

2007 DRAFTING REQUEST

Bill

Received: **10/03/2006**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Fath**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - collective bargain**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Fath, BB0078 -

Topic:

Repeal QEO

Instructions:

See Attached

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>
/?	chanaman 10/03/2006	wjackson 10/09/2006		_____			S&L
/1	chanaman 01/24/2007	wjackson 01/25/2007	jfrantze 10/10/2006	_____	mbarman 10/10/2006		S&L
/2	chanaman 01/30/2007	jdye 01/30/2007	nntzke 01/25/2007	_____	sbasford 01/25/2007		S&L
/3			jfrantze	_____	sbasford		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			01/30/2007 _____		01/30/2007		

FE Sent For:

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/1	chanaman 01/24/2007	wjackson 01/25/2007	jfrantze 10/10/2006	_____	mbarman 10/10/2006		S&L
/2			nmatzke 01/25/2007	_____	sbasford 01/25/2007		

3/30 jld

Jb/30 *JH/30*

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/1		/2 wj 1/25	jfrantze 10/10/2006		mbarman 10/10/2006		

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nwn
1/25
mwn/sh
1/25

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/?	chanaman	1 Wlj 10/9					
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10/10

Self
10/10

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Repeal the Qualified Economic Offer
- Tracking Code: BB0078
- SBO team: Education
- SBO analyst: Erin Fath
 - Phone: 266-5468
 - Email: erin.fath@wisconsin.gov
- Agency acronym: DPI
- Agency number: 255
- Priority (Low, Medium, High): medium

Date: October 2, 2006
To: Steve Miller
From: Erin Fath
Subject: Statutory Language Request

Repeal the Qualified Economic Offer (QEO)

Please repeal provisions under s. 111.70 related to the QEO, upon passage of the budget bill. See DPI's attached request narrative for reference.

If you have any questions, please call me at 6-5468, or send me an email at erin.fath@wisconsin.gov

Thank you.

DEPARTMENT OF PUBLIC INSTRUCTION
2007-09 BIENNIAL BUDGET
DRAFTING REQUEST TO THE LEGISLATIVE REFERENCE BUREAU

Draft for Possible 2007-09 Budget Bill Introduction (*Agency Decision Item No. 7011*)

Subject: Elimination of Qualified Economic Offer

Request Date: September 15, 2006

Agency Contact: Tony Evers (266-1771)
Lori Slauson (267-9127)

Brief Description of Intent:

The department proposes to repeal the Qualified Economic Offer (QEO) provisions related to teacher collective bargaining under s. 111.70, Wis. Stats.

Related Stat. Citations:

Amend s. 111.70, Wis. Stats, to repeal provisions related to the QEO effective upon passage of the budget bill.

Fath
0078 ✓

DOA:.....Ziegler, BB0219 - Repeal qualified economic offer

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

7 9

SOON

down for cut

- 1 AN ACT ...; relating to: qualified economic offers under the Municipal
- 2 Employment Relations Act.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin Employment Relations Commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator, WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

Under current law, however, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district

professional employees if WERC determines, subsequent to an investigation, that the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1 percent of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings. Fringe benefit savings is that amount, if any, by which 1.7 percent of the total compensation and fringe benefit costs for all municipal employees in a collective bargaining unit for any 12-month period covered by a proposed collective bargaining agreement exceeds the increased cost required to maintain the percentage contribution by the municipal employer to the municipal employees' existing fringe benefit costs and to maintain all fringe benefits provided to the municipal employees.

This bill eliminates the QEO exception from the compulsory, final, and binding arbitration process.

Under current law, school district professional employees are required to be placed in a collective bargaining unit that is separate from the units of other school district employees. This bill eliminates this requirement.

Finally, the bill eliminates a 3.8 percent cap imposed on salary and fringe benefit annual cost increases for all nonrepresented professional school district employees.

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. 111.70 (1) (b) of the statutes is amended to read:

2 111.70 (1) (b) "Collective bargaining unit" means ~~a~~ the unit consisting of
3 municipal employees who are school district professional employees or of municipal
4 employees who are not school district professional employees that is determined by
5 the commission to be appropriate for the purpose of collective bargaining.

6 SECTION 2. 111.70 (1) (dm) of the statutes is repealed.

7 SECTION 3. 111.70 (1) (fm) of the statutes is repealed.

8 SECTION 4. 111.70 (1) (nc) of the statutes is repealed.

9 SECTION 5. 111.70 (4) (cm) 5s. of the statutes is repealed.

1 **SECTION 6.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

2 111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one
3 or more issues, ~~qualifying for interest arbitration under subd. 5s. in a collective~~
4 ~~bargaining unit to which subd. 5s. applies~~, has not been settled after a reasonable
5 period of negotiation and after mediation by the commission under subd. 3. and other
6 settlement procedures, if any, established by the parties have been exhausted, and
7 the parties are deadlocked with respect to any dispute between them over wages,
8 hours and conditions of employment to be included in a new collective bargaining
9 agreement, either party, or the parties jointly, may petition the commission, in
10 writing, to initiate compulsory, final and binding arbitration, as provided in this
11 paragraph. At the time the petition is filed, the petitioning party shall submit in
12 writing to the other party and the commission its preliminary final offer containing
13 its latest proposals on all issues in dispute. Within 14 calendar days after the date
14 of that submission, the other party shall submit in writing its preliminary final offer
15 on all disputed issues to the petitioning party and the commission. If a petition is
16 filed jointly, both parties shall exchange their preliminary final offers in writing and
17 submit copies to the commission at the time the petition is filed.

18 **SECTION 7.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

19 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
20 commission shall make an investigation, with or without a formal hearing, to
21 determine whether arbitration should be commenced. If in determining whether an
22 impasse exists the commission finds that the procedures set forth in this paragraph
23 have not been complied with and such compliance would tend to result in a
24 settlement, it may order such compliance before ordering arbitration. The validity
25 of any arbitration award or collective bargaining agreement shall not be affected by

1 failure to comply with such procedures. Prior to the close of the investigation each
2 party shall submit in writing to the commission its single final offer containing its
3 final proposals on all issues in dispute that are subject to interest arbitration under
4 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~
5 applies. If a party fails to submit a single, ultimate final offer, the commission shall
6 close the investigation based on the last written position of the party. ~~The municipal~~
7 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~
8 ~~of the investigation.~~ Such final offers may include only mandatory subjects of
9 bargaining, except that a permissive subject of bargaining may be included by a
10 party if the other party does not object and shall then be treated as a mandatory
11 subject. No later than such time, the parties shall also submit to the commission a
12 stipulation, in writing, with respect to all matters which are agreed upon for
13 inclusion in the new or amended collective bargaining agreement. The commission,
14 after receiving a report from its investigator and determining that arbitration should
15 be commenced, shall issue an order requiring arbitration and immediately submit
16 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
17 alternately strike names until a single name is left, who shall be appointed as
18 arbitrator. The petitioning party shall notify the commission in writing of the
19 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
20 formally appoint the arbitrator and submit to him or her the final offers of the
21 parties. The final offers shall be considered public documents and shall be available
22 from the commission. In lieu of a single arbitrator and upon request of both parties,
23 the commission shall appoint a tripartite arbitration panel consisting of one member
24 selected by each of the parties and a neutral person designated by the commission
25 who shall serve as a chairperson. An arbitration panel has the same powers and

1 duties as provided in this section for any other appointed arbitrator, and all
2 arbitration decisions by such panel shall be determined by majority vote. In lieu of
3 selection of the arbitrator by the parties and upon request of both parties, the
4 commission shall establish a procedure for randomly selecting names of arbitrators.
5 Under the procedure, the commission shall submit a list of 7 arbitrators to the
6 parties. Each party shall strike one name from the list. From the remaining 5
7 names, the commission shall randomly appoint an arbitrator. Unless both parties
8 to an arbitration proceeding otherwise agree in writing, every individual whose
9 name is submitted by the commission for appointment as an arbitrator shall be a
10 resident of this state at the time of submission and every individual who is
11 designated as an arbitration panel chairperson shall be a resident of this state at the
12 time of designation.

13 SECTION 8. 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,
14 renumbered 111.70 (4) (cm) 8m. and amended to read:

15 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for
16 the initial collective bargaining agreement between the parties and, except as the
17 parties otherwise agree, and except as provided in par. (cn), every collective
18 bargaining agreement covering municipal employees subject to this paragraph ~~other~~
19 ~~than school district professional employees~~ shall be for a term of 2 years. ~~No, but in~~
20 no case may a collective bargaining agreement for any collective bargaining unit
21 consisting of municipal employees ~~subject to this paragraph other than school~~
22 ~~district professional employees~~ shall be for a term exceeding 3 years. ~~e.~~ No
23 arbitration award may contain a provision for reopening of negotiations during the
24 term of a collective bargaining agreement, unless both parties agree to such a
25 provision. The requirement for agreement by both parties does not apply to a

1 provision for reopening of negotiations with respect to any portion of an agreement
2 that is declared invalid by a court or administrative agency or rendered invalid by
3 the enactment of a law or promulgation of a federal regulation.

4 **SECTION 9.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

5 **SECTION 10.** 111.70 (4) (cm) 8p. of the statutes is repealed.

6 **SECTION 11.** 111.70 (4) (cm) 8s. of the statutes is repealed.

7 **SECTION 12.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

8 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
9 bargaining unit for the purpose of collective bargaining and shall whenever possible,
10 unless otherwise required under this subchapter, avoid fragmentation by
11 maintaining as few collective bargaining units as practicable in keeping with the size
12 of the total municipal work force. In making such a determination, the commission
13 may decide whether, in a particular case, the municipal employees in the same or
14 several departments, divisions, institutions, crafts, professions, or other
15 occupational groupings constitute a collective bargaining unit. Before making its
16 determination, the commission may provide an opportunity for the municipal
17 employees concerned to determine, by secret ballot, whether or not they desire to be
18 established as a separate collective bargaining unit. ~~The commission shall not~~
19 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
20 ~~collective bargaining unit if the group includes both municipal employees who are~~
21 ~~school district professional employees and municipal employees who are not school~~
22 ~~district professional employees.~~ The commission shall not decide, however, that any
23 other group of municipal employees constitutes an appropriate collective bargaining
24 unit if the group includes both professional employees and nonprofessional
25 employees, unless a majority of the professional employees vote for inclusion in the

1 unit. The commission shall not decide that any group of municipal employees
 2 constitutes an appropriate collective bargaining unit if the group includes both craft
 3 employees and noncraft employees unless a majority of the craft employees vote for
 4 inclusion in the unit. The commission shall place the professional employees who are
 5 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in
 6 a separate collective bargaining unit from a unit that includes any other professional
 7 employees whenever at least 30% of those professional employees request an election
 8 to be held to determine that issue and a majority of the professional employees at the
 9 charter school who cast votes in the election decide to be represented in a separate
 10 collective bargaining unit. Any vote taken under this subsection shall be by secret
 11 ballot.

12 **SECTION 13.** 118.245 of the statutes is repealed.

13 **SECTION 14.** 119.04 (1) of the statutes is amended to read:

14 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
 15 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
 16 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to
 17 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,
 18 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.291,
 19 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (26), 120.125, 120.13
 20 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and 120.25 are
 21 applicable to a 1st class city school district and board.

22 **SECTION 9315. Initial applicability; employment relations commission.**

23 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (b), (dm),
 24 (fm), and (nc) and (4) (cm) 5s., 6. a. and am., 8m. a., b., and c., 8p., and 8s. and (d) 2.
 25 a. of the statutes first applies to petitions for arbitration that relate to collective

SECTION 9315

7

1

bargaining agreements that cover periods beginning on or after July 1, 2005, and
2 that are filed under section 111.70 (4) (cm) 6. of the statutes, as affected by this act,
3 on the effective date of this subsection.

4

(END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0438/?ins
CMH:.....

1 Insert 7-13

2 SECTION ~~7~~ 119.04 (1) of the statutes is amended to read:

3 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
4 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
5 115.345, 115.361, 115.38 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07,
6 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162,
7 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), ~~118.245,~~
8 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and
9 (15) to (26), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37),
10 (37m) and (38), 120.14, and 120.25 are applicable to a 1st class city school district
11 and board.

NOTE: NOTE: Sub. (1) is shown as affected by 3 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c). The bracketed language indicates a missing cross-reference. Corrective legislation is pending. NOTE:

History: 1971 c. 152 s. 38; 1971 c. 154 s. 80; 1973 c. 89 s. 20 (1); 1973 c. 90; 1973 c. 188 s. 6; 1973 c. 243, 254, 290, 307, 333; 1975 c. 39, 41, 95, 220, 379, 395, 422; 1977 c. 29; 1977 c. 203 s. 106; 1977 c. 206, 284, 447; 1979 c. 20; 1979 c. 34 s. 2102 (43) (a); 1979 c. 221, 298, 331; 1979 c. 346 s. 15; 1979 c. 355; 1981 c. 59; 1981 c. 241 s. 4; 1983 a. 193; 1983 a. 339 s. 10; 1983 a. 374 s. 12; 1983 a. 412, 489, 538; 1985 a. 29 s. 3202 (43); 1985 a. 56 s. 43; 1985 a. 214 s. 4; 1985 a. 225, 332; 1987 a. 27, 187, 285, 386, 403; 1989 a. 31, 120, 121, 122, 201, 209, 359; 1991 a. 39, 42, 189, 269; 1993 a. 16, 334, 377, 491; 1995 a. 27, 225; 1997 a. 27, 77, 113, 240, 252, 335; 1999 a. 9, 32, 73; 1999 a. 150 ss. 631, 672; 1999 a. 186; 2005 a. 99, 290, 346; s. 13.93 (2) (c).

Hanaman, Cathlene

From: Fath, Erin - DOA
Sent: Monday, January 22, 2007 3:29 PM
To: Hanaman, Cathlene
Subject: FW: LRB Draft: 07-0438/1 Repeal QEO
Attachments: 07-0438/1

Hi Cathlene,

I have a few changes to request for this draft:

1. We would like to make teachers subject to the same limitation on contract length as other municipal employees, i.e, from 2 years to 3 years. I believe for this to happen we would need to repeal s. 111.70 (4) (cn) *Term of professional school employee agreements*. I think that we would have to remove the phrase that was added under Section 8 of this draft (line 17: "and except as provided in par. (cn),").
2. Also, since there would no longer be a distinction between school district and non-school district professional employees for the purpose of contract length or the QEO, we would like to remove the statutory definition of "school district professional employee" under s. 111.70 (1) (ne) and any remaining cross references to "school district professional employee". [I saw a reference under 111.70 (4) (L) 6. (that was thus far unaffected by the draft) which in turn references s. 120.12 (24), which includes the phrase "school district professional employees as defined ..."].
3. As a new item, please remove the specification of "Factor given greatest weight" and "Factor given greater weight" under s. 111.70 (4)(cm)7. & 7g. The items specified in these sections should be folded into the list of factors specified under (4)(cm)7r. I think we would need to delete the word "Other", so that s. 111.70 (4) (cm)7r. would read "Factors considered". This list would then include "any state law or directive lawfully issued by a state legislature ... or revenues that may be collected by a municipal employer" [as under (4) (cm)7.] and "economic conditions in the jurisdiction of the municipal employer" [as under (4)(cm)7g.]

Hope this makes sense. Call me if you have any questions (6-5468).

Thanks!

Erin Fath

From: Frantzen, Jean [mailto:Jean.Frantzen@legis.wisconsin.gov]
Sent: Tuesday, October 10, 2006 8:02 AM
To: Fath, Erin - DOA
Cc: Hanle, Bob - DOA; Hanaman, Cathlene; Palchik, Laurie A - DOA
Subject: LRB Draft: 07-0438/1 Repeal QEO

Following is the PDF version of draft 07-0438/1.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0438/1

CMH:wlj:je

↑
stays

DOA:.....Fath, BB0078 - Repeal QEO

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

done

1 AN ACT ...; relating to: qualified economic offers under the Municipal
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However, under current law, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district

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4 ~~employees who are not school district professional employees~~ that is determined by
5 the commission to be appropriate for the purpose of collective bargaining.

6 **SECTION 2.** 111.70 (1) (dm) of the statutes is repealed.

7 **SECTION 3.** 111.70 (1) (fm) of the statutes is repealed.

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AS - 11/1/07 11:50 AM

INS - 2-9

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11 paragraph. At the time the petition is filed, the petitioning party shall submit in
12 writing to the other party and the commission its preliminary final offer containing
13 its latest proposals on all issues in dispute. Within 14 calendar days after the date
14 of that submission, the other party shall submit in writing its preliminary final offer
15 on all disputed issues to the petitioning party and the commission. If a petition is
16 filed jointly, both parties shall exchange their preliminary final offers in writing and
17 submit copies to the commission at the time the petition is filed.

18 **SECTION 7.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

19 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
20 commission shall make an investigation, with or without a formal hearing, to
21 determine whether arbitration should be commenced. If in determining whether an
22 impasse exists the commission finds that the procedures set forth in this paragraph
23 have not been complied with and such compliance would tend to result in a
24 settlement, it may order such compliance before ordering arbitration. The validity
25 of any arbitration award or collective bargaining agreement shall not be affected by

1 failure to comply with such procedures. Prior to the close of the investigation each
2 party shall submit in writing to the commission its single final offer containing its
3 final proposals on all issues in dispute that are subject to interest arbitration under
4 this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s.
5 applies. If a party fails to submit a single, ultimate final offer, the commission shall
6 close the investigation based on the last written position of the party. The municipal
7 employer may not submit a qualified economic offer under subd. 5s. after the close
8 of the investigation. Such final offers may include only mandatory subjects of
9 bargaining, except that a permissive subject of bargaining may be included by a
10 party if the other party does not object and shall then be treated as a mandatory
11 subject. No later than such time, the parties shall also submit to the commission a
12 stipulation, in writing, with respect to all matters which are agreed upon for
13 inclusion in the new or amended collective bargaining agreement. The commission,
14 after receiving a report from its investigator and determining that arbitration should
15 be commenced, shall issue an order requiring arbitration and immediately submit
16 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
17 alternately strike names until a single name is left, who shall be appointed as
18 arbitrator. The petitioning party shall notify the commission in writing of the
19 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
20 formally appoint the arbitrator and submit to him or her the final offers of the
21 parties. The final offers shall be considered public documents and shall be available
22 from the commission. In lieu of a single arbitrator and upon request of both parties,
23 the commission shall appoint a tripartite arbitration panel consisting of one member
24 selected by each of the parties and a neutral person designated by the commission
25 who shall serve as a chairperson. An arbitration panel has the same powers and

1 duties as provided in this section for any other appointed arbitrator, and all
2 arbitration decisions by such panel shall be determined by majority vote. In lieu of
3 selection of the arbitrator by the parties and upon request of both parties, the
4 commission shall establish a procedure for randomly selecting names of arbitrators.
5 Under the procedure, the commission shall submit a list of 7 arbitrators to the
6 parties. Each party shall strike one name from the list. From the remaining 5
7 names, the commission shall randomly appoint an arbitrator. Unless both parties
8 to an arbitration proceeding otherwise agree in writing, every individual whose
9 name is submitted by the commission for appointment as an arbitrator shall be a
10 resident of this state at the time of submission and every individual who is
11 designated as an arbitration panel chairperson shall be a resident of this state at the
12 time of designation.

13 **SECTION 8.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,
14 renumbered 111.70 (4) (cm) 8m. and amended to read:

15 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for
16 the initial collective bargaining agreement between the parties and, except as the
17 parties otherwise agree, and except as provided in par. (cn) every collective
18 bargaining agreement covering municipal employees subject to this paragraph other
19 than school district professional employees shall be for a term of 2 years. No, but in
20 no case may a collective bargaining agreement for any collective bargaining unit
21 consisting of municipal employees subject to this paragraph other than school
22 district professional employees shall be for a term exceeding 3 years. e. No
23 arbitration award may contain a provision for reopening of negotiations during the
24 term of a collective bargaining agreement, unless both parties agree to such a
25 provision. The requirement for agreement by both parties does not apply to a

1 provision for reopening of negotiations with respect to any portion of an agreement
2 that is declared invalid by a court or administrative agency or rendered invalid by
3 the enactment of a law or promulgation of a federal regulation.

4 SECTION 9. 111.70 (4) (cm) 8m. b. of the statutes is repealed.

5 SECTION 10. 111.70 (4) (cm) 8p. of the statutes is repealed.

6 SECTION 11. 111.70 (4) (cm) 8s. of the statutes is repealed.

7 SECTION 12. 111.70 (4) (d) 2. a. of the statutes is amended to read:

8 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
9 bargaining unit for the purpose of collective bargaining and shall whenever possible,
10 unless otherwise required under this subchapter, avoid fragmentation by
11 maintaining as few collective bargaining units as practicable in keeping with the size
12 of the total municipal work force. In making such a determination, the commission
13 may decide whether, in a particular case, the municipal employees in the same or
14 several departments, divisions, institutions, crafts, professions, or other
15 occupational groupings constitute a collective bargaining unit. Before making its
16 determination, the commission may provide an opportunity for the municipal
17 employees concerned to determine, by secret ballot, whether or not they desire to be
18 established as a separate collective bargaining unit. ~~The commission shall not~~
19 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
20 ~~collective bargaining unit if the group includes both municipal employees who are~~
21 ~~school district professional employees and municipal employees who are not school~~
22 ~~district professional employees.~~ The commission shall not decide, however, that any
23 other group of municipal employees constitutes an appropriate collective bargaining
24 unit if the group includes both professional employees and nonprofessional
25 employees, unless a majority of the professional employees vote for inclusion in the

Section RP: 11670(4)(en)

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1 unit. The commission shall not decide that any group of municipal employees
2 constitutes an appropriate collective bargaining unit if the group includes both craft
3 employees and noncraft employees unless a majority of the craft employees vote for
4 inclusion in the unit. The commission shall place the professional employees who are
5 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in
6 a separate collective bargaining unit from a unit that includes any other professional
7 employees whenever at least 30% of those professional employees request an election
8 to be held to determine that issue and a majority of the professional employees at the
9 charter school who cast votes in the election decide to be represented in a separate
10 collective bargaining unit. Any vote taken under this subsection shall be by secret
11 ballot.

12 **SECTION 13.** 118.245[✓] of the statutes is repealed.

13 **SECTION 14.** 119.04 (1)[✓] of the statutes is amended to read:

14 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
15 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
16 115.345, 115.361, 115.38 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07,
17 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162,
18 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245[✓],
19 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and
20 (15) to (26), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37),
21 (37m), and (38), 120.14, and 120.25 are applicable to a 1st class city school district
22 and board.

23 **SECTION 9315. Initial applicability; Employment Relations**
24 **Commission.**

70, 79, and 70 (intro)

50)

5, (ent)

1 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (b), (dm),
2 (fm), and (nc) and (4) (cm) ^{5s.}, 6. a. and am., ^{8m.} a., b., and c., 8p., and 8s. and (d) 2.
3 a. of the statutes first applies to petitions for arbitration that relate to collective
4 bargaining agreements that cover periods beginning on or after July 1, 2007, and
5 that are filed under section 111.70 (4) (cm) 6. of the statutes, as affected by this act,
6 on the effective date of this subsection.

7 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0438/lins
CMH:wlj:jf

1 Insert 2-9

2 SECTION ~~4~~ 111.70 (4) (cm) 5. of the statutes is amended to read:

3 111.70 (4) (cm) 5. 'Voluntary impasse resolution procedures.' In addition to the
4 other impasse resolution procedures provided in this paragraph, a municipal
5 employer and labor organization may at any time, as a permissive subject of
6 bargaining, agree in writing to a dispute settlement procedure, including
7 authorization for a strike by municipal employees or binding interest arbitration,
8 which is acceptable to the parties for resolving an impasse over terms of any
9 collective bargaining agreement under this subchapter. A copy of such agreement
10 shall be filed by the parties with the commission. If the parties agree to any form of
11 binding interest arbitration, the arbitrator shall give weight to the factors
12 enumerated under ~~subds. 7., 7g. and subd. 7r.~~

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 253.

13 Insert 5.13

14 SECTION ~~4~~ 111.70 (4) (cm) 7. of the statutes is renumbered 111.70 (4) (cm) 7r.
15 am. and amended to read:

16 111.70 (4) (cm) 7r. am. ~~'Factor given greatest weight.'~~ In making any decision
17 ~~under the arbitration procedures authorized by this paragraph, the arbitrator or~~
18 ~~arbitration panel shall consider and shall give the greatest weight to any~~ Any state
19 law or directive lawfully issued by a state legislative or administrative officer, body
20 or agency which places limitations on expenditures that may be made or revenues
21 that may be collected by a municipal employer. The arbitrator or arbitration panel

1 shall give an accounting of the consideration of this factor in the arbitrator's or
2 panel's decision.

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 253.

3 **SECTION 3.** 111.70 (4) (cm) 7g. of the statutes is renumbered 111.70 (4) (cm) 7r.

4 ar. and amended to read:

5 111.70 (4) (cm) 7r. ar. ~~'Factor given greater weight.'~~ In making any decision
6 ~~under the arbitration procedures authorized by this paragraph, the arbitrator or~~
7 ~~arbitration panel shall consider and shall give greater weight to economic~~ Economic
8 conditions in the jurisdiction of the municipal employer ~~than to any of the factors~~
9 ~~specified in subd. 7r.~~

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 253.

10 **SECTION 4.** 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

11 111.70 (4) (cm) 7r. ~~'Other factors~~ Factors considered.' (intro.) In making any
12 decision under the arbitration procedures authorized by this paragraph, the
13 arbitrator or arbitration panel shall also give weight to the following factors:

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 253.



State of Wisconsin
2007 - 2008 LEGISLATURE

3
LRB-0438/2
CMH:wlj:nwn

d note

DOA:.....Fath, BB0078 - Repeal QEO

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

don't see cat

1 AN ACT ...; relating to: qualified economic offers under the Municipal
2 Employment Relations Act.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin Employment Relations Commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator, WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

However, under current law, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district

professional employees if WERC determines, subsequent to an investigation, that the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1 percent of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings. Fringe benefit savings is that amount, if any, by which 1.7 percent of the total compensation and fringe benefit costs for all municipal employees in a collective bargaining unit for any 12-month period covered by a proposed collective bargaining agreement exceeds the increased cost required to maintain the percentage contribution by the municipal employer to the municipal employees' existing fringe benefit costs and to maintain all fringe benefits provided to the municipal employees.

This bill eliminates the QEO exception from the compulsory, final, and binding arbitration process.

Under current law, school district professional employees are required to be placed in a collective bargaining unit that is separate from the units of other school district employees. This bill eliminates this requirement.

Finally, the bill eliminates a 3.8 percent cap imposed on salary and fringe benefit annual cost increases for all nonrepresented professional school district employees.

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.** 111.70 (1) (b) of the statutes is amended to read:

2 111.70 (1) (b) "Collective bargaining unit" means ~~a~~ the unit consisting of
3 ~~municipal employees who are school district professional employees or of municipal~~
4 ~~employees who are not school district professional employees~~ that is determined by
5 the commission to be appropriate for the purpose of collective bargaining.

6 **SECTION 2.** 111.70 (1) (dm) of the statutes is repealed.

7 **SECTION 3.** 111.70 (1) (fm) of the statutes is repealed.

8 **SECTION 4.** 111.70 (1) (nc) of the statutes is repealed.

9 **SECTION 5.** 111.70 (4) (cm) 5. of the statutes is amended to read:

1 111.70 (4) (cm) 5. 'Voluntary impasse resolution procedures.' In addition to the
2 other impasse resolution procedures provided in this paragraph, a municipal
3 employer and labor organization may at any time, as a permissive subject of
4 bargaining, agree in writing to a dispute settlement procedure, including
5 authorization for a strike by municipal employees or binding interest arbitration,
6 which is acceptable to the parties for resolving an impasse over terms of any
7 collective bargaining agreement under this subchapter. A copy of such agreement
8 shall be filed by the parties with the commission. If the parties agree to any form of
9 binding interest arbitration, the arbitrator shall give weight to the factors
10 enumerated under ~~subds. 7., 7g. and subd. 7r.~~

11 **SECTION 6.** 111.70 (4) (cm) 5s. of the statutes is repealed.

12 **SECTION 7.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

13 111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one
14 or more issues, ~~qualifying for interest arbitration under subd. 5s. in a collective~~
15 ~~bargaining unit to which subd. 5s. applies,~~ has not been settled after a reasonable
16 period of negotiation and after mediation by the commission under subd. 3. and other
17 settlement procedures, if any, established by the parties have been exhausted, and
18 the parties are deadlocked with respect to any dispute between them over wages,
19 hours and conditions of employment to be included in a new collective bargaining
20 agreement, either party, or the parties jointly, may petition the commission, in
21 writing, to initiate compulsory, final and binding arbitration, as provided in this
22 paragraph. At the time the petition is filed, the petitioning party shall submit in
23 writing to the other party and the commission its preliminary final offer containing
24 its latest proposals on all issues in dispute. Within 14 calendar days after the date
25 of that submission, the other party shall submit in writing its preliminary final offer

1 on all disputed issues to the petitioning party and the commission. If a petition is
2 filed jointly, both parties shall exchange their preliminary final offers in writing and
3 submit copies to the commission at the time the petition is filed.

4 **SECTION 8.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

5 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
6 commission shall make an investigation, with or without a formal hearing, to
7 determine whether arbitration should be commenced. If in determining whether an
8 impasse exists the commission finds that the procedures set forth in this paragraph
9 have not been complied with and such compliance would tend to result in a
10 settlement, it may order such compliance before ordering arbitration. The validity
11 of any arbitration award or collective bargaining agreement shall not be affected by
12 failure to comply with such procedures. Prior to the close of the investigation each
13 party shall submit in writing to the commission its single final offer containing its
14 final proposals on all issues in dispute that are subject to interest arbitration under
15 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~
16 ~~applies.~~ If a party fails to submit a single, ultimate final offer, the commission shall
17 close the investigation based on the last written position of the party. ~~The municipal~~
18 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~
19 ~~of the investigation.~~ Such final offers may include only mandatory subjects of
20 bargaining, except that a permissive subject of bargaining may be included by a
21 party if the other party does not object and shall then be treated as a mandatory
22 subject. No later than such time, the parties shall also submit to the commission a
23 stipulation, in writing, with respect to all matters which are agreed upon for
24 inclusion in the new or amended collective bargaining agreement. The commission,
25 after receiving a report from its investigator and determining that arbitration should

1 be commenced, shall issue an order requiring arbitration and immediately submit
2 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
3 alternately strike names until a single name is left, who shall be appointed as
4 arbitrator. The petitioning party shall notify the commission in writing of the
5 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
6 formally appoint the arbitrator and submit to him or her the final offers of the
7 parties. The final offers shall be considered public documents and shall be available
8 from the commission. In lieu of a single arbitrator and upon request of both parties,
9 the commission shall appoint a tripartite arbitration panel consisting of one member
10 selected by each of the parties and a neutral person designated by the commission
11 who shall serve as a chairperson. An arbitration panel has the same powers and
12 duties as provided in this section for any other appointed arbitrator, and all
13 arbitration decisions by such panel shall be determined by majority vote. In lieu of
14 selection of the arbitrator by the parties and upon request of both parties, the
15 commission shall establish a procedure for randomly selecting names of arbitrators.
16 Under the procedure, the commission shall submit a list of 7 arbitrators to the
17 parties. Each party shall strike one name from the list. From the remaining 5
18 names, the commission shall randomly appoint an arbitrator. Unless both parties
19 to an arbitration proceeding otherwise agree in writing, every individual whose
20 name is submitted by the commission for appointment as an arbitrator shall be a
21 resident of this state at the time of submission and every individual who is
22 designated as an arbitration panel chairperson shall be a resident of this state at the
23 time of designation.

24 **SECTION 9.** 111.70 (4) (cm) 7. of the statutes is renumbered 111.70 (4) (cm) 7r.
25 am. and amended to read:

1 111.70 (4) (cm) 7r. am. ~~'Factor given greatest weight.'~~ In making any decision
2 under the arbitration procedures authorized by this paragraph, the arbitrator or
3 arbitration panel shall consider and shall give the greatest weight to any Any state
4 law or directive lawfully issued by a state legislative or administrative officer, body
5 or agency which places limitations on expenditures that may be made or revenues
6 that may be collected by a municipal employer. The arbitrator or arbitration panel
7 shall give an accounting of the consideration of this factor in the arbitrator's or
8 panel's decision.

9 **SECTION 10.** 111.70 (4) (cm) 7g. of the statutes is renumbered 111.70 (4) (cm)
10 7r. ar. and amended to read:

11 111.70 (4) (cm) 7r. ar. ~~'Factor given greater weight.'~~ In making any decision
12 under the arbitration procedures authorized by this paragraph, the arbitrator or
13 arbitration panel shall consider and shall give greater weight to economic Economic
14 conditions in the jurisdiction of the municipal employer than to any of the factors
15 specified in subd. 7r.

16 **SECTION 11.** 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

17 111.70 (4) (cm) 7r. ~~'Other factors~~ Factors considered.' (intro.) In making any
18 decision under the arbitration procedures authorized by this paragraph, the
19 arbitrator or arbitration panel shall also give weight to the following factors:

20 **SECTION 12.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,
21 renumbered 111.70 (4) (cm) 8m. and amended to read:

22 111.70 (4) (cm) 8m. "Term of agreement; reopening of negotiations." Except for
23 the initial collective bargaining agreement between the parties and, except as the
24 parties otherwise agree, every collective bargaining agreement covering municipal
25 employees subject to this paragraph ~~other than school district professional~~

1 employees shall be for a term of 2 years. ~~No, but in no case may a collective~~
2 bargaining agreement for any collective bargaining unit consisting of municipal
3 employees ~~subject to this paragraph other than school district professional~~
4 employees shall be for a term exceeding 3 years. e. No arbitration award may contain
5 a provision for reopening of negotiations during the term of a collective bargaining
6 agreement, unless both parties agree to such a provision. The requirement for
7 agreement by both parties does not apply to a provision for reopening of negotiations
8 with respect to any portion of an agreement that is declared invalid by a court or
9 administrative agency or rendered invalid by the enactment of a law or promulgation
10 of a federal regulation.

11 **SECTION 13.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

12 **SECTION 14.** 111.70 (4) (cm) 8p. of the statutes is repealed.

13 **SECTION 15.** 111.70 (4) (cm) 8s. of the statutes is repealed.

14 **SECTION 16.** 111.70 (4) (cn) of the statutes is repealed.

15 **SECTION 17.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

16 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
17 bargaining unit for the purpose of collective bargaining and shall whenever possible,
18 unless otherwise required under this subchapter, avoid fragmentation by
19 maintaining as few collective bargaining units as practicable in keeping with the size
20 of the total municipal work force. In making such a determination, the commission
21 may decide whether, in a particular case, the municipal employees in the same or
22 several departments, divisions, institutions, crafts, professions, or other
23 occupational groupings constitute a collective bargaining unit. Before making its
24 determination, the commission may provide an opportunity for the municipal
25 employees concerned to determine, by secret ballot, whether or not they desire to be

1 established as a separate collective bargaining unit. ~~The commission shall not~~
2 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
3 ~~collective bargaining unit if the group includes both municipal employees who are~~
4 ~~school district professional employees and municipal employees who are not school~~
5 ~~district professional employees.~~ The commission shall not decide, however, that any
6 other group of municipal employees constitutes an appropriate collective bargaining
7 unit if the group includes both professional employees and nonprofessional
8 employees, unless a majority of the professional employees vote for inclusion in the
9 unit. The commission shall not decide that any group of municipal employees
10 constitutes an appropriate collective bargaining unit if the group includes both craft
11 employees and noncraft employees unless a majority of the craft employees vote for
12 inclusion in the unit. The commission shall place the professional employees who are
13 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in
14 a separate collective bargaining unit from a unit that includes any other professional
15 employees whenever at least 30% of those professional employees request an election
16 to be held to determine that issue and a majority of the professional employees at the
17 charter school who cast votes in the election decide to be represented in a separate
18 collective bargaining unit. Any vote taken under this subsection shall be by secret
19 ballot.

20 **SECTION 18.** 118.245 of the statutes is repealed.

21 **SECTION 19.** 119.04 (1) of the statutes is amended to read:

22 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
23 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
24 115.345, 115.361, 115.38 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07,
25 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162,

1 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), ~~118.245,~~
 2 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and
 3 (15) to (26), 120.125, 120.13(1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37),
 4 (37m), and (38), 120.14, and 120.25 are applicable to a 1st class city school district
 5 and board.

6 SECTION 9315. Initial applicability; Employment Relations
 7 Commission.

8 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (b), (dm),
 9 (fm), and (nc) and (4) (cm) 5., 5s., 6. a. and am., 7., 7g., and 7r. (intro.), 8m. a., b., and
 10 c., 8p., and 8s., (cn), and (d) 2. a. of the statutes first applies to petitions for arbitration
 11 that relate to collective bargaining agreements that cover periods beginning on or
 12 after July 1, 2007, and that are filed under section 111.70 (4) (cm) 6. of the statutes,
 13 as affected by this act, on the effective date of this subsection.

14 (END)

*LRB-0438/3dm
 cmh:jld*

*This draft reconciles LRB-0438/2 and LRB-1480A.
 The treatment of s. 119.04 (i) by -0438 now
 appears in -1480. Both drafts should remain
 in the compile.*

cmh

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

LRB-0438/3dn
CMH:jld:jf

January 30, 2007

This draft reconciles LRB-0438/2 and LRB-1480/1. The treatment of s. 119.04 (1) by -0438 now appears in 1480. Both drafts should remain in the compile.

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0438/3
CMH:wlj:jf

DOA:.....Fath, BB0078 - Repeal QEO

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

- 1 AN ACT ...; relating to: qualified economic offers under the Municipal
2 Employment Relations Act.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin Employment Relations Commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator, WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

However, under current law, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district

professional employees if WERC determines, subsequent to an investigation, that the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1 percent of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings. Fringe benefit savings is that amount, if any, by which 1.7 percent of the total compensation and fringe benefit costs for all municipal employees in a collective bargaining unit for any 12-month period covered by a proposed collective bargaining agreement exceeds the increased cost required to maintain the percentage contribution by the municipal employer to the municipal employees' existing fringe benefit costs and to maintain all fringe benefits provided to the municipal employees.

This bill eliminates the QEO exception from the compulsory, final, and binding arbitration process.

Under current law, school district professional employees are required to be placed in a collective bargaining unit that is separate from the units of other school district employees. This bill eliminates this requirement.

Finally, the bill eliminates a 3.8 percent cap imposed on salary and fringe benefit annual cost increases for all nonrepresented professional school district employees.

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.** 111.70 (1) (b) of the statutes is amended to read:

2 111.70 (1) (b) "Collective bargaining unit" means ~~a~~ the unit consisting of
3 ~~municipal employees who are school district professional employees or of municipal~~
4 ~~employees who are not school district professional employees~~ that is determined by
5 the commission to be appropriate for the purpose of collective bargaining.

6 **SECTION 2.** 111.70 (1) (dm) of the statutes is repealed.

7 **SECTION 3.** 111.70 (1) (fm) of the statutes is repealed.

8 **SECTION 4.** 111.70 (1) (nc) of the statutes is repealed.

9 **SECTION 5.** 111.70 (4) (cm) 5. of the statutes is amended to read:

1 111.70 (4) (cm) 5. 'Voluntary impasse resolution procedures.' In addition to the
2 other impasse resolution procedures provided in this paragraph, a municipal
3 employer and labor organization may at any time, as a permissive subject of
4 bargaining, agree in writing to a dispute settlement procedure, including
5 authorization for a strike by municipal employees or binding interest arbitration,
6 which is acceptable to the parties for resolving an impasse over terms of any
7 collective bargaining agreement under this subchapter. A copy of such agreement
8 shall be filed by the parties with the commission. If the parties agree to any form of
9 binding interest arbitration, the arbitrator shall give weight to the factors
10 enumerated under ~~subds. 7., 7g. and subd. 7r.~~

11 **SECTION 6.** 111.70 (4) (cm) 5s. of the statutes is repealed.

12 **SECTION 7.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

13 111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one
14 or more issues, ~~qualifying for interest arbitration under subd. 5s. in a collective~~
15 ~~bargaining unit to which subd. 5s. applies,~~ has not been settled after a reasonable
16 period of negotiation and after mediation by the commission under subd. 3. and other
17 settlement procedures, if any, established by the parties have been exhausted, and
18 the parties are deadlocked with respect to any dispute between them over wages,
19 hours and conditions of employment to be included in a new collective bargaining
20 agreement, either party, or the parties jointly, may petition the commission, in
21 writing, to initiate compulsory, final and binding arbitration, as provided in this
22 paragraph. At the time the petition is filed, the petitioning party shall submit in
23 writing to the other party and the commission its preliminary final offer containing
24 its latest proposals on all issues in dispute. Within 14 calendar days after the date
25 of that submission, the other party shall submit in writing its preliminary final offer

1 on all disputed issues to the petitioning party and the commission. If a petition is
2 filed jointly, both parties shall exchange their preliminary final offers in writing and
3 submit copies to the commission at the time the petition is filed.

4 **SECTION 8.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

5 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
6 commission shall make an investigation, with or without a formal hearing, to
7 determine whether arbitration should be commenced. If in determining whether an
8 impasse exists the commission finds that the procedures set forth in this paragraph
9 have not been complied with and such compliance would tend to result in a
10 settlement, it may order such compliance before ordering arbitration. The validity
11 of any arbitration award or collective bargaining agreement shall not be affected by
12 failure to comply with such procedures. Prior to the close of the investigation each
13 party shall submit in writing to the commission its single final offer containing its
14 final proposals on all issues in dispute that are subject to interest arbitration under
15 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~
16 ~~applies.~~ If a party fails to submit a single, ultimate final offer, the commission shall
17 close the investigation based on the last written position of the party. ~~The municipal~~
18 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~
19 ~~of the investigation.~~ Such final offers may include only mandatory subjects of
20 bargaining, except that a permissive subject of bargaining may be included by a
21 party if the other party does not object and shall then be treated as a mandatory
22 subject. No later than such time, the parties shall also submit to the commission a
23 stipulation, in writing, with respect to all matters which are agreed upon for
24 inclusion in the new or amended collective bargaining agreement. The commission,
25 after receiving a report from its investigator and determining that arbitration should

1 be commenced, shall issue an order requiring arbitration and immediately submit
2 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
3 alternately strike names until a single name is left, who shall be appointed as
4 arbitrator. The petitioning party shall notify the commission in writing of the
5 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
6 formally appoint the arbitrator and submit to him or her the final offers of the
7 parties. The final offers shall be considered public documents and shall be available
8 from the commission. In lieu of a single arbitrator and upon request of both parties,
9 the commission shall appoint a tripartite arbitration panel consisting of one member
10 selected by each of the parties and a neutral person designated by the commission
11 who shall serve as a chairperson. An arbitration panel has the same powers and
12 duties as provided in this section for any other appointed arbitrator, and all
13 arbitration decisions by such panel shall be determined by majority vote. In lieu of
14 selection of the arbitrator by the parties and upon request of both parties, the
15 commission shall establish a procedure for randomly selecting names of arbitrators.
16 Under the procedure, the commission shall submit a list of 7 arbitrators to the
17 parties. Each party shall strike one name from the list. From the remaining 5
18 names, the commission shall randomly appoint an arbitrator. Unless both parties
19 to an arbitration proceeding otherwise agree in writing, every individual whose
20 name is submitted by the commission for appointment as an arbitrator shall be a
21 resident of this state at the time of submission and every individual who is
22 designated as an arbitration panel chairperson shall be a resident of this state at the
23 time of designation.

24 **SECTION 9.** 111.70 (4) (cm) 7. of the statutes is renumbered 111.70 (4) (cm) 7r.
25 am. and amended to read:

1 111.70 (4) (cm) 7r. am. ~~'Factor given greatest weight.'~~ In making any decision
2 under the arbitration procedures authorized by this paragraph, the arbitrator or
3 arbitration panel shall consider and shall give the greatest weight to any Any state
4 law or directive lawfully issued by a state legislative or administrative officer, body
5 or agency which places limitations on expenditures that may be made or revenues
6 that may be collected by a municipal employer. The arbitrator or arbitration panel
7 shall give an accounting of the consideration of this factor in the arbitrator's or
8 panel's decision.

9 **SECTION 10.** 111.70 (4) (cm) 7g. of the statutes is renumbered 111.70 (4) (cm)
10 7r. ar. and amended to read:

11 111.70 (4) (cm) 7r. ar. ~~'Factor given greater weight.'~~ In making any decision
12 under the arbitration procedures authorized by this paragraph, the arbitrator or
13 arbitration panel shall consider and shall give greater weight to economic Economic
14 conditions in the jurisdiction of the municipal employer than to any of the factors
15 specified in subd. 7r.

16 **SECTION 11.** 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

17 111.70 (4) (cm) 7r. ~~'Other factors~~ Factors considered.' (intro.) In making any
18 decision under the arbitration procedures authorized by this paragraph, the
19 arbitrator or arbitration panel shall also give weight to the following factors:

20 **SECTION 12.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,
21 renumbered 111.70 (4) (cm) 8m. and amended to read:

22 111.70 (4) (cm) 8m. "Term of agreement; reopening of negotiations." Except for
23 the initial collective bargaining agreement between the parties and, except as the
24 parties otherwise agree, every collective bargaining agreement covering municipal
25 employees subject to this paragraph ~~other than school district professional~~

1 employees shall be for a term of 2 years. ~~No, but in no case may a collective~~
2 bargaining agreement for any collective bargaining unit consisting of municipal
3 employees ~~subject to this paragraph other than school district professional~~
4 ~~employees shall be for a term exceeding 3 years. e.~~ No arbitration award may contain
5 a provision for reopening of negotiations during the term of a collective bargaining
6 agreement, unless both parties agree to such a provision. The requirement for
7 agreement by both parties does not apply to a provision for reopening of negotiations
8 with respect to any portion of an agreement that is declared invalid by a court or
9 administrative agency or rendered invalid by the enactment of a law or promulgation
10 of a federal regulation.

11 SECTION 13. 111.70 (4) (cm) 8m. b. of the statutes is repealed.

12 SECTION 14. 111.70 (4) (cm) 8p. of the statutes is repealed.

13 SECTION 15. 111.70 (4) (cm) 8s. of the statutes is repealed.

14 SECTION 16. 111.70 (4) (cn) of the statutes is repealed.

15 SECTION 17. 111.70 (4) (d) 2. a. of the statutes is amended to read:

16 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
17 bargaining unit for the purpose of collective bargaining and shall whenever possible,
18 unless otherwise required under this subchapter, avoid fragmentation by
19 maintaining as few collective bargaining units as practicable in keeping with the size
20 of the total municipal work force. In making such a determination, the commission
21 may decide whether, in a particular case, the municipal employees in the same or
22 several departments, divisions, institutions, crafts, professions, or other
23 occupational groupings constitute a collective bargaining unit. Before making its
24 determination, the commission may provide an opportunity for the municipal
25 employees concerned to determine, by secret ballot, whether or not they desire to be

1 established as a separate collective bargaining unit. ~~The commission shall not~~
2 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
3 ~~collective bargaining unit if the group includes both municipal employees who are~~
4 ~~school district professional employees and municipal employees who are not school~~
5 ~~district professional employees.~~ The commission shall not decide, however, that any
6 other group of municipal employees constitutes an appropriate collective bargaining
7 unit if the group includes both professional employees and nonprofessional
8 employees, unless a majority of the professional employees vote for inclusion in the
9 unit. The commission shall not decide that any group of municipal employees
10 constitutes an appropriate collective bargaining unit if the group includes both craft
11 employees and noncraft employees unless a majority of the craft employees vote for
12 inclusion in the unit. The commission shall place the professional employees who are
13 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in
14 a separate collective bargaining unit from a unit that includes any other professional
15 employees whenever at least 30% of those professional employees request an election
16 to be held to determine that issue and a majority of the professional employees at the
17 charter school who cast votes in the election decide to be represented in a separate
18 collective bargaining unit. Any vote taken under this subsection shall be by secret
19 ballot.

20 **SECTION 18.** 118.245 of the statutes is repealed.

21 **SECTION 9315. Initial applicability; Employment Relations**
22 **Commission.**

23 (1) **QUALIFIED ECONOMIC OFFERS.** The treatment of section 111.70 (1) (b), (dm),
24 (fm), and (nc) and (4) (cm) 5., 5s., 6. a. and am., 7., 7g., and 7r. (intro.), 8m. a., b., and
25 c., 8p., and 8s., (cn), and (d) 2. a. of the statutes first applies to petitions for arbitration

1 that relate to collective bargaining agreements that cover periods beginning on or
2 after July 1, 2007, and that are filed under section 111.70 (4) (cm) 6. of the statutes,
3 as affected by this act, on the effective date of this subsection.

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(END)