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2007 - 2008 LEGISLATURE

LRB-128571  
CMH&RAC:kjf:16

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**2007 BILL**

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1 AN ACT ~~to amend 7.33 (4), 13.111 (2), 16.50 (3) (e), 16.705 (3) (c), 19.82 (1), 19.85~~  
2 ~~(3), 19.86, 20.425 (1) (a), 20.545 (1) (a), 20.865 (1) (ci), 20.865 (1) (ic), 20.865 (1)~~  
3 ~~(si), 20.917 (3) (b), 20.923 (6) (intro.), 20.928 (1), 36.09 (1) (j), 40.02 (25) (b) 8.,~~  
4 ~~40.05 (1) (b), 40.05 (4) (ag) (intro.), 40.05 (4) (ar), 40.05 (4) (b), 40.05 (4) (bw),~~  
5 ~~40.05 (4g) (a) 4., 40.05 (5) (intro.), 40.05 (5) (b) 4., 40.05 (6) (a), 40.62 (2), 40.80~~  
6 ~~(3), 40.81 (3), 40.95 (1) (a) 2., 230.01 (3), 230.046 (10) (a), 230.12 (3) (e) 1., 230.35~~  
7 ~~(2d) (e), 230.35 (3) (e) 6. and 230.88 (2) (b); and to create 20.865 (1) (cm), 20.865~~  
8 ~~(1) (im), 20.865 (1) (sm) and subchapter VI of chapter 111 of the statutes;~~  
9 **relating to:** collective bargaining process for University of Wisconsin System  
10 faculty and academic staff and making appropriations.

*EMPLOYMENT ← Heading*

**Analysis by the Legislative Reference Bureau**

X Under current law, faculty and academic staff of the University of Wisconsin (UW) System do not have collective bargaining rights under the State Employment Labor Relations Act (SELRA). This bill provides faculty and academic staff of the UW System collective bargaining rights under state law in a manner similar to that provided other state employees under SELRA.

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This bill provides all UW System academic staff and all faculty, including specifically faculty who are supervisors or managers, with the right to collectively bargain over wages, hours, and conditions of employment. Collective bargaining units are structured with separate units for faculty at each of the UW System campuses and for academic staff at each of the UW System campuses. The bill also provides that, if the employees approve by vote, any two or more units for faculty may be combined into a single unit and any two or more units for academic staff may be combined into a single unit. Representatives for each unit are chosen by election.

Unfair labor practices for UW System academic staff and faculty collective bargaining are generally the same as those under SELRA, except that the bill specifically provides that it is not an unfair labor practice for the Board of Regents of the UW System to implement changes in salaries or conditions of employment for members of the faculty or academic staff at one UW institution and not for such persons at other UW institutions if certain conditions are met. The bill specifically authorizes fair-share and maintenance of membership agreements for UW academic staff and faculty collective bargaining, as is the case under SELRA. The bill also prohibits strikes.

Under the bill, the subjects of collective bargaining are the same as under SELRA, except that collective bargaining is prohibited on the mission and goals of the Board of Regents of the UW System; the diminution of the right of tenure provided faculty; the rights granted faculty and academic staff under current law; and academic freedom. Finally, under the bill, collective bargaining agreements covering UW faculty and academic staff must be approved by the Joint Committee on Employment Relations and adopted by the legislature.

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

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 7.33 (4) of the statutes is amended to read:

2           7.33 (4) Except as otherwise provided in this subsection, each local  
3 governmental unit, as defined in s. 16.97 (7), may, and each state agency shall, upon  
4 proper application under sub. (3), permit each of its employees to serve as an election  
5 official under s. 7.30 without loss of fringe benefits or seniority privileges earned for  
6 scheduled working hours during the period specified in sub. (3), without loss of pay  
7 for scheduled working hours during the period specified in sub. (3) except as provided  
8 in sub. (5), and without any other penalty. For employees who are included in a

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1 collective bargaining unit for which a representative is recognized or certified under  
2 subch. V or VI of ch. 111, this subsection shall apply unless otherwise provided in a  
3 collective bargaining agreement.

4 **SECTION 2.** 13.111 (2) of the statutes is amended to read:

5 13.111 (2) DUTIES. The joint committee on employment relations shall perform  
6 the functions assigned to it under subch. subchs. V and VI of ch. 111, subch. II of ch.  
7 230 and ss. 16.53 (1) (d) 1., 20.916, 20.917, 20.923 and 40.05 (1) (b).

8 **SECTION 3.** 16.50 (3) (e) of the statutes is amended to read:

9 16.50 (3) (e) No pay increase may be approved unless it is at the rate or within  
10 the pay ranges prescribed in the compensation plan or as provided in a collective  
11 bargaining agreement under subch. V or VI of ch. 111.

12 **SECTION 4.** 16.705 (3) (c) of the statutes is amended to read:

13 16.705 (3) (c) Do not enter into any contract for contractual services in conflict  
14 with any collective bargaining agreement under subch. V or VI of ch. 111.

15 **SECTION 5.** 19.82 (1) of the statutes is amended to read:

16 19.82 (1) "Governmental body" means a state or local agency, board,  
17 commission, committee, council, department or public body corporate and politic  
18 created by constitution, statute, ordinance, rule or order; a governmental or  
19 quasi-governmental corporation except for the Bradley center sports and  
20 entertainment corporation; a local exposition district under subch. II of ch. 229; a  
21 family care district under s. 46.2895; a nonprofit corporation operating the Olympic  
22 ice training center under s. 42.11 (3); or a formally constituted subunit of any of the  
23 foregoing, but excludes any such body or committee or subunit of such body which  
24 is formed for or meeting for the purpose of collective bargaining under subch. I, IV  
25 or, V, or VI of ch. 111.

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1           **SECTION 6.** 19.85 (3) of the statutes is amended to read:

2           19.85 **(3)** Nothing in this subchapter shall be construed to authorize a  
3 governmental body to consider at a meeting in closed session the final ratification or  
4 approval of a collective bargaining agreement under subch. I, IV ~~or~~ V, or VI of ch. 111  
5 which has been negotiated by such body or on its behalf.

6           **SECTION 7.** 19.86 of the statutes is amended to read:

7           **19.86 Notice of collective bargaining negotiations.** Notwithstanding s.  
8 19.82 (1), where notice has been given by either party to a collective bargaining  
9 agreement under subch. I, IV ~~or~~ V, or VI of ch. 111 to reopen such agreement at its  
10 expiration date, the employer shall give notice of such contract reopening as provided  
11 in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be given  
12 by the employer's chief officer or such person's designee. This section does not apply  
13 to a nonprofit corporation operating the Olympic Ice Training Center under s. 42.11  
14 (3).

15           **SECTION 8.** 20.425 (1) (a) of the statutes is amended to read:

16           20.425 **(1)** (a) *General program operations.* The amounts in the schedule for  
17 the purposes provided in subchs. I, IV ~~and~~ V, and VI of ch. 111 and s. 230.45 (1).

18           **SECTION 9.** 20.545 (1) (a) of the statutes is amended to read:

19           20.545 **(1)** (a) *General program operations.* The amounts in the schedule to  
20 administer the employment relations functions and the civil service system under  
21 subch. ~~subchs.~~ V and VI of ch. 111 and ch. 230, to pay awards under s. 230.48 and to  
22 defray the expenses of the state employees suggestion board.

23           **SECTION 10.** 20.865 (1) (ci) of the statutes is amended to read:

24           20.865 **(1)** (ci) *Nonrepresented university system senior executive, faculty and*  
25 *academic pay adjustments.* A sum sufficient to pay the cost of pay and related

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1 adjustments approved by the joint committee on employment relations under s.  
2 230.12 (3) (e) for University of Wisconsin System employees under ss. 20.923 (4g), (5)  
3 and (6) (m) and 230.08 (2) (d) who are not included within a collective bargaining unit  
4 for which a representative is certified under subch. V or VI of ch. 111, as determined  
5 under s. 20.928, other than adjustments funded under par. (cj).

6 **SECTION 11.** 20.865 (1) (cm) of the statutes is created to read:

7 20.865 (1) (cm) *Represented university faculty and academic staff pay*  
8 *adjustments.* A sum sufficient to supplement the appropriations to the Board of  
9 Regents of the University of Wisconsin System for the cost of compensation and  
10 related adjustments approved by the legislature under s. 111.9991 for University of  
11 Wisconsin System employees under s. 230.08 (2) (d) who are included within a  
12 collective bargaining unit for which a representative is certified under subch. VI of  
13 ch. 111, as determined under s. 20.928.

14 *not bud*  
→ **SECTION 12.** 20.865 (1) (ic) of the statutes is amended to read:

15 20.865 (1) (ic) *Nonrepresented university system senior executive, faculty and*  
16 *academic pay adjustments.* From the appropriate program revenue and program  
17 revenue–service accounts, a sum sufficient to supplement the appropriations to the  
18 University of Wisconsin System to pay the cost of pay and related adjustments  
19 approved by the joint committee on employment relations under s. 230.12 (3) (e) for  
20 University of Wisconsin System employees under ss. 20.923 (4g), (5) and (6) (m) and  
21 230.08 (2) (d) who are not included within a collective bargaining unit for which a  
22 representative is certified under subch. V or VI of ch. 111, as determined under s.  
23 20.928, other than adjustments funded under par. (cj).

24 **SECTION 13.** 20.865 (1) (im) of the statutes is created to read:

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1           20.865 (1) (im) *Represented university system faculty and academic staff pay*  
2 *adjustments; program revenue.* From the appropriate program revenue and program  
3 revenue–service accounts, a sum sufficient to supplement the appropriations to the  
4 Board of Regents of the University of Wisconsin System for the cost of compensation  
5 and related adjustments approved by the joint committee on employment relations  
6 under s. 230.12 (3) (e) for University of Wisconsin System employees under s. 230.08  
7 (2) (d) who are included within a collective bargaining unit for which a representative  
8 is certified under subch. VI of ch. 111, as determined under s. 20.928.

9           → *note: bud*  
SECTION 14. 20.865 (1) (si) of the statutes is amended to read:

10           20.865 (1) (si) *Nonrepresented university system senior executive, faculty and*  
11 *academic pay adjustments.* From the appropriate segregated funds, a sum sufficient  
12 to supplement the appropriations to the University of Wisconsin System to pay the  
13 cost of pay and related adjustments approved by the joint committee on employment  
14 relations under s. 230.12 (3) (e) for University of Wisconsin System employees under  
15 ss. 20.923 (4g), (5) and (6) (m) and 230.08 (2) (d) who are not included within a  
16 collective bargaining unit for which a representative is certified under subch. V or  
17 VI of ch. 111, as determined under s. 20.928.

18           SECTION 15. 20.865 (1) (sm) of the statutes is created to read:

19           20.865 (1) (sm) *Represented university faculty and academic staff pay*  
20 *adjustments; segregated revenues.* From the appropriate segregated funds, a sum  
21 sufficient to supplement the appropriations to the Board of Regents of the University  
22 of Wisconsin System for the cost of compensation and related adjustments approved  
23 by the joint committee on employment relations under s. 230.12 (3) (e) for University  
24 of Wisconsin System employees under s. 230.08 (2) (d) who are included within a

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1 collective bargaining unit for which a representative is certified under subch. VI of  
2 ch. 111, as determined under s. 20.928.

3 *note: bud*  
SECTION 16. 20.917 (3) (b) of the statutes is amended to read:

4 20.917 (3) (b) This subsection applies to employees in all positions in the civil  
5 service, including those employees in positions included in collective bargaining  
6 units under subch. V or VI of ch. 111, whether or not the employees are covered by  
7 a collective bargaining agreement.

8 SECTION 17. 20.923 (6) (intro.) of the statutes is amended to read:

9 20.923 (6) SALARIES SET BY APPOINTING AUTHORITIES. (intro.) Salaries for the  
10 following positions may be set by the appointing authority, subject to restrictions  
11 otherwise set forth in the statutes and the compensation plan under s. 230.12, except  
12 where the salaries are a subject of bargaining with a certified representative of a  
13 collective bargaining unit under s. 111.91 or 111.998:

14 SECTION 18. 20.928 (1) of the statutes is amended to read:

15 20.928 (1) Each state agency head shall certify to the department of  
16 administration, at such time and in such manner as the secretary of administration  
17 prescribes, the sum of money needed by the state agency from the appropriations  
18 under s. 20.865 (1) (c), (ci), ~~(cm)~~, (cj), (d), (i), (ic), ~~(im)~~, (j), (s), (si), ~~(sm)~~, and (t). Upon  
19 receipt of the certifications together with such additional information as the  
20 secretary of administration prescribes, the secretary shall determine the amounts  
21 required from the respective appropriations to supplement state agency budgets.

22 SECTION 19. 36.09 (1) (j) of the statutes is amended to read:

23 36.09 (1) (j) Except where such matters are a subject of bargaining with a  
24 certified representative of a collective bargaining unit under s. 111.91 or 111.998, the  
25 board shall establish salaries for persons not in the classified staff prior to July 1 of

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1 each year for the next fiscal year, and shall designate the effective dates for payment  
2 of the new salaries. In the first year of the biennium, payments of the salaries  
3 established for the preceding year shall be continued until the biennial budget bill  
4 is enacted. If the budget is enacted after July 1, payments shall be made following  
5 enactment of the budget to satisfy the obligations incurred on the effective dates, as  
6 designated by the board, for the new salaries, subject only to the appropriation of  
7 funds by the legislature and s. 20.928 (3). This paragraph does not limit the  
8 authority of the board to establish salaries for new appointments. The board may  
9 not increase the salaries of employees specified in ss. 20.923 (5) and (6) (m) and  
10 230.08 (2) (d) under this paragraph unless the salary increase conforms to the  
11 proposal as approved under s. 230.12 (3) (e) or the board authorizes the salary  
12 increase to correct salary inequities under par. (h), to fund job reclassifications or  
13 promotions, or to recognize competitive factors. The board may not increase the  
14 salary of any position identified in s. 20.923 (4g) under this paragraph unless the  
15 salary increase conforms to the proposal as approved under s. 230.12 (3) (e) or the  
16 board authorizes the salary increase to correct a salary inequity or to recognize  
17 competitive factors. The board may not increase the salary of any position identified  
18 in s. 20.923 (4g) (ae) and (am) to correct a salary inequity that results from the  
19 appointment of a person to a position identified in s. 20.923 (4g) (ae) and (am) unless  
20 the increase is approved by the office of state employment relations. The granting  
21 of salary increases to recognize competitive factors does not obligate inclusion of the  
22 annualized amount of the increases in the appropriations under s. 20.285 (1) for  
23 subsequent fiscal bienniums. No later than October 1 of each year, the board shall  
24 report to the joint committee on finance and the secretary of administration and  
25 director of the office of state employment relations concerning the amounts of any



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1 salary increases granted to recognize competitive factors, and the institutions at  
2 which they are granted, for the 12-month period ending on the preceding June 30.

3 **SECTION 20.** 40.02 (25) (b) 8. of the statutes is amended to read:

4 40.02 (25) (b) 8. Any other state employee for whom coverage is authorized  
5 under a collective bargaining agreement pursuant to subch. I or V or VI of ch. 111  
6 or under s. 230.12 or 233.10.

7 **SECTION 21.** 40.05 (1) (b) of the statutes is amended to read:

8 40.05 (1) (b) In lieu of employee payment, the employer may pay all or part of  
9 the contributions required by par. (a), but all the payments shall be available for  
10 benefit purposes to the same extent as required contributions deducted from  
11 earnings of the participating employees. Action to assume employee contributions  
12 as provided under this paragraph shall be taken at the time and in the form  
13 determined by the governing body of the participating employer. The state shall pay  
14 under this paragraph for employees who are covered by a collective bargaining  
15 agreement under subch. V or VI of ch. 111 and for employees whose fringe benefits  
16 are determined under s. 230.12 an amount equal to 4% 4 percent of the earnings paid  
17 by the state unless otherwise provided in a collective bargaining agreement under  
18 subch. V or VI of ch. 111 or unless otherwise determined under s. 230.12. The  
19 University of Wisconsin Hospitals and Clinics Authority shall pay under this  
20 paragraph for employees who are covered by a collective bargaining agreement  
21 under subch. I of ch. 111 and for employees whose fringe benefits are determined  
22 under s. 233.10 an amount equal to 4% 4 percent of the earnings paid by the authority  
23 unless otherwise provided in a collective bargaining agreement under subch. I of ch.  
24 111 or unless otherwise determined under s. 233.10. The state shall pay under this  
25 paragraph for employees who are not covered by a collective bargaining agreement

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1 under subch. V or VI of ch. 111 and for employees whose fringe benefits are not  
2 determined under s. 230.12 an amount equal to 4% 4 percent of the earnings paid by  
3 the state unless a different amount is recommended by the director of the office of  
4 state employment relations and approved by the joint committee on employment  
5 relations in the manner provided for approval of changes in the compensation plan  
6 under s. 230.12 (3). The University of Wisconsin Hospitals and Clinics Authority  
7 shall pay under this paragraph for its employees who are not covered by a collective  
8 bargaining agreement under subch. I of ch. 111 an amount equal to 4% 4 percent of  
9 the earnings paid by the authority unless a different amount is established by the  
10 board of directors of the authority under s. 233.10.

11 **SECTION 22.** 40.05 (4) (ag) (intro.) of the statutes is amended to read:

12 40.05 **(4)** (ag) (intro.) Beginning on January 1, 2004, except as otherwise  
13 provided in accordance with a collective bargaining agreement under subch. I ~~or~~ V,  
14 or VI of ch. 111 or s. 230.12 or 233.10, the employer shall pay for its currently  
15 employed insured employees:

16 **SECTION 23.** 40.05 (4) (ar) of the statutes is amended to read:

17 40.05 **(4)** (ar) The employer shall pay under par. (a) for employees who are not  
18 covered by a collective bargaining agreement under subch. I ~~or~~ V, or VI of ch. 111 and  
19 for employees whose health insurance premium contribution rates are not  
20 determined under s. 230.12 or 233.10 an amount equal to the amount specified in par.  
21 (ag) unless a different amount is recommended by the director of the office of state  
22 employment relations and approved by the joint committee on employment relations  
23 in the manner provided for approval of changes in the compensation plan under s.  
24 230.12 (3).

25 **SECTION 24.** 40.05 (4) (b) of the statutes is amended to read:

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1           40.05 (4) (b) Except as provided under pars. (bc) and (bp), accumulated unused  
2 sick leave under ss. 13.121 (4), 36.30, 230.35 (2), 233.10, and 757.02 (5) and subch.  
3 I or, V, or VI of ch. 111 of any eligible employee shall, at the time of death, upon  
4 qualifying for an immediate annuity or for a lump sum payment under s. 40.25 (1)  
5 or upon termination of creditable service and qualifying as an eligible employee  
6 under s. 40.02 (25) (b) 6. or 10., be converted, at the employee's highest basic pay rate  
7 he or she received while employed by the state, to credits for payment of health  
8 insurance premiums on behalf of the employee or the employee's surviving insured  
9 dependents. Any supplemental compensation that is paid to a state employee who  
10 is classified under the state classified civil service as a teacher, teacher supervisor,  
11 or education director for the employee's completion of educational courses that have  
12 been approved by the employee's employer is considered as part of the employee's  
13 basic pay for purposes of this paragraph. The full premium for any eligible employee  
14 who is insured at the time of retirement, or for the surviving insured dependents of  
15 an eligible employee who is deceased, shall be deducted from the credits until the  
16 credits are exhausted and paid from the account under s. 40.04 (10), and then  
17 deducted from annuity payments, if the annuity is sufficient. The department shall  
18 provide for the direct payment of premiums by the insured to the insurer if the  
19 premium to be withheld exceeds the annuity payment. Upon conversion of an  
20 employee's unused sick leave to credits under this paragraph or par. (bf), the  
21 employee or, if the employee is deceased, the employee's surviving insured  
22 dependents may initiate deductions from those credits or may elect to delay  
23 initiation of deductions from those credits, but only if the employee or surviving  
24 insured dependents are covered by a comparable health insurance plan or policy  
25 during the period beginning on the date of the conversion and ending on the date on

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1 which the employee or surviving insured dependents later elect to initiate  
2 deductions from those credits. If an employee or an employee's surviving insured  
3 dependents elect to delay initiation of deductions from those credits, an employee or  
4 the employee's surviving insured dependents may only later elect to initiate  
5 deductions from those credits during the annual enrollment period under par. (be).  
6 A health insurance plan or policy is considered comparable if it provides hospital and  
7 medical benefits that are substantially equivalent to the standard health insurance  
8 plan established under s. 40.52 (1).

9 **SECTION 25.** 40.05 (4) (bw) of the statutes is amended to read:

10 40.05 (4) (bw) On converting accumulated unused sick leave to credits for the  
11 payment of health insurance premiums under par. (b), the department shall add  
12 additional credits, calculated in the same manner as are credits under par. (b), that  
13 are based on a state employee's accumulated sabbatical leave or earned vacation  
14 leave from the state employee's last year of service prior to retirement, or both. The  
15 department shall apply the credits awarded under this paragraph for the payment  
16 of health insurance premiums only after the credits awarded under par. (b) are  
17 exhausted. This paragraph applies only to state employees who are eligible for  
18 accumulated unused sick leave conversion under par. (b) and who are entitled to the  
19 benefits under this paragraph pursuant to a collective bargaining agreement under  
20 subch. V or VI of ch. 111.

21 **SECTION 26.** 40.05 (4g) (a) 4. of the statutes is amended to read:

22 40.05 (4g) (a) 4. Has received a military leave of absence under s. 230.32 (3) (a)  
23 or 230.35 (3), under a collective bargaining agreement under subch. V or VI of ch. 111  
24 or under rules promulgated by the director of the office of state employment relations

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1 or is eligible for reemployment with the state under s. 21.79 after completion of his  
2 or her service in the U.S. armed forces.

3 **SECTION 27.** 40.05 (5) (intro.) of the statutes is amended to read:

4 40.05 (5) INCOME CONTINUATION INSURANCE PREMIUMS. (intro.) For the income  
5 continuation insurance provided under subch. V the employee shall pay the amount  
6 remaining after the employer has contributed the following or, if different, the  
7 amount determined under a collective bargaining agreement under subch. I or, V, or  
8 VI of ch. 111 or s. 230.12 or 233.10:

9 **SECTION 28.** 40.05 (5) (b) 4. of the statutes is amended to read:

10 40.05 (5) (b) 4. The accrual and crediting of sick leave shall be determined in  
11 accordance with ss. 13.121 (4), 36.30, 230.35 (2), 233.10 and 757.02 (5) and subch. I  
12 or, V, or VI of ch. 111.

13 **SECTION 29.** 40.05 (6) (a) of the statutes is amended to read:

14 40.05 (6) (a) Except as otherwise provided in accordance with a collective  
15 bargaining agreement under subch. I or, V, or VI of ch. 111 or s. 230.12 or 233.10, each  
16 insured employee under the age of 70 and annuitant under the age of 65 shall pay  
17 for group life insurance coverage a sum, approved by the group insurance board,  
18 which shall not exceed 60 cents monthly for each \$1,000 of group life insurance,  
19 based upon the last amount of insurance in force during the month for which  
20 earnings are paid. The equivalent premium may be fixed by the group insurance  
21 board if the annual compensation is paid in other than 12 monthly installments.

22 **SECTION 30.** 40.62 (2) of the statutes is amended to read:

23 40.62 (2) Sick leave accumulation shall be determined in accordance with rules  
24 of the department, any collective bargaining agreement under subch. I or, V, or VI  
25 of ch. 111, and ss. 13.121 (4), 36.30, 230.35 (2), 233.10, 757.02 (5) and 978.12 (3).



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1 extent interrelated. It is the policy of this state to protect and promote each of these  
2 interests with due regard to the rights of the others.

3 **111.96 Definitions.** In this subchapter:

4 (1) “Academic staff” has the meaning given under s. 36.05 (1), but does not  
5 include any individual holding an appointment under s. 36.13 or 36.15 (2m) or who  
6 is appointed to a visiting faculty position.

7 (2) “Board” means the Board of Regents of the University of Wisconsin System.

8 (3) “Collective bargaining” means the performance of the mutual obligation of  
9 the state as an employer, by its officers and agents, and the representatives of its  
10 employees, to meet and confer at reasonable times, in good faith, with respect to the  
11 subjects of bargaining provided in s. 111.998 with the intention of reaching an  
12 agreement, or to resolve questions arising under such an agreement. The duty to  
13 bargain, however, does not compel either party to agree to a proposal or require the  
14 making of a concession. Collective bargaining includes the reduction of any  
15 agreement reached to a written and signed document.

16 (4) “Collective bargaining unit” means a unit established under s. 111.98 (1).

17 (5) “Commission” means the employment relations commission.

18 (6) “Election” means a proceeding conducted by the commission in which the  
19 employees in a collective bargaining unit cast a secret ballot for collective bargaining  
20 representatives, or for any other purpose specified in this subchapter.

21 (7) “Employee” includes:

22 (a) All faculty, including specifically faculty who are supervisors or  
23 management employees, but not including faculty holding a limited appointment  
24 under s. 36.17 or deans.

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1 (b) All academic staff, except for supervisors, management employees, and  
2 individuals who are privy to confidential matters affecting the employer–employee  
3 relationship.

4 (8) “Employer” means the state of Wisconsin.

5 (9) “Faculty” has the meaning given in s. 36.05 (8), except for an individual  
6 holding an appointment under s. 36.15 (1), (2), (2m), or (3).

7 (10) “Fair–share agreement” means an agreement between the employer and  
8 a labor organization representing employees under which all of the employees in a  
9 collective bargaining unit are required to pay their proportionate share of the cost  
10 of the collective bargaining process and contract administration measured by the  
11 amount of dues uniformly required of all members.

12 (11) “Institution” has the meaning given in s. 36.05 (9).

13 (12) “Labor dispute” means any controversy with respect to the subjects of  
14 bargaining provided in this subchapter.

15 (13) “Labor organization” means any employee organization whose purpose is  
16 to represent employees in collective bargaining with the employer, or its agents, on  
17 matters pertaining to terms and conditions of employment, but does not include any  
18 organization that does any of the following:

19 (a) Advocates the overthrow of the constitutional form of government in the  
20 United States.

21 (b) Discriminates with regard to the terms or conditions of membership  
22 because of race, color, creed, sex, age, sexual orientation, or national origin.

23 (14) “Maintenance of membership agreement” means an agreement between  
24 the employer and a labor organization representing employees that requires that all  
25 of the employees whose dues are being deducted from earnings under s. 20.921 (1)



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1 or 111.992 at or after the time the agreement takes effect shall continue to have dues  
2 deducted for the duration of the agreement and that dues shall be deducted from the  
3 earnings of all employees who are hired on or after the effective date of the  
4 agreement.

5 (15) "Management employees" include those personnel engaged  
6 predominately in executive and managerial functions.

7 (16) "Office" means the office of state employment relations in the department  
8 of administration.

9 (17) "Referendum" means a proceeding conducted by the commission in which  
10 employees, or supervisors specified in s. 111.98 (5), in a collective bargaining unit  
11 may cast a secret ballot on the question of directing the labor organization and the  
12 employer to enter into a fair-share or maintenance of membership agreement or to  
13 terminate such an agreement.

14 (18) "Representative" includes any person chosen by an employee to represent  
15 the employee.

16 (19) "Strike" includes any strike or other concerted stoppage of work by  
17 employees, any concerted slowdown or other concerted interruption of operations or  
18 services by employees, or any concerted refusal to work or perform their usual duties  
19 as employees of the state.

20 (20) "Supervisor" means any individual whose principal work is different from  
21 that of the individual's subordinates and who has authority, in the interest of the  
22 employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign,  
23 reward or discipline employees, or to adjust their grievances, or to authoritatively  
24 recommend such action, if the individual's exercise of such authority is not of a  
25 merely routine or clerical nature, but requires the use of independent judgment.

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1           **(21)** “Unfair labor practice” means any unfair labor practice specified in s.  
2           111.991.

3           **111.965 Duties of the state. (1)** In the furtherance of this subchapter, the  
4           state shall be considered as a single employer. The board shall negotiate and  
5           administer collective bargaining agreements. To coordinate the employer position  
6           in the negotiation of agreements, the board shall maintain close liaison with the  
7           legislature and the office relative to the negotiation of agreements and the fiscal  
8           ramifications of those agreements. The board shall coordinate its collective  
9           bargaining activities with the office. The legislative branch shall act upon those  
10          portions of tentative agreements negotiated by the board that require legislative  
11          action.

12          **(2)** The board shall establish a collective bargaining capacity and shall  
13          represent the state in its responsibility as an employer under this subchapter. The  
14          board shall coordinate its actions with the director of the office.

15          **111.97 Rights of employees.** Employees shall have the right of  
16          self-organization and the right to form, join, or assist labor organizations, to bargain  
17          collectively through representatives of their own choosing under this subchapter,  
18          and to engage in lawful, concerted activities for the purpose of collective bargaining  
19          or other mutual aid or protection. Employees shall also have the right to refrain from  
20          any such activities.

21          **111.98 Collective bargaining units. (1)** Collective bargaining units for  
22          faculty and staff in the unclassified service of the state shall be structured with a  
23          collective bargaining unit for each of the following groups:

24               (a) Faculty of the University of Wisconsin–Madison.

25               (am) Faculty of the University of Wisconsin–Milwaukee.

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- 1 (b) Faculty of the University of Wisconsin–Extension.
- 2 (bm) Faculty of the University of Wisconsin–Eau Claire.
- 3 (c) Faculty of the University of Wisconsin–Green Bay.
- 4 (cm) Faculty of the University of Wisconsin–La Crosse.
- 5 (d) Faculty of the University of Wisconsin–Oshkosh.
- 6 (dm) Faculty of the University of Wisconsin–Parkside.
- 7 (e) Faculty of the University of Wisconsin–Platteville.
- 8 (em) Faculty of the University of Wisconsin–River Falls.
- 9 (f) Faculty of the University of Wisconsin–Stevens Point.
- 10 (fm) Faculty of the University of Wisconsin–Stout.
- 11 (g) Faculty of the University of Wisconsin–Superior.
- 12 (gm) Faculty of the University of Wisconsin–Whitewater.
- 13 (h) Faculty of the University of Wisconsin Colleges.
- 14 (i) Academic staff of the University of Wisconsin–Madison.
- 15 (im) Academic staff of the University of Wisconsin–Milwaukee.
- 16 (j) Academic staff of the University of Wisconsin–Extension.
- 17 (jm) Academic staff of the University of Wisconsin–Eau Claire.
- 18 (k) Academic staff of the University of Wisconsin–Green Bay.
- 19 (km) Academic staff of the University of Wisconsin–La Crosse.
- 20 (L) Academic staff of the University of Wisconsin–Oshkosh.
- 21 (Lm) Academic staff of the University of Wisconsin–Parkside.
- 22 (m) Academic staff of the University of Wisconsin–Platteville.
- 23 (mm) Academic staff of the University of Wisconsin–River Falls.
- 24 (n) Academic staff of the University of Wisconsin–Stevens Point.
- 25 (nm) Academic staff of the University of Wisconsin–Stout.

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1 (o) Academic staff of the University of Wisconsin–Superior.

2 (op) Academic staff of the University of Wisconsin–Whitewater.

3 (p) Academic staff of the University of Wisconsin Colleges.

4 (2) (a) Notwithstanding sub. (1), 2 or more collective bargaining units described  
5 under sub. (1) (a) to (h) may be combined into a single unit and 2 or more collective  
6 bargaining units described under sub. (1) (i) to (p) may be combined into a single unit.  
7 If 2 or more collective bargaining units seek to combine into a single collective  
8 bargaining unit, the commission shall, upon the petition of at least 30 percent of the  
9 employees in each unit, hold an election to determine whether a majority of those  
10 employees voting in each unit desire to combine into a single unit. A combined  
11 collective bargaining unit shall be formed including all employees from each of those  
12 units in which a majority of the employees voting in the election approve a combined  
13 unit. The combined collective bargaining unit shall be formed immediately if there  
14 is no existing collective bargaining agreement in force in any of the units to be  
15 combined. If there is a collective bargaining agreement in force at the time of the  
16 election in any of the collective bargaining units to be combined, the combined unit  
17 shall be formed upon expiration of the last agreement for the units concerned.

18 (b) If 2 or more collective bargaining units have combined under par. (a), the  
19 commission shall, upon petition of at least 30 percent of the employees in any of the  
20 original units, hold an election of the employees in the original unit to determine  
21 whether the employees in that unit desire to withdraw from the combined collective  
22 bargaining unit. If a majority of the employees voting desire to withdraw from the  
23 combined collective bargaining unit, separate units consisting of the unit in which  
24 the election was held and a unit composed of the remainder of the combined unit shall  
25 be formed. The new collective bargaining units shall be formed immediately if there

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1 is no collective bargaining agreement in force for the combined unit. If there is a  
2 collective bargaining agreement in force for the combined collective bargaining unit,  
3 the new units shall be formed upon the expiration of the agreement. While there is  
4 a collective bargaining agreement in force for the combined collective bargaining  
5 unit, a petition for an election under this paragraph may be filed only during October  
6 in the calendar year prior to the expiration of the agreement.

7 (3) The commission shall assign employees to the appropriate collective  
8 bargaining units described under sub. (1) or (2).

9 (4) Any labor organization may petition for recognition as the exclusive  
10 representative of a collective bargaining unit described under sub. (1) or (2) in  
11 accordance with the election procedures under s. 111.990 if the petition is  
12 accompanied by a 30 percent showing of interest in the form of signed authorization  
13 cards. Any additional labor organization seeking to appear on the ballot shall file a  
14 petition within 60 days of the date of filing of the original petition and prove, through  
15 signed authorization cards, that at least 10 percent of the employees in the collective  
16 bargaining unit want it to be their representative.

17 (5) Although academic staff supervisors are not considered employees for the  
18 purpose of this subchapter, the commission may consider a petition for a statewide  
19 collective bargaining unit consisting of academic staff supervisors, but the  
20 representative of the supervisors may not be affiliated with any labor organization  
21 representing employees. For purposes of this subsection, affiliation does not include  
22 membership in a national, state, county, or municipal federation of national or  
23 international labor organizations. The certified representative of the supervisors  
24 may not bargain collectively with respect to any matter other than wages and fringe  
25 benefits.

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1           **111.990 Representatives and elections. (1)** A representative chosen for the  
2 purposes of collective bargaining by a majority of the employees voting in a collective  
3 bargaining unit shall be the exclusive representative of all of the employees in such  
4 unit for the purposes of collective bargaining. Any individual employee, or any  
5 minority group of employees in any collective bargaining unit, may present any  
6 grievance to the employer in person, or through representatives of their own  
7 choosing, and the employer shall confer with the individual employee or group of  
8 employees with respect to the grievance if the majority representative has been  
9 afforded the opportunity to be present at the conference. Any adjustment resulting  
10 from such a conference may not be inconsistent with the conditions of employment  
11 established by the majority representative and the employer.

12           **(2)** Whenever a question arises concerning the representation of employees in  
13 a collective bargaining unit, the commission shall determine the representation by  
14 taking a secret ballot of the employees and certifying in writing the results to the  
15 interested parties and to the board. There shall be included on any ballot for the  
16 election of representatives the names of all labor organizations having an interest  
17 in representing the employees participating in the election as indicated in petitions  
18 filed with the commission. The name of any existing representative shall be included  
19 on the ballot without the necessity of filing a petition. The commission may exclude  
20 from the ballot one who, at the time of the election, stands deprived of his or her rights  
21 under this subchapter by reason of a prior adjudication of his or her having engaged  
22 in an unfair labor practice. The ballot shall be so prepared as to permit a vote against  
23 representation by anyone named on the ballot. For elections in a collective  
24 bargaining unit composed of employees who are members of the faculty or academic  
25 staff, whenever more than one representative qualifies to appear on the ballot, the

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1 ballot shall be prepared to provide separate votes on 2 questions. The first question  
2 shall be: "Shall the employees of the ... (name of collective bargaining unit)  
3 participate in collective bargaining?". The 2nd question shall be: "If the employees  
4 of the ... (name of collective bargaining unit) elect to participate in collective  
5 bargaining, which labor organization do you favor to act as representative of the  
6 employees?". The 2nd question shall not include a choice for no representative. All  
7 employees in the collective bargaining unit may vote on both questions. Unless a  
8 majority of those employees voting in the election vote to participate in collective  
9 bargaining, no votes for a particular representative may be counted. If a majority  
10 of those employees voting in the election vote to participate in collective bargaining,  
11 the ballots for representatives shall be counted. The commission's certification of the  
12 results of any election is conclusive as to the findings included therein unless  
13 reviewed under s. 111.07 (8).

14 (3) Whenever an election has been conducted under sub. (2) in which a majority  
15 of the employees voting indicate a desire to participate in collective bargaining but  
16 in which no named representative is favored by a majority of the employees voting,  
17 the commission may, if requested by a party to the proceeding within 30 days from  
18 the date of the certification of the results of the election, conduct a runoff election.  
19 In that runoff election, the commission shall drop from the ballot the name of the  
20 representative who received the least number of votes at the original election.

21 (4) While a collective bargaining agreement between a labor organization and  
22 an employer is in force under this subchapter, a petition for an election in the  
23 collective bargaining unit to which the agreement applies may only be filed during  
24 October in the calendar year prior to the expiration of that agreement. An election  
25 held under that petition may be held only if the petition is supported by proof that

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1 at least 30 percent of the employees in the collective bargaining unit desire a change  
2 or discontinuance of existing representation. Within 60 days of the time that an  
3 original petition is filed, another petition may be filed supported by proof that at least  
4 10 percent of the employees in the same collective bargaining unit desire a different  
5 representative. If a majority of the employees in the collective bargaining unit vote  
6 for a change or discontinuance of representation by any named representative, the  
7 decision takes effect upon expiration of any existing collective bargaining agreement  
8 between the employer and the existing representative.

9 **111.991 Unfair labor practices. (1)** It is an unfair labor practice for an  
10 employer individually or in concert with others:

11 (a) To interfere with, restrain, or coerce employees in the exercise of their rights  
12 guaranteed under s. 111.97.

13 (b) Except as otherwise provided in this paragraph, to initiate, create,  
14 dominate, or interfere with the formation or administration of any labor or employee  
15 organization or contribute financial support to it. Except as provided in ss. 40.02 (22)  
16 (e) and 40.23 (1) (f) 4., no change in any law affecting the Wisconsin Retirement  
17 System under ch. 40 and no action by the employer that is authorized by such a law  
18 is a violation of this paragraph unless an applicable collective bargaining agreement  
19 specifically prohibits the change or action. No such change or action affects the  
20 continuing duty to bargain collectively regarding the Wisconsin Retirement System  
21 under ch. 40 to the extent required by s. 111.998. It is not an unfair labor practice  
22 for the employer to reimburse an employee at his or her prevailing wage rate for the  
23 time spent during the employee's regularly scheduled hours conferring with the  
24 employer's officers or agents and for attendance at commission or court hearings  
25 necessary for the administration of this subchapter.



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1           (c) To encourage or discourage membership in any labor organization by  
2 discrimination in regard to hiring, tenure, or other terms or conditions of  
3 employment. This paragraph does not apply to fair-share or maintenance of  
4 membership agreements.

5           (d) To refuse to bargain collectively on matters set forth in s. 111.998 with a  
6 representative of a majority of its employees in an appropriate collective bargaining  
7 unit. Whenever the employer has a good faith doubt as to whether a labor  
8 organization claiming the support of a majority of its employees in an appropriate  
9 collective bargaining unit does in fact have that support, it may file with the  
10 commission a petition requesting an election as to that claim. The employer is not  
11 considered to have refused to bargain until an election has been held and the results  
12 of the election are certified to the employer by the commission. A violation of this  
13 paragraph includes the refusal to execute a collective bargaining agreement  
14 previously orally agreed upon.

15           (e) To violate any collective bargaining agreement previously agreed upon by  
16 the parties with respect to wages, hours, and conditions of employment affecting the  
17 employees, including an agreement to arbitrate or to accept the terms of an  
18 arbitration award, when previously the parties have agreed to accept such award as  
19 final and binding upon them.

20           (f) To deduct labor organization dues from an employee's earnings, unless the  
21 employer has been presented with an individual order therefor, signed by the  
22 employee personally, and terminable by at least the end of any year of its life or  
23 earlier by the employee giving at least 30 but not more than 120 days written notice  
24 of such termination to the employer and to the representative labor organization,  
25 except if there is a fair-share or maintenance of membership agreement in effect.

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1 The employer shall give notice to the labor organization of receipt of such notice of  
2 termination.

3 **(1m)** Notwithstanding sub. (1), it is not an unfair labor practice for the board  
4 to implement changes in salaries or conditions of employment for members of the  
5 faculty or academic staff at one institution, and not for other members of the faculty  
6 or academic staff at another institution, but this may be done only if the differential  
7 treatment is based on comparisons with the compensation and working conditions  
8 of employees performing similar services for comparable higher education  
9 institutions or based upon other competitive factors.

10 **(2)** It is unfair practice for an employee individually or in concert with others:

11 (a) To coerce or intimidate an employee in the enjoyment of the employee's legal  
12 rights, including those guaranteed under s. 111.97.

13 (b) To coerce, intimidate, or induce any officer or agent of the employer to  
14 interfere with any of the employer's employees in the enjoyment of their legal rights  
15 including those guaranteed under s. 111.97 or to engage in any practice with regard  
16 to its employees which would constitute an unfair labor practice if undertaken by the  
17 officer or agent on the officer's or agent's own initiative.

18 (c) To refuse to bargain collectively on matters specified in s. 111.998 with the  
19 authorized officer or agent of the employer that is the recognized or certified  
20 exclusive collective bargaining representative of employees specified in s. 111.96 (8)  
21 in an appropriate collective bargaining unit. Such refusal to bargain shall include  
22 a refusal to execute a collective bargaining agreement previously orally agreed upon.

23 (d) To violate the provisions of any written agreement with respect to terms and  
24 conditions of employment affecting employees, including an agreement to arbitrate

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1 or to accept the terms of an arbitration award, when previously the parties have  
2 agreed to accept such awards as final and binding upon them.

3 (e) To engage in, induce, or encourage any employees to engage in a strike or  
4 a concerted refusal to work or perform their usual duties as employees.

5 (f) To coerce or intimidate a supervisory employee, officer, or agent of the  
6 employer, working at the same trade or profession as the employer's employees, to  
7 induce the person to become a member of or act in concert with the labor organization  
8 of which the employee is a member

9 (3) It is an unfair labor practice for any person to do or cause to be done on  
10 behalf of or in the interest of employers or employees, or in connection with or to  
11 influence the outcome of any controversy as to employment relations, any act  
12 prohibited by subs. (1) and (2).

13 (4) Any controversy concerning unfair labor practices may be submitted to the  
14 commission as provided in s. 111.07, except that the commission shall schedule a  
15 hearing on complaints involving alleged violations of sub. (2) (e) within 3 days after  
16 filing of a complaint, and notice shall be given to each party interested by service on  
17 the party personally, or by telegram, advising the party of the nature of the complaint  
18 and of the date, time, and place of hearing. The commission may appoint a substitute  
19 tribunal to hear unfair labor practice charges by either appointing a 3-member panel  
20 or submitting a 7-member panel to the parties and allowing each to strike 2 names.  
21 Any such panel shall report its finding to the commission for appropriate action.

22 **111.992 Fair-share and maintenance of membership agreements. (1)**

23 (a) No fair-share or maintenance of membership agreement may become effective  
24 unless authorized by a referendum. The commission shall order a referendum  
25 whenever it receives a petition supported by proof that at least 30 percent of the

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1 employees or supervisors specified in s. 111.98 (5) in a collective bargaining unit  
2 desire that a fair-share or maintenance of membership agreement be entered into  
3 between the employer and a labor organization. A petition may specify that a  
4 referendum is requested on a maintenance of membership agreement only, in which  
5 case the ballot shall be limited to that question.

6 (b) For a fair-share agreement to be authorized, at least two-thirds of the  
7 eligible employees or supervisors voting in a referendum shall vote in favor of the  
8 agreement. For a maintenance of membership agreement to be authorized, at least  
9 a majority of the eligible employees or supervisors voting in a referendum shall vote  
10 in favor of the agreement. In a referendum on a fair-share agreement, if less than  
11 two-thirds but more than one-half of the eligible employees or supervisors vote in  
12 favor of the agreement, a maintenance of membership agreement is authorized.

13 (c) If a fair-share or maintenance of membership agreement is authorized in  
14 a referendum, the employer shall enter into such an agreement with the labor  
15 organization named on the ballot in the referendum. Each fair-share or  
16 maintenance of membership agreement shall contain a provision requiring the  
17 employer to deduct the amount of dues as certified by the labor organization from the  
18 earnings of the employees or supervisors affected by the agreement and to pay the  
19 amount so deducted to the labor organization. Unless the parties agree to an earlier  
20 date, the agreement shall take effect 60 days after certification by the commission  
21 that the referendum vote authorized the agreement. The employer shall be held  
22 harmless against any claims, demands, suits and other forms of liability made by  
23 employees or supervisors or local labor organizations which may arise for actions  
24 taken by the employer in compliance with this section. All such lawful claims,

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1 demands, suits and other forms of liability are the responsibility of the labor  
2 organization entering into the agreement.

3 (d) Under each fair-share or maintenance of membership agreement, an  
4 employee or supervisor who has religious convictions against dues payments to a  
5 labor organization based on teachings or tenets of a church or religious body of which  
6 he or she is a member shall, on request to the labor organization, have his or her dues  
7 paid to a charity mutually agreed upon by the employee or supervisor and the labor  
8 organization. Any dispute concerning this paragraph may be submitted to the  
9 commission for adjudication.

10 (2) (a) Once authorized, a fair-share or maintenance of membership  
11 agreement shall continue in effect, subject to the right of the employer or labor  
12 organization concerned to petition the commission to conduct a new referendum.  
13 Such a petition must be supported by proof that at least 30 percent of the employees  
14 or supervisors in the collective bargaining unit desire that the fair-share or  
15 maintenance of membership agreement be discontinued. Upon so finding, the  
16 commission shall conduct a new referendum. If the continuance of the fair-share or  
17 maintenance of membership agreement is approved in the referendum by at least the  
18 percentage of eligible voting employees or supervisors required for its initial  
19 authorization, it shall be continued in effect, subject to the right of the employer or  
20 labor organization to later initiate a further vote following the procedure prescribed  
21 in this subsection. If the continuation of the agreement is not supported in any  
22 referendum, it is considered terminated at the termination of the collective  
23 bargaining agreement, or one year from the date of the certification of the result of  
24 the referendum, whichever is earlier.

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1           (b) The commission shall declare any fair-share or maintenance of  
2 membership agreement suspended upon such conditions and for such time as the  
3 commission decides whenever it finds that the labor organization involved has  
4 refused on the basis of race, color, sexual orientation, or creed to receive as a member  
5 any employee or supervisor in the collective bargaining unit involved, and the  
6 agreement shall be made subject to the findings and orders of the commission. Any  
7 of the parties to the agreement, or any employee or supervisor covered under the  
8 agreement, may come before the commission, as provided in s. 111.07, and petition  
9 the commission to make such a finding.

10           (3) A stipulation for a referendum executed by an employer and a labor  
11 organization may not be filed until after the representation election has been held  
12 and the results certified.

13           (4) The commission may, under rules adopted for that purpose, appoint as its  
14 agent an official of a state agency whose employees are entitled to vote in a  
15 referendum to conduct a referendum under this section.

16           **111.993 Grievance arbitration.** (1) Parties to the dispute pertaining to the  
17 interpretation of a collective bargaining agreement may agree in writing to have the  
18 commission or any other appointing state agency serve as arbitrator or may  
19 designate any other competent, impartial, and disinterested persons to so serve.  
20 Such arbitration proceedings shall be governed by ch. 788.

21           (2) The board shall charge an institution for the employer's share of the cost  
22 related to grievance arbitration under sub. (1) for any arbitration that involves one  
23 or more employees of the institution. Each institution so charged shall pay the  
24 amount that the board charges from the appropriation account or accounts used to

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1 pay the salary of the grievant. Funds received under this subsection shall be credited  
2 to the appropriation account under s. 20.545 (1) (km).

3 **111.994 Mediation.** The commission may appoint any competent, impartial,  
4 disinterested person to act as mediator in any labor dispute either upon its own  
5 initiative or upon the request of one of the parties to the dispute. It is the function  
6 of a mediator to bring the parties together voluntarily under such favorable auspices  
7 as will tend to effectuate settlement of the dispute, but neither the mediator nor the  
8 commission shall have any power of compulsion in mediation proceedings.

9 **111.995 Fact-finding. (1)** If a dispute has not been settled after a reasonable  
10 period of negotiation and after the settlement procedures, if any, established by the  
11 parties have been exhausted, the representative that has been certified by the  
12 commission after an election, as the exclusive representative of employees in an  
13 appropriate bargaining unit, and the employer, its officers, and agents, after a  
14 reasonable period of negotiation, are deadlocked with respect to any dispute between  
15 them arising in the collective bargaining process, either party may petition the  
16 commission, in writing, to initiate fact-finding under this section, and to make  
17 recommendations to resolve the deadlock.

18 **(2)** Upon receipt of a petition to initiate fact-finding, the commission shall  
19 make an investigation with or without a formal hearing, to determine whether a  
20 deadlock in fact exists. The commission shall certify the results of the investigation.  
21 If the commission decides that fact-finding should be initiated, it shall appoint a  
22 qualified, disinterested person or, when jointly requested by the parties, a 3-member  
23 panel to function as a fact finder.

24 **(3)** The fact finder may establish dates and place of hearings and shall conduct  
25 the hearings under rules established by the commission. Upon request, the

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1 commission shall issue subpoenas for hearings conducted by the fact finder. The fact  
2 finder may administer oaths. Upon completion of the hearing, the fact finder shall  
3 make written findings of fact and recommendations for solution of the dispute and  
4 shall cause the same to be served on the parties and the commission. In making  
5 findings and recommendations, the fact finder shall take into consideration among  
6 other pertinent factors the principles vital to the public interest in efficient and  
7 economical governmental administration. Upon the request of either party the fact  
8 finder may orally present the recommendations in advance of service of the written  
9 findings and recommendations. Cost of fact-finding proceedings shall be divided  
10 equally between the parties. At the time the fact finder submits a statement of his  
11 or her costs to the parties, the fact finder shall submit a copy thereof to the  
12 commission at its Madison office.

13 (4) A fact finder may mediate a dispute at any time prior to the issuance of the  
14 fact finder's recommendations.

15 (5) Within 30 days of the receipt of the fact finder's recommendations or within  
16 a time period mutually agreed upon by the parties, each party shall advise the other,  
17 in writing, as to the party's acceptance or rejection, in whole or in part, of the fact  
18 finder's recommendations and, at the same time, send a copy of the notification to  
19 the commission at its Madison office. Failure to comply with this subsection, by the  
20 employer or employee representative, is a violation of s. 111.991 (1) (d) or (2) (c).

21 **111.996 Strike prohibited.** (1) Upon establishing that a strike is in progress,  
22 the employer may either seek an injunction or file an unfair labor practice charge  
23 with the commission under s. 111.991 (2) (e) or both. It is the responsibility of the  
24 board to decide whether to seek an injunction or file an unfair labor practice charge.



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1 The existence of an administrative remedy does not constitute grounds for denial of  
2 injunctive relief.

3 (2) The occurrence of a strike and the participation in the strike by an employee  
4 do not affect the rights of the employer, in law or in equity, to deal with the strike,  
5 including all of the following:

6 (a) The right to impose discipline, including discharge, or suspension without  
7 pay, of any employee participating in the strike.

8 (b) The right to cancel the reinstatement eligibility of any employee engaging  
9 in the strike.

10 (c) The right of the employer to request the imposition of fines, either against  
11 the labor organization or the employee engaging in the strike, or to sue for damages  
12 because of such strike activity.

13 **111.997 Management rights.** Nothing in this subchapter shall interfere with  
14 the right of the board, in accordance with this subchapter to do any of the following:

15 (1) Carry out the statutory mandate and goals assigned to the board by the  
16 most appropriate and efficient methods and means and utilize personnel in the most  
17 appropriate and efficient manner possible.

18 (2) Suspend, demote, discharge, or take other appropriate disciplinary action  
19 against the employee; or to lay off employees in the event of lack of work or funds or  
20 under conditions where continuation of such work would be inefficient and  
21 nonproductive.

22 **111.998 Subjects of bargaining.** (1) (a) Except as provided in pars. (b) to (f),  
23 matters subject to collective bargaining to the point of impasse are salaries; fringe  
24 benefits consistent with sub. (2); and hours and conditions of employment.

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1 (b) The board is not required to bargain on management rights under s.  
2 111.997, except that procedures for the adjustment or settlement of grievances or  
3 disputes arising out of any type of disciplinary action in s. 111.997 (2) is a subject of  
4 bargaining.

5 (c) The board is prohibited from bargaining on matters contained in sub. (2).

6 (d) Except as provided in sub. (2) (d) and (e) and ss. 40.02 (22) (e) and 40.23 (1)  
7 (f) 4., all laws governing the Wisconsin Retirement System under ch. 40 and all  
8 actions of the board that are authorized under any such law which apply to  
9 nonrepresented individuals employed by the state shall apply to similarly situated  
10 employees, unless otherwise specifically provided in a collective bargaining  
11 agreement that applies to those employees.

12 (e) Demands relating to retirement and group insurance shall be submitted to  
13 the board at least one year prior to commencement of negotiations.

14 (f) The board is not required to bargain on matters related to employee  
15 occupancy of houses or other lodging provided by the state.

16 **(2)** The board is prohibited from bargaining on:

17 (a) The mission and goals of the board as set forth in the statutes; the  
18 diminution of the right of tenure provided the faculty under s. 36.13, the rights  
19 granted faculty under s. 36.09 (4) and academic staff under s. 36.09 (4m), or the  
20 rights of appointment provided academic staff under s. 36.15; or academic freedom.

21 (b) Amendments to this subchapter.

22 (c) Family leave and medical leave rights below the minimum afforded under  
23 s. 103.10. Nothing in this paragraph prohibits the board from bargaining on rights  
24 to family leave or medical leave which are more generous to the employee than the  
25 rights provided under s. 103.10.

**BILL**

- 1           (d) An increase in benefit adjustment contribution rates under s. 40.05 (2n) (a)
- 2           3.
- 3           (e) The rights of employees to have retirement benefits computed under s.
- 4           40.30.
- 5           (f) Honesty testing requirements that provide fewer rights and remedies to
- 6           employees than are provided under s. 111.37.
- 7           (h) Creditable service to which s. 40.285 (2) (b) 4. applies.
- 8           (i) Compliance with the health benefit plan requirements under ss. 632.746 (1)
- 9           to (8) and (10), 632.747, and 632.748.
- 10          (j) Compliance with the insurance requirements under s. 631.95.
- 11          (k) The definition of earnings under s. 40.02 (22).
- 12          (L) The maximum benefit limitations under s. 40.31
- 13          (m) The limitations on contributions under s. 40.32.
- 14          (n) The provision to employees of the health insurance coverage required under
- 15          s. 632.895 (11) to (14).
- 16          (o) The requirements related to coverage of and prior authorization for
- 17          treatment of an emergency medical condition under s. 632.85.
- 18          (p) The requirements related to coverage of drugs and devices under s. 632.853.
- 19          (q) The requirements related to experimental treatment under s. 632.855.
- 20          (r) The requirements under s. 609.10 related to offering a point-of-service
- 21          option plan.
- 22          (s) The requirements related to internal grievance procedures under s. 632.83
- 23          and independent review of certain health benefit plan determinations under s.
- 24          632.835.

**BILL****SECTION 34**

1           **(3)** Upon request, the chancellor at each institution, or his or her designee,  
2 shall meet and confer with the collective bargaining representative, if any, with  
3 regard to any issue that is a permissive subject of bargaining, except when the issue  
4 is under active consideration by a governance organization under s. 36.09 (4) or (4m).

5           **111.999 Labor proposals.** The board shall notify and consult with the joint  
6 committee on employment relations, in such form and detail as the committee  
7 requests, regarding substantial changes in wages, employee benefits, personnel  
8 management, and program policy contract provisions to be included in any contract  
9 proposal to be offered to any labor organization by the state or to be agreed to by the  
10 state before such proposal is actually offered or accepted.

11           **111.9991 Agreements. (1)** Any tentative agreement reached between the  
12 board, acting for the state, and any labor organization representing a collective  
13 bargaining unit specified in s. 111.98 shall, after official ratification by the labor  
14 organization, be submitted by the board to the joint committee on employment  
15 relations, which shall hold a public hearing before determining its approval or  
16 disapproval. If the committee approves the tentative agreement, it shall introduce  
17 in a bill or companion bills, to be put on the calendar or referred to the appropriate  
18 scheduling committee of each house, that portion of the tentative agreement which  
19 requires legislative action for implementation, such as salary and wage adjustments,  
20 changes in fringe benefits, and any proposed amendments, deletions, or additions to  
21 existing law. Such bill or companion bills are not subject to ss. 13.093 (1), 13.50 (6)  
22 (a) and (b), and 16.47 (2). The committee may, however, submit suitable portions of  
23 the tentative agreement to appropriate legislative committees for advisory  
24 recommendations on the proposed terms. The committee shall accompany the  
25 introduction of such proposed legislation with a message that informs the legislature

**BILL**

1 of the committee's concurrence with the matters under consideration and that  
2 recommends the passage of such legislation without change. If the joint committee  
3 on employment relations does not approve the tentative agreement, it shall be  
4 returned to the parties for renegotiation. If the legislature does not adopt without  
5 change that portion of the tentative agreement introduced by the joint committee on  
6 employment relations, the tentative agreement shall be returned to the parties for  
7 renegotiation.

8 (2) No portion of any tentative agreement shall become effective separately.

9 (3) Agreements shall coincide with the fiscal year or biennium.

10 (4) The negotiation of collective bargaining agreements and their approval by  
11 the parties should coincide with the overall fiscal planning and processes of the state.

12 (5) All compensation adjustments for employees shall be effective on the  
13 beginning date of the pay period nearest the statutory or administrative date.

14 **111.9992 Status of existing benefits and rights.** Unless a prohibited  
15 subject of bargaining under s. 111.998 (2), and except as provided in ss. 7.33 (4),  
16 40.05, 40.80 (3), 111.998 (1) (d), and 230.35 (2d) and (3) (e) 6., all statutes and rules  
17 governing the salaries, fringe benefits, hours, and conditions of employment apply  
18 to each employee, unless otherwise provided in a collective bargaining agreement.

19 **111.9993 Rules, transcripts, fees.** (1) The commission may adopt  
20 reasonable and proper rules relative to the exercise of its powers and authority and  
21 proper rules to govern its proceedings and to regulate the conduct of all elections and  
22 hearings under this subchapter. The commission shall, upon request, provide a  
23 transcript of a proceeding to any party to the proceeding for a fee, established by rule,  
24 by the commission at a uniform rate per page. All transcript fees shall be credited  
25 to the appropriation account under s. 20.425 (1) (i).

**BILL**

1           (2) The commission shall assess and collect a filing fee for filing a complaint  
2 alleging that an unfair labor practice has been committed under s. 111.991. The  
3 commission shall assess and collect a filing fee for filing a request that the  
4 commission act as an arbitrator to resolve a dispute involving the interpretation or  
5 application of a collective bargaining agreement under s. 111.993. The commission  
6 shall assess and collect a filing fee for filing a request that the commission initiate  
7 fact-finding under s. 111.995. The commission shall assess and collect a filing fee  
8 for filing a request that the commission act as a mediator under s. 111.994. For the  
9 performance of commission actions under ss. 111.993, 111.994, and 111.995, the  
10 commission shall require that the parties to the dispute equally share in the payment  
11 of the fee and, for the performance of commission actions involving a complaint  
12 alleging that an unfair labor practice has been committed under s. 111.991, the  
13 commission shall require that the party filing the complaint pay the entire fee. If any  
14 party has paid a filing fee requesting the commission to act as a mediator for a labor  
15 dispute and the parties do not enter into a voluntary settlement of the labor dispute,  
16 the commission may not subsequently assess or collect a filing fee to initiate  
17 fact-finding to resolve the same labor dispute. If any request concerns issues arising  
18 as a result of more than one unrelated event or occurrence, each such separate event  
19 or occurrence shall be treated as a separate request. The commission shall  
20 promulgate rules establishing a schedule of filing fees to be paid under this  
21 subsection. Fees required to be paid under this subsection shall be paid at the time  
22 of filing the complaint or the request for fact-finding, mediation, or arbitration. A  
23 complaint or request for fact-finding, mediation, or arbitration is not filed until the  
24 date such fee or fees are paid. Fees collected under this subsection shall be credited  
25 to the appropriation account under s. 20.425 (1) (i).

**BILL**

1           **SECTION 35.** 230.01 (3) of the statutes is amended to read:

2           230.01 **(3)** Nothing in this chapter shall be construed to either infringe upon  
3 or supersede the rights guaranteed state employees under subch. V or VI of ch. 111.

4           **SECTION 36.** 230.046 (10) (a) of the statutes is amended to read:

5           230.046 **(10)** (a) Conduct off-the-job employee development and training  
6 programs relating to functions under this chapter or subch. V or VI of ch. 111.

7           **SECTION 37.** 230.12 (3) (e) 1. of the statutes is amended to read:

8           230.12 **(3)** (e) 1. The director, after receiving recommendations from the board  
9 of regents, shall submit to the joint committee on employment relations a proposal  
10 for adjusting compensation and employee benefits for employees under ss. 20.923  
11 (4g), (5) and (6) (m) and 230.08 (2) (d) who are not included in a collective bargaining  
12 unit under subch. V or VI of ch. 111 for which a representative is certified. The  
13 proposal shall include the salary ranges and adjustments to the salary ranges for the  
14 university senior executive salary groups 1 and 2 established under s. 20.923 (4g).  
15 The proposal shall be based upon the competitive ability of the board of regents to  
16 recruit and retain qualified faculty and academic staff, data collected as to rates of  
17 pay for comparable work in other public services, universities and commercial and  
18 industrial establishments, recommendations of the board of regents and any special  
19 studies carried on as to the need for any changes in compensation and employee  
20 benefits to cover each year of the biennium. The proposal shall also take proper  
21 account of prevailing pay rates, costs and standards of living and the state's  
22 employment policies. The proposal for such pay adjustments may contain  
23 recommendations for across-the-board pay adjustments, merit or other  
24 adjustments and employee benefit improvements. Paragraph (b) and sub. (1) (bf)  
25 shall apply to the process for approval of all pay adjustments for such employees

**BILL****SECTION 37**

1 under ss. 20.923 (4g), (5) and (6) (m) and 230.08 (2) (d). The proposal as approved  
2 by the joint committee on employment relations and the governor shall be based  
3 upon a percentage of the budgeted salary base for such employees under ss. 20.923  
4 (4g), (5) and (6) (m) and 230.08 (2) (d). The amount included in the proposal for merit  
5 and adjustments other than across-the-board pay adjustments is available for  
6 discretionary use by the board of regents.

7 **SECTION 38.** 230.35 (2d) (e) of the statutes is amended to read:

8 230.35 **(2d)** (e) For employees who are included in a collective bargaining unit  
9 for which a representative is recognized or certified under subch. V or VI of ch. 111,  
10 this subsection shall apply unless otherwise provided in a collective bargaining  
11 agreement.

12 **SECTION 39.** 230.35 (3) (e) 6. of the statutes is amended to read:

13 230.35 **(3)** (e) 6. For employees who are included in a collective bargaining unit  
14 for which a representative is recognized or certified under subch. V or VI of ch. 111,  
15 this paragraph shall apply unless otherwise provided in a collective bargaining  
16 agreement.

17 **SECTION 40.** 230.88 (2) (b) of the statutes is amended to read:

18 230.88 **(2)** (b) No collective bargaining agreement supersedes the rights of an  
19 employee under this subchapter. However, nothing in this subchapter affects any  
20 right of an employee to pursue a grievance procedure under a collective bargaining  
21 agreement under subch. V or VI of ch. 111, and if the division of equal rights  
22 determines that a grievance arising under such a collective bargaining agreement  
23 involves the same parties and matters as a complaint under s. 230.85, it shall order  
24 the arbitrator's final award on the merits conclusive as to the rights of the parties



**BILL**

1 to the complaint, on those matters determined in the arbitration which were at issue  
2 and upon which the determination necessarily depended.

3 (END)

*O-Note*

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

1352/1dn  
LRB-1285/P1dn  
RAC&CMH:kjffs

Stays

January 4, 2007 *date*

R.J.?  
~~etc.~~

Please find attached a redraft of 2005 SB 452, a draft establishing a collective bargaining process and collective bargaining rights for faculty and academic staff at the University of Wisconsin (UW). We raised the following points last session regarding 2005 SB 452 (please contact us if you wish to discuss them any further; otherwise they're for your information only):

1. The draft changes the definition of "employee" under s. 111.96 (7) (a) to include specifically supervisors, management employees, and individuals who are privy to confidential matters affecting the employer-employee relationship. The only faculty members who do not have the option of collective bargaining are faculty members holding a limited appointment under s. 36.17. Thus, there is no reason also to direct WERC not to exclude faculty from collective bargaining solely because they are also supervisors or to direct WERC not to follow any judicial interpretation of federal law regarding the status of private sector university faculty. These directives could just as well result in confusion rather than clarity. Under this new subchapter, all faculty are employees, with the exception of those holding limited appointments under s. 36.17.
2. Current LRB policy is to exclude in the statutes any policy or intent statements. The reason is that we are unsure of their legal effect and would much rather state clearly any legal effect that the legislature intends rather than have a court infer a legal effect that the legislature did not intend. For the purpose of discerning legislative intent, the courts have access to LRB drafting files for all enacted legislation; hence, there is no need to include such statements as part of legislation when these statements can be easily accessed in the drafting files. We should also point out that Wisconsin is largely unique among states in that it allows judicial and public access to the drafting files for the purpose of constructing legislative history. Nonetheless, we have included the policy and intent statements in the draft in s. 111.95 (1) and (2).

Section 111.95 (1) states that "The people of the state of Wisconsin have a fundamental interest in developing harmonious and cooperative labor relations within the University of Wisconsin System." This language appears to be simply flourish; at the very most, it seems to affirm that there is a public purpose for permitting collective bargaining within the UW System. We don't believe that there is any legal issue as to whether granting UW faculty and academic staff collective bargaining rights violates the public purpose doctrine. Hence, we are unsure what the language is doing.

Section 111.95 (2) states that the subchapter "recognizes that there are 3 major interests involved: that of the public, that of the employee, and that of the employer. These 3 interests are to a considerable extent interrelated. It is the policy of this state to protect and promote each of these interests with due regard to the rights of the others." We are not entirely sure what this language is doing, but we believe it may be more than flourish and may in fact be creating law. After all, the last sentence provides that it is Wisconsin policy "to protect and promote each of these interests with due regard to the rights of the others." A court could interpret this language as providing that any collective bargaining agreement that did not protect the interests of the public or did not give due regards to the rights of all of the interests involved in the collective bargaining process is unlawful. Is this your intent? If this is your intent, we could state this a lot more clearly in language that would have clear legal effect.

Please review this draft to make sure that it fulfills your intent. If you have any questions at all about the draft, please contact us.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

Cathlene Hanaman  
Legislative Attorney  
Phone: (608) 267-9810  
E-mail: cathlene.hanaman@legis.state.wi.us

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

LRB-1352/1dn  
CMH&RAC:kjf:pg

January 5, 2007

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E-mail: cathlene.hanaman@legis.state.wi.us