

State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 11/27/2007 (Per: MES)





Appendix A

 The 2007 drafting file for LRB-2035/P1

has been copied/added to the drafting file for

2007 LRBs0181

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

2007 DRAFTING REQUEST

Bill

Received: 02/19/2007

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - munis generally**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Bies@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disciplinary procedures for certain law enforcement officers

Instructions:

See Attached. See AB 57 (LRB -0925)

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>
/?							Local
/P1	mshovers 04/13/2007	kfollett 05/08/2007	pgreensl 05/08/2007		lparisi 05/08/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 02/19/2007

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - munis generally**

Extra Copies: *cmH*

Submit via email: **YES**

Requester's email: **Rep.Bies@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disciplinary procedures for certain law enforcement officers

Instructions:

See Attached. See AB 57 (LRB -0925)

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>
1?	mshovers	<i>1P/16f</i> <i>5/8</i>	<i>5/8</i>	<i>5/8</i>	<i>5/8</i>		
<i>1P/ME S 4/13/07</i>							
FE Sent For:							
<i>PG</i> <i><END></i> <i>ms</i>							



STATE REPRESENTATIVE
Garey Bies
1ST ASSEMBLY DISTRICT



Marc,

Here is the draft outline.

Thanks,

Andrew

**Milwaukee Police Association's Proposed Changes
to §62.60, STATS
15-December-2006**

Agree To:

- **Paid suspension terminates if bound over for felony criminal charges {§62.50(18) Stats.}**
 - City reinstates and reimburses all wages, benefits, etc., if not convicted
- **FPC retains jurisdiction (w/ no chance for arbitration) on discipline when an officer is charged with a felony and also discharged by the Chief as a result of the same act(s) which constituted the felony criminal charge {§62.50(13) Stats.}**
- **No mandatory adjournment {§62.50(16), STATS}**
 - Adjournment "for cause"
 - Trial to be held between 60 and 120 days after the complaint is filed.
 - Shortens time for appeals to run their course
 - No different than other forums (i.e., circuit court, etc.)
- 2 - **FPC has "rule making authority" {§62.12, STATS}**
 - Addresses *Casteneda* Decision
 - Provides FPC with what it presently lacks
 - Prepare for likely adverse decision by Supreme Court
- **Expand Number of Commissioners from 5-7** *p. 62.50(1)*
 - Decreases each Commissioner's work load
 - Increased availability will shorten time for appeal to run its course, allow more of a focus on citizen complaints and "big picture" matters such as hiring practices/standards, etc.
 - Quorum will remain at 3, for disciplinary purposes only

In Exchange for:

- **Right to choose between arbitration or FPC for all disciplines other than those where the officer is also charged with a felony and is discharged for the same acts which constituted the felony criminal charge {§62.50(13), STATS.}**

- ☛ FPC maintains control over the outcome of discharge cases that are “high profile”
- ☛ Preserves “citizen oversight” as to the type of discharge cases that most concerns the public
- ☛ Arbitration is historically faster than the FPC process
- ☛ Arbitration will be concluded w/in 90 days
 - Chief gives notice of discipline
 - w/in 10 days of being served, member must appeal (or loose the right)
 - Appeal identifies either FPC or Arb
 - If FPC, notice same as current statute
 - If Arb, notice to Labor Negotiator
 - w/in 10 days of receipt of appeal to Arb, Labor Negotiator coordinates date, time & place for arb w/ Association’s President
 - Occur w/in 90 days (unless mutually agreed)
- ☛ Cost shared equally by both parties (CBA)
- ☛ Allows FPC to focus on
 - ☛ Big Picture issues (i.e, hiring practices, rules, testing, etc)
 - ☛ High profile disciplines (discharges involving felony charge)
 - ☛ Citizen Complaints & Investigations {§62.50(12), STATS.}
 - ☛ Goal of M.M.P.C.R.
 - ☛ Goal of Park Report

- **Right to Circuit Court Appeal from arbitral decision {§62.50(20)}**

☐ Same standard as applied now under §62.50(21), STATS.

- Under the evidence is there just cause, as described in sub.(17)(b), to sustain the charges against the accused?"
Section 62.50(21), STATS.

- Was the decision reasonable? *In re Disciplinary Charges Against Younglove*, 218 Wis. 2d 133, 139, 579 N.W.2d 294 (Ct. App. 1998)

- **Chief to provide all exculpatory evidence, as well as all evidence relied upon in determination of guilt and discipline, at the same time as disciplinary charges are served on the member.**

☐ Whether appealed to FPC or Arb

2
(



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2035
MES...

[Handwritten initials]
[Handwritten initials]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

[Handwritten initials]

1 AN ACT ...; relating to: payment of a 1st class city police officer's salary after
2 discharge or suspension, the adjournment of a trial or investigation relating to
3 charges brought against such an officer, disciplinary procedures for a 1st class
4 city police officer, and increasing the size of the city of Milwaukee Board of Fire
5 and Police Commissioners.

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 bill, no member of a first class city police force is entitled to any salary or wages from the department pending an appeal to the board of the officer's ~~suspension or~~ discharge if felony criminal charges are also pending against the

X
X

or
suspended

X

[Handwritten arrow pointing from 'or' to 'suspension']

officer and if the charges arose out of the same conduct or incident that serves as the basis for the ~~suspension or discharge~~ ^{or suspension}

X
f

Under current law, if a member of the police force or fire department is discharged or suspended by the chief for more than five days, the chief must give the member written notice, and must also notify the board. Within 10 days of receiving a notice of his or her discharge or suspension, the member may appeal the chief's action to the board. This bill requires the chief to give the member any exculpatory evidence in the chief's possession that relates to the discharge or suspension.

force
the

The bill also states that, except for a discharge or suspension related to pending felony criminal charges against a member of the police, which served as the basis of the officer's discharge or suspension, if the discharged or suspended officer is subject to the terms of a collective bargaining agreement that provides an alternative to the appeal process to board, the appeal process in the collective bargaining agreement applies to the accused officer and not the current law process that involves an appeal to the board, unless the officer chooses to appeal the chief's decision to the board. If the alternative to the appeals process includes a hearing, the hearing must be open to the public. A discharged or suspended officer who chooses to appeal the chief's decision through a collectively bargained alternative to the current law appeal process may appeal the board's decision to the circuit court.

Currently, if the board receives a notice of appeal, it must schedule a trial within 5 and 15 days after service of the notice and copy of the complaint. This bill changes the time frame for scheduling a trial to between 60 and 120 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. Once such a request is made, it is granted automatically. Under the bill, the board may grant an adjournment, for cause, to either party.

Under current law the board consists of five members. Each member is appointed to a staggered five-year term by the mayor of Milwaukee, subject to confirmation by the Milwaukee Common Council.

X
X

This bill increases the number of members on the board to ^{seven} 7, and authorizes the mayor of Milwaukee to appoint two additional members of the board upon the bill's effective date. The bill changes the board's quorum requirement from three to four, except in the case of officers who are ~~suspended or discharged~~ ^{or suspended} the quorum requirement for a trial of such officers is still three members.

Members of the board who are appointed on or after the effective date of the bill are still subject to confirmation by the Milwaukee Common Council and are appointed to five-year terms.

For further information see the *local* 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. 62.50 (1) of the statutes is amended to read:

1 62.50 (1) ORGANIZATION. In all 1st class cities, however incorporated, there shall
 2 be a board of fire and police commissioners, consisting of ~~5~~⁷ citizens, not more than
 3 ~~2~~³ of whom shall at any time belong to the same political party. The staff and
 4 members of the board shall receive the salary or other compensation for their
 5 services fixed by the common council. The salary shall be fixed at the same time and
 6 in the same manner as the salary of other city officials and employees. ~~Three~~^{Four}
 7 members of the board shall constitute a quorum necessary for the transaction of
 8 business, except that ~~three~~³ members of the board shall constitute a quorum
 9 necessary for a trial under this section. It shall be the duty of the mayor of the city,
 10 on or before the 2nd Monday in July, to appoint ~~5~~⁷ members of the board, designating
 11 the term of office of each, one to hold one year, ~~one~~² to hold 2 years, one to hold
 12 3 years, ~~one~~² to hold 4 years and one to hold 5 years, and until their respective
 13 successors shall be appointed and qualified. Thereafter the terms of office shall be
 14 5 years from the 2nd Monday in July, and until a successor is appointed and qualified.
 15 Every person appointed a member of the board shall be subject to confirmation by
 16 the common council and every appointed member shall, before entering upon the
 17 duties of the office take and subscribe the oath of office prescribed by article IV,
 18 section 28, of the constitution, and file the same duly certified by the officer
 19 administering it, with the clerk of the city. Appointments made prior to the time this
 20 subchapter first applies to a 1st class city shall not be subject to confirmation by the
 21 common council.

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.

22 **SECTION 2.** 62.50 (11) of the statutes is amended to read:

23 62.50 (11) DISCHARGE OR SUSPENSION. No member of the police force or fire
 24 department may be discharged or suspended for a term exceeding 30 days by the

1 chief of either of the departments except for cause and after trial under this section
2 or, in the case of a member of the police force, except as a result of an alternative
3 appeals process under a collective bargaining agreement, as described in sub. (13)
4 (b).

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.

5 SECTION 3. 62.50 (13) of the statutes is renumbered 62.50(13) (a) and amended
6 to read:

7 62.50 (13) (a) DISCHARGE OR SUSPENSION; APPEAL. The chief discharging or
8 suspending for a period exceeding 5 days any member of the force shall give written
9 notice of the discharge or suspension to the member and, and shall also give the
10 member any exculpatory evidence in the chief's possession related to the discharge
11 or suspension. The chief shall also immediately report the same notice of the
12 discharge or suspension to the secretary of the board of fire and police commissioners
13 together with a complaint setting forth the reasons for the discharge or suspension
14 and the name of the complainant if other than the chief. Within Except as provided
15 in par. (b), within 10 days after the date of service of the notice of a discharge or
16 suspension order the members so discharged or suspended may appeal from the
17 order of discharge or suspension or discipline to the board of fire and police
18 commissioners, by filing with the board a notice of appeal in the following or similar
19 form:

20 To the honorable board of fire and police commissioners:

21 Please take notice that I appeal from the order or decision of the chief of the
22 department, discharging (or suspending) me from service, which order of discharge
23 (or suspension) was made on the day of, (year).

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.

1 **SECTION 4.** 62.50 (13) (b) of the statutes is created to read:

2 62.50 (13) (b) Except for a discharge or suspension with regard to which felony
3 criminal charges are also pending against the member of the police force and such
4 charges arose out of the same conduct or incident that serves as the basis for the
5 discharge or suspension, the appeal process under par. (a) does not apply to any
6 member of the police force who is suspended, reduced, suspended and reduced, or
7 removed by the chief and who is subject to the terms of a collective bargaining
8 agreement entered into under subch. IV of ch. 111 that provides an alternative to the
9 appeals procedure specified in par. (a), unless the person chooses to appeal the order
10 to ^{the} board. If the alternative to the appeals procedure includes a hearing, the hearing
11 shall be open to the public with reasonable advance notice given by the employer.

12 **SECTION 5.** 62.50 (14) of the statutes is amended to read:

13 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,
14 within 5 days, serve the appellant with a copy of the complaint and a notice fixing
15 the time and place of trial, which time of trial may not be less than 5 ⁶⁰ days nor more
16 than 15 ¹²⁰ days after service of the notice and a copy of the complaint.

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

18 62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused and or the
19 ~~chief shall have the right to~~ an adjournment of the trial or investigation of the
20 charges, for cause, not to exceed 15 days. In the course of any trial or investigation
21 under this section each member of the fire and police commission may administer
22 oaths, secure by its subpoenas both the attendance of witnesses and the production
23 of records relevant to the trial and investigation, and compel witnesses to answer and
24 may punish for contempt in the same manner provided by law in trials before
25 municipal judges for failure to answer or to produce records necessary for the trial.

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

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

11 62.50 (18) (a) SALARY DURING SUSPENSION. No chief officer of either department
 12 or member of the fire department may be deprived of any salary or wages for the
 13 period of time suspended preceding an investigation or trial, unless the charge is
 14 sustained. ~~No~~ Except as provided in par. (b), no member of the police force may be
 15 ~~suspended or discharged~~ or suspended under sub. (11) or (13) without pay or benefits until the
 16 matter that is the subject of the ~~suspension or discharge~~ or suspension is disposed of by the board
 17 or the time for appeal under sub. (13) passes without an appeal being made.

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.

18 **SECTION 8.** 62.50 (18) (b) of the statutes is created to read:

19 62.50 (18) (b) Following a ~~suspension or~~ or suspension discharge under sub. (11) or (13), no
 20 member of the police force is entitled to any salary or wages from the department
 21 pending an appeal of the ~~suspension or~~ or suspension discharge to the board of fire and police
 22 commissioners if felony criminal charges are also pending against the member and
 23 such charges arose out of the same conduct or incident that serves as the basis for
 24 the ~~suspension or~~ or suspension discharge.

1 **SECTION 9.** 62.50 (20) of the statutes is amended to read:

2 62.50 (20) CIRCUIT COURT REVIEW; NOTICE. Any officer or member of either
3 department discharged, suspended or reduced, may, within 10 days after the
4 decision and findings under this section, or under an alternative appeals process
5 under a collective bargaining agreement, as described in sub. (13) (b), are filed with
6 the secretary of the board, bring an action in the circuit court of the county in which
7 the city is located to review the order. Such action shall begin by the serving of a
8 notice on the secretary of the board making such order and on the city attorney of
9 such city, which notice may be in the following or similar form:

10 In Circuit Court, County.

11 To Board of Fire and Police Commissioners.

12 To City Attorney:

13 Please take notice that I hereby demand that the circuit court of County
14 review the order made by the Board of Fire and Police Commissioners on the ... day
15 of ... A.D. discharging, (or suspending) from the department.

16 (Signed)

History: 1977 c. 19, 20, 53, 151; 1977 c. 272 ss. 24 to 30, 92 to 95; 1979 c. 307, 351; 1979 c. 361 s. 113; 1981 c. 213, 380; 1981 c. 391 s. 211; 1983 a. 58, 179, 192, 219; 1989 a. 31; 1997 a. 237, 250; 1999 a. 9; 2001 a. 16.

17 **SECTION 10. Nonstatutory provisions.**

18 (1) On the effective date of this subsection the mayor of a 1st class city shall
19 make ² ~~two~~ additional appointments to the board of fire and police commissioners
20 under section 62.50 (1) of the statutes such that the additional appointments are for
21 terms that are consistent with the requirements, and with the terms of the existing
22 commissioners, that are specified under section 62.50 (1) of the statutes.

23 **SECTION 11. Initial applicability.**

1 (1) This act first applies to any member of the police force or fire department
2 who is covered by a collective bargaining agreement that contains provisions
3 inconsistent with this act on the day on which the collective bargaining agreement
4 expires or is extended, modified, or renewed, whichever occurs first, except that the
5 treatment of section 62.50 (13) (b) of the statutes first applies to a person who is
6 suspended, reduced, suspended and reduced, or removed on the effective date of this
7 subsection.

8

(END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2035?^{P1}dr
MES..._{kt}

Date

Representative Bies:

Please review this bill very carefully to ensure that it meets your intent. It seemed clear from the instructions that most of the provisions were supposed to apply only to police officers, but some of the provisions in the bill apply to both members of the police force and the fire department. See, for example, s. 62.50 (1), (13) (a), (14), and (16). Is this OK?

X
The instructions state that the bill is supposed to address the "Casteneda" decision, and "FPC rule making authority" in s. 62.12 of the statutes. I searched the legal data base LEXIS for a case involving a party named "Casteneda" in Wisconsin and 7th Circuit courts and could not find any case that seemed relevant to your request. Please let me know the citation for the Casteneda decision and what bearing it has on this bill draft. Also, s. 62.12 of the statutes deals with city finance, so I'm not sure what the instructions refer to with regard to "FPC rule making authority."

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2035/P1dn
MES:kjf:pg

May 8, 2007

Representative Bies:

Please review this bill very carefully to ensure that it meets your intent. It seemed clear from the instructions that most of the provisions were supposed to apply only to police officers, but some of the provisions in the bill apply to both members of the police force and the fire department. See, for example, s. 62.50 (1), (13) (a), (14), and (16). Is this OK?

The instructions state that the bill is supposed to address the "Casteneda" decision, and "FPC rule making authority" in s. 62.12 of the statutes. I searched the legal data base LEXIS for a case involving a party named "Casteneda" in Wisconsin and 7th circuit courts and could not find any case that seemed relevant to your request. Please let me know the citation for the Casteneda decision and what bearing it has on this bill draft. Also, s. 62.12 of the statutes deals with city finance, so I'm not sure what the instructions refer to with regard to "FPC rule making authority."

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2035/P1
MES:kjf:pg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 62.50 (13) and 62.50 (18); *to amend* 62.50 (1),
2 62.50 (11), 62.50 (14), 62.50 (16) and 62.50 (20); and *to create* 62.50 (13) (b) and
3 62.50 (18) (b) of the statutes; **relating to:** payment of a 1st class city police
4 officer's salary after discharge or suspension, the adjournment of a trial or
5 investigation relating to charges brought against such an officer, disciplinary
6 procedures for a 1st class city police officer, and increasing the size of the city
7 of Milwaukee Board of Fire and Police Commissioners.

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 discharged or suspended without pay or benefits until the matter that is the subject of the discharge or suspension 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 discharged or suspended. Similar provisions apply to a second, third, or fourth class city police officer whose suspension or removal is reversed.

For further information see the *local* 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. 62.50 (1) of the statutes is amended to read:
2 62.50 (1) ORGANIZATION. In all 1st class cities, however incorporated, there shall
3 be a board of fire and police commissioners, consisting of ~~5~~ 7 citizens, not more than
4 ~~2~~ 3 of whom shall at any time belong to the same political party. The staff and
5 members of the board shall receive the salary or other compensation for their
6 services fixed by the common council. The salary shall be fixed at the same time and
7 in the same manner as the salary of other city officials and employees. ~~Three~~ Four
8 members of the board shall constitute a quorum necessary for the transaction of
9 business, except that 3 members of the board shall constitute a quorum necessary
10 for a trial under this section. It shall be the duty of the mayor of the city, on or before
11 the 2nd Monday in July, to appoint ~~5~~ 7 members of the board, designating the term
12 of office of each, one to hold one year, ~~one~~ 2 to hold 2 years, one to hold 3 years, ~~one~~
13 2 to hold 4 years and one to hold 5 years, and until their respective successors shall
14 be appointed and qualified. Thereafter the terms of office shall be 5 years from the
15 2nd Monday in July, and until a successor is appointed and qualified. Every person
16 appointed a member of the board shall be subject to confirmation by the common
17 council and every appointed member shall, before entering upon the duties of the
18 office take and subscribe the oath of office prescribed by article IV, section 28, of the
19 constitution, and file the same duly certified by the officer administering it, with the
20 clerk of the city. Appointments made prior to the time this subchapter first applies
21 to a 1st class city shall not be subject to confirmation by the common council.

Under this bill, no member of a first class city police force is entitled to any salary or wages from the department pending an appeal to the board of the officer's discharge or suspension if felony criminal charges are also pending against the officer and if the charges arose out of the same conduct or incident that serves as the basis for the discharge or suspension.

Under current law, if a member of the police force or fire department is discharged or suspended by the chief for more than five days, the chief must give the member written notice, and must also notify the board. Within ten days of receiving a notice of his or her discharge or suspension, the member may appeal the chief's action to the board. This bill requires the chief to give the member any exculpatory evidence in the chief's possession that relates to the discharge or suspension.

The bill also states that, except for a discharge or suspension related to pending felony criminal charges against a member of the police force which served as the basis of the officer's discharge or suspension, if the discharged or suspended officer is subject to the terms of a collective bargaining agreement that provides an alternative to the appeal process to the board, the appeal process in the collective bargaining agreement applies to the accused officer and not the current law process that involves an appeal to the board, unless the officer chooses to appeal the chief's decision to the board. If the alternative to the appeals process includes a hearing, the hearing must be open to the public. A discharged or suspended officer who chooses to appeal the chief's decision through a collectively bargained alternative to the current law appeal process may appeal the ~~board's~~ decision to the circuit court.

Currently, if the board receives a notice of appeal, it must schedule a trial within 5 and 15 days after service of the notice and copy of the complaint. This bill changes the time frame for scheduling a trial to between 60 and 120 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. Once such a request is made, it is granted automatically. Under the bill, the board may grant an adjournment, for cause, to either party.

Under current law the board consists of five members. Each member is appointed to a staggered five-year term by the mayor of Milwaukee, subject to confirmation by the Milwaukee Common Council.

This bill increases the number of members on the board to seven, and authorizes the mayor of Milwaukee to appoint two additional members of the board upon the bill's effective date. The bill changes the board's quorum requirement from three to four, except in the case of officers who are discharged or suspended, the quorum requirement for a trial of such officers is still three members.

Members of the board who are appointed on or after the effective date of the bill are still subject to confirmation by the Milwaukee Common Council and are appointed to five-year terms.

1 **SECTION 2.** 62.50 (11) of the statutes is amended to read:

2 62.50 (11) DISCHARGE OR SUSPENSION. No member of the police force or fire
3 department may be discharged or suspended for a term exceeding 30 days by the
4 chief of either of the departments except for cause and after trial under this section
5 or, in the case of a member of the police force, except as a result of an alternative
6 appeals process under a collective bargaining agreement, as described in sub. (13)
7 (b).

8 **SECTION 3.** 62.50 (13) of the statutes is renumbered 62.50 (13) (a) and amended
9 to read:

10 62.50 (13) (a) The chief discharging or suspending for a period exceeding 5 days
11 any member of the force shall give written notice of the discharge or suspension to
12 the member ~~and, and shall also give the member any exculpatory evidence in the~~
13 chief's possession related to the discharge or suspension. The chief shall also
14 immediately report the ~~same~~ notice of the discharge or suspension to the secretary
15 of the board of fire and police commissioners together with a complaint setting forth
16 the reasons for the discharge or suspension and the name of the complainant if other
17 than the chief. ~~Within~~ Except as provided in par. (b), within 10 days after the date
18 of service of the notice of a discharge or suspension order the members so discharged
19 or suspended may appeal from the order of discharge or suspension or discipline to
20 the board of fire and police commissioners, by filing with the board a notice of appeal
21 in the following or similar form:

22 To the honorable board of fire and police commissioners:

23 Please take notice that I appeal from the order or decision of the chief of the
24 department, discharging (or suspending) me from service, which order of discharge
25 (or suspension) was made on the day of, (year).

1 **SECTION 4.** 62.50 (13) (b) of the statutes is created to read:

2 62.50 (13) (b) Except for a discharge or suspension with regard to which felony
3 criminal charges are also pending against the member of the police force and such
4 charges arose out of the same conduct or incident that serves as the basis for the
5 discharge or suspension, the appeal process under par. (a) does not apply to any
6 member of the police force who is suspended, reduced, suspended and reduced, or
7 removed by the chief and who is subject to the terms of a collective bargaining
8 agreement entered into under subch. IV of ch. 111 that provides an alternative to the
9 appeals procedure specified in par. (a), unless the person chooses to appeal the order
10 to the board. If the alternative to the appeals procedure includes a hearing, the
11 hearing shall be open to the public with reasonable advance notice given by the
12 employer.

13 **SECTION 5.** 62.50 (14) of the statutes is amended to read:

14 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,
15 within 5 days, serve the appellant with a copy of the complaint and a notice fixing
16 the time and place of trial, which time of trial may not be less than 5 60 days nor more
17 than 15 120 days after service of the notice and a copy of the complaint.

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

19 62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused and or the
20 chief ~~shall have the right to~~ an adjournment of the trial or investigation of the
21 charges, for cause, not to exceed 15 days. In the course of any trial or investigation
22 under this section each member of the fire and police commission may administer
23 oaths, secure by its subpoenas both the attendance of witnesses and the production
24 of records relevant to the trial and investigation, and compel witnesses to answer and
25 may punish for contempt in the same manner provided by law in trials before

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

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

12 62.50 (18) (a) No chief officer of either department or member of the fire
13 department may be deprived of any salary or wages for the period of time suspended
14 preceding an investigation or trial, unless the charge is sustained. No Except as
15 provided in par. (b), no member of the police force may be ~~suspended or discharged~~
16 or suspended under sub. (11) or (13) without pay or benefits until the matter that is
17 the subject of the ~~suspension or discharge~~ suspension is disposed of by the board
18 or the time for appeal under sub. (13) passes without an appeal being made.

*refer to
alt
appeal
section*

19 SECTION 8. 62.50 (18) (b) of the statutes is created to read:

20 62.50 (18) (b) Following a discharge or suspension under sub. (11) or (13), no
21 member of the police force is entitled to any salary or wages from the department
22 pending an appeal of the discharge or suspension to the board of fire and police
23 commissioners if felony criminal charges are also pending against the member and
24 such charges arose out of the same conduct or incident that serves as the basis for
25 the discharge or suspension.

1 **SECTION 9.** 62.50 (20) of the statutes is amended to read:

2 62.50 (20) CIRCUIT COURT REVIEW; NOTICE. Any officer or member of either
3 department discharged, suspended or reduced, may, within 10 days after the
4 decision and findings under this section, or under an alternative appeals process
5 under a collective bargaining agreement, as described in sub. (13) (b). are filed with
6 the secretary of the board, bring an action in the circuit court of the county in which
7 the city is located to review the order. Such action shall begin by the serving of a
8 notice on the secretary of the board making such order and on the city attorney of
9 such city, which notice may be in the following or similar form:

10 In Circuit Court, County.

11 To Board of Fire and Police Commissioners.

12 To City Attorney:

13 Please take notice that I hereby demand that the circuit court of County
14 review the order made by the Board of Fire and Police Commissioners on the ... day
15 of ... A.D. discharging, (or suspending) from the department.

16 (Signed)

17 **SECTION 10. Nonstatutory provisions.**

18 (1) On the effective date of this subsection the mayor of a 1st class city shall
19 make 2 additional appointments to the board of fire and police commissioners under
20 section 62.50 (1) of the statutes such that the additional appointments are for terms
21 that are consistent with the requirements, and with the terms of the existing
22 commissioners, that are specified under section 62.50 (1) of the statutes.

23 **SECTION 11. Initial applicability.**

24 (1) This act first applies to any member of the police force or fire department
25 who is covered by a collective bargaining agreement that contains provisions

1 inconsistent with this act on the day on which the collective bargaining agreement
2 expires or is extended, modified, or renewed, whichever occurs first, except that the
3 treatment of section 62.50 (13) (b) of the statutes first applies to a person who is
4 suspended, reduced, suspended and reduced, or removed on the effective date of this
5 subsection.

6 (END)