



2013 SENATE BILL 381

November 1, 2013 – Introduced by Senators CARPENTER and L. TAYLOR. Referred to Committee on Judiciary and Labor.

1 **AN ACT to repeal** 111.70 (4) (jm); **to consolidate, renumber and amend** 111.70
2 (1) (mm) (intro.), 1. and 2.; and **to amend** 40.05 (1) (b) 2. a., 40.05 (1) (b) 2. c.,
3 40.51 (7) (b) 1., 63.43 (3), 111.70 (1) (a), 111.70 (8) (a), 111.70 (9), 111.71 (2),
4 111.77 (8) (b) and 164.04 of the statutes; **relating to:** collective bargaining for
5 public safety employees employed by a city of the first class.

Analysis by the Legislative Reference Bureau

Under current law, municipal public safety employees and transit employees may bargain collectively over wages, hours, and conditions of employment and municipal employees who are neither public safety employees nor transit employees (general employees) may bargain collectively over only an annual percentage wage increase that does not exceed the annual percentage increase in the consumer price index. Under this bill, public safety employees who are employed by a city of the first class (currently only Milwaukee) may bargain collectively over only an annual percentage wage increase that does not exceed the annual percentage increase in the consumer price index. This bill also makes these public safety workers subject to other provisions covering general employees in current law, including an annual certification election requirement, a limit on the term of a collective bargaining agreement to one year with no extensions, a prohibition on salary deductions for labor organization dues, and an ability to refrain from paying dues while remaining a member of a collective bargaining unit.

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For further information see the *local* 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.** 40.05 (1) (b) 2. a. of the statutes is amended to read:

2 40.05 (1) (b) 2. a. A municipal employer shall pay, on behalf of a nonrepresented
3 law enforcement or fire fighting managerial employee or a nonrepresented
4 managerial employee described in s. 111.70 (1) (mm) ~~2. who is an emergency medical~~
5 ~~service provider for emergency medical services departments~~, who was initially
6 employed by the municipal employer before July 1, 2011, the same contributions
7 required by par. (a) that are paid by the municipal employer for represented law
8 enforcement ~~or, fire fighting, or emergency medical service~~ personnel ~~or personnel~~
9 ~~described in s. 111.70 (1) (mm) 2.~~ who were initially employed by the municipal
10 employer before July 1, 2011.

11 **SECTION 2.** 40.05 (1) (b) 2. c. of the statutes is amended to read:

12 40.05 (1) (b) 2. c. A municipal employer shall pay, on behalf of a represented
13 law enforcement or fire fighting employee or employee described in s. 111.70 (1) (mm)
14 ~~2. who is an emergency medical service provider for emergency medical services~~
15 ~~departments~~, who was initially employed by the municipal employer before July 1,
16 2011, and who on or after July 1, 2011, became employed in a nonrepresented law
17 enforcement ~~or, fire fighting, or emergency medical service~~ managerial position ~~or~~
18 ~~nonrepresented managerial position described in s. 111.70 (1) (mm) 2.~~ with the same
19 municipal employer, or a successor municipal employer in the event of a combined
20 department that is created on or after July 1, 2011, the same contributions required
21 by par. (a) that are paid by the employer for represented law enforcement ~~or, fire~~

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1 ~~fighting, or emergency medical service personnel or personnel described in s. 111.70~~
2 ~~(1) (mm) 2.~~ who were initially employed by a municipal employer before July 1, 2011.

3 **SECTION 3.** 40.51 (7) (b) 1. of the statutes is amended to read:

4 40.51 (7) (b) 1. A municipal employer shall pay, on behalf of a nonrepresented
5 law enforcement or fire fighting managerial employee or a nonrepresented
6 managerial employee described in s. 111.70 (1) (mm) 2. who is an emergency medical
7 service provider for emergency medical services departments, who was initially
8 employed by the municipal employer before July 1, 2011, the same percentage under
9 par. (a) that is paid by the municipal employer for represented law enforcement ~~or,~~
10 ~~fire fighting, or emergency medical service personnel or personnel described in s.~~
11 ~~111.70 (1) (mm) 2.~~ who were initially employed by the municipal employer before July
12 1, 2011.

13 **SECTION 4.** 63.43 (3) of the statutes is amended to read:

14 63.43 (3) If such city and a labor organization representing transit employees
15 of, as defined in s. 111.70 (1) (p), employed by the city enter into a collective
16 bargaining agreement under subch. IV of ch. 111, the agreement may provide that
17 the provisions of that agreement relating to removal, discharge, suspension and
18 reduction shall supersede this section with respect to employees covered by the
19 agreement while the agreement is in effect. This subsection does not apply to any
20 action under sub. (1) to suspend an employee with pay.

21 **SECTION 5.** 111.70 (1) (a) of the statutes is amended to read:

22 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
23 obligation of a municipal employer, through its officers and agents, and the
24 representative of its municipal employees in a collective bargaining unit, to meet and
25 confer at reasonable times, in good faith, with the intention of reaching an

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1 agreement, or to resolve questions arising under such an agreement, with respect to
2 wages, hours, and conditions of employment for public safety employees or transit
3 employees and with respect to wages for general municipal employees, and with
4 respect to a requirement of the municipal employer for a ~~municipal~~ public safety
5 employee to perform law enforcement and fire fighting services under s. 60.553,
6 61.66, or 62.13 (2e), except as provided in sub. (4) (mb) and (mc) and s. 40.81 (3) and
7 except that a municipal employer shall not meet and confer with respect to any
8 proposal to diminish or abridge the rights guaranteed to any public safety employees
9 under ch. 164. Collective bargaining includes the reduction of any agreement
10 reached to a written and signed document.

11 **SECTION 6.** 111.70 (1) (mm) (intro.), 1. and 2. of the statutes are consolidated,
12 renumbered 111.70 (1) (mm) and amended to read:

13 111.70 (1) (mm) "Public safety employee" means ~~any a~~ municipal employee who
14 is employed in a position that, on July 1, 2011, is ~~one of the following:~~ 1. ~~Classified~~
15 classified as a protective occupation participant under ~~any of the following:~~ a.
16 ~~Section s. 40.02 (48) (am) 9., 10., 13., 15., or 22. b. A or under a comparable~~ provision
17 ~~that is comparable to a provision under subd. 1. a. that is in a county or city~~
18 ~~retirement system.~~ 2. ~~An or is an~~ emergency medical service provider for emergency
19 ~~medical services departments,~~ except that "public safety employee" does not mean
20 a municipal employee who is employed by a 1st class city.

21 **SECTION 7.** 111.70 (4) (jm) of the statutes is repealed.

22 **SECTION 8.** 111.70 (8) (a) of the statutes is amended to read:

23 111.70 (8) (a) ~~This section, except sub. (4) (eg) and (em), applies to law~~
24 ~~enforcement supervisors employed by a 1st class city. This section, except sub. (4)~~
25 ~~(cm) and (jm), applies to law enforcement supervisors employed by a county having~~

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1 a population of 500,000 or more. For purposes of such application, the terms
2 “municipal employee” and “public safety employee” include such a supervisor.

3 **SECTION 9.** 111.70 (9) of the statutes is amended to read:

4 111.70 (9) POWERS OF CHIEF OF POLICE. Nothing in s. 62.50 grants the chief of
5 police in cities of the 1st class any authority which diminishes or in any other manner
6 affects the rights of municipal employees who are members of a police department
7 employed by a city of the 1st class under this section ~~or under any collective~~
8 ~~bargaining agreement which is entered into between a city of the 1st class and a labor~~
9 ~~organization representing the members of its police department.~~

10 **SECTION 10.** 111.71 (2) of the statutes is amended to read:

11 111.71 (2) The commission shall assess and collect a filing fee for filing a
12 complaint alleging that a prohibited practice has been committed under s. 111.70 (3).
13 The commission shall assess and collect a filing fee for filing a request that the
14 commission act as an arbitrator to resolve a dispute involving the interpretation or
15 application of a collective bargaining agreement under s. 111.70 (4) (c) 2., (cg) 4., or
16 (cm) 4. The commission shall assess and collect a filing fee for filing a request that
17 the commission initiate fact-finding under s. 111.70 (4) (c) 3. The commission shall
18 assess and collect a filing fee for filing a request that the commission act as a
19 mediator under s. 111.70 (4) (c) 1., (cg) 3., or (cm) 3. The commission shall assess and
20 collect a filing fee for filing a request that the commission initiate compulsory, final
21 and binding arbitration under s. 111.70 (4) (cg) 6. ~~or (jm) or 111.77 (3).~~ For the
22 performance of commission actions under ss. 111.70 (4) (c) 1., 2. and 3., (cg) 3., 4., and
23 6., and (cm) 3. and 4., ~~and (jm) and 111.77 (3),~~ the commission shall require that the
24 parties to the dispute equally share in the payment of the fee and, for the
25 performance of commission actions involving a complaint alleging that a prohibited

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1 practice has been committed under s. 111.70 (3), the commission shall require that
2 the party filing the complaint pay the entire fee. If any party has paid a filing fee
3 requesting the commission to act as a mediator for a labor dispute and the parties
4 do not enter into a voluntary settlement of the dispute, the commission may not
5 subsequently assess or collect a filing fee to initiate fact-finding or arbitration to
6 resolve the same labor dispute. If any request for the performance of commission
7 actions concerns issues arising as a result of more than one unrelated event or
8 occurrence, each such separate event or occurrence shall be treated as a separate
9 request. The commission shall promulgate rules establishing a schedule of filing fees
10 to be paid under this subsection. Fees required to be paid under this subsection shall
11 be paid at the time of filing the complaint or the request for fact-finding, mediation
12 or arbitration. A complaint or request for fact-finding, mediation or arbitration is
13 not filed until the date such fee or fees are paid, except that the failure of the
14 respondent party to pay the filing fee for having the commission initiate compulsory,
15 final and binding arbitration under s. 111.70 (4) (cg) 6. ~~or (jm)~~ or 111.77 (3) may not
16 prohibit the commission from initiating such arbitration. The commission may
17 initiate collection proceedings against the respondent party for the payment of the
18 filing fee. Fees collected under this subsection shall be credited to the appropriation
19 account under s. 20.425 (1) (i).

20 **SECTION 11.** 111.77 (8) (b) of the statutes is amended to read:

21 111.77 (8) (b) This section shall not apply to public safety employees who are
22 members of a police department employed by a ~~1st class city nor to any~~ city, village
23 or town having a population of less than 2,500.

24 **SECTION 12.** 164.04 of the statutes is amended to read:

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1 **164.04 Rights not to be diminished.** The rights under this chapter shall not
2 be diminished or abridged by any ordinance or provision of any collective bargaining
3 agreement under ch. 111. These rights may be supplemented and expanded by
4 ordinance or collective bargaining agreement in any manner not inconsistent with
5 this chapter or with ch. 111.

6 **SECTION 13. Initial applicability.**

7 (1) This act first applies to employees who are covered by a collective bargaining
8 agreement under subchapter IV of chapter 111 of the statutes that contains
9 provisions inconsistent with this act on the day on which the agreement expires or
10 is terminated, extended, modified, or renewed, whichever occurs first.

11

(END)