said.

"Right now there is every incentive in place to drag out this process, particularly when the person knows the inevitable will occur," Barrett said.

Three of the officers who quit shortly before their hearings were among the nine officers fired for their roles in the beating of Frank Jude Jr. at an off-duty officer party in October 2004.

Each officer filed appeals and took a "free" adjournment, also provided under the law, which allowed them to delay the proceedings against them without reason. The bill would remove the right to such an adjournment.

Each of the three officers agreed to resign - two will do so later this month and one will step down in April.

Balcerzak said those officers would not have been able to resign without an agreement from the city and Chief Nannette Hegerty.

"Any agreement takes two parties," he said.

Bill targets charged officers

Rep. Garey Bies (R-Sister Bay), who opposed the first version of Toles' bill and helped author the compromise, said he is concerned about treating all officers like criminals. That is why the new bill targets officers who are fired and charged, he said.

Bies was troubled by the practice of fired officers dragging out an appeal.

"They carry it out like, 'This is my last act of being vindictive, in your face and I will run it out to the last day,' " he said. "That (bill) will make officers make decisions a lot quicker."

From the Mar. 5, 2006 editions of the Milwaukee Journal Sentinel
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FIRED POLICE OFFICERS: RUTTING OUT THE CLOCK ON PAY

Seven Milwaukee police officers fired in the last two years collected nearly \$170,000 in pay while they appealed their terminations to the city Fire and Police Commission, then resigned or retired before their scheduled hearings.

HERE IS A LOOK AT 29 OFFICERS WHO HAVE BEEN FIRED BY CHIEF NANNETTE HEGERTY AND WHO HAVE APPEALED THEIR TERMINATIONS TO THE FIRE AND POLICE COMMISSION:

18 NO LONGER HAVE APPEALS BEFORE THE COMMISSION

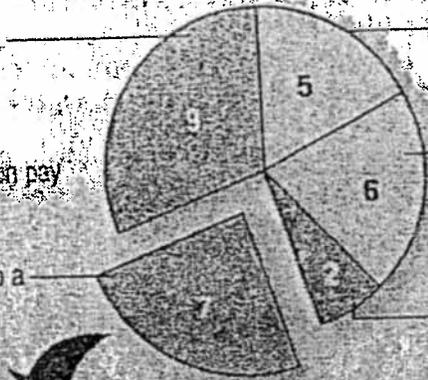
11 STILL HAVE APPEALS BEFORE THE COMMISSION

Nine had hearings before the commission.

Eight terminations were upheld by the commission.

One termination was modified by the commission to the maximum suspension pay allowed by law.

Seven officers resigned or retired prior to a commission hearing.



Five have criminal charges pending.

Six have commission hearings scheduled in March or April.

Two terminations were reduced to suspensions by the police chief.

HOW MANY DAYS THEY GOT PAID AFTER THEIR TERMINATIONS

Of those seven fired officers, five drew out their appeals as long as allowable under a state law, while they continued to be paid. Six of them quit between 2 and 12 days before their scheduled hearings.

HEARING | RESIGNATION/RETIREMENT

	0 days	50	100	150	200	250	300	350	
Officer 1									132 days
Officer 2									145
Officer 3									64
Officer 4									236
Officer 5									323
Officer 6									309
Officer 7									342

* These three officers were fired for their roles in the beating of Frank Jude Jr. in October 2004; their resignations have not yet taken effect, and the dates of resignations are subject to change.

Source: Fire and Police Commission, as of Feb. 23, 2006.

RIKA KANAOKA: rkanooka@journal-sentinel.com

Fired cops delay appeals, then quit

POLICE PAY, From 1A

bill to change the 26-year-old law label the last-minute resignations evidence that the state-mandated system rewards fired officers who drag out their appeals.

"This is a case of officers playing the system, clearly do-

with, and they know they will get paid," said Rep. Barbara Toles (D-Milwaukee), who sponsored a bill to change the law requiring payment to fired Milwaukee officers.

"They are guilty and they know it, so they resign just before their hearing date," she said.

"This is a case of officers playing the system, clearly doing what they can get away with, and they know they will get paid."

State Rep. Barbara Toles, (D-Milwaukee), who sponsored a bill to change the law requiring payment to fired Milwaukee officers.





Department of Administration
Budget and Policy Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Sharon Cook
Intergovernmental Relations Director

March 6, 2006

Senator Zien, Chairman
Members, Committee on Judiciary, Corrections and Privacy

Re: Senate Bill 649 Relating to payment and repayment of a 1st class city police officer's pay and benefits after discharge.

Dear Senator Zien,

At this morning's hearing, the Committee on Judiciary, Corrections and Privacy raised a question about the statutory timeframe in which Milwaukee's Fire and Police Commission is required to schedule and hold disciplinary appeal trials. Testimony from the Milwaukee Police Association indicated that the Commission was not in compliance with the statutory requirement to hold trials no less than 5 calendar days or more than 15 calendar days after the date of service of a complaint.

Unfortunately, city representatives were not given the opportunity to respond to this concern during the public hearing. As provided in the attached document, Rule XV Section 5 outlines the Commission procedure for handling trials in compliance with Wis. Stat. 62.50(14).

Under this procedure, appellants are given the ability to waive the statutory time limits found in 62.50(14). This procedure is the result of a series of public hearings in 1998 and 1999 by the Fire and Police Commission to address concerns by both the city and appellant attorneys regarding the challenges of the statutory timeline.

Also attached is a sample appeal notice used by Police officers to waive this timeline. *This document clearly indicates that the request for waiver is based on the fact that 15 days is not enough time in which to complete the discovery, pre-trial procedures and other preparation needed by the appellant's legal counsel to effectively represent him or her.* Rule XV Section 5 also clearly indicates that if the appellant does not waive the statutory time limits for trial per section 62.50(14), that the Commission serves the parties with notice of pretrial and trial within the statutory timeframe.

Please feel free to contact me at (414) 286-3335 if you have any additional concerns about this matter.

Sincerely,

Maria Monteagudo
Employee Relations Director, City of Milwaukee

RULE XV.

APPEALS FROM DEPARTMENT DISCIPLINE BY SWORN PERSONNEL

- Section 1. All sworn, non-probationary members of the Police Department who possess police powers and who are discharged, demoted or suspended without pay for a period of more than five (5) eight-hour working days may appeal such discipline to the Board of Fire and Police Commissioners. (Rev. 7/26/01)
- Section 2. All sworn, non-probationary members of the Fire Department who are discharged, demoted or suspended without pay for a period of more than two (2) twenty-four-hour working days, or more than five (5) eight-hour working days, may appeal such discipline to the Board of Fire and Police Commissioners. (Rev. 7/26/01)
- Section 3. Within two (2) calendar days after service of an appealable disciplinary order upon a department member, the department shall file with the Board a copy of the disciplinary order and a signed complaint outlining the specific conduct which serves as the basis for each rule violation alleged. (Rev. 7/26/01)
- Section 4. Within ten (10) calendar days after service of a disciplinary order which is appealable to the Board, the department member so disciplined may file with the Board a written appeal of that discipline in conformity with Section 62.50(13) Wis. Stats. (Rev. 7/26/01)
- Section 5. Within five (5) calendar days after an appeal is filed, the Board shall serve appellant, or counsel of record for appellant if applicable, with a copy of the complaint as filed by the department. Service by mail upon appellant's counsel of record shall be deemed to be sufficient to satisfy this requirement. (Rev. 7/26/01)
- (a) If appellant has not waived statutory time limits for trial per Section 62.50(14) Wis. Stats., the Board shall also serve appellant or appellant's counsel of record, and the Chief of the department or the Chief's counsel, with a Notice of Pretrial and Trial. The pretrial date shall be no less than five (5) nor more than ten (10) calendar days after the date of service. The trial date shall be no less than five (5) calendar days nor more than fifteen (15) calendar days after the date of service. (Rev. 7/26/01)
- (b) If appellant or counsel for appellant waives statutory time limits for the setting of a date for trial pursuant to Section 62.50(14) Wis. Stats., the Board shall serve appellant or appellant's counsel of record, and the Chief of the department or the Chief's counsel, with a Scheduling Order setting a pretrial hearing within thirty (30) calendar days and a trial date within sixty (60) calendar days of the date of the Scheduling Order. (Rev. 7/26/01)

, 2005

HAND DELIVERED

Mr. David Heard
Executive Director
Board of Fire and Police Commissioners
200 East Wells Street
Milwaukee, WI 53202

Dear Mr. Heard:

Please take notice that I hereby appeal from Personnel Order of the Chief of Police of the Milwaukee Police Department, dismissing me from service. Said Order was made on the day of , 2005.

I have retained the Law Firm of Eggert & Cermele, S.C., 1840 North Farwell Avenue, Suite 303, Milwaukee, Wisconsin, 53202 to represent me, and would request that all further proceedings and communications in this matter be handled through my attorney.

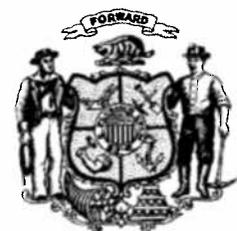
I hereby waive my right set forth in §62.50(14), Stats., to a hearing on my appeal within 15 days. I do not waive any other rights, including my right to have the appeal heard within a reasonable amount of time. This waiver is based on the fact that 15 days is not enough time in which to complete the discovery, pretrial procedures and other preparation needed to effectively represent me by my attorney.

Yours very truly,

PeopleSoft Number _



WISCONSIN STATE LEGISLATURE





STATE REPRESENTATIVE
17TH ASSEMBLY DISTRICT

**TESTIMONY OF STATE REPRESENTATIVE
BARBARA TOLES**

In favor of Senate Bill 649 – Police Pay After Termination

Senate Committee on Judiciary, Corrections, and Privacy
March 6, 2006

Good morning Chairman Zien and members of the committee. I would like to thank you for holding this public hearing on Senate Bill 649 and for allowing me to speak in favor.

In 1980, Wisconsin passed legislation known as the “Law Enforcement Officers’ Bill of Rights”. This measure included a number of protections for state officers, such as the right to have a union representative or lawyer present during interrogations into alleged misconduct, and the right to engage in political activity off the job. Those provisions apply to all police officers in the state.

However, the law also has a provision that grants payment of a 1st class city police officer’s salary after discharge, pending the outcome of an appeal. Milwaukee is the only 1st class city in Wisconsin, hence making Milwaukee police officers the only officers in the state eligible for this benefit. Milwaukee fire fighters and other public safety personnel are excluded. SB 649 would end this practice for officers who face criminal charges. It would also require all fired officers who lose their appeals, or leave the Department and avert appeal hearings, to pay back the money they received in wages and benefits after they were discharged. It also speeds up the appeals process. It has the support of Mayor Tom Barrett and the Milwaukee Journal Sentinel Editorial Board.

The current system is unfair to the men and women who wear the uniform and work hard every day to protect and serve our city. It also places an undue burden on Milwaukee taxpayers. According to the Fire and Police Commission, there have been 84 terminations since 1990. All but two officers appealed. The City of Milwaukee paid over \$2.5 million in wages and benefits to those fired officers.

A number of cases are still pending. Several of those involve officers fired as a result of their actions in the severe beating of Frank Jude, Jr. in 2004. Three of those officers face felony charges. According to city records, it is estimated that those three officers will cost the city over \$160,000 in pay and benefits between May 2005, when they were fired, and the scheduled start of their criminal trial later this month. It is unconscionable

that the tax dollars of hard working, law abiding Milwaukee residents are still paying the salaries of these fired officers.

This past December, officer Jon Bartlett, who was fired in the Jude beating case, was arrested for allegedly calling in a bomb threat to the 7th District Police Station where he worked. In February, within a one week span, three Milwaukee officers were criminally charged with committing felonies. One officer was charged with taking bribes, another was charged with committing felonies. One officer was charged with taking bribes, another was charged with drug trafficking, and the third was charged with several sex crimes. That officer, Steven Lelinski, was charged with four felonies, including second degree sexual assault and attempted second degree sexual assault, and misdemeanor lewd and lascivious behavior. After the charges, Lelinski was immediately removed from the state Law Enforcement Standards Board by the governor, and was removed from the Milwaukee Police Association Executive Board by the Milwaukee Police Association. However, the City of Milwaukee cannot remove him from the payroll because of state law. We need a change!

Other examples of officer misconduct that led to termination include:

- Five police officers and a sergeant planned and went sledding while on duty. One officer was seriously injured during the sledding. The other officers, not wanting their on-duty activity to be discovered, moved the injured officer to the steps of a school and called in a false report of "officer down" and fabricated a story that he had been injured chasing a suspect. The injured officer also defrauded the City by filing a claim and receiving worker's compensation for his alleged "duty-related" injuries. Four officers involved were dismissed and appealed to the Fire and Police Commission. The sergeant resigned before charges were issued by the Department, and one officer was suspended but did not appeal. The cost to the City in wages while the dismissal appeals were pending was \$85,239.36.
- A police sergeant, while on patrol, came across a female performing a sex act on a male in a parked car. The sergeant later took the female in his squad car, parked in a secluded area, and engaged in sexual acts with her for about half an hour, ignoring a radio call for service. The sergeant appealed his dismissal to the Commission, which upheld the dismissal. The cost to the City in wages while the appeal was pending was approximately \$7,157.60.
- An off-duty detective was drinking while driving intoxicated, crossed the center island, and swerved into oncoming traffic, colliding with a vehicle and sending its three occupants to the hospital. He was charged criminally for the crash and was dismissed from the Department. He resigned from the Department four months after appealing his dismissal. The cost to the City in wages while the appeal was pending was \$13,973.43.

- An off-duty officer intentionally smoked marijuana and tested positive during a random drug test. His dismissal was upheld by the Commission. The cost to the City in wages while the appeal was pending was \$28,489.12.
- A detective removed money from the scene of an investigation and kept it for his own personal use. He then went to a restaurant and consumed an alcoholic beverage while on duty. In addition to being dismissed, he was charged criminally. The cost to the City was \$67,788.87.
- Several citizens observed a police officer pull a prisoner out of a squad car and beat him while the officer's partner was inside a fast food restaurant. The officer was dismissed and charged criminally. The cost to the City was \$36,346.79.

The practice of paying fired police officers while they appeal provides an incentive for officers to file frivolous appeals and drag out the process as long as possible. Since 1990, almost half the fired officers who initially appealed their terminations either resigned or retired before their cases came to trial. Even the President of the Milwaukee Police Association acknowledged that current law creates an opportunity for the system to be manipulated.

In contrast, Milwaukee fire fighters, who are not paid during the appeals process, try to settle their cases as quickly as possible. The average fire fighter case in Milwaukee is resolved in half the time it takes for police appeals. Since 2003, the longest fire fighter case took four months, or about 120 days. Police officer appeals during that same timeframe averaged 202 days.

SB 649 addresses that problem by setting a more realistic time frame for trials to be scheduled as part of the appeals process, giving both sides adequate time to prepare, and cutting down on the number of adjournments. In addition, the bill requires that either party must give a reason when requesting an adjournment, eliminating the incentive to ask for one simply to delay the onset of the trial. This is the same standard used in all other courts and jurisdictions in Wisconsin.

The Assembly Committee on Corrections initially raised a number of legitimate concerns about protecting officers who have been wrongly discharged. SB 649 is a compromise that addresses those concerns and does not give undue power to the Milwaukee Police Chief. It creates balance between the rights of Milwaukee police officers and those of Milwaukee taxpayers.

If the Milwaukee Police Association were truly interested in fairness, it would be working with us to deal effectively and efficiently with the very small minority of officers who break the law and bring disrepute and distrust upon the Milwaukee Police Department. It is not right to make Milwaukee taxpayers wait until next session for details about an alternative proposal from the union. The legislature can and should act now. I urge you to support Senate Bill 649, and I thank you for your time this morning.



TO: Members, Senate Committee on Judiciary, Corrections and Privacy

FR: Senator Zien

DT: March 8, 2008

RE: Senate Substitute Amendment LRBs0646/1 to Senate Bill 649

- Representative Bies drafted a sub to AB 1032, sub LRBs0632/7
- It is my understanding that Milwaukee Police Association and all parties agreed that sub was incorrect; the language "or retirement" should be removed from page 2, line 16.
- That resulted in the drafting of Senate Substitute Amendment LRBs0646/1 to SB 649
- The City of Milwaukee submitted to the Chair's office their objection to the Assembly Sub "/7". That objection is distributed for your information.
- Milwaukee Police Association has further agreed to meet the City's objection. The suggested change to satisfy the City's objection may be as follows:
 - Page 2, line 16 to Senate Sub LRBs0646/1, after "registration" insert or the member vacates office



Milwaukee POLICE Association



Local #21 IUPA-AFL-CIO

OFFICE: 1840 N. FARWELL AVENUE, SUITE 400, MILWAUKEE, WI 53202
PHONE: (414) 273-2515 • FAX: (414) 273-7237 • e-mail: police@execpc.com
www.milwaukeepoliceassoc.com

John A. Balcerzak
President

Sebastian C.J. Raclaw
Vice-President

James A. Nisiewicz
Secretary/Treasurer

David K. Feldmeier
Troy K. Jankowski

Trustees:
Thomas E. Fischer

Daniel J. Halbur
Mark A. Sikora

Office Secretaries: Debra Schneider, Candy Johnson

Dear Wisconsin Legislator:

This letter is in regard to the proposed legislation AB1032/SB649. This bill would change the current Wis. Stat. 62.50, which covers City of Milwaukee Police Officers. This proposed legislation while well intended has a great many problems a few of which are outlined below.

- 1) The proposed legislation is unconstitutional as it would eliminate the only statutory adjournment granted to officers and force an officer with a pending criminal charge to go to trial within 60 days. The officer would have to decide to either waive or exert his/her 5th amendment privilege to defend against the personnel charge. (Franklin v. City of Evanston, 384 F. 3d 838, 7th Cir. 2004) Further it does not take into account the Counsel's calendar, the FPC's availability, and witness availability. In a recent case the city was unable to proceed and had to use their statutory adjournment or lose the case.
- 2) The proposed legislation would force an officer to make a career altering decision without having all of the information. Unlike after an appeal is filed, (the FPC rules require the City to provide all exculpatory evidence,) the MPD does not need to provide exculpatory evidence in its summary to an officer. That exculpatory evidence is critical to the officer in determining whether to file an appeal.
- 3) The proposed legislation would take away the ability to settle a case short of going to trial. It would interfere with the home rule authority and force any officer on appeal to go to trial rather than retire. This would increase the workload of the already over burdened Fire & Police Commission of the City of Milwaukee.
- 4) The proposed legislation does not address the reality of what would happen if the criminal charges against an officer are dropped. (4 cases in the past few years)
- 5) The proposed legislation would remove the protections that are afforded all other police officers in the State of Wisconsin under Wis. Stat. 62.13 which include the officers in your home communities. This is recognized by the legislative reference bureau as outlined in the summary of AB1032.

All Police Officers in the State of Wisconsin should be afforded the same protections under the law. This proposed bill would discriminate against City of Milwaukee Police Officers because of the community in which they work.

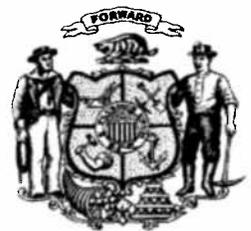
Sincerely,

MILWAUKEE POLICE ASSOCIATION

John A. Balcerzak
President
Local #21, IUPA, AFL-CIO

JAB/cmj

Affiliated with: International Union of Police Associations AFL-CIO
Wisconsin State AFL-CIO



CITY OF MILWAUKEE
DEPARTMENT OF ADMINISTRATION



SHARON COOK
DIRECTOR
INTERGOVERNMENTAL RELATIONS

CITY HALL ROOM 606
200 EAST WELLS STREET
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(414) 286-5562
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Substitute AB 1032 (LRB 0632/7)

Pay-back provision has NO practical application whatsoever.

There will never be an instance where a PO will be required to pay back salary received pending appeal to FPC. This is because ...

Pay-Back provision only applies if:

PO is fired for same conduct that results in felony charge

And

PO appeals to FPC

And

FPC hearing is conducted and PO firing is upheld by FPC

OR

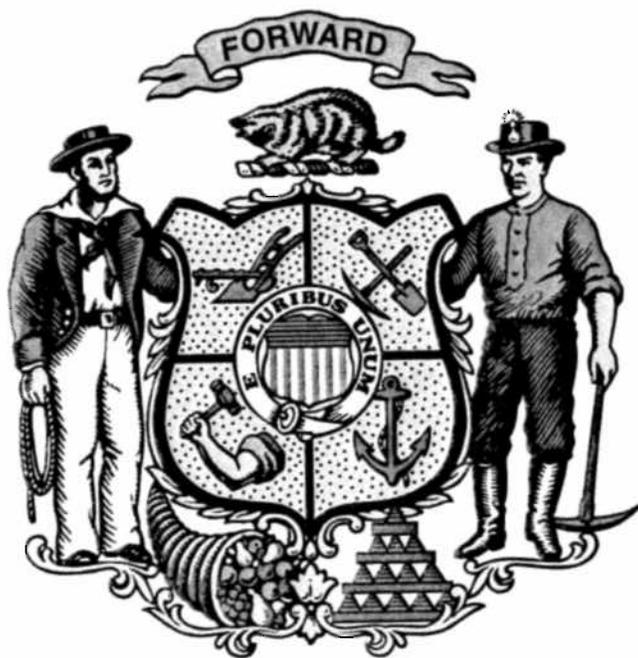
PO resigns or retires prior to FPC hearing

THIS NEVER HAPPENS

PO convicted of felony vacates office by operation of law.

FPC does not/cannot hold hearing. PO does not resign or retire.

*Received
1:40 PM
5/18/06*





SENATE SUBSTITUTE AMENDMENT ,
TO 2005 SENATE BILL 649

1 AN ACT *to renumber and amend* 62.50 (18); *to amend* 62.50 (14); and *to create*
2 62.50 (18) (b) of the statutes; **relating to:** repayment of a 1st class city police
3 officer's 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 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, 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 if the discharge results from conduct by, or an incident involving, an officer that resulted in felony charges being filed against the officer. The substitute amendment, however, provides that the officer may not be required to reimburse the city for all pay and benefits received if the officer and the city enter into an agreement specifying a lesser amount of reimbursement, including no reimbursement.

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.

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 (18) of the statutes is renumbered 62.50 (18) (a) and amended
7 to read:

8 62.50 (18) (a) No chief officer of either department or member of the fire
9 department may be deprived of any salary ~~or, pay, wages, or benefits~~ for the period
10 of time suspended preceding an investigation or trial, unless the charge is sustained.
11 No member of the police force may be suspended or discharged under sub. (11) or (13)
12 without salary, pay, wages, or benefits until the matter that is the subject of the
13 suspension or discharge is disposed of by the board or the time for appeal under sub.
14 (13) passes without an appeal being made. If a member of the police force appeals
15 and if the discharge of the member is sustained by the board, or if the appeal is not
16 conducted due to the member's resignation *or the member vacates office* the member shall reimburse the city for
17 all salary, pay, wages, or benefits he or she received as a member of the police force

1 from the time that he or or she was given notice of the discharge until the date that
2 his or her discharge is disposed of by the board if the discharge results from conduct
3 of or an incident involving that member which resulted in felony charges being filed
4 against that member.

5 **SECTION 3.** 62.50 (18) (b) of the statutes is created to read:

6 62.50 (18) (b) Notwithstanding the requirement that a member of the police
7 force reimburse the city for all salary, pay, wages, or benefits he or she received, as
8 provided in par. (a), the member may reimburse the city a lesser amount, or no
9 amount, if the member and the city enter into a written agreement that specifies the
10 amount that the member must reimburse the city.

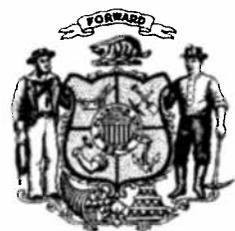
11 **SECTION 4. Initial applicability.**

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

16 (END)



WISCONSIN STATE LEGISLATURE



Mar Shover > (MES)
6-0129

PJ

Line 16

Remite "retirement"

LRB 50630/7

Sol to SB 649

MES :all:jf



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0632/7
MES:all:jf

ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2005 ASSEMBLY BILL 1032

1 AN ACT *to renumber and amend* 62.50 (18); *to amend* 62.50 (14); and *to create*
2 62.50 (18) (b) of the statutes; **relating to:** repayment of a 1st class city police
3 officer's 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 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 or retirement, 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 if the discharge results from conduct by, or an incident involving, an officer that resulted in felony charges being filed against the officer. The substitute amendment, however, provides that the officer may not be required to reimburse the city for all pay and benefits received if the officer and the city enter into an agreement specifying a lesser amount of reimbursement, including no reimbursement.

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.

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14 inconsistent with this act on the day on which the collective bargaining agreement
15 expires or is extended, modified, or renewed, whichever occurs first.

16

(END)



mjs 3-3-06

EDITORIALS

Allow a vote on police pay bill

State Sen. Glenn Grothman (R-West Bend) posed an interesting proposition the other day.

"It may take another couple Lelinskis over the next year to get the bill to pass," he said. He was referring to Milwaukee police officer

FIRED OFFICERS

Steven J. Lelinski, charged with sex crimes, and to a bill he co-sponsored that would remove Milwaukee as the only city in Wisconsin required by state law to provide officers like him salary and benefits while they appeal their terminations.

Fired officers have used this Milwaukee-only law to milk the system for years.

How many more will it take? Three, four, five, six or more? We suspect the answer is: enough to overcome some other specific numbers in the eyes of the GOP-controlled Legislature. One of those numbers would be 1,700 — the number of members in the powerful Milwaukee Police Association — and the other numbers are however much the group has given in campaign contributions. Given, by the way, three times as much to Republicans since 1993 as to Democrats.

On Tuesday, Assembly Speaker John Gard (R-Peshtigo) said the bill would not come to the floor for a vote unless the two sides would compromise. On Wednesday, he reiterated that he was holding up the bill because sponsors hadn't lined up the votes.

On compromise: There is virtually no incentive for the police association to bend, and the other side has already compromised. A previous bill would have prevented salaries and benefits paid to all fired officers. This newest version affects only those officers fired *and* criminally charged.

On lack of votes: The gauge shouldn't be whether the speaker can count votes but whether the bill has merit. This one has it in abundance. Let's see if Assembly members count as well as the speaker.

If he doesn't relent, Gard has essentially killed the bill for this session. And the meter for Milwaukee is running.

Since 1990, the city has paid more than \$2.5 million in wages and benefits to fired officers. In addition to Lelinski, two other Milwaukee officers were charged with felonies in just one week last month. Nine officers fired for their roles in the beating of Frank Jude Jr. have collected \$585,000 since the October 2004 incident, and three of these face criminal charges.

Many in Wisconsin are fond of accusing Democratic Gov. Jim Doyle of being in the pocket of the Wisconsin Education Association Council, which represents the state's teachers. Given how quickly the GOP leadership has folded on this bipartisan bill after a lobbying blitz by the police association, it appears this is one vulnerable glass house over at the Legislature. No one should be casting stones.

What they should be casting is votes. So unjust is the way state law singles out Milwaukee in paying fired officers, Gard should allow this bill to come to the floor.

This way, however, Milwaukeeans don't know whom to hold accountable except perhaps Gard, who won't be in the Legislature because he is running for Congress this year. Convenient. Is that really the point?

Gard on Wednesday slammed Milwaukee Mayor Tom Barrett for supporting the bill and "picking on cops." Gard added, "Some people want to be tougher on cops than the criminals." Mr. Speaker, what about criminals who are cops?

To our knowledge, Barrett is merely backing a policy change on officers who have been fired and criminally charged. Any officer exonerated and who wins on appeal on the termination gets back pay. How, precisely, is this picking on cops?

It seems to us, Gard and the Assembly are picking on Milwaukee taxpayers.



Decl met @ 5 PM 3/7

#4 w/ GG - Bies

8 PM Bies backed out

#5 - No good / MAD

#6 ok 8:30.

S 0632/6 to AJA
E 1032

17 due to Bies

SB 649

Bills added
AB 185 as amend(s?)

to AB 1032

3 Bills Amendments?

DAZ said we won't exec until we
get these Amendments.

9th of 1980 bill - who introduced it?
Who Voted For it?
Who Governor signed it?

3:05 PM 3/8

RS told me Taylor's ~~staff~~ ^{staff}

Risser's staff in separate conversation that "If I were the city manager, I wouldn't like this amendment at all, w/ the Repay provision"

Basically telling

RS Sect 1 Extends timeline - the original B. H.

RS Sect 2 City Reimburses... diff from original bill

RS Sect 3

RS = So - only time you have reimbursement

Taylor - This bill does nothing to stop payment

Dr someone CHARGED w/ Felony

GG - said this is the best we can do
City Purchasing Practices

SAZ - City of W. is also at fault.

This is a reasonable compromise.

Sybillog. Crim. Study?

3/8 3:00 PM

Sharon Cook of Milwaukee says that "objection" is not their approval of the Sub L/1 objection, it's a comment on the sub. "There's no compromise."

- 1) Repay if Resign or Loses an Appeal
- 2) Repayment may be reduced or eliminated w/ agreement b/w Officer + the city
- 3) ~~Ex~~ Sect 1 - extends timeline, like in original bill.