



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 286

**Senate Substitute
Amendment 1**

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SENATE BILL 286

Senate Bill 286 proposes various changes to the Municipal Employment Relations Act (MERA). In short, the bill proposes the following:

1. Greater Weight Factor. It would modify the “greater weight” factor used in arbitration decisions to require that the arbitrator also consider the municipal employer’s financial ability to meet the costs required under the proposed settlement. In doing so, the arbitrator would be required to specifically consider the revenues available to the municipal employer without the employer having to increase its property tax rate to maintain essential services.
2. Comparables. It would eliminate those factors used under current law in arbitration decisions requiring comparison of the wages, hours, and conditions of employment of public and private sector employment in comparable communities and would instead specify that such comparisons are to be made with employees performing similar services in the same community.
3. Accounting for Factors. It would provide that an arbitrator’s decision may not take effect unless the arbitrator gives an accounting, in writing, of the consideration of each of the statutory factors in reaching his or her decision.
4. Retroactivity. For all municipal employees other than law enforcement personnel in first class cities or in cities, villages, or towns with a population under 2,500, it would prohibit both the municipal employer and labor organization from including in their final offers any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision. However, it would provide that if the arbitrator adopts the labor organization’s final offer, the arbitrator

would be required to retroactively apply a salary adjustment under the agreement that occurs before the date that the arbitrator issues the arbitration decision.

5. Prohibited Subject of Bargaining: Contracting Out. It would prohibit any municipal employer from bargaining with respect to the employer's decision to enter into contracts with persons who are not municipal employees for the performance of services for the municipality, or the impact of any such decision on the wages, hours, and conditions of employment of the municipal employees who would otherwise perform those services.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 provides that for all municipal employers, the issue of "contracting out" is a *permissive subject of bargaining*, rather than a "prohibited" subject of bargaining as provided in the bill. Specifically, under the substitute amendment, a municipal employer is not required to bargain collectively about any of the following:

1. A decision to contract with any person who is not a municipal employee for the performance of municipal services;
2. A decision to contract with any other municipal employer for the performance of municipal services;
3. A decision to contract with any other municipal employer to consolidate municipal services or units of government; or
4. The impact of any of the above decisions on the wages, hours, and conditions of employment of its municipal employees.

Under current law, permissive subjects of bargaining generally are not subject to binding arbitration unless the parties agree. The substitute amendment *would not* change this limitation.

The substitute amendment would first apply to collective bargaining agreements for which a notice of commencement of contract negotiations has been filed by either party on the effective date of the amendment.

Procedural History

On January 29, 2004, the Senate Committee on Labor, Small Business Development and Consumer Affairs recommended adoption of Senate Substitute Amendment 1 on a vote of Ayes, 3, Noes, 2. On the same date, the committee also recommended passage of the bill, as amended, on a vote of Ayes, 3, Noes, 2.

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