



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBb3252/1
RAC;jlg:ch

**SENATE AMENDMENT 40,
TO 1997 ASSEMBLY BILL 768**

May 7, 1998 - Offered by Senator WINEKE.

1 At the locations indicated, amend the bill, as shown by assembly substitute
2 amendment 1, as follows:

3 **1.** Page 278, line 20: delete the material beginning with that line and ending
4 with page 281, line 14, and substitute:

5 “**SECTION 355d.** 111.70 (1) (b) of the statutes is amended to read:

6 111.70 (1) (b) “Collective bargaining unit” means a unit ~~consisting of municipal~~
7 ~~employees who are school district professional employees or of municipal employees who~~
8 ~~are not school district professional employees~~ that is determined by the commission
9 to be appropriate for the purpose of collective bargaining.

10 **SECTION 355e.** 111.70 (1) (dm) of the statutes is repealed.

11 **SECTION 355f.** 111.70 (1) (nc) of the statutes is repealed.

12 **SECTION 355g.** 111.70 (4) (cm) 5. of the statutes is amended to read:

1 111.70 (4) (cm) 5. 'Voluntary impasse resolution procedures.' In addition to the
2 other impasse resolution procedures provided in this paragraph, a municipal
3 employer and labor organization may at any time, as a permissive subject of
4 bargaining, agree in writing to a dispute settlement procedure, including
5 authorization for a strike by municipal employees or binding interest arbitration,
6 which is acceptable to the parties for resolving an impasse over terms of any
7 collective bargaining agreement under this subchapter. A copy of such agreement
8 shall be filed by the parties with the commission. If the parties agree to any form of
9 binding interest arbitration, the arbitrator shall give weight to the factors
10 enumerated under ~~subds. subd. 7., 7g. and 7r.~~

11 **SECTION 355h.** 111.70 (4) (cm) 5s. of the statutes is repealed.

12 **SECTION 355i.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

13 111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute ~~relating to one~~
14 ~~or more issues, qualifying for interest arbitration under subd. 5s. in a collective~~
15 ~~bargaining unit to which subd. 5s. applies,~~ has not been settled after a reasonable
16 period of negotiation and after mediation by the commission under subd. 3. and other
17 settlement procedures, if any, established by the parties have been exhausted, and
18 the parties are deadlocked with respect to any dispute between them over wages,
19 hours and conditions of employment to be included in a new collective bargaining
20 agreement, either party, or the parties jointly, may petition the commission, in
21 writing, to initiate compulsory, final and binding arbitration, as provided in this
22 paragraph. At the time the petition is filed, the petitioning party shall submit in
23 writing to the other party and the commission its preliminary final offer containing
24 its latest proposals on all issues in dispute. Within 14 calendar days after the date
25 of that submission, the other party shall submit in writing its preliminary final offer

1 on all disputed issues to the petitioning party and the commission. If a petition is
2 filed jointly, both parties shall exchange their preliminary final offers in writing and
3 submit copies to the commission at the time the petition is filed.

4 **SECTION 355j.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

5 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
6 commission shall make an investigation, with or without a formal hearing, to
7 determine whether arbitration should be commenced. If in determining whether an
8 impasse exists the commission finds that the procedures set forth in this paragraph
9 have not been complied with and such compliance would tend to result in a
10 settlement, it may order such compliance before ordering arbitration. The validity
11 of any arbitration award or collective bargaining agreement shall not be affected by
12 failure to comply with such procedures. Prior to the close of the investigation each
13 party shall submit in writing to the commission its single final offer containing its
14 final proposals on all issues in dispute that are subject to interest arbitration under
15 this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s.
16 applies. If a party fails to submit a single, ultimate final offer, the commission shall
17 close the investigation based on the last written position of the party. ~~The municipal~~
18 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~
19 ~~of the investigation.~~ Such final offers may include only mandatory subjects of
20 bargaining, except that a permissive subject of bargaining may be included by a
21 party if the other party does not object and shall then be treated as a mandatory
22 subject. No later than such time, the parties shall also submit to the commission a
23 stipulation, in writing, with respect to all matters which are agreed upon for
24 inclusion in the new or amended collective bargaining agreement. The commission,
25 after receiving a report from its investigator and determining that arbitration should

1 be commenced, shall issue an order requiring arbitration and immediately submit
2 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
3 alternately strike names until a single name is left, who shall be appointed as
4 arbitrator. The petitioning party shall notify the commission in writing of the
5 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
6 formally appoint the arbitrator and submit to him or her the final offers of the
7 parties. The final offers shall be considered public documents and shall be available
8 from the commission. In lieu of a single arbitrator and upon request of both parties,
9 the commission shall appoint a tripartite arbitration panel consisting of one member
10 selected by each of the parties and a neutral person designated by the commission
11 who shall serve as a chairperson. An arbitration panel has the same powers and
12 duties as provided in this section for any other appointed arbitrator, and all
13 arbitration decisions by such panel shall be determined by majority vote. In lieu of
14 selection of the arbitrator by the parties and upon request of both parties, the
15 commission shall establish a procedure for randomly selecting names of arbitrators.
16 Under the procedure, the commission shall submit a list of 7 arbitrators to the
17 parties. Each party shall strike one name from the list. From the remaining 5
18 names, the commission shall randomly appoint an arbitrator. Unless both parties
19 to an arbitration proceeding otherwise agree in writing, every individual whose
20 name is submitted by the commission for appointment as an arbitrator shall be a
21 resident of this state at the time of submission and every individual who is
22 designated as an arbitration panel chairperson shall be a resident of this state at the
23 time of designation.

24 **SECTION 355k.** 111.70 (4) (cm) 7. of the statutes is repealed.

25 **SECTION 355L.** 111.70 (4) (cm) 7g. of the statutes is repealed.

1 **SECTION 355m.** 111.70 (4) (cm) 7r. of the statutes is renumbered 111.70 (4) (cm)
2 7., and 111.70 (4) (cm) 7. (intro.), as renumbered, is amended to read:

3 111.70 (4) (cm) 7. (title) ~~‘Other factors~~ Factors considered.’ (intro.) In making
4 any decision under the arbitration procedures authorized by this paragraph, the
5 arbitrator or arbitration panel shall ~~also~~ give weight to the following factors:

6 **SECTION 355n.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,
7 renumbered 111.70 (4) (cm) 8m. and amended to read:

8 111.70 (4) (cm) 8m. ‘Term of agreement; reopening of negotiations.’ Except for
9 the initial collective bargaining agreement between the parties and except as the
10 parties otherwise agree, every collective bargaining agreement covering municipal
11 employees subject to this paragraph ~~other than school district professional employees~~
12 shall be for a term of 2 years. ~~No, but in no case may a~~ collective bargaining
13 agreement for any collective bargaining unit consisting of municipal employees
14 subject to this paragraph ~~other than school district professional employees~~ shall be
15 for a term exceeding 3 years. e. No arbitration award may contain a provision for
16 reopening of negotiations during the term of a collective bargaining agreement,
17 unless both parties agree to such a provision. The requirement for agreement by both
18 parties does not apply to a provision for reopening of negotiations with respect to any
19 portion of an agreement that is declared invalid by a court or administrative agency
20 or rendered invalid by the enactment of a law or promulgation of a federal regulation.

21 **SECTION 355p.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

22 **SECTION 355q.** 111.70 (4) (cm) 8p. of the statutes is repealed.

23 **SECTION 355r.** 111.70 (4) (cm) 8s. of the statutes is amended to read:

24 111.70 (4) (cm) 8s. ‘Forms for determining costs.’ The commission shall
25 prescribe forms for calculating the total increased cost to the municipal employer of

1 compensation and fringe benefits provided to school district professional employees.
2 The cost shall be determined based upon the total cost of compensation and fringe
3 benefits provided to school district professional employees who are represented by a
4 labor organization on the 90th day before expiration of any previous collective
5 bargaining agreement between the parties, or who were so represented if the
6 effective date is retroactive, or the 90th day prior to commencement of negotiations
7 if there is no previous collective bargaining agreement between the parties, without
8 regard to any change in the number, rank or qualifications of the school district
9 professional employees. For purposes of such determinations, any cost increase that
10 is incurred on any day other than the beginning of the 12-month period commencing
11 with the effective date of the agreement or any succeeding 12-month period
12 commencing on the anniversary of that effective date shall be calculated as if the cost
13 increase were incurred as of the beginning of the 12-month period beginning on the
14 effective date or anniversary of the effective date in which the cost increase is
15 incurred. ~~In each collective bargaining unit to which subd. 5s. applies, the municipal
16 employer shall transmit to the commission and the labor organization a completed
17 form for calculating the total increased cost to the municipal employer of
18 compensation and fringe benefits provided to the school district professional
19 employes covered by the agreement as soon as possible after the effective date of the
20 agreement.~~

21 **SECTION 355s.** 111.70 (4) (cn) of the statutes is repealed.

22 **SECTION 355t.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

23 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
24 bargaining unit for the purpose of collective bargaining and shall whenever possible,
25 unless otherwise required under this subchapter, avoid fragmentation by

1 maintaining as few collective bargaining units as practicable in keeping with the size
2 of the total municipal work force. In making such a determination, the commission
3 may decide whether, in a particular case, the municipal employees in the same or
4 several departments, divisions, institutions, crafts, professions or other
5 occupational groupings constitute a collective bargaining unit. Before making its
6 determination, the commission may provide an opportunity for the municipal
7 employees concerned to determine, by secret ballot, whether or not they desire to be
8 established as a separate collective bargaining unit. ~~The commission shall not
9 decide, however, that any group of municipal employees constitutes an appropriate
10 collective bargaining unit if the group includes both municipal employees who are
11 school district professional employees and municipal employees who are not school
12 district professional employees.~~ The commission shall not decide, however, that any
13 ~~other~~ group of municipal employees constitutes an appropriate collective bargaining
14 unit if the group includes both professional employees and nonprofessional employees,
15 unless a majority of the professional employees vote for inclusion in the unit. The
16 commission shall not decide that any group of municipal employees constitutes an
17 appropriate collective bargaining unit if the group includes both craft employees and
18 noncraft employees unless a majority of the craft employees vote for inclusion in the
19 unit. The commission shall place the professional employees who are assigned to
20 perform any services at a charter school, as defined in s. 115.001 (1), in a separate
21 collective bargaining unit from a unit that includes any other professional employees
22 whenever at least 30% of those professional employees request an election to be held
23 to determine that issue and a majority of the professional employees at the charter
24 school who cast votes in the election decide to be represented in a separate collective
25 bargaining unit. Any vote taken under this subsection shall be by secret ballot.”.

