



Wisconsin Employment Relations Commission

STATE BAR OF WISCONSIN-LABOR AND EMPLOYMENT LAW SECTION

February 18, 2010-Milwaukee

February 19, 2010-Madison

WERC UPDATE

By Peter G. Davis- WERC General Counsel **

I. Agency Update

Chairperson Judy Neumann-confirmed for a term expiring March 2013.
Commissioner Paul Gordon-confirmed for a term expired March 2009.
Commissioner Sue Bauman-confirmed for a term expiring March 2011.

Sixteen attorneys (11 in Madison and 5 out state) and 4.5 support staff.

Hiring of John Carlson and Matt Greer
Retirement of Sharon Gallagher.
Stuart Levitan- Part-time

Proposed Administrative Rules

March 11, 2010 Rules Hearing (Appendix A)

April 29, 2010 WERC Conference (Appendix B)

Office Closures due to Furloughs (See Appendix C)

WERC receives two new tax funded attorney positions 7/1/2010 but may not fill due to other budget cuts and caseload decrease.

**** The speaker's remarks do not necessarily reflect the views of the WERC.**

II. Recent Statutory Changes

2009 Wisconsin Act 28 (the budget bill) made many changes to statutes administered by WERC (Appendix D) including:

- End of QEO for contracts beginning July 1, 2009.
- Elimination of "Greatest" and "Greater" weight factors for school employee interest arbitration effective with contracts entered into on or after July 1, 2009.
- Right of school district employees to combine bargaining units.
- School district employee bargaining agreements can be for a term of 4 years.
- Creation of University of Wisconsin System Faculty and Academic Staff Labor Relations Act.
- Authorization for representative status as to UW research assistants to be obtained by authorization cards.
- Home care providers (approximately 5000) become state employees for the purposes of collective bargaining.
- Day care providers become private sector Wisconsin Employment Peace Act employees for purposes of collective bargaining with the state and counties identified as the employer.

2009 Wisconsin Act 21 (Appendix E)-effective June 23, 2009-makes it illegal for: (1) a municipal employer to fail to follow a contractual fair-share provision during a contract hiatus; and (2) a municipal employer or union to fail to follow a contractual grievance arbitration provision during a contract hiatus.

2009 Wisconsin Act 34 (Appendix F) makes preparation time a mandatory subject of bargaining effective with contracts beginning July 1, 2011.

III. Recent WERC/Court Decisions

CITY OF MENASHA, DEC. NO. 32918 (WERC, 12/09), appeal pending Circ.

Sections 111.70(4)(c)2.b. and (4)(mc), Stats., make it a prohibited subject of bargaining for the employer to propose no access to grievance arbitration to resolve disputes over discipline imposed pursuant to Sec. 62.13, Stats.

MADISON SCHOOLS, DEC. NO. 32419-B (WERC, 8/09)

The impact of the Employer's purported end of contract renunciation of a past practice (which was pivotal to the result in a prior grievance arbitration award) was not a matter resolved by the prior award and thus the Employer's subsequent conduct (which would have violated the arbitrator's award had it occurred during the term of the agreement the arbitrator was interpreting) was not a refusal to accept a grievance arbitration award in violation of Sec. 111.70 (3) (a) 5, Stats. WERC notes that the practice in question was "contractual" unlike the "non-contractual" practice at issue in DODGELAND, DEC. NO. 31098-C which the WERC concluded could be repudiated upon proper notice effective with a successor agreement.

STATE OF WISCONSIN, DEC. NO. 32239-B (WERC, 8/09)-appeal filed.

Where the Employer has decided there is enough evidence to require the employee to attend a pre-disciplinary due process Loudermill hearing, WERC concludes that Employer violated its duty to bargain obligation to provide information relevant and reasonably necessary to administration of the collective bargaining agreement by its blanket denial of the Union's pre-hearing request for the Employer's investigative file. Employer could have redacted or otherwise limited the required disclosure if it had demonstrated confidentiality concerns specific to the particular situation.

STATE OF WISCONSIN, DEC. NO. 32392-B (WERC, 5/09)

In the factual context of the disciplinary investigation in question, the Employer violated the employee's statutory right to engage in concerted activity by issuing (and enforcing) a directive to employee being investigated that she not talk to fellow employees until investigation is completed. WERC balanced the interests of employer in the integrity of the investigation against right to engage in concerted activity and concluded the employer's interest was not strong enough to excuse the interference with the employee's statutory rights. WERC noted that such a prohibition may be appropriate in other fact situations.

MILWAUKEE BOARD OF SCHOOL DIRECTORS, DEC. NO. 30980-B (WERC, 3/09)

Where a bargaining unit employee has requested an opportunity to present a grievance pursuant to Sec. 111.70 (4)(d) 1, Stats., it is not unlawful for the municipal employer to condition the meeting upon the presence of the employee's collective bargaining representative.

MADISON SCHOOLS V WERC, Appeal No. 2007AP2557 CT APP. District IV (2/09)

Court of Appeals concludes a party cannot file a petition for judicial review unless the party has exhausted WERC remedies by filing a petition for review as to an Examiner decision with WERC and obtaining a Commission decision.

CITY OF MILWAUKEE, DEC. NO. 32661 (WERC, 2/09)

WERC rejects union claim that City of Milwaukee Housing Authority employees should be clarified into a City of Milwaukee bargaining unit because said employees are actually City of Milwaukee employees or the Housing Authority and the City are a "joint employer" Evidence establishes that the Housing Authority is the employer because it controls the decisions as to employees' wages, hours and conditions of employment.

WASHINGTON COUNTY, DEC. NO. 32185-B (WERC, 1/09)-aff'd CirCt Washington 1/10-09CV232; appeal pending Court of Appeals.

While bargaining a successor agreement, the County engaged in bad faith bargaining by failing to tell Union that it was seriously considering subcontracting certain unit work during the term of the successor agreement. Outcome very fact specific. Remedy does not provide retroactive back pay for the employees whose work was subcontracted but does require offer of reinstatement and bargaining over decision and impact of subcontracting in the context of successor contract bargaining=impasse is subject to statutory interest arbitration.

STATE OF WISCONSIN, DEC. NO. 32019-B (WERC, 1/09)

Employer did not refuse to accept grievance arbitration award because the award in question did not conclusively determine issues (factual or language) that were present in a subsequent grievance. Party arguing there has been a refusal to accept an award (typically the union) has a relatively heavy burden of persuasion in such cases. Even where grievance arbitration award did conclusively determine the issues present in the subsequent grievance, if circumstances that affected the prior outcome to have changed, then there is no obligation to follow the prior award.

MILWAUKEE COUNTY, DEC. NO. 32257-C (WERC, 12/08)

County violated Sec. 111.70(3) (a) 3, Stats. when Sheriff and other managers transferred two employees at least in part out of hostility toward the employees' lawful concerted activity.

Commission rejects argument that the transfer of employees is a constitutional power of the Sheriff and thus that Commission lacks authority to remedy the illegal transfers.

IV. PENDING ISSUES

Does WERC have jurisdiction to determine whether an "unclassified" state employee is more properly a "classified" state employee and thus eligible to be included a "classified" state employee bargaining unit by unit clarification.



Wisconsin Employment Relations Commission

Agency News Archive

February 10, 2010

HEARING SCHEDULED ON PROPOSED RULES

The Wisconsin Employment Relations Commission will hold a public hearing to consider the amendment and creation of rules implementing 2009 Wisconsin Act 28's amendments to the Wisconsin Employment Peace Act (WEPA), the Municipal Employment Relations Act (MERA), the State Employment Labor Relations Act (SELRA) and creation of the University of Wisconsin System Faculty and Academic Staff Labor Relations Act (FASLRA).

Copies of the proposed rules are available without cost upon request to Peter Davis at the Commission's Madison office. The full text of the proposed rules is available on-line in PDF format, as is the Commission's notice of hearing including a summary of the proposed rules.

The hearing will be held in the Commission's Conference Room at 1457 East Washington Avenue in the City of Madison, Wisconsin on March 11, 2010 beginning at 10:00 a.m. to receive public input regarding the amendment and creation of those rules. The Commission invites the public to attend the hearing to present verbal and/or written comments regarding the proposed rules. The hearing site is accessible to people with disabilities.

Written comments may also be sent directly to the Commission. Written comments should be received on or before March 22, 2010 by the Wisconsin Employment Relations Commission by email, fax or U.S. mail sent to Peter Davis

Questions about the proposed rules can be directed to General Counsel Peter Davis.

December 9, 2009

STAFF ATTORNEY HIRED

WERC Chair Judy Neumann has announced that E. Matthew Greer has been offered and has accepted employment as a WERC attorney.

Prior to and during law school Matt worked for seven years on the management side as a human resources professional in the publishing industry. Since graduating from Chicago-Kent College of Law in 2008 with a law degree and a certificate in Labor and Employment Law and obtaining his Illinois law license, he has practiced law with the union-side firm of Katz, Friedman, Eagle, Eisenstein, Johnson & Bareck in Chicago.

Greer's first day of work for the WERC will be January 4, 2010. He will be stationed at the Madison office.

September 24, 2009

WERC OFFICE CLOSURES ANNOUNCED

WERC Chair Judy Neumann announced today that the WERC Madison office will be closed to the public on the following eight dates as part of the WERC's plan for implementing State service-wide furloughs during the two year period ending June 30, 2011:

Columbus Day in 2009 and 2010 (10-12-09 and 10-11-10)
the Friday after Thanksgiving in 2009 and 2010 (11-27-09 and 11-26-10)
President's Day in 2010 and 2011 (2-15-10 and 2-21-11)
the Friday before Memorial Day in 2010 and 2011 (5-28-10 and 5-27-11)

Because the WERC's Madison office will be closed on those days, there will be no mail delivery on those dates and no one will be present in the office to accept physical delivery of any materials. If the last date for filing any document with WERC or its staff falls on one of these dates, the deadline for filing will be extended to the next business day the WERC's Madison office is open. Any material received by fax or email in the WERC's Madison office on the closure dates will be treated as having been filed on the next business day the WERC's offices are open.

Questions on this subject should be directed to Peter Davis.

August 5, 2009

NEW WEBSITE PAGE LISTS LATEST AWARDS AND DECISIONS

The WERC has added a new page to its website, consisting of linked lists of the latest two months of each type of decision and award posted on the site. A link to it appears in the Updates section in the middle of the opening page of the site. The lists on the new page will be updated monthly at the same time as the four single category pages listed in that Updates section.

Besides offering a single page for a user to get a quick update as to what has been issued recently, the new page is small enough in size that it refreshes more quickly than our single category linked lists when the user returns to it after following a link to a decision or award file.

Users with questions about the new page or the website generally are welcome to contact Marshall Gratz.

July 30, 2009

STAFF ATTORNEY HIRED

WERC Chair Judy Neumann has announced that John Carlson, Jr. has been offered and has accepted employment as a WERC attorney to replace Sharon Gallagher.

Since earning his JD degree at the University of Wisconsin Law School in 1998, Carlson has been engaged in the private practice of law with Lawton & Cates in Madison, concentrating on civil trials and appeals in employment, contract and personal injury disputes.

Carlson's first day of work will be September 14, 2009. He will be stationed at the WERC Madison office.

July 27, 2009

AFTER WORK SOCIAL GATHERING PLANNED FOR AUGUST 19, 2009

In the spirit of the goodwill generated at the Spring Conference and to give the WERC and staff an opportunity to solicit any input you have regarding next year's Conference, please join us for a social

B

SIXTH ANNUAL WISCONSIN PUBLIC SECTOR LABOR RELATIONS CONFERENCE

The Commissioners and staff of the WERC are pleased to invite you to the Sixth Annual Wisconsin Public Sector Labor Relations Conference.

We acknowledge and thank the University of Wisconsin Law School and the Labor and Employment Law Section of the State Bar for their continued support and assistance as co-sponsors.

We are excited about the program for this year's conference and hope that you will find it as informative and enjoyable as in previous years. We look forward to seeing you on April 29 in Madison.

The April 29, 2010 Public Sector Conference program, registration form, and hotel information appear below.

Judy Neumann, Chair
Sue Bauman, Commissioner
Paul Gordon, Commissioner

=====

Sixth Annual WERC Public Sector Labor Relations Conference

April 29, 2010 – Alliant Energy Center, Madison, Wisconsin

Presented by the Wisconsin Employment Relations Commission

Co-Sponsored by the University of Wisconsin Law School and
the Labor and Employment Law Section of the State Bar of Wisconsin

- | | |
|-------------|--|
| 8:15-9:00 | Registration |
| 9:00-9:10 | Welcoming Remarks
<i>Judy Neumann, Chair, WERC</i> |
| 9:10-10:00 | What's the Word From the WERCing World?
<i>An overview of developments in Wisconsin's public sector over the past year – events at the agency, legislative changes, and notable decisions.</i>
<i>Peter G. Davis, General Counsel, WERC</i> |
| 10:00-10:20 | Coffee Break |
| 10:20-11:50 | Four 90 minute breakouts / 1 Nuts and Bolts Session |
| Session A | I Have to Take This Call
<i>During the term of a contract, an employer may face an issue, such as subcontracting, that triggers a call from the union to bargain over the issue. The duty to bargain over the issue can be complicated, often requiring an understanding of such concepts as mandatory and permissive subjects of bargaining, waiver, past practice, declaratory rulings and impact bargaining. Experienced practitioners examine these concepts, discuss various dispute resolution procedures, and consider hypothetical situations that explore this duty to bargain.</i> |

Moderator: Peter Davis, WERC

Michael Julka, Attorney, Lathrop & Clark

Richard Saks, Attorney, Hawks Quindel

Session B

Toil and Trouble – Managing and Representing The Troubled Employee

Management and labor representatives spend considerable time and resources dealing with the workplace problems posed by troubled employees. Substance abuse, mental illness, and emotional distress all express themselves on the job. Two experienced advocates lead an interactive discussion of how employers and labor organizations can most effectively deal with this challenging subset of the workforce.

Moderator: Stuart Levitan, WERC

John English, Staff Representative, Milwaukee District Council 48, AFSCME

Sharon Cornils, Human Resources Director, Manitowoc County

- Session C **And the Winner Is... The Year in Interest Arbitration**
*Has the last year been a sea change, or just a passing squall?
 Three experienced practitioners review the decisions, trends and likely future direction of the interest arbitration process.*
 Moderator: Stanley Michelstetter, WERC
 Eileen Brownlee, Attorney, Kramer & Brownlee
 Richard Terry, Bargaining Consultant
 James Engmann, Arbitrator
- Session D **When the Going Gets Tough, the Tough Get Furloughed**
Subcontracts, hours reductions, and furloughs have become an increasingly common response to the difficult economic times. Are these emergency measures, or are they likely to become a recurring feature of budget management and labor relations in Wisconsin?
 Moderator: Danielle Carne, WERC
 Richard Badger, Executive Director, Wisconsin Council 40, AFSCME
 Jon Anderson, Attorney, Godfrey & Kahn
- Session E **Nuts and Bolts I – Preparing for Collective Bargaining**
Part one of a three part presentation for those who are relatively new to the process of public sector collective bargaining. This session examines how parties organize themselves in advance of bargaining, identifying issues and priorities, costing, crafting and presenting the initial proposals, and laying the groundwork for successful collective bargaining.
 Moderator: Sue Bauman, WERC
 David Friedman, Attorney, Friedman Law Firm
 Sam Gieryn, Staff Representative, Wisconsin Council 40, AFSCME
- 11:50-12:50 Lunch
- 12:50- 2:20 **You Think It's So Easy??**
The audience gets its chance to play the role of arbitrator, as each table listens to the arguments of experienced advocates on four grievances, then comes to a conclusion on the proper outcome. After the votes are tabulated, three grievance arbitrators give their results, and the rationale supporting them.
 Allan Ponak, University of Calgary, Moderator
 Arbitrators: George Fleischli, Arbitrator
 A. Henry Hempe, Arbitrator
 Karen Mawhinney, Arbitrator
 Advocates: Bruce Ehlke, Attorney, Ehlke, Gartzke, Bero-Lehman & Lounsbury
 Sara Geenen, Attorney, Previant, Goldberg
 Steven Rynecki, Attorney, von Briesen & Roper
 Daniel Vliet, Attorney, Buelow, Vetter, Buikema, Olson & Vliet

2:30-3:40 Four 70 minute breakouts / 1 Nuts and Bolts Session

Session F

The Way You Do The Things You Do

Arbitrators Explain Why They Do All of Those Annoying Things

Have you ever wanted to ask an arbitrator why she doesn't seem to take your procedural objection seriously? Or why he lets in all of that seemingly irrelevant testimony? Or why last minute changes in the theory of the case don't get it tossed out? This is your chance. A panel of well known arbitrators answers questions posed anonymously by practitioners, and live by audience members, about any and every aspect of grievance arbitration and engage the audience in a discussion of why arbitrators do the things they do.

Moderator: Lauri Millot, WERC

Janice Frankman, Arbitrator

Amedeo Greco, Arbitrator

Mary Jo Schiavoni, Arbitrator

Session G

Someone Call 911. Bargaining and Administering Protective Services Contracts in the Midst of Economic Hard Times

The past year has forced many municipalities to think the unthinkable – cutting back in the areas of police and fire protection. Two experienced advocates specializing in bargaining police and fire contracts discuss the significant practical, political and legal developments of the past year in the protective services sector.

Moderator: John Emery, WERC

John Kiel, Attorney, Kiel Law Office

Kyle Gulya, Attorney, von Briesen & Roper

Session H

Well, Why Didn't You Say So?

Is that letter of discipline bullet-proof, or more like Swiss cheese? How a letter of discipline is written can make or break a case on just cause review under either a labor agreement or the State Personnel Code, potentially negating even the most thorough investigation. What strategies would a well-informed employer apply? What loopholes does a sharp-eyed employee advocate hope to see?

Moderator: Kurt Stege, WERC

Nicholas Fairweather, Attorney, Hawks Quindel

Lisa Rutherford, Director, Office of Administrative Legal Services, UW-Madison

Jana Weaver, Assistant Executive Director, Wisconsin State Employees Union

Session I

Just Desserts – Pay for Performance in Public Sector Bargaining

Merit pay – a popular bargaining proposal in the 1980's – is making a comeback of sorts. Other places have tied pay to the employer's performance – tax revenues, state aids and fees. How significant might these concepts be for bargaining at a time of austerity and uncertainty? What are the practical limits?

Moderator: Raleigh Jones, WERC

James Carlson, Director, Kettle Moraine UniServ Council

Mark Vetter, Attorney, Buelow, Vetter, Buikema, Olson & Vliet

Session J

Nuts and Bolts II – Basic Theories, Techniques and Tactics in Collective Bargaining

Part two of a three part presentation for those who are relatively new to the process of public sector collective bargaining. This session examines the actual process of bargaining following the exchange of initial proposals – how to evaluate the other side's proposals and intentions, how messages are sent through the crafting and modification of proposals, how roadblocks are avoided or resolved, how and when a mediator might be used and how momentum is built toward a settlement.

Moderator: Sue Bauman, WERC

James Ruhly, Attorney, Melli Law

Patrick Kilbane, Field Service Representative, Wisconsin Fire Fighters

3:50-5:00 Three 70 minute Breakouts / 1 Nuts and Bolts Session

Session K **Ethics in the Round**
An interactive examination of scenarios raising issues of ethical conduct for attorneys and practitioners in the field of labor relations.
 Moderator: Paul Gordon, WERC
 Jina Jonen, Attorney, Wisconsin Education Association Council
 Steven Weld, Attorney, Weld Riley Prens & Ricci

Session L **What Do We Have for Our Winners, Johnny?**
Remedies in Grievance Arbitration
The focus in the arbitration is all on the merits, but some of the most challenging issues are presented by proposing and crafting an appropriate remedy. Experienced practitioners discuss the central importance of getting the remedy right.
 Moderator: John C. Carlson, Jr., WERC
 Alan Levy, Attorney, Lindner & Marsack
 Matthew Robbins, Attorney, Previant, Goldberg
 Richard McLaughlin, Arbitrator, WERC

Session M **The Old College Try - Collective Bargaining Rights for Faculty and Academic Staff in the University of Wisconsin System**
The 2009 Budget Bill granted bargaining rights to UW System faculty, and academic staff. The process of organizing has begun, although actual bargaining is some ways in the future. A representative of the UW System, and the legal counsel for TAUWF, examine the issues looming for the System, the faculty and the labor organizations in the next three years.
 Moderator: William Houlihan, WERC
 Christopher Ashley, Senior System Legal Counsel, University of Wisconsin System
 Timothy Hawks, Attorney, Hawks Quindel

Session N **Nuts and Bolts III – The Basics of Interest Arbitration**
Part three of a three part presentation for those who are relatively new to the process of public sector collective bargaining. This session examines the process of interest arbitration – how final offers are designed, how the arbitration process is conducted, and how the arbitrator evaluates and chooses between the offers.
 Moderator: Sue Bauman, WERC
 Barry Forbes, Staff Attorney, Wisconsin Association of School Boards
 Gregory Spring, Negotiations Specialist, Wisconsin Education Association Council

5:00-6:00 Reception

2010 Public Sector Conference -- Registration Information

Registration Fee: \$110.00

Registrations will be accepted on a space available basis.
 Wisconsin CLE Credits Pending

Registration Forms are available in two formats:

- a convenient auto-fill Registration Form in RTF format. The form can either be filled-out on screen (IE browser required) and then printed and mailed/faxed, or the form can be downloaded, opened with your word processor, filled out on screen and either e-mailed or printed and mailed/faxed.

- a printable Registration Form in PDF format.

Cancellation Policy: Cancellations prior to April 17 will result in a full refund of the registration fee. Cancellations on or after April 17 will not result in a refund. Registrations may be transferred to other

persons at any time prior to May 1, but you must advise us by April 30 of the name of the registrant and the name of the substitute.

Registration Questions: contact Georgann Kramer georgann.kramer@werc.state.wi.us 608-266-9287

2010 Public Sector Conference -- Special Hotel Rate

The Sheraton Madison Hotel is making a block of rooms available to registrants for the Sixth Annual Wisconsin Public Sector Labor Relations Conference at special rates for the nights of April 28 and/or April 29, 2010, the night before and the night of the April 29 Conference.

The Conference rates for a standard room are \$70 for single occupancy and \$100 for double occupancy, plus taxes, if applicable. Conference rate reservations will be available on a first-come, first-served basis through April 14.

The Sheraton Madison is located at 706 John Nolen Drive, walking distance from the site of the Conference. For reservations or more information, contact the Sheraton directly at (608) 251-2300, and ask for the "WERC Public Sector Labor Relations Conference" rate.



Wisconsin Employment Relations Commission

LABOR RELATIONS PROVISIONS OF 2009 STATE BUDGET ACT

The labor relations provisions of the executive budget act of the 2009 Legislature, 2009 Wisconsin Act 28, contain the following numbered sections concerning the following topics relating to labor relations (see the NOTE below):

Revisions of the Wisconsin Employment Peace Act as follows:

- 2216g - "collective bargaining unit" definition
- 2216j - "day care provider" definition
- 2216L and n - "employer" definition
- 2216p - "fair share agreement" definition
- 2216r and t - "maintenance of membership agreement" definition
- 2216v - "referendum" definition
- 2216w and y - bargaining unit determination regarding day care providers

Revisions of the Municipal Employment Relations Act as follows:

- 2220 - "collective bargaining" definition
- 2221 - "collective bargaining unit" definition
- 2222 - repeal of "economic issue" definition
- 2223 - repeal of "fringe benefit" definition
- 2223m - "municipal employer" definition re transit authority
- 2224 - repeal of "qualified economic offer" definition
- 2225 - "school district employee" definition and repeal of "school district professional" definition
- 2225f - term of agreement for school district employees units
- 2225p - term of agreement for child care provider services unit
- 2226 - voluntary impasse resolution procedure interest arbitration standards
- 2227 - repeal of "issues subject to arbitration"
- 2228 - scope of disputes subject to interest arbitration
- 2229 - processing of interest arbitration petition
- 2230 - applicability of greatest weight factor
- 2231 - applicability of greater weight factor
- 2232 - other factors considered
- 2233 and 2234 - term of agreement for school district employee units and other units
- 2235 - repeal of "professional school employee salaries"
- 2236 - repeal of "forms for determining costs"
- 2237 - repeal of "term of professional school employee agreements"
- 2238 - determination of appropriate bargaining unit
- 2239 - prohibited subjects of bargaining

Revisions of the State Employment Labor Relations Act as follows:

- 2240 - "consumer" definition
- 2241 - home care providers made state employees only for collective bargaining purposes
- 2242 - "home care provider" definition
- 2242s - "research assistant" definition

2243 - home care provider collective bargaining procedures
2243d and 2244 - additions to list of unclassified service bargaining units
2245 - assignment of employees to appropriate bargaining units
2246 - petition for recognition
2246 - exclusivity of representative status
2248 - representation election procedures for home health care providers
2249 - prohibited practices
2250 - consumer rights in relation to home care providers
2251 - scope of collective bargaining for home care providers
2251w, 2252 and 2253 - subjects of bargaining
2254 - approval process for collective bargaining agreements
2254g - earliest effective date for home health care providers coll. barg. agreement
2254L - card check recognition procedure regarding research assistants units

Creation of Subchapter VI regarding UW Faculty and Academic Staff Labor Relations

2255

Implementation Provisions

9316 - Initial applicability, Employment Relations Commission regarding QEO, MERA.
9416 - Effective Dates, Employment Relations Comm.regarding UW Research Assistants

NOTE: The listing above is offered as an unofficial listing of topics. It is not intended to be either a comprehensive summary of the contents of the statutory provisions or an interpretation of those provisions.

-- end --

[\[services and personnel\]](#) [\[statutes, rules and ethics codes\]](#) [\[case processing forms and guides\]](#) [\[case databases and digests\]](#) [\[news and publications\]](#) [\[links to other resources\]](#) [\[about this site\]](#)

[\[WERC Home\]](#)

[\[State of Wisconsin Home\]](#)

This page is a public domain communication of the Wisconsin Employment Relations Commission. The URL of this page is {http://werc.wi.gov/2009_budget_act.htm}. Last modified on 03 JUL 2009. [Comments, questions and suggestions.](#)

E

State of Wisconsin



2009 Senate Bill 46

Date of enactment: June 8, 2009
Date of publication*: June 22, 2009

2009 WISCONSIN ACT 21

AN ACT to create 111.70 (3) (a) 8. and 9. and 111.70 (3) (b) 7. of the statutes; relating to: arbitration and fair-share agreements during collective bargaining negotiations under the Municipal Employment Relations Act.

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

SECTION 1. 111.70 (3) (a) 8. and 9. of the statutes are created to read:

111.70 (3) (a) 8. After a collective bargaining agreement expires and before another collective bargaining agreement takes effect, to fail to follow any grievance arbitration agreement in the expired collective bargaining agreement.

9. After a collective bargaining agreement expires and before another collective bargaining agreement takes effect, to fail to follow any fair-share agreement in the expired collective bargaining agreement.

SECTION 2. 111.70 (3) (b) 7. of the statutes is created to read:

111.70 (3) (b) 7. After a collective bargaining agreement expires and before another collective bargaining agreement takes effect, to fail to follow any grievance arbitration agreement in the expired collective bargaining agreement.

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

F

State of Wisconsin



2009 Assembly Bill 95

Date of enactment: July 20, 2009
Date of publication*: August 3, 2009

2009 WISCONSIN ACT 34

AN ACT to amend 111.70 (1) (a); and to create 111.70 (4) (n) of the statutes; relating to: preparation time as a mandatory subject of collective bargaining.

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

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

111.70 (1) (a) "Collective bargaining" means the performance of the mutual obligation of a municipal employer, through its officers and agents, and the representative of its municipal employees in a collective bargaining unit, to meet and confer at reasonable times, in good faith, with the intention of reaching an agreement, or to resolve questions arising under such an agreement, with respect to wages, hours, and conditions of employment, and with respect to a requirement of the municipal employer for a municipal employee to perform law enforcement and fire fighting services under s. 61.66, and for a school district with respect to any matter under sub. (4) (n), except as provided in sub. (4) (m) and s. 40.81 (3) and except that a municipal employer shall not meet and confer with respect to any proposal to diminish or abridge the rights guaranteed to municipal employees under ch. 164. The duty to bargain, however, does not compel either party to agree to a proposal or require the making of a concession. Collective bargaining includes the reduction of any agreement reached to a written and signed document. The municipal employer shall not be

required to bargain on subjects reserved to management and direction of the governmental unit except insofar as the manner of exercise of such functions affects the wages, hours, and conditions of employment of the municipal employees in a collective bargaining unit. In creating this subchapter the legislature recognizes that the municipal employer must exercise its powers and responsibilities to act for the government and good order of the jurisdiction which it serves, its commercial benefit and the health, safety, and welfare of the public to assure orderly operations and functions within its jurisdiction, subject to those rights secured to municipal employees by the constitutions of this state and of the United States and by this subchapter.

SECTION 2. 111.70 (4) (n) of the statutes is created to read:

111.70 (4) (n) *Mandatory subjects of bargaining.* In a school district, in addition to any subject of bargaining on which the municipal employer is required to bargain under sub. (1) (a), the municipal employer is required to bargain collectively with respect to time spent during the school day, separate from pupil contact time, to prepare lessons, labs, or educational materials, to confer or collaborate with other staff, or to complete administrative duties.

SECTION 3. Initial applicability.

* Section 991.11, WISCONSIN STATUTES 2007-08: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(1) This act first applies to collective bargaining agreements that cover any period that begins after June 30, 2011.

