

2009 DRAFTING REQUEST

Bill

Received: **09/16/2009**

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Sondy Pope-Roberts (608) 266-3520**

By/Representing: **Tom McCarthy**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters: **chanaman**

Subject: **Education - school boards
Employ Pub - collective bargain**

Extra Copies: **TKK**

Submit via email: **YES**

Requester's email: **Rep.Pope-Roberts@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Use of pupil examinations to evaluate teachers

Instructions:

See attached

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>
/?	pgrant 09/16/2009	jdye 09/16/2009		_____			S&L
/1			jfrantze 09/16/2009	_____	lparisi 09/16/2009	cduerst 10/27/2009	

FE Sent For: @ intro.. 10/30/09

<END>

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/?	pgrant	19/16 jld	g	9/16			

FE Sent For:

<END>

Grant, Peter

From: McCarthy, Tom
Sent: Wednesday, September 16, 2009 10:50 AM
To: Grant, Peter
Subject: RE: 3235 changes

Sounds perfect. Let's roll with that.

-tom

From: Grant, Peter
Sent: Wednesday, September 16, 2009 10:48 AM
To: McCarthy, Tom
Subject: RE: 3235 changes

Regarding the 3rd bullet, since we're adding the "multiple criteria" language, I'd go with "how the district will use the evaluations to improve student achievement."

From: McCarthy, Tom
Sent: Wednesday, September 16, 2009 10:46 AM
To: Grant, Peter
Subject: RE: 3235 changes

Peter,

Thanks for the quick turn around. First bullet makes perfect sense, I just wanted to make sure includes isn't a prohibitive word that halts boards from being more robust with their evaluations (only complying with what the law would say and not going further). Second bullet, sounds fine. Third bullet, do you suggest leaving the language as it is currently or changing it to ""district will use the teacher evaluations to improve student achievement"? Thanks,

-tom

Tom McCarthy
tom.mccarthy@legis.wi.gov

From: Grant, Peter
Sent: Wednesday, September 16, 2009 10:30 AM
To: McCarthy, Tom
Subject: RE: 3235 changes

Hi Tom. I have a few questions about the changes to section 3:

- I can't add "but is not limited to" because our drafting conventions prohibit it. Here's the relevant paragraph from the Wisconsin Drafting Manual:

In a definition do not use "means and includes." "Means" is complete and "includes" is partial. Using "includes" allows a court or administering agency to adopt additional meanings; using "means" restricts them to reasonable constructions of your wording. **Do not use "includes but is not limited to." That phrase is redundant.** See sec. 7.08, Drafting Manual. Unless the intent is otherwise, use "means" rather than "includes."
- I would prefer to make the phrase "which must include multiple criteria in addition to student test scores" a separate subdivision, because line 17 refers to a "process." I don't think "criteria" can be included in a procedure. OK?
- I'm confused by the third change. This section of the bill allows a school board to use test results to evaluate teachers. With your change on line 17, test results are only of the criteria used. The end result is the evaluations; test results are only one of at least several criteria used. So it makes no sense to pick out one of the criteria (test results) and explain how they will be used to improve pupil achievement. In other words, it makes sense to require an explanation of how

the *evaluations* will be used, not how only one of the criteria used in the evaluation will be used, to improve pupil achievement.

Peter

From: McCarthy, Tom
Sent: Wednesday, September 16, 2009 10:10 AM
To: Grant, Peter
Subject: 3235 changes

In Section 3:

Line 16: after includes, add ",but is not limited to, the following:"

Line 17: after process, add "which must include multiple criteria in addition to student test scores."

Line 19: strike "use of examination results will improve pupil academic achievement" and replace with "district will use the teacher evaluation and student test results to improve student achievement"

On the second track bill, we would like 3235 incorporated, and also add pieces that will:

A) in 111.70 (4)(n), change the coverage period to agreements that take place after June 30, 2009 instead of June 30, 2011 (if that is possible, again)

B) add professional development in assessment literacy as a mandatory subject of collective bargaining under 111.70 (4)(n)

Thanks for your help in all of this. Let me know if you have any questions,

-tom

- Talked with requester --

The legislature may ^{not} pass a law "impairing the obligation of contracts" --

but doesn't want ~~to~~ to risk losing federal money

Not ABSOLUTE

- may be a significant or legitimate public purpose

No INITIAL APP



State of Wisconsin
2009 - 2010 LEGISLATURE

3458/1
LRB-3235/2
PG&CMH:jld&bjk:rs
stays

2009 BILL

x Regen

1 AN ACT *to amend* 111.70 (1) (a), 118.30 (2) (c) and 119.04 (1); and *to create* 111.70
2 (4) (o) and 118.225 of the statutes; **relating to:** using the results of
3 standardized examinations to evaluate teachers and requiring the
4 development of a teacher evaluation plan to be a mandatory subject of collective
5 bargaining. ✓

Analysis by the Legislative Reference Bureau

Current law directs school districts to administer certain standardized examinations to pupils enrolled in the 4th, 8th, and 10th grades. Current law prohibits a school board from using the results of the examinations to evaluate teacher performance; to discharge, suspend, or formally discipline a teacher; or as the reason for the nonrenewal of a teacher's contract.

This bill allows the results of the state-required standardized examinations and the standardized examinations required under the federal No Child Left Behind Act to be used for the evaluation of teacher performance if certain conditions are met. The school board must develop a teacher evaluation plan that includes a description of the evaluation process, the rationale for using examination results for evaluating teachers, and an explanation of how the use of ~~the examination results will~~ improve pupil academic performance. This bill also requires a school district to bargain collectively over the development of the teacher evaluation plan.

~~The bill first applies to examinations administered during the 2010-11 school year.~~

achievement
multiple criteria in addition to examination results,
school board intends to ✓

the evaluations to

BILL

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.** 111.70 (1) (a)^x of the statutes, as affected by 2009 Wisconsin Act 28,
2 is amended to read:

3 111.70 (1) (a) “Collective bargaining” means the performance of the mutual
4 obligation of a municipal employer, through its officers and agents, and the
5 representative of its municipal employees in a collective bargaining unit, to meet and
6 confer at reasonable times, in good faith, with the intention of reaching an
7 agreement, or to resolve questions arising under such an agreement, with respect to
8 wages, hours and conditions of employment, and with respect to a requirement of the
9 municipal employer for a municipal employee to perform law enforcement and fire
10 fighting services under s. 61.66 and for a school district with respect to any matter
11 under sub. (4) (o)[✓], except as provided in subs. (3m), (3p), and (4) (m) and (mc) and s.
12 40.81 (3) and except that a municipal employer shall not meet and confer with respect
13 to any proposal to diminish or abridge the rights guaranteed to municipal employees
14 under ch. 164. The duty to bargain, however, does not compel either party to agree
15 to a proposal or require the making of a concession. Collective bargaining includes
16 the reduction of any agreement reached to a written and signed document. The
17 municipal employer shall not be required to bargain on subjects reserved to
18 management and direction of the governmental unit except insofar as the manner
19 of exercise of such functions affects the wages, hours and conditions of employment
20 of the municipal employees in a collective bargaining unit. In creating this
21 subchapter the legislature recognizes that the municipal employer must exercise its

BILL

1 powers and responsibilities to act for the government and good order of the
2 jurisdiction which it serves, its commercial benefit and the health, safety and welfare
3 of the public to assure orderly operations and functions within its jurisdiction,
4 subject to those rights secured to municipal employees by the constitutions of this
5 state and of the United States and by this subchapter.

6 **SECTION 2.** 111.70 (4) (o) of the statutes is created to read:

7 111.70 (4) (o) *Mandatory subjects of bargaining.* In a school district, in addition
8 to any subject of bargaining on which the municipal employer is required to bargain
9 under sub. (1) (a), the municipal employer is required to bargain collectively with
10 respect to the development of or any changes to a teacher evaluation plan under s.
11 118.225.

12 **SECTION 3.** 118.225 of the statutes is created to read:

13 **118.225 Teacher evaluations.** A school board may use the results of
14 examinations administered to pupils under s. 118.30 and 20 USC 6311 (b) (3) to
15 evaluate teachers if the school board has developed a teacher evaluation plan that
16 includes all of the following:

- 17 (1) A description of the evaluation process. ✓
- 18 (2) Multiple criteria in addition to examination results. ✓
- 19 (3) The rationale for using examination results to evaluate teachers.
- 20 (4) An explanation of how the use of examination results will improve pupil
academic achievement. school board intends to
the evaluations to

21 **SECTION 4.** 118.30 (2) (c) of the statutes is amended to read:

22 118.30 (2) (c) The results of examinations administered under this section or
23 under 20 USC 6311 (b) (3) to pupils enrolled in public schools, including charter
24 schools, may not be used to evaluate teacher performance, to discharge, suspend or

BILL

1 formally discipline a teacher or as the reason for the nonrenewal of a teacher's
2 contract.

3 **SECTION 5.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is
4 amended to read:

5 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
6 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
7 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,
8 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153,
9 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.225, 118.24 (1), (2) (c)
10 to (f), (6) and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55,
11 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26),
12 (34), (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are applicable to a 1st
13 class city school district and board.

14 **~~SECTION 6. Initial applicability.~~**

15 ~~(1) The treatment of section 111.70 (1) (a) and (4) (o) of the statutes first applies~~
16 ~~to a collective bargaining agreement that covers the 2010-11 school year.~~

17 ~~(2) The treatment of sections 118.225, 118.30 (2) (c), and 119.04 (1) of the~~
18 ~~statutes first applies to examinations administered during the 2010-11 school year.~~

19 (END)

Duerst, Christina

From: McCarthy, Tom
Sent: Tuesday, October 27, 2009 11:05 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-3458/1 Topic: Use of pupil examinations to evaluate teachers

Please Jacket LRB 09-3458/1 for the ASSEMBLY.