



Luther S. Olsen

State Senator

14th District

TO: Senate Committee on Economic Development, Commerce & Local Government

FROM: Senator Luther Olsen

DATE: January 9, 2018

SUBJECT: Testimony in favor of Senate Bill 582.

Thank you Chairman Feyen and the Senate Committee on Economic Development, Commerce and Local Government for holding a hearing and allowing me to testify in favor of Senate Bill 582.

Currently, most counties have adopted employee grievance procedures for general municipal employees. Normally, the grievance procedures require a county to show that it has a rational basis in policy for making a disciplinary or termination decision.

However, certain county employees have claimed that they are entitled to "cause" protections. That process requires written verified charges from a county taxpayer and the right to a speedy evidentiary hearing. The costs associated with a "cause" procedure and the consequences for failure to adhere to the procedure can be significant.

This legislation uniformly applies the grievance procedure to all county employees and removes the "cause" requirement from state statute and administrative code. Within our proposal, the county board would require a two-thirds vote of the board to terminate an employee. Subsequently, when a different body is the appointing authority, a certain percentage vote for removal may also be required.

This would result in equal treatment of county general municipal employees and provide counties with greater autonomy relating to employee disciplinary procedures.

Thank you, members. I ask for your support and would be more than happy to answer any questions.



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

**Senate Committee on Economic Development, Commerce and Local Government
Public Hearing, January 9, 2018**

Senator Feyen and members of the Economic Development, Commerce and Local Government Committee, thank you for allowing me to testify on behalf of Senate Bill 582, relating to standardizing Wisconsin's cause standard procedures for general municipal employees.

Currently, all 72 of Wisconsin's counties, except for Milwaukee and Dane Counties, have instituted grievance procedures for general municipal employees. Traditionally, grievance procedures required a county to demonstrate cause before taking disciplinary action against or terminating an employee. Senate Bill 582 applies grievance procedures uniformly to all employees by subsequently removing the "cause" requirement from state statute and administrative code. Under this proposal, a county may continue to offer a cause standard to county employees within its own grievance policy, but the cause standard would no longer be mandated under state statute.

Under current law, if a county employee claims he or she is entitled to "cause" protections, the process requires written and verified charges from a county taxpayer, an investigation, and the right to a prompt evidentiary hearing. The costs associated with a "cause" hearing and the consequences for failure to adhere to the outcome, can be significant. Moreover, counties often retain outside counsel to assist with the process and ensure that the terminated employee is afforded due process.

Considering that cause standard proceedings are an expensive and long-drawn out process, many counties have decided to settle with employees to avoid the litigation. In this scenario, counties are essentially buying out an employee whose work was deemed unsatisfactory. Senate Bill 582 permits local officials to decide which method is best for their employees; a decision that is most appropriately decided at the local level.

Following the Assembly committee's public hearing, an agreement was reached to exempt Milwaukee and Dane Counties from this proposal, as to avoid interference with their civil service requirements. In addition, the amendment expands the scope of the bill to include city employees. The rationale for including city employees is to standardize language to clarify that city and village employees follow uniform practices.

I encourage your support of Senate Bill 582, and at this time, I would be happy to answer any questions from committee members. Thank you for your time and consideration.



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MEMORANDUM

TO: Honorable Members of the Senate Committee on Economic Development,
Commerce and Local Government

FROM: Marcie Rainbolt, Government Affairs Associate

DATE: January 9, 2018

SUBJECT: Support for Senate Bill 582

2011 Wisconsin Act 10 dramatically changed the course of municipal employee relations. As a result, employees were placed into two different categories - general municipal employees or public safety employees. While public safety employees retained the right to collectively bargain on most issues impacting wages, hours, and conditions of employment (except for health insurance), general municipal employees are only able to bargain total base wages.

Since Act 10 became law in July 2011, 70 counties have adopted employee grievance procedures under Wis. Stat. § 66.0509(1m) applicable to general municipal employees. With rare exceptions, county grievance procedures eliminated any “cause” requirement for disciplining or terminating general municipal employees. Instead, the grievance procedures generally require a county to show that it has a rational basis in policy for making the disciplinary or termination decision.

Both Milwaukee and Dane counties deal with employee discipline and termination through their civil service system. Senate Amendment 1 ensures that Senate Bill 582 will not impact their civil service system and processes in place dealing with employee matters.

Certain groups of county employees have claimed that they are entitled to “cause” protections under the statute. “Cause” is defined in state statute as inefficiency, neglect of duty, official misconduct, or malfeasance in office. When a county employee is entitled to a “cause” standard, the county is forced to follow the process contained within Wis. Stat. § 17.16. That process requires written verified charges from a county taxpayer, an investigation, and an evidentiary hearing. Ultimately, this requires county boards to act in a judicial capacity—which is burdensome and unfamiliar—as opposed to a legislative capacity.

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The costs associated with a “cause” procedure relating to termination of certain county employees is prohibitive. Counties are often required to retain outside counsel to assist in the process and to otherwise ensure that the charged party (the terminated employee) is afforded due process under Wis. Stat. § 17.16. A county’s failure to adhere to the due process contained in statute could lead to a federal lawsuit under 42 U.S.C. § 1983. In other words, the costs associated with the “cause” procedure and the consequences for any failure to faithfully adhere to the procedure are significant.

Senate Bill 582 would eliminate the “cause” standard for certain county employees. Under the legislation, all employees would be considered either general municipal or public safety employees, as intended in Act 10. All general municipal employees would be subject to the same set of rules and regulations under a county’s grievance procedure – there would be no claim that certain employees are entitled to a special “cause” protection under Chapter 17.

WCA respectfully requests the committee’s support for Senate Bill 582 to create uniformity amongst all general municipal employees, provide certainty for counties as it relates to termination procedures, and offer financial protection to counties and local taxpayers.