



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4911/1
MIM:amn

2019 SENATE BILL 854

February 20, 2020 - Introduced by Senators LARSON, WIRCH, CARPENTER, JOHNSON, SMITH, RISSER, HANSEN, RINGHAND, SHILLING, BEWLEY and MILLER, cosponsored by Representatives C. TAYLOR, CABRERA, BROSTOFF, SINICKI, SUBECK, HEBL, HESSELBEIN, SARGENT, GRUSZYNSKI, POPE, CONSIDINE, ZAMARRIPA, SHANKLAND, STUBBS, SPREITZER, BILLINGS, ANDERSON, EMERSON, GOYKE, OHNSTAD, HINTZ, FIELDS and L. MYERS. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT to repeal** 66.0506, 66.0508, 66.0509 (1m), 73.03 (68), 111.70 (1) (cm),
2 111.70 (3) (a) 7m., 111.70 (3) (b) 6m., 111.70 (4) (cg), 111.70 (4) (d) 3. b., 111.70
3 (4) (mb), 111.70 (4) (mbb), 111.71 (4m), 111.71 (5m), 111.81 (3n), 111.83 (3) (b),
4 111.91 (3) (b), 111.91 (3q), 118.245 and 120.12 (4m); **to renumber** 111.83 (3) (a);
5 **to renumber and amend** 111.70 (4) (c) 1. and 111.70 (4) (cm) 1.; **to**
6 **consolidate and renumber** 111.70 (4) (d) 3. a. and c.; **to consolidate,**
7 **renumber and amend** 111.91 (3) (intro.) and (a); **to amend** 20.425 (1) (i),
8 111.70 (1) (a), 111.70 (3) (a) 5., 111.70 (4) (c) (title), 111.70 (4) (c) 2., 111.70 (4) (c)
9 3. (intro.), 111.70 (4) (cm) (title), 111.70 (4) (cm) 2., 3. and 4., 111.70 (4) (cm) 8m.,
10 111.70 (4) (d) 1., 111.70 (4) (d) 2. a., 111.70 (4) (p), 111.70 (8) (a), 111.71 (2), 111.77
11 (9), 111.825 (5), 111.83 (1), 111.83 (4), 119.04 (1), 120.18 (1) (gm), 851.71 (4) and
12 904.085 (2) (a); and **to create** 111.70 (3) (a) 7., 111.70 (3) (b) 6., 111.70 (4) (c) 1g.,
13 111.70 (4) (cm) 1g., 111.70 (4) (cm) 5., 111.70 (4) (cm) 6., 111.70 (4) (cm) 7., 111.70
14 (4) (cm) 7g., 111.70 (4) (cm) 7r., 111.70 (4) (cm) 8., 111.70 (4) (n), 111.70 (7m) (c)

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1 3., 111.70 (7m) (e), 111.71 (4) and 111.71 (5) of the statutes; **relating to:**
2 bargaining over wages, hours, and conditions of employment for public
3 employees.

Analysis by the Legislative Reference Bureau

Under current law, the only subject that most state and municipal employees may collectively bargain is a percentage increase in base wages that does not exceed the percentage increase in the consumer price index. This bill removes that limitation so that state and municipal employees may bargain over any increase in wages.

Also, under current law, certain protective occupation participants under the Wisconsin Retirement System, known as public safety employees, and certain municipal transit employees may collectively bargain wages, hours, and conditions of employment. Under the bill, most state and general municipal employees may collectively bargain hours and conditions of employment.

The bill also allows all municipal employers and labor organizations to agree to a dispute settlement procedure, including binding interest arbitration, to resolve an impasse over the terms of a collective bargaining agreement under the Municipal Employment Relations Act.

Under current law, representatives for most municipal and state employee bargaining units must be selected by at least 51 percent of the employees in the bargaining unit. The bill changes that requirement to a simple majority of the employees voting in the collective bargaining unit.

Finally, under current law, representatives for most municipal and state employee bargaining units must be certified annually by receiving at least 51 percent of the vote of the employees in the bargaining unit. The bill repeals this certification requirement.

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:

4 **SECTION 1.** 20.425 (1) (i) of the statutes is amended to read:

5 20.425 (1) (i) *Fees, collective bargaining training, publications, and appeals.*

6 The amounts in the schedule for the performance of fact-finding, mediation,
7 certification, and arbitration functions, for the provision of copies of transcripts, for
8 the cost of operating training programs under ss. 111.09 (3), 111.71 (~~5m~~) (5), and

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1 111.94 (3), for the preparation of publications, transcripts, reports, and other copied
2 material, and for costs related to conducting appeals under s. 230.45. All moneys
3 received under ss. 111.09 (1) and (2), ~~111.70 (4) (d) 3. b.~~, 111.71 (1) and (2), 111.83 (3)
4 ~~(b)~~, 111.94 (1) and (2), and 230.45 (3), all moneys received from arbitrators and
5 arbitration panel members, and individuals who are interested in serving in such
6 positions, and from individuals and organizations who participate in other collective
7 bargaining training programs conducted by the commission, and all moneys received
8 from the sale of publications, transcripts, reports, and other copied material shall be
9 credited to this appropriation account.

10 **SECTION 2.** 66.0506 of the statutes is repealed.

11 **SECTION 3.** 66.0508 of the statutes is repealed.

12 **SECTION 4.** 66.0509 (1m) of the statutes is repealed.

13 **SECTION 5.** 73.03 (68) of the statutes is repealed.

14 **SECTION 6.** 111.70 (1) (a) of the statutes is amended to read:

15 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
16 obligation of a municipal employer, through its officers and agents, and the
17 representative of its municipal employees in a collective bargaining unit, to meet and
18 confer at reasonable times, in good faith, with the intention of reaching an
19 agreement, or to resolve questions arising under such an agreement, with respect to
20 wages, hours, and conditions of employment ~~for public safety employees or transit~~
21 ~~employees and with respect to wages for general municipal employees, and with~~
22 respect to a requirement of the municipal employer for a municipal employee to
23 perform law enforcement and fire fighting services under s. 60.553, 61.66, or 62.13
24 (2e) and for a school district with respect to any matter under sub. (4) (n), except as
25 provided in sub. (4) ~~(mb) and (mc)~~ and s. 40.81 (3) and except that a municipal

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1 employer shall not meet and confer with respect to any proposal to diminish or
2 abridge the rights guaranteed to any public safety employees under ch. 164.
3 Collective bargaining includes the reduction of any agreement reached to a written
4 and signed document.

5 **SECTION 7.** 111.70 (1) (cm) of the statutes is repealed.

6 **SECTION 8.** 111.70 (3) (a) 5. of the statutes is amended to read:

7 111.70 (3) (a) 5. To violate any collective bargaining agreement previously
8 agreed upon by the parties with respect to wages, hours, and conditions of
9 employment affecting ~~public safety employees or transit~~ municipal employees,
10 including an agreement to arbitrate questions arising as to the meaning or
11 application of the terms of a collective bargaining agreement or to accept the terms
12 of such arbitration award, where previously the parties have agreed to accept such
13 award as final and binding upon them ~~or to violate any collective bargaining~~
14 ~~agreement affecting general municipal employees, that was previously agreed upon~~
15 ~~by the parties with respect to wages.~~

16 **SECTION 9.** 111.70 (3) (a) 7. of the statutes is created to read:

17 111.70 (3) (a) 7. To refuse or otherwise fail to implement an arbitration decision
18 lawfully made under sub. (4) (cm).

19 **SECTION 10.** 111.70 (3) (a) 7m. of the statutes is repealed.

20 **SECTION 11.** 111.70 (3) (b) 6. of the statutes is created to read:

21 111.70 (3) (b) 6. To refuse or otherwise fail to implement an arbitration decision
22 lawfully made under sub. (4) (cm).

23 **SECTION 12.** 111.70 (3) (b) 6m. of the statutes is repealed.

24 **SECTION 13.** 111.70 (4) (c) (title) of the statutes is amended to read:

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1 111.70 (4) (c) (title) *Methods for peaceful settlement of disputes; ~~public safety~~*
2 *employees law enforcement and fire fighting personnel.*

3 **SECTION 14.** 111.70 (4) (c) 1. of the statutes is renumbered 111.70 (4) (c) 1m. and
4 amended to read:

5 111.70 (4) (c) 1m. 'Mediation.' The commission may function as a mediator in
6 labor disputes ~~involving a collective bargaining unit containing a public safety~~
7 ~~employee.~~ Such mediation may be carried on by a person designated to act by the
8 commission upon request of one or both of the parties or upon initiation of the
9 commission. The function of the mediator is to encourage voluntary settlement by
10 the parties but no mediator has the power of compulsion.

11 **SECTION 15.** 111.70 (4) (c) 1g. of the statutes is created to read:

12 111.70 (4) (c) 1g. 'Applicability.' This paragraph applies only to municipal
13 employees who are engaged in law enforcement or fire fighting functions.

14 **SECTION 16.** 111.70 (4) (c) 2. of the statutes is amended to read:

15 111.70 (4) (c) 2. 'Arbitration.' Parties to a dispute pertaining to the meaning
16 or application of the terms of a written collective bargaining agreement ~~involving a~~
17 ~~collective bargaining unit containing a public safety employee~~ may agree in writing
18 to have the commission or any other appropriate agency serve as arbitrator or may
19 designate any other competent, impartial and disinterested person to so serve.

20 **SECTION 17.** 111.70 (4) (c) 3. (intro.) of the statutes is amended to read:

21 111.70 (4) (c) 3. 'Fact-finding.' (intro.) Unless s. 111.77 applies, if a dispute
22 ~~involving a collective bargaining unit containing a public safety employee~~ has not
23 been settled after a reasonable period of negotiation and after the settlement
24 procedures, if any, established by the parties have been exhausted, and the parties
25 are deadlocked with respect to any dispute between them arising in the collective

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1 bargaining process, either party, or the parties jointly, may petition the commission,
2 in writing, to initiate fact-finding, and to make recommendations to resolve the
3 deadlock, as follows:

4 **SECTION 18.** 111.70 (4) (cg) of the statutes is repealed.

5 **SECTION 19.** 111.70 (4) (cm) (title) of the statutes is amended to read:

6 111.70 (4) (cm) (title) *Methods for peaceful settlement of disputes; general*
7 *municipal employees other personnel.*

8 **SECTION 20.** 111.70 (4) (cm) 1. of the statutes is renumbered 111.70 (4) (cm) 1m.
9 and amended to read:

10 111.70 (4) (cm) 1m. 'Notice of commencement of contract negotiations.' For the
11 purpose of advising the commission of the commencement of contract negotiations
12 involving a collective bargaining unit containing general municipal employees,
13 whenever either party requests the other to reopen negotiations under a binding
14 collective bargaining agreement, or the parties otherwise commence negotiations if
15 no such agreement exists, the party requesting negotiations shall immediately notify
16 the commission in writing. Upon failure of the requesting party to provide such
17 notice, the other party may so notify the commission. The notice shall specify the
18 expiration date of the existing collective bargaining agreement, if any, and shall set
19 forth any additional information the commission may require on a form provided by
20 the commission.

21 **SECTION 21.** 111.70 (4) (cm) 1g. of the statutes is created to read:

22 111.70 (4) (cm) 1g. 'Application.' a. Chapter 788 does not apply to arbitration
23 proceedings under this paragraph.

24 b. This paragraph does not apply to labor disputes involving municipal
25 employees who are engaged in law enforcement or fire fighting functions.

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1 **SECTION 22.** 111.70 (4) (cm) 2., 3. and 4. of the statutes are amended to read:

2 111.70 (4) (cm) 2. ‘Presentation of initial proposals; open meetings.’ The
3 meetings between parties to a collective bargaining agreement or proposed collective
4 bargaining agreement under this subchapter that ~~involve a collective bargaining~~
5 ~~unit containing a general municipal employee and that~~ are held for the purpose of
6 presenting initial bargaining proposals, along with supporting rationale, ~~shall be~~ are
7 open to the public. Each party shall submit its initial bargaining proposals to the
8 other party in writing. Failure to comply with this subdivision is not cause to
9 invalidate a collective bargaining agreement under this subchapter.

10 3. ‘Mediation.’ The commission or its designee shall function as mediator in
11 labor disputes involving ~~general~~ municipal employees upon request of one or both of
12 the parties, or upon initiation of the commission. The function of the mediator shall
13 be to encourage voluntary settlement by the parties. No mediator has the power of
14 compulsion.

15 4. ‘Grievance arbitration.’ Parties to a dispute pertaining to the meaning or
16 application of the terms of a written collective bargaining agreement ~~involving a~~
17 ~~collective bargaining unit containing a general municipal employee~~ may agree in
18 writing to have the commission or any other appropriate agency serve as arbitrator
19 or may designate any other competent, impartial and disinterested person to so
20 serve.

21 **SECTION 23.** 111.70 (4) (cm) 5. of the statutes is created to read:

22 111.70 (4) (cm) 5. ‘Voluntary impasse resolution procedures.’ In addition to the
23 other impasse resolution procedures provided in this paragraph, a municipal
24 employer and labor organization may, as a permissive subject of bargaining, agree
25 in writing to a dispute settlement procedure, including binding interest arbitration,

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1 that is acceptable to the parties for resolving an impasse over terms of any collective
2 bargaining agreement under this subchapter. The parties shall file a copy of the
3 agreement with the commission. If the parties agree to any form of binding interest
4 arbitration, the arbitrator shall give weight to the factors enumerated under subds.
5 7. and 7g. for a collective bargaining unit consisting of municipal employees who are
6 not school district employees and under subd. 7r. for a collective bargaining unit
7 consisting of municipal employees.

8 **SECTION 24.** 111.70 (4) (cm) 6. of the statutes is created to read:

9 111.70 (4) (cm) 6. 'Interest arbitration.' a. If in any collective bargaining unit
10 a dispute relating to any issue has not been settled after a reasonable period of
11 negotiation and after mediation by the commission under subd. 3. and other
12 settlement procedures, if any, established by the parties have been exhausted, and
13 the parties are deadlocked with respect to any dispute between them over wages,
14 hours, or conditions of employment to be included in a new collective bargaining
15 agreement, either party, or the parties jointly, may petition the commission, in
16 writing, to initiate compulsory, final, and binding arbitration, as provided in this
17 paragraph. At the time the petition is filed, the petitioning party shall submit in
18 writing to the other party and the commission its preliminary final offer containing
19 its latest proposals on all issues in dispute. Within 14 calendar days after the date
20 of that submission, the other party shall submit in writing its preliminary final offer
21 on all disputed issues to the petitioning party and the commission. If a petition is
22 filed jointly, both parties shall exchange their preliminary final offers in writing and
23 submit copies to the commission at the time the petition is filed.

24 am. Upon receipt of a petition to initiate arbitration, the commission shall
25 investigate, with or without a formal hearing, whether arbitration should be

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1 commenced. If in determining whether an impasse exists the commission finds that
2 the procedures under this paragraph have not been complied with and that the
3 compliance would tend to result in a settlement, it may order compliance before
4 ordering arbitration. The validity of any arbitration award or collective bargaining
5 agreement is not affected by failure to comply with the procedures. Prior to the close
6 of the investigation, each party shall submit in writing to the commission its single
7 final offer containing its final proposals on all issues in dispute that are subject to
8 interest arbitration under this subdivision. If a party fails to submit a single final
9 offer, the commission shall close the investigation based on the last written position
10 of the party. Such final offers may include only mandatory subjects of bargaining,
11 except that a permissive subject of bargaining may be included by a party if the other
12 party does not object and shall then be treated as a mandatory subject. The parties
13 shall also submit to the commission a written stipulation with respect to all matters
14 that are agreed upon for inclusion in the new or amended collective bargaining
15 agreement. The commission, after receiving a report from its investigator and
16 determining that arbitration should be commenced, shall issue an order requiring
17 arbitration and immediately submit to the parties a list of 7 arbitrators. The parties
18 shall alternately strike names from the list until a single name is left, who shall be
19 appointed as arbitrator. The petitioning party shall notify the commission in writing
20 of the identity of the arbitrator selected. Upon receipt of the notice, the commission
21 shall formally appoint the arbitrator and submit to him or her the final offers of the
22 parties. The final offers are public documents and the commission shall make them
23 available. In lieu of a single arbitrator and upon request of both parties, the
24 commission shall appoint a tripartite arbitration panel consisting of one member
25 selected by each of the parties and a neutral person designated by the commission

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1 who shall serve as a chairperson. An arbitration panel has the same powers and
2 duties as provided in this section for any other appointed arbitrator, and all
3 arbitration decisions by a panel shall be determined by majority vote. In place of
4 selection of the arbitrator by the parties and upon request of both parties, the
5 commission shall establish a procedure for randomly selecting names of arbitrators.
6 Under the procedure, the commission shall submit a list of 7 arbitrators to the
7 parties. Each party shall strike one name from the list. From the remaining 5
8 names, the commission shall randomly appoint an arbitrator. Unless both parties
9 to an arbitration proceeding otherwise agree in writing, every individual whose
10 name is submitted by the commission for appointment as an arbitrator must be a
11 resident of this state at the time of submission and every individual who is
12 designated as an arbitration panel chairperson must be a resident of this state at the
13 time of designation.

14 b. The arbitrator shall, within 10 days of his or her appointment, establish a
15 date and place for the arbitration hearing. Upon petition of at least 5 citizens of the
16 jurisdiction served by the municipal employer, filed within 10 days after the date on
17 which the arbitrator is appointed, the arbitrator shall hold a public hearing in the
18 jurisdiction to provide the opportunity to both parties to explain or present
19 supporting arguments for their positions and to members of the public to offer their
20 comments and suggestions. The final offers of the parties, as transmitted by the
21 commission to the arbitrator, are the basis for any continued negotiations between
22 the parties with respect to the issues in dispute. At any time prior to the arbitration
23 hearing, either party, with the consent of the other party, may modify its final offer
24 in writing.

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1 c. Prior to the arbitration hearing, either party may, within a time limit
2 established by the arbitrator, withdraw its final offer and any mutually agreed upon
3 modifications and shall immediately provide written notice of any withdrawal to the
4 other party, the arbitrator, and the commission. If both parties withdraw their final
5 offers and mutually agreed upon modifications, the labor organization, after giving
6 10 days' written notice to the municipal employer and the commission, may strike.
7 Unless both parties withdraw their final offers and mutually agreed upon
8 modifications, the final offer of neither party is considered withdrawn and the
9 arbitrator shall proceed to resolve the dispute by final and binding arbitration as
10 provided in this paragraph.

11 d. Before issuing his or her arbitration decision, the arbitrator shall, on his or
12 her own motion or at the request of either party, conduct a meeting open to the public
13 to provide to both parties the opportunity to explain or present supporting
14 arguments for their complete offer on all matters to be covered by the proposed
15 agreement. The arbitrator shall adopt without modification the final offer of one of
16 the parties on all disputed issues submitted under subd. 6. a., except those items
17 that the commission determines not to be mandatory subjects of bargaining and
18 those items that have not been treated as mandatory subjects by the parties, and
19 including any prior modifications of the offer mutually agreed upon by the parties
20 under subd. 6. b. The decision is final and binding on both parties and shall be
21 incorporated into a written collective bargaining agreement. The arbitrator shall
22 serve a copy of his or her decision on both parties and the commission.

23 e. Arbitration proceedings may not be interrupted or terminated by reason of
24 any prohibited practice complaint filed by either party at any time.

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1 f. The parties shall equally divide the costs of arbitration. The arbitrator shall
2 submit a statement of his or her costs to both parties and to the commission.

3 g. If a question arises as to whether any proposal made in negotiations by either
4 party is a mandatory, permissive, or prohibited subject of bargaining, the
5 commission shall determine the issue under par. (b). If either party to the dispute
6 petitions the commission for a declaratory ruling under par. (b), the proceedings
7 under subd. 6. c. and d. may not occur until the commission renders a decision in the
8 matter and the decision is final. The arbitrator's award shall be made in accordance
9 with the commission's ruling, subject to automatic amendment by any subsequent
10 court reversal.

11 **SECTION 25.** 111.70 (4) (cm) 7. of the statutes is created to read:

12 111.70 (4) (cm) 7. 'Factor given greatest weight.' In making any decision under
13 the arbitration procedures authorized by this paragraph, except for any decision
14 involving a collective bargaining unit consisting of school district employees, the
15 arbitrator or arbitration panel shall give the greatest weight to any state law or
16 directive lawfully issued by a state legislative or administrative officer, body, or
17 agency that limits expenditures that may be made or revenues that may be collected
18 by a municipal employer. The arbitrator or arbitration panel shall give an
19 accounting of the consideration of this factor in the decision.

20 **SECTION 26.** 111.70 (4) (cm) 7g. of the statutes is created to read:

21 111.70 (4) (cm) 7g. 'Factor given greater weight.' In making any decision under
22 the arbitration procedures authorized by this paragraph, except for any decision
23 involving a collective bargaining unit consisting of school district employees, the
24 arbitrator or arbitration panel shall give greater weight to economic conditions in the

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1 jurisdiction of the municipal employer than to any of the factors specified in subd.
2 7r.

3 **SECTION 27.** 111.70 (4) (cm) 7r. of the statutes is created to read:

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

7 a. The lawful authority of the municipal employer.

8 b. Stipulations of the parties.

9 c. The interests and welfare of the public and the financial ability of the unit
10 of government to meet the costs of any proposed settlement.

11 d. Comparison of wages, hours, and conditions of employment of the municipal
12 employees involved in the arbitration proceedings with the wages, hours, and
13 conditions of employment of other employees performing similar services.

14 e. Comparison of the wages, hours, and conditions of employment of the
15 municipal employees involved in the arbitration proceedings with the wages, hours,
16 and conditions of employment of other employees generally in public employment in
17 the same community and in comparable communities.

18 f. Comparison of the wages, hours, and conditions of employment of the
19 municipal employees involved in the arbitration proceedings with the wages, hours,
20 and conditions of employment of other employees in private employment in the same
21 community and in comparable communities.

22 g. The average consumer prices for goods and services, commonly known as the
23 cost of living.

24 h. The overall compensation presently received by the municipal employees,
25 including direct wage compensation, vacation, holidays and excused time, insurance

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1 and pensions, medical and hospitalization benefits, the continuity and stability of
2 employment, and all other benefits received.

3 i. Changes in any of the foregoing circumstances during the pendency of the
4 arbitration proceedings.

5 j. Factors, not included in subd. 7r. a. to i., which are normally or traditionally
6 taken into consideration in the determination of wages, hours, and conditions of
7 employment through voluntary collective bargaining, mediation, fact-finding,
8 arbitration, or otherwise between the parties, in the public service, or in private
9 employment.

10 **SECTION 28.** 111.70 (4) (cm) 8. of the statutes is created to read:

11 111.70 (4) (cm) 8. 'Rule making.' The commission shall adopt rules for the
12 conduct of all arbitration proceedings under subd. 6., including rules for all of the
13 following:

14 a. The appointment of tripartite arbitration panels when requested by the
15 parties.

16 b. The expeditious rendering of arbitration decisions, such as waivers of briefs
17 and transcripts.

18 c. The removal of individuals who have repeatedly failed to issue timely
19 decisions from the commission's list of qualified arbitrators.

20 d. Proceedings for the enforcement of arbitration decisions.

21 **SECTION 29.** 111.70 (4) (cm) 8m. of the statutes is amended to read:

22 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for
23 the initial collective bargaining agreement between the parties and except as the
24 parties otherwise agree, every collective bargaining agreement covering general
25 municipal employees subject to this paragraph shall be for a term of ~~one year and~~

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1 ~~may not be extended 2 years, but in no case may a collective bargaining agreement~~
2 ~~for any collective bargaining unit consisting of municipal employees subject to this~~
3 ~~paragraph other than school district employees be for a term exceeding 3 years nor~~
4 ~~may a collective bargaining agreement for any collective bargaining unit consisting~~
5 ~~of school district employees subject to this paragraph be for a term exceeding 4 years.~~
6 ~~No arbitration award may contain a provision for reopening of negotiations during~~
7 ~~the term of a collective bargaining agreement covering general municipal employees~~
8 ~~may be reopened for negotiations unless both parties agree to reopen the collective~~
9 ~~bargaining agreement. The requirement for agreement by both parties does not~~
10 ~~apply to a provision for reopening of negotiations with respect to any portion of an~~
11 ~~agreement that is declared invalid by a court or administrative agency or rendered~~
12 ~~invalid by the enactment of a law or promulgation of a federal regulation.~~

13 **SECTION 30.** 111.70 (4) (d) 1. of the statutes is amended to read:

14 111.70 (4) (d) 1. A representative chosen for the purposes of collective
15 bargaining by a majority of the ~~public safety employees or transit~~ municipal
16 employees voting in a collective bargaining unit shall be the exclusive representative
17 of all employees in the unit for the purpose of collective bargaining. ~~A representative~~
18 ~~chosen for the purposes of collective bargaining by at least 51 percent of the general~~
19 ~~municipal employees in a collective bargaining unit shall be the exclusive~~
20 ~~representative of all employees in the unit for the purpose of collective bargaining.~~
21 Any individual employee, or any minority group of employees in any collective
22 bargaining unit, shall have the right to present grievances to the municipal employer
23 in person or through representatives of their own choosing, and the municipal
24 employer shall confer with the employee in relation thereto, if the majority
25 representative has been afforded the opportunity to be present at the conferences.

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1 Any adjustment resulting from these conferences may not be inconsistent with the
2 conditions of employment established by the majority representative and the
3 municipal employer.

4 **SECTION 31.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

5 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
6 bargaining unit for the purpose of collective bargaining and shall whenever possible
7 avoid fragmentation by maintaining as few collective bargaining units as practicable
8 in keeping with the size of the total municipal workforce. The commission may
9 decide whether, in a particular case, the municipal employees in the same or several
10 departments, divisions, institutions, crafts, professions, or other occupational
11 groupings constitute a collective bargaining unit. Before making its determination,
12 the commission may provide an opportunity for the municipal employees concerned
13 to determine, by secret ballot, whether they desire to be established as a separate
14 collective bargaining unit. The commission may not decide, however, that any group
15 of municipal employees constitutes an appropriate collective bargaining unit if the
16 group includes both professional employees and nonprofessional employees, unless
17 a majority of the professional employees vote for inclusion in the unit. The
18 commission may not decide that any group of municipal employees constitutes an
19 appropriate collective bargaining unit if the group includes both school district
20 employees and general municipal employees who are not school district employees.
21 ~~The commission may not decide that any group of municipal employees constitutes~~
22 ~~an appropriate collective bargaining unit if the group includes both public safety~~
23 ~~employees and general municipal employees, if the group includes both transit~~
24 ~~employees and general municipal employees, or if the group includes both transit~~
25 ~~employees and public safety employees.~~ The commission may not decide that any

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1 group of municipal employees constitutes an appropriate collective bargaining unit
2 if the group includes both craft employees and noncraft employees unless a majority
3 of the craft employees vote for inclusion in the unit. The commission shall place the
4 professional employees who are assigned to perform any services at a charter school,
5 as defined in s. 115.001 (1), in a separate collective bargaining unit from a unit that
6 includes any other professional employees whenever at least 30 percent of those
7 professional employees request an election to be held to determine that issue and a
8 majority of the professional employees at the charter school who cast votes in the
9 election decide to be represented in a separate collective bargaining unit.

10 **SECTION 32.** 111.70 (4) (d) 3. a. and c. of the statutes are consolidated and
11 renumbered 111.70 (4) (d) 3.

12 **SECTION 33.** 111.70 (4) (d) 3. b. of the statutes is repealed.

13 **SECTION 34.** 111.70 (4) (mb) of the statutes is repealed.

14 **SECTION 35.** 111.70 (4) (mbb) of the statutes is repealed.

15 **SECTION 36.** 111.70 (4) (n) of the statutes is created to read:

16 111.70 (4) (n) *Mandatory subjects of bargaining.* In a school district, in addition
17 to any subject of bargaining on which the municipal employer is required to bargain
18 under sub. (1) (a), the municipal employer is required to bargain collectively with
19 respect to all of the following:

20 1. Time spent during the school day, separate from pupil contact time, to
21 prepare lessons, labs, or educational materials, to confer or collaborate with other
22 staff, or to complete administrative duties.

23 2. The development of or any changes to a teacher evaluation plan under s.
24 118.225.

25 **SECTION 37.** 111.70 (4) (p) of the statutes is amended to read:

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1 111.70 (4) (p) *Permissive subjects of collective bargaining; ~~public safety and~~*
2 *transit employees.* A municipal employer is not required to bargain with ~~public safety~~
3 ~~employees or transit employees~~ on subjects reserved to management and direction
4 of the governmental unit except insofar as the manner of exercise of such functions
5 affects the wages, hours, and conditions of employment of the ~~public safety~~
6 ~~employees or of the transit~~ municipal employees in a collective bargaining unit.

7 **SECTION 38.** 111.70 (7m) (c) 3. of the statutes is created to read:

8 111.70 (7m) (c) 3. ‘Strike in violation of award.’ Any person who authorizes or
9 participates in a strike after a final and binding arbitration award or decision under
10 sub. (4) (cm) is issued and before the end of the term of the agreement which the
11 award or decision amends or creates shall forfeit \$15 per offense. Each day of
12 continued violation constitutes a separate offense.

13 **SECTION 39.** 111.70 (7m) (e) of the statutes is created to read:

14 111.70 (7m) (e) *Civil liability.* Any party refusing to include an arbitration
15 award or decision under sub. (4) (cm) in a written collective bargaining agreement
16 or failing to implement the award or decision, unless good cause is shown, is liable
17 for attorney fees, interest on delayed monetary benefits, and other costs incurred in
18 any action by the nonoffending party to enforce the award or decision.

19 **SECTION 40.** 111.70 (8) (a) of the statutes is amended to read:

20 111.70 (8) (a) This section, except ~~sub. subs. (1) (nm), (4) (eg) and (cm), and (7m),~~
21 applies to law enforcement supervisors employed by a 1st class city. This section,
22 except ~~sub. subs. (1) (nm), (4) (cm) and (jm), and (7m)~~ applies to law enforcement
23 supervisors employed by a county having a population of 750,000 or more. For
24 purposes of such application, the ~~terms term~~ “municipal employee” and “~~public~~
25 ~~safety employee~~” ~~include~~ includes such a supervisor.

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1 **SECTION 41.** 111.71 (2) of the statutes is amended to read:

2 111.71 (2) The commission shall assess and collect a filing fee for filing a
3 complaint alleging that a prohibited practice has been committed under s. 111.70 (3).
4 The commission shall assess and collect a filing fee for filing a request that the
5 commission act as an arbitrator to resolve a dispute involving the interpretation or
6 application of a collective bargaining agreement under s. 111.70 (4) (c) 2., ~~(eg) 4.,~~ or
7 (cm) 4. The commission shall assess and collect a filing fee for filing a request that
8 the commission initiate fact-finding under s. 111.70 (4) (c) 3. The commission shall
9 assess and collect a filing fee for filing a request that the commission act as a
10 mediator under s. 111.70 (4) (c) ~~1., (eg) 3.,~~ 1m. or (cm) 3. The commission shall assess
11 and collect a filing fee for filing a request that the commission initiate compulsory,
12 final and binding arbitration under s. 111.70 (4) ~~(eg)~~ (cm) 6. or (jm) or 111.77 (3). For
13 the performance of commission actions under ss. 111.70 (4) (c) ~~1.,~~ 1m., 2., and 3., ~~(eg)~~
14 ~~3., 4., and 6.,~~ (cm) 3. ~~and, 4., and 6.,~~ and (jm) and 111.77 (3), the commission shall
15 require that the parties to the dispute equally share in the payment of the fee and,
16 for the performance of commission actions involving a complaint alleging that a
17 prohibited practice has been committed under s. 111.70 (3), the commission shall
18 require that the party filing the complaint pay the entire fee. If any party has paid
19 a filing fee requesting the commission to act as a mediator for a labor dispute and the
20 parties do not enter into a voluntary settlement of the dispute, the commission may
21 not subsequently assess or collect a filing fee to initiate fact-finding or arbitration
22 to resolve the same labor dispute. If any request for the performance of commission
23 actions concerns issues arising as a result of more than one unrelated event or
24 occurrence, each such separate event or occurrence ~~shall be treated as is~~ a separate
25 request. The commission shall promulgate rules establishing a schedule of filing fees

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1 to be paid under this subsection. Fees required to be paid under this subsection shall
2 be paid at the time of filing the complaint or the request for fact-finding, mediation
3 or arbitration. A complaint or request for fact-finding, mediation or arbitration is
4 not filed until the date such the fee or fees are paid, except that the failure of the
5 respondent party to pay the filing fee for having the commission initiate compulsory,
6 final and binding arbitration under s. 111.70 (4) (~~eg~~) (cm) 6. or (jm) or 111.77 (3) may
7 not prohibit the commission from initiating such the arbitration. The commission
8 may initiate collection proceedings against the respondent party for the payment of
9 the filing fee. Fees collected under this subsection shall be credited to the
10 appropriation account under s. 20.425 (1) (i).

11 **SECTION 42.** 111.71 (4) of the statutes is created to read:

12 111.71 (4) The commission shall collect on a systematic basis information on
13 the operation of the arbitration law under s. 111.70 (4) (cm) and shall annually
14 submit a report on the opinion to the chief clerk of each house of the legislature for
15 distribution to the legislature under s. 13.172 (2).

16 **SECTION 43.** 111.71 (4m) of the statutes is repealed.

17 **SECTION 44.** 111.71 (5) of the statutes is created to read:

18 111.71 (5) The commission shall, on a regular basis, provide training programs
19 to prepare individuals to arbitrate under s. 111.70 (4) (cm). The commission shall
20 promote the programs to and recruit participation throughout the state, including
21 at least 10 residents of each congressional district. The commission may also provide
22 training programs to individuals and organizations on other aspects of collective
23 bargaining, including on areas of management and labor cooperation directly or
24 indirectly affecting collective bargaining. The commission may charge a reasonable
25 fee to participate in the programs.

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1 **SECTION 45.** 111.71 (5m) of the statutes is repealed.

2 **SECTION 46.** 111.77 (9) of the statutes is amended to read:

3 111.77 (9) Section 111.70 (4) (c) 3., ~~(eg)~~, and (cm) does not apply to employments
4 covered by this section.

5 **SECTION 47.** 111.81 (3n) of the statutes is repealed.

6 **SECTION 48.** 111.825 (5) of the statutes is amended to read:

7 111.825 (5) Although supervisors are not considered employees for purposes
8 of this subchapter, the commission may consider a petition for a statewide collective
9 bargaining unit of professional supervisors or a statewide unit of nonprofessional
10 supervisors in the classified service, but the representative of supervisors may not
11 be affiliated with any labor organization representing employees. For purposes of
12 this subsection, affiliation does not include membership in a national, state, county
13 or municipal federation of national or international labor organizations. The
14 certified representative of supervisors who are not public safety employees may not
15 bargain collectively with respect to any matter other than wages and conditions of
16 employment as provided in s. 111.91 (3), and the certified representative of
17 supervisors who are public safety employees may not bargain collectively with
18 respect to any matter other than wages and fringe benefits as provided in s. 111.91
19 (1).

20 **SECTION 49.** 111.83 (1) of the statutes is amended to read:

21 111.83 (1) Except as provided in sub. (5), a representative chosen for the
22 purposes of collective bargaining by ~~at least 51 percent~~ a majority of the general
23 employees voting in a collective bargaining unit shall be the exclusive representative
24 of all of the employees in such unit for the purposes of collective bargaining. ~~A~~
25 ~~representative chosen for the purposes of collective bargaining by a majority of the~~

SENATE BILL 854**SECTION 49**

1 ~~public safety employees voting in a collective bargaining unit shall be the exclusive~~
2 ~~representative of all of the employees in such unit for the purposes of collective~~
3 ~~bargaining.~~ Any individual employee, or any minority group of employees in any
4 collective bargaining unit, may present grievances to the employer in person, or
5 through representatives of their own choosing, and the employer shall confer with
6 the employee or group of employees in relation thereto if the majority representative
7 has been afforded the opportunity to be present at the conference. Any adjustment
8 resulting from such a conference may not be inconsistent with the conditions of
9 employment established by the majority representative and the employer.

10 **SECTION 50.** 111.83 (3) (a) of the statutes is renumbered 111.83 (3).

11 **SECTION 51.** 111.83 (3) (b) of the statutes is repealed.

12 **SECTION 52.** 111.83 (4) of the statutes is amended to read:

13 111.83 (4) Whenever an election has been conducted under sub. (3) (a) in which
14 the name of more than one proposed representative appears on the ballot and results
15 in no conclusion, the commission may, if requested by any party to the proceeding
16 within 30 days from the date of the certification of the results of the election, conduct
17 a runoff election. In that runoff election, the commission shall drop from the ballot
18 the name of the representative who received the least number of votes at the original
19 election. The commission shall drop from the ballot the privilege of voting against
20 any representative if the least number of votes cast at the first election was against
21 representation by any named representative.

22 **SECTION 53.** 111.91 (3) (intro.) and (a) of the statutes are consolidated,
23 renumbered 111.91 (3) and amended to read:

24 111.91 (3) The employer is prohibited from bargaining with a collective
25 bargaining unit containing a general employee with respect to any of the following:

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1 ~~(a) Any factor or condition hours of employment except wages, which includes only~~
2 ~~total base wages and excludes any other compensation, which includes, but is not~~
3 ~~limited to, overtime, premium pay, merit pay, performance pay, supplemental~~
4 ~~compensation, pay schedules, and automatic pay progressions.~~

5 **SECTION 54.** 111.91 (3) (b) of the statutes is repealed.

6 **SECTION 55.** 111.91 (3q) of the statutes is repealed.

7 **SECTION 56.** 118.245 of the statutes is repealed.

8 **SECTION 57.** 119.04 (1) of the statutes is amended to read:

9 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
10 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
11 115.345, 115.363, 115.364, 115.365 (3), 115.367, 115.38 (2), 115.415, 115.445, 118.001
12 to 118.04, 118.045, 118.06, 118.07, 118.075, 118.076, 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, 118.196, 118.20, 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10),
15 ~~118.245~~, 118.25, 118.255, 118.258, 118.291, 118.292, 118.293, 118.30 to 118.43,
16 118.46, 118.50, 118.51, 118.52, 118.53, 118.55, 118.56, 120.12 (2m), ~~(4m)~~, (5), and (15)
17 to (27), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37),
18 (37m), and (38), 120.137, 120.14, 120.20, 120.21 (3), and 120.25 are applicable to a
19 1st class city school district and board but not, unless explicitly provided in this
20 chapter or in the terms of a contract, to the commissioner or to any school transferred
21 to an opportunity schools and partnership program.

22 **SECTION 58.** 120.12 (4m) of the statutes is repealed.

23 **SECTION 59.** 120.18 (1) (gm) of the statutes is amended to read:

24 120.18 (1) (gm) Payroll and related benefit costs for all school district
25 employees in the previous school year. ~~Payroll costs~~ Costs for represented employees

SENATE BILL 854**SECTION 59**

1 shall be based upon the costs of wages of any collective bargaining agreements
2 covering such employees for the previous school year. If, as of the time specified by
3 the department for filing the report, the school district has not entered into a
4 collective bargaining agreement for any portion of the previous school year with the
5 recognized or certified representative of any of its employees and the school district
6 and the representative have not submitted final offers, increased costs of wages,
7 limited to the lower of the school district's offer and the representative's offer, shall
8 be reflected in the report shall be equal to the maximum wage expenditure that is
9 subject to collective bargaining under s. 111.70 (4) (mb) 2. for the employees. The
10 school district shall amend the annual report to reflect any change in such costs as
11 a result of any collective bargaining agreement entered into between the date of
12 filing the report and October 1. Any such amendment shall be concurred in by the
13 certified public accountant licensed or certified under ch. 442 certifying the school
14 district audit.

15 **SECTION 60.** 851.71 (4) of the statutes is amended to read:

16 851.71 (4) In counties having a population of 750,000 or more, the appointment
17 under subs. (1) and (2) shall be made as provided in those subsections but the judges
18 shall not remove the register in probate and deputy registers, except through charges
19 for dismissal made and sustained under s. 63.10 or an applicable collective
20 bargaining agreement.

21 **SECTION 61.** 904.085 (2) (a) of the statutes is amended to read:

22 904.085 (2) (a) "Mediation" means mediation under s. 93.50 (3), conciliation
23 under s. 111.54, mediation under s. 111.11, 111.70 (4) (eg) ~~or~~ (cm) 3. or 111.87,
24 mediation under s. 115.797, negotiation under s. 289.33 (9), mediation under ch. 655
25 or s. 767.405, or any similar statutory, contractual or court-referred process

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1 facilitating the voluntary resolution of disputes. "Mediation" does not include
2 binding arbitration or appraisal.

3 **SECTION 62. Initial applicability.**

4 (1) This act first applies to an employee who is covered by a collective
5 bargaining agreement under subch. IV or V of ch. 111 that contains provisions
6 inconsistent with this act on the day on which the agreement expires or is
7 terminated, extended, modified, or renewed, whichever occurs first.

8 (END)