

2007 DRAFTING REQUEST

Bill

Received: 01/24/2007

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-8777

By/Representing: Frederick

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters: chanaman

Subject: Local Gov't - misc  
Employ Pub - collective bargain

Extra Copies:

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Frederick, BB0418 -

Topic:

Disciplinary procedures for local law enforcement officers and fire fighters

Instructions:

See Attached. Same as 2001 SB 185 (LRB 01-1073/2)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 01/24/2007	lkunkel 01/24/2007		_____			S&L
/1			pgreensl 01/24/2007	_____	mbarman 01/24/2007		S&L
/2	mshovers 01/25/2007	kfollett 01/25/2007	nmatzke 01/25/2007	_____	sbasford 01/25/2007		

FE Sent For:

**<END>**

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/1		126f 1/25	pgreensl 01/24/2007		mbarman 01/24/2007		
12 MES	1/25/07		nwn 1/25	nwn 1/25			

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/?	mshovers	/1/mk 1/24	✓	✓			
11	MES	1/24/07	by	✓			
			ps	ps			

FE Sent For:

<END>

## 2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Disciplinary procedures for public safety officers
- Tracking Code: BB0418
- SBO team: SGO
- SBO analyst: Caitlin Morgan Frederick
  - Phone: 266-8777
  - Email: Caitlin.frederick@wisconsin.gov
- Agency acronym: WERC
- Agency number: 425
- Priority (Low, Medium, High): High

Incorporate the provisions of 2001 Senate Bill 185, as passed by the Senate. Under Senate Bill 185, if a law enforcement officer or firefighter (public safety officer) employed by a city, village or town is the subject of a disciplinary action by a police or fire chief, sheriff, county board, civil service commission, grievance committee or board of police and fire commissioners, and the public safety officer is also subject to a collective bargaining agreement that establishes an alternative appeal process to the current law appeal process to the county circuit court of jurisdiction, specify that the appeal process established under the collective bargaining agreement would apply, unless the public safety officer chooses to appeal the disciplinary action to the circuit court. Specify that if the alternative appeal process includes a hearing, the hearing must be open to the public with reasonable advance notice given by the employer. Stipulate that if an accused public safety officer chooses to appeal through the alternative process, the individual is considered to have waived his or her right to subsequent circuit court review. Specify that these revised procedures would first apply to those public safety officer employees of any city, village or town covered by a collective bargaining agreement that is in effect on the effective date of the bill or upon the expiration, extension, renewal or modification of the agreement.

These revised disciplinary appeal procedures would not apply to public safety officers employed by the City of Milwaukee.

Under current law, the imposition of disciplinary action against a local public safety officer may be appealed to circuit court. The court must consider whether there is "just cause" to sustain the charges against the accused individual. If the court upholds the discipline imposed, that action is final and conclusive. If the disciplinary action is reversed by the court, the public safety officer is reinstated and is entitled to back pay.

## 2001 SENATE BILL 185

May 23, 2001 – Introduced by Senators BURKE, WELCH, SHIBILSKI, BRESKE, DECKER, ERPENBACH, GEORGE, MOEN, PLACHE, RISSER and ROBSON, cosponsored by Representatives BIES, BERCEAU, BOYLE, FRISKE, GUNDERSON, JOHNSRUD, KREIBICH, LASSA, J. LEHMAN, LIPPERT, MILLER, OTT, POCAN, PLALE, RYBA, STARZYK, STASKUNAS, STONE, SYKORA, TRAVIS and MUSSER. Referred to Committee on Labor and Agriculture.

- 1     **AN ACT to amend** 62.13 (5) (i) of the statutes; **relating to:** disciplinary  
2           procedures for certain local law enforcement officers and fire fighters.
- 

### *Analysis by the Legislative Reference Bureau*

Generally, under current law, a law enforcement officer or fire fighter employed by a city, village, town, or county (local public safety officer) may be disciplined by a police or fire chief, sheriff, county board, civil service commission, grievance committee, or board of police and fire commissioners, depending on the unit of government for which the officer works and whether the county for which the officer works has in effect a civil service system. Discipline, under current law, includes suspension, reduction in rank, suspension, and reduction in rank and dismissal.

Also under current law, except with regard to police officers and fire fighters employed by a first class city (presently only Milwaukee), no local public safety officer may be suspended, reduced in rank, suspended and reduced in rank, or dismissed by a grievance committee, civil service commission, county board, or board of police and fire commissioners (tribunal) unless the tribunal determines that there is "just cause," as described in the statutes, to sustain the charges that have been brought against the local public safety officer. If the charges are sustained and the officer is disciplined under an order of the tribunal, he or she may appeal the order to the circuit court, except that a county law enforcement officer, under a recent decision of the Wisconsin supreme court, may proceed either with an appeal to the circuit court or with the grievance procedures, including arbitration, in the officer's collective bargaining agreement. The trial based on the appeal is before the court. The court must determine whether, upon the evidence and based on the statutory

**SENATE BILL 185**

description of “just cause,” to sustain the charges against the accused officer and the tribunal’s order. If the charges and the tribunal’s order are sustained, the tribunal’s order is final and conclusive. If the court reverses the tribunal’s order, the officer is reinstated and entitled to pay as though he or she was in continuous service. Similar procedures, other than the “just cause” standard, apply to police officers employed by a first class city.

Under this bill, for city, village, or town public safety officers, if an accused officer is subject to the terms of a collective bargaining agreement that provides an alternative to the appeal process to a circuit court, the appeal process in the collective bargaining agreement applies to the accused officer and not the current law process that involves an appeal to a circuit court, unless the officer chooses to appeal the tribunal’s decision to a circuit court. An accused officer who chooses to appeal the tribunal’s decision through a collectively bargained alternative to the current law appeal process is considered to have waived his or her right to circuit court review of the tribunal’s decision. The provisions of this bill do not apply to police officers or fire fighters employed by a first class city.

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

---

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

1           **SECTION 1.** 62.13 (5) (i) of the statutes is amended to read:

2           62.13 (5) (i) Any person suspended, reduced, suspended and reduced, or  
3 removed by the board may appeal from the order of the board to the circuit court by  
4 serving written notice of the appeal on the secretary of the board within 10 days after  
5 the order is filed. Within 5 days after receiving written notice of the appeal, the board  
6 shall certify to the clerk of the circuit court the record of the proceedings, including  
7 all documents, testimony and minutes. The action shall then be at issue and shall  
8 have precedence over any other cause of a different nature pending in the court,  
9 which shall always be open to the trial thereof. The court shall upon application of  
10 the accused or of the board fix a date of trial, which shall not be later than 15 days  
11 after such application except by agreement. The trial shall be by the court and upon  
12 the return of the board, except that the court may require further return or the taking

**SENATE BILL 185**

1 and return of further evidence by the board. The question to be determined by the  
2 court shall be: Upon the evidence is there just cause, as described under par. (em),  
3 to sustain the charges against the accused? No costs shall be allowed either party  
4 and the clerk's fees shall be paid by the city. If the order of the board is reversed, the  
5 accused shall be forthwith reinstated and entitled to pay as though in continuous  
6 service. If the order of the board is sustained it shall be final and conclusive. This  
7 paragraph does not apply to any person who is suspended, reduced, suspended and  
8 reduced, or removed by the board or by a committee or person acting under this  
9 subsection in place of a board, and who is subject to the terms of a collective  
10 bargaining agreement entered into under subch. IV of ch. 111 that provides an  
11 alternative to the appeals procedure specified in this paragraph, unless the person  
12 chooses to appeal the order to circuit court. An accused person who chooses to appeal  
13 the decision of the board through a collectively bargained alternative to the appeals  
14 procedure specified in this paragraph is considered to have waived his or her right  
15 to circuit court review of the board decision.

**SECTION 2. Initial applicability.**

16  
17 (1) This act first applies to any city, village, or town whose employees are  
18 covered by a collective bargaining agreement that is in effect on the effective date of  
19 this subsection upon the expiration, extension, renewal, or modification of the  
20 agreement.

21 (END)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1669/  
MES&CMH.....

*RMNA*  
*max*  
*std*

DOA:.....Frederick, BB0418 - Disciplinary procedures for local law enforcement officers and fire fighters

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

*no not gen*

1 AN ACT ...; relating to: disciplinary procedures for certain local law enforcement  
2 officers and fire fighters. ✓

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*Analysis by the Legislative Reference Bureau*  
**LOCAL GOVERNMENT**

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

(END)

*↘*

**2007 BILL**

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***Analysis by the Legislative Reference Bureau***

Generally, under current law, a law enforcement officer or fire fighter employed by a city, village, town, or county (local public safety officer) may be disciplined by a police or fire chief, sheriff, county board, civil service commission, grievance committee, or board of police and fire commissioners, depending on the unit of government for which the officer works and whether the county for which the officer works has in effect a civil service system. Discipline, under current law, includes suspension, reduction in rank, suspension and reduction in rank, and dismissal.

Also under current law, except with regard to police officers and fire fighters employed by a first class city (presently only Milwaukee), no local public safety officer may be suspended, reduced in rank, suspended and reduced in rank, or dismissed by a grievance committee, civil service commission, county board, or board of police and fire commissioners (tribunal) unless the tribunal determines that there is "just cause," as described in the statutes, to sustain the charges that have been brought against the local public safety officer. If the charges are sustained and the officer is disciplined under an order of the tribunal, he or she may appeal the order to the circuit court, except that a county law enforcement officer, under a recent decision of the Wisconsin Supreme Court, may proceed either with an appeal to the circuit court or with the grievance procedures, including arbitration, in the officer's collective bargaining agreement. The trial based on the appeal is before the court. The court must determine whether, upon the evidence and based on the statutory

**BILL**

description of “just cause,” to sustain the charges against the accused officer and the tribunal’s order. If the charges and the tribunal’s order are sustained, the tribunal’s order is final and conclusive. If the court reverses the tribunal’s order, the officer is reinstated and entitled to pay as though he or she were in continuous service. Similar procedures, other than the “just cause” standard, apply to police officers employed by a first class city.

Under this bill, for city, village, or town public safety officers, if an accused officer is subject to the terms of a collective bargaining agreement that provides an alternative to the appeal process to a circuit court, the appeal process in the collective bargaining agreement applies to the accused officer and not the current law process that involves an appeal to a circuit court, unless the officer chooses to appeal the tribunal’s decision to a circuit court. If the alternative to the appeals process includes a hearing, the hearing must be open to the public. An accused officer who chooses to appeal the tribunal’s decision through a collectively bargained alternative to the current law appeal process is considered to have waived his or her right to circuit court review of the tribunal’s decision. The provisions of this bill do not apply to police officers or fire fighters employed by a first class city.

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

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6 shall certify to the clerk of the circuit court the record of the proceedings, including  
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17 to circuit court review of the board decision.

18 (END)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1669/1  
MES&CMH:jld:eg

RMB  
EIGF

DOA:.....Frederick, BB0418 - Disciplinary procedures for local law enforcement officers and fire fighters

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

do not  
gen

- 1 AN ACT ...; **relating to:** disciplinary procedures for certain local law enforcement
- 2 officers and fire fighters.

*Analysis by the Legislative Reference Bureau*

**LOCAL GOVERNMENT**

Generally, under current law, a law enforcement officer or fire fighter employed by a city, village, town, or county (local public safety officer) may be disciplined by a police or fire chief, sheriff, county board, civil service commission, grievance committee, or board of police and fire commissioners, depending on the unit of government for which the officer works and whether the county for which the officer works has in effect a civil service system. Discipline, under current law, includes suspension, reduction in rank, suspension and reduction in rank, and dismissal.

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(END)

INS 20

3-20

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1669/2ins  
MES&CMH:jld:pg

FN9 3-20

X

**SECTION 9355. Initial applicability; other.**

(1) LAW ENFORCEMENT OFFICERS; APPEAL OF DISCIPLINE. The treatment of section 62.13 (5) (i) of the statutes first applies to a person who is suspended, reduced, suspended and reduced, or removed on the effective date of this subsection.



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1669/2  
MES&CMH:jld&kjf:wnw

DOA:.....Frederick, BB0418 - Disciplinary procedures for local law enforcement officers and fire fighters

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20 **SECTION 9355. Initial applicability; Other.**

21 (1) LAW ENFORCEMENT OFFICERS; APPEAL OF DISCIPLINE. The treatment of section  
22 62.13 (5) (i) of the statutes first applies to a person who is suspended, reduced,  
23 suspended and reduced, or removed on the effective date of this subsection.

24 (END)