

EMPLOYMENT RELATIONS COMMISSION

Budget Summary							
Fund	2020-21 Base Year Doubled	2021-23 Governor	2021-23 Jt. Finance	2021-23 Legislature	2021-23 Act 58	Act 58 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$1,840,400	\$2,635,500	\$1,714,800	\$1,714,800	\$1,714,800	-\$125,600	- 6.8%
PR	<u>291,200</u>	<u>291,200</u>	<u>291,200</u>	<u>291,200</u>	<u>291,200</u>	<u>0</u>	0.0
TOTAL	\$2,131,600	\$2,926,700	\$2,006,000	\$2,006,000	\$2,006,000	-\$125,600	- 5.9%

FTE Position Summary						
Fund	2020-21 Base	2022-23 Governor	2022-23 Jt. Finance	2022-23 Legislature	2022-23 Act 58	Act 58 Change Over 2020-21 Base
GPR	6.00	9.00	6.00	6.00	6.00	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	-\$20,000
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Governor/Legislature: Provide standard budget adjustments to the base totaling -\$10,900 in 2021-22 and -\$9,100 in 2022-23. Adjustments are for: (a) full funding of continuing position salaries and fringe benefits (-\$16,400 annually); (b) reclassifications and semiautomatic pay progression (\$6,600 annually); and (c) full funding of lease and directed moves costs (-\$1,100 in 2021-22 and \$700 in 2022-23).

2. RETIREMENT OF STAFF [LFB Paper 285]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$67,400	-\$67,400	\$0

Governor: Provide \$33,700 annually for salary and fringe benefit expenses associated with the planned retirement of a staff attorney. The Commission is authorized 6.0 positions, of which 3.0 are classified as attorneys. The Commission anticipates the continuation of the employee's

payroll through December, 2021. In addition, the Commission "may require employment of two junior attorneys" to maintain the workload currently performed by the experienced retiring attorney.

Joint Finance/Legislature: Provision not included.

3. COLLECTIVE BARGAINING MODIFICATIONS

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$491,800	2.00	-\$491,800	- 2.00	\$0	0.00

Governor: Provide \$212,200 in 2021-22 and \$279,600 in 2022-23 and 2.0 positions annually to implement expanded collective bargaining rights for state and local government employees. Funding would be for: (a) permanent position salaries, \$150,000 in 2021-22 and \$200,000 in 2022-23; (b) fringe benefits, \$52,200 in 2021-22 and \$69,600 in 2022-23; and (c) supplies and services, \$10,000 annually.

Frontline Workers. Define "frontline worker" to mean an employee who the Commission finds has regular job duties that: (a) include interacting with members of the public or with large populations of people; or (b) directly involve the maintenance of public works.

Specify that municipal frontline workers, and municipal employees in a collective bargaining unit that contains a frontline worker, may collectively bargain over wages, hours, and conditions of employment. The bill would amend statutory provisions relating to methods for peaceful settlement of disputes currently applicable to municipal transit employees (mediation, grievance arbitration, voluntary impasse resolution, and interest arbitration) to include collective bargaining units containing frontline workers. Under current law, only municipal public safety employees and certain municipal transit employees are able to collectively bargain over wages, hours, and conditions of employment.

Specify that state frontline workers, and state employees in a collective bargaining unit that contains a frontline worker, may collectively bargain over the following matters to the point of impasse: (a) wage rates, the assignment and reassignment of classifications to pay ranges, determination of an incumbent's pay status resulting from position reallocation or reclassification, and pay adjustments upon temporary assignment of classified employees to duties of a higher classification or downward reallocations of a classified employee's position; (b) fringe benefits consistent with prohibited subjects of bargaining; (c) hours; and (d) conditions of employment. Under current law, only state public safety employees are able to collectively bargain to the point of impasse over (a), (b), (c) and (d). [Statutes regarding settlement of state employee disputes under grievance arbitration and mediation generally reference collective bargaining agreement disputes and labor disputes. These statutes would apply to collective bargaining units containing frontline workers.]

Provide that the Commission may place frontline workers in a collective bargaining unit with employees who are not frontline workers if the Commission determines it is appropriate. Specify that, if the Commission places frontline workers in a collective bargaining unit with employees who are not frontline workers, the collective bargaining unit would be treated as if all employees in the unit are frontline workers. Under the bill, the Commission may not determine that a public safety employee or municipal transit employee is a frontline worker, may not place public safety employees in a collective bargaining unit with employees who are not public safety employees, and may not place municipal transit employees in a collective bargaining unit with employees who are not municipal transit employees.

Pension Contributions. Under the bill, state and municipal employees in collective bargaining units containing frontline workers could bargain over the employer "pickup" of employee-required pension contributions. Under current law and under the bill, state and municipal employers are prohibited from paying employee-required retirement contributions on behalf of a public safety employee if the employee first becomes an employee of the state or municipality on or after July 1, 2011. The bill does not amend these prohibitions or create similar language that would apply to collective bargaining units containing frontline workers.

Health Care Coverage. Under the bill, state employees in collective bargaining units containing frontline workers could bargain over fringe benefits, consistent with prohibited subjects of bargaining. Under current law and under the bill, state public safety employees have the right to collectively bargain over fringe benefits such as health insurance. Also under the bill, municipal employees in collective bargaining units containing frontline workers could bargain over fringe benefits, including health insurance premiums, other costs, and the design and selection of health care coverage plans, except that municipal employers that participate in a health plan offered by the Group Insurance Board would be prohibited from paying more than 88% of health insurance premiums. Under current law and under the bill, municipal public safety employees have the right to collectively bargain over health insurance premiums, but are prohibited from collectively bargaining over other costs and payments associated with health care coverage plans and the design and selection of health care coverage plans.

Union Dues Provisions. Amend the definition of "fair-share agreement" for municipal employment relations to include an agreement between a municipal employer and a labor organization that represents a frontline worker, which would require all or any of the employees in the collective bargaining unit containing a frontline worker to pay their proportionate share of the cost of the collective bargaining process and contract administration measured by the amount of dues uniformly required of all members. Under current law, the definition of "fair-share agreement" only applies to such agreements between a municipal employer and a labor organization that represents public safety or transit employees.

Amend the definition of "fair-share agreement" for state employment relations to include an agreement between a state employer and a labor organization that represents a frontline worker, which would require all of the employees in the collective bargaining unit containing a frontline worker to pay their proportionate share of the cost of the collective bargaining process and contract administration measured by the amount of dues uniformly required of all members. Amend the definition of "maintenance of membership agreement" for state employment relations to include

an agreement between a state employer and a labor organization that represents a frontline worker, which would require all of the employees in the collective bargaining unit containing a frontline worker whose dues were being deducted from earnings at the time the agreement took effect to continue to have dues deducted for the duration of the agreement, and which would also require that dues will be deducted from the earnings of all such employees who are hired on or after the effective date of the agreement. Under current law, the definitions of "fair-share agreement" and "maintenance of membership agreement" only apply to such agreements between a state employer and a labor organization that represents public safety employees.

Election of Representatives. Specify that the representative for any collective bargaining unit containing state or municipal employees must be chosen by a vote constituting the majority of the employees who are voting in the election. Under current law, the representative of a collective bargaining unit that does not contain public safety or municipal transit employees must be chosen by a vote constituting at least 51% of the total membership of the unit. The bill would extend the standard that currently applies to electing representatives for collective bargaining units that contain public safety or municipal transit employees to all state and municipal collective bargaining units, regardless of the types of employees represented.

Annual Certification. Repeal the requirement that the Commission conduct an annual election to certify the representative of each collective bargaining unit that contains state or municipal employees who are not public safety or municipal transit employees.

Right to Consultation. Provide that general state and municipal employees who are not in a collective bargaining unit containing a frontline worker have the right to have their employer consult with them, through a representative of their own choosing, with no intention of reaching an agreement, with respect to wages, hours, and conditions of employment. Specify that the right to be consulted may be exercised when the employer proposes or implements policy changes affecting wages, hours, or conditions of employment or, if no changes are proposed or implemented, at least quarterly.

State Employers. For the purposes of state employment labor relations, define "employer" to mean the State of Wisconsin, including an authority, and define "authority" to mean: the Wisconsin Aerospace Authority, Health and Educational Facilities Authority, Bradley Center Sports and Entertainment Corporation, UW Hospitals and Clinics Authority, Wisconsin Housing and Economic Development Authority, Fox River Navigational System Authority, Wisconsin Economic Development Corporation, or Lower Fox River Remediation Authority. Under the bill, employees of these entities would have the same collective bargaining rights as employees of state agencies.

Under current law and under the bill, responsibility for state employer functions is assigned to the Department of Administration's Division of Personnel Management for all collective bargaining units other than those of the UW System and the charter school established by UW-Parkside. The Board of Regents of the UW System and the Chancellor of UW-Madison are responsible for state employer functions relating to UW System and UW-Madison employee collective bargaining units. The governing board of the charter school established by UW-Parkside is responsible for state employer functions relating to the collective bargaining unit containing

instructional staff employed by the Board of Regents of the UW System who provide services for the charter school.

Miscellaneous Provisions. Provide that a collective bargaining agreement may modify, waive, or replace any of the provisions of s. 118.22 of the statutes relating to renewal of teacher contracts as they apply to teachers in the collective bargaining unit, but neither the employer nor the bargaining agent for the employees would be required to bargain such modification, waiver, or replacement. Require that, if a school board wishes to increase the total base wages of its general municipal employees (those that are not in a collective bargaining unit containing a frontline worker) by a greater percentage than the change in the consumer price index, it must adopt a resolution to that effect, and the resolution may not take effect unless it is approved in a referendum called for that purpose. Specify that actions taken under statutory provisions relating to State Superintendent interventions in low-performing school districts and schools must be consistent with applicable collective bargaining agreements. Specify that the responsibility of a school board of a common or union high school district to establish rules scheduling the hours of a normal school day does not eliminate a school district's duty to bargain with its employees' collective bargaining representative over any calendaring proposal which is primarily related to wages, hours, or conditions of employment. Modify school district annual reporting requirements regarding payroll and related benefit costs to reflect the right of employees to collectively bargain.

Require a long-term care district, with respect to a newly-hired employee, to abide by the terms of a collective bargaining agreement between a county and a collective bargaining unit that is in effect and covers an individual on the date the individual begins employment with the district until the agreement expires or until adoption of a collective bargaining agreement with the district that covers the individual, whichever occurs first, if: (a) the county that previously employed the individual had participated in creating the district; (b) at the time of the offer, the county had not withdrawn or been removed from the district; and (c) the individual while employed by the county performed duties relating to the same or a substantially similar function for which the individual is offered employment by the district.

Initial Applicability. For employees who are covered by a collective bargaining agreement that contains provisions inconsistent with the provisions of the bill, those bill provisions would first apply on the day on which the agreement expires or is terminated, extended, modified, or renewed, whichever occurs first.

Joint Finance/Legislature: Provision not included.

4. LOCAL GOVERNMENT EMPLOYEE GRIEVANCE PROCEDURE MODIFICATIONS

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
GPR	\$255,900	1.00	-\$255,900	- 1.00	\$0	0.00

Governor: Provide \$111,100 in 2021-22 and \$144,800 in 2022-23 and 1.0 position annually to serve as an impartial hearing officer under modified grievance procedures for local government employees. Funding would be for: (a) permanent position salaries, \$75,000 in 2021-22 and \$100,000 in 2022-23; (b) fringe benefits, \$26,100 in 2021-22 and \$34,800 in 2022-23; and (c) supplies and services, \$10,000 annually.

Require that any civil service system that is established under any provision of law, and any grievance procedure established between June 30, 2011, and October 1, 2011, must contain: (a) a grievance procedure that addresses employee terminations, employee discipline, and workplace safety; and (b) a just cause standard of review for employee terminations, including a refusal to renew a teaching contract with a teacher employed by a school board, technical college district board, cooperative educational service agency board, or county children with disabilities education board.

Require that any grievance procedure created by a local governmental unit between June 30, 2011, and October 1, 2011, must contain a provision indicating that the grievant is entitled to representation throughout the grievance process, and a provision indicating that the employer must pay all fees and costs associated with the grievance process, except for fees and costs for representation. Specify that, with regard to the current requirement that a grievance procedure include a hearing before an impartial hearing officer, the hearing officer must be from the Employment Relations Commission.

Under current law, in provisions that are codified in general municipality law pursuant to 2011 Act 10, statute requires a local governmental unit (a political subdivision of the state, a special purpose district in the state, an agency or corporation, of a political subdivision or special purpose district, or a combination or subunit of any of the foregoing) that did not have a civil service system on June 29, 2011, to establish a grievance system no later than October 1, 2011. To comply with the required grievance system, a local governmental unit could establish either: (1) a civil service system under any provision authorized by law, to the greatest extent practicable, if no specific provision for the creation of a civil service system applies to that local governmental unit; or (2) a grievance procedure. Any civil service system that is established under any provision of law, and any grievance procedure that is created under the above provisions, must contain at least all of the following provisions: (a) a grievance procedure that addresses employee terminations; (b) employee discipline; and (c) workplace safety. Statute does not specify that a just cause standard of review be applied to employee terminations. If a local governmental unit creates a grievance procedure under these provisions, the procedure must contain at least all of the following elements: a written document specifying the process that a grievant and an employer must follow; a hearing before an impartial hearing officer; and an appeal process in which the highest level of appeal is the governing body of the local governmental unit.

Joint Finance/Legislature: Provision not included.

5. GENERAL PROGRAM OPERATIONS REDUCTION

GPR	- \$105,600
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Joint Finance/Legislature: Reduce the Commission's general program operations appropriation by \$52,800 annually.