



1995 SENATE BILL 149

April 19, 1995 - Introduced by Senators RISSER and MOEN, cosponsored by Representatives RYBA, L. YOUNG, BALDWIN, BALDUS, R. YOUNG, ROBSON, HAHN, BOYLE and HANSON. Referred to Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs.

1 **AN ACT to amend** 20.865 (1) (c), 20.865 (1) (i), 20.865 (1) (s) and 111.92 (1) and
2 (4); **to repeal and recreate** 111.88; and **to create** 20.512 (1) (c) and 111.865
3 of the statutes; **relating to:** the commencement of negotiations and final
4 automatic review proceedings under the state employment labor relations act,
5 granting rule-making authority and making an appropriation.

Analysis by the Legislative Reference Bureau

Under the state employment labor relations act (SELRA), most state employes in the classified service as well as assistant district attorneys and program, project and teaching assistants employed by the university of Wisconsin system may choose representatives for the purpose of engaging in collective bargaining with the state.

Under SELRA, both parties to a labor dispute may petition the employment relations commission to appoint a fact finder, who issues nonbinding recommendations for resolution of the dispute. Collective bargaining agreements are required to generally coincide with the state's fiscal biennium, but the state and labor organizations representing state employes are not required to adhere to any time limits for the commencement of negotiations.

This bill requires the department of employment relations (DER), representing the state, and any labor organization representing state employes in a collective bargaining unit to conduct their first meeting to negotiate a new or successor collective bargaining agreement and exchange their initial proposals not later than March 1 in each odd-numbered year.

The bill also deletes the fact-finding process and replaces it with a process called "final automatic review".

Under final automatic review, if DER and a labor organization have failed to conclude negotiations by July 31 of an odd-numbered year and the commission determines that the parties remain at an impasse over the terms of a proposed

collective bargaining agreement, the commission must initiate review proceedings by appointing a qualified neutral person, or a 3-member panel when jointly requested by the parties, to serve as the final reviewer to make written recommendations to resolve the impasse.

The final reviewer may conduct a hearing to determine all relevant facts, the issues in dispute and the positions of the parties; or, in lieu of or in addition to a hearing, the reviewer may investigate such matters. At the request of the final reviewer, the commission must appoint a staff member to assist in the investigation.

The reviewer then issues written recommendations for resolution of the dispute and serves them on both parties and the commission not later than the September 30 immediately following the reviewer's appointment. The bill provides specific factors that the final reviewer must consider in making recommendations.

Thirty days after the issuance of the final reviewer's recommendations, the recommendations become final and binding upon the parties and must be incorporated into a collective bargaining agreement unless: 1) both parties in writing reject the recommendations in whole or in part; or 2) the joint committee on employment relations, by a vote of a majority of its members, rejects the recommendations. In either case, the dispute is then referred back to the parties for continued negotiations.

Under the bill, the cost of final automatic review proceedings is divided equally between the parties. The commission is directed to promulgate administrative rules to ensure a fair and expeditious final automatic review process which must include sanctions against final reviewers who fail to issue timely written recommendations.

For further information see the *state* 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:

1 **SECTION 1.** 20.512 (1) (c) of the statutes is created to read:

2 20.512 (1) (c) *Final automatic review expenses.* A sum sufficient to pay the
3 employer's share of the expenses of final automatic review proceedings in labor
4 disputes involving state employees under s. 111.88.

5 **SECTION 2.** 20.865 (1) (c) of the statutes is amended to read:

6 20.865 (1) (c) *Compensation and related adjustments.* A sum sufficient to
7 supplement the appropriations to state agencies for the cost of compensation and
8 related adjustments approved by the legislature or placed in effect under s. 111.88
9 (6) or 111.92 for represented employees and approved by the joint committee on

1 employment relations under s. 230.12 and by the legislature, when required, for
2 nonrepresented employes in the classified service and comparable adjustments for
3 nonrepresented employes in the unclassified service, except those nonrepresented
4 employes specified in ss. 20.923 (5) and (6) (c) and (m) and 230.08 (2) (d) and (f), as
5 determined under s. 20.928, other than adjustments funded under par. (cj).
6 Unclassified employes included under s. 20.923 (2) need not be paid comparable
7 adjustments.

8 **SECTION 3.** 20.865 (1) (i) of the statutes is amended to read:

9 20.865 (1) (i) *Compensation and related adjustments; program revenues.* From
10 the appropriate program revenue and program revenue-service accounts, a sum
11 sufficient to supplement the appropriations to state agencies for the cost of
12 compensation and related adjustments approved ~~by the legislature~~ or placed in effect
13 under s. 111.88 (6) or 111.92 for represented employes and approved by the joint
14 committee on employment relations under s. 230.12 and by the legislature, when
15 required, for nonrepresented employes in the classified service and comparable
16 adjustments for nonrepresented employes in the unclassified service, except those
17 nonrepresented employes specified in ss. 20.923 (5) and (6) (c) and (m) and 230.08 (2)
18 (d) and (f), as determined under s. 20.928, other than adjustments funded under par.
19 (cj). Unclassified employes included under s. 20.923 (2) need not be paid comparable
20 adjustments.

21 **SECTION 4.** 20.865 (1) (s) of the statutes is amended to read:

22 20.865 (1) (s) *Compensation and related adjustments; segregated revenues.*
23 From the appropriate segregated funds, a sum sufficient to supplement the
24 appropriations to state agencies for the cost of compensation and related
25 adjustments approved ~~by the legislature~~ or placed in effect under s. 111.88 (6) or

1 111.92 for represented employes and approved by the joint committee on
2 employment relations under s. 230.12 and by the legislature, when required, for
3 nonrepresented employes in the classified service and comparable adjustments for
4 nonrepresented employes in the unclassified service, except those nonrepresented
5 employes specified in ss. 20.923 (5) and (6) (c) and (m) and 230.08 (2) (d) and (f), as
6 determined under s. 20.928. Unclassified employes under s. 20.923 (2) need not be
7 paid comparable adjustments.

8 **SECTION 5.** 111.865 of the statutes is created to read:

9 **111.865 Commencement of negotiations.** The department and any labor
10 organization representing a collective bargaining unit shall hold their first meeting
11 to negotiate the terms of any new or successor collective bargaining agreement, and
12 to exchange initial proposals with respect thereto, not later than March 1 in each
13 odd-numbered year.

14 **SECTION 6.** 111.88 of the statutes is repealed and recreated to read:

15 **111.88 Final automatic review. (1)** If the department and any labor
16 organization representing a collective bargaining unit have failed to reach a
17 tentative agreement for any biennium by July 31 following the beginning of that
18 biennium and the commission determines that the parties are at an impasse with
19 respect to the terms of any new or successor collective bargaining agreement for that
20 biennium, the commission shall initiate final automatic review proceedings under
21 this section for the purpose of making recommendations to resolve the impasse.

22 **(2)** At the commencement of proceedings, the commission shall appoint a
23 qualified, disinterested person or, when jointly requested by the parties, a 3-member
24 panel to serve as the final reviewer. A 3-member panel has the same powers and

1 duties as provided in this section for other appointed final reviewers and all
2 recommendations by the panel shall be determined by majority vote.

3 (3) The final reviewer may establish a date and place for a hearing which shall
4 be conducted pursuant to rules established by the commission. The final reviewer
5 may subpoena witnesses and may administer oaths. The final reviewer shall take
6 judicial notice of all data presented by the parties which is relevant to the wages,
7 hours and employment conditions of the employees to be covered by the proposed
8 collective bargaining agreement. In lieu of or in addition to a hearing, the final
9 reviewer may conduct his or her own investigation to determine the relevant facts,
10 the issues in dispute and the positions of the parties. At the request of the final
11 reviewer, the commission shall assign a member of its staff to assist in the
12 investigation. Upon completion of its hearing, investigation, or both, but not later
13 than September 30 immediately following his or her appointment, the final reviewer
14 shall make written recommendations for resolution of the dispute and serve them on
15 both parties and the commission.

16 (4) In making his or her recommendations under sub. (3), the final reviewer
17 shall give weight to the following factors:

18 (a) The lawful authority of the employer.

19 (b) The stipulations of the parties.

20 (c) The interests and welfare of the public.

21 (d) The financial ability of the state to meet the costs of any proposed
22 settlement.

23 (e) Comparison of the wages, hours and conditions of employment of the
24 employes involved in proceedings under this section with the wages, hours and

1 conditions of employment of other individuals performing similar services in public
2 and private employment.

3 (f) The average consumer prices for goods and services, commonly known as the
4 cost of living.

5 (g) The overall compensation presently received by the employes involved in
6 proceedings under this section, including direct wage compensation, vacation,
7 holidays and excused time, insurance and pensions, medical and hospitalization
8 benefits, the continuity and stability of employment and all other benefits received.

9 (h) The public interest in efficient and economical governmental
10 administration.

11 (i) Changes in any of the foregoing circumstances during the pendency of
12 proceedings under this section.

13 (j) Such other factors which are normally or traditionally taken into
14 consideration in the determination of wages, hours and conditions of employment
15 through voluntary collective bargaining, mediation, fact-finding, arbitration or
16 otherwise between the parties, in the public service or in private employment.

17 **(5)** The cost of final automatic review proceedings shall be divided equally
18 between the parties. At the time that the final reviewer submits a statement of his
19 or her costs to the parties, the final reviewer shall submit a copy thereof to the
20 commission at its Madison office.

21 **(6)** Thirty days after the date on which the final reviewer issues his or her
22 written recommendations, the final reviewer's recommendations shall become final
23 and binding upon the parties and shall be incorporated into a written collective
24 bargaining agreement unless at least one of the following occurs:

1 (a) Both parties, in writing, reject the final reviewer's recommendations in
2 whole or in part, and notify each other and the commission at its Madison office of
3 such rejection in writing.

4 (b) The joint committee on employment relations, by a vote of the majority of
5 its members, rejects the final reviewer's recommendations.

6 (7) If the final reviewer's recommendations are rejected by the parties or by the
7 joint committee under sub. (6), the issues in dispute shall be referred back to the
8 parties for continued negotiations.

9 (8) The commission shall promulgate rules for the fair and expeditious
10 administration of proceedings under this section and to ensure the timely issuance
11 of all final automatic review recommendations as provided in sub. (3). The rules shall
12 provide appropriate sanctions against the final reviewer, which may include the
13 withholding of costs, for any failure to issue the reviewer's recommendations in a
14 timely manner.

15 **SECTION 7.** 111.92 (1) and (4) of the statutes are amended to read:

16 111.92 (1) Any Except where a collective bargaining agreement is placed in
17 effect under s. 111.88 (6), any tentative agreement reached between the department,
18 acting for the executive branch, and any labor organization shall, after official
19 ratification by the labor organization, be submitted by the department to the joint
20 committee on employment relations, which shall hold a public hearing before
21 determining its approval or disapproval. If the committee approves the tentative
22 agreement, it shall introduce in a bill or companion bills, to be put on the calendar
23 or referred to the appropriate scheduling committee of each house, that portion of the
24 tentative agreement which requires legislative action for implementation, such as
25 salary and wage adjustments, changes in fringe benefits, and any proposed

1 amendments, deletions or additions to existing law. Such bill or companion bills are
2 not subject to ss. 13.093 (1), 13.50 (6) (a) and (b) and 16.47 (2). The committee may,
3 however, submit suitable portions of the tentative agreement to appropriate
4 legislative committees for advisory recommendations on the proposed terms. The
5 committee shall accompany the introduction of such proposed legislation with a
6 message that informs the legislature of the committee's concurrence with the
7 matters under consideration and which recommends the passage of such legislation
8 without change. If the joint committee on employment relations does not approve
9 the tentative agreement, it shall be returned to the parties for renegotiation. If the
10 legislature does not adopt without change that portion of the tentative agreement
11 introduced by the joint committee on employment relations, the tentative agreement
12 shall be returned to the parties for renegotiation.

13 (4) It is the declared intention under this subchapter that the negotiation of
14 collective bargaining agreements ~~and their approval by the parties~~ should coincide
15 with the overall fiscal planning and processes of the state.

16 **SECTION 9. Initial applicability.**

17 (1) This act first applies with respect to negotiations for collective bargaining
18 agreements to be entered into for the biennial fiscal period commencing on June 29,
19 1997.

20 (END)