



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3235/3  
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## 2009 SENATE BILL 372

October 28, 2009 – Introduced by COMMITTEE ON EDUCATION. Referred to Committee on Education.

1     **AN ACT to amend** 111.70 (1) (a), 118.30 (2) (c) and 119.04 (1); and **to create** 111.70  
2           (4) (o) and 118.225 of the statutes; **relating to:** using the results of  
3           standardized examinations to evaluate teachers and requiring the  
4           development of a teacher evaluation plan to be a mandatory subject of collective  
5           bargaining.

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### *Analysis by the Legislative Reference Bureau*

Current law directs school districts to administer certain standardized examinations to pupils enrolled in the 4th, 8th, and 10th grades. Current law prohibits a school board from using the results of the examinations to evaluate teacher performance; to discharge, suspend, or formally discipline a teacher; or as the reason for the nonrenewal of a teacher's contract.

This bill allows the results of the state-required standardized examinations and the standardized examinations required under the federal No Child Left Behind Act to be used for the evaluation of teacher performance if certain conditions are met. The school board must develop a teacher evaluation plan that includes a description of the evaluation process, multiple criteria in addition to examination results, the rationale for using examination results for evaluating teachers, and an explanation of how the school board intends to use the evaluations to improve pupil academic achievement. This bill also requires a school district to bargain collectively over the development of the teacher evaluation plan.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 111.70 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
2 is amended to read:

3           111.70 (1) (a) “Collective bargaining” means the performance of the mutual  
4 obligation of a municipal employer, through its officers and agents, and the  
5 representative of its municipal employees in a collective bargaining unit, to meet and  
6 confer at reasonable times, in good faith, with the intention of reaching an  
7 agreement, or to resolve questions arising under such an agreement, with respect to  
8 wages, hours and conditions of employment, and with respect to a requirement of the  
9 municipal employer for a municipal employee to perform law enforcement and fire  
10 fighting services under s. 61.66 and for a school district with respect to any matter  
11 under sub. (4) (o), except as provided in subs. (3m), (3p), and (4) (m) and (mc) and s.  
12 40.81 (3) and except that a municipal employer shall not meet and confer with respect  
13 to any proposal to diminish or abridge the rights guaranteed to municipal employees  
14 under ch. 164. The duty to bargain, however, does not compel either party to agree  
15 to a proposal or require the making of a concession. Collective bargaining includes  
16 the reduction of any agreement reached to a written and signed document. The  
17 municipal employer shall not be required to bargain on subjects reserved to  
18 management and direction of the governmental unit except insofar as the manner  
19 of exercise of such functions affects the wages, hours and conditions of employment  
20 of the municipal employees in a collective bargaining unit. In creating this  
21 subchapter the legislature recognizes that the municipal employer must exercise its

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1 powers and responsibilities to act for the government and good order of the  
2 jurisdiction which it serves, its commercial benefit and the health, safety and welfare  
3 of the public to assure orderly operations and functions within its jurisdiction,  
4 subject to those rights secured to municipal employees by the constitutions of this  
5 state and of the United States and by this subchapter.

6 **SECTION 2.** 111.70 (4) (o) of the statutes is created to read:

7 111.70 (4) (o) *Mandatory subjects of bargaining.* In a school district, in addition  
8 to any subject of bargaining on which the municipal employer is required to bargain  
9 under sub. (1) (a), the municipal employer is required to bargain collectively with  
10 respect to the development of or any changes to a teacher evaluation plan under s.  
11 118.225.

12 **SECTION 3.** 118.225 of the statutes is created to read:

13 **118.225 Teacher evaluations.** A school board may use the results of  
14 examinations administered to pupils under s. 118.30 and 20 USC 6311 (b) (3) to  
15 evaluate teachers if the school board has developed a teacher evaluation plan that  
16 includes all of the following:

17 (1) A description of the evaluation process.

18 (2) Multiple criteria in addition to examination results.

19 (3) The rationale for using examination results to evaluate teachers.

20 (4) An explanation of how the school board intends to use the evaluations to  
21 improve pupil academic achievement.

22 **SECTION 4.** 118.30 (2) (c) of the statutes is amended to read:

23 118.30 (2) (c) The results of examinations administered under this section or  
24 under 20 USC 6311 (b) (3) to pupils enrolled in public schools, including charter  
25 schools, may not be used to evaluate teacher performance, to discharge, suspend or

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1 formally discipline a teacher or as the reason for the nonrenewal of a teacher's  
2 contract.

3 **SECTION 5.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is  
4 amended to read:

5 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
6 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,  
7 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,  
8 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153,  
9 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.225, 118.24 (1), (2) (c)  
10 to (f), (6) and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55,  
11 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26),  
12 (34), (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are applicable to a 1st  
13 class city school district and board.

14 (END)