

2007 DRAFTING REQUEST

Bill

Received: **08/13/2007**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Tim Carpenter (608) 266-8535**

By/Representing: **Stuart**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Carpenter@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

The size and procedures of the Milwaukee Board of Police and Fire Commisisoners

Instructions:

See Attached. Change size of commission from 5 to 7, and allow panels of 3 to hear and decide on disciplinary appeals instead of the full board

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>
/?	mshovers 08/31/2007	jdyer 09/04/2007		_____			Local
/1	mshovers 01/09/2008	lkunkel 01/09/2008	rschluet 09/04/2007	_____	mbarman 09/05/2007		Local
/2			nmatzke 01/09/2008	_____	cduerst 01/09/2008	sbasford 01/14/2008	

FE Sent For: "12" @ intro. 1-14-08

<END>

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12MES 1/9/08
FE Sent For: 12/mk 1/9

nwn 1/9
nwn/kjf 1/9

<END>

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Wanted: As time permits

Identical to LRB:

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Subject: Local Gov't - 1st class cities

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See Attached. Change size of commission from 5 to 7, and allow panels of 3 to hear and decide on disciplinary appeals instead of the full board

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/? mshovers

1/1 NES 8/31/07

9/17/pb

FE Sent For:

<END>

Shovers, Marc

From: Ewy, Stuart
Sent: Wednesday, August 08, 2007 1:33 PM
To: Shovers, Marc
Subject: Message for Marc Shovers - 3

Hi Marc-

Please disregard my last email about quorum. Tim's intent is that with the required notice, a panel of three board members could meet and decide disciplinary appeals. Other than these new 3 member disciplinary appeals panels, the quorum requirements of the full 7 member board would remain.

Hopefully this email makes more sense. If you have any questions, please give me a call.

Regards,

G. Stuart Ewy
Chief of Staff
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535

From: Ewy, Stuart
Sent: Wednesday, August 08, 2007 1:06 PM
To: Shovers, Marc
Subject: FW: Message for Marc Shovers

Hi Marc-

Additionally, please keep quorum requirement for the board the same, at 3 board members.

Regards,

Stuart

From: Ewy, Stuart
Sent: Wednesday, August 08, 2007 11:32 AM
To: LRB.Legal; Shovers, Marc
Subject: Message for Marc Shovers

Bill Drafting Request:

Hi Marc:

Tim Carpenter would like to draft a bill that makes some changes to Chapter 62.50(1).

- First, increase the size of the membership of the Milwaukee Board of Fire and Police Commissions from its current five members, to seven members. The bill should authorize the mayor of Milwaukee to appoint the two additional members of the board upon the bill's effective date. The effective date should be 4 months from the date of the bills passage.
- Next, add language authorizing panels of three board members to hear and decide upon disciplinary appeals, instead of the full board.

Let me know if you are the appropriate person to ask to do this, or if you have any other questions or comments.

Regards,

G. Stuart Ewy
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535

-3118/1
stays

RMNA

2007 BILL

(gm)

1 AN ACT to amend 62.50 (1) of the statutes; relating to: increasing the size of the
2 city of Milwaukee Board of Fire and Police Commissioners. ✓

Analysis by the Legislative Reference Bureau

Under current law in first class cities (presently only Milwaukee), there is a Board of Fire and Police Commissioners (board) that consists of five members. Three members of the board constitute a quorum. 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 ~~or nine~~ ^{by 11} and authorizes the mayor of Milwaukee to appoint two ~~or four~~ additional members of the board upon the bill's effective date. The ~~date~~ ^{bill} also authorizes a three-member panel of the board to conduct disciplinary trials. Currently, a quorum of the board may conduct such a trial. The bill also authorizes the mayor to reduce the size of the board ~~from nine to seven members.~~ ⁹

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:

#20, after the initial appointment of additional members,

BILL

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

2 62.50 (1) In all 1st class cities, however incorporated, there shall be a board of
3 fire and police commissioners, consisting of 5 ~~either 7 or 9~~ citizens, not more than 2
4 3 of whom shall at any time belong to the same political party. The staff and members

5 of the board shall receive the salary or other compensation for their services fixed by
6 the common council. The salary shall be fixed at the same time and in the same
7 manner as the salary of other city officials and employees. Three members of the
8 board shall constitute a quorum necessary for the transaction of business. A
9 3-member panel of the board may conduct a trial described under sub. (12). It shall

10 be the duty of the mayor of the city, on or before the 2nd Monday in July, to appoint
11 5 ~~7 or 9~~ members of the board, designating the term of office of each, one to hold one
12 year, ~~one~~ 2 to hold 2 years, ~~one~~ 2 to hold 3 years, one to hold 4 years ~~if the board has~~

13 ~~7 members, and 2 to hold 4 years if the board has 9 members,~~ and one to hold 5 years
14 ~~if the board has 7 members, and 2 to hold 5 years if the board has 9 members,~~ and
15 until their respective successors shall be appointed and qualified. Thereafter the

16 terms of office shall be 5 years from the 2nd Monday in July, and until a successor
17 is appointed and qualified. The mayor may reduce the size of the board from 9 to 7

18 members by failing to appoint 2 successors for individuals whose terms expire at the
19 same time. Every person appointed a member of the board shall be subject to

20 confirmation by the common council and every appointed member shall, before
21 entering upon the duties of the office take and subscribe the oath of office prescribed
22 by article IV, section 28, of the constitution, and file the same duly certified by the
23 officer administering it, with the clerk of the city. Appointments made prior to the
24 time this subchapter first applies to a 1st class city shall not be subject to
25 confirmation by the common council.

BILL

1 **SECTION 2. Nonstatutory provisions.**

2 (1) On the effective date of this subsection the mayor of a 1st class city shall
3 make 2 ~~of 4~~ additional appointments to the board of fire and police commissioners
4 under section 62.50 (1) of the statutes such that the additional appointments are for
5 terms that are consistent with the requirements, and with the terms of the existing
6 commissioners, that are specified under section 62.50 (1) of the statutes.

7 **SECTION 3. Effective date.**

8 (1) This act takes effect on the first ~~November 15~~ after publication.

day of the fifth month beginning

9

(END)

Shovers, Marc

From: Ewy, Stuart
Sent: Wednesday, January 09, 2008 10:54 AM
To: Shovers, Marc; LRB.Legal
Subject: Drafting request

Marc Shovers

Hi Marc-

Here are some changes to the LRB 3118/1 that Tim would like drafted. Could this be drafted as soon as possible? Tim was hoping to send out a cosponsorship memorandum with a copy of the updated bill this afternoon.

If you have any questions or comments, please let me know.

Regards,

G. Stuart Ewy
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535

Proposed changes to LRB 3118/1

1) The first change relates to what constitutes a quorum:

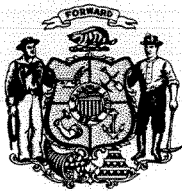
On page 2, lines 7 and 8, the language should be changed to reflect that "A majority of the members of the board shall constitute a quorum necessary for the transaction of business except as provided in this section."

2) The second change relates to the panels deciding on cases vs. actually conducting the trials. It also corrects a reference to (12) which is erroneous. It also extends the use of panels to citizen complaint proceedings.

Following the above language, lines 8-10 should read "A three member panel of the board shall decide by a majority vote, trials described under sub. (13) - (17) or may hear and decide charges filed by an aggrieved person under sub. (19)"

Then the 3rd sentence in 62.50 (19) needs to be amended to read:The board, or a 3-member panel of the board, shall decide by a majority vote and subject to the just cause standard....

3) The last change relates to the effective date. It should read: This act first takes effect on the first day of the 2nd month beginning after publication.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3118/1

MES:jld:rs

gk/lof

FMNR

2007 BILL

D-NOTE

WANTED:
today

ReCon Regen

1 AN ACT to amend 62.50 (1) of the statutes; relating to: increasing the size of the
2 city of Milwaukee Board of Fire and Police Commissioners.

and authorizing
a panel of the
board to decide
certain cases

Analysis by the Legislative Reference Bureau

Under current law in first class cities (presently only Milwaukee), there is a Board of Fire and Police Commissioners (board) that consists of five members. Three members of the board constitute a quorum. 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 also authorizes a three-member panel of the board to conduct disciplinary trials.~~ Currently, a quorum of the board may conduct such a trial.

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, after the initial appointment of additional members, 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:

JNS
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BILL

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

2 62.50 (1) In all 1st class cities, however incorporated, there shall be a board of
3 fire and police commissioners, consisting of ~~5~~ 7 citizens, not more than ~~2~~ 3 of whom
4 shall at any time belong to the same political party. The staff and members of the
5 board shall receive the salary or other compensation for their services fixed by the
6 common council. The salary shall be fixed at the same time and in the same manner

7 ~~as the salary of other city officials and employees. Three members of the board shall
8 constitute a quorum necessary for the transaction of business. A 3-member panel
9 of the board may conduct a trial described under sub. (12).~~ It shall be the duty of the

10 mayor of the city, on or before the 2nd Monday in July, to appoint ~~5~~ 7 members of the
11 board, designating the term of office of each, one to hold one year, ~~one~~ 2 to hold 2
12 years, ~~one~~ 2 to hold 3 years, one to hold 4 years, and one to hold 5 years if the board

13 ~~has 7 members, and 2 to hold 5 years if the board has 9 members,~~ and until their

14 respective successors shall be appointed and qualified. Thereafter the terms of office
15 shall be 5 years from the 2nd Monday in July, and until a successor is appointed and
16 qualified. Every person appointed a member of the board shall be subject to
17 confirmation by the common council and every appointed member shall, before
18 entering upon the duties of the office take and subscribe the oath of office prescribed
19 by article IV, section 28, of the constitution, and file the same duly certified by the
20 officer administering it, with the clerk of the city. Appointments made prior to the
21 time this subchapter first applies to a 1st class city shall not be subject to
22 confirmation by the common council.

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TMS
2-22

SECTION 2. Nonstatutory provisions.

24 (1) On the effective date of this subsection the mayor of a 1st class city shall
25 make 2 additional appointments to the board of fire and police commissioners under

BILL

1 section 62.50 (1) of the statutes such that the additional appointments are for terms
2 that are consistent with the requirements, and with the terms of the existing
3 commissioners, that are specified under section 62.50 (1) of the statutes.

4 **SECTION 3. Effective date.**

5 (1) This act takes effect on the first day of the ^{2nd} 5th month beginning after
6 publication.

7 (END)



2007 BILL

INS ANL

1 AN ACT *to amend* 62.50 (1), 62.50 (14), 62.50 (16) and 62.50 (19) of the statutes;
 2 **relating to:** increasing the size of the city of Milwaukee Board of Fire and
 3 Police Commissioners, authorizing a panel of the board to decide certain cases,
 4 and the adjournment of a trial or investigation relating to charges brought
 5 against an officer.

Analysis by the Legislative Reference Bureau

Under current law in first class cities (presently only Milwaukee), there is a Board of Fire and Police Commissioners (board) that consists of five members. Three members of the board constitute a quorum and no more than two members may belong to the same political party. 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 or nine, and authorizes the mayor of Milwaukee to appoint two or four additional members of the board upon the bill's effective date. Generally, the bill increases the quorum requirement to four ~~or five~~ members, ~~depending on the size of the board,~~ but the bill also authorizes a three-member panel of the board to conduct and decide by majority vote disciplinary trials and to hear and decide by majority vote complaints filed by an aggrieved person. Currently, a quorum of the board may conduct such a trial or may hear and rule on such a complaint. The bill also authorizes the mayor to reduce the size of the board from nine to seven members. Finally, the bill eliminates the

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- 2 -

BILL

current law limitation on the number of board members who may belong to the same political party.

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.

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.

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:

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

62.50 (1) In all 1st class cities, however incorporated, there shall be a board of fire and police commissioners, consisting of ~~5~~ either 7 or 9 citizens, ~~not more than 2~~ of whom shall at any time belong to the same political party. The staff and members of the board shall receive the salary or other compensation for their services fixed by the common council. The salary shall be fixed at the same time and in the same manner as the salary of other city officials and employees.

Three members Except as otherwise provided in this subsection, a majority of the members-elect, as that term is used in s. 59.001 (2m), of the board shall constitute a quorum necessary for the transaction of business. A 3-member panel of the board may conduct, and decide by majority vote, a trial described under sub. (12) or may hear and decide, by majority vote, charges filed by an aggrieved person under sub. (19). It shall be the duty of the mayor of the city, on or before the 2nd Monday in July, to appoint 5 7, or 9, members of the board, designating the term of office of each, one to hold one year, one 2 to hold

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FNS 2-22

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

12-22

SECTION 4. 62.50 (19) of the statutes is amended to read:

12 **62.50 (19) CHARGES BY AGGRIEVED PERSON.** In cases where duly verified charges
 13 are filed by any aggrieved person with the board of fire and police commissioners,
 14 setting forth sufficient cause for the removal of any member of either of the
 15 departments, including the chiefs or their assistants, the board or chief may suspend
 16 such member or officer pending disposition of such charges. The board shall cause
 17 notice of the filing of the charges with a copy to be served upon the accused and shall
 18 set a date for the trial and investigation of the charges, following the procedure under
 19 this section. The board, or a 3-member panel of the board, shall decide by a majority
 20 vote and subject to the just cause standard described in sub. (17) (b) whether the
 21 charges are sustained. If sustained, the board shall immediately determine whether
 22 the good of the service requires that the accused be removed, suspended from office
 23 without pay for a period not exceeding 60 days or reduced in rank. If the charges are
 24 not sustained, the accused shall be immediately reinstated without prejudice. The
 25 secretary of the board shall make the decision public.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

- 3/18/2dn
LRB-2307/6dn
MES:jld:pg
9/mk

December 19, 2007

(date)

Senator

Carpenter @

seven

three or four

3 or

In this version of the draft, I stated that the quorum requirement was based on the number of members-elect of the board, as that term is used in s. 59.001 (2m), to avoid any confusion as to what number of members constitutes a quorum. For example, if a board has ~~one~~ members and two members are absent, is the quorum ~~4 or 3~~? As drafted, the quorum would be ~~4~~. Is this consistent with your intent?

Your instructions stated that "lines 8-10 should read 'A three member panel of the board shall decide by a majority vote, trials described under sub. (13) - (17)'". I did not make this change because it is not accurate. The correct references are to sub. (12), which describes a trial held under s. 62.50, based on complaints brought by the chief, and to sub. (19), which describes a trial based on charges filed by any aggrieved person. ✓

Please let me know if you need any changes made to the draft or if you have any questions about the bill or the issues in this drafter's note.

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-3118/2dn
MES:jld&lmk:nwn

January 9, 2008

Senator Carpenter:

In this version of the draft, I stated that the quorum requirement was based on the number of members-elect of the board, as that term is used in s. 59.001 (2m), to avoid any confusion as to what number of members constitutes a quorum. For example, if a board has seven members and two members are absent, is the quorum three or four? As drafted, the quorum would be four. Is this consistent with your intent?

Your instructions stated that “lines 8-10 should read ‘A three member panel of the board shall decide by a majority vote, trials described under sub. (13) - (17)...’” I did not make this change because it is not accurate. The correct references are to sub. (12), which describes a trial held under s. 62.50, based on complaints brought by the chief, and to sub. (19), which describes a trial based on charges filed by any aggrieved person.

Please let me know if you need any changes made to the draft or if you have any questions about the bill or the issues in this drafter's note.

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

Basford, Sarah

From: Ewy, Stuart
Sent: Sunday, January 13, 2008 3:59 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-3118/2 Topic: The size and procedures of the Milwaukee Board of Police and Fire Commisisoners

Please Jacket LRB 07-3118/2 for the SENATE.

Rush, please.

Thank you very much.

G. Stuart Ewy
Office of Sen. Tim Carpenter
608.366.8535