

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2007 SENATE BILL 176**

1 **AN ACT** *to renumber and amend* 62.50 (1) and 62.50 (18); *to amend* 62.50 (13),
2 62.50 (14), 62.50 (16), 62.50 (17) (a) and 62.50 (19); and *to create* 62.50 (1e) and
3 62.50 (18) (b) of the statutes; **relating to:** payment of a 1st class city police
4 officer’s salary after discharge or suspension, the adjournment of a trial or
5 investigation relating to charges brought against such an officer, disciplinary
6 procedures for a 1st class city police officer, increasing the size of the city of
7 Milwaukee Board of Fire and Police Commissioners, and authorizing a panel
8 of the board to handle certain cases.

Analysis by the Legislative Reference Bureau

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

9 **SECTION 1.** 62.50 (1) of the statutes is renumbered 62.50 (1h) and amended to
10 read:

1 62.50 (1h) ORGANIZATION. In all 1st class cities, however incorporated, there
2 shall be a board of fire and police commissioners, consisting of 5 either 7 or 9 citizens,
3 not more than ~~2~~ 3, if the board has 7 members, or 4, if the board has 9 members, of
4 whom shall at any time belong to the same political party. The staff and members
5 of the board shall receive the salary or other compensation for their services fixed by
6 the common council. The salary shall be fixed at the same time and in the same
7 manner as the salary of other city officials and employees. ~~Three members~~ Except
8 as otherwise provided in this subsection, a majority of the members–elect, as that
9 term is used in s. 59.001 (2m), of the board shall constitute a quorum necessary for
10 the transaction of business. A 3–member panel of the board may conduct, and decide
11 by majority vote, a trial described under sub. (12) or may hear and decide, by majority
12 vote, charges filed by an aggrieved person under sub. (19). It shall be the duty of the
13 mayor of the city, on or before the 2nd Monday in July, to appoint 5 7, or 9, members
14 of the board, designating the term of office of each, one to hold one year, ~~one~~ 2 to hold
15 2 years, ~~one~~ 2 to hold 3 years, one to hold 4 years if the board has 7 members, and
16 2 to hold 4 years if the board has 9 members, and one to hold 5 years if the board has
17 7 members, and 2 to hold 5 years if the board has 9 members, and until their
18 respective successors shall be appointed and qualified. Thereafter the terms of office
19 shall be 5 years from the 2nd Monday in July, and until a successor is appointed and
20 qualified. The mayor may reduce the size of the board from 9 to 7 members by failing
21 to appoint 2 successors for individuals whose terms expire at the same time. Every
22 person appointed a member of the board shall be subject to confirmation by the
23 common council and every appointed member shall, before entering upon the duties
24 of the office take and subscribe the oath of office prescribed by article IV, section 28,
25 of the constitution, and file the same duly certified by the officer administering it,

1 with the clerk of the city. Not later than the first day of the 7th month beginning after
2 a member appointed by the mayor is confirmed by the common council, the member
3 shall enroll in a training class that is related to the mission of the board and, not later
4 than the first day of the 13th month beginning after a member appointed by the
5 mayor is confirmed by the common council, the member shall complete the class. The
6 training class shall be conducted by the city. Appointments made prior to the time
7 this subchapter first applies to a 1st class city shall not be subject to confirmation by
8 the common council.

9 **SECTION 2.** 62.50 (1e) of the statutes is created to read:

10 62.50 (1e) DEFINITION. In this section, “offense” means any felony or Class A
11 or Class B misdemeanor violation of any of the following:

12 (a) Chapters 940 and 941.

13 (b) Section 942.08.

14 (c) Section 942.09.

15 (d) Chapters 943 to 948.

16 **SECTION 3.** 62.50 (13) of the statutes is amended to read:

17 62.50 (13) The chief discharging or suspending for a period exceeding 5 days
18 any member of the force shall give written notice of the discharge or suspension to
19 the member and, at the same time that the notice is given, and shall also give the
20 member any exculpatory evidence in the chief’s possession related to the discharge
21 or suspension. The chief shall also immediately report the same notice of the
22 discharge or suspension to the secretary of the board of fire and police commissioners
23 together with a complaint setting forth the reasons for the discharge or suspension
24 and the name of the complainant if other than the chief. Within 10 days after the date
25 of service of the notice of a discharge or suspension order the members so discharged

1 or suspended may appeal from the order of discharge or suspension or discipline to
2 the board of fire and police commissioners, by filing with the board a notice of appeal
3 in the following or similar form:

4 To the honorable board of fire and police commissioners:

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

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

9 **62.50 (14) COMPLAINT.** The board, after receiving the notice of appeal shall,
10 within 5 days, serve the appellant with a copy of the complaint and a notice fixing
11 the time and place of trial, which time of trial may not be less than ~~5~~ 60 days nor more
12 than ~~15~~ 120 days after service of the notice and a copy of the complaint.

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

14 **62.50 (16) TRIAL; ADJOURNMENT.** The board may grant the accused ~~and~~ or the
15 chief ~~shall have the right to~~ an adjournment of the trial or investigation of the
16 charges, for cause, not to exceed 15 days. In the course of any trial or investigation
17 under this section each member of the fire and police commission may administer
18 oaths, secure by its subpoenas both the attendance of witnesses and the production
19 of records relevant to the trial and investigation, and compel witnesses to answer and
20 may punish for contempt in the same manner provided by law in trials before
21 municipal judges for failure to answer or to produce records necessary for the trial.
22 The trial shall be public and all witnesses shall be under oath. The accused shall
23 have full opportunity to be heard in defense and shall be entitled to secure the
24 attendance of all witnesses necessary for the defense at the expense of the city. The
25 accused may appear in person and by attorney. The city in which the department is

1 located may be represented by the city attorney. All evidence shall be taken by a
2 stenographic reporter who first shall be sworn to perform the duties of a stenographic
3 reporter in taking evidence in the matter fully and fairly to the best of his or her
4 ability.

5 **SECTION 6.** 62.50 (17) (a) of the statutes is amended to read:

6 62.50 (17) (a) Within 3 days after hearing the matter the board, or a 3-member
7 panel of the board, shall, by a majority vote of its members and subject to par. (b),
8 determine whether by a preponderance of the evidence the charges are sustained.
9 If the board or panel determines that the charges are sustained, the board shall at
10 once determine whether the good of the service requires that the accused be
11 permanently discharged or be suspended without pay for a period not exceeding 60
12 days or reduced in rank. If the charges are not sustained the accused shall be
13 immediately reinstated in his or her former position, without prejudice. The decision
14 and findings of the board, or panel, shall be in writing and shall be filed, together with
15 a transcript of the evidence, with the secretary of the board.

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

18 62.50 (18) (a) No chief officer of either department or member of the fire
19 department may be deprived of any salary or wages for the period of time suspended
20 preceding an investigation or trial, unless the charge is sustained. ~~No~~ Except as
21 provided in par. (b), no member of the police force may be ~~suspended or discharged~~
22 or suspended under sub. (11) or (13) without pay or benefits until the matter that is
23 the subject of the ~~suspension or discharge~~ or suspension is disposed of by the board
24 or the time for appeal under sub. (13) passes without an appeal being made.

25 **SECTION 8.** 62.50 (18) (b) of the statutes is created to read:

1 62.50 (18) (b) Following a discharge or suspension under sub. (11) or (13), no
2 member of the police force is entitled to any salary or wages from the department
3 pending an appeal of the discharge or suspension to the board of fire and police
4 commissioners if charges relating to an offense are also pending against the member
5 and such charges arose out of the same conduct or incident that serves as the basis
6 for the discharge or suspension. If the charges against the officer are dismissed, or
7 if the officer is found not guilty of the charges, the officer shall be reinstated and
8 entitled to pay as described in sub. (22).

9 **SECTION 9.** 62.50 (19) of the statutes is amended to read:

10 **62.50 (19) CHARGES BY AGGRIEVED PERSON.** In cases where duly verified charges
11 are filed by any aggrieved person with the board of fire and police commissioners,
12 setting forth sufficient cause for the removal of any member of either of the
13 departments, including the chiefs or their assistants, the board or chief may suspend
14 such member or officer pending disposition of such charges. The board shall cause
15 notice of the filing of the charges with a copy to be served upon the accused and shall
16 set a date for the trial and investigation of the charges, following the procedure under
17 this section. The board, or a 3-member panel of the board, shall decide by a majority
18 vote and subject to the just cause standard described in sub. (17) (b) whether the
19 charges are sustained. If sustained, the board shall immediately determine whether
20 the good of the service requires that the accused be removed, suspended from office
21 without pay for a period not exceeding 60 days or reduced in rank. If the charges are
22 not sustained, the accused shall be immediately reinstated without prejudice. The
23 secretary of the board shall make the decision public.

24 **SECTION 10. Nonstatutory provisions.**

