



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #425

Arbitration Awards Affecting City of Milwaukee Police Officers (Employment Relations Commission)

[LFB 2001-03 Budget Summary: Page 285, #4]

CURRENT LAW

An arbitrator appointed to resolve a collective bargaining impasse involving the City of Milwaukee and its police officers may unilaterally determine the economic and noneconomic issues in dispute without regard to the parties' respective bargaining positions. Without restriction because of enumeration, the arbitrator is currently authorized to include in the compulsory, final and binding arbitration award any of the following matters: (1) all items of compensation; (2) working hours, overtime standards, and the criteria for the assignment and scheduling of work; (3) seniority issues, promotional programs, criteria and procedures for merit increases, and work rules (except those work rules created by law); (4) any educational programs for police officers deemed appropriate; (5) a system for resolving disputes under the contract, including final and binding arbitration; (6) the duration of the contract; and (7) a system for administration of the collective bargaining agreement between the parties by an employee of the Police Department who is not directly accountable to the Chief of Police or the Milwaukee Board of Fire and Police Commissioners in matters relating to that administration.

GOVERNOR

Authorize an arbitrator appointed to resolve a collective bargaining impasse between the City of Milwaukee and its police officers to include provisions in an arbitration award relating to the establishment of a system for conducting interrogations of members of the police department that is limited to the hours between 7 a.m. and 5 p.m. on working days, if the interrogations could lead to disciplinary action, demotion or dismissal. Define "working day" to include all days except Saturday, Sunday and current state government holidays. Specify that this new authority would first apply to petitions for arbitration involving City of Milwaukee police officers that are filed after the general effective date of the biennial budget act.

DISCUSSION POINTS

1. Under current law governing the issuance arbitration awards affecting the City of Milwaukee and its police officers, an arbitrator may include in the final award, without restriction, any matter that is a mandatory subject of bargaining. Matters that relate to wages, hours and conditions of employment are deemed mandatory subjects of bargaining and may be included in a party's final offer, which the arbitrator, in turn, can consider in fashioning an arbitration award. The Legislature has also specifically enumerated certain matters, which then become mandatory subjects of bargaining, that an arbitrator may include in his or her final award.

2. Proposals that do not relate primarily to wages, hours and conditions of employment are deemed permissive subjects of bargaining and may be included among the items that are addressed in the final arbitration award only if the parties agree to their inclusion. Where permissive subjects of bargaining are included in a final offer, they are treated as mandatory subjects of bargaining for the remainder of the arbitration process.

3. Where the parties do not agree on whether a matter is a mandatory subject of bargaining, the parties may petition the Employment Relations Commission for a declaratory ruling to determine the issue. The Commission is required to make its ruling within 15 days of receiving the petition.

4. The effect of including a specific reference to matters relating to the establishment of a system for conducting disciplinary interrogations of members of the police department that is limited to the hours between 7 a.m. and 5 p.m. on working days in the listing of items that an arbitrator may include in a compulsory, final and binding arbitration award is to establish by statute that this matter is a mandatory subject of bargaining.

5. Proponents of the proposed modification have argued that the procedure would enhance the right of an employee, who is potentially subject to a disciplinary interrogation, to have informed union or other representation present at the time of the interrogation, if the proceeding was conducted during normal business hours. Employees who may be subject to an immediate disciplinary interrogation following an alleged infraction, especially if that proceeding occurs outside of normal business hours, may have a difficult time securing informed representation when needed. Further, since the City is likely to object to the including interrogation procedures as a mandatory subject of bargaining, the matter must be addressed legislatively. If the Committee believes that these arguments generally have merit, then it could act to include the Governor's recommendation.

6. Opponents of the proposed modification have raised concerns that delaying an interrogation to normal business hours and requiring the individual subject to the proceeding to appear again at that time will have increased overtime cost implications for the City. Further, a collective bargaining process already exists through which the parties should be able to develop a mutually agreeable procedure to ensure that the employee's rights are maximized and the City's exposure to higher costs are minimized. If the Committee believes that these arguments generally

have merit, then it could choose to maintain current law.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to: (a) authorize an arbitrator appointed to resolve a collective bargaining impasse between the City of Milwaukee and its police officers to include in an arbitration award provisions relating to the establishment of a system for conducting interrogations of members of the police department that is limited to the hours between 7 a.m. and 5 p.m. on working days, if the interrogations could lead to disciplinary action, demotion or dismissal; (b) define "working day" to include all days except Saturday, Sunday and current state government holidays; and (c) specify that this new authority would first apply to petitions for arbitration involving City of Milwaukee police officers that are filed after the general effective date of the biennial budget act.

2. Maintain current law.

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