



2009 ASSEMBLY BILL 450

September 25, 2009 – Introduced by Representatives GOTTLIEB, NYGREN, LOTHIAN, STRACHOTA, VOS, LEMAHIEU, HONADEL, A. OTT and J. OTT. Referred to Committee on Labor.

1 **AN ACT** *to renumber* 111.70 (1) (a); *to amend* 111.70 (4) (cm) 6. am., 111.70 (4)
2 (cm) 6. b. and 111.70 (4) (cm) 7.; and *to create* 111.70 (1) (ag) of the statutes;
3 **relating to:** final offer limits under the Municipal Employment Relations Act.

Analysis by the Legislative Reference Bureau

The Municipal Employment Relations Act does not currently limit collective bargaining agreements to any specific maximum expenditures or increases in expenditures. This bill prohibits any final offer that is submitted to the Wisconsin Employment Relations Commission for interest arbitration from requiring the annual expenditure for compensation and fringe benefits per employee to be more than the amount spent in the previous year increased by the allowable percentage increase in available revenue, as defined in the bill, if the employer is subject to limitations on available revenue under state law.

For further information see the *state and 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:

4 **SECTION 1.** 111.70 (1) (a) of the statutes is renumbered 111.70 (1) (ar).
5 **SECTION 2.** 111.70 (1) (ag) of the statutes is created to read:

ASSEMBLY BILL 450**SECTION 2**

1 111.70 (1) (ag) 1. Except as provided in subds. 2. and 3., if the employer is a
2 municipal employer, “available revenue” means the sum of the allowable property
3 tax levy and payments received under ss. 86.30 and 86.32 and subch. I of ch. 79.

4 2. If the employer is a school district, “available revenue” has the same meaning
5 as “revenue” in s. 121.90 (1m).

6 3. If the employer is a technical college district, “available revenue” means the
7 sum of the allowable property tax levy and payments received under s. 38.28.

8 **SECTION 3.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

9 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
10 commission shall make an investigation, with or without a formal hearing, to
11 determine whether arbitration should be commenced. If in determining whether an
12 impasse exists the commission finds that the procedures set forth in this paragraph
13 have not been complied with and such compliance would tend to result in a
14 settlement, it may order such compliance before ordering arbitration. The validity
15 of any arbitration award or collective bargaining agreement shall not be affected by
16 failure to comply with such procedures. Prior to the close of the investigation each
17 party shall submit in writing to the commission its single final offer containing its
18 final proposals on all issues in dispute that are subject to interest arbitration under
19 this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s.
20 applies. If, under state law, the municipal employer is subject to limitations on
21 available revenue, a final offer may not require the expenditure for compensation
22 and fringe benefits per employee in any year of the contract to be more than the
23 amount expended in the previous year increased by the allowable percentage
24 increase in available revenue. If the commission determines that a final offer
25 requires greater expenditure, the commission shall return the offer to the party and

ASSEMBLY BILL 450

1 the party shall revise it before submitting it again. If a party fails to submit a single,
2 ultimate final offer, the commission shall close the investigation based on the last
3 written position of the party. If the last written position requires greater expenditure
4 than permitted under this subd. 6. am., the commission shall consider that the party
5 failed to submit an offer. The municipal employer may not submit a qualified
6 economic offer under subd. 5s. after the close of the investigation. ~~Such final~~ Final
7 offers may include only mandatory subjects of bargaining, except that a permissive
8 subject of bargaining may be included by a party if the other party does not object
9 and shall then be treated as a mandatory subject. No later than such time, the
10 parties shall also submit to the commission a stipulation, in writing, with respect to
11 all matters which are agreed upon for inclusion in the new or amended collective
12 bargaining agreement. The commission, after receiving a report from its
13 investigator and determining that arbitration should be commenced, shall issue an
14 order requiring arbitration and immediately submit to the parties a list of 7
15 arbitrators. Upon receipt of such list, the parties shall alternately strike names until
16 a single name is left, who shall be appointed as arbitrator. The petitioning party shall
17 notify the commission in writing of the identity of the arbitrator selected. Upon
18 receipt of such notice, the commission shall formally appoint the arbitrator and
19 submit to him or her the final offers of the parties. The final offers shall be considered
20 public documents and shall be available from the commission. In lieu of a single
21 arbitrator and upon request of both parties, the commission shall appoint a tripartite
22 arbitration panel consisting of one member selected by each of the parties and a
23 neutral person designated by the commission who shall serve as a chairperson. An
24 arbitration panel has the same powers and duties as provided in this section for any
25 other appointed arbitrator, and all arbitration decisions by such panel shall be

ASSEMBLY BILL 450**SECTION 3**

1 determined by majority vote. In lieu of selection of the arbitrator by the parties and
2 upon request of both parties, the commission shall establish a procedure for
3 randomly selecting names of arbitrators. Under the procedure, the commission shall
4 submit a list of 7 arbitrators to the parties. Each party shall strike one name from
5 the list. From the remaining 5 names, the commission shall randomly appoint an
6 arbitrator. Unless both parties to an arbitration proceeding otherwise agree in
7 writing, every individual whose name is submitted by the commission for
8 appointment as an arbitrator shall be a resident of this state at the time of
9 submission and every individual who is designated as an arbitration panel
10 chairperson shall be a resident of this state at the time of designation.

11 **SECTION 4.** 111.70 (4) (cm) 6. b. of the statutes is amended to read:

12 111.70 (4) (cm) 6. b. The arbitrator shall, within 10 days of his or her
13 appointment, establish a date and place for the conduct of the arbitration hearing.
14 Upon petition of at least 5 citizens of the jurisdiction served by the municipal
15 employer, filed within 10 days after the date on which the arbitrator is appointed, the
16 arbitrator shall hold a public hearing in the jurisdiction for the purpose of providing
17 the opportunity to both parties to explain or present supporting arguments for their
18 positions and to members of the public to offer their comments and suggestions. The
19 final offers of the parties, as transmitted by the commission to the arbitrator, shall
20 serve as the basis for continued negotiations, if any, between the parties with respect
21 to the issues in dispute. At any time prior to the arbitration hearing, either party,
22 with the consent of the other party, and subject to the expenditure limit in subd. 6.
23 am., may modify its final offer in writing.

24 **SECTION 5.** 111.70 (4) (cm) 7. of the statutes is amended to read:

