



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBb0468/1
RAC:kjf:cph

**SENATE AMENDMENT 16,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 44**

June 18, 2003 – Offered by Senators ERPENBACH, BRESKE, CARPENTER, DECKER,
GEORGE, HANSEN, JAUCH, M. MEYER, MOORE, PLALE, WIRCH, RISSER and ROBSON.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 774, line 8: after “unit” insert “and except as provided in sub. (4) (p)”.

3 **2.** Page 774, line 14: after that line insert:

4 “**SECTION 1967b.** 111.70 (1) (b) of the statutes is amended to read:

5 111.70 (1) (b) “Collective bargaining unit” means a unit consisting of municipal
6 ~~employees who are school district professional employees or of municipal employees~~
7 ~~who are not school district professional employees~~ that is determined by the
8 commission to be appropriate for the purpose of collective bargaining.

9 **SECTION 1967c.** 111.70 (1) (dm) of the statutes is repealed.

10 **SECTION 1967d.** 111.70 (1) (fm) of the statutes is repealed.

11 **SECTION 1967e.** 111.70 (1) (nc) of the statutes is repealed.

12 **SECTION 1967f.** 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. 7., 7g. and subd. 7r.~~

11 **SECTION 1967g.** 111.70 (4) (cm) 5s. of the statutes is repealed.

12 **SECTION 1967h.** 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 1967i.** 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 1967j.** 111.70 (4) (cm) 7. of the statutes is repealed.

25 **SECTION 1967k.** 111.70 (4) (cm) 7g. of the statutes is repealed.

1 **SECTION 1967L.** 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

2 111.70 (4) (cm) 7r. ~~'Other factors~~ Factors considered.' (intro.) In making any
3 decision under the arbitration procedures authorized by this paragraph, the
4 arbitrator or arbitration panel shall also give weight to the following factors:

5 **SECTION 1967m.** 111.70 (4) (cm) 7r. hm. of the statutes is created to read:

6 111.70 (4) (cm) 7r. hm. In a school district, a determination as to which party's
7 proposal best provides for a fundamental right to an equal opportunity for a sound
8 basic education under article X, section 3, of the constitution.

9 **SECTION 1967n.** 111.70 (4) (cm) 7r. ie. of the statutes is created to read:

10 111.70 (4) (cm) 7r. ie. Any state law or directive lawfully issued by a state
11 legislative or administrative officer, body, or agency which places limitations on
12 expenditures that may be made or revenues that may be collected by a municipal
13 employer.

14 **SECTION 1967o.** 111.70 (4) (cm) 7r. ir. of the statutes is created to read:

15 111.70 (4) (cm) 7r. ir. Economic conditions in the jurisdiction of the municipal
16 employer.

17 **SECTION 1967p.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,
18 renumbered 111.70 (4) (cm) 8m. and amended to read:

19 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for
20 the initial collective bargaining agreement between the parties and except as the
21 parties otherwise agree, every collective bargaining agreement covering municipal
22 employees subject to this paragraph ~~other than school district professional~~
23 employees shall be for a term of 2 years. No, but in no case may a collective
24 bargaining agreement for any collective bargaining unit consisting of municipal
25 employees ~~subject to this paragraph other than school district professional~~

1 employees shall be for a term exceeding 3 years. e. No arbitration award may
2 contain a provision for reopening of negotiations during the term of a collective
3 bargaining agreement, unless both parties agree to such a provision. The
4 requirement for agreement by both parties does not apply to a provision for
5 reopening of negotiations with respect to any portion of an agreement that is
6 declared invalid by a court or administrative agency or rendered invalid by the
7 enactment of a law or promulgation of a federal regulation.

8 **SECTION 1967q.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

9 **SECTION 1967r.** 111.70 (4) (cm) 8p. of the statutes is repealed.

10 **SECTION 1967s.** 111.70 (4) (cm) 8s. of the statutes is repealed.

11 **SECTION 1967t.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

12 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
13 bargaining unit for the purpose of collective bargaining and shall whenever possible,
14 unless otherwise required under this subchapter, avoid fragmentation by
15 maintaining as few collective bargaining units as practicable in keeping with the size
16 of the total municipal work force. In making such a determination, the commission
17 may decide whether, in a particular case, the municipal employees in the same or
18 several departments, divisions, institutions, crafts, professions, or other
19 occupational groupings constitute a collective bargaining unit. Before making its
20 determination, the commission may provide an opportunity for the municipal
21 employees concerned to determine, by secret ballot, whether or not they desire to be
22 established as a separate collective bargaining unit. ~~The commission shall not~~
23 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
24 ~~collective bargaining unit if the group includes both municipal employees who are~~
25 ~~school district professional employees and municipal employees who are not school~~

1 ~~district professional employees.~~ The commission shall not decide, however, that any
2 other group of municipal employees constitutes an appropriate collective bargaining
3 unit if the group includes both professional employees and nonprofessional
4 employees, unless a majority of the professional employees vote for inclusion in the
5 unit. The commission shall not decide that any group of municipal employees
6 constitutes an appropriate collective bargaining unit if the group includes both craft
7 employees and noncraft employees unless a majority of the craft employees vote for
8 inclusion in the unit. The commission shall place the professional employees who are
9 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in
10 a separate collective bargaining unit from a unit that includes any other professional
11 employees whenever at least 30% of those professional employees request an election
12 to be held to determine that issue and a majority of the professional employees at the
13 charter school who cast votes in the election decide to be represented in a separate
14 collective bargaining unit. Any vote taken under this subsection shall be by secret
15 ballot.”.

16 **3.** Page 775, line 13: after that line insert:

17 “**SECTION 1985r.** 111.70 (4) (p) of the statutes is created to read:

18 111.70 (4) (p) *Additional mandatory subjects of bargaining in school districts.*

19 1. In a school district, the municipal employer is required to bargain collectively with
20 respect to education policy, except that no dispute relating to an education policy
21 issue is subject to interest arbitration under par. (cm) 6. unless all parties to the
22 dispute agree, in writing, to make such an issue subject to interest arbitration under
23 par. (cm) 6.

1 2. Notwithstanding subd. 1., in a school district, if the municipal employer
2 makes a proposal that provides that employee compensation or performance
3 expectations are linked with student academic performance, the labor organization
4 may include in its single final offer under par. (cm) 6. am. any proposal to meet the
5 performance expectations, including a proposal affecting education policy.”

6 **4.** Page 789, line 21: after that line insert:

7 “**SECTION 2008m.** 118.245 of the statutes is repealed.”

8 **5.** Page 793, line 17: after that line insert:

9 “**SECTION 2022b.** 119.04 (1) of the statutes is amended to read:

10 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
11 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
12 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to
13 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,
14 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), ~~118.245~~, 118.255, 118.258, 118.291,
15 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (26), 120.125, 120.13
16 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and 120.25 are
17 applicable to a 1st class city school district and board.”

18 **6.** Page 1133, line 23: after that line insert:

19 “(1f) **QUALIFIED ECONOMIC OFFERS.** The treatment of section 111.70 (1) (b), (dm),
20 (fm), and (nc) and (4) (cm) 5., 5s., 6. a. and am., 7., 7g., 7r. (intro.), ie., and ir., 8m. a.,
21 b., and c., 8p., and 8s. and (d) 2. a. of the statutes first applies to petitions for
22 arbitration that relate to collective bargaining agreements that cover periods
23 beginning on or after July 1, 2003, and that are filed under section 111.70 (4) (cm)
24 6. of the statutes, as affected by this act, on the effective date of this subsection.”

