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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Labor, Elections and Urban
Affairs (SC-LEUA)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Senate Bill 176

Relating to: payment of a 1st class city police officer's salary after discharge and the adjournment of a trial or investigation relating to charges brought against such an officer.

By Senators Coggs, Sullivan, Hansen, Grothman and Carpenter; cosponsored by Representatives Toles, Colon, Wood, Fields, Berceau, Parisi, Pocan, Turner, Grigsby, Kerkman, Wasserman, Richards, A. Williams and Nass.

May 08, 2007 Referred to Committee on Labor, Elections and Urban Affairs.

November 28, 2007 **PUBLIC HEARING HELD**

Present: (4) Senators Coggs, Wirch, Lehman and Grothman.

Absent: (1) Senator A. Lasee.

Appearances For

- Spencer Coggs — Senator
- Barbara Toles — Representative
- Tom Barrett — Mayor, City of Milwaukee
- Tim Carpenter — Senator

Appearances Against

- John Balcerzak — Milwaukee Police Association

Appearances for Information Only

- None.

Registrations For

- Tamara Grigsby — Representative
- Jon Richards — Representative
- Jason Fields — Representative
- Ed Huck — Wisconsin Alliance of Cities
- Curt Witynski — League of Wisconsin Municipalities
- Jennifer Gonda — City of Milwaukee

Registrations Against

- Bill Ward — Milwaukee Police Association

Registrations for Information Only

- None.

December 4, 2007

EXECUTIVE SESSION HELD

Present: (5) Senators Coggs, Wirch, Lehman, Grothman
and A. Lasee.

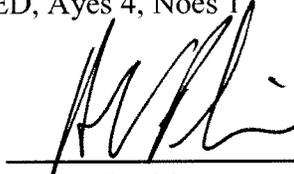
Absent: (0) None.

Moved by Senator Lehman, seconded by Senator Wirch that
Senate Bill 176 be recommended for passage.

Ayes: (4) Senators Coggs, Wirch, Lehman and
Grothman.

Noes: (1) Senator A. Lasee.

PASSAGE RECOMMENDED, Ayes 4, Noes 1



Adam Plotkin
Committee Clerk



Vote Record

Committee on Labor, Elections and Urban Affairs

Date: Tue. Dec. 4, 2007

Moved by: Lehman Seconded by: Wirch

AB _____ SB 176 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

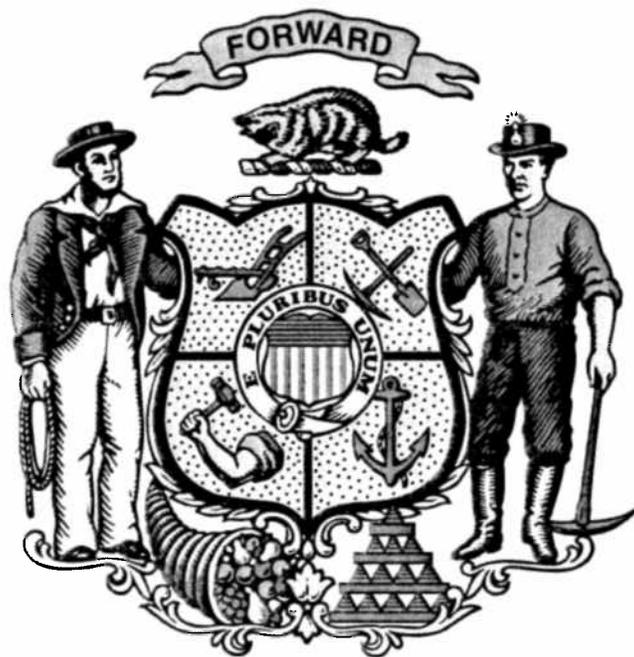
A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Spencer Coggs, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alan Lasee	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>4</u>	<u>1</u>	_____	_____

Motion Carried

Motion Failed



**Department of Employee Relations
City of Milwaukee**

03/02/06

MPD Personnel Investigations

SB 176
Folder

The following is a summary of the MPD Investigation/Disciplinary process. This summary addresses concerns regarding the alleged lack of information disciplined officers have throughout the course of the investigation, when charges are filed, and when the discipline is imposed.

INTERNAL INVESTIGATION INFORMING THE MEMBER

Member is issued form PI-21: Internal Investigation Informing Member. This form indicates that the department is presently investigating the member. The PI-21 sets forth the nature of the investigation through a brief synopsis of the allegation(s). The form also indicates that disciplinary action may result and that answers given in the internal investigation cannot be used against the member in a criminal proceeding. It informs the member that he/she has the right to a representative who may be present for consultation at all times during the interrogation. It informs the member that refusal to respond during investigation or any untruthful response could result in suspension or termination.

Unless there are "exigent circumstances" that require an immediate interview of the member - such as perhaps the member has been involved in some police action that causes death or great bodily harm - the PI-21 form spelling out what is being investigated schedules the date for the member's interrogation/interview approx 7-10 days after that PI-21 form is served on the member. The member and his/her union representative have a number of days to prepare for this interview. Every separate oral interview requires the issuance of a PI-21 form. Thus, if MPD conducts a follow-up interview, it would issue a new PI-21 form and follow this procedure. Additionally, even when there are exigent circumstances that dictate an interview prior to the normal 7-10 day time frame, the MPD provides a "reasonable" opportunity for the member who is to be questioned to obtain the presence of, and consult with, their union rep prior to the interview.

All PI-21 interviews are taped. Upon conclusion of an interview, the member is given a copy of the PI-21 interview tape. The member therefore has a copy of all questions asked by MPD and all answers provided to MPD in the course of the interview. Thus the member and his/her union have a great deal of information long before the charges and summary of the investigation are delivered.

NOTIFICATION LETTER

If formal charges are issued against a member, a letter is personally served upon the accused member along with a copy of the formal charges and a copy of a summary of the investigation. The summary of the investigation contains the details and facts of the investigation. It includes the names of the witnesses interviewed and a summary of their statements.

Items that are not part of the summary of the investigation include pictures (although what pictures depict is provided in the summary and included), individual interviews with witnesses (although summaries of the interviews are provided), the member's last performance evaluation (available to the member otherwise), and prior year "activity report" with performance measures (available to member otherwise).

This letter and the information provided offer an opportunity to the member to file an "In the Matter Of Report to the Chief" in response to the charges within 7 days of being served. A copy of the letter, a copy of the formal charges and a copy of the summary of the investigation is also sent to the member's labor organization.

IN THE MATTER OF REPORT

The member may consult with a representative in the preparation of the In the Matter Of Report. The member has 7 days after receiving the notice to submit the report which may include:

- A written statement of the member's side of the story including the names, addresses and phone numbers of any additional witnesses which the member wishes the investigators to interview, specifying the nature of the information possessed by the additional witnesses.
- Any mitigating factors or circumstances which the member may wish the Chief to consider before deciding upon discipline.

The Chief will consider the In the Matter of Report before making any decision regarding guilt or innocence or the possible imposition of a penalty. The investigation may be re-opened if information provided by the member so warrants it. If the member chooses not to provide a report and respond to the charges, the Chief may be compelled to base disciplinary decisions solely upon the information possessed by the Department.



Spencer Coggs

State Senator

SB 176
Folder



Sen. Judiciary, Corrections and Privacy Cmte.
SB 649/AB 1032 "Fired-with-pay" bill
Monday, March 6, 2006

Thank you, Mr. Chair, and Committee Members:

I appreciate the opportunity for these bills to have their day in the "court of public opinion."

I believe a fair reading of this legislation, and a fair hearing will justify its intent and its passage.

We have a situation that exists only in the City of Milwaukee, and a situation that affects only one segment of our public workers.

This situation has called into question the use of taxpayer dollars and the integrity of our city's law enforcement system.

As we speak, former members of the Milwaukee Police Department, who have been fired for misconduct, are collecting taxpayer-funded pay and benefits.

I believe this is both a moral and economic issue.

Under state law, officers who appeal their firing continue to draw pay and benefits until their appeal can be heard by the city's Police and Fire Commission.

This "Fired-with-pay" law is 25-years old... a holdover from the days when Harold Breier was "chief for life" of the Milwaukee Police Department.

In effect, Harold Breier didn't answer to anyone or any group. He held an arbitrary power. And the police officers felt they needed protection.

However, Harold Breier is gone. And in the absence of "Chief for Life" Breier, this law itself is arbitrary and subject to manipulation.

For instance, what stops even the most serious offender from appealing his or her firing and living off taxpayer largesse?

Unfortunately, nothing.

This is morally wrong because no other public employee gets this benefit. This benefit is not available to any of their counterparts in other parts of the state.

This benefit is not provided to Milwaukee firefighters. Police in New York, St. Louis and Minneapolis do not have this benefit.

And, "John Q. Citizen" in the private sector doesn't get that kind of protection either at his or her job.

It's economically wrong because since 1994, taxpayers have paid more than \$2 million in pay and benefits to 30 fired officers, who were not reinstated. These are figures from the Milwaukee Journal Sentinel.

In a more recent study of this problem, the Milwaukee Fire and Police Commission found that going back to 1990, 81 officers were fired - and all but two filed appeals.

In each case the "clock was running," paychecks were cut for these officers, benefits were paid, and the process moved slowly forward.

In fact, because of workload and concerns about due process, the average appeal takes nearly 9 months.

And if the firings are upheld – and most are – those who have received thousands in pay and benefits don't have to repay the city.

This amounts to "playing the system," and the system has been "played" to the tune of more than \$2 million taxpayer dollars.

Currently, the cost for a mid-level officer (Level 3) on the Milwaukee Police Department is about \$51,000 in pay and benefits.

That's a lot. But it's a tough job.

In return, we, as taxpayers, hold high standards for our officers.

If they cannot live up to those standards and firing is necessary there should be no reason for Milwaukee taxpayers to continue to pay these individuals.

As you may know, this situation came to light after the firing of nine officers who allegedly took part in the beating of a man while the officers were off-duty.

The accused officers refused to testify against fellow officers and they were rightly fired.

Certainly it is their right to appeal.

But there is no reason for Milwaukee taxpayers to pay them for at least a nine-month vacation while the appeal proceeds.

I urge you to give this legislation your strong support.

This is an abuse of taxpayers' dollars that must be corrected.

Your vote to support this bill will also help restore the public's confidence in our police department.



Plotkin, Adam

Subject: SC meets with Rep. Toles and MPA Members
Location: 225 NW
Start: Wed 01/17/2007 2:30 PM
End: Wed 01/17/2007 3:00 PM
Recurrence: (none)

AP

SB 176
Folder

Packet

MPA 2007?
mtgs.

Plotkin, Adam

Subject: SC & Toles meet with MPA
Location: DPW, 3850 N. 35th St., Small Conference Room
Start: Mon 02/05/2007 1:00 PM
End: Mon 02/05/2007 1:30 PM
Recurrence: (none)

AP

Plotkin, Adam

Subject: SC and Toles have lunch with Tom Fischer
Location: Wisconsin Club, Alexander Room
Start: Mon 02/26/2007 12:00 PM
End: Mon 02/26/2007 12:30 PM
Recurrence: (none)

AP

Plotkin, Adam

Subject: SC & Toles meet with MPA & City
Location: DPW Building, 3850 N. 35th St.

Start: Fri 03/02/2007 1:00 PM
End: Fri 03/02/2007 1:30 PM

Recurrence: (none)

Maria Monteagudo, David Heard, Steve Fronk
Per Toles office
AP

Plotkin, Adam

Subject: SC meets with Toles & MPA
Location: 3850 N. 35th St., Conference Rm.

Start: Tue 11/20/2007 3:30 PM
End: Tue 11/20/2007 4:00 PM

Recurrence: (none)

Bill Ward, 414-581-2081
AP





122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

SB 176 Folder

To: Members of the Wisconsin State Legislature
From: The Lobbying Corps of the League of Wisconsin Municipalities
Date: February 14, 2007
Re: **Opposition to SB 21/AB 57, Arbitration of Police and Fire Commission Decisions**

The League of Wisconsin Municipalities opposes SB 21/AB 57, allowing police officers and fire fighters to appeal police and fire commission (PFC) disciplinary decisions by seeking arbitration pursuant to a collective bargaining agreement rather than circuit court review.

By way of background, this bill would affect approximately 131 Wisconsin cities and villages required by state law to have PFCs. The PFC law was enacted in 1897 to remove politics from decisions relating to the hiring and disciplining of police and fire employees. A PFC is made up of 5 citizens appointed from the community. In cities, mayoral appointments to the PFC are subject to council confirmation. PFC members serve 5-year terms.

The League opposes SB 21/AB 57 for the following reasons:

- The bill undermines the purpose and function of PFCs by allowing outside arbitrators to substitute their judgments for those of PFCs. This state has a 100-year practice of trusting non-partisan, volunteer, citizen commissioners to make unbiased disciplinary decisions concerning police officers and fire fighters. Under SB 17, the PFC's disciplinary decision would become a meaningless step in the process since the arbitrator would not be reviewing the PFC's decision but rather conducting a new hearing.
- The bill overturns the 1995 *City of Janesville* decision in which the Court of Appeals confirmed the City's understanding that collective bargaining agreements could not transfer to an arbitrator the PFC's exclusive statutory power to determine whether misconduct charges against a police officer or fire fighter should be sustained.
- Police officers and fire fighters already have adequate opportunity to seek review of PFC disciplinary decisions in circuit court. Moreover, PFCs must follow seven "just cause standards" when disciplining police officers and fire fighters. These just cause standards were incorporated into the PFC law in 1992 at the request of police unions to ensure a fair and unbiased review of discipline imposed by police and fire chiefs.

For these reasons we urge you to oppose SB 21/AB 57. Thanks for considering our concerns.

STRONG COMMUNITIES MAKE WISCONSIN WORK



From: Rep.Toles
Sent: Wednesday, April 04, 2007 12:56 PM
To: *Legislative All Assembly; *Legislative All Senate
Subject: Toles/co-sponsorship/police pay after termination/LRB-0630/deadline - April 13

Attachments: 07-06302.pdf
DATE: April 4, 2007

TO: Legislative Colleagues

FROM: Representative Barbara Toles
Representative Pedro Colón
Senator Spencer Coggs

RE: Co-sponsorship of LRB 0630 – Payment of a 1st class city police officer's salary after termination

Deadline: Friday, April 13th

For over a year, Milwaukee taxpayers have been forced by state law to pay the salary and benefits of a serial sexual predator. On March 29th, Milwaukee police officer Steven Lelinski was sentenced to over 21 years in prison for sexual assault, attempted sexual assault, and lewd and lascivious behavior. The district attorney in his case described Mr. Lelinski as someone who preyed on prostitutes, drug addicts, and women with arrest warrants for years, because he knew their word wouldn't stand up to his. The judge said Mr. Lelinski had shamed himself, his family, the community, and the Milwaukee Police Department. From the time Mr. Lelinski was suspended from the police force in February, 2006 until he was sentenced, he collected over \$65,000 in pay. That figure does not include the cost of the fringe benefits he received. This legislation will eliminate the provision in statute 62.50 that provides pay for police officers after termination.

Other examples of police officer misconduct that led to termination include:

- Several officers currently face federal civil rights charges stemming from the severe beating of Frank Jude, Jr. One of those officers, charged with substantial battery in that case, later called in a bomb threat to the station where he worked, and was also charged with federal weapons violations and state bail jumping. At one point, he faced four separate felony cases.
- A police sergeant, while on patrol, came across a female performing a sex act on a male in a parked car. The sergeant later took the female in his squad car, parked in a secluded area, and engaged in sexual acts with her for about half an hour, ignoring a radio call for service.

AB 308

SB 176 ?

- Five police officers and a sergeant went sledding while on duty. One officer was seriously injured. The others moved the injured officer to the steps of a school and called in a false report of “officer down” and fabricated a story that he had been injured chasing a suspect. The injured officer then defrauded the City by filing a claim and receiving worker’s compensation for his “duty-related” injuries.
- An off-duty detective was driving while intoxicated, crossed the center island, and swerved into oncoming traffic, colliding with a vehicle and sending its three occupants to the hospital. He was charged criminally for the crash and was dismissed from the Department.
- Several citizens observed a police officer pull a prisoner out of a squad car and beat him while the officer’s partner was inside a fast food restaurant.

All of these fired officers appealed their terminations and stayed on the payroll during the appeals process.

Milwaukee is the only city in Wisconsin, and likely in the entire nation, that is required to keep police officers on the payroll after they have been fired, if they appeal their terminations. Since 1990, 97 police officers have been terminated at a cost to Milwaukee taxpayers of more than \$3.8 million in pay and benefits. According to the City, as of April 3rd, there are ten additional cases pending. In Milwaukee, the appeal process takes an average of nine months per case, with several cases lasting significantly longer.

Analysis by the Legislative Reference Bureau

Under current law, no member of the police force of a first class city (presently only Milwaukee) may be suspended or discharged without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the Board of Fire and Police Commissioners (board) or the time for an appeal passes without an appeal being made. Currently, no member of a police force of a second, third, or fourth class city may be deprived of compensation while suspended, pending disposition of the charges.

Also under current law, if the board’s decision upholding the discharge or suspension is reversed, the member must be reinstated to his or her former position in the department and is entitled to pay as if he or she was not suspended or discharged. Similar provisions apply to a second, third, or fourth class city police officer whose suspension or removal is reversed.

This bill removes the current law provisions relating to the payment of the salary of first class city police officers who are discharged. The bill does not affect current law provisions relating to reinstatement and back pay for such officers if the board’s decision is reversed. Currently, if the board receives a notice of appeal, it must schedule a trial within 5 and 15 days after service of the notice

and copy of the complaint. This bill changes the time frame for scheduling a trial to between 90 and 120 days.

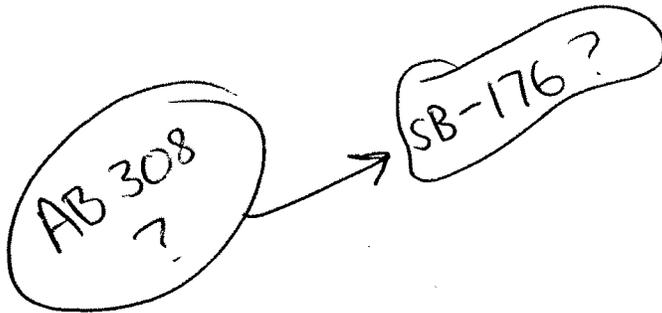
Currently, both the accused and the chief of a department have the right to request up to a 15-day adjournment of the trial or investigation of the charges. Once such a request is made, it is granted automatically. Under the bill, the board may grant an adjournment, for cause, to either party.



Department of Employee Relations (DER)
City Hall, Room 706
200 East Wells Street
Milwaukee, WI 53202
(414) 286-3751 FAX (414) 286-0800



Fax



To: Dave Defelice	From: Maria Monteagudo
Fax: 608-282-3546	Pages: 7
Phone:	Date: 5/8/2007
Re:	Phone: 414-286-3335

FYI For Review Please Comment Please Reply Please Recycle

● Comments:

back to square one

Dudzick, Bahl,
Donovan,
Krusik, Batzera
Tom Kirsch

I am writing in regards to the proposed legislation by Representative Toles that affects the pay for fired Milwaukee Police Officers. Representative Toles' bill would change the current Section 62.50, STATS., which covers Milwaukee Police Officers. This proposed legislation, while well intentioned, harms all hard working police officers and their families, in addition to those that it intends to target.

The Milwaukee Police Association has been meeting with the City of Milwaukee since August/September of 2006 regarding the continuation of pay for fired Milwaukee Police Officers.

We have also been meeting with the Mayor and several state legislators including Representative Toles and Senator Coggs on this same issue.

During this entire process, we have proposed a number of changes to the current statute which not only meet the needs of the City, but also protects the hard working City of Milwaukee Police Officers.

If enacted our proposed changes would have saved the City of Milwaukee hundreds of thousands of dollars. The MPA has proposed that:

1. **An Officer's pay would stop when he/she is charged with a felony, bound over for trial and also discharged by the Chief as a result of the same act(s) which constituted the felonious criminal charge.**
This would include a provision where any such officer would be made whole for back pay and benefits only if they prevail and are re-instated to the MPD.
2. **There should only be an adjournment (of the Fire & Police Commission hearing) "for cause".**
No "mandatory adjournment" is necessary.
3. **The Fire and Police Commission trials should be held between 60 and 120 days after the complaint is filed.**
This benefits the community by shortening the time for appeals to run their course, and makes it consistent with other forums (i.e., circuit court, etc.)
4. **The Fire and Police Commission have "rule making authority".**
This benefits the FPC by addressing the *Casteneda* decision, and provides the FPC with the rule making authority it presently lacks.
5. **The number of FPC Commissioners be expanded from 5 to 7 (with a quorum remaining at 3 for disciplinary purposes).**

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This decreases each Commissioner's work load, which will in turn shorten the time for the appeal to run its course. It will allow the FPC to focus more on citizen complaints and "big picture" matters such as hiring practices/standards, etc.

6. Our current arbitration process for discipline should be expanded.

This would allow an officer the ability to choose between arbitration or the FPC for all discipline other than those where the officer is also charged with a felony, bound over for trial and is discharged for the same acts which constituted the felonious charge.

This would enable the Commission to maintain control over the outcome of discharge cases that are truly "high profile," and preserve "citizen oversight" as to the type of discharge cases that most concern the public.

Historically, arbitration is faster than the normal FPC process. If the Officer chooses arbitration, it would be concluded within 90 days, with the costs being shared equally between the City and the MPA (as per the collective bargaining agreement.)

Arbitration also enhances the FPCs' ability to focus on the "big picture" issues, such as hiring practices, rules, and testing.

This proposal meets the goal of the Milwaukee Commission on Police Community Relations (MCPCR), as well as the "Parc Report."

7. An Officer be able to appeal an arbitral decision to Circuit Court, under the same standard as is currently applied to Circuit Court appeals from the FPC under Wis. Stat. 62.50 (21)

The standard being: "under the evidence, was there just cause to sustain the charge(s) against the accused," and "was the decision reasonable."

8. The Chief of Police would provide all exculpatory evidence, as well as all evidence relied upon in the determination of guilt and discipline, at the time the Officer is served with disciplinary charges.

This would be necessary to speed up the entire process.

These are significant changes to the current legislation.

Unfortunately there are some who believe that all pay should stop upon termination, regardless of the basis for termination. That belief would discriminate against Milwaukee Police Officers simply because of the community in which he/she works – as the pay for every other Wisconsin Police Officer continues until his/her discharge is heard before an Independent Board of Review. *See Section 62.13 & 59.26(9), STATS.* Such a discriminatory belief is simply unacceptable.

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If the City of Milwaukee believes these proposed changes are unacceptable, it should ask legislators to eliminate Section 62.50, STATS., in its entirety, and treat our police officers like every other police officer in the State of Wisconsin. *Even Governor Doyle was quoted last year saying that all police officers in the State of Wisconsin should be treated equally.*

In Mayor Barrett's March 29th statement, he said "every month I watch thousands and thousands of dollars leave city coffers to pay people who have been fired from their jobs and charged with crimes." In reality, however, it's the City that opts to pay officers even after they have been convicted of a felony. It is (and has been) the MPA's position that once an officer is convicted of a felony, he/she can no longer hold the position of a police officer. The City, on the other, hand continues to pay the officer until he/she is sentenced. This was also the case after Aids. Paul Henningson and Rosa Cameron were convicted in Federal Court.

Why does the City continue to pay convicted felons?

Contrary to Mayor Barrett's March 29th press release, Barrett stated in an April 3, 2007 interview that he remained hopeful and is still optimistic that the City and the MPA can present a united front to the Wisconsin Legislature on a compromise bill.

The MPA agrees, and has offered the above as just such a compromise.

I'd ask that you keep in mind that an Officers' actions, whether it be in the courts or in the public eye, are judged on a "reasonableness" standard. "Reasonable" is defined as "rationally fitting, proper, or sensible." The MPA strongly believes that, after reading and understanding our proposal, you will deem it to be reasonable as well.

THE EFFECT OF THE PROPOSED LEGISLATION
OF REPRESENTATIVE BARBARA TOLES

A few examples of the devastating effect of the legislation which is being proposed by Representative Barbara Toles could have occurred recently.

A police officer was dismissed by the Chief on 8/28/2006 for a rule violation. Under Representative Toles' proposed legislation the officer's pay would have stopped immediately. On 4/18/2007 a hearing was held in front of the Fire and Police Commission regarding the officer's dismissal. As a result of this hearing the officer was reinstated by the F&PC with a 30 day suspension. If Representative Toles' proposed legislation had been in place, this officer would have lost almost 8 months of pay putting a heavy strain on his financial situation.

A detective was dismissed by the Chief on 1/4/2007 for a rule violation. Under Representative Toles' proposed legislation the detective's pay would have stopped immediately. On 5/2/2007 a hearing was held in front of the Fire and Police Commission regarding the detective's dismissal. As a result of this hearing the detective was reinstated by the F&PC. The F&PC also admonished the Chief and the Department for dismissing the Detective. If Representative Toles' proposed legislation had been in place, this detective would have lost both her house and savings.

**Comparison of
§62.13, STATS., and §62.50, STATS.**

§62.13, STATS.

§62.50, STATS.

§62.13, STATS.	§62.50, STATS.
<p><u>AUTHORITY TO ISSUE CHARGES</u> The Chief is <u>not</u> the only one who can bring charges against an employee <i>Charges can be brought by the Chief, member of the Board, or any aggrieved person. §62.13(5)(b).</i></p>	<p><u>AUTHORITY TO ISSUE CHARGES</u> The Chief <u>is</u> the only one who can bring charges against an employee <i>Employees hold positions at the pleasure of the chief, subject to a FPC trial. §62.50(9). Chief can discharge or suspend, and files a complaint. §62.50(11), (13).</i></p>
<p><u>AUTHORITY TO SUSPEND</u> The Chief or the Board can suspend, but only the Board can discharge <i>The Chief or Board can suspend the employee pending disposition of charges. §62.13(5)(b). If the Board determines the charges are sustained, it can suspend, reduce in rank, or removed. §62.13(5)(e).</i></p>	<p><u>AUTHORITY TO SUSPEND</u> Chief makes the decision to discharge, and the FPC reviews her decision <i>The chief can discharge or suspend a member for more than 5 days as long as she gives written notice of her decision to the FPC. §62.50(11), (13). If the Board the charges are sustained, it can permanently discharge, suspend up to 60 days, or reduce in rank. §62.50(17).</i></p>
<p><u>AUTHORITY TO DISCHARGE</u> Rests solely with the FPC. §62.13(5)(em).</p>	<p><u>AUTHORITY TO DISCHARGE</u> Rests with the Chief, subject to FPC review. §62.50(11) & (13).</p>
<p><u>PAID SUSPENSION</u> Employee remains on payroll pending disposition of charges <i>No person shall be deprived of compensation while suspended pending disposition of charges. §62.13(5)(h).</i></p>	<p><u>PAID SUSPENSION</u> Employee remains on payroll pending disposition of charges <i>Employee cannot be deprived of pay/benefits until the FPC disposes of matter. §62.50(18).</i></p>
<p><u>TRIAL DATE</u> Within 30 days of service of charges <i>Not less than 10 days, nor more than 30 days, following service of charges on employee. §62.13(5)(e).</i></p>	<p><u>TRIAL DATE</u> Within 15 days of service of charges <i>Not less than 5 days, nor more than 15 days, following service of charges on employee. §62.50(14).</i></p>
<p><u>ADJOURNMENT</u> Not addressed.</p>	<p><u>ADJOURNMENT</u> Chief & Employee Have Adjournment Right <i>Accused and the chief each have a right to an adjournment of no more than 15 days for either the trial or investigation of charges. §62.50(16).</i></p>
<p><u>DISCIPLINE OF CHIEF</u> Provisions applying to officers also apply to Chief of Police. §62.13(5)(j).</p>	<p><u>DISCIPLINE OF CHIEF</u> Not Addressed.</p>

Discontinuing pay for POs charged with felonies pending appeal of termination to FPC is an obvious desire, but why differentiate between those charged with felonies vs. misdemeanors?

Just a few examples of misdemeanor crimes:

**Battery (940.19)

**Resisting/Obstructing an Officer (946.41)

**Disorderly Conduct (947.01)

**Hit and Run Occupied Vehicle (346.67)

**Endangering Safety by Use of Weapon (941.20)

**Violation of Harassment/Domestic Abuse Injunction (947.013)

**Criminal Damage to Property (943.01)

**4th Degree Sexual Assault (Contact w/out Consent - 940.225)

**Aiding/encouraging parolee to violate parole (946.46)

*** All of the above are misdemeanors with which a Milwaukee police officer has been or is currently charged and for which that officer has remained on the payroll pending appeal of his/her termination to the Fire and Police Commission.*

Is there really a sufficient distinction to justify paying those charged with misdemeanors who are terminated for such conduct?

What if officer was charged with one of the following misdemeanors:
Intimidation of Witnesses (940.42)
Exposing Genitals to a Child (948.10)
Receiving property for promise to refrain from prosecuting (946.67)
Would that officer deserve to be paid while charges were pending?



Plotkin, Adam

From: MilwaukeeE-Notify@milwaukee.gov
Sent: Friday, July 27, 2007 3:47 PM
Subject: BARRETT REPORT: Convicted But Still Paid

SB 176
Folder

You have a Milwaukee.Gov E-Notification for Mayor category.

If you are having difficulty viewing this message, please visit www.milwaukee.gov/thebarrettrep



THE BARRETT REPORT



An E-Newsletter From Milwaukee's Mayor Tom Barrett

July 27, 2007

Jude Verdict Shows Need for Police Pay Reform
Convicted Officers STILL on Milwaukee Payroll

The beating of Frank Jude not only disgusted the entire City, it tarnished the reputation of every member of the Milwaukee Police Department, the vast majority of whom are excellent public servants who put their lives on the line every day to protect and serve us all.

My hope is that yesterday's verdict finding the three police officers guilty of violating Frank Jude's civil rights will bring some peace and closure to the Jude family. It is my hope that yesterday's demonstration of justice can prompt a renewal of our sense of community and lift Milwaukee's collective soul so we all can move forward together.

This case also highlights a glaring problem with a current Wisconsin state law that forces Milwaukee taxpayers to keep paying officers fired from the Milwaukee Police Department, including those who are charged with and even convicted of a crime.

Police Chief Nan Hegerty should be applauded for handing down

13 disciplines, including nine dismissals, of officers involved in this case. She is to be commended for demanding a high standard of conduct from every member of the Milwaukee Police Department.

However, because of this completely unreasonable state law, Milwaukee taxpayers will continue to pay two of the officers found guilty yesterday even though they have been fired, charged with a crime and now convicted. They will continue to receive pay and benefits until they are sentenced in this matter. Another officer convicted yesterday was finally removed from police payroll when sentenced in a state case earlier this year, yet that too came months after his dismissal from the force.

Since being terminated by the Chief, these men have cost the City:

Jon Bartlett

Pay: \$78,142.66. Pay including fringe benefits: \$104,711.16

Daniel Masarik

Pay: \$131,036.12. Pay including fringe benefits: \$175,588.40

Andrew Spengler

Pay: \$145,276.63. Pay including fringe benefits: \$194,670.68

TOTAL PAID TO JUDE OFFICERS FOUND GUILTY SINCE THEY WERE FIRED:

Pay: \$354,455.41. Pay including fringe benefits: \$474,970.24

From 1990 through 2006, Milwaukee taxpayers shelled out nearly \$4 million in pay and fringe benefits to ex-police officers who have been fired, including those charged with a crime. Benefits include everything from uniform allowances and weapon certification pay to sick leave, vacation, health care and pension contributions.

This is absurd. Milwaukee is the only city in the nation where taxpayers are forced to pay people who have been fired from their jobs and charged with crimes. Our community would be much better served if we could use these millions in taxpayer dollars to put more cops on the street, not pay ones who have been fired and charged with crimes.

I call upon the State Legislature to do right by our taxpayers and change this terrible law.

Sincerely,

A handwritten signature in cursive script that reads "Dan Barrett".

Mayor, City of Milwaukee

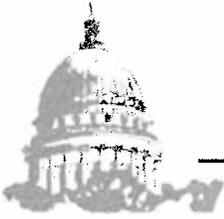
Visit my website at: <http://www.city.milwaukee.gov/mayor>

Please do not respond to this email. It is not set up to receive emails.
Please email pwalza@milwaukee.gov to reply.

You have received this notification because you subscribed to be notified for Mayor category from the City of Milwaukee.

Please use the link to add or to remove categories from your account or delete your account
<http://itmdapps.ci.mil.wi.us/login/citizenlogin>.





WISCONSIN STATE SENATOR
TIM CARPENTER
SENATOR – 3RD DISTRICT

State Capitol • PO Box 7882 • Madison, WI 53707-7882 • Phone: (608) 266-8535

September 24, 2007
Hand Delivered

Governor Jim Doyle
State Capitol

SB 176
Folder

Dear Governor Doyle:

I am pleased to hear that you have convened a budget summit to help break the deadlock on so many issues in the Budget Conference Committee. I wish you and the members of the Committee good luck, and good progress.

I would like to draw your attention to an important provision in the Senate Budget, and encourage you to persuade all parties involved to keep it in the final budget: please keep the Senate Budget provision that eliminates the unconscionable state mandate that requires the paying Milwaukee police officers full salary and benefits after they have been fired – even after being convicted in a court of law. (Wisconsin Statutes Chapter 62.50 (18))

Eliminating this unfunded state mandate will save the taxpayers of Milwaukee millions of dollars, and requires no revenue investment from the state.

The need to end this state law is reinforced in the wake of the conviction of three officers in the brutal beating of Frank Jude. The conviction of these officers highlights the injustice of an unfunded police pay mandate, the length of time such appeals are taking, and the great deal of money that is being spent during a time of limited resources.

Under current law, two of these officers will continue to draw their salary and benefits until they are sentenced on November 29th. Fired officers, like those in connection with the beating of Frank Jude almost three years ago, continue to draw their salary and benefits until all appeals are exhausted with the Police and Fire Commission or are convicted and sentenced in a court of law. A recent Journal Sentinel article stated that the officers involved in this crime have been paid \$475,000 in salary and benefits since they were fired.

The Senate provision will potentially relieve millions of taxpayer dollars in an unfunded mandate to the City of Milwaukee. These tax dollars could be used to provide resources to the police department and the good and honest police officers who put their lives on the line daily to keep us safe in our community; such officers deserve our utmost respect, support, and thanks. They

do not deserve to be viewed by the public in the unflattering light caused by the few who abuse this system.

Milwaukee is the only city in Wisconsin where police officers who have been fired can stay on the payroll throughout the appeals process. Since 1990, the City has paid over \$3.3 million in salary and benefits to fired officers. Milwaukee police officers have been fired for committing crimes such as sexual assault, drug dealing, battery, theft, and bribery. Most have appealed their firings and continued to be paid for months or years. It has taken police officers an average of nine months to exhaust all their appeals. The current system is extremely costly to the taxpayers of Milwaukee and to the image of the entire Milwaukee Police Department.

Eliminating this state mandate will not affect Milwaukee police officers who are suspended, who will continue to collect pay and benefits pending appeal. Also, the provision will not affect current law that allows police officers to be reinstated and collect all back pay if their appeals are successful, thus protecting officers from being fired unfairly or arbitrarily.

This is the right thing to do, and the right time to do it.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim", with a long horizontal stroke above it.

Tim Carpenter
State Senator

cc: Conference Committee Members

Eliminating mandate that Milwaukee – and Milwaukee only – continue to pay full salary and benefits for fired police officers

For reference, this is the relevant provision in SB 40, introduced and adopted as Senate Amendment 1, to Senate Amendment 1, to Senate Substitute Amendment 1, to the 2007 Senate Bill 40, pg. 1, lines 5 – 10 to pg. 2 lines 1 – 2.

“SECTION 1873g. 62.50 (18) of the statutes is amended to read:

62.50 (18) SALARY DURING SUSPENSION. No chief officer of either department or member of the fire department may be deprived of any salary or wages for the period of time suspended preceding an investigation or trial, unless the charge is sustained. No member of the police force may be suspended ~~or discharged~~ under sub. (11) or (13) without pay or benefits until the matter that is the subject of the suspension ~~or discharge~~ is disposed of by the board or the time for appeal under sub. (13) passes without an appeal being made.

Removing these two words will mean something important: fairness – for taxpayers and for good, hardworking police officers.





WISCONSIN STATE SENATE
TIM CARPENTER
SENATOR – 3RD DISTRICT

State Capitol • PO Box 7882 • Madison, WI 53707-7882 • Phone: (608) 266-8535

November 14, 2007
Hand Delivered

Senator Spencer Coggs
Room 123 South
State Capitol

Dear Senator Coggs:

I wanted to let you know that on November 7, 2007, my name was added as a coauthor to Senate Bill 176 to end the payment and salary and benefits of Milwaukee Police officers after they have been fired.

As you may recall, I did not initially add my name as a coauthor to SB 176 as I wanted to try to get this issue included in the state budget, and did not want its chances for inclusion in the budget to be harmed by an objection that I was also supporting independent legislation on the issue.

Now that the budget has passed, it is my hope that you will bring SB 176 to a public hearing in your Committee on Labor, Elections and Urban Affairs as soon as possible.

If I can assist you in any way in bringing this matter forward, please don't hesitate to let me know.

Sincerely,

Tim Carpenter
State Senator



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Original Story URL:

<http://www.jsonline.com/story/index.aspx?id=689625>

Fired officers' pay under fire

Legislature to revisit halting wages to Milwaukee police during appeals

By STACY FORSTER
sforster@journalsentinel.com

Posted: Nov. 24, 2007

Madison - The Legislature this week will take up a long-stalled measure to change a state law that allows Milwaukee police officers to continue being paid after they're fired.

At issue is a 27-year-old law unique to the state's largest city that requires that fired police officers be paid until their appeals have been exhausted, which can take months or even years.

The law has come under fire as a slew of officers have been fired for crimes, including sexual assault, bribery and drug dealing. Three former officers - Jon Bartlett, Andrew Spengler and Daniel Masarik - will be sentenced in federal court Thursday for their role in the October 2004 beating of Frank Jude Jr., who was assaulted by off-duty officers as he was leaving a party at a Milwaukee cop's home.

It's unclear whether supporters of the police pay bill can win enough votes for passage in both the Senate and the Assembly or whether disputes over the scope of the measure will again lead to an impasse.

The City of Milwaukee and some legislators have long tried to change the law, saying it costs taxpayers too much money to pay fired police officers who are charged with crimes.

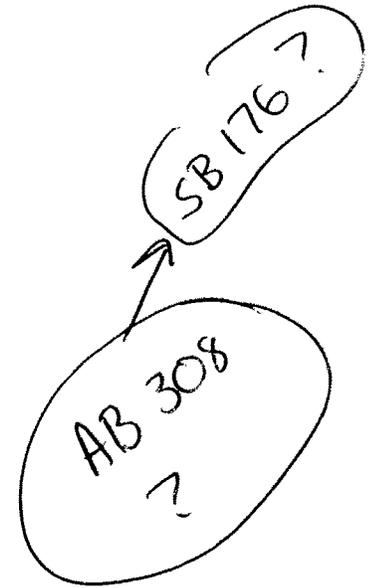
City records show Milwaukee has paid nearly \$4.4 million in wages and benefits to fired officers since 1990.

"I don't want the property-tax payers in this city to be paying for people who have been fired and charged with a crime," said Milwaukee Mayor Tom Barrett.

But the city's police union says those officers deserve to have their cases reviewed before they lose their paychecks.

"You're punishing everyone before they have the ability to defend themselves," said John Balcerzak, president of the Milwaukee Police Association.

To end this fall's budget stalemate, Assembly Speaker Mike Huebsch (R-West Salem) promised a vote on a proposal by the end of the year and is bringing together the different sides to talk about a compromise.



Meanwhile, Senate Democrats have scheduled a hearing on their version of the measure for Wednesday, and Sen. Tim Carpenter said he plans to have the bill before the full Senate by Dec. 11.

Each house could take up a different version of the measure. That could force lawmakers to try to find a compromise or again set it aside for lack of consensus.

Middle ground lacking

Supporters of changing the law have taken a hard line: ending pay for fired officers at the time they're terminated, which is what Rep. Barbara Toles (D-Milwaukee) said she's set on passing.

"We're still in the same fight; it's the same battle," said Toles.

The police union supports cutting off pay only for fired officers who are charged with felonies and bound over for trial. Balcerzak said that would have taken care of most of the problem cases in recent years.

Stopping pay for all officers would be too punitive because it would apply to those facing misdemeanors or other minor offenses that lead to firing, Balcerzak said. In other cities, police chiefs can recommend firing, but pay isn't cut until a local commission decides to fire an officer.

But Barrett insists there should be no pay for fired officers, regardless of the severity of the crimes they are accused of committing.

"If you're fired and charged with a crime, you don't get paid," he said. "That's the way it works in America."

City records reveal examples of Milwaukee police officers who were fired for such misdemeanor offenses as intimidating witnesses and exposing their genitals to children, yet who were still paid during their appeals.

Discussions about compromise will be different than in early 2006, when the Assembly passed a bill that would have required officers charged with felonies to repay the city for salary received while appealing if the officer ultimately left the police force.

The bill was approved over the objections of Toles and Barrett, who said it didn't do anything to protect taxpayer dollars by cutting off pay at the time of a firing.

Ending pay for fired officers has strong support in the Senate, where it was added to the version of the budget the Senate passed in June.

"Everything would stay the same except there would not be a state mandate that police officers would be paid after they're fired," Carpenter said of the proposed legislation.

Huebsch said he plans to meet soon with Toles, Rep. Mark Honadel (R-South Milwaukee) and the Milwaukee Police Association to broker a compromise, although he hasn't yet determined how it might work.

Coming from La Crosse, "I might be far enough out of the forest to see the trees," Huebsch said.

Honadel said there needs to be a compromise that gives fired officers some recourse before their pay is stopped.

Language that works for the police union might not satisfy some lawmakers. Toles said her position hasn't changed since she first started pushing for the legislation several years ago.

"I'm trying to figure out how to compromise when I think pay needs to stop at termination," she said.

Balcerzak said he and police union members are also eager to resolve the issue.

"Our members - just like anybody out there - (are) tired of seeing . . . Milwaukee police constantly in the paper getting put in bad light," he said.

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From the Nov. 25, 2007 editions of the Milwaukee Journal Sentinel
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Plotkin, Adam
From: Bob Jacoby [jjacoby_10@hotmail.com]**Sent:** Monday, November 26, 2007 9:28 AM

To: jsedit@journalsentinel.com; Abe Caceres; Attnaugustine@aol.com; barbarajaniszewski@sbcglobal.net; billpickering@northwesternmutual.com; chris trebatowski; dbice@journalsentinel.com; DHEARD@milwaukee.gov; ekane@journalsentinel.com; Tribys, Eleanora; Marge Jacoby; mayor@milwaukee.gov; mayors assistant; MilwaukeeDA@mail.da.state.wi.us; Urban2, Pamela; pauljacoby@alliantenergy.com; Rep.Grigsby; rquindel@milwcnty.com; Sen.Coggs; sheriff@milwcnty.com; watchdog@journalsentinel.com

Subject: Police Pay

Reading the "progress" on the proposed change to state law that pays fired Milw. police officers, and the corresponding comments by the Republican outstate backers of the MPA (no Mr.Heusch, you have single handedly done more damage to Milwaukee than almost any human alive, we don't need your input now) is maddening. And noting how Mayor Barrett's "get tough" rhetoric has inserted the "if convicted of felonies" language is equally aggravating. The only person making any sense in the whole debate is Rep. Toles - "if you get fired, you don't get paid - thats the way it works in America".

Why on earth is any policy governing the police City taxpayers pay for the concern of any non-Milwaukee politician? Why are these same politicians, who routinely vote to do whatever they can to undermine Milwaukee's citizens and economy, even remotely concerned - unless it is because they get alot of money and support from the MPA - an organization that also frequently acts against the best interests of the City of Milwaukee.

The MPA wants a public relations victory while still coddling bad cops, the Republicans want a way to support the MPA without having the bad smell of this issue finally ending up in their laps where it belongs, and the Mayor is already preparing for a compromise position because he fears the power of the MPA.

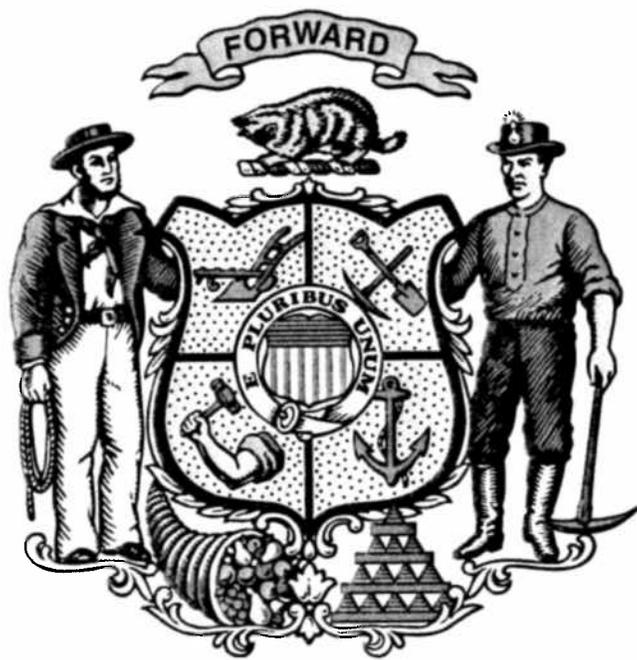
The fact is, not paying only those fired for being convicted of felonies will only resolve a small proportion of the problem, while letting the MPA, the Republicans, and the Mayor off the hook. Cops who have extended disciplinary records and are finally fired for one to many will still get paid, cops who commit or plea to misdemeanors (like indecent exposure or disorderly conduct - and remember cops are being charged/investigated by fellow cops) will get paid. Cops who are fired for flat out not doing their job - like sleeping, failing to investigate, or abandoning civilians seeking help (something I am all to familiar with) - will still get paid. And these are the majority, not the minority as suggested by the MPA, of firings.

Stand firm Rep. Toles - the cops should be held to the highest standards given their awesome power, not the lowest standards of any public employees in the state, if not the nation, as the MPA/Republicans continue to insist. This is America - if the rest of us are fired, we can sue, but we don't get paid unless we win. Why should it be any different for cops?

Bob Jacoby
Milw. WI

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11/26/2007



AB 308 ?
→ SB 176 ?

Plotkin, Adam

From: Bob Jacoby [jjacoby_10@hotmail.com]
Sent: Monday, November 26, 2007 3:09 PM
To: anne.clough@marquette.edu; Attnaugustine@aol.com; barbarajaniszewski@sbcglobal.net; bernadettewilliams@northwesternmutual.com; billpickering@northwesternmutual.com; brucespann@sbcglobal.net; chris trebatowski; dbice@journalsentinel.com; drabe@worldhousemusic.com; ekane@journalsentinel.com; Sherman, Gary; Jack Jacoby; cjwo@charter.net; jfkowalski@goowy.com; Marge Jacoby; Hubler, Mary; mayor@milwaukee.gov; pauljacoby@alliantenergy.com; Rep.Grigsby; rq45@wi.rr.com; Sen.Coggs; Tarrant, Peg - DAIT; vhousesoccer@hotmail.com; watchdog@journalsentinel.com
Subject: fired police pay bill
Attachments: Milwaukee Police Assn PAC.doc

Attached is the contributions made by the MPA over the last year. It is quickly evident that the vast majority of their contributions go to out of town right wing politicians, not to mention the "committee to elect a republican assembly".

Interestingly, these same out of town republicans, many of whom have worked actively against the interests of the City of Milwaukee on a routine basis, want to "negotiate" a solution to the fact that state law which they have prevented from being changed allows for paying of fired City of Milwaukee police officers until all appeals are exhausted and that this has cost the City millions of dollars the last several years. For a party that claims to resent government abuse of taxpayer money, their position on this law is the height of hypocrisy. There is nothing to negotiate - cops fired for any reason, not just if they committed a felony, should not get paid.

Please call your legislators and ask them to support the assembly's version of the proposal to change this law. Any negotiation is just a PR attempt to get the bad smell of this law as far away from those responsible for it as possible.

Bob

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11/26/2007

Milwaukee Police Assn PAC**\$22,063.00**

Albers, Sheryl	\$500.00
Assembly Democratic Campaign Committee	\$400.00
Baas, Richard	\$100.00
Breske, Roger	\$100.00
Brown, Ronald W	\$100.00
Bucher, Paul E	\$2,000.00
Carpenter, Tim	\$350.00
Committee to Elect a Republican Senate	\$3,000.00
Darling, Alberta	\$300.00
Decker, Russ	\$100.00
Friske, Donald	\$250.00
Green, Mark	\$7,000.00

Page 43 of 95

Gundrum, Mark	\$250.00
Honadel, Mark	\$363.00
Hundertmark, Jean	\$350.00
Jauch, Robert	\$100.00
Jeskewitz, Suzanne	\$250.00
Kerkman, Samantha	\$100.00
Kestell, Steve	\$200.00
Kleefisch, Joel	\$300.00
Kramer, Bill	\$100.00
Lazich, Mary	\$250.00
LeMahieu, Daniel R	\$300.00
Lothian, Thomas A	\$350.00
McReynolds, William L	\$100.00
Musser, Terry	\$200.00
Newcomer, Scott	\$300.00
Nischke, Ann M	\$100.00
Ott, Jim	\$250.00
Owens, Carol	\$500.00
Petrowski, Jerry	\$200.00
Plale, Jeffrey	\$300.00
Reynolds, Tom	\$500.00
Robson, Judith	\$100.00
Schultz, Dale	\$100.00
State Senate Democratic Committee	\$250.00
Stepp, Cathy	\$100.00
Suder, Scott	\$200.00

Taylor, Lena C	\$100.00
Underheim, Gregg	\$100.00
Van Hollen, JB	\$1,000.00
Vukmir, Leah	\$100.00
Walker, Scott	\$100.00
Wirch, Robert	\$100.00
Zepnick, Josh	\$250.00