



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1352/3
CMH&RAC:kjf: *4*

d-note

DOA:.....Binau, BB0275 - Collective bargaining process for University of Wisconsin faculty

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT *don't you cat.*; relating to: collective bargaining process for University of Wisconsin
2 System faculty and academic staff and making appropriations.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Under current law, faculty and academic staff of the 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.

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

with one unit

all

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.

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

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

1 13.111 (2) DUTIES. The joint committee on employment relations shall perform
2 the functions assigned to it under ~~subch.~~ subchs. V and VI of ch. 111, subch. II of ch.
3 230 and ss. 16.53 (1) (d) 1., 20.916, 20.917, 20.923 and 40.05 (1) (b).

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

5 16.50 (3) (e) No pay increase may be approved unless it is at the rate or within
6 the pay ranges prescribed in the compensation plan or as provided in a collective
7 bargaining agreement under subch. V or VI of ch. 111.

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

9 16.705 (3) (c) Do not enter into any contract for contractual services in conflict
10 with any collective bargaining agreement under subch. V or VI of ch. 111.

11 **SECTION 5.** 19.85 (3) of the statutes is amended to read:

12 19.85 (3) Nothing in this subchapter shall be construed to authorize a
13 governmental body to consider at a meeting in closed session the final ratification or
14 approval of a collective bargaining agreement under subch. I, IV ~~or~~, V, or VI of ch. 111
15 which has been negotiated by such body or on its behalf.

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

17 **19.86 Notice of collective bargaining negotiations.** Notwithstanding s.
18 19.82 (1), where notice has been given by either party to a collective bargaining
19 agreement under subch. I, IV ~~or~~, V, or VI of ch. 111 to reopen such agreement at its
20 expiration date, the employer shall give notice of such contract reopening as provided
21 in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be given
22 by the employer's chief officer or such person's designee. This section does not apply
23 to a nonprofit corporation operating the Olympic Ice Training Center under s. 42.11
24 (3).

25 **SECTION 7.** 20.425 (1) (a) of the statutes is amended to read:

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

3 **SECTION 8.** 20.545 (1) (a) of the statutes is amended to read:

4 20.545 (1) (a) *General program operations.* The amounts in the schedule to
5 administer the employment relations functions and the civil service system under
6 ~~subch.~~ subchs. V and VI of ch. 111 and ch. 230, to pay awards under s. 230.48 and to
7 defray the expenses of the state employees suggestion board.

8 **SECTION 9.** 20.865 (1) (ci) of the statutes is amended to read:

9 20.865 (1) (ci) *Nonrepresented university system senior executive, faculty and*
10 *academic pay adjustments.* A sum sufficient to pay the cost of pay and related
11 adjustments approved by the joint committee on employment relations under s.
12 230.12 (3) (e) for University of Wisconsin System employees under ss. 20.923 (4g), (5)
13 and (6) (m) and 230.08 (2) (d) who are not included within a collective bargaining unit
14 for which a representative is certified under subch. V or VI of ch. 111, as determined
15 under s. 20.928, other than adjustments funded under par. (cj).

16 **SECTION 10.** 20.865 (1) (cm) of the statutes is created to read:

17 20.865 (1) (cm) *Represented university system faculty and academic staff pay*
18 *adjustments.* A sum sufficient to supplement the appropriations to the Board of
19 Regents of the University of Wisconsin System for the cost of compensation and
20 related adjustments approved by the legislature under s. 111.9991 for University of
21 Wisconsin System employees under s. 230.08 (2) (d) who are included within a
22 collective bargaining unit for which a representative is certified under subch. VI of
23 ch. 111, as determined under s. 20.928.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **SECTION 11.** 20.865 (1) (ic) of the statutes is amended to read:

2 20.865 (1) (ic) *Nonrepresented university system senior executive, faculty and*
3 *academic pay adjustments.* From the appropriate program revenue and program
4 revenue-service accounts, a sum sufficient to supplement the appropriations to the
5 University of Wisconsin System to pay the cost of pay and related adjustments
6 approved by the joint committee on employment relations under s. 230.12 (3) (e) for
7 University of Wisconsin System employees under ss. 20.923 (4g), (5) and (6) (m) and
8 230.08 (2) (d) who are not included within a collective bargaining unit for which a
9 representative is certified under subch. V or VI of ch. 111, as determined under s.
10 20.928, other than adjustments funded under par. (cj).

11 **SECTION 12.** 20.865 (1) (im) of the statutes is created to read:

12 20.865 (1) (im) *Represented university system faculty and academic staff pay*
13 *adjustments; program revenue.* From the appropriate program revenue and program
14 revenue-service accounts, a sum sufficient to supplement the appropriations to the
15 Board of Regents of the University of Wisconsin System for the cost of compensation
16 and related adjustments approved by the joint committee on employment relations
17 under s. 230.12 (3) (e) for University of Wisconsin System employees under s. 230.08
18 (2) (d) who are included within a collective bargaining unit for which a representative
19 is certified under subch. VI of ch. 111, as determined under s. 20.928.

 ***NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

20 **SECTION 13.** 20.865 (1) (si) of the statutes is amended to read:

21 20.865 (1) (si) *Nonrepresented university system senior executive, faculty and*
22 *academic pay adjustments.* From the appropriate segregated funds, a sum sufficient
23 to supplement the appropriations to the University of Wisconsin System to pay the

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

6 **SECTION 14.** 20.865 (1) (sm) of the statutes is created to read:

7 20.865 (1) (sm) *Represented university system faculty and academic staff pay*
8 *adjustments; segregated revenues.* From the appropriate segregated funds, a sum
9 sufficient to supplement the appropriations to the Board of Regents of the University
10 of Wisconsin System for the cost of compensation and related adjustments approved
11 by the joint committee on employment relations under s. 230.12 (3) (e) for University
12 of Wisconsin System employees under s. 230.08 (2) (d) who are included within a
13 collective bargaining unit for which a representative is certified under subch. VI of
14 ch. 111, as determined under s. 20.928.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

15 **SECTION 15.** 20.917 (3) (b) of the statutes is amended to read:

16 20.917 (3) (b) This subsection applies to employees in all positions in the civil
17 service, including those employees in positions included in collective bargaining
18 units under subch. V or VI of ch. 111, whether or not the employees are covered by
19 a collective bargaining agreement.

20 **SECTION 16.** 20.923 (6) (intro.) of the statutes is amended to read:

21 20.923 (6) SALARIES SET BY APPOINTING AUTHORITIES. (intro.) Salaries for the
22 following positions may be set by the appointing authority, subject to restrictions
23 otherwise set forth in the statutes and the compensation plan under s. 230.12, except

1 where the salaries are a subject of bargaining with a certified representative of a
2 collective bargaining unit under s. 111.91 or 111.998:

3 **SECTION 17.** 20.928 (1) of the statutes is amended to read:

4 20.928 (1) Each state agency head shall certify to the department of
5 administration, at such time and in such manner as the secretary of administration
6 prescribes, the sum of money needed by the state agency from the appropriations
7 under s. 20.865 (1) (c), (ci), (cm), (cj), (d), (i), (ic), (im), (j), (s), (si), (sm), and (t). Upon
8 receipt of the certifications together with such additional information as the
9 secretary of administration prescribes, the secretary shall determine the amounts
10 required from the respective appropriations to supplement state agency budgets.

11 **SECTION 18.** 36.09 (1) (j) of the statutes is amended to read:

12 36.09 (1) (j) Except where such matters are a subject of bargaining with a
13 certified representative of a collective bargaining unit under s. 111.91 or 111.998, the
14 board shall establish salaries for persons not in the classified staff prior to July 1 of
15 each year for the next fiscal year, and shall designate the effective dates for payment
16 of the new salaries. In the first year of the biennium, payments of the salaries
17 established for the preceding year shall be continued until the biennial budget bill
18 is enacted. If the budget is enacted after July 1, payments shall be made following
19 enactment of the budget to satisfy the obligations incurred on the effective dates, as
20 designated by the board, for the new salaries, subject only to the appropriation of
21 funds by the legislature and s. 20.928 (3). This paragraph does not limit the
22 authority of the board to establish salaries for new appointments. The board may
23 not increase the salaries of employees specified in ss. 20.923 (5) and (6) (m) and
24 230.08 (2) (d) under this paragraph unless the salary increase conforms to the
25 proposal as approved under s. 230.12 (3) (e) or the board authorizes the salary

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1 increase to correct salary inequities under par. (h), to fund job reclassifications or
2 promotions, or to recognize competitive factors. The board may not increase the
3 salary of any position identified in s. 20.923 (4g) under this paragraph unless the
4 salary increase conforms to the proposal as approved under s. 230.12 (3) (e) or the
5 board authorizes the salary increase to correct a salary inequity or to recognize
6 competitive factors. The board may not increase the salary of any position identified
7 in s. 20.923 (4g) (ae) and (am) to correct a salary inequity that results from the
8 appointment of a person to a position identified in s. 20.923 (4g) (ae) and (am) unless
9 the increase is approved by the office of state employment relations. The granting
10 of salary increases to recognize competitive factors does not obligate inclusion of the
11 annualized amount of the increases in the appropriations under s. 20.285 (1) for
12 subsequent fiscal bienniums. No later than October 1 of each year, the board shall
13 report to the joint committee on finance and the secretary of administration and
14 director of the office of state employment relations concerning the amounts of any
15 salary increases granted to recognize competitive factors, and the institutions at
16 which they are granted, for the 12-month period ending on the preceding June 30.

17 **SECTION 19.** 40.02 (25) (b) 8. of the statutes is amended to read:

18 40.02 (25) (b) 8. Any other state employee for whom coverage is authorized
19 under a collective bargaining agreement pursuant to subch. I or, V, or VI of ch. 111
20 or under s. 230.12 or 233.10.

21 **SECTION 20.** 40.05 (1) (b) of the statutes is amended to read:

22 40.05 (1) (b) In lieu of employee payment, the employer may pay all or part of
23 the contributions required by par. (a), but all the payments shall be available for
24 benefit purposes to the same extent as required contributions deducted from
25 earnings of the participating employees. Action to assume employee contributions

1 as provided under this paragraph shall be taken at the time and in the form
2 determined by the governing body of the participating employer. The state shall pay
3 under this paragraph for employees who are covered by a collective bargaining
4 agreement under subch. V or VI of ch. 111 and for employees whose fringe benefits
5 are determined under s. 230.12 an amount equal to 4% of the earnings paid by the
6 state unless otherwise provided in a collective bargaining agreement under subch.
7 V or VI of ch. 111 or unless otherwise determined under s. 230.12. The University
8 of Wisconsin Hospitals and Clinics Authority shall pay under this paragraph for
9 employees who are covered by a collective bargaining agreement under subch. I of
10 ch. 111 and for employees whose fringe benefits are determined under s. 233.10 an
11 amount equal to 4% of the earnings paid by the authority unless otherwise provided
12 in a collective bargaining agreement under subch. I of ch. 111 or unless otherwise
13 determined under s. 233.10. The state shall pay under this paragraph for employees
14 who are not covered by a collective bargaining agreement under subch. V or VI of ch.
15 111 and for employees whose fringe benefits are not determined under s. 230.12 an
16 amount equal to 4% of the earnings paid by the state unless a different amount is
17 recommended by the director of the office of state employment relations and
18 approved by the joint committee on employment relations in the manner provided
19 for approval of changes in the compensation plan under s. 230.12 (3). The University
20 of Wisconsin Hospitals and Clinics Authority shall pay under this paragraph for its
21 employees who are not covered by a collective bargaining agreement under subch.
22 I of ch. 111 an amount equal to 4% of the earnings paid by the authority unless a
23 different amount is established by the board of directors of the authority under s.
24 233.10.

25 **SECTION 21.** 40.05 (4) (ag) (intro.) of the statutes is amended to read:

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

5 **SECTION 22.** 40.05 (4) (ar) of the statutes is amended to read:

6 40.05 (4) (ar) The employer shall pay under par. (a) for employees who are not
7 covered by a collective bargaining agreement under subch. I ~~or~~ V, or VI of ch. 111 and
8 for employees whose health insurance premium contribution rates are not
9 determined under s. 230.12 or 233.10 an amount equal to the amount specified in par.
10 (ag) unless a different amount is recommended by the director of the office of state
11 employment relations and approved by the joint committee on employment relations
12 in the manner provided for approval of changes in the compensation plan under s.
13 230.12 (3).

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

15 40.05 (4) (b) Except as provided under pars. (bc) and (bp), accumulated unused
16 sick leave under ss. 13.121 (4), 36.30, 230.35 (2), 233.10, and 757.02 (5) and subch.
17 I ~~or~~ V, or VI of ch. 111 of any eligible employee shall, at the time of death, upon
18 qualifying for an immediate annuity or for a lump sum payment under s. 40.25 (1)
19 or upon termination of creditable service and qualifying as an eligible employee
20 under s. 40.02 (25) (b) 6. or 10., be converted, at the employee's highest basic pay rate
21 he or she received while employed by the state, to credits for payment of health
22 insurance premiums on behalf of the employee or the employee's surviving insured
23 dependents. Any supplemental compensation that is paid to a state employee who
24 is classified under the state classified civil service as a teacher, teacher supervisor,
25 or education director for the employee's completion of educational courses that have

1 been approved by the employee's employer is considered as part of the employee's
2 basic pay for purposes of this paragraph. The full premium for any eligible employee
3 who is insured at the time of retirement, or for the surviving insured dependents of
4 an eligible employee who is deceased, shall be deducted from the credits until the
5 credits are exhausted and paid from the account under s. 40.04 (10), and then
6 deducted from annuity payments, if the annuity is sufficient. The department shall
7 provide for the direct payment of premiums by the insured to the insurer if the
8 premium to be withheld exceeds the annuity payment. Upon conversion of an
9 employee's unused sick leave to credits under this paragraph or par. (bf), the
10 employee or, if the employee is deceased, the employee's surviving insured
11 dependents may initiate deductions from those credits or may elect to delay
12 initiation of deductions from those credits, but only if the employee or surviving
13 insured dependents are covered by a comparable health insurance plan or policy
14 during the period beginning on the date of the conversion and ending on the date on
15 which the employee or surviving insured dependents later elect to initiate
16 deductions from those credits. If an employee or an employee's surviving insured
17 dependents elect to delay initiation of deductions from those credits, an employee or
18 the employee's surviving insured dependents may only later elect to initiate
19 deductions from those credits during the annual enrollment period under par. (be).
20 A health insurance plan or policy is considered comparable if it provides hospital and
21 medical benefits that are substantially equivalent to the standard health insurance
22 plan established under s. 40.52 (1).

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

24 40.05 (4) (bw) On converting accumulated unused sick leave to credits for the
25 payment of health insurance premiums under par. (b), the department shall add

1 additional credits, calculated in the same manner as are credits under par. (b), that
2 are based on a state employee's accumulated sabbatical leave or earned vacation
3 leave from the state employee's last year of service prior to retirement, or both. The
4 department shall apply the credits awarded under this paragraph for the payment
5 of health insurance premiums only after the credits awarded under par. (b) are
6 exhausted. This paragraph applies only to state employees who are eligible for
7 accumulated unused sick leave conversion under par. (b) and who are entitled to the
8 benefits under this paragraph pursuant to a collective bargaining agreement under
9 subch. V or VI of ch. 111.

10 **SECTION 25.** 40.05 (4g) (a) 4. of the statutes is amended to read:

11 40.05 (4g) (a) 4. Has received a military leave of absence under s. 230.32 (3) (a)
12 or 230.35 (3), under a collective bargaining agreement under subch. V or VI of ch. 111
13 or under rules promulgated by the director of the office of state employment relations
14 or is eligible for reemployment with the state under s. 21.79 after completion of his
15 or her service in the U.S. armed forces.

16 **SECTION 26.** 40.05 (5) (intro.) of the statutes is amended to read:

17 40.05 (5) INCOME CONTINUATION INSURANCE PREMIUMS. (intro.) For the income
18 continuation insurance provided under subch. V the employee shall pay the amount
19 remaining after the employer has contributed the following or, if different, the
20 amount determined under a collective bargaining agreement under subch. I or, V, or
21 VI of ch. 111 or s. 230.12 or 233.10:

22 **SECTION 27.** 40.05 (5) (b) 4. of the statutes is amended to read:

23 40.05 (5) (b) 4. The accrual and crediting of sick leave shall be determined in
24 accordance with ss. 13.121 (4), 36.30, 230.35 (2), 233.10 and 757.02 (5) and subch. I
25 or, V, or VI of ch. 111.

1 **SECTION 28.** 40.05 (6) (a) of the statutes is amended to read:

2 40.05 (6) (a) Except as otherwise provided in accordance with a collective
3 bargaining agreement under subch. I ~~or~~ V, or VI of ch. 111 or s. 230.12 or 233.10, each
4 insured employee under the age of 70 and annuitant under the age of 65 shall pay
5 for group life insurance coverage a sum, approved by the group insurance board,
6 which shall not exceed 60 cents monthly for each \$1,000 of group life insurance,
7 based upon the last amount of insurance in force during the month for which
8 earnings are paid. The equivalent premium may be fixed by the group insurance
9 board if the annual compensation is paid in other than 12 monthly installments.

10 **SECTION 29.** 40.62 (2) of the statutes is amended to read:

11 40.62 (2) Sick leave accumulation shall be determined in accordance with rules
12 of the department, any collective bargaining agreement under subch. I ~~or~~ V, or VI
13 of ch. 111, and ss. 13.121 (4), 36.30, 230.35 (2), 233.10, 757.02 (5) and 978.12 (3).

14 **SECTION 30.** 40.80 (3) of the statutes is amended to read:

15 40.80 (3) Any action taken under this section shall apply to employees covered
16 by a collective bargaining agreement under subch. V or VI of ch. 111.

17 **SECTION 31.** 40.81 (3) of the statutes is amended to read:

18 40.81 (3) Any action taken under this section shall apply to employees covered
19 by a collective bargaining agreement under subch. IV or V, or VI of ch. 111.

20 **SECTION 32.** 40.95 (1) (a) 2. of the statutes is amended to read:

21 40.95 (1) (a) 2. The employee has his or her compensation established in a
22 collective bargaining agreement under subch. V or VI of ch. 111.

23 **SECTION 33.** Subchapter VI of chapter 111 [precedes 111.95] of the statutes is
24 created to read:

25

CHAPTER 111

1 SUBCHAPTER VI

2 UNIVERSITY OF WISCONSIN SYSTEM

3 FACULTY AND ACADEMIC STAFF

4 LABOR RELATIONS

5 **111.95 Declaration of policy.** The public policy of the state as to labor
6 relations and collective bargaining involving faculty and academic staff at the
7 University of Wisconsin System, in furtherance of which this subchapter is enacted,
8 is as follows:

9 (1) The people of the state of Wisconsin have a fundamental interest in
10 developing harmonious and cooperative labor relations within the University of
11 Wisconsin System.

12 (2) It recognizes that there are 3 major interests involved: that of the public,
13 that of the employee, and that of the employer. These 3 interests are to a considerable
14 extent interrelated. It is the policy of this state to protect and promote each of these
15 interests with due regard to the rights of the others.

16 **111.96 Definitions.** In this subchapter:

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

20 (2) "Board" means the Board of Regents of the University of Wisconsin System.

21 (3) "Collective bargaining" means the performance of the mutual obligation of
22 the state as an employer, by its officers and agents, and the representatives of its
23 employees, to meet and confer at reasonable times, in good faith, with respect to the
24 subjects of bargaining provided in s. 111.998 with the intention of reaching an
25 agreement, or to resolve questions arising under such an agreement. The duty to

1 bargain, however, does not compel either party to agree to a proposal or require the
2 making of a concession. Collective bargaining includes the reduction of any
3 agreement reached to a written and signed document.

4 (4) "Collective bargaining unit" means a unit established under s. 111.98 (1).

5 (5) "Commission" means the employment relations commission.

6 (6) "Election" means a proceeding conducted by the commission in which the
7 employees in a collective bargaining unit cast a secret ballot for collective bargaining
8 representatives, or for any other purpose specified in this subchapter.

9 (7) "Employee" includes:

10 (a) All faculty, including specifically ^{except} faculty who are supervisors, or
11 management employees, ~~but not including~~ ^{and except for} faculty holding a limited appointment
12 under s. 36.17 or deans. ^{who held}

13 (b) All academic staff, except for supervisors, management employees, and
14 individuals who are privy to confidential matters affecting the employer-employee
15 relationship. ^{and individuals who are privy to confidential matters affecting the employer-employee relationship}

16 (8) "Employer" means the state of Wisconsin.

17 (9) "Faculty" has the meaning given in s. 36.05 (8), except for an individual ^{stays}
18 holding an appointment under s. 36.15 (1), (2), (2m), or (3).

19 (10) "Fair-share agreement" means an agreement between the employer and
20 a labor organization representing employees under which all of the employees in a
21 collective bargaining unit are required to pay their proportionate share of the cost
22 of the collective bargaining process and contract administration measured by the
23 amount of dues uniformly required of all members.

24 (11) "Institution" has the meaning given in s. 36.05 (9).

1 (12) "Labor dispute" means any controversy with respect to the subjects of
2 bargaining provided in this subchapter.

3 (13) "Labor organization" means any employee organization whose purpose is
4 to represent employees in collective bargaining with the employer, or its agents, on
5 matters pertaining to terms and conditions of employment, but does not include any
6 organization that does any of the following:

7 (a) Advocates the overthrow of the constitutional form of government in the
8 United States.

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

11 (14) "Maintenance of membership agreement" means an agreement between
12 the employer and a labor organization representing employees that requires that all
13 of the employees whose dues are being deducted from earnings under s. 20.921 (1)
14 or 111.992 at or after the time the agreement takes effect shall continue to have dues
15 deducted for the duration of the agreement and that dues shall be deducted from the
16 earnings of all employees who are hired on or after the effective date of the
17 agreement.

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

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

22 (17) "Referendum" means a proceeding conducted by the commission in which
23 employees, or supervisors specified in s. 111.98 (5) ^{or (6)} in a collective bargaining unit
24 may cast a secret ballot on the question of directing the labor organization and the

1 employer to enter into a fair-share or maintenance of membership agreement or to
2 terminate such an agreement.

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

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

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

15 (21) "Unfair labor practice" means any unfair labor practice specified in s.
16 111.991.

17 **111.965 Duties of the state.** (1) In the furtherance of this subchapter, the
18 state shall be considered as a single employer. The board shall negotiate and
19 administer collective bargaining agreements. To coordinate the employer position
20 in the negotiation of agreements, the board shall maintain close liaison with the
21 legislature and the office relative to the negotiation of agreements and the fiscal
22 ramifications of those agreements. The board shall coordinate its collective
23 bargaining activities with the office. The legislative branch shall act upon those
24 portions of tentative agreements negotiated by the board that require legislative
25 action.

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

4 **111.97 Rights of employees.** Employees shall have the right of
5 self-organization and the right to form, join, or assist labor organizations, to bargain
6 collectively through representatives of their own choosing under this subchapter,
7 and to engage in lawful, concerted activities for the purpose of collective bargaining
8 or other mutual aid or protection. Employees shall also have the right to refrain from
9 any such activities.

10 **111.98 Collective bargaining units.** (1) Collective bargaining units for
11 faculty and staff in the unclassified service of the state shall be structured with a
12 collective bargaining unit for each of the following groups:

13 (a) Faculty of the University of Wisconsin-Madison.

14 (am) Faculty of the University of Wisconsin-Milwaukee.

15 (b) Faculty of the University of Wisconsin-Extension.

16 (bm) Faculty of the University of Wisconsin-Eau Claire.

17 (c) Faculty of the University of Wisconsin-Green Bay.

18 (cm) Faculty of the University of Wisconsin-La Crosse.

19 (d) Faculty of the University of Wisconsin-Oshkosh.

20 (dm) Faculty of the University of Wisconsin-Parkside.

21 (e) Faculty of the University of Wisconsin-Platteville.

22 (em) Faculty of the University of Wisconsin-River Falls.

23 (f) Faculty of the University of Wisconsin-Stevens Point.

24 (fm) Faculty of the University of Wisconsin-Stout.

25 (g) Faculty of the University of Wisconsin-Superior.

*employed by the
board of regents of
the University
of Wisconsin
System*

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(gm) Faculty of the University of Wisconsin-Whitewater.

(h) Faculty of the University of Wisconsin Colleges.

(i) ^{All} Academic staff of the University of Wisconsin-Madison.

(im) Academic staff of the University of Wisconsin-Milwaukee.

(j) Academic staff of the University of Wisconsin-Extension.

(jm) Academic staff of the University of Wisconsin-Eau Claire.

(k) Academic staff of the University of Wisconsin-Green Bay.

(km) Academic staff of the University of Wisconsin-La Crosse.

(L) Academic staff of the University of Wisconsin-Oshkosh.

(Lm) Academic staff of the University of Wisconsin-Parkside.

(m) Academic staff of the University of Wisconsin-Platteville.

(mm) Academic staff of the University of Wisconsin-River Falls.

(n) Academic staff of the University of Wisconsin-Stevens Point.

(nm) Academic staff of the University of Wisconsin-Stout.

(o) Academic staff of the University of Wisconsin-Superior.

(op) Academic staff of the University of Wisconsin-Whitewater.

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

(2) (a) Notwithstanding sub. (1), 2 or more collective bargaining units described under sub. (1) (a) to (h) may be combined into a single unit and 2 or more collective bargaining units described under sub. (1) (i) to (p) may be combined into a single unit.

If 2 or more collective bargaining units seek to combine into a single collective bargaining unit, the commission shall, upon the petition of at least 30 percent of the employees in each unit, hold an election to determine whether a majority of those employees voting in each unit desire to combine into a single unit. A combined collective bargaining unit shall be formed including all employees from each of those

1 units in which a majority of the employees voting in the election approve a combined
2 unit. The combined collective bargaining unit shall be formed immediately if there
3 is no existing collective bargaining agreement in force in any of the units to be
4 combined. If there is a collective bargaining agreement in force at the time of the
5 election in any of the collective bargaining units to be combined, the combined unit
6 shall be formed upon expiration of the last agreement for the units concerned.

7 (b) If 2 or more collective bargaining units have combined under par. (a), the
8 commission shall, upon petition of at least 30 percent of the employees in any of the
9 original units, hold an election of the employees in the original unit to determine
10 whether the employees in that unit desire to withdraw from the combined collective
11 bargaining unit. If a majority of the employees voting desire to withdraw from the
12 combined collective bargaining unit, separate units consisting of the unit in which
13 the election was held and a unit composed of the remainder of the combined unit shall
14 be formed. The new collective bargaining units shall be formed immediately if there
15 is no collective bargaining agreement in force for the combined unit. If there is a
16 collective bargaining agreement in force for the combined collective bargaining unit,
17 the new units shall be formed upon the expiration of the agreement. While there is
18 a collective bargaining agreement in force for the combined collective bargaining
19 unit, a petition for an election under this paragraph may be filed only during October
20 in the calendar year prior to the expiration of the agreement.

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

23 (4) Any labor organization may petition for recognition as the exclusive
24 representative of a collective bargaining unit described under sub. (1) or (2) in
25 accordance with the election procedures under s. 111.990 if the petition is

1 accompanied by a 30 percent showing of interest in the form of signed authorization
2 cards. Any additional labor organization seeking to appear on the ballot shall file a
3 petition within 60 days of the date of filing of the original petition and prove, through
4 signed authorization cards, that at least 10 percent of the employees in the collective
5 bargaining unit want it to be their representative.

6 (5) Although academic staff supervisors are not considered employees for the
7 purpose of this subchapter, the commission may consider a petition for a statewide
8 collective bargaining unit consisting of academic staff supervisors, but the
9 representative of the supervisors may not be affiliated with any labor organization
10 representing employees. For purposes of this subsection, affiliation does not include
11 membership in a national, state, county, or municipal federation of national or
12 international labor organizations. The certified representative of the supervisors
13 may not bargain collectively with respect to any matter other than wages and fringe
14 benefits.

15 **111.990 Representatives and elections.** (1) A representative chosen for the
16 purposes of collective bargaining by a majority of the employees voting in a collective
17 bargaining unit shall be the exclusive representative of all of the employees in such
18 unit for the purposes of collective bargaining. Any individual employee, or any
19 minority group of employees in any collective bargaining unit, may present any
20 grievance to the employer in person, or through representatives of their own
21 choosing, and the employer shall confer with the individual employee or group of
22 employees with respect to the grievance if the majority representative has been
23 afforded the opportunity to be present at the conference. Any adjustment resulting
24 from such a conference may not be inconsistent with the conditions of employment
25 established by the majority representative and the employer.

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1 (2) Whenever a question arises concerning the representation of employees in
2 a collective bargaining unit, the commission shall determine the representation by
3 taking a secret ballot of the employees and certifying in writing the results to the
4 interested parties and to the board. There shall be included on any ballot for the
5 election of representatives the names of all labor organizations having an interest
6 in representing the employees participating in the election as indicated in petitions
7 filed with the commission. The name of any existing representative shall be included
8 on the ballot without the necessity of filing a petition. The commission may exclude
9 from the ballot one who, at the time of the election, stands deprived of his or her rights
10 under this subchapter by reason of a prior adjudication of his or her having engaged
11 in an unfair labor practice. The ballot shall be so prepared as to permit a vote against
12 representation by anyone named on the ballot. For elections in a collective
13 bargaining unit composed of employees who are members of the faculty or academic
14 staff, whenever more than one representative qualifies to appear on the ballot, the
15 ballot shall be prepared to provide separate votes on 2 questions. The first question
16 shall be: "Shall the employees of the ... (name of collective bargaining unit)
17 participate in collective bargaining?". The 2nd question shall be: "If the employees
18 of the ... (name of collective bargaining unit) elect to participate in collective
19 bargaining, which labor organization do you favor to act as representative of the
20 employees?". The 2nd question shall not include a choice for no representative. All
21 employees in the collective bargaining unit may vote on both questions. Unless a
22 majority of those employees voting in the election vote to participate in collective
23 bargaining, no votes for a particular representative may be counted. If a majority
24 of those employees voting in the election vote to participate in collective bargaining,
25 the ballots for representatives shall be counted. The commission's certification of the

1 results of any election is conclusive as to the findings included therein unless
2 reviewed under s. 111.07 (8).

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

10 (4) While a collective bargaining agreement between a labor organization and
11 an employer is in force under this subchapter, a petition for an election in the
12 collective bargaining unit to which the agreement applies may only be filed during
13 October in the calendar year prior to the expiration of that agreement. An election
14 held under that petition may be held only if the petition is supported by proof that
15 at least 30 percent of the employees in the collective bargaining unit desire a change
16 or discontinuance of existing representation. Within 60 days of the time that an
17 original petition is filed, another petition may be filed supported by proof that at least
18 10 percent of the employees in the same collective bargaining unit desire a different
19 representative. If a majority of the employees in the collective bargaining unit vote
20 for a change or discontinuance of representation by any named representative, the
21 decision takes effect upon expiration of any existing collective bargaining agreement
22 between the employer and the existing representative.

23 **111.991 Unfair labor practices.** (1) It is an unfair labor practice for an
24 employer individually or in concert with others:

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

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

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

20 (d) To refuse to bargain collectively on matters set forth in s. 111.998 with a
21 representative of a majority of its employees in an appropriate collective bargaining
22 unit. Whenever the employer has a good faith doubt as to whether a labor
23 organization claiming the support of a majority of its employees in an appropriate
24 collective bargaining unit does in fact have that support, it may file with the
25 commission a petition requesting an election as to that claim. The employer is not

1 considered to have refused to bargain until an election has been held and the results
2 of the election are certified to the employer by the commission. A violation of this
3 paragraph includes the refusal to execute a collective bargaining agreement
4 previously orally agreed upon.

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

10 (f) To deduct labor organization dues from an employee's earnings, unless the
11 employer has been presented with an individual order therefor, signed by the
12 employee personally, and terminable by at least the end of any year of its life or
13 earlier by the employee giving at least 30 but not more than 120 days written notice
14 of such termination to the employer and to the representative labor organization,
15 except if there is a fair-share or maintenance of membership agreement in effect.
16 The employer shall give notice to the labor organization of receipt of such notice of
17 termination.

18 (1m) Notwithstanding sub. (1), it is not an unfair labor practice for the board
19 to implement changes in salaries or conditions of employment for members of the
20 faculty or academic staff at one institution, and not for other members of the faculty
21 or academic staff at another institution, but this may be done only if the differential
22 treatment is based on comparisons with the compensation and working conditions
23 of employees performing similar services for comparable higher education
24 institutions or based upon other competitive factors.

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

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

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

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

13 (d) To violate the provisions of any written agreement with respect to terms and
14 conditions of employment affecting employees, including an agreement to arbitrate
15 or to accept the terms of an arbitration award, when previously the parties have
16 agreed to accept such awards as final and binding upon them.

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

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

23 (3) It is an unfair labor practice for any person to do or cause to be done on
24 behalf of or in the interest of employers or employees, or in connection with or to

1 influence the outcome of any controversy as to employment relations, any act
2 prohibited by subs. (1) and (2).

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

12 **111.992 Fair-share and maintenance of membership agreements. (1)**

13 (a) No fair-share or maintenance of membership agreement may become effective
14 unless authorized by a referendum. The commission shall order a referendum
15 whenever it receives a petition supported by proof that at least 30 percent of the
16 employees or supervisors specified in s. 111.98 (5) ^{or (6)} in a collective bargaining unit
17 desire that a fair-share or maintenance of membership agreement be entered into
18 between the employer and a labor organization. A petition may specify that a
19 referendum is requested on a maintenance of membership agreement only, in which
20 case the ballot shall be limited to that question.

21 (b) For a fair-share agreement to be authorized, at least two-thirds of the
22 eligible employees or supervisors voting in a referendum shall vote in favor of the
23 agreement. For a maintenance of membership agreement to be authorized, at least
24 a majority of the eligible employees or supervisors voting in a referendum shall vote
25 in favor of the agreement. In a referendum on a fair-share agreement, if less than

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1 two-thirds but more than one-half of the eligible employees or supervisors vote in
2 favor of the agreement, a maintenance of membership agreement is authorized.

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

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

24 (2) (a) Once authorized, a fair-share or maintenance of membership
25 agreement shall continue in effect, subject to the right of the employer or labor

1 organization concerned to petition the commission to conduct a new referendum.
2 Such a petition must be supported by proof that at least 30 percent of the employees
3 or supervisors in the collective bargaining unit desire that the fair-share or
4 maintenance of membership agreement be discontinued. Upon so finding, the
5 commission shall conduct a new referendum. If the continuance of the fair-share or
6 maintenance of membership agreement is approved in the referendum by at least the
7 percentage of eligible voting employees or supervisors required for its initial
8 authorization, it shall be continued in effect, subject to the right of the employer or
9 labor organization to later initiate a further vote following the procedure prescribed
10 in this subsection. If the continuation of the agreement is not supported in any
11 referendum, it is considered terminated at the termination of the collective
12 bargaining agreement, or one year from the date of the certification of the result of
13 the referendum, whichever is earlier.

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

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

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

4 **111.993 Grievance arbitration.** (1) Parties to the dispute pertaining to the
5 interpretation of a collective bargaining agreement may agree in writing to have the
6 commission or any other appointing state agency serve as arbitrator or may
7 designate any other competent, impartial, and disinterested persons to so serve.
8 Such arbitration proceedings shall be governed by ch. 788.

9 (2) The board shall charge an institution for the employer's share of the cost
10 related to grievance arbitration under sub. (1) for any arbitration that involves one
11 or more employees of the institution. Each institution so charged shall pay the
12 amount that the board charges from the appropriation account or accounts used to
13 pay the salary of the grievant. Funds received under this subsection shall be credited
14 to the appropriation account under s. 20.545 (1) (km).

15 **111.994 Mediation.** The commission may appoint any competent, impartial,
16 disinterested person to act as mediator in any labor dispute either upon its own
17 initiative or upon the request of one of the parties to the dispute. It is the function
18 of a mediator to bring the parties together voluntarily under such favorable auspices
19 as will tend to effectuate settlement of the dispute, but neither the mediator nor the
20 commission shall have any power of compulsion in mediation proceedings.

21 **111.995 Fact-finding.** (1) If a dispute has not been settled after a reasonable
22 period of negotiation and after the settlement procedures, if any, established by the
23 parties have been exhausted, the representative that has been certified by the
24 commission after an election, as the exclusive representative of employees in an
25 appropriate bargaining unit, and the employer, its officers, and agents, after a

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1 reasonable period of negotiation, are deadlocked with respect to any dispute between
2 them arising in the collective bargaining process, ~~either party~~ ^{the parties jointly} may petition the
3 commission, in writing, to initiate fact-finding under this section, and to make
4 recommendations to resolve the deadlock.

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

11 (3) The fact finder may establish dates and place of hearings and shall conduct
12 the hearings under rules established by the commission. Upon request, the
13 commission shall issue subpoenas for hearings conducted by the fact finder. The fact
14 finder may administer oaths. Upon completion of the hearing, the fact finder shall
15 make written findings of fact and recommendations for solution of the dispute and
16 shall cause the same to be served on the parties and the commission. In making
17 findings and recommendations, the fact finder shall take into consideration among
18 other pertinent factors the principles vital to the public interest in efficient and
19 economical governmental administration. Upon the request of either party the fact
20 finder may orally present the recommendations in advance of service of the written
21 findings and recommendations. Cost of fact-finding proceedings shall be divided
22 equally between the parties. At the time the fact finder submits a statement of his
23 or her costs to the parties, the fact finder shall submit a copy thereof to the
24 commission at its Madison office.

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

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

9 **111.996 Strike prohibited.** (1) Upon establishing that a strike is in progress,
10 the employer may either seek an injunction or file an unfair labor practice charge
11 with the commission under s. 111.991 (2) (e) or both. It is the responsibility of the
12 board to decide whether to seek an injunction or file an unfair labor practice charge.
13 The existence of an administrative remedy does not constitute grounds for denial of
14 injunctive relief.

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

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

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

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

(A) Manage the employees; hire, promote, transfer, assign, or
(B) retain employees; and, in that regard, establish reasonable work
rules.

1 **111.997 Management rights.** Nothing in this subchapter shall interfere with
2 the right of the board, in accordance with this subchapter to do any of the following:

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

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

10 **111.998 Subjects of bargaining.** (1) (a) Except as provided in pars. (b) to (f),
11 matters subject to collective bargaining to the point of impasse are salaries; fringe
12 benefits consistent with sub. (2); and hours and conditions of employment.

13 (b) The board is not required to bargain on management rights under s.
14 111.997, except that procedures for the adjustment or settlement of grievances or
15 disputes arising out of any type of disciplinary action in s. 111.997 (2) is a subject of
16 bargaining. 3

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

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

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

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

3 (2) The board is prohibited from bargaining on:

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

8 (b) Amendments to this subchapter.

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

13 (d) An increase in benefit adjustment contribution rates under s. 40.05 (2n) (a)

14 3.

15 (e) The rights of employees to have retirement benefits computed under s.
16 40.30.

17 (f) Honesty testing requirements that provide fewer rights and remedies to
18 employees than are provided under s. 111.37.

19 (h) Creditable service to which s. 40.285 (2) (b) 4. applies.

20 (i) Compliance with the health benefit plan requirements under ss. 632.746 (1)
21 to (8) and (10), 632.747, and 632.748.

22 (j) Compliance with the insurance requirements under s. 631.95.

23 (k) The definition of earnings under s. 40.02 (22).

24 (L) The maximum benefit limitations under s. 40.31

25 (m) The limitations on contributions under s. 40.32.

1 (n) The provision to employees of the health insurance coverage required under
2 s. 632.895 (11) to (14).

3 (o) The requirements related to coverage of and prior authorization for
4 treatment of an emergency medical condition under s. 632.85.

5 (p) The requirements related to coverage of drugs and devices under s. 632.853.

6 (q) The requirements related to experimental treatment under s. 632.855.

7 (r) The requirements under s. 609.10 related to offering a point-of-service
8 option plan.

9 (s) The requirements related to internal grievance procedures under s. 632.83
10 and independent review of certain health benefit plan determinations under s.
11 632.835.

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

16 **111.999 Labor proposals.** The board shall notify and consult with the joint
17 committee on employment relations, in such form and detail as the committee
18 requests, regarding substantial changes in wages, employee benefits, personnel
19 management, and program policy contract provisions to be included in any contract
20 proposal to be offered to any labor organization by the state or to be agreed to by the
21 state before such proposal is actually offered or accepted.

22 **111.9991 Agreements. (1)** Any tentative agreement reached between the
23 board, acting for the state, and any labor organization representing a collective
24 bargaining unit specified in s. 111.98 shall, after official ratification by the labor
25 organization, be submitted by the board to the joint committee on employment

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1 relations, which shall hold a public hearing before determining its approval or
2 disapproval. If the committee approves the tentative agreement, it shall introduce
3 in a bill or companion bills, to be put on the calendar or referred to the appropriate
4 scheduling committee of each house, that portion of the tentative agreement which
5 requires legislative action for implementation, such as salary and wage adjustments,
6 changes in fringe benefits, and any proposed amendments, deletions, or additions to
7 existing law. Such bill or companion bills are not subject to ss. 13.093 (1), 13.50 (6)
8 (a) and (b), and 16.47 (2). The committee may, however, submit suitable portions of
9 the tentative agreement to appropriate legislative committees for advisory
10 recommendations on the proposed terms. The committee shall accompany the
11 introduction of such proposed legislation with a message that informs the legislature
12 of the committee's concurrence with the matters under consideration and that
13 recommends the passage of such legislation without change. If the joint committee
14 on employment relations does not approve the tentative agreement, it shall be
15 returned to the parties for renegotiation. If the legislature does not adopt without
16 change that portion of the tentative agreement introduced by the joint committee on
17 employment relations, the tentative agreement shall be returned to the parties for
18 renegotiation.

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

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

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

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

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

6 **111.9993 Rules, transcripts, fees.** (1) The commission may adopt
7 reasonable and proper rules relative to the exercise of its powers and authority and
8 proper rules to govern its proceedings and to regulate the conduct of all elections and
9 hearings under this subchapter. The commission shall, upon request, provide a
10 transcript of a proceeding to any party to the proceeding for a fee, established by rule,
11 by the commission at a uniform rate per page. All transcript fees shall be credited
12 to the appropriation account under s. 20.425 (1) (i).

13 (2) The commission shall assess and collect a filing fee for filing a complaint
14 alleging that an unfair labor practice has been committed under s. 111.991. The
15 commission shall assess and collect a filing fee for filing a request that the
16 commission act as an arbitrator to resolve a dispute involving the interpretation or
17 application of a collective bargaining agreement under s. 111.993. The commission
18 shall assess and collect a filing fee for filing a request that the commission initiate
19 fact-finding under s. 111.995. The commission shall assess and collect a filing fee
20 for filing a request that the commission act as a mediator under s. 111.994. For the
21 performance of commission actions under ss. 111.993, 111.994, and 111.995, the
22 commission shall require that the parties to the dispute equally share in the payment
23 of the fee and, for the performance of commission actions involving a complaint
24 alleging that an unfair labor practice has been committed under s. 111.991, the
25 commission shall require that the party filing the complaint pay the entire fee. If any

1 party has paid a filing fee requesting the commission to act as a mediator for a labor
2 dispute and the parties do not enter into a voluntary settlement of the labor dispute,
3 the commission may not subsequently assess or collect a filing fee to initiate
4 fact-finding to resolve the same labor dispute. If any request concerns issues arising
5 as a result of more than one unrelated event or occurrence, each such separate event
6 or occurrence shall be treated as a separate request. The commission shall
7 promulgate rules establishing a schedule of filing fees to be paid under this
8 subsection. Fees required to be paid under this subsection shall be paid at the time
9 of filing the complaint or the request for fact-finding, mediation, or arbitration. A
10 complaint or request for fact-finding, mediation, or arbitration is not filed until the
11 date such fee or fees are paid. Fees collected under this subsection shall be credited
12 to the appropriation account under s. 20.425 (1) (i).

13 **SECTION 34.** 230.01 (3) of the statutes is amended to read:

14 230.01 (3) Nothing in this chapter shall be construed to either infringe upon
15 or supersede the rights guaranteed state employees under subch. V or VI of ch. 111.

16 **SECTION 35.** 230.046 (10) (a) of the statutes is amended to read:

17 230.046 (10) (a) Conduct off-the-job employee development and training
18 programs relating to functions under this chapter or subch. V or VI of ch. 111.

19 **SECTION 36.** 230.12 (3) (e) 1. of the statutes is amended to read:

20 230.12 (3) (e) 1. The director, after receiving recommendations from the board
21 of regents, shall submit to the joint committee on employment relations a proposal
22 for adjusting compensation and employee benefits for employees under ss. 20.923
23 (4g), (5) and (6) (m) and 230.08 (2) (d) who are not included in a collective bargaining
24 unit under subch. V or VI of ch. 111 for which a representative is certified. The
25 proposal shall include the salary ranges and adjustments to the salary ranges for the

1 university senior executive salary groups 1 and 2 established under s. 20.923 (4g).
2 The proposal shall be based upon the competitive ability of the board of regents to
3 recruit and retain qualified faculty and academic staff, data collected as to rates of
4 pay for comparable work in other public services, universities and commercial and
5 industrial establishments, recommendations of the board of regents and any special
6 studies carried on as to the need for any changes in compensation and employee
7 benefits to cover each year of the biennium. The proposal shall also take proper
8 account of prevailing pay rates, costs and standards of living and the state's
9 employment policies. The proposal for such pay adjustments may contain
10 recommendations for across-the-board pay adjustments, merit or other
11 adjustments and employee benefit improvements. Paragraph (b) and sub. (1) (bf)
12 shall apply to the process for approval of all pay adjustments for such employees
13 under ss. 20.923 (4g), (5) and (6) (m) and 230.08 (2) (d). The proposal as approved
14 by the joint committee on employment relations and the governor shall be based
15 upon a percentage of the budgeted salary base for such employees under ss. 20.923
16 (4g), (5) and (6) (m) and 230.08 (2) (d). The amount included in the proposal for merit
17 and adjustments other than across-the-board pay adjustments is available for
18 discretionary use by the board of regents.

19 **SECTION 37.** 230.35 (2d) (e) of the statutes is amended to read:

20 230.35 (2d) (e) For employees who are included in a collective bargaining unit
21 for which a representative is recognized or certified under subch. V or VI of ch. 111,
22 this subsection shall apply unless otherwise provided in a collective bargaining
23 agreement.

24 **SECTION 38.** 230.35 (3) (e) 6. of the statutes is amended to read:

1 accompanied by a 30 percent showing of interest in the form of signed authorization
2 cards. Any additional labor organization seeking to appear on the ballot shall file a
3 petition within 60 days of the date of filing of the original petition and prove, through
4 signed authorization cards, that at least 10 percent of the employees in the collective
5 bargaining unit want it to be their representative.

Faculty

6 (5) Although ~~academic staff~~ supervisors are not considered employees for the
7 purpose of this subchapter, the commission may consider a petition for a statewide
8 collective bargaining unit consisting of ~~academic staff~~ *faculty* supervisors, but the
9 representative of the supervisors may not be affiliated with any labor organization
10 representing employees. For purposes of this subsection, affiliation does not include
11 membership in a national, state, county, or municipal federation of national or
12 international labor organizations. The certified representative of the supervisors
13 may not bargain collectively with respect to any matter other than wages and fringe
14 benefits.

*INS
21-15*

111.990 Representatives and elections. (1) A representative chosen for the

16 purposes of collective bargaining by a majority of the employees voting in a collective
17 bargaining unit shall be the exclusive representative of all of the employees in such
18 unit for the purposes of collective bargaining. Any individual employee, or any
19 minority group of employees in any collective bargaining unit, may present any
20 grievance to the employer in person, or through representatives of their own
21 choosing, and the employer shall confer with the individual employee or group of
22 employees with respect to the grievance if the majority representative has been
23 afforded the opportunity to be present at the conference. Any adjustment resulting
24 from such a conference may not be inconsistent with the conditions of employment
25 established by the majority representative and the employer.

Kreye, Joseph

From: Koskinen, John - DOA
Sent: Wednesday, January 31, 2007 11:08 AM
To: Kreye, Joseph
Cc: Easton, Darren - DOA; Johnston, James - DOA
Subject: FW: LRB Draft: 07-0892/10 Increase excise tax rate on cigarette and tobacco products sales; health care quality fund
Attachments: 07-0892/10; 07-0892/10dn →

Joe, we need a change in the distribution language in Sections 45 and 48.

For section 45, the distribution to the health care trust fund should be the amount collected in FY08 that exceeds \$304,000,000 and the amount collected in FY09 and thereafter that exceeds \$305,000,000.

For section 48, , the distribution to the health care trust fund should be the amount collected in FY08 that exceeds \$18,400,000 and the amount collected in FY09 and thereafter that exceeds \$19,300,000.

Thanks

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]
Sent: Wednesday, January 31, 2007 10:37 AM
To: Easton, Darren - DOA
Cc: Koskinen, John - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA
Subject: LRB Draft: 07-0892/10 Increase excise tax rate on cigarette and tobacco products sales; health care quality fund

Following is the PDF version of draft 07-0892/10.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1352/3^{4 dn}
CMH:kjf/sh

~~January 30, 2007~~

✓ ✓ ✓
This draft reconciles -1524/P2 and -1352/2 by removing the treatment of s. 19.82 (1) from -1352/2 and adding that treatment to the treatment of s. 19.82 (1) in -1524/P2. Both drafts should remain in the compile.

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