2007 ASSEMBLY BILL 448


AN ACT to renumber 111.70 (1) (a); to amend 111.70 (4) (cm) 6. am., 111.70 (4) (cm) 6. b. and 111.70 (4) (cm) 7.; and to create 111.70 (1) (ag) of the statutes; relating to: final offer limits under the Municipal Employment Relations Act.

Analysis by the Legislative Reference Bureau

The Municipal Employment Relations Act does not currently limit collective bargaining agreements to any specific maximum expenditures or increases in expenditures. This bill prohibits any final offer that is submitted to the Wisconsin Employment Relations Commission for interest arbitration from requiring the annual expenditure for compensation and fringe benefits per employee to be more than the amount spent in the previous year increased by the allowable percentage increase in available revenue, as defined in the bill, if the employer is subject to limitations on available revenue under state law.

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:

SECTION 1. 111.70 (1) (a) of the statutes is renumbered 111.70 (1) (ar).

SECTION 2. 111.70 (1) (ag) of the statutes is created to read:
111.70 (1) (ag) 1. Except as provided in subds. 2. and 3., if the employer is a municipal employer, “available revenue” means the sum of the allowable property tax levy and payments received under ss. 86.30 and 86.32 and subch. I of ch.79.

2. If the employer is a school district, “available revenue” has the same meaning as “revenue” in s. 121.90 (1m).

3. If the employer is a technical college district, “available revenue” means the sum of the allowable property tax levy and payments received under s. 38.28.

SECTION 3. 111.70 (4) (cm) 6. am. of the statutes is amended to read:

111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the commission shall make an investigation, with or without a formal hearing, to determine whether arbitration should be commenced. If in determining whether an impasse exists the commission finds that the procedures set forth in this paragraph have not been complied with and such compliance would tend to result in a settlement, it may order such compliance before ordering arbitration. The validity of any arbitration award or collective bargaining agreement shall not be affected by failure to comply with such procedures. Prior to the close of the investigation each party shall submit in writing to the commission its single final offer containing its final proposals on all issues in dispute that are subject to interest arbitration under this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s. applies. If, under state law, the municipal employer is subject to limitations on available revenue, a final offer may not require the expenditure for compensation and fringe benefits per employee in any year of the contract to be more than the amount expended in the previous year increased by the allowable percentage increase in available revenue. If the commission determines that a final offer requires greater expenditure, the commission shall return the offer to the party and
the party shall revise it before submitting it again. If a party fails to submit a single, ultimate final offer, the commission shall close the investigation based on the last written position of the party. If the last written position requires greater expenditure than permitted under this subd. 6, am., the commission shall consider that the party failed to submit an offer. The municipal employer may not submit a qualified economic offer under subd. 5s. after the close of the investigation. Such final offers may include only mandatory subjects of bargaining, except that a permissive subject of bargaining may be included by a party if the other party does not object and shall then be treated as a mandatory subject. No later than such time, the parties shall also submit to the commission a stipulation, in writing, with respect to all matters which are agreed upon for inclusion in the new or amended collective bargaining agreement. The commission, after receiving a report from its investigator and determining that arbitration should be commenced, shall issue an order requiring arbitration and immediately submit to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall alternately strike names until a single name is left, who shall be appointed as arbitrator. The petitioning party shall notify the commission in writing of the identity of the arbitrator selected. Upon receipt of such notice, the commission shall formally appoint the arbitrator and submit to him or her the final offers of the parties. The final offers shall be considered public documents and shall be available from the commission. In lieu of a single arbitrator and upon request of both parties, the commission shall appoint a tripartite arbitration panel consisting of one member selected by each of the parties and a neutral person designated by the commission who shall serve as a chairperson. An arbitration panel has the same powers and duties as provided in this section for any other appointed arbitrator, and all arbitration decisions by such panel shall be
determined by majority vote. In lieu of selection of the arbitrator by the parties and
upon request of both parties, the commission shall establish a procedure for
randomly selecting names of arbitrators. Under the procedure, the commission shall
submit a list of 7 arbitrators to the parties. Each party shall strike one name from
the list. From the remaining 5 names, the commission shall randomly appoint an
arbitrator. Unless both parties to an arbitration proceeding otherwise agree in
writing, every individual whose name is submitted by the commission for
appointment as an arbitrator shall be a resident of this state at the time of
submission and every individual who is designated as an arbitration panel
chairperson shall be a resident of this state at the time of designation.

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

111.70 (4) (cm) 6. b. The arbitrator shall, within 10 days of his or her
appointment, establish a date and place for the conduct of the arbitration hearing.
Upon petition of at least 5 citizens of the jurisdiction served by the municipal
employer, filed within 10 days after the date on which the arbitrator is appointed, the
arbitrator shall hold a public hearing in the jurisdiction for the purpose of providing
the opportunity to both parties to explain or present supporting arguments for their
positions and to members of the public to offer their comments and suggestions. The
final offers of the parties, as transmitted by the commission to the arbitrator, shall
serve as the basis for continued negotiations, if any, between the parties with respect
to the issues in dispute. At any time prior to the arbitration hearing, either party,
with the consent of the other party, and subject to the expenditure limit in subd. 6,
am., may modify its final offer in writing.

SECTION 5. 111.70 (4) (cm) 7. of the statutes is amended to read:
SECTION 5

111.70 (4) (cm) 7. ‘Factors given greatest weight.’ In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to the expenditure limit in subd. 6, am. and any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of these factors in the arbitrator’s or panel’s decision.

SECTION 6. Initial applicability.

(1) This act first applies to petitions for arbitration that relate to collective bargaining agreements that cover periods beginning on or after July 1, 2008, and that are filed under section 111.70 (4) (cm) 6. of the statutes, as affected by this act, on the effective date of this subsection.

(END)