



State of Wisconsin
2021 - 2022 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 114**

June 25, 2021 - Offered by Representative BRANDTJEN.

1 **AN ACT** *to renumber* 62.13 (3); *to renumber and amend* 62.13 (1), 62.50 (1h)
2 and 62.50 (6); *to amend* 19.42 (7w) (c), 60.57 (2), 61.65 (3g) (d) 1. a., 62.13 (2)
3 (a), 62.13 (6m) (intro.), 62.50 (17) (a), 62.50 (19), 62.50 (21) and 62.51 (1) (a); *to*
4 *repeal and recreate* 62.50 (1e); and *to create* 62.13 (1b), 62.13 (1m) (a) 2.,
5 62.13 (1m) (d), 62.13 (1m) (e), 62.13 (3) (b), 62.13 (3) (c), 62.13 (3) (d), 62.13 (3m),
6 62.50 (1h) (b), 62.50 (1h) (d) 2. b., 62.50 (1h) (d) 2. c., 62.50 (1h) (f) 1., 62.50 (1h)
7 (f) 3., 62.50 (1j), 62.50 (5g), 62.50 (5m), 62.50 (6) (b), 62.50 (6) (c) and 62.50 (21m)
8 of the statutes; **relating to:** boards of police and fire commissioners and
9 protective services departments in populous cities.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes that affect the board of fire and police commissioners of a first class city (presently only Milwaukee), the board of police and fire commissioners of a second class city with a population of 200,000 or more (presently only Madison) (jointly referred to as affected PFC boards), and the protective services departments of first class cities and second class cities with a

population of 200,000 or more (jointly, populous cities). The changes include altering the makeup of affected PFC boards, requiring certain training for affected PFC board members, establishing certain requirements related to hiring and oversight of chiefs of protective services departments in populous cities, creating an executive director position in populous cities, and altering the judicial review process for police and fire department disciplinary cases in a first class city.

Under current law, the board of fire and police commissioners of a first class city consists of seven or nine members selected by the mayor. Boards of police and fire commissioners of other cities, including a second class city, consist of five members selected by the mayor. Under this bill, a board of fire and police commissioners of a first class city consists of nine members selected by the mayor, and confirmed by the common council. The board of a police and fire commission of a second class city with a population of 200,000 or more consists of seven members selected by the mayor. Each of these boards must contain at least one member selected from a list provided by each of 1) the employee association that represents nonsupervisory law enforcement officers and 2) the employee association that represents fire fighters. Also under this bill, if the mayor fails to make an appointment within 120 days of the occurrence of a vacancy, the common council may make the appointment.

In a first class city, a three-member panel of the board of fire and police commissioners may conduct and decide a trial to evaluate a complaint against a member of the police or fire department. This bill specifies that when a three-member panel conducts such a trial, except when no member with the requisite experience is available for the trial date, at least one member of the panel must have professional law enforcement experience if the accused is a police officer, and at least one such member must have professional fire fighting experience if the accused is a fire fighter.

The bill also requires each member of an affected PFC board to take a training class provided by the city in which it operates. The training class must cover the mission and role of the board, the procedures that apply to disciplinary hearings, the conduct policies of the police and fire departments, and use of force guidelines of the police department. A member may not participate in any action of the board until he or she completes the training class and any other training required by the city.

The bill also creates the office of executive director of the fire and police commission in a first class city and executive director of the police and fire commission in a second class city with a population of 200,000 or more. This person acts as the principal staff of an affected PFC board, reviews certain situations or investigations involving the police or fire department, evaluates police and fire department policies and practices, and issues periodic reports to the public relating to the status and outcome of complaints that have been filed. The executive director is appointed by the mayor and confirmed by the common council and serves a four-year term, at the pleasure of the board.

This bill also specifies the following related to affected PFC boards:

1. When an affected PFC board appoints a protective services chief, the board must meet with representatives of the employee association whose members will serve under the proposed chief.

2. When an affected PFC board appoints a protective services chief, the board must hold at least two public meetings to hear comments from residents of the city and other interested persons.

3. When a member is appointed to an affected PFC board, the common council must hold two public hearings that include public comment periods with regard to the appointments.

4. If an affected PFC board accepts an additional application for chief of police after the application period for accepting these applications has closed, the board must reopen the application period for an additional seven days.

5. If the common council adopts a resolution by a two-thirds majority to conduct a performance review of a protective services chief, an affected PFC board must conduct the review and provide a written report to the common council.

6. A PFC board member may not continue in office after the expiration of his or her term, unless reappointed and, in a first class city, confirmed. Also, a PFC board member may not continue in office if the common council rejects the member upon submission for confirmation by the mayor.

Currently, if a board of fire and police commissioners of a first class city discharges, suspends, or reduces in rank an officer or member of the police or fire department, the disciplined person may appeal that decision to a circuit court. Under current law, a circuit court's review of a disciplinary decision is, in general, a limited review of the record created before the board of fire and police commissioners.

This bill further specifies the procedure applicable to an appeal of a disciplinary decision. Under this bill, an appeal of a disciplinary decision consists of, in general, a review of the record created before the board of fire and police commissioners. A court may, however, in its discretion allow the submission of additional evidence. The court's review is limited to consideration of whether the board followed appropriate procedure and considered all evidence received and whether there is just cause to sustain the charges against the officer. The bill also specifies that if the court determines that the board failed to follow appropriate procedure or failed to consider all evidence received, the court must review the decision of the board without deference to the board's findings of fact. Otherwise, the court must, in general, adopt the board's findings of fact.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 19.42 (7w) (c) of the statutes is amended to read:
2 19.42 (7w) (c) An appointive office or position of a local governmental unit in
3 which an individual serves for a specified term, including a member of a board

1 created under s. 60.57, 61.65, 62.13, or 62.50, except a position limited to the exercise
2 of ministerial action or a position filled by an independent contractor.

3 **SECTION 2.** 60.57 (2) of the statutes is amended to read:

4 60.57 (2) A board created under this section shall be organized in the same
5 manner as boards of police and fire commissioners under s. 62.13 (1) (1m) (a) 1.

6 **SECTION 3.** 61.65 (3g) (d) 1. a. of the statutes is amended to read:

7 61.65 (3g) (d) 1. a. A board created under this section shall be organized in the
8 same manner as boards of police and fire commissioners under s. 62.13 (1) (1m) (a)
9 1.

10 **SECTION 4.** 62.13 (1) of the statutes is renumbered 62.13 (1m) (a) 1. and
11 amended to read:

12 62.13 (1m) (a) 1. Except as provided in subd. 2. and subs. (2g), (2m), (2s), and
13 (8) (b), each city shall have a board of police and fire commissioners consisting of 5
14 citizens, 3 of whom shall constitute a quorum.

15 (b) The mayor shall annually, between the last Monday of April and the first
16 Monday of May, appoint in writing to be filed with the secretary of the board, one
17 member of a board under par. (a) for a term of 5 years. For a 2nd class city with a
18 population of 200,000 or more in a year in which the terms of 2 members expire, the
19 mayor may appoint a 2nd member of a board under par. (a) 2. in the same manner
20 for a term of 5 years. Except as provided in par. (a) 2. a., if the mayor of a 2nd class
21 city with a population of 200,000 or more fails to make an appointment within 120
22 days of a vacancy occurring, the common council may make the appointment by a
23 majority vote of the members of the common council in open session. No appointment
24 shall may be made which that will result in more than 3 members of the board
25 belonging to the same political party. The common council of a 2nd class city with

1 a population of 200,000 or more shall hold 2 public hearings that include public
2 comment periods with regard to each appointment to the board, including an
3 appointment made by the common council under this paragraph.

4 (c) The A board shall keep a record of its proceedings.

5 **SECTION 5.** 62.13 (1b) of the statutes is created to read:

6 **62.13 (1b) DEFINITION.** In this section, “board” means a board of police and fire
7 commissioners under sub. (1m) (a) or a joint board of police and fire commissioners
8 under sub. (2) (b) or (2m) (b).

9 **SECTION 6.** 62.13 (1m) (a) 2. of the statutes is created to read:

10 **62.13 (1m) (a) 2. a.** Each 2nd class city with a population of 200,000 or more
11 shall have a board of police and fire commissioners consisting of 7 members,
12 including at least one member selected from a list submitted by the employee
13 association that represents nonsupervisory law enforcement officers and at least one
14 member selected from a list submitted by the employee association that represents
15 fire fighters. Lists of individuals submitted for selection under this subd. 2. a. shall
16 contain 5 names. Individuals included in a list submitted under this subd. 2. a. by
17 an employee association that represents nonsupervisory law enforcement officers or
18 fire fighters shall have professional law enforcement experience or professional fire
19 fighting experience, respectively, and shall be at least 5 years removed from service
20 as a professional law enforcement officer or fire fighter, respectively. If the mayor
21 fails to make an appointment that is required to be selected from a list under this
22 subd. 2 a. within 120 days of a vacancy occurring, the common council, within 60 days
23 and after not fewer than 2 public hearings that include public comment periods with
24 regard to the appointment, shall make the appointment. Notwithstanding par. (b),
25 the initial term of the member selected from a list submitted by the employee

1 association that represents nonsupervisory law enforcement officers shall be 2 years
2 and the initial term of the member selected from a list submitted by the employee
3 association that represents fire fighters shall be 5 years. The members selected from
4 lists submitted by employee associations that represent nonsupervisory law
5 enforcement officers and fire fighters shall comply with any residency requirements
6 that apply to current members of the police or fire department, respectively, of the
7 city.

8 b. A board member of a 2nd class city with a population of 200,000 or more may
9 not continue in office after the expiration of his or her term, unless the member is
10 reappointed to the board.

11 c. Five members constitute a quorum of a board under this subdivision.

12 **SECTION 7.** 62.13 (1m) (d) of the statutes is created to read:

13 62.13 (1m) (d) 1. The city shall provide a training class for members of the
14 board. The city may provide this class directly or in another manner, including by
15 contracting with another person. The training class shall cover all of the following:

16 a. The mission and role of the board.

17 b. The procedures that apply to disciplinary hearings under this section,
18 including applicable rules of evidence and applicable provisions of any contract
19 between the city and employee associations that represent nonsupervisory law
20 enforcement officers or fire fighters.

21 c. The conduct policies of the police and fire departments.

22 d. Use of force guidelines of the police department.

23 2. Not later than the first day of the 7th month beginning after the mayor files
24 the appointment of a member of the board with the secretary of the board, the
25 member shall enroll in the training class under subd. 1. and, not later than the first

1 day of the 13th month beginning after the mayor files the member's appointment
2 with the secretary of the board, the member shall complete the class.

3 3. Notwithstanding sub. (5), no member may participate in any board action
4 until he or she completes the training class under subd. 1. and any other training
5 required by the city.

6 4. This paragraph applies only in a 2nd class city with a population of 200,000
7 or more.

8 **SECTION 8.** 62.13 (1m) (e) of the statutes is created to read:

9 62.13 **(1m)** (e) All employees of the board of a 2nd class city with a population
10 of 200,000 or more shall be nonpartisan.

11 **SECTION 9.** 62.13 (2) (a) of the statutes is amended to read:

12 62.13 **(2)** (a) Except as provided under sub. (6m), subs. ~~(1)~~ (1m) to (6) shall not
13 apply to cities of less than 4,000 population except by ordinance adopted by a
14 majority of all the members of the council. A repealing ordinance may be adopted
15 by a like vote.

16 **SECTION 10.** 62.13 (3) of the statutes is renumbered 62.13 (3) (a).

17 **SECTION 11.** 62.13 (3) (b) of the statutes is created to read:

18 62.13 **(3)** (b) Before appointing a chief of police, chief of the fire department, or
19 chief of a combined protective services department under this subsection, the board
20 of a 2nd class city with a population of 200,000 or more shall do all of the following:

21 1. Meet with representatives of the nonsupervisory employee association
22 whose members will serve under the proposed chief.

23 2. Hold at least 2 public meetings to hear comments from residents of the city
24 and other interested persons.

25 **SECTION 12.** 62.13 (3) (c) of the statutes is created to read:

1 62.13 (3) (c) If the board of a 2nd class city with a population of 200,000 or more
2 accepts an additional application for chief of police after the application period for
3 accepting these applications has closed, the board shall reopen the application period
4 for an additional 7 days beginning on the date it accepted the late application.

5 **SECTION 13.** 62.13 (3) (d) of the statutes is created to read:

6 62.13 (3) (d) 1. If the common council adopts a resolution by a two-thirds vote
7 of the members-elect, as defined in s. 59.001 (2m), to conduct a performance review
8 of the chief of police, the chief of the fire department, or the chief of a combined
9 protective services department, the board shall conduct the review and provide a
10 written report to the common council.

11 2. At least once each year, the chief of police and the chief of the fire department,
12 or the chief of a combined protective services department, shall meet with the
13 members of the common council at a regular meeting of the council.

14 3. Upon request by the common council or any committee of the common
15 council, the chair of the board, the vice chair of the board, or the executive director
16 under sub. (3m) shall attend a meeting of the common council or a committee of the
17 common council.

18 4. This paragraph applies only in a 2nd class city with a population of 200,000
19 or more.

20 **SECTION 14.** 62.13 (3m) of the statutes is created to read:

21 62.13 (3m) EXECUTIVE DIRECTOR. (a) No later than the 2nd Monday in June
22 occurring after the effective date of the paragraph [LRB inserts date], the 2nd
23 Monday in June immediately preceding the expiration of the regular term of office
24 of the executive director, or within 60 days of a vacancy in the position, the board
25 shall submit to the mayor a list of 3 qualified candidates for the position of executive

1 director. Before submitting the list of candidates to the mayor, the board shall
2 publicly announce the proposed list and hold a public hearing that includes a public
3 comment period with regard to the list. No later than 30 days after receiving the list,
4 the mayor shall appoint an individual selected from the list as executive director.
5 The individual appointed is subject to confirmation by the common council.

6 (b) The common council shall fix the salary or other compensation of the
7 executive director.

8 (c) The initial regular term of office of the executive director is 4 years from the
9 2nd Monday in July occurring after the effective date of this paragraph [LRB
10 inserts date]. Thereafter, the regular term of office is 4 years from the 2nd Monday
11 in July following appointment of an executive director to a regular term under this
12 subsection. An executive director appointed under this subsection may continue to
13 hold office until a successor is appointed and confirmed.

14 (d) 1. An executive director may be removed by a majority vote of the board in
15 open session.

16 2. Notwithstanding s. 17.12 (1) (c), an executive director may not be removed
17 by the mayor.

18 (e) The executive director shall do all of the following:

19 1. Act as the principal staff of the board in exercising the board's functions and
20 powers under this section.

21 2. Review situations or investigations when an individual is dissatisfied with
22 the outcome of an investigation or situation involving the police, fire, or combined
23 protective services department.

24 3. Evaluate the policies, practices, and patterns, including staff deployments,
25 crime and fire prevention training, use of force, search, seizure, citizen interaction,

1 and communication of the police and fire departments or the combined protective
2 services department.

3 4. Issue reports to the public at least annually relating to the status and
4 outcome of complaints that have been filed, the timeliness of complaint resolution,
5 trends and patterns of concern pertaining to complaint investigations, the nature
6 and frequency of complaints, and other performance indicators.

7 (f) If the executive director is an attorney, no attorney-client privilege exists
8 between the executive director and the mayor or common council.

9 (g) This subsection applies only to a 2nd class city with a population of 200,000
10 or more.

11 **SECTION 15.** 62.13 (6m) (intro.) of the statutes is amended to read:

12 62.13 **(6m)** (intro.) If a city of less than 4,000 population has not by ordinance
13 applied subs. ~~(1)~~ (1m) to (6) to the city, the city may not suspend, reduce, suspend and
14 reduce, or remove any police chief, combined protective services chief, or other law
15 enforcement officer who is not probationary, and for whom there is no valid and
16 enforceable contract of employment or collective bargaining agreement which
17 provides for a fair review prior to that suspension, reduction, suspension and
18 reduction or removal, unless the city does one of the following:

19 **SECTION 16.** 62.50 (1e) of the statutes is repealed and recreated to read:

20 62.50 **(1e)** DEFINITION. In this section, “board” means the board of fire and
21 police commissioners of a 1st class city.

22 **SECTION 17.** 62.50 (1h) of the statutes is renumbered 62.50 (1h) (a) and
23 amended to read:

24 62.50 **(1h)** (a) In all 1st class cities, however incorporated, there shall be a board
25 of fire and police commissioners, consisting of ~~either 7 or 9~~ 9 citizens, not more than

1 ~~3, if the board has 7 members, or 4, if the board has 9 members,~~ of whom shall at any
2 time belong to the same political party.

3 (c) The staff and members of the board shall receive the salary or other
4 compensation for their services fixed by the common council. The salary shall be
5 fixed at the same time and in the same manner as the salary of other city officials
6 and employees. All employees of the board shall be nonpartisan.

7 (d) 1. Except as otherwise provided in this subsection, a majority of the
8 members-elect, as that term is used in s. 59.001 (2m), of the board shall constitute
9 a quorum necessary for the transaction of business.

10 2. a. A 3-member panel of the board may conduct, and decide by majority vote,
11 a trial described under sub. (12) or may hear and decide, by majority vote, charges
12 filed by an aggrieved person under sub. (19). ~~It shall be the duty of the mayor of the~~
13 ~~city, on or before the 2nd Monday in July, to appoint 7, or 9, members of the board,~~
14 ~~designating the term of office of each, one to hold one year, 2 to hold 2 years, 2 to hold~~
15 ~~3 years, one to hold 4 years if the board has 7 members, and 2 to hold 4 years if the~~
16 ~~board has 9 members, and one to hold 5 years if the board has 7 members, and 2 to~~
17 ~~hold 5 years if the board has 9 members, and until their respective successors shall~~
18 ~~be appointed and qualified. Thereafter the~~

19 (e) The terms of office for members of the board shall be 5 years from the 2nd
20 Monday in July, and until a successor is appointed and qualified. ~~The mayor may~~
21 ~~reduce the size of the board from 9 to 7 members by failing to appoint 2 successors~~
22 ~~for individuals whose terms expire at the same time. Every person appointed a~~
23 ~~member~~ The mayor shall appoint members of the board shall be subject to
24 confirmation by the common council ~~and every.~~ If the common council rejects a
25 member submitted for confirmation by the mayor, the person may not continue in

1 office. Except as provided in par. (b), if the mayor fails to make an appointment
2 within 120 days of a vacancy occurring, the common council may make the
3 appointment by a majority vote of the members of the common council in open
4 session. Before confirmation or appointment by the common council under this
5 paragraph, the common council shall hold 2 public hearings that include public
6 comment periods with regard to the confirmation or appointment. Every appointed
7 member shall, before entering upon the duties of the office take and subscribe the
8 oath of office prescribed by article IV, section 28, of the constitution, and file the same
9 duly certified by the officer administering it, with the clerk of the city. A member of
10 the board may not continue in office after the expiration of his or her term, unless
11 the member is reappointed to the board and confirmed by the common council.

12 (f) 2. Not later than the first day of the 7th month beginning after a member
13 of the board appointed by the mayor is confirmed by the common council, the member
14 shall enroll in ~~a~~ the training class that is related to the mission of the board under
15 subd. 1. and, not later than the first day of the 13th month beginning after a member
16 appointed by the mayor is confirmed by the common council, the member shall
17 complete the class. ~~The training class shall be conducted by the city. Appointments~~
18 ~~made prior to the time this subchapter first applies to a 1st class city shall not be~~
19 ~~subject to confirmation by the common council.~~

20 **SECTION 18.** 62.50 (1h) (b) of the statutes is created to read:

21 62.50 (1h) (b) At least one member of the board shall be selected from a list
22 submitted by the employee association that represents nonsupervisory law
23 enforcement officers and at least one member selected from a list submitted by the
24 employee association that represents fire fighters. Lists of individuals submitted for
25 selection under this paragraph shall contain 5 names. Individuals included in a list

1 submitted under this paragraph by an employee association that represents
2 nonsupervisory law enforcement officers or fire fighters shall have professional law
3 enforcement experience or professional fire fighting experience, respectively, and
4 shall be at least 5 years removed from service as a professional law enforcement
5 officer or fire fighter, respectively. If the mayor fails to make an appointment that
6 is required to be selected from a list under this paragraph within 120 days after a
7 vacancy occurs, the common council, within 60 days and after not fewer than 2 public
8 hearings that include public comment periods with regard to the appointment, shall
9 make the appointment. Notwithstanding the other requirements regarding length
10 of terms in this subsection, the initial term of the member selected from a list
11 submitted by the employee association that represents nonsupervisory law
12 enforcement officers shall be 2 years and the initial term of the member selected from
13 a list submitted by the employee association that represents fire fighters shall be 5
14 years. The members selected from lists submitted by employee associations that
15 represent nonsupervisory law enforcement officers and fire fighters shall comply
16 with any residency requirements that apply to current members of the police or fire
17 department, respectively, of the city.

18 **SECTION 18g.** 62.50 (1h) (d) 2. b. of the statutes is created to read:

19 62.50 (1h) (d) 2. b. Except as provided under subd. 2. c., for a trial of a member
20 of the police force, at least one member of the panel shall have professional law
21 enforcement experience, and for a trial of a member of the fire department, at least
22 one member of the panel shall have professional fire fighting experience.

23 **SECTION 18r.** 62.50 (1h) (d) 2. c. of the statutes is created to read:

24 62.50 (1h) (d) 2. c. If a trial is to be conducted and decided by a 3-member panel
25 of the board and at the time of service of the notice fixing the time and place of trial

1 under sub. (14), the board determines that, for a trial of a member of the police
2 department, all board members having professional law enforcement experience will
3 be unavailable for the trial or, for a trial of a member of the fire department, all board
4 members having professional fire fighting experience will be unavailable for the
5 trial, the trial may be conducted and decided by a 3-member panel that does not
6 include a member with the requisite experience.

7 **SECTION 19.** 62.50 (1h) (f) 1. of the statutes is created to read:

8 62.50 (1h) (f) 1. The city shall provide a training class for members of the board.
9 The city may provide this class directly or in another manner, including by
10 contracting with another person. The training class shall cover all of the following:

11 a. The mission and role of the board.

12 b. The procedures that apply to disciplinary hearings under this section,
13 including applicable rules of evidence and applicable provisions of any contract
14 between the city and employee associations that represent nonsupervisory law
15 enforcement officers or fire fighters.

16 c. The conduct policies of the police and fire departments.

17 d. Use of force guidelines of the police department.

18 **SECTION 20.** 62.50 (1h) (f) 3. of the statutes is created to read:

19 62.50 (1h) (f) 3. No member may participate in any board action until he or she
20 completes the training class under subd. 1. and any other training required by the
21 city.

22 **SECTION 20g.** 62.50 (1j) of the statutes is created to read:

23 62.50 (1j) LEGAL SERVICES. The board may retain an attorney to represent the
24 board in any action or proceeding brought for or against the board and to provide any
25 other legal services requested by the board.

1 **SECTION 21.** 62.50 (5g) of the statutes is created to read:

2 **62.50 (5g) EXECUTIVE DIRECTOR.** (a) No later than the 2nd Monday in June
3 occurring after the effective date of the paragraph [LRB inserts date], the 2nd
4 Monday in June immediately preceding the expiration of the regular term of office
5 of the executive director, or within 60 days of a vacancy in the position, the board
6 shall submit to the mayor a list of 3 qualified candidates for the position of executive
7 director. Before submitting the list of candidates to the mayor, the board shall
8 publicly announce the proposed list and hold a public hearing that includes a public
9 comment period with regard to the list. No later than the 30 days after receiving the
10 list, the mayor shall appoint an individual selected from the list as executive director.
11 The individual appointed is subject to confirmation by the common council.

12 (b) The common council shall fix the salary or other compensation of the
13 executive director.

14 (c) The initial regular term of office of the executive director is 4 years from the
15 2nd Monday in July occurring after the effective date of this paragraph [LRB
16 inserts date]. Thereafter, the regular term of office is 4 years from the 2nd Monday
17 in July following appointment of an executive director to a regular term under this
18 section. An executive director appointed under this section may continue to hold
19 office until a successor is appointed and confirmed.

20 (d) 1. An executive director may be removed by a majority vote of the board in
21 open session.

22 2. Notwithstanding s. 17.12 (1) (c), an executive director may not be removed
23 by the mayor.

24 (e) The executive director shall do all of the following:

1 1. Act as the principal staff of the board in exercising the board's functions and
2 powers under this section.

3 2. Review situations or investigations when an individual is dissatisfied with
4 the outcome of an investigation or situation involving the police or fire department.

5 3. Evaluate the policies, practices, and patterns, including staff deployments,
6 crime and fire prevention training, use of force, search, seizure, citizen interaction,
7 and communication of the police and fire departments.

8 4. Issue reports to the public at least annually relating to the status and
9 outcome of complaints that have been filed, the timeliness of complaint resolution,
10 trends and patterns of concern pertaining to complaint investigations, the nature
11 and frequency of complaints, and other performance indicators.

12 5. Attend any regular meeting of the common council or meeting of council
13 committee where his or her presence is requested by the council.

14 (f) If the executive director is an attorney, no attorney-client privilege exists
15 between the executive director and the mayor or common council.

16 **SECTION 22.** 62.50 (5m) of the statutes is created to read:

17 62.50 (**5m**) COMMON COUNCIL OVERSIGHT. (a) If the common council adopts a
18 resolution by a two-thirds vote of the members-elect, as defined in s. 59.001 (2m),
19 to conduct a performance review of the chief of police or the chief engineer of the fire
20 department, the board shall conduct the review and provide a written report to the
21 common council.

22 (b) At least once each year, the chief of police and the chief engineer of the fire
23 department shall meet with the members of the common council at a regular meeting
24 of the council.

1 (c) Upon request by the common council or any committee of the common
2 council, the chair of the board, the vice chair of the board, or the executive director
3 under sub. (5g) shall attend a meeting of the common council or a committee of the
4 common council.

5 **SECTION 23.** 62.50 (6) of the statutes is renumbered 62.50 (6) (a) and amended
6 to read:

7 62.50 (6) (a) If a vacancy exists in the office of chief of police or in the office of
8 chief engineer of the fire department, the board by a majority vote shall appoint
9 proper persons to fill such offices respectively. When filling a vacancy in the office
10 of chief of police or in the office of chief engineer of the fire department ~~occurring after~~
11 ~~June 15, 1977~~, the board shall appoint the person to a term of office the number of
12 years and commencement date of which shall be set by the city of the 1st class by
13 ordinance and which may not exceed 10 years, or for the remainder of an unexpired
14 term.

15 **SECTION 24.** 62.50 (6) (b) of the statutes is created to read:

16 62.50 (6) (b) Before appointing or reappointing a chief of police or chief engineer
17 of the fire department under this subsection, the board shall do all of the following:

18 1. Meet with representatives of the nonsupervisory employee association
19 whose members will serve under the proposed chief.

20 2. Hold at least 2 public meetings to hear comments from residents of the city
21 and other interested persons.

22 **SECTION 25.** 62.50 (6) (c) of the statutes is created to read:

23 62.50 (6) (c) If the board accepts an additional application for chief of police
24 after the application period for accepting these applications has closed, the board

1 shall reopen the application period for an additional 7 days beginning on the date it
2 accepted the late application.

3 **SECTION 25m.** 62.50 (17) (a) of the statutes is amended to read:

4 62.50 (17) (a) Within 3 days after hearing the matter the board, or a 3-member
5 panel of the board, shall review all of the evidence received and, by a majority vote
6 of its members and subject to par. (b), determine whether by a preponderance of the
7 evidence the charges are sustained. If the board or panel determines that the
8 charges are sustained, the board shall at once determine whether the good of the
9 service requires that the accused be permanently discharged or be suspended
10 without pay for a period not exceeding 60 days or reduced in rank. If the charges are
11 not sustained the accused shall be immediately reinstated in his or her former
12 position, without prejudice. The decision and findings of the board, or panel, shall
13 be in writing and shall be filed, together with a transcript of the evidence, with the
14 secretary of the board.

15 **SECTION 25s.** 62.50 (19) of the statutes is amended to read:

16 62.50 (19) CHARGES BY AGGRIEVED PERSON. In cases where duly verified charges
17 are filed by any aggrieved person with the board of fire and police commissioners,
18 setting forth sufficient cause for the removal of any member of either of the
19 departments, including the chiefs or their assistants, the board or chief may suspend
20 such member or officer pending disposition of such charges. The board shall cause
21 notice of the filing of the charges with a copy to be served upon the accused and shall
22 set a date for the trial and investigation of the charges, following the procedure under
23 this section. The board, or a 3-member panel of the board, shall review all of the
24 evidence received and decide by a majority vote and subject to the just cause
25 standard described in sub. (17) (b) whether the charges are sustained. If sustained,

1 the board shall immediately determine whether the good of the service requires that
2 the accused be removed, suspended from office without pay for a period not exceeding
3 60 days or reduced in rank. If the charges are not sustained, the accused shall be
4 immediately reinstated without prejudice. The secretary of the board shall make the
5 decision public.

6 **SECTION 26.** 62.50 (21) of the statutes is amended to read:

7 62.50 (21) CERTIFICATION AND RETURN OF RECORD; HEARING. Upon the service of
8 the demand under sub. (20), the board upon which the service is made shall within
9 5 days thereafter certify to the clerk of the circuit court of the county all charges,
10 testimony, and everything relative to the trial and discharge, suspension or
11 reduction in rank of the member. Upon the filing of the return with the clerk of court,
12 actions for review shall be given preference. Upon application of the discharged
13 member or the board, the court shall fix a date for the trial which shall be no later
14 than 15 days after the date of the application except upon agreement between the
15 board and the discharged or suspended member. ~~The action shall be tried by the~~
16 ~~court without a jury and shall be tried upon the return made by the board. In~~
17 ~~determining the question of fact presented, the court shall be limited in the review~~
18 ~~thereof to the question: "Under the evidence is there just cause, as described in sub.~~
19 ~~(17) (b), to sustain the charges against the accused?" The court may require~~
20 ~~additional return to be made by the board, and may also require the board to take~~
21 ~~additional testimony and make return thereof.~~

22 **SECTION 27.** 62.50 (21m) of the statutes is created to read:

23 62.50 (21m) REVIEW OF DISCIPLINARY DECISIONS. (a) The action filed under sub.
24 (20) shall be tried by the court without a jury and, subject to par. (b), shall be limited
25 to review of the following:

- 1 1. Whether the board followed appropriate procedure.
- 2 2. Whether the board considered all evidence received.
- 3 3. Whether there is just cause, as described in sub. (17) (b), to sustain the
- 4 charges against the officer.

5 (b) In a review under this subsection:

6 1. If the court determines that the board failed to follow appropriate procedure

7 or failed to consider all evidence received, the court shall review the decision of the

8 board independently and without deference to the board’s findings of fact and

9 conclusions of law.

10 2. If the court determines that the board followed appropriate procedure and

11 considered all evidence received, the court shall conduct the review under par. (a) 3.

12 but shall adopt the board’s findings of fact, except as provided under par. (c).

13 (c) A review under this subsection shall be confined to the record, except that

14 the court may in its discretion allow the submission of additional evidence. If the

15 court allows the submission of additional evidence, the court may consider the

16 additional evidence in its review under this subsection or remand the disciplinary

17 decision to the board for further consideration under sub. (17) or (19).

18 **SECTION 28.** 62.51 (1) (a) of the statutes is amended to read:

19 62.51 (1) (a) “Public office” means the following positions or their equivalent:

20 city engineer; city purchasing agent; commissioner of building inspection, of city

21 development, of health or of public works; director of administration, of budget and

22 management, of community development agency, of employee relations, of office of

23 telecommunications, or of safety; emergency management coordinator; employee

24 benefits administrator; executive director of the commission on community

25 relations; municipal port director; commissioner of assessments; director of liaison;

1 city personnel director; executive director of the retirement board; executive director
2 of the city board of election commissioners; city librarian; city labor negotiator;
3 ~~executive secretary of the board of fire and police commissioners;~~ and supervisor of
4 the central electronics board.

5 **SECTION 29. Initial applicability.**

6 (1) This act first applies to a vacancy on the board of fire and police
7 commissioners, a vacancy on a board of police and fire commissioners, a vacancy in
8 the office of chief of either department, a vacancy in a public office, or an action by
9 an officer or member of either department that gives rise to the need for a disciplinary
10 proceeding that occurs on the effective date of this subsection.

11 (END)