

## 2007 DRAFTING REQUEST

### Bill

Received: **12/10/2007**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Glenn Grothman (608) 266-7513**

By/Representing: **Sen. Grothman**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters: **chanaman**

Subject: **Local Gov't - misc  
Local Gov't - 1st class cities  
Employ Pub - collective bargain**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Payment of a police officer's and fire fighter's salary after suspension, termination

---

### Instructions:

See Attached. Based on s0193/2, which is based on SB 176 and a0946.

---

### 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>
/?				_____			S&L
/1	mshovers 12/11/2007	wjackson 12/11/2007	nnatzke 12/11/2007	_____	mbarman 12/11/2007		S&L
/2	mshovers 01/10/2008	bkraft 01/11/2008	jfrantze 01/11/2008	_____	mbarman 01/11/2008		S&L
/3	mshovers	bkraft	pgreensl	_____	mbarman		S&L

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/4	mshovers 01/16/2008	wjackson 01/21/2008	pgreensl 01/22/2008	_____	mbarman 01/22/2008	cduerst 02/13/2008	

FE Sent For: "/4" @ intro. 2-15-08

<END>

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*4 MES 1/16/08  
/4 WJ/21  
ba  
PS/MS*

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Topic:

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Instructions:

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Drafting History:

Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. It contains three rows of drafting history data.

Handwritten notes: /3 MES 1/11/08, 13 bjk 1/11, YH PG, PG 1

FE Sent For:

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12 MES 1/10/08  
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*[Handwritten signatures]*  
1/11  
<END>

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Addl. Drafters: *CMH*

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**Local Gov't - 1st class cities**  
*coll. bargaining*

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<i>11 MES 12/11/07</i>							

FE Sent For:

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State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-36267?

MES.../!...

wlj RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

today

gen

1 AN ACT ...; relating to: payment of a police officer's or fire fighter's salary after  
2 being charged with a misdemeanor or felony, or after discharge, and the  
3 adjournment of a trial or investigation relating to charges brought against a 1st  
4 class city police officer or fire fighter.

*Analysis by the Legislative Reference Bureau*

Under current law, no member of the police force of a 1st 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 (1st class city board) or the time for an appeal passes without an appeal being made. Also under current law, no 1st class city police or fire chief, or fire fighter, may be deprived of compensation during the time he or she is suspended preceding an investigation or trial, unless the charges are sustained. Currently, no member of a police force or fire department 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 1st class city 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 or fire fighter whose suspension or removal is reversed.

Under this bill, if a police officer or fire fighter (subordinate) of any class of city is charged with a misdemeanor or felony, the chief must suspend the subordinate and

the subordinate is deprived of compensation pending the disposition of the misdemeanor or felony charges. In <sup>SP</sup>1st class cities, the chief may also discharge a subordinate who is so charged. In <sup>SP</sup>2nd, <sup>SP</sup>3rd, and <sup>SP</sup>4th class cities, a chief may <sup>STET</sup>also seek the removal of a subordinate, by the board of police and fire commissioners (board), who is charged with a misdemeanor or felony. The bill also changes current law such that a <sup>SP</sup>1st class city police or fire chief, as well as a fire fighter, who is charged with a misdemeanor or felony may be deprived of compensation during the period after he or she is charged preceding an investigation or trial. <sup>SP</sup> <sup>SP</sup> <sup>SP</sup>

The bill <sup>SP</sup>also provides that if the chief of a <sup>SP</sup>2nd, <sup>SP</sup>3rd, or <sup>SP</sup>4th class city police or fire department communicates in writing to the board that a subordinate be removed and if the board takes no action on the communication, the chief's written communication is considered to be charges filed against the subordinate, and a suspension without pay, on the 181st day following the board's receipt of the written communication. *suspended or*

In all cases under the bill, if the charges filed against a suspended subordinate are dismissed, or if the subordinate is found not guilty of the charges, the subordinate is reinstated and <sup>SP</sup>is entitled to back pay. <sup>SP</sup>

Currently, if a <sup>SP</sup>1st class city 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 <sup>SP</sup>between 90 and 120 days. <sup>SP</sup>

Currently, both the accused and the chief of a <sup>SP</sup>1st class city 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.

This bill also repeals a provision that was enacted as part of the state budget, Wisconsin Act 20, that *INS AD*

For further information see the *state and 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.** 62.13 (5) (b) of the statutes is amended to read:
- 2           62.13 (5) (b) Charges may be filed against a subordinate by the chief, by a
- 3 member of the board, by the board as a body, or by any aggrieved person. Such
- 4 charges shall be in writing and shall be filed with the president of the board. Pending
- 5 disposition of such charges, the board or chief may suspend such subordinate. If a
- 6 chief seeks removal of a subordinate under this subsection for cause, as a result of
- 7 the subordinate being charged with a misdemeanor or felony, the subordinate may

1 not receive any compensation following the chief's action, pending disposition of the  
2 charges by the board.

3 **SECTION 2.** 62.13 (5) (be) of the statutes is created to read:

4 62.13 (5) (be) If a subordinate is charged with a misdemeanor or felony, he or  
5 she shall be suspended by the chief and deprived of compensation pending the  
6 disposition of the misdemeanor or felony. If the charges are dismissed or the  
7 subordinate is found not guilty of the charges, the subordinate shall be reinstated  
8 and entitled to compensation as though in continuous service.

9 **SECTION 3.** 62.13 (5) (bm) of the statutes is created to read:

10 62.13 (5) (bm) If a chief communicates in writing to the board that a  
11 subordinate be suspended or removed under this subsection for cause, and if the  
12 board does not take any action on the communication, on the 181st day following the  
13 board's receipt of the communication, the chief's communication shall be considered  
14 charges filed against a subordinate under par. (b) and the chief shall suspend the  
15 subordinate. The subordinate shall be deprived of compensation at the time of his  
16 or her suspension, pending the disposition of the charges.

17 **SECTION 4.** 62.13 (5) (h) of the statutes is repealed.

18 **SECTION 5.** 62.50 (11) of the statutes is amended to read:

19 62.50 (11) DISCHARGE OR SUSPENSION. No member of the police force or fire  
20 department may be discharged or suspended for a term exceeding 30 days by the  
21 chief of either of the departments except for cause and after trial under this section.  
22 A member of either force who is charged with a misdemeanor or felony shall be  
23 suspended by the chief, and may be discharged by the chief, under this subsection.  
24 A member of either force who is awaiting trial under this section, with regard to the  
25 member's suspension or discharge, may not receive any pay or benefits after his or

1 her suspension or discharge, while he or she is awaiting trial under this section,  
2 subject to the disposition of the charges. If the charges described in this subsection  
3 or in sub. (13) are dismissed, or if the member is found not guilty of the charges, the  
4 member shall be reinstated and entitled to pay as described in sub. (22).

5 **SECTION 6.** 62.50 (13) of the statutes is amended to read:

6 62.50 (13) DISCHARGE OR SUSPENSION; APPEAL. The chief discharging or  
7 suspending for a period exceeding 5 days any member of the force shall give written  
8 notice of the discharge or suspension to the member and immediately report the  
9 same to the secretary of the board of fire and police commissioners together with a  
10 complaint setting forth the reasons for the discharge or suspension and the name of  
11 the complainant if other than the chief. A member of either force who is suspended  
12 or discharged by the chief under this subsection as a result of being charged with a  
13 misdemeanor or felony, who is awaiting trial under this section with regard to his or  
14 her suspension or discharge, may not receive any pay or benefits after his or her  
15 suspension or discharge while he or she is awaiting trial under this section, subject  
16 to the disposition of the charges that led to the officer's discharge. Within 10 days  
17 after the date of service of the notice of a discharge or suspension order the members  
18 so discharged or suspended may appeal from the order of discharge or suspension or  
19 discipline to the board of fire and police commissioners, by filing with the board a  
20 notice of appeal in the following or similar form:

21 To the honorable board of fire and police commissioners:

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

25 **SECTION 7.** 62.50 (14) of the statutes is amended to read:

1           62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,  
2           within 5 days, serve the appellant with a copy of the complaint and a notice fixing  
3           the time and place of trial, which time of trial may not be less than ~~5~~ 90 days nor more  
4           than ~~15~~ 120 days after service of the notice and a copy of the complaint.

5           **SECTION 8.** 62.50 (16) of the statutes is amended to read:

6           62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused and or the  
7           chief ~~shall have the right to~~ an adjournment of the trial or investigation of the  
8           charges, for cause, not to exceed 15 days. In the course of any trial or investigation  
9           under this section each member of the fire and police commission may administer  
10          oaths, secure by its subpoenas both the attendance of witnesses and the production  
11          of records relevant to the trial and investigation, and compel witnesses to answer and  
12          may punish for contempt in the same manner provided by law in trials before  
13          municipal judges for failure to answer or to produce records necessary for the trial.  
14          The trial shall be public and all witnesses shall be under oath. The accused shall  
15          have full opportunity to be heard in defense and shall be entitled to secure the  
16          attendance of all witnesses necessary for the defense at the expense of the city. The  
17          accused may appear in person and by attorney. The city in which the department is  
18          located may be represented by the city attorney. All evidence shall be taken by a  
19          stenographic reporter who first shall be sworn to perform the duties of a stenographic  
20          reporter in taking evidence in the matter fully and fairly to the best of his or her  
21          ability.

22          **SECTION 9.** 62.50 (18) of the statutes is amended to read:

23          62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or  
24          member of the fire department may be deprived of any salary or wages for the period  
25          of time suspended preceding an investigation or trial, unless the reason for the

1 suspension is that the chief or member has been charged with a misdemeanor or  
2 felony, unless the charge is sustained. No member of the police force may be  
3 suspended ~~or discharged~~ under sub. (11) or (13) without pay or benefits, unless the  
4 reason for the suspension is that the officer has been charged with a misdemeanor  
5 or felony, until the matter that is the subject of the suspension ~~or discharge~~ is  
6 disposed of by the board or the time for appeal under sub. (13) passes without an  
7 appeal being made.

8 **SECTION 10.** 111.70 (4) (c) 2. a. of the statutes, as affected by 2007 Wisconsin  
9 Act 20, is renumbered 111.70 (4) (c) 2.

10 **SECTION 11.** 111.70 (4) (c) 2. b. of the statutes, as created by 2007 Wisconsin Act  
11 20, is repealed.

12 **SECTION 12.** 111.70 (4) (mc) of the statutes, as created by 2007 Wisconsin Act  
13 20, is repealed.

14 **SECTION 13. Initial applicability.**

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

19 (END)



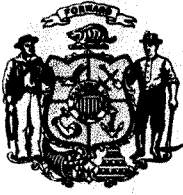
2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3626/?ins  
MES.....

1

Insert A

*Not* permits a collective bargaining agreement to contain dispute resolution procedures that address suspension, reduction in rank, suspension and reduction in rank, or removal of municipal ~~employers~~ *employees* who engage in law enforcement or fire fighting functions.



INSTRUCTIONS  
for 1/2

2007 BILL

- ① If charged w/ mis but not fired, pay continues
- ② If charged w/ mis & fired, pay stops.
- ③ If officer/FF is dismissed & firing upheld by PFC, no pay during appeal to PFC
- ④ If officer/FF is violator, & PFC upholds

1 AN ACT to repeal 62.13 (5) (h), 111.70 (4) (c) 2. b. and 111.70 (4) (mc); to  
 2 renumber 111.70 (4) (c) 2. a.; to amend 62.13 (5) (b), 62.50 (11), 62.50 (13),  
 3 62.50 (14), 62.50 (16) and 62.50 (18); and to create 62.13 (5) (be) and 62.13 (5)  
 4 (bm) of the statutes; relating to: payment of a police officer's or fire fighter's  
 5 salary after being charged with a misdemeanor or felony, or after discharge, and  
 6 the adjournment of a trial or investigation relating to charges brought against  
 7 a first class city police officer or fire fighter.

no pay during appeal process

**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 (first class city board) or the time for an appeal passes without an appeal being made. Also under current law, no first class city police chief or fire chief, or fire fighter, may be deprived of compensation during the time he or she is suspended preceding an investigation or trial, unless the charges are sustained. Currently, no member of a police force or fire department 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 first class city board's decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her

**BILL**

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 or fire fighter whose suspension or removal is reversed.

Under this bill, if a police officer or fire fighter (subordinate) of any class of city is charged with a misdemeanor or felony, the chief must suspend the subordinate, and the subordinate is deprived of compensation pending the disposition of the misdemeanor or felony charges. In first class cities, the chief may also discharge a subordinate who is so charged. In second, third, and fourth class cities, a chief may seek the removal of a subordinate, by the board of police and fire commissioners (board), who is charged with a misdemeanor or felony. The bill also changes current law such that a first class city police or fire chief, as well as a fire fighter, who is charged with a misdemeanor or felony may be deprived of compensation during the period after he or she is charged preceding an investigation or trial.

The bill provides that if the chief of a second, third, or fourth class city police or fire department communicates in writing to the board that a subordinate be suspended or removed and if the board takes no action on the communication, the chief's written communication is considered to be charges filed against the subordinate, and a suspension without pay, on the 181st day following the board's receipt of the written communication.

In all cases under the bill, if the charges filed against a suspended subordinate are dismissed, or if the subordinate is found not guilty of the charges, the subordinate is reinstated and entitled to back pay.

Currently, if a first class city 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 within 90 and 120 days.

Currently, both the accused and the chief of a first class city 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.

This bill also repeals a provision that was enacted as part of the state budget, Wisconsin Act 20, that permits a collective bargaining agreement to contain dispute resolution procedures that address suspension, reduction in rank, suspension and reduction in rank, or removal of municipal employees who engage in law enforcement or fire fighting functions.

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

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State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3626/1  
MES&CMH:wlj;nwn

Inserts

RMR  
lk

2007 BILL

SA ✓  
D-NOTE

WANTED!  
Fri.  
10 AM

negm

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**BILL**

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 or fire fighter whose suspension or removal is reversed.

Under this bill, if a police officer or fire fighter (subordinate) of any class of city is charged with a misdemeanor or felony, the chief must suspend the subordinate, and the subordinate is deprived of compensation pending the disposition of the ~~misdemeanor or~~ felony charges. In first class cities, the chief may also discharge a subordinate who is so charged. In second, third, and fourth class cities, a chief may seek the removal of a subordinate, by the board of police and fire commissioners (board), who is charged with a misdemeanor or felony. The bill also changes current law such that a first class city police or fire chief, as well as a fire fighter, who is charged with a ~~misdemeanor or~~ felony may be deprived of compensation during the period after he or she is charged preceding an investigation or trial.

The bill provides that if the chief of a second, third, or fourth class city police or fire department communicates in writing to the board that a subordinate be suspended or removed and if the board takes no action on the communication, the chief's written communication is considered to be charges filed against the subordinate, and a suspension without pay, on the 181st day following the board's receipt of the written communication. *FNS ANL*

In all cases under the bill, if the charges filed against a suspended subordinate are dismissed, or if the subordinate is found not guilty of the charges, the subordinate is reinstated and entitled to back pay.

Currently, if a first class city 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 within 90 and 120 days.

Currently, both the accused and the chief of a first class city 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.

This bill also repeals a provision that was enacted as part of the state budget, Wisconsin Act 20, that permits a collective bargaining agreement to contain dispute resolution procedures that address suspension, reduction in rank, suspension and reduction in rank, or removal of municipal employees who engage in law enforcement or fire fighting functions.

For further information see the *state and 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.** 62.13 (5) (b) of the statutes is amended to read:
- 2           62.13 (5) (b) Charges may be filed against a subordinate by the chief, by a
- 3 member of the board, by the board as a body, or by any aggrieved person. Such

**BILL**

1 charges shall be in writing and shall be filed with the president of the board. Pending  
2 disposition of such charges, the board or chief may suspend such subordinate. If a  
3 chief seeks removal of a subordinate under this subsection for cause, as a result of  
4 the subordinate being charged with a ~~misdemeanor or~~ felony, the subordinate may  
5 not receive any compensation following the chief's action, pending disposition of the  
6 charges by the board.

7 **SECTION 2.** 62.13 (5) (be) of the statutes is created to read:

8 62.13 (5) (be) If a subordinate is charged with a misdemeanor or felony, he or  
9 she shall be suspended by the chief and <sup>if charged with a felony</sup> deprived of compensation pending the  
10 disposition of the ~~misdemeanor or~~ <sup>charges</sup> felony. If the charges are dismissed or the  
11 subordinate is found not guilty of the charges, the subordinate shall be reinstated  
12 and entitled to compensation as though in continuous service.

13 **SECTION 3.** 62.13 (5) (bm) of the statutes is created to read:

14 62.13 (5) (bm) If a chief communicates in writing to the board that a  
15 subordinate be suspended or removed under this subsection for cause, and if the  
16 board does not take any action on the communication, on the 181st day following the  
17 board's receipt of the communication, the chief's communication shall be considered  
18 charges filed against a subordinate under par. (b) and the chief shall suspend the  
19 subordinate. The subordinate shall be deprived of compensation at the time of his  
20 or her suspension, pending the disposition of the charges.

21 **SECTION 4.** 62.13 (5) (h) of the statutes is repealed.

22 **SECTION 5.** 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  
25 chief of either of the departments except for cause and after trial under this section.

**BILL**

1 A member of either force who is charged with a misdemeanor or felony shall be  
2 suspended by the chief, and may be discharged by the chief, under this subsection.

3 A member of either force who is awaiting trial under this section, with regard to the  
4 member's suspension or discharge, may not receive any pay or benefits after his or

5 her suspension or discharge, while he or she is awaiting trial under this section,

6 subject to the disposition of the charges. If the charges described in this subsection

7 or in sub. (13) are dismissed, or if the member is found not guilty of the charges, the

8 member shall be reinstated and entitled to pay as described in sub. (22).

9 **SECTION 6.** 62.50 (13) of the statutes is amended to read:

10 62.50 (13) DISCHARGE OR SUSPENSION; APPEAL. The chief discharging or  
11 suspending for a period exceeding 5 days any member of the force shall give written  
12 notice of the discharge or suspension to the member and immediately report the  
13 same to the secretary of the board of fire and police commissioners together with a  
14 complaint setting forth the reasons for the discharge or suspension and the name of  
15 the complainant if other than the chief. A member of either force who is suspended  
16 or discharged by the chief under this subsection as a result of being charged with a

17 ~~misdemeanor or~~ felony, who is awaiting trial under this section with regard to his or

18 her suspension or discharge, may not receive any pay or benefits after his or her

19 suspension or discharge while he or she is awaiting trial under this section, subject

20 to the disposition of the charges that led to the officer's discharge. Within 10 days

21 after the date of service of the notice of a discharge or suspension order the members

22 so discharged or suspended may appeal from the order of discharge or suspension or

23 discipline to the board of fire and police commissioners, by filing with the board a

24 notice of appeal in the following or similar form:

25 To the honorable board of fire and police commissioners:

INS  
4-6

which is related to being charged with a felony

felony

**BILL**

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

4 **SECTION 7.** 62.50 (14) of the statutes is amended to read:

5 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,  
6 within 5 days, serve the appellant with a copy of the complaint and a notice fixing  
7 the time and place of trial, which time of trial may not be less than 5 90 days nor more  
8 than 15 120 days after service of the notice and a copy of the complaint.

9 **SECTION 8.** 62.50 (16) of the statutes is amended to read:

10 62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused ~~and or~~ the  
11 chief ~~shall have the right to~~ an adjournment of the trial or investigation of the  
12 charges, for cause, not to exceed 15 days. In the course of any trial or investigation  
13 under this section each member of the fire and police commission may administer  
14 oaths, secure by its subpoenas both the attendance of witnesses and the production  
15 of records relevant to the trial and investigation, and compel witnesses to answer and  
16 may punish for contempt in the same manner provided by law in trials before  
17 municipal judges for failure to answer or to produce records necessary for the trial.  
18 The trial shall be public and all witnesses shall be under oath. The accused shall  
19 have full opportunity to be heard in defense and shall be entitled to secure the  
20 attendance of all witnesses necessary for the defense at the expense of the city. The  
21 accused may appear in person and by attorney. The city in which the department is  
22 located may be represented by the city attorney. All evidence shall be taken by a  
23 stenographic reporter who first shall be sworn to perform the duties of a stenographic  
24 reporter in taking evidence in the matter fully and fairly to the best of his or her  
25 ability.



**BILL**

✓  
1 **SECTION 9.** 62.50 (18) of the statutes is amended to read:

2 62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or  
3 member of the fire department may be deprived of any salary or wages for the period  
4 of time suspended preceding an investigation or trial, unless the reason for the  
5 suspension is that the chief or member has been charged with a ~~misdemeanor or~~  
6 felony, unless the charge is sustained. No member of the police force may be  
7 suspended ~~or discharged~~ under sub. (11) or (13) without pay or benefits, unless the  
8 reason for the suspension is that the officer has been charged with a ~~misdemeanor~~  
9 ~~or~~ felony, until the matter that is the subject of the suspension ~~or discharge~~ is  
10 disposed of by the board or the time for appeal under sub. (13) passes without an  
11 appeal being made.

✓  
12 **SECTION 10.** 111.70 (4) (c) 2. a. of the statutes, as affected by 2007 Wisconsin  
13 Act 20, is renumbered 111.70 (4) (c) 2.

✓  
14 **SECTION 11.** 111.70 (4) (c) 2. b. of the statutes, as created by 2007 Wisconsin Act  
15 20, is repealed.

✓  
16 **SECTION 12.** 111.70 (4) (mc) of the statutes, as created by 2007 Wisconsin Act  
17 20, is repealed.

18 **SECTION 13. Initial applicability.**

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

23 (END)

D-note

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3626/2ins  
MES&CMH:wlj:nwn

INS ANL

The bill also specifies that, with regard to a first class city, a member of either force who is charged with a misdemeanor or felony and subsequently discharged may not receive any compensation following the discharge, and a member of either force who is discharged for any other reason may not receive any compensation after the discharge is upheld by the board or the time for an appeal passes without an appeal being made. ✓

INS 4-6

A member of either force who is charged with a misdemeanor or felony and discharged following a trial under this section may not receive any pay or benefits following his or her discharge. A member of either force who is discharged for any other reason under this section may not receive any pay or benefits after the discharge is upheld by the board or the time for an appeal to the board passes without an appeal being made. ✓

end A inserts

D-note

Date

MES:bjk:

Senator Grothman ↑  
I deleted the last sentence in A.62.13(5) (bm) ↑  
as it appeared in the 11 version. That sentence  
deprived a suspended subordinate of pay even though  
he or she was not charged with a felony. Is this  
OK?

AMZ

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

LRB-3626/2dn  
MES:wj&bk:jf

January 11, 2008

Senator Grothman;

I deleted the last sentence in s. 62.13 (5) (bm), as it appeared in the /1 version. That sentence deprived a suspended subordinate of pay even though he or she was not charged with a felony. Is this OK?

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

(91) if charged w/ mis or felony of  
 chief seeks removal, no pay  
 add in chief ~~may~~ suspend

(92) delete

(93) make consist w/ § /  
 chief ~~don't~~ not req to suspend  
 if charged -- must only  
 suspend if requests dismissed

do / companion  
 for near Bottlieb



3c  
3c  
Stays  
RMR

2007 BILL

SAV

WANTED  
→ NOW

open ←

1 AN ACT *to repeal* 62.13 (5) (h), 111.70 (4) (c) 2. b. and 111.70 (4) (mc); *to*  
 2 *renumber* 111.70 (4) (c) 2. a.; *to amend* 62.13 (5) (b), 62.50 (11), 62.50 (13),  
 3 62.50 (14), 62.50 (16) and 62.50 (18); and *to create* 62.13 (5) (be) and 62.13 (5)  
 4 (bm) of the statutes; **relating to:** payment of a police officer's or fire fighter's  
 5 salary after being charged with a misdemeanor or felony <sup>2</sup> ~~or~~ <sup>and</sup> ~~and~~ <sup>1</sup>  
 6 the adjournment of a trial or investigation relating to charges brought against  
 7 a first class city police officer or fire fighter.

***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 (first class city board) or the time for an appeal passes without an appeal being made. Also under current law, no first class city police chief or fire chief, or fire fighter, may be deprived of compensation during the time he or she is suspended preceding an investigation or trial, unless the charges are sustained. Currently, no member of a police force or fire department 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 first class city board's decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her

**BILL**

*if the chief also discharges or seeks to discharge the subordinate*

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 or fire fighter whose suspension or removal is reversed.

Under this bill, if a police officer or fire fighter (subordinate) of any class of city is charged with a misdemeanor or felony, the chief must suspend the subordinate, and the subordinate is deprived of compensation pending the disposition of the ~~felony~~ charges. ~~In first class cities, the chief may also discharge a subordinate who is so~~

\* ~~charged.~~ In second, third, and fourth class cities, a chief may seek the removal of a subordinate, by the board of police and fire commissioners (board), who is charged with a misdemeanor or felony. The bill also changes current law such that a first class city police or fire chief, as well as a fire fighter, who is charged with a ~~felony~~ may be deprived of compensation during the period after he or she is charged preceding an investigation or trial. *if the individual is also discharged*

*misdemeanor or*

The bill provides that if the chief of a second, third, or fourth class city police or fire department communicates in writing to the board that a subordinate be suspended or removed and if the board takes no action on the communication, the chief's written communication is considered to be charges filed against the subordinate, and a suspension without pay, on the 181st day following the board's receipt of the written communication.

\* The bill also specifies that, with regard to a first class city, a member of either force who is charged with a misdemeanor or felony and ~~subsequently~~ discharged may not receive any compensation following the discharge, and a member of either force who is discharged for any other reason may not receive any compensation after the discharge is upheld by the board or the time for an appeal passes without an appeal being made.

In all cases under the bill, if the charges filed against a suspended subordinate are dismissed, or if the subordinate is found not guilty of the charges, the subordinate is reinstated and entitled to back pay.

Currently, if a first class city 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 within 90 and 120 days.

Currently, both the accused and the chief of a first class city 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.

This bill also repeals a provision that was enacted as part of the state budget, Wisconsin Act 20, that permits a collective bargaining agreement to contain dispute resolution procedures that address suspension, reduction in rank, suspension and reduction in rank, or removal of municipal employees who engage in law enforcement or fire fighting functions.

**BILL**

For further information see the *state and 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. 62.13 (5) (b) of the statutes is amended to read:

62.13 (5) (b) Charges may be filed against a subordinate by the chief, by a member of the board, by the board as a body, or by any aggrieved person. Such charges shall be in writing and shall be filed with the president of the board. Pending disposition of such charges, the board or chief may suspend such subordinate. If a chief seeks removal of a subordinate under this subsection for cause, as a result of the subordinate being charged with a felony, the subordinate may not receive any compensation following the chief's action, pending disposition of the charges by the board.

SECTION 2. 62.13 (5) (be) of the statutes is created to read:

62.13 (5) (be) If a subordinate is charged with a misdemeanor or felony, he or she shall be suspended by the chief and, if charged with a felony, ~~deprived of compensation pending the disposition of the felony charges.~~ <sup>the chief shall suspend the subordinate</sup> If the charges are dismissed or the subordinate is found not guilty of the charges, the subordinate shall be reinstated and entitled to compensation as though in continuous service.

SECTION 3. 62.13 (5) (bm) of the statutes is created to read:

62.13 (5) (bm) If a chief communicates in writing to the board that a subordinate be suspended or removed under this subsection for cause, and if the board does not take any action on the communication, on the 181st day following the board's receipt of the communication, the chief's communication shall be considered

**BILL**

1 charges filed against a subordinate under par. (b) and the chief shall suspend the  
2 subordinate.

3 ~~SECTION 4.~~ 62.13 (5) (h) of the statutes is repealed.

4 ~~SECTION 5.~~ 62.50 (11) of the statutes is amended to read:

5 62.50 (11) DISCHARGE OR SUSPENSION. No member of the police force or fire  
6 department may be discharged or suspended for a term exceeding 30 days by the  
7 chief of either of the departments except for cause and after trial under this section.

8 A member of either force who is charged with a misdemeanor or felony shall be  
9 suspended by the chief, <sup>if</sup> and may be discharged by the chief, <sup>discharges the subordinate</sup> under this subsection.

10 A member of either force who is awaiting trial under this section, with regard to the  
11 member's suspension <sup>and</sup> or discharge, which is related to being charged with a felony, <sup>misdemeanor or</sup>  
12 may not receive any pay or benefits after his or her suspension <sup>and</sup> or discharge, while  
13 he or she is awaiting trial under this section, subject to the disposition of the <sup>felony</sup> ~~felony~~

14 charges. A member of either force who is charged with a misdemeanor or felony and  
15 discharged following a trial under this section may not receive any pay or benefits  
16 following his or her discharge. A member of either force who is discharged for any  
17 other reason under this section may not receive any pay or benefits after the  
18 discharge is upheld by the board or the time for an appeal to the board passes without  
19 an appeal being made. If the charges described in this subsection or in sub. (13) are  
20 dismissed, or if the member is found not guilty of the charges, the member shall be  
21 reinstated and entitled to pay as described in sub. (22).

22 ~~SECTION 6.~~ 62.50 (13) of the statutes is amended to read:

23 62.50 (13) DISCHARGE OR SUSPENSION; APPEAL. The chief discharging or  
24 suspending for a period exceeding 5 days any member of the force shall give written  
25 notice of the discharge or suspension to the member and immediately report the



**BILL**

1 same to the secretary of the board of fire and police commissioners together with a  
2 complaint setting forth the reasons for the discharge or suspension and the name of  
3 the complainant if other than the chief. A member of either force who is suspended

4 <sup>and</sup> ~~or~~ discharged by the chief under this subsection as a result of being charged with a  
5 <sup>misdemeanor or</sup> felony, who is awaiting trial under this section with regard to his or her suspension

6 <sup>and</sup> ~~or~~ discharge, may not receive any pay or benefits after his or her suspension <sup>and</sup> or  
7 discharge while he or she is awaiting trial under this section, subject to the

8 disposition of the charges that led to the officer's discharge. Within 10 days after the  
9 date of service of the notice of a discharge or suspension order the members so  
10 discharged or suspended may appeal from the order of discharge or suspension or  
11 discipline to the board of fire and police commissioners, by filing with the board a  
12 notice of appeal in the following or similar form:

13 To the honorable board of fire and police commissioners:

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

17 **SECTION 7.** 62.50 (14) of the statutes is amended to read:

18 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,  
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20 the time and place of trial, which time of trial may not be less than 5 90 days nor more  
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22 **SECTION 8.** 62.50 (16) of the statutes is amended to read:

23 62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused and or the  
24 chief ~~shall have the right to~~ an adjournment of the trial or investigation of the  
25 charges, for cause, not to exceed 15 days. In the course of any trial or investigation

**BILL**

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

*and the chief or firefighter is discharged or*

14 **SECTION 9.** 62.50 (18) of the statutes is amended to read:

15 **62.50 (18) SALARY DURING SUSPENSION.** No chief officer of either department or  
 16 member of the fire department may be deprived of any salary or wages for the period  
 17 of time suspended preceding an investigation or trial, unless the reason for the  
 18 suspension is that the chief or member has been charged with a felony, unless the  
 19 charge is sustained. No member of the police force may be suspended or discharged  
 20 under sub. (11) or (13) without pay or benefits, unless the reason for the suspension  
 21 is that the officer has been charged with a felony, until the matter that is the subject  
 22 of the suspension or discharge is disposed of by the board or the time for appeal under  
 23 sub. (13) passes without an appeal being made.

*misdemeanor or*

*misdemeanor or*

*and the officer is discharged*

24 **SECTION 10.** 111.70 (4) (c) 2. a. of the statutes, as affected by 2007 Wisconsin  
 25 Act 20, is renumbered 111.70 (4) (c) 2.

**BILL**

1                    ✓  
**SECTION 11.** 111.70 (4) (c) 2. b. of the statutes, as created by 2007 Wisconsin Act  
2                    20, is repealed.                    ✓

3                    **SECTION 12.** 111.70 (4) (mc) of the statutes, as created by 2007 Wisconsin Act  
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5                    **SECTION 13. Initial applicability.**

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

10                    (END)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3626/3  
MES&CMH:wlj&bk:pg

Stays → fmr

2007 BILL

D-NOTE

SOON

Regen

1 AN ACT to repeal 62.13 (5) (h), 111.70 (4) (c) 2. b. and 111.70 (4) (mc); to  
2 renumber 111.70 (4) (c) 2. a.; to amend 62.13 (5) (b), 62.50 (11), 62.50 (13),  
3 62.50 (14), 62.50 (16) and 62.50 (18); and to create 62.13 (5) (bm) of the statutes;  
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6 of a trial or investigation relating to charges brought against a first class city  
7 police officer or fire fighter.

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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 (first class city board) or the time for an appeal passes without an appeal being made. Also under current law, no first class city police chief or fire chief, or fire fighter, may be deprived of compensation during the time he or she is suspended preceding an investigation or trial, unless the charges are sustained. Currently, no member of a police force or fire department 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 first class city board's decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her

**BILL**

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 or fire fighter whose suspension or removal is reversed.

Under this bill, if a police officer or fire fighter (subordinate) of any class of city is charged with a misdemeanor or felony, the chief must suspend the subordinate if the chief also discharges or seeks to discharge the subordinate, and the subordinate is deprived of compensation pending the disposition of the charges. In second, third, and fourth class cities, a chief may seek the removal of a subordinate, by the board of police and fire commissioners (board), who is charged with a misdemeanor or felony. The bill also changes current law such that a first class city police or fire chief, as well as a fire fighter, who is charged with a misdemeanor or felony may be deprived of compensation during the period after he or she is charged preceding an investigation or trial if the individual is also discharged.

The bill provides that if the chief of a second, third, or fourth class city police or fire department communicates in writing to the board that a subordinate be suspended or removed and if the board takes no action on the communication, the chief's written communication is considered to be charges filed against the subordinate, and a suspension without pay, on the 181st day following the board's receipt of the written communication.

The bill also specifies that, with regard to a first class city, a member of either force who is charged with a misdemeanor or felony and discharged may not receive any compensation following the discharge, and a member of either force who is discharged for any other reason may not receive any compensation after the discharge is upheld by the board or the time for an appeal passes without an appeal being made.

In all cases under the bill, if the charges filed against a suspended subordinate are dismissed, or if the subordinate is found not guilty of the charges, the subordinate is reinstated and entitled to back pay.

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**BILL**

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

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5 disposition of such charges, the board or chief may suspend such subordinate. If a  
6 chief seeks removal of a subordinate under this subsection for cause, as a result of  
7 the subordinate being charged with a misdemeanor or felony, the chief shall suspend  
8 the subordinate and the subordinate may not receive any compensation following the  
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10 dismissed or the subordinate is found not guilty of the charges, the subordinate shall  
11 be reinstated and entitled to compensation as though in continuous service.

12           **SECTION 2.** 62.13 (5) (bm) of the statutes is created to read:

13           62.13 (5) (bm) If a chief communicates in writing to the board that a  
14 subordinate be suspended or removed under this subsection for cause, and if the  
15 board does not take any action on the communication, on the 181st day following the  
16 board's receipt of the communication, the chief's communication shall be considered  
17 charges filed against a subordinate under par. (b) and the chief shall suspend the  
18 subordinate.

19           **SECTION 3.** 62.13 (5) (h) of the statutes is repealed.

20           **SECTION 4.** 62.50 (11) of the statutes is amended to read:

**BILL****SECTION 4**

1           62.50 (11) DISCHARGE OR SUSPENSION. No member of the police force or fire  
2 department may be discharged or suspended for a term exceeding 30 days by the  
3 chief of either of the departments except for cause and after trial under this section.  
4 A member of either force who is charged with a misdemeanor or felony shall be  
5 suspended by the chief if the chief discharges the subordinate under this subsection.  
6 A member of either force who is awaiting trial under this section, with regard to the  
7 member's suspension and discharge, which is related to being charged with a  
8 misdemeanor or felony, may not receive any pay or benefits after his or her  
9 suspension and discharge, while he or she is awaiting trial under this section, subject  
10 to the disposition of the charges. A member of either force who is charged with a  
11 misdemeanor or felony and discharged following a trial under this section may not  
12 receive any pay or benefits following his or her discharge. A member of either force  
13 who is discharged for any other reason under this section may not receive any pay  
14 or benefits after the discharge is upheld by the board or the time for an appeal to the  
15 board passes without an appeal being made. If the charges described in this  
16 subsection or in sub. (13) are dismissed, or if the member is found not guilty of the  
17 charges, the member shall be reinstated and entitled to pay as described in sub. (22).

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

19           62.50 (13) DISCHARGE OR SUSPENSION; APPEAL. The chief discharging or  
20 suspending for a period exceeding 5 days any member of the force shall give written  
21 notice of the discharge or suspension to the member and immediately report the  
22 same to the secretary of the board of fire and police commissioners together with a  
23 complaint setting forth the reasons for the discharge or suspension and the name of  
24 the complainant if other than the chief. A member of either force who is suspended  
25 and discharged by the chief under this subsection as a result of being charged with

**BILL**

1 a misdemeanor or felony, who is awaiting trial under this section with regard to his  
2 or her suspension and discharge, may not receive any pay or benefits after his or her  
3 suspension and discharge while he or she is awaiting trial under this section, subject  
4 to the disposition of the charges that led to the officer's discharge. Within 10 days  
5 after the date of service of the notice of a discharge or suspension order the members  
6 so discharged or suspended may appeal from the order of discharge or suspension or  
7 discipline to the board of fire and police commissioners, by filing with the board a  
8 notice of appeal in the following or similar form:

9 To the honorable board of fire and police commissioners:

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

13 **SECTION 6.** 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~~ 90 days nor more  
17 than ~~15~~ 120 days after service of the notice and a copy of the complaint.

18 **SECTION 7.** 62.50 (16) of the statutes is amended to read:

19 **62.50 (16) TRIAL; ADJOURNMENT.** The board may grant the accused ~~and or~~ 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



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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 8.** 62.50 (18) of the statutes is amended to read:

11 62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or  
12 member of the fire department may be deprived of any salary or wages for the period  
13 of time suspended preceding an investigation or trial, unless the reason for the  
14 suspension is that the chief or member has been charged with a misdemeanor or  
15 felony and the chief or fire fighter is discharged, or unless the charge is sustained.  
16 No member of the police force may be suspended ~~or discharged~~ under sub. (11) or (13)  
17 without pay or benefits, unless the reason for the suspension is that the officer has  
18 been charged with a misdemeanor or felony, and the officer is discharged, until the  
19 matter that is the subject of the suspension ~~or discharge~~ is disposed of by the board  
20 or the time for appeal under sub. (13) passes without an appeal being made.

21 **SECTION 9.** 111.70 (4) (c) 2. a. of the statutes, as affected by 2007 Wisconsin Act  
22 20, is renumbered 111.70 (4) (c) 2.

23 **SECTION 10.** 111.70 (4) (c) 2. b. of the statutes, as created by 2007 Wisconsin Act  
24 20, is repealed.



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

LRB-3626/4dn  
MES:wlj&bk:pg

January 22, 2008

Sen. Grothman:

This version of the bill corrects an error by adding "fire department" to the initial applicability provision.

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

**Duerst, Christina**

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**From:** Emerson, James  
**Sent:** Wednesday, February 13, 2008 12:13 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-3626/4 Topic: Payment of a police officer's and fire fighter's salary after suspension, termination

Please Jacket LRB 07-3626/4 for the SENATE.