



2011 ASSEMBLY BILL 338

October 25, 2011 – Introduced by Representatives POCAN, BARCA, BERCEAU, BERNARD SCHABER, BEWLEY, DOYLE, FIELDS, GRIGSBY, HEBL, HINTZ, HULSEY, JORGENSEN, KESSLER, MASON, MILROY, MOLEPSKE JR, PASCH, POPE-ROBERTS, RICHARDS, RINGHAND, ROYS, SEIDEL, SINICKI, STASKUNAS, STEINBRINK, C. TAYLOR, TURNER, YOUNG, ZAMARRIPA and ZEPNICK, cosponsored by Senators RISSER, CARPENTER, S. COGGS, ERPENBACH, HANSEN, HOLPERIN, JAUCH, KING, C. LARSON, LASSA, MILLER, SHILLING, TAYLOR, VINEHOUT, WIRCH and T. CULLEN. Referred to Committee on Assembly Organization.

1 **AN ACT to repeal** 20.865 (1) (cm), 20.865 (1) (im), 20.865 (1) (sm), 40.51 (7) (b),
2 59.875 (2) (b), 62.623 (2), 66.0506, 66.0508, 66.0509 (1m), 73.03 (68), 111.70 (1)
3 (cm), 111.70 (1) (fm), 111.70 (1) (mm), 111.70 (1) (p), 111.70 (3) (a) 7m., 111.70
4 (3) (b) 6m., 111.70 (3g), 111.70 (4) (bm), 111.70 (4) (cg), 111.70 (4) (d) 3. b., 111.70
5 (4) (mb), 111.70 (4) (mbb), 111.70 (4) (mc) 5. and 6., 111.71 (4m), 111.71 (5m),
6 111.81 (3n), 111.81 (9g), 111.81 (15r), 111.825 (1) (g), 111.825 (6) (b), 111.83 (3)
7 (b), 111.845, 111.91 (2) (fm), 111.91 (3), 111.91 (3q), 111.92 (3) (b), 111.93 (3) (b),
8 118.223, 118.245 and 120.12 (4m); **to renumber** 111.825 (6) (a) and 111.83 (3)
9 (a); **to renumber and amend** 40.51 (7) (a), 59.875 (2) (a), 62.623 (1), 111.02 (7)
10 (a), 111.115 (1), 111.17, 111.70 (4) (c) 1., 111.70 (4) (mc) (intro.), 111.92 (3) (a),
11 111.965, 111.999 and 111.9991 (1); **to consolidate, renumber and amend**
12 111.70 (4) (d) 3. a. and c. and 111.93 (3) (intro.) and (a); **to amend** 7.33 (1) (c),
13 7.33 (4), 13.111 (2), 13.172 (1), 13.48 (13) (a), 13.62 (2), 13.94 (4) (a) 1., 13.95
14 (intro.), 16.002 (2), 16.004 (4), 16.004 (5), 16.004 (12) (a), 16.045 (1) (a), 16.15

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1 (1) (ab), 16.41 (4), 16.417 (1) (b), 16.50 (3) (e), 16.52 (7), 16.528 (1) (a), 16.53 (2),
2 16.54 (9) (a) 1., 16.70 (2), 16.765 (1), 16.765 (2), 16.765 (4), 16.765 (5), 16.765 (6),
3 16.765 (7) (intro.), 16.765 (7) (d), 16.765 (8), 16.85 (2), 16.865 (8), 19.82 (1), 19.85
4 (3), 19.86, 20.425 (1) (a), 20.425 (1) (i), 20.545 (1) (k), 20.545 (1) (km), 20.865 (1)
5 (ci), 20.865 (1) (ic), 20.865 (1) (si), 20.917 (3) (b), 20.921 (1) (a) 2., 20.921 (1) (b),
6 20.923 (6) (intro.), 20.928 (1), 36.09 (1) (j), 40.02 (25) (b) 8., 40.05 (4) (bw), 40.05
7 (4g) (a) 4., 40.05 (5) (intro.), 40.05 (5) (b) 4., 40.05 (6) (a), 40.62 (2), 40.80 (3),
8 40.81 (3), 40.95 (1) (a) 2., 46.2895 (8) (a) 1., 71.26 (1) (be), 77.54 (9a) (a), 100.45
9 (1) (dm), 101.177 (1) (d), 109.03 (1) (b), 111.02 (1), 111.02 (2), 111.02 (3), 111.02
10 (7) (b) 1., 111.05 (2), 111.06 (1) (c) 1., 111.06 (1) (d), 111.06 (1) (i), 111.06 (2) (i),
11 111.115 (title), 111.70 (1) (a), 111.70 (1) (f), 111.70 (1) (j), 111.70 (1) (n), 111.70
12 (2), 111.70 (3) (a) 3., 111.70 (3) (a) 5., 111.70 (3) (a) 6., 111.70 (3) (a) 9., 111.70 (4)
13 (c) (title), 111.70 (4) (c) 2., 111.70 (4) (c) 3. (intro.), 111.70 (4) (cm) (title), 1., 2.,
14 3. and 4., 111.70 (4) (cm) 8m., 111.70 (4) (d) 2. a., 111.70 (4) (L), 111.70 (4) (p),
15 111.70 (7m) (c) 1. a., 111.70 (8) (a), 111.71 (2), 111.77 (intro.), 111.77 (8) (a),
16 111.77 (9), 111.81 (1), 111.81 (9), 111.81 (12) (intro.), 111.81 (12m), 111.81 (16),
17 111.815 (1), 111.815 (2), 111.82, 111.825 (3), 111.825 (4), 111.825 (5), 111.83 (1),
18 111.83 (4), 111.84 (1) (b), 111.84 (1) (d), 111.84 (1) (f), 111.84 (2) (c), 111.84 (3),
19 111.85 (1), (2) and (4), 111.90 (2), 111.91 (1) (a), 111.91 (1) (b), 111.91 (1) (c),
20 111.91 (1) (cm), 111.91 (1) (d), 111.91 (2) (intro.), 111.91 (2) (gu), 111.92 (1) (a),
21 111.98 (2) (a), 111.997 (intro.) and (1), 111.998 (1) (b), 111.998 (1) (c), 111.998 (1)
22 (d), 111.998 (1) (e), 111.998 (1) (f), 111.998 (2) (intro.), 118.40 (2r) (b) 3. a., 118.42
23 (3) (a) 4., 118.42 (5), 119.04 (1), 120.12 (15), 120.18 (1) (gm), 230.01 (3), 230.03
24 (3), 230.046 (10) (a), 230.10 (1), 230.12 (3) (e) 1., 230.34 (1) (ar), 230.35 (1s),
25 230.35 (2d) (e), 230.35 (3) (e) 6., 230.88 (2) (b), 233.02 (8), 233.03 (7), 233.10 (2)

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1 (intro.), 281.75 (4) (b) 3., 285.59 (1) (b), 704.31 (3), 851.71 (4), 904.085 (2) (a) and
2 978.12 (1) (c); **to repeal and recreate** 16.705 (3) (intro.), 36.09 (1) (j), 40.05 (1)
3 (b), 40.05 (4) (ag), 40.05 (4) (b), 111.815 (1), 111.815 (2), 111.825 (3) and 111.825
4 (4); **to create** 16.705 (3), 19.42 (10) (s), 20.865 (1) (cm), 20.865 (1) (im), 20.865
5 (1) (sm), 46.284 (4) (m), 46.2898, 46.48 (9m), 49.825 (3) (b) 4., 49.826 (3) (b) 4.,
6 chapter 52, 70.11 (41s), 111.02 (6) (am), 111.02 (7) (a) 2., 3. and 4., 111.02 (7m),
7 (9m) and (10m), 111.05 (3g), 111.05 (5), 111.05 (6), 111.05 (7), 111.06 (1) (m),
8 111.075, 111.115 (1) (a), 111.115 (2), 111.17 (2), 111.70 (1g), 111.70 (3) (a) 7.,
9 111.70 (3) (b) 6., 111.70 (3m), 111.70 (3p), 111.70 (4) (c) 1g., 111.70 (4) (cm) 5.,
10 111.70 (4) (cm) 6., 111.70 (4) (cm) 7., 111.70 (4) (cm) 7g., 111.70 (4) (cm) 7r., 111.70
11 (4) (cm) 8., 111.70 (4) (cm) 9., 111.70 (4) (m), 111.70 (4) (n) and (o), 111.70 (7),
12 111.70 (7m) (b), 111.70 (7m) (c) 3., 111.70 (7m) (e), 111.70 (7m) (f), 111.71 (4),
13 111.71 (5), 111.80, 111.81 (3h), 111.81 (7) (g), 111.81 (9k), 111.825 (2g), 111.83
14 (5m), 111.905, 111.91 (1) (cg), 111.91 (1) (e), 111.91 (2c), 111.92 (2m), subchapter
15 VI of chapter 111 [precedes 111.95], 111.965 (2m), 111.999 (2), 111.9991 (1) (b),
16 118.22 (4), 118.23 (5) and 233.02 (1) (h) of the statutes; and **to affect** 2011
17 Wisconsin Act 10, section 9132 and 2011 Wisconsin Act 10, section 9155;
18 **relating to:** collective bargaining for public employees, granting rule-making
19 authority, and making appropriations.

Analysis by the Legislative Reference Bureau

Current law grants certain protective occupation participants under the Wisconsin Retirement System (public safety employees) and certain municipal transit employees the right to collectively bargain over wages, hours, and conditions of employment. State government and municipal government employees who are not public safety employees or municipal transit employees (general employees) have the right to collectively bargain over a percentage increase in base wages that does not exceed the percentage change in the consumer price index. Current law also

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prohibits municipal employers from collectively bargaining with municipal general employees in matters that are not permitted under the Municipal Employment Relations Act (MERA). Under this bill, all municipal employees have the right to collectively bargain over wages, hours, and conditions of employment under MERA, and all state employees have the right to collectively bargain over wages, hours, and conditions of employment under the State Employment Labor Relations Act (SELRA). In addition, this bill provides University of Wisconsin (UW) System employees, employees of the UW Hospitals and Clinics Authority, and certain home care and child care providers the right to collectively bargain over wages, hours, and conditions of employment.

Under SELRA and MERA, each collective bargaining unit containing general employees must have an annual election to certify the labor organization that represents the collective bargaining unit. If, at the election, less than 51 percent of the actual employees in the collective bargaining unit vote for a representative, then, at the expiration of the current collective bargaining agreement, the current representative is decertified and the members of the collective bargaining unit are nonrepresented and may not be represented for one year. This bill eliminates the requirement to have an annual certification election. Once the majority of employees in a collective bargaining unit elects a labor organization as their representative, that labor organization remains the representative unless a percentage of members of the collective bargaining unit supports a petition for a new election and subsequently votes to decertify the representative.

Currently, the term for a collective bargaining agreement covering a general employee may not exceed one year and may not be extended. This bill generally limits the term to two years and eliminates the prohibition on agreement extensions. Current law prohibits the deduction of labor organization dues from salaries of general employees. This bill allows employees who are represented by a labor organization to have the organization dues deducted from their salaries.

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:

1 **SECTION 1.** 7.33 (1) (c) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 7.33 (1) (c) “State agency” has the meaning given under s. 20.001 (1) and
4 includes an authority created under subch. II of ch. 114 or ch. 52, 231, 232, 233, 234,
5 or 237.

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1 **SECTION 2.** 7.33 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 **7.33 (4)** Except as otherwise provided in this subsection, each local
4 governmental unit, as defined in s. 16.97 (7), may, and each state agency shall, upon
5 proper application under sub. (3), permit each of its employees to serve as an election
6 official under s. 7.30 without loss of fringe benefits or seniority privileges earned for
7 scheduled working hours during the period specified in sub. (3), without loss of pay
8 for scheduled working hours during the period specified in sub. (3) except as provided
9 in sub. (5), and without any other penalty. For employees who are included in a
10 collective bargaining unit for which a representative is recognized or certified under
11 subch. V or VI of ch. 111, this subsection shall apply unless otherwise provided in a
12 collective bargaining agreement.

13 **SECTION 3.** 13.111 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
14 amended to read:

15 **13.111 (2) DUTIES.** The joint committee on employment relations shall perform
16 the functions assigned to it under ~~subch.~~ subchs. V and VI of ch. 111, subch. II of ch.
17 230 and ss. 16.53 (1) (d) 1., 20.916, 20.917, and 20.923.

18 **SECTION 4.** 13.172 (1) of the statutes, as affected by 2011 Wisconsin Act 10, is
19 amended to read:

20 **13.172 (1)** In this section, “agency” means an office, department, agency,
21 institution of higher education, association, society, or other body in state
22 government created or authorized to be created by the constitution or any law, that
23 is entitled to expend moneys appropriated by law, including the legislature and the
24 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
25 ch. 52, 231, 233, 234, 238, or 279.

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1 **SECTION 5.** 13.48 (13) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
2 is amended to read:

3 13.48 **(13)** (a) Except as provided in par. (b) or (c), every building, structure or
4 facility that is constructed for the benefit of or use of the state, any state agency,
5 board, commission or department, the University of Wisconsin Hospitals and Clinics
6 Authority, the Fox River Navigational System Authority, the Wisconsin Quality
7 Home Care Authority, the Wisconsin Economic Development Corporation, or any
8 local professional baseball park district created under subch. III of ch. 229 if the
9 construction is undertaken by the department of administration on behalf of the
10 district, shall be in compliance with all applicable state laws, rules, codes and
11 regulations but the construction is not subject to the ordinances or regulations of the
12 municipality in which the construction takes place except zoning, including without
13 limitation because of enumeration ordinances or regulations relating to materials
14 used, permits, supervision of construction or installation, payment of permit fees, or
15 other restrictions.

16 **SECTION 6.** 13.62 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
17 amended to read:

18 13.62 **(2)** “Agency” means any board, commission, department, office, society,
19 institution of higher education, council, or committee in the state government, or any
20 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232,
21 233, 234, 237, 238, or 279, except that the term does not include a council or
22 committee of the legislature.

23 **SECTION 7.** 13.94 (4) (a) 1. of the statutes, as affected by 2011 Wisconsin Act 10,
24 is amended to read:

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1 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
2 credentialing board, commission, independent agency, council or office in the
3 executive branch of state government; all bodies created by the legislature in the
4 legislative or judicial branch of state government; any public body corporate and
5 politic created by the legislature including specifically the Wisconsin Quality Home
6 Care Authority, the Fox River Navigational System Authority, the Lower Fox River
7 Remediation Authority, the Wisconsin Aerospace Authority, and the Wisconsin
8 Economic Development Corporation, a professional baseball park district, a local
9 professional football stadium district, a local cultural arts district and a long-term
10 care district under s. 46.2895; every Wisconsin works agency under subch. III of ch.
11 49; every provider of medical assistance under subch. IV of ch. 49; technical college
12 district boards; every county department under s. 51.42 or 51.437; every nonprofit
13 corporation or cooperative or unincorporated cooperative association to which
14 moneys are specifically appropriated by state law; and every corporation, institution,
15 association or other organization which receives more than 50% of its annual budget
16 from appropriations made by state law, including subgrantee or subcontractor
17 recipients of such funds.

18 **SECTION 8.** 13.95 (intro.) of the statutes, as affected by 2011 Wisconsin Act 10,
19 is amended to read:

20 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
21 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau
22 shall be strictly nonpartisan and shall at all times observe the confidential nature
23 of the research requests received by it; however, with the prior approval of the
24 requester in each instance, the bureau may duplicate the results of its research for
25 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's

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1 designated employees shall at all times, with or without notice, have access to all
2 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
3 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
4 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
5 Authority, the Wisconsin Economic Development Corporation, and the Fox River
6 Navigational System Authority, and to any books, records, or other documents
7 maintained by such agencies or authorities and relating to their expenditures,
8 revenues, operations, and structure.

9 **SECTION 9.** 16.002 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
10 amended to read:

11 16.002 (2) "Departments" means constitutional offices, departments, and
12 independent agencies and includes all societies, associations, and other agencies of
13 state government for which appropriations are made by law, but not including
14 authorities created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232,
15 233, 234, 235, 237, 238, or 279.

16 **SECTION 10.** 16.004 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
17 is amended to read:

18 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
19 department as the secretary designates may enter into the offices of state agencies
20 and authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under
21 chs. 52, 231, 233, 234, 237, 238, and 279, and may examine their books and accounts
22 and any other matter that in the secretary's judgment should be examined and may
23 interrogate the agency's employees publicly or privately relative thereto.

24 **SECTION 11.** 16.004 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
25 is amended to read:

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1 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
2 authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under chs.
3 52, 231, 233, 234, 237, 238, and 279, and their officers and employees, shall cooperate
4 with the secretary and shall comply with every request of the secretary relating to
5 his or her functions.

6 **SECTION 12.** 16.004 (12) (a) of the statutes, as affected by 2011 Wisconsin Act
7 10, is amended to read:

8 16.004 (12) (a) In this subsection, “state agency” means an association,
9 authority, board, department, commission, independent agency, institution, office,
10 society, or other body in state government created or authorized to be created by the
11 constitution or any law, including the legislature, the office of the governor, and the
12 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
13 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
14 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home
15 Care Authority, the Wisconsin Economic Development Corporation, and the Fox
16 River Navigational System Authority.

17 **SECTION 13.** 16.045 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
18 is amended to read:

19 16.045 (1) (a) “Agency” means an office, department, independent agency,
20 institution of higher education, association, society, or other body in state
21 government created or authorized to be created by the constitution or any law, that
22 is entitled to expend moneys appropriated by law, including the legislature and the
23 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
24 ch. 149 or in ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

ASSEMBLY BILL 338**SECTION 14**

1 **SECTION 14.** 16.15 (1) (ab) of the statutes, as affected by 2011 Wisconsin Act 10,
2 is amended to read:

3 16.15 (1) (ab) “Authority” has the meaning given under s. 16.70 (2), but
4 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
5 River Remediation Authority, the Wisconsin Quality Home Care Authority, the
6 Wisconsin Economic Development Corporation, and the Health Insurance
7 Risk-Sharing Plan Authority.

8 **SECTION 15.** 16.41 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
9 amended to read:

10 16.41 (4) In this section, “authority” means a body created under subch. II of
11 ch. 114 or subch. III of ch. 149 or under ch. 52, 231, 233, 234, 237, 238, or 279.

12 **SECTION 16.** 16.417 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 10,
13 is amended to read:

14 16.417 (1) (b) “Authority” means a body created under subch. II of ch. 114 or
15 ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

16 **SECTION 17.** 16.50 (3) (e) of the statutes, as affected by 2011 Wisconsin Act 10,
17 is amended to read:

18 16.50 (3) (e) No pay increase may be approved unless it is at the rate or within
19 the pay ranges prescribed in the compensation plan or as provided in a collective
20 bargaining agreement under subch. V or VI of ch. 111.

21 **SECTION 18.** 16.52 (7) of the statutes, as affected by 2011 Wisconsin Act 10, is
22 amended to read:

23 16.52 (7) **PETTY CASH ACCOUNT.** With the approval of the secretary, each agency
24 that is authorized to maintain a contingent fund under s. 20.920 may establish a
25 petty cash account from its contingent fund. The procedure for operation and

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1 maintenance of petty cash accounts and the character of expenditures therefrom
2 shall be prescribed by the secretary. In this subsection, “agency” means an office,
3 department, independent agency, institution of higher education, association,
4 society, or other body in state government created or authorized to be created by the
5 constitution or any law, that is entitled to expend moneys appropriated by law,
6 including the legislature and the courts, but not including an authority created in
7 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

8 **SECTION 19.** 16.528 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
9 is amended to read:

10 16.528 (1) (a) “Agency” means an office, department, independent agency,
11 institution of higher education, association, society, or other body in state
12 government created or authorized to be created by the constitution or any law, that
13 is entitled to expend moneys appropriated by law, including the legislature and the
14 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
15 ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

16 **SECTION 20.** 16.53 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
17 amended to read:

18 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
19 invoice, the agency shall notify the sender of the invoice within 10 working days after
20 it receives the invoice of the reason it is improperly completed. In this subsection,
21 “agency” means an office, department, independent agency, institution of higher
22 education, association, society, or other body in state government created or
23 authorized to be created by the constitution or any law, that is entitled to expend
24 moneys appropriated by law, including the legislature and the courts, but not

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1 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
2 52, 231, 233, 234, 237, 238, or 279.

3 **SECTION 21.** 16.54 (9) (a) 1. of the statutes, as affected by 2011 Wisconsin Act
4 10, is amended to read:

5 16.54 (9) (a) 1. "Agency" means an office, department, independent agency,
6 institution of higher education, association, society or other body in state
7 government created or authorized to be created by the constitution or any law, which
8 is entitled to expend moneys appropriated by law, including the legislature and the
9 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
10 ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

11 **SECTION 22.** 16.70 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
12 amended to read:

13 16.70 (2) "Authority" means a body created under subch. II of ch. 114 or subch.
14 III of ch. 149 or under ch. 52, 231, 232, 233, 234, 235, 237, or 279.

15 **SECTION 23.** 16.705 (3) (intro.) of the statutes, as created by 2011 Wisconsin Act
16 (this act), is repealed and recreated to read:

17 16.705 (3) (intro.) The director of the office of state employment relations, prior
18 to award, under conditions established by rule of the department, shall review
19 contracts for contractual services in order to ensure that all agencies, except the
20 University of Wisconsin System, do all of the following:

21 **SECTION 24.** 16.705 (3) of the statutes is created to read:

22 16.705 (3) The director of the office of state employment relations, prior to
23 award, under conditions established by rule of the department, shall review
24 contracts for contractual services in order to ensure that agencies do all of the
25 following:

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1 (a) Properly utilize the services of state employees.

2 (b) Evaluate the feasibility of using limited term appointments prior to
3 entering into a contract for contractual services.

4 (c) Do not enter into any contract for contractual services in conflict with any
5 collective bargaining agreement under subch. V or VI of ch. 111.

6 **SECTION 25.** 16.765 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
7 is amended to read:

8 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
9 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
10 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
11 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
12 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
13 Entertainment Corporation shall include in all contracts executed by them a
14 provision obligating the contractor not to discriminate against any employee or
15 applicant for employment because of age, race, religion, color, handicap, sex, physical
16 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as
17 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
18 orientation, obligating the contractor to take affirmative action to ensure equal
19 employment opportunities.

20 **SECTION 26.** 16.765 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
21 is amended to read:

22 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
23 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
24 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
25 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the

ASSEMBLY BILL 338**SECTION 26**

1 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
2 Entertainment Corporation shall include the following provision in every contract
3 executed by them: “In connection with the performance of work under this contract,
4 the contractor agrees not to discriminate against any employee or applicant for
5 employment because of age, race, religion, color, handicap, sex, physical condition,
6 developmental disability as defined in s. 51.01 (5), sexual orientation or national
7 origin. This provision shall include, but not be limited to, the following: employment,
8 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
9 termination; rates of pay or other forms of compensation; and selection for training,
10 including apprenticeship. Except with respect to sexual orientation, the contractor
11 further agrees to take affirmative action to ensure equal employment opportunities.
12 The contractor agrees to post in conspicuous places, available for employees and
13 applicants for employment, notices to be provided by the contracting officer setting
14 forth the provisions of the nondiscrimination clause”.

15 **SECTION 27.** 16.765 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
16 is amended to read:

17 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
18 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
19 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
20 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, and
21 the Bradley Center Sports and Entertainment Corporation shall take appropriate
22 action to revise the standard government contract forms under this section.

23 **SECTION 28.** 16.765 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
24 is amended to read:

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1 16.765 (5) The head of each contracting agency and the boards of directors of
2 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
3 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
4 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
5 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
6 Development Corporation, and the Bradley Center Sports and Entertainment
7 Corporation shall be primarily responsible for obtaining compliance by any
8 contractor with the nondiscrimination and affirmative action provisions prescribed
9 by this section, according to procedures recommended by the department. The
10 department shall make recommendations to the contracting agencies and the boards
11 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox
12 River Navigational System Authority, the Wisconsin Aerospace Authority, the
13 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
14 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
15 Development Corporation, and the Bradley Center Sports and Entertainment
16 Corporation for improving and making more effective the nondiscrimination and
17 affirmative action provisions of contracts. The department shall promulgate such
18 rules as may be necessary for the performance of its functions under this section.

19 **SECTION 29.** 16.765 (6) of the statutes, as affected by 2011 Wisconsin Act 10,
20 is amended to read:

21 16.765 (6) The department may receive complaints of alleged violations of the
22 nondiscrimination provisions of such contracts. The department shall investigate
23 and determine whether a violation of this section has occurred. The department may
24 delegate this authority to the contracting agency, the University of Wisconsin
25 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the

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1 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
2 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
3 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
4 Sports and Entertainment Corporation for processing in accordance with the
5 department's procedures.

6 **SECTION 30.** 16.765 (7) (intro.) of the statutes, as affected by 2011 Wisconsin
7 Act 10, is amended to read:

8 16.765 (7) (intro.) When a violation of this section has been determined by the
9 department, the contracting agency, the University of Wisconsin Hospitals and
10 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
11 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
12 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
13 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
14 Entertainment Corporation, the contracting agency, the University of Wisconsin
15 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
16 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
17 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
18 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
19 Sports and Entertainment Corporation shall:

20 **SECTION 31.** 16.765 (7) (d) of the statutes, as affected by 2011 Wisconsin Act 10,
21 is amended to read:

22 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
23 further violations of this section and to report its corrective action to the contracting
24 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
25 Navigational System Authority, the Wisconsin Aerospace Authority, the Health

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1 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
2 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
3 Development Corporation, or the Bradley Center Sports and Entertainment
4 Corporation.

5 **SECTION 32.** 16.765 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
6 is amended to read:

7 16.765 (8) If further violations of this section are committed during the term
8 of the contract, the contracting agency, the Fox River Navigational System Authority,
9 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
10 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home
11 Care Authority, the Wisconsin Economic Development Corporation, or the Bradley
12 Center Sports and Entertainment Corporation may permit the violating party to
13 complete the contract, after complying with this section, but thereafter the
14 contracting agency, the Fox River Navigational System Authority, the Wisconsin
15 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
16 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
17 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
18 Entertainment Corporation shall request the department to place the name of the
19 party on the ineligible list for state contracts, or the contracting agency, the Fox River
20 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
21 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
22 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
23 Development Corporation, or the Bradley Center Sports and Entertainment
24 Corporation may terminate the contract without liability for the uncompleted

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1 portion or any materials or services purchased or paid for by the contracting party
2 for use in completing the contract.

3 **SECTION 33.** 16.85 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
4 amended to read:

5 16.85 (2) To furnish engineering, architectural, project management, and other
6 building construction services whenever requisitions therefor are presented to the
7 department by any agency. The department may deposit moneys received from the
8 provision of these services in the account under s. 20.505 (1) (kc) or in the general
9 fund as general purpose revenue — earned. In this subsection, “agency” means an
10 office, department, independent agency, institution of higher education, association,
11 society, or other body in state government created or authorized to be created by the
12 constitution or any law, which is entitled to expend moneys appropriated by law,
13 including the legislature and the courts, but not including an authority created in
14 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

15 **SECTION 34.** 16.865 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
16 is amended to read:

17 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
18 proportionate share of the estimated costs attributable to programs administered by
19 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
20 may charge premiums to agencies to finance costs under this subsection and pay the
21 costs from the appropriation on an actual basis. The department shall deposit all
22 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
23 Costs assessed under this subsection may include judgments, investigative and
24 adjustment fees, data processing and staff support costs, program administration
25 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this

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1 subsection, “agency” means an office, department, independent agency, institution
2 of higher education, association, society, or other body in state government created
3 or authorized to be created by the constitution or any law, that is entitled to expend
4 moneys appropriated by law, including the legislature and the courts, but not
5 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
6 52, 231, 232, 233, 234, 235, 237, 238, or 279.

7 **SECTION 35.** 19.42 (10) (s) of the statutes is created to read:

8 19.42 (10) (s) The executive director and members of the board of directors of
9 the Wisconsin Quality Home Care Authority.

10 **SECTION 36.** 19.82 (1) of the statutes, as affected by 2011 Wisconsin Act 10, is
11 amended to read:

12 19.82 (1) “Governmental body” means a state or local agency, board,
13 commission, committee, council, department or public body corporate and politic
14 created by constitution, statute, ordinance, rule or order; a governmental or
15 quasi-governmental corporation except for the Bradley center sports and
16 entertainment corporation; a local exposition district under subch. II of ch. 229; a
17 long-term care district under s. 46.2895; or a formally constituted subunit of any of
18 the foregoing, but excludes any such body or committee or subunit of such body which
19 is formed for or meeting for the purpose of collective bargaining under subch. I, IV,
20 ~~or V~~, or VI of ch. 111.

21 **SECTION 37.** 19.85 (3) of the statutes, as affected by 2011 Wisconsin Act 10, is
22 amended to read:

23 19.85 (3) Nothing in this subchapter shall be construed to authorize a
24 governmental body to consider at a meeting in closed session the final ratification or

ASSEMBLY BILL 338**SECTION 37**

1 approval of a collective bargaining agreement under subch. I, IV, ~~or V~~, or VI of ch. 111
2 which has been negotiated by such body or on its behalf.

3 **SECTION 38.** 19.86 of the statutes, as affected by 2011 Wisconsin Act 10, is
4 amended to read:

5 **19.86 Notice of collective bargaining negotiations.** Notwithstanding s.
6 19.82 (1), where notice has been given by either party to a collective bargaining
7 agreement under subch. I, IV, ~~or V~~, or VI of ch. 111 to reopen such agreement at its
8 expiration date, the employer shall give notice of such contract reopening as provided
9 in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be given
10 by the employer's chief officer or such person's designee.

11 **SECTION 39.** 20.425 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
12 is amended to read:

13 20.425 (1) (a) *General program operations.* The amounts in the schedule for
14 the purposes provided in subchs. I, IV, and V, and VI of ch. 111 and s. 230.45 (1).

15 **SECTION 40.** 20.425 (1) (i) of the statutes, as affected by 2011 Wisconsin Act 32,
16 is amended to read:

17 20.425 (1) (i) *Fees, collective bargaining training, publications, and appeals.*
18 The amounts in the schedule for the performance of fact-finding, mediation,
19 certification, and arbitration functions, for the provision of copies of transcripts, for
20 the cost of operating training programs under ss. 111.09 (3), 111.71 (5), 111.71 (5m),
21 and 111.94 (3), for the preparation of publications, transcripts, reports, and other
22 copied material, and for costs related to conducting appeals under s. 230.45. All
23 moneys received under ss. 111.09 (1) and (2), ~~111.70 (4) (d) 3. b.~~, 111.71 (1) and (2),
24 111.83 (3) (b), 111.94 (1) and (2), 111.9993, and 230.45 (3), all moneys received from
25 arbitrators and arbitration panel members, and individuals who are interested in

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1 serving in such positions, and from individuals and organizations who participate in
2 other collective bargaining training programs conducted by the commission, and all
3 moneys received from the sale of publications, transcripts, reports, and other copied
4 material shall be credited to this appropriation account.

5 **SECTION 41.** 20.545 (1) (k) of the statutes, as affected by 2011 Wisconsin Act 10,
6 is amended to read:

7 20.545 (1) (k) *General program operations.* The amounts in the schedule to
8 administer state employment relations functions and the civil service system under
9 ~~subch. subchs. V and VI~~ of ch. 111 and ch. 230, to pay awards under s. 230.48, and
10 to defray the expenses of the state employees suggestion board. All moneys received
11 from state agencies for materials and services provided by the office of state
12 employment relations shall be credited to this appropriation.

13 **SECTION 42.** 20.545 (1) (km) of the statutes, as affected by 2011 Wisconsin Act
14 10, is amended to read:

15 20.545 (1) (km) *Collective bargaining grievance arbitrations.* The amounts in
16 the schedule for the payment of the state's share of costs related to collective
17 bargaining grievance arbitrations under s. 111.86 and related to collective
18 bargaining grievance arbitrations under s. 111.993. All moneys received from state
19 agencies for the purpose of reimbursing the state's share of the costs related to
20 grievance arbitrations under s. 111.86 and to reimburse the state's share of costs for
21 training related to grievance arbitrations, and all moneys received from institutions,
22 as defined in s. 36.05 (9), for the purpose of reimbursing the state's share of the costs
23 related to grievance arbitrations under s. 111.993 and to reimburse the state's share
24 of costs for training related to grievance arbitrations shall be credited to this
25 appropriation account.

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1 **SECTION 43.** 20.865 (1) (ci) of the statutes, as affected by 2011 Wisconsin Act
2 10, is amended to read:

3 20.865 (1) (ci) *Nonrepresented university system senior executive, faculty and*
4 *academic pay adjustments.* A sum sufficient to pay the cost of pay and related
5 adjustments approved by the joint committee on employment relations under s.
6 230.12 (3) (e) for University of Wisconsin System employees under ss. 20.923 (4g), (5)
7 and (6) (m) and 230.08 (2) (d) who are not included within a collective bargaining unit
8 for which a representative is certified under subch. V or VI of ch. 111, as determined
9 under s. 20.928, other than adjustments funded under par. (cj).

10 **SECTION 44.** 20.865 (1) (cm) of the statutes is created to read:

11 20.865 (1) (cm) *Represented university faculty and academic staff pay*
12 *adjustments.* A sum sufficient to supplement the appropriations to the Board of
13 Regents of the University of Wisconsin System for the cost of compensation and
14 related adjustments approved by the legislature under s. 111.9991 for University of
15 Wisconsin System employees under s. 230.08 (2) (d) who are included within a
16 collective bargaining unit for which a representative is certified under subch. VI of
17 ch. 111, as determined under s. 20.928.

18 **SECTION 45.** 20.865 (1) (cm) of the statutes, as created by 2011 Wisconsin Act
19 (this act), is repealed.

20 **SECTION 46.** 20.865 (1) (ic) of the statutes, as affected by 2011 Wisconsin Act
21 10, is amended to read:

22 20.865 (1) (ic) *Nonrepresented university system senior executive, faculty and*
23 *academic pay adjustments.* From the appropriate program revenue and program
24 revenue-service accounts, a sum sufficient to supplement the appropriations to the
25 University of Wisconsin System to pay the cost of pay and related adjustments

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1 approved by the joint committee on employment relations under s. 230.12 (3) (e) for
2 University of Wisconsin System employees under ss. 20.923 (4g), (5) and (6) (m) and
3 230.08 (2) (d) who are not included within a collective bargaining unit for which a
4 representative is certified under subch. V or VI of ch. 111, as determined under s.
5 20.928, other than adjustments funded under par. (cj).

6 **SECTION 47.** 20.865 (1) (im) of the statutes is created to read:

7 20.865 (1) (im) *Represented university system faculty and academic staff pay*
8 *adjustments; program revenue.* From the appropriate program revenue and program
9 revenue-service accounts, a sum sufficient to supplement the appropriations to the
10 Board of Regents of the University of Wisconsin System for the cost of compensation
11 and related adjustments for University of Wisconsin System employees under s.
12 230.08 (2) (d) who are included within a collective bargaining unit for which a
13 representative is certified under subch. VI of ch. 111, as determined under s. 20.928.

14 **SECTION 48.** 20.865 (1) (im) of the statutes, as created by 2011 Wisconsin Act
15 (this act), is repealed.

16 **SECTION 49.** 20.865 (1) (si) of the statutes, as affected by 2011 Wisconsin Act
17 10, is amended to read:

18 20.865 (1) (si) *Nonrepresented university system senior executive, faculty and*
19 *academic pay adjustments.* From the appropriate segregated funds, a sum sufficient
20 to supplement the appropriations to the University of Wisconsin System to pay the
21 cost of pay and related adjustments approved by the joint committee on employment
22 relations under s. 230.12 (3) (e) for University of Wisconsin System employees under
23 ss. 20.923 (4g), (5) and (6) (m) and 230.08 (2) (d) who are not included within a
24 collective bargaining unit for which a representative is certified under subch. V or
25 VI of ch. 111, as determined under s. 20.928.

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1 **SECTION 50.** 20.865 (1) (sm) of the statutes is created to read:

2 20.865 (1) (sm) *Represented university faculty and academic staff pay*
3 *adjustments; segregated revenues.* From the appropriate segregated funds, a sum
4 sufficient to supplement the appropriations to the Board of Regents of the University
5 of Wisconsin System for the cost of compensation and related adjustments for
6 University of Wisconsin System employees under s. 230.08 (2) (d) who are included
7 within a collective bargaining unit for which a representative is certified under
8 subch. VI of ch. 111, as determined under s. 20.928.

9 **SECTION 51.** 20.865 (1) (sm) of the statutes, as created by 2011 Wisconsin Act
10 (this act), is repealed.

11 **SECTION 52.** 20.917 (3) (b) of the statutes, as affected by 2011 Wisconsin Act 10,
12 is amended to read:

13 20.917 (3) (b) This subsection applies to employees in all positions in the civil
14 service, including those employees in positions included in collective bargaining
15 units under subch. V or VI of ch. 111, whether or not the employees are covered by
16 a collective bargaining agreement.

17 **SECTION 53.** 20.921 (1) (a) 2. of the statutes, as affected by 2011 Wisconsin Act
18 10, is amended to read:

19 20.921 (1) (a) 2. ~~If the state employee is a public safety employee under s. 111.81~~
20 ~~(15r),~~ payment Payment of dues to employee organizations.

21 **SECTION 54.** 20.921 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 10,
22 is amended to read:

23 20.921 (1) (b) Except as provided in s. ss. 111.06 (1) (c) and 111.84 (1) (f), the
24 request under par. (a) shall be made to the state agency or to the University of
25 Wisconsin Hospitals and Clinics Authority in the form and manner and contain the

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1 directions and information prescribed by each state agency or by the authority. The
2 request may be withdrawn or the amount paid to the payee may be changed by
3 notifying the state agency or the authority to that effect, but no such withdrawal or
4 change shall affect a payroll certification already prepared.

5 **SECTION 55.** 20.923 (6) (intro.) of the statutes, as affected by 2011 Wisconsin
6 Act 10, is amended to read:

7 20.923 (6) SALARIES SET BY APPOINTING AUTHORITIES. (intro.) Salaries for the
8 following positions may be set by the appointing authority, subject to restrictions
9 otherwise set forth in the statutes and the compensation plan under s. 230.12, except
10 where the salaries are a subject of bargaining with a certified representative of a
11 collective bargaining unit under s. 111.91 or 111.998:

12 **SECTION 56.** 20.928 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
13 is amended to read:

14 20.928 (1) Each state agency head shall certify to the department of
15 administration, at such time and in such manner as the secretary of administration
16 prescribes, the sum of money needed by the state agency from the appropriations
17 under s. 20.865 (1) (c), (ci), (cm), (cj), (d), (i), (ic), (im), (j), (s), (si), (sm), and (t). Upon
18 receipt of the certifications together with such additional information as the
19 secretary of administration prescribes, the secretary shall determine the amounts
20 required from the respective appropriations to supplement state agency budgets.

21 **SECTION 57.** 36.09 (1) (j) of the statutes, as affected by 2011 Wisconsin Act 10,
22 is amended to read:

23 36.09 (1) (j) Except where such matters are a subject of bargaining with a
24 certified representative of a collective bargaining unit under s. 111.91 or 111.998, the
25 board shall establish salaries for persons not in the classified staff prior to July 1 of

ASSEMBLY BILL 338**SECTION 57**

1 each year for the next fiscal year, and shall designate the effective dates for payment
2 of the new salaries. In the first year of the biennium, payments of the salaries
3 established for the preceding year shall be continued until the biennial budget bill
4 is enacted. If the budget is enacted after July 1, payments shall be made following
5 enactment of the budget to satisfy the obligations incurred on the effective dates, as
6 designated by the board, for the new salaries, subject only to the appropriation of
7 funds by the legislature and s. 20.928 (3). This paragraph does not limit the
8 authority of the board to establish salaries for new appointments. The board may
9 not increase the salaries of employees specified in ss. 20.923 (5) and (6) (m) and
10 230.08 (2) (d) under this paragraph unless the salary increase conforms to the
11 proposal as approved under s. 230.12 (3) (e) or the board authorizes the salary
12 increase to correct salary inequities under par. (h), to fund job reclassifications or
13 promotions, or to recognize competitive factors. The board may not increase the
14 salary of any position identified in s. 20.923 (4g) under this paragraph unless the
15 salary increase conforms to the proposal as approved under s. 230.12 (3) (e) or the
16 board authorizes the salary increase to correct a salary inequity or to recognize
17 competitive factors. The board may not increase the salary of any position identified
18 in s. 20.923 (4g) (ae) and (am) to correct a salary inequity that results from the
19 appointment of a person to a position identified in s. 20.923 (4g) (ae) and (am) unless
20 the increase is approved by the office of state employment relations. The granting
21 of salary increases to recognize competitive factors does not obligate inclusion of the
22 annualized amount of the increases in the appropriations under s. 20.285 (1) for
23 subsequent fiscal bienniums. No later than October 1 of each year, the board shall
24 report to the joint committee on finance and the secretary of administration and
25 director of the office of state employment relations concerning the amounts of any

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1 salary increases granted to recognize competitive factors, and the institutions at
2 which they are granted, for the 12-month period ending on the preceding June 30.

3 **SECTION 58.** 36.09 (1) (j) of the statutes, as affected by 2011 Wisconsin Acts 32
4 and ... (this act), is repealed and recreated to read:

5 36.09 (1) (j) Except where such matters are a subject of bargaining with a
6 certified representative of a collective bargaining unit under s. 111.91 or 111.998, the
7 board shall establish salaries for persons prior to July 1 of each year for the next fiscal
8 year, and shall designate the effective dates for payment of the new salaries. In the
9 first year of the biennium, payments of the salaries established for the preceding
10 year shall be continued until the biennial budget bill is enacted. If the budget is
11 enacted after July 1, payments shall be made following enactment of the budget to
12 satisfy the obligations incurred on the effective dates, as designated by the board, for
13 the new salaries, subject only to the appropriation of funds by the legislature and s.
14 20.928 (3). This paragraph does not limit the authority of the board to establish
15 salaries for new appointments. The board may not increase the salaries of employees
16 under this paragraph unless the salary increase conforms to the proposal as
17 approved under s. 230.12 (3) (e) or the board authorizes the salary increase to correct
18 salary inequities under par. (h), to fund job reclassifications or promotions, or to
19 recognize competitive factors. The granting of salary increases to recognize
20 competitive factors does not obligate inclusion of the annualized amount of the
21 increases in the appropriations under s. 20.285 (1) for subsequent fiscal bienniums.
22 No later than October 1 of each year, the board shall report to the joint committee
23 on finance and the secretary of administration and director of the office of state
24 employment relations concerning the amounts of any salary increases granted to

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1 recognize competitive factors, and the institutions at which they are granted, for the
2 12-month period ending on the preceding June 30.

3 **SECTION 59.** 40.02 (25) (b) 8. of the statutes, as affected by 2011 Wisconsin Act
4 10, is amended to read:

5 40.02 **(25)** (b) 8. Any other state employee for whom coverage is authorized
6 under a collective bargaining agreement pursuant to subch. I, V, or VI of ch. 111 or
7 under s. 230.12 or 233.10.

8 **SECTION 60.** 40.05 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 32,
9 is repealed and recreated to read:

10 40.05 **(1)** (b) In lieu of employee payment, the employer may pay all or part of
11 the contributions required by par. (a), but all the payments shall be available for
12 benefit purposes to the same extent as required contributions deducted from
13 earnings of the participating employees. Action to assume employee contributions
14 as provided under this paragraph shall be taken at the time and in the form
15 determined by the governing body of the participating employer. The state shall pay
16 under this paragraph for employees who are covered by a collective bargaining
17 agreement under subch. V or VI of ch. 111 and for employees whose fringe benefits
18 are determined under s. 230.12 an amount equal to 4 percent of the earnings paid
19 by the state unless otherwise provided in a collective bargaining agreement under
20 subch. V or VI of ch. 111 or unless otherwise determined under s. 230.12. The
21 University of Wisconsin Hospitals and Clinics Authority shall pay under this
22 paragraph for employees who are covered by a collective bargaining agreement
23 under subch. I of ch. 111 and for employees whose fringe benefits are determined
24 under s. 233.10 an amount equal to 4 percent of the earnings paid by the authority
25 unless otherwise provided in a collective bargaining agreement under subch. I of ch.

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1 111 or unless otherwise determined under s. 233.10. The state shall pay under this
2 paragraph for employees who are not covered by a collective bargaining agreement
3 under subch. V or VI of ch. 111 and for employees whose fringe benefits are not
4 determined under s. 230.12 an amount equal to 4 percent of the earnings paid by the
5 state unless a different amount is recommended by the director of the office of state
6 employment relations and approved by the joint committee on employment relations
7 in the manner provided for approval of changes in the compensation plan under s.
8 230.12 (3). The University of Wisconsin Hospitals and Clinics Authority shall pay
9 under this paragraph for its employees who are not covered by a collective bargaining
10 agreement under subch. I of ch. 111 an amount equal to 4 percent of the earnings paid
11 by the authority unless a different amount is established by the board of directors
12 of the authority under s. 233.10.

13 **SECTION 61.** 40.05 (4) (ag) of the statutes, as affected by 2011 Wisconsin Act 32,
14 is repealed and recreated to read:

15 40.05 (4) (ag) Except as otherwise provided in accordance with a collective
16 bargaining agreement under subch. I, V, or VI of ch. 111 or s. 230.12 or 233.10, the
17 employer shall pay for its currently employed insured employees:

18 1. For insured part-time employees other than employees specified in s. 40.02
19 (25) (b) 2., including those in project positions as defined in s. 230.27 (1), who are
20 appointed to work less than 1,566 hours per year, an amount equal to 50 percent of
21 the employer contribution under subd. 2.

22 2. For eligible employees not specified in subd. 1., regardless of the plan
23 selected by the employee, not less than 80 percent of the average premium cost of
24 plans offered in the tier with the lowest employee premium cost under s. 40.51 (6).

ASSEMBLY BILL 338**SECTION 62**

1 **SECTION 62.** 40.05 (4) (b) of the statutes, as affected by 2011 Wisconsin Acts 10
2 and 32, is repealed and recreated to read:

3 40.05 (4) (b) Except as provided under pars. (bc) and (bp), accumulated
4 unused sick leave under ss. 13.121 (4), 36.30, 230.35 (2), 233.10, and 757.02 (5) and
5 subch. I, V, or VI of ch. 111 of any eligible employee shall, at the time of death, upon
6 qualifying for an immediate annuity or for a lump sum payment under s. 40.25 (1)
7 or upon termination of creditable service and qualifying as an eligible employee
8 under s. 40.02 (25) (b) 6. or 10., be converted, at the employee's highest basic pay rate
9 he or she received while employed by the state, to credits for payment of health
10 insurance premiums on behalf of the employee or the employee's surviving insured
11 dependents. Any supplemental compensation that is paid to a state employee who
12 is classified under the state classified civil service as a teacher, teacher supervisor,
13 or education director for the employee's completion of educational courses that have
14 been approved by the employee's employer is considered as part of the employee's
15 basic pay for purposes of this paragraph. The full premium for any eligible employee
16 who is insured at the time of retirement, or for the surviving insured dependents of
17 an eligible employee who is deceased, shall be deducted from the credits until the
18 credits are exhausted and paid from the account under s. 40.04 (10), and then
19 deducted from annuity payments, if the annuity is sufficient. The department shall
20 provide for the direct payment of premiums by the insured to the insurer if the
21 premium to be withheld exceeds the annuity payment. Upon conversion of an
22 employee's unused sick leave to credits under this paragraph or par. (bf), the
23 employee or, if the employee is deceased, the employee's surviving insured
24 dependents may initiate deductions from those credits or may elect to delay
25 initiation of deductions from those credits, but only if the employee or surviving

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1 insured dependents are covered by a comparable health insurance plan or policy
2 during the period beginning on the date of the conversion and ending on the date on
3 which the employee or surviving insured dependents later elect to initiate
4 deductions from those credits. If an employee or an employee's surviving insured
5 dependents elect to delay initiation of deductions from those credits, an employee or
6 the employee's surviving insured dependents may only later elect to initiate
7 deductions from those credits during the annual enrollment period under par. (be).
8 A health insurance plan or policy is considered comparable if it provides hospital and
9 medical benefits that are substantially equivalent to the standard health insurance
10 plan established under s. 40.52 (1).

11 **SECTION 63.** 40.05 (4) (bw) of the statutes, as affected by 2011 Wisconsin Act
12 10, is amended to read:

13 40.05 (4) (bw) On converting accumulated unused sick leave to credits for the
14 payment of health insurance premiums under par. (b), the department shall add
15 additional credits, calculated in the same manner as are credits under par. (b), that
16 are based on a state employee's accumulated sabbatical leave or earned vacation
17 leave from the state employee's last year of service prior to retirement, or both. The
18 department shall apply the credits awarded under this paragraph for the payment
19 of health insurance premiums only after the credits awarded under par. (b) are
20 exhausted. This paragraph applies only to state employees who are eligible for
21 accumulated unused sick leave conversion under par. (b) and who are entitled to the
22 benefits under this paragraph pursuant to a collective bargaining agreement under
23 subch. V or VI of ch. 111.

24 **SECTION 64.** 40.05 (4g) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
25 10, is amended to read:

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1 40.05 (4g) (a) 4. Has received a military leave of absence under s. 230.32 (3) (a)
2 or 230.35 (3), under a collective bargaining agreement under subch. V or VI of ch. 111
3 or under rules promulgated by the director of the office of state employment relations
4 or is eligible for reemployment with the state under s. 321.64 after completion of his
5 or her service in the U.S. armed forces.

6 **SECTION 65.** 40.05 (5) (intro.) of the statutes, as affected by 2011 Wisconsin Act
7 10, is amended to read:

8 40.05 (5) INCOME CONTINUATION INSURANCE PREMIUMS. (intro.) For the income
9 continuation insurance provided under subch. V the employee shall pay the amount
10 remaining after the employer has contributed the following or, if different, the
11 amount determined under a collective bargaining agreement under subch. I, V, or VI
12 of ch. 111 or s. 230.12 or 233.10:

13 **SECTION 66.** 40.05 (5) (b) 4. of the statutes, as affected by 2011 Wisconsin Acts
14 10 and 32, is amended to read:

15 40.05 (5) (b) 4. The accrual and crediting of sick leave shall be determined in
16 accordance with ss. 13.121 (4), 36.30, 230.35 (2), 233.10, 238.04 (8), and 757.02 (5)
17 and subch. I, V, or VI of ch. 111.

18 **SECTION 67.** 40.05 (6) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
19 is amended to read:

20 40.05 (6) (a) Except as otherwise provided in accordance with a collective
21 bargaining agreement under subch. I, V, or VI of ch. 111 or s. 230.12 or 233.10, each
22 insured employee under the age of 70 and annuitant under the age of 65 shall pay
23 for group life insurance coverage a sum, approved by the group insurance board,
24 which shall not exceed 60 cents monthly for each \$1,000 of group life insurance,
25 based upon the last amount of insurance in force during the month for which

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1 earnings are paid. The equivalent premium may be fixed by the group insurance
2 board if the annual compensation is paid in other than 12 monthly installments.

3 **SECTION 68.** 40.51 (7) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
4 is renumbered 40.51 (7) and amended to read:

5 40.51 (7) Any employer, other than the state, may offer to all of its employees
6 a health care coverage plan through a program offered by the group insurance board.
7 Notwithstanding sub. (2) and ss. 40.05 (4) and 40.52 (1), the department may by rule
8 establish different eligibility standards or contribution requirements for such
9 employees and employers and may by rule limit the categories of employers, other
10 than the state, which may be included as participating employers under this
11 subchapter. Beginning on January 1, 2012, except as otherwise provided in a
12 collective bargaining agreement under subch. IV of ch. 111 ~~and except as provided~~
13 ~~in par. (b)~~, an employer may not offer a health care coverage plan to its employees
14 under this subsection if the employer pays more than 88 percent of the average
15 premium cost of plans offered in any tier with the lowest employee premium cost
16 under this subsection.

17 **SECTION 69.** 40.51 (7) (b) of the statutes, as created by 2011 Wisconsin Act 32,
18 is repealed.

19 **SECTION 70.** 40.62 (2) of the statutes, as affected by 2011 Wisconsin Acts 10 and
20 32, is amended to read:

21 40.62 (2) Sick leave accumulation shall be determined in accordance with rules
22 of the department, any collective bargaining agreement under subch. I, V, or VI of
23 ch. 111, and ss. 13.121 (4), 36.30, 49.825 (4) (d) and (5) (d), 49.826 (4) (d), 230.35 (2),
24 233.10, 238.04 (8), 757.02 (5) and 978.12 (3).

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1 **SECTION 71.** 40.80 (3) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 40.80 (3) Any action taken under this section shall apply to employees covered
4 by a collective bargaining agreement under subch. V or VI of ch. 111.

5 **SECTION 72.** 40.81 (3) of the statutes, as affected by 2011 Wisconsin Act 10, is
6 amended to read:

7 40.81 (3) Any action taken under this section shall apply to employees covered
8 by a collective bargaining agreement under subch. IV ~~or~~ V, or VI of ch. 111.

9 **SECTION 73.** 40.95 (1) (a) 2. of the statutes, as affected by 2011 Wisconsin Act
10 is amended to read:

11 40.95 (1) (a) 2. The employee has his or her compensation established in a
12 collective bargaining agreement under subch. V or VI of ch. 111.

13 **SECTION 74.** 46.284 (4) (m) of the statutes is created to read:

14 46.284 (4) (m) Compensate providers, as defined in s. 46.2898 (1) (e), in
15 accordance with any agreement under subch. V of ch. 111 relating to a provider hired
16 directly by an enrollee and make any payroll deductions authorized by those
17 agreements.

18 **SECTION 75.** 46.2895 (8) (a) 1. of the statutes, as affected by 2011 Wisconsin Act
19 is amended to read:

20 46.2895 (8) (a) 1. If the long-term care district offers employment to any
21 individual who was previously employed by a county, which participated in creating
22 the district and at the time of the offer had not withdrawn or been removed from the
23 district under sub. (14), and who while employed by the county performed duties
24 relating to the same or a substantially similar function for which the individual is
25 offered employment by the district and whose wages, hours, and conditions of

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1 employment were established in a collective bargaining agreement with the county
2 under subch. IV of ch. 111 that is in effect on the date that the individual commences
3 employment with the district, with respect to that individual, abide by the terms of
4 the collective bargaining agreement concerning the individual's wages and, if
5 applicable, vacation allowance, sick leave accumulation, sick leave bank, holiday
6 allowance, funeral leave allowance, personal day allowance, or paid time off
7 allowance until the time of the expiration of that collective bargaining agreement or
8 adoption of a collective bargaining agreement with the district under subch. IV of ch.
9 111 covering the individual as an employee of the district, whichever occurs first.

10 **SECTION 76.** 46.2898 of the statutes is created to read:

11 **46.2898 Quality home care. (1) DEFINITIONS.** In this section:

12 (a) "Authority" means the Wisconsin Quality Home Care Authority.

13 (b) "Care management organization" has the meaning given in s. 46.2805 (1).

14 (cm) "Consumer" means an adult who receives home care services and who
15 meets all of the following criteria:

16 1. Is a resident of any of the following:

17 a. A county that has acted under sub. (2) (a).

18 b. A county in which the Family Care Program under s. 46.286 is available.

19 c. A county in which the Program of All-Inclusive Care for the Elderly under
20 42 USC 1396u-4 is available.

21 d. A county in which the self-directed services option program under 42 USC
22 1396n (c) is available or in which a program operated under an amendment to the
23 state medical assistance plan under 42 USC 1396n (j) is available.

24 2. Self-directs all or part of his or her home care services and is an employer
25 listed on the provider's income tax forms.

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1 3. Is eligible to receive a home care benefit under one of the following:

2 a. The Family Care Program under s. 46.286.

3 b. The Program of All-Inclusive Care for the Elderly, under 42 USC 1396u-4.

4 c. A program operated under a waiver from the secretary of the federal
5 department of health and human services under 42 USC 1396n (c) or 42 USC 1396n
6 (b) and (c) or the self-directed services option operated under 42 USC 1396n (c).

7 d. A program operated under an amendment to the state medical assistance
8 plan under 42 USC 1396n (j).

9 (dm) "Home care" means supportive home care, personal care, and other
10 nonprofessional services of a type that may be covered under a medical assistance
11 waiver under 42 USC 1396n (c) and that are provided to individuals to assist them
12 in meeting their daily living needs, ensuring adequate functioning in their homes,
13 and permitting safe access to their communities.

14 (e) "Provider" means an individual who is hired by a consumer to provide home
15 care to the consumer but does not include any of the following:

16 1. A person, while he or she is providing services in the capacity of an employee
17 of any of the following entities:

18 a. A home health agency licensed under s. 50.49.

19 b. A personal care provider agency.

20 c. A company or agency providing supportive home care.

21 d. An independent living center, as defined in s. 46.96 (1) (ah).

22 e. A county agency or department under s. 46.215, 46.22, 46.23, 51.42, or
23 51.437.

24 2. A health care provider, as defined in s. 146.997 (1) (d), acting in his or her
25 professional capacity.

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1 (f) "Qualified provider" means a provider who meets the qualifications for
2 payment through the Family Care Program under s. 46.286, the Program for
3 All-Inclusive Care for the Elderly operated under 42 USC 1396u-4, an amendment
4 to the state medical assistance plan under 42 USC 1396n (j), or a medical assistance
5 waiver program operated under a waiver from the secretary of the U.S. department
6 of health and human services under 42 USC 1396n (c) or 42 USC 1396n (b) and (c)
7 and any qualification criteria established in the rules promulgated under sub. (7)
8 and who the authority determines is eligible for placement on the registry
9 maintained by the authority under s. 52.20 (1).

10 (2) COUNTY PARTICIPATION. (a) A county board of supervisors may require a
11 county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 to follow
12 procedures under this section and to pay providers in accordance with agreements
13 under subch. V of ch. 111.

14 (b) If a county acts under par. (a), it shall notify the department and the
15 authority of its action.

16 (c) A county that acts under par. (a) shall compensate providers in accordance
17 with any agreement under subch. V of ch. 111 and make any payroll deductions
18 authorized by such agreements.

19 (4) DUTIES OF HOME CARE PAYORS. Care management organizations, the state,
20 and counties, as described under sub. (1) (cm) 1. a. to d., that pay for the provision
21 of home care services to consumers shall provide to the authority the name, address,
22 telephone number, date of hire, and date of termination of any provider hired by an
23 individual receiving home care services.

24 (5) DUTIES OF CONSUMERS. A consumer shall do all of the following:

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1 (a) Inform the authority of the name, address, telephone number, date of hire,
2 and date of termination of any provider hired by the consumer to provide home care
3 services.

4 (b) Compensate providers in accordance with any collective bargaining
5 agreement that applies to home care providers under subch. V of ch. 111 and make
6 any payroll deductions authorized by the agreement.

7 **(6) PROVIDERS.** (a) A qualified provider providing home care services under this
8 section shall be subject to the collective bargaining agreement that applies to home
9 care providers under subch. V of ch. 111.

10 (b) A qualified provider may choose to be placed on the registry maintained by
11 the authority under s. 52.20 (1).

12 **(7) DEPARTMENT RULE-MAKING.** The department may promulgate rules defining
13 terms, specifying which services constitute home care, establishing the qualification
14 criteria that apply under sub. (1) (f), and establishing procedures for implementation
15 of this section.

16 **SECTION 77.** 46.48 (9m) of the statutes is created to read:

17 46.48 **(9m)** QUALITY HOME CARE. The department shall award a grant to the
18 Wisconsin Quality Home Care Authority for the purpose of providing services to
19 recipients and providers of home care under s. 46.2898 and ch. 52 and may award
20 grants to counties to facilitate transition to procedures established under s. 46.2898.

21 **SECTION 78.** 49.825 (3) (b) 4. of the statutes is created to read:

22 49.825 **(3)** (b) 4. The department may enter into a memorandum of
23 understanding, as described under s. 111.70 (3m), with the certified representative
24 of the county employees performing services under this section for the unit. If there
25 is a dispute as to hours or conditions of employment that remains between the

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1 department and the certified representative after a good faith effort to resolve it, the
2 department may unilaterally resolve the dispute.

3 **SECTION 79.** 49.826 (3) (b) 4. of the statutes is created to read:

4 49.826 (3) (b) 4. The department may enter into a memorandum of
5 understanding, as described under s. 111.70 (3p), with the certified representative
6 of the county employees performing services under this section in the county for the
7 unit. If there is a dispute as to hours or conditions of employment that remains
8 between the department and the certified representative after a good faith effort to
9 resolve it, the department may unilaterally resolve the dispute.

10 **SECTION 80.** Chapter 52 of the statutes is created to read:

11 **CHAPTER 52**

12 **QUALITY HOME CARE**

13 **52.01 Definitions.** In this chapter:

14 (1) "Authority" means the Wisconsin Quality Home Care Authority.

15 (2) "Board" means the board of directors of the authority.

16 (3) "Care management organization" has the meaning given in s. 46.2805 (1).

17 (3m) "Consumer" has the meaning given in s. 46.2898 (1) (cm).

18 (4) "Department" means the department of health services.

19 (5) "Family Care Program" means the benefit program described in s. 46.286.

20 (6) "Home care provider" means an individual who is a qualified provider under
21 s. 46.2898 (1) (f).

22 (7) "Medical assistance waiver program" means a program operated under a
23 waiver from the secretary of the U.S. department of health and human services
24 under 42 USC 1396n (c) or 42 USC 1396n (b) and (c).

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1 (8) “Program of All-Inclusive Care for the Elderly” means the program
2 operated under 42 USC 1396u-4.

3 **52.05 Creation and organization of authority.** (1) CREATION AND
4 MEMBERSHIP OF BOARD. There is created a public body corporate and politic to be
5 known as the “Wisconsin Quality Home Care Authority.” The members of the board
6 shall consist of the following members:

7 (a) The secretary of the department of health services or his or her designee.

8 (b) The secretary of the department of workforce development or his or her
9 designee.

10 (c) The following, to be appointed by the governor to serve 3-year terms:

11 1. One representative from the state assembly.

12 2. One representative from the state senate.

13 3. One representative of care management organizations.

14 4. One representative of county departments, under s. 46.215, 46.22, 46.23,
15 51.42, or 51.437, selected from counties where the Family Care Program is not
16 available.

17 5. One representative of the board for people with developmental disabilities.

18 6. One representative of the council on physical disabilities.

19 7. One representative of the council on mental health.

20 8. One representative of the board on aging and long-term care.

21 9. Eleven individuals, each of whom is a current or former recipient of home
22 care services through the Family Care Program or a medical assistance waiver
23 program or an advocate for or representative of consumers of home care services.

24 (3) CHAIRPERSON. Annually, the governor shall appoint one member of the
25 board to serve as the chairperson.

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1 **(4) EXECUTIVE COMMITTEE.** (a) The board shall elect an executive committee.
2 The executive committee shall consist of the chair of the board, the secretary of the
3 department of health services or his or her designee, the secretary of the department
4 of workforce development or his or her designee, and 3 persons selected from board
5 members appointed under sub. (1) (c) 9.

6 (b) The executive committee may do the following:

- 7 1. Hire an executive director who is not a member of the board and serves at
8 the pleasure of the board.
- 9 2. Hire employees to carry out the duties of the authority.
- 10 3. Engage in contracts for services to carry out the duties of the authority.

11 **(5) TERMS.** The terms of members of the board appointed under sub. (1) (c) shall
12 expire on July 1.

13 **(6) QUORUM.** A majority of the members of the board constitutes a quorum for
14 the purpose of conducting its business and exercising its powers and for all other
15 purposes, notwithstanding the existence of any vacancies. Action may be taken by
16 the board upon a vote of a majority of the members present. Meetings of the members
17 of the board may be held anywhere within the state.

18 **(7) VACANCIES.** Each member of the board shall hold office until a successor is
19 appointed and qualified unless the member vacates or is removed from his or her
20 office. A member who serves as a result of holding another office or position vacates
21 his or her office as a member when he or she vacates the other office or position. A
22 member who ceases to qualify for office vacates his or her office. A vacancy on the
23 board shall be filled in the same manner as the original appointment to the board for
24 the remainder of the unexpired term, if any.

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1 **(8) COMPENSATION.** The members of the board are not entitled to compensation
2 for the performance of their duties. The authority may reimburse members of the
3 board for actual and necessary expenses incurred in the discharge of their official
4 duties as provided by the board.

5 **(9) EMPLOYMENT OF BOARD MEMBER.** It is not a conflict of interest for a board
6 member to engage in private or public employment or in a profession or business,
7 except to the extent prohibited by law, while serving as a member of the board.

8 **52.10 Powers of authority.** The authority shall have all the powers
9 necessary or convenient to carry out the purposes and provisions of this chapter and
10 s. 46.2898. In addition to all other powers granted the authority under this chapter,
11 the authority may:

12 **(1)** Adopt policies and procedures to govern its proceedings and to carry out its
13 duties as specified in this chapter.

14 **(2)** Employ, appoint, engage, compensate, transfer, or discharge necessary
15 personnel.

16 **(3)** Make or enter into contracts, including contracts for the provision of legal
17 or accounting services.

18 **(4)** Award grants for the purposes set forth in this chapter.

19 **(5)** Buy, lease, or sell real or personal property.

20 **(6)** Sue and be sued.

21 **(7)** Accept gifts, grants, or assistance funds and use them for the purposes of
22 this chapter.

23 **(8)** Collect fees for its services.

24 **52.20 Duties of authority.** The authority shall:

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1 (1) Establish and maintain a registry of eligible home care providers who
2 choose to be on the registry for purposes of employment by consumers and provide
3 referral services for consumers in need of home care services.

4 (2) Determine the eligibility of individuals for placement on the registry. For
5 purposes of determining eligibility, the authority shall apply the criteria described
6 in s. 46.2898 (1) (f), including any qualifying criteria established by the department
7 under s. 46.2898 (7). The authority shall also develop an appeal process for denial
8 of placement on or removal of a provider from the registry consistent with the terms
9 of the medical assistance waiver programs, the Family Care Program, an
10 amendment to the state medical assistance plan under 42 USC 1396n (j), or the
11 Program of All-Inclusive Care for the Elderly, as determined by the department.

12 (3) Comply with any conditions necessary for consumers receiving home care
13 services to receive federal medical assistance funding through a medical assistance
14 waiver program, the Family Care Program, an amendment to the state medical
15 assistance plan under 42 USC 1396n (j), or the Program of All-Inclusive Care for the
16 Elderly.

17 (4) Develop and operate recruitment and retention programs to expand the
18 pool of home care providers qualified and available to provide home care services to
19 consumers.

20 (5) Maintain a list of home care providers included in a collective bargaining
21 unit under s. 111.825 (2g) and provide the list of home care providers to the
22 department at the department's request.

23 (6) Notify home care providers providing home care services of any procedures
24 for remaining a qualified provider under s. 46.2898 (1) (f) set forth by the department
25 or the authority.

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1 (7) Provide orientation activities and skills training for home care providers.

2 (8) Provide training and support for consumers hiring a home care provider
3 regarding the duties and responsibilities of employers and skills needed to be
4 effective employers.

5 (9) Inform consumers of the experience and qualifications of home care
6 providers on the registry and home care providers identified by consumers of home
7 care services for employment.

8 (10) Develop and operate a system of backup and respite referrals to home care
9 providers and a 24-hour per day call service for consumers of home care services.

10 (11) Report annually to the governor on the number of home care providers on
11 the registry and the number of home care providers providing services under the
12 authority.

13 (12) Conduct activities to improve the supply and quality of home care
14 providers.

15 **52.30 Liability limited.** (1) The state, any political subdivision of the state,
16 or any officer, employee, or agent of the state or a political subdivision who is acting
17 within the scope of employment or agency is not liable for any debt, obligation, act,
18 or omission of the authority.

19 (2) All expenses incurred by the authority in exercising its duties and powers
20 under this chapter shall be payable only from funds of the authority.

21 **52.40 Health data.** Any health data or identifying information collected by
22 the authority is collected for the purpose of government regulatory and management
23 functions.

24 **SECTION 81.** 59.875 (2) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
25 is renumbered 59.875 (2) and amended to read:

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1 59.875 (2) Beginning on July 1, 2011, in any employee retirement system of a
2 county, except as otherwise provided in a collective bargaining agreement entered
3 into under subch. IV of ch. 111 ~~and except as provided in par. (b)~~, employees shall pay
4 half of all actuarially required contributions for funding benefits under the
5 retirement system. The employer may not pay on behalf of an employee any of the
6 employee's share of the actuarially required contributions.

7 **SECTION 82.** 59.875 (2) (b) of the statutes, as created by 2011 Wisconsin Act 32,
8 is repealed.

9 **SECTION 83.** 62.623 (1) of the statutes, as affected by 2011 Wisconsin Act 32,
10 is renumbered 62.623 and amended to read:

11 **62.623 Payment of contributions in an employee retirement system of**
12 **a 1st class city.** Beginning on July 1, 2011, in any employee retirement system of
13 a 1st class city, except as otherwise provided in a collective bargaining agreement
14 entered into under subch. IV of ch. 111 ~~and except as provided in sub. (2)~~, employees
15 shall pay all employee required contributions for funding benefits under the
16 retirement system. The employer may not pay on behalf of an employee any of the
17 employee's share of the required contributions.

18 **SECTION 84.** 62.623 (2) of the statutes, as affected by 2011 Wisconsin Act 32,
19 is repealed.

20 **SECTION 85.** 66.0506 of the statutes, as affected by 2011 Wisconsin Act 32, is
21 repealed.

22 **SECTION 86.** 66.0508 of the statutes, as created by 2011 Wisconsin Act 10, is
23 repealed.

24 **SECTION 87.** 66.0509 (1m) of the statutes, as created by 2011 Wisconsin Act 10,
25 is repealed.

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1 **SECTION 88.** 70.11 (41s) of the statutes is created to read:

2 70.11 (41s) WISCONSIN QUALITY HOME CARE AUTHORITY. All property owned by
3 the Wisconsin Quality Home Care Authority, provided that use of the property is
4 primarily related to the purposes of the authority.

5 **SECTION 89.** 71.26 (1) (be) of the statutes, as affected by 2011 Wisconsin Act 10,
6 is amended to read:

7 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
8 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
9 Authority, of the Wisconsin Quality Home Care Authority, of the Fox River
10 Navigational System Authority, of the Wisconsin Economic Development
11 Corporation, and of the Wisconsin Aerospace Authority.

12 **SECTION 90.** 73.03 (68) of the statutes, as created by 2011 Wisconsin Act 10, is
13 repealed.

14 **SECTION 91.** 77.54 (9a) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
15 is amended to read:

16 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
17 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
18 Insurance Risk-Sharing Plan Authority, the Wisconsin Quality Home Care
19 Authority, the Wisconsin Economic Development Corporation, and the Fox River
20 Navigational System Authority.

21 **SECTION 92.** 100.45 (1) (dm) of the statutes, as affected by 2011 Wisconsin Act
22 10, is amended to read:

23 100.45 (1) (dm) “State agency” means any office, department, agency,
24 institution of higher education, association, society or other body in state
25 government created or authorized to be created by the constitution or any law which

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1 is entitled to expend moneys appropriated by law, including the legislature and the
2 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
3 Center Sports and Entertainment Corporation, the University of Wisconsin
4 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
5 Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care
6 Authority, the Wisconsin Economic Development Corporation, and the Fox River
7 Navigational System Authority.

8 **SECTION 93.** 101.177 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
9 10, is amended to read:

10 101.177 (1) (d) "State agency" means any office, department, agency,
11 institution of higher education, association, society, or other body in state
12 government created or authorized to be created by the constitution or any law, that
13 is entitled to expend moneys appropriated by law, including the legislature and the
14 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
15 Center Sports and Entertainment Corporation, the University of Wisconsin
16 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
17 Quality Home Care Authority, the Wisconsin Economic Development Corporation,
18 and the Wisconsin Health and Educational Facilities Authority, but excluding the
19 Health Insurance Risk-Sharing Plan Authority and the Lower Fox River
20 Remediation Authority.

21 **SECTION 94.** 109.03 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 10,
22 is amended to read:

23 109.03 (1) (b) School district and private school employees who voluntarily
24 request payment over a 12-month period for personal services performed during the
25 school year, unless, ~~with respect to private school employees, the~~ such employees are

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1 covered under a valid collective bargaining agreement which precludes this method
2 of payment.

3 **SECTION 95.** 111.02 (1) of the statutes, as affected by 2011 Wisconsin Act 10, is
4 amended to read:

5 111.02 (1) "All-union agreement" means an agreement between an employer
6 other than the University of Wisconsin Hospitals and Clinics Authority and the
7 representative of the employer's employees in a collective bargaining unit whereby
8 all or any of the employees in such unit are required to be members of a single labor
9 organization.

10 **SECTION 96.** 111.02 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
11 amended to read:

12 111.02 (2) "Collective bargaining" means the negotiation by an employer and
13 a majority of the employer's employees in a collective bargaining unit, or their
14 representatives, concerning representation or terms and conditions of employment
15 of such employees, except as provided under ss. 111.05 (5) and 111.17 (2), in a
16 mutually genuine effort to reach an agreement with reference to the subject under
17 negotiation.

18 **SECTION 97.** 111.02 (3) of the statutes, as affected by 2011 Wisconsin Act 10, is
19 amended to read:

20 111.02 (3) "Collective bargaining unit" means all of the employees of one
21 employer, employed within the state, except as provided in s. 111.05 (5) and (7) and
22 except that where a majority of the employees engaged in a single craft, division,
23 department or plant have voted by secret ballot as provided in s. 111.05 (2) to
24 constitute such group a separate bargaining unit they shall be so considered, but, in
25 appropriate cases, and to aid in the more efficient administration of ss. 111.01 to

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1 111.19, the commission may find, where agreeable to all parties affected in any way
2 thereby, an industry, trade or business comprising more than one employer in an
3 association in any geographical area to be a “collective bargaining unit”. A collective
4 bargaining unit thus established by the commission shall be subject to all rights by
5 termination or modification given by ss. 111.01 to 111.19 in reference to collective
6 bargaining units otherwise established under ss. 111.01 to 111.19. Two or more
7 collective bargaining units may bargain collectively through the same
8 representative where a majority of the employees in each separate unit have voted
9 by secret ballot as provided in s. 111.05 (2) so to do.

10 **SECTION 98.** 111.02 (6) (am) of the statutes is created to read:

11 111.02 (6) (am) “Employee” includes a child care provider certified under s.
12 48.651 and a child care provider licensed under s. 48.65 who provides care and
13 supervision for not more than 8 children who are not related to the child care
14 provider.

15 **SECTION 99.** 111.02 (7) (a) of the statutes is renumbered 111.02 (7) (a) (intro.)

16 and amended to read:

17 111.02 (7) (a) (intro.) “Employer” means a person who engages the services of
18 an employee, and includes ~~a~~ all of the following:

19 1. A person acting on behalf of an employer within the scope of his or her
20 authority, express or implied.

21 **SECTION 100.** 111.02 (7) (a) 2., 3. and 4. of the statutes are created to read:

22 111.02 (7) (a) 2. The University of Wisconsin Hospitals and Clinics Authority.

23 3. A local cultural arts district created under subch. V of ch. 229.

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1 4. With respect to an employee under sub. (6) (am), the state, counties, and
2 other administrative entities involved in regulation and subsidization of employees
3 under sub. (6) (am).

4 **SECTION 101.** 111.02 (7) (b) 1. of the statutes, as affected by 2011 Wisconsin Act
5 10, is amended to read:

6 111.02 (7) (b) 1. The Except as provided in par. (a) 4., the state or any political
7 subdivision thereof.

8 **SECTION 102.** 111.02 (7m), (9m) and (10m) of the statutes are created to read:

9 111.02 (7m) “Fair-share agreement” means an agreement between the
10 University of Wisconsin Hospitals and Clinics Authority and a labor organization
11 representing employees of that authority, or between an employer defined under sub.
12 (7) (a) 4. and a labor organization representing employees under sub. (6) (am), under
13 which all of the employees in a collective bargaining unit are required to pay their
14 proportionate share of the cost of the collective bargaining process and contract
15 administration measured by the amount of dues uniformly required of all members.

16 **(9m)** “Maintenance of membership agreement” means any of the following:

17 (a) An agreement between the University of Wisconsin Hospitals and Clinics
18 Authority and a labor organization representing employees of that authority which
19 requires that all of the employees whose dues are being deducted from earnings
20 under s. 20.921 (1) or 111.06 (1) (i) at the time the agreement takes effect shall
21 continue to have dues deducted for the duration of the agreement and that dues shall
22 be deducted from the earnings of all employees who are hired on or after the effective
23 date of the agreement.

24 (b) An agreement between an employer under sub. (7) (a) 4. and a labor
25 organization representing employees under sub. (6) (am) which requires that all of

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1 the employees whose dues are being deducted from earnings under s. 111.06 (1) (i)
2 at the time the agreement takes effect shall continue to have dues deducted for the
3 duration of the agreement and that dues shall be deducted from the earnings of all
4 employees who are hired on or after the effective date of the agreement.

5 **(10m)** "Referendum" means a proceeding conducted by the commission in
6 which employees of the University of Wisconsin Hospitals and Clinics Authority in
7 a collective bargaining unit or in which employees under sub. (6) (am) in a collective
8 bargaining unit may cast a secret ballot on the question of directing the labor
9 organization and the employer to enter into a fair-share or maintenance of
10 membership agreement or to terminate such an agreement.

11 **SECTION 103.** 111.05 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
12 is amended to read:

13 111.05 (2) ~~Whenever~~ Except as provided in subs. (5) and (7), whenever a
14 question arises concerning the determination of a collective bargaining unit, it shall
15 be determined by secret ballot, and the commission, upon request, shall cause the
16 ballot to be taken in such manner as to show separately the wishes of the employees
17 in any craft, division, department or plant as to the determination of the collective
18 bargaining unit.

19 **SECTION 104.** 111.05 (3g) of the statutes is created to read:

20 111.05 (3g) Notwithstanding subs. (3) and (4), if on June 30, 1997, there is a
21 representative recognized or certified to represent any of the units specified in s.
22 111.825 (1) (f) 1., 5. or 9., that representative shall become the representative of the
23 employees in the corresponding collective bargaining units specified in sub. (5) (a)
24 1. to 3., without the necessity of filing a petition or conducting an election, subject to
25 the right of any person to file a petition under this section on or after October 1, 1998.

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1 **SECTION 105.** 111.05 (5) of the statutes is created to read:

2 111.05 (5) (a) Collective bargaining units for representation of the employees
3 of the University of Wisconsin Hospitals and Clinics Authority shall include one unit
4 for employees engaged in each of the following functions:

- 5 1. Fiscal and staff services.
- 6 2. Patient care.
- 7 3. Science.
- 8 4. Clerical and related.
- 9 5. Blue collar and nonbuilding trades.
- 10 6. Building trades crafts.
- 11 7. Security and public safety.
- 12 8. Technical.

13 (b) Collective bargaining units for representation of the employees of the
14 University of Wisconsin Hospitals and Clinics Authority who are engaged in a
15 function not specified in par. (a) shall be determined in the manner provided in this
16 section. The creation of any collective bargaining unit for such employees is subject
17 to approval of the commission. The commission shall not permit fragmentation of
18 such collective bargaining units or creation of any such collective bargaining unit
19 that is too small to provide adequate representation of employees. In approving such
20 collective bargaining units, the commission shall give primary consideration to the
21 authority's needs to fulfill its statutory missions.

22 **SECTION 106.** 111.05 (6) of the statutes is created to read:

23 111.05 (6) If a single representative is recognized or certified to represent more
24 than one of the collective bargaining units specified in sub. (5), that representative
25 and the employer may jointly agree to combine the collective bargaining units,

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1 subject to the right of the employees in any of the collective bargaining units that
2 were combined to petition for an election under subs. (3) and (3g). Any agreement
3 under this subsection is effective upon written notice of the agreement by the parties
4 to the commission and terminates upon written notice of termination by the parties
5 to the commission or upon decertification of the representative entering into the
6 agreement as representative of one of the combined collective bargaining units,
7 whichever occurs first.

8 **SECTION 107.** 111.05 (7) of the statutes is created to read:

9 111.05 (7) Employees under s. 111.02 (6) (am) shall comprise a single collective
10 bargaining unit.

11 **SECTION 108.** 111.06 (1) (c) 1. of the statutes, as affected by 2011 Wisconsin Act
12 10, is amended to read:

13 111.06 (1) (c) 1. To encourage or discourage membership in any labor
14 organization, employee agency, committee, association or representation plan by
15 discrimination in regard to hiring, tenure or other terms or conditions of employment
16 except in a collective bargaining unit where an all-union, fair-share, or
17 maintenance of membership agreement is in effect. An employer is not prohibited
18 from entering into an all-union agreement with the voluntarily recognized
19 representative of the employees in a collective bargaining unit, where at least a
20 majority of such employees voting have voted affirmatively, by secret ballot, in favor
21 of the all-union agreement in a referendum conducted by the commission, except
22 that where the bargaining representative has been certified by either the
23 commission or the national labor relations board as the result of a representation
24 election, no referendum is required to authorize the entry into an all-union
25 agreement. An authorization of an all-union agreement continues, subject to the

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1 right of either party to the all-union agreement to petition the commission to conduct
2 a new referendum on the subject. Upon receipt of the petition, the commission shall
3 determine whether there is reasonable ground to believe that the employees
4 concerned have changed their attitude toward the all-union agreement and upon so
5 finding the commission shall conduct a referendum. If the continuance of the
6 all-union agreement is supported on a referendum by a vote at least equal to that
7 provided in this subdivision for its initial authorization, it may continue, subject to
8 the right to petition for a further vote by the procedure under this subdivision. If the
9 continuance of the all-union agreement is not supported on a referendum, it
10 terminates at the expiration of the contract of which it is then a part or at the end
11 of one year from the date of the announcement by the commission of the result of the
12 referendum, whichever is earlier. The commission shall declare any all-union
13 agreement terminated whenever it finds that the labor organization involved has
14 unreasonably refused to receive as a member any employee of such employer, and
15 each such all-union agreement is subject to this duty of the commission. Any person
16 interested may come before the commission as provided in s. 111.07 and ask the
17 performance of this duty. Any all-union agreement in effect on October 4, 1975,
18 made in accordance with the law in effect at the time it is made is valid.

19 **SECTION 109.** 111.06 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
20 10, is amended to read:

21 111.06 (1) (d) To refuse to bargain collectively with the representative of a
22 majority of the employer's employees in any collective bargaining unit with respect
23 to representation or terms and conditions of employment, except as provided under
24 ss. 111.05 (5) and 111.17 (2); provided, however, that where an employer files with
25 the commission a petition requesting a determination as to majority representation,

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1 the employer shall not be deemed to have refused to bargain until an election has
2 been held and the result thereof has been certified to the employer by the
3 commission.

4 **SECTION 110.** 111.06 (1) (i) of the statutes, as affected by 2011 Wisconsin Act
5 10, is amended to read:

6 111.06 (1) (i) To deduct labor organization dues or assessments from an
7 employee's earnings, unless the employer has been presented with an individual
8 order therefor, signed by the employee personally, and terminable at the end of any
9 year of its life by the employee giving at least thirty days' written notice of such
10 termination unless there is an all-union, fair-share or maintenance of membership
11 agreement in effect. The employer shall give notice to the labor organization of
12 receipt of such notice of termination.

13 **SECTION 111.** 111.06 (1) (m) of the statutes is created to read:

14 111.06 (1) (m) To fail to give the notice of intention to engage in a lockout
15 provided in s. 111.115 (2).

16 **SECTION 112.** 111.06 (2) (i) of the statutes, as affected by 2011 Wisconsin Act
17 10, is amended to read:

18 111.06 (2) (i) To fail to give the notice of intention to engage in a strike provided
19 in s. 111.115 (2) or (3).

20 **SECTION 113.** 111.075 of the statutes is created to read:

21 **111.075 Fair-share and maintenance of membership agreements. (1)**
22 (a) No fair-share or maintenance of membership agreement is effective unless
23 authorized by a referendum. The commission shall order a referendum whenever it
24 receives a petition supported by proof that at least 30 percent of the employees in a
25 collective bargaining unit desire that a fair-share or maintenance of membership

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1 agreement be entered into between the employer and a labor organization. A petition
2 may specify that a referendum is requested on a maintenance of membership
3 agreement only, in which case the ballot shall be limited to that question.

4 (b) For a fair-share agreement to be authorized, at least two-thirds of the
5 eligible employees voting in a referendum must vote in favor of the agreement. For
6 a maintenance of membership agreement to be authorized, at least a majority of the
7 eligible employees voting in a referendum must vote in favor of the agreement. In
8 a referendum on a fair-share agreement, if less than two-thirds but more than
9 one-half of the eligible employees vote in favor of the agreement, a maintenance of
10 membership agreement is authorized.

11 (c) If a fair-share or maintenance of membership agreement is authorized in
12 a referendum, the employer shall enter into a fair-share or maintenance of
13 membership agreement with the labor organization named on the ballot in the
14 referendum. Each fair-share or maintenance of membership agreement must
15 contain a provision requiring the employer to deduct the amount of dues as certified
16 by the labor organization from the earnings of the employees affected by the
17 agreement and to pay the amount deducted to the labor organization. Unless the
18 parties agree to an earlier date, the agreement takes effect 60 days after certification
19 by the commission that the referendum vote authorized the agreement. The
20 employer shall be held harmless against any claims, demands, suits, and other forms
21 of liability made by employees or local labor organizations which may arise for
22 actions taken by the employer in compliance with this section. All lawful claims,
23 demands, suits, and other forms of liability are the responsibility of the labor
24 organization entering into the agreement.

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1 (d) Under each fair-share or maintenance of membership agreement, an
2 employee who has religious convictions against dues payments to a labor
3 organization based on teachings or tenets of a church or religious body of which he
4 or she is a member shall, on request to the labor organization, have his or her dues
5 paid to a charity mutually agreed upon by the employee and the labor organization.
6 Any dispute concerning this paragraph may be submitted to the commission for
7 adjudication.

8 (2) (a) Once authorized, a fair-share or maintenance of membership
9 agreement continues, subject to the right of the employer or labor organization
10 concerned to petition the commission to conduct a new referendum. The petition
11 must be supported by proof that at least 30 percent of the employees in the collective
12 bargaining unit desire that the fair-share or maintenance of membership agreement
13 be discontinued. Upon so finding, the commission shall conduct a new referendum.
14 If the continuance of the fair-share or maintenance of membership agreement is
15 approved in the referendum by at least the percentage of eligible voting employees
16 required for its initial authorization, it shall continue, subject to the right of the
17 employer or labor organization to later initiate a further vote following the procedure
18 prescribed in this subsection. If the continuation of the agreement is not supported
19 in any referendum, it terminates at the expiration of the collective bargaining
20 agreement, or one year from the date of the certification of the result of the
21 referendum, whichever is earlier.

22 (b) The commission shall declare any fair-share or maintenance of
23 membership agreement suspended upon such conditions and for such time as the
24 commission decides whenever it finds that the labor organization involved has
25 refused on the basis of race, color, sexual orientation, or creed to receive as a member

ASSEMBLY BILL 338**SECTION 113**

1 any employee in the collective bargaining unit involved, and the agreement shall be
2 subject to the findings and orders of the commission. Any of the parties to the
3 agreement, or any employee covered thereby, may come before the commission, as
4 provided in s. 111.07, and petition the commission to make such a finding.

5 (3) A stipulation for a referendum executed by an employer and a labor
6 organization may not be filed until after the representation election has been held
7 and the results certified.

8 (4) The commission may, under rules adopted for that purpose, appoint as its
9 agent an official of the University of Wisconsin Hospitals and Clinics Authority to
10 conduct the referenda provided for in this section.

11 (5) Notwithstanding sub. (1), if on July 1, 1997, there is a fair-share or
12 maintenance of membership agreement in effect in any of the collective bargaining
13 units specified in s. 111.825 (1) (f) 1., 5. or 9., that fair-share or maintenance of
14 membership agreement shall apply to the corresponding collective bargaining unit
15 under s. 111.05 (5) (a) 1. to 3. without the necessity of filing a petition or conducting
16 a referendum, subject to the right of the employees in each collective bargaining unit
17 to file a petition requesting a referendum under sub. (2) (a).

18 (6) This section applies only in collective bargaining units comprised of
19 employees of the University of Wisconsin Hospitals and Clinics Authority.

20 **SECTION 114.** 111.115 (title) of the statutes, as affected by 2011 Wisconsin Act
21 10, is amended to read:

22 **111.115 (title) Notice of certain proposed lockouts or strikes.**

23 **SECTION 115.** 111.115 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
24 is renumbered 111.115 (1) (intro.) and amended to read:

25 111.115 (1) (intro.) In this section, "~~strike~~" subsection:

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1 **(b) “Strike”** includes any concerted stoppage of work by employees, and any
2 concerted slowdown or other concerted interruption of operations or services by
3 employees, or any concerted refusal of employees to work or perform their usual
4 duties as employees, for the purpose of enforcing demands upon an employer.

5 **SECTION 116.** 111.115 (1) (a) of the statutes is created to read:

6 111.115 (1) (a) “Lockout” means the barring of one or more employees from their
7 employment in an establishment by an employer as a part of a labor dispute, which
8 is not directly subsequent to a strike or other job action of a labor organization or
9 group of employees of the employer, or which continues or occurs after the
10 termination of a strike or other job action of a labor organization or group of
11 employees of the employer.

12 **SECTION 117.** 111.115 (2) of the statutes is created to read:

13 111.115 (2) If no collective bargaining agreement is in effect between the
14 University of Wisconsin Hospitals and Clinics Authority and the recognized or
15 certified representative of employees of that authority in a collective bargaining unit,
16 the employer may not engage in a lockout affecting employees in that collective
17 bargaining unit without first giving 10 days’ written notice to the representative of
18 its intention to engage in a lockout, and the representative may not engage in a strike
19 without first giving 10 days’ written notice to the employer of its intention to engage
20 in a strike.

21 **SECTION 118.** 111.17 of the statutes, as affected by 2011 Wisconsin Act 10, is
22 renumbered 111.17 (intro.) and amended to read:

23 **111.17 Conflict of provisions; effect.** (intro.) Wherever the application of
24 the provisions of other statutes or laws conflict with the application of the provisions
25 of this subchapter, this subchapter shall prevail, except ~~that in~~ for the following:

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1 (1) In any situation where the provisions of this subchapter cannot be validly
2 enforced the provisions of such other statutes or laws shall apply.

3 **SECTION 119.** 111.17 (2) of the statutes is created to read:

4 111.17 (2) All fringe benefits authorized or required to be provided by the
5 University of Wisconsin Hospitals and Clinics Authority to its employees under ch.
6 40 shall be governed exclusively by ch. 40, except that if any provision of ch. 40
7 specifically permits a collective bargaining agreement under this subchapter to
8 govern the eligibility for or the application, cost, or terms of a fringe benefit under
9 ch. 40, or provides that the eligibility for or the application, cost, or terms of a fringe
10 benefit under ch. 40 shall be governed by a collective bargaining agreement under
11 this subchapter, a collective bargaining agreement may contain a provision so
12 governing and such a provision supersedes any provision of ch. 40 with respect to the
13 employees to whom the agreement applies. The employer is prohibited from
14 engaging in collective bargaining concerning any matter governed exclusively by ch.
15 40 under this subsection.

16 **SECTION 120.** 111.70 (1) (a) of the statutes, as affected by 2011 Wisconsin Act
17 32, is amended to read:

18 111.70 (1) (a) “Collective bargaining” means the performance of the mutual
19 obligation of a municipal employer, through its officers and agents, and the
20 representative of its municipal employees in a collective bargaining unit, to meet and
21 confer at reasonable times, in good faith, with the intention of reaching an
22 agreement, or to resolve questions arising under such an agreement, with respect to
23 wages, hours, and conditions of employment ~~for public safety employees or transit~~
24 ~~employees and with respect to wages for general municipal employees, and with~~
25 respect to a requirement of the municipal employer for a municipal employee to

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1 perform law enforcement and fire fighting services under s. 60.553, 61.66, or 62.13
2 (2e) and for a school district with respect to any matter under sub. (4) (n) or (o), except
3 as provided in sub. subs. (3m), (3p), and (4) (mb) (m) and (mc) and s. 40.81 (3) and
4 except that a municipal employer shall not meet and confer with respect to any
5 proposal to diminish or abridge the rights guaranteed to any public safety municipal
6 employees under ch. 164. Collective bargaining includes the reduction of any
7 agreement reached to a written and signed document.

8 **SECTION 121.** 111.70 (1) (cm) of the statutes, as created by 2011 Wisconsin Act
9 10, is repealed.

10 **SECTION 122.** 111.70 (1) (f) of the statutes, as affected by 2011 Wisconsin Act
11 32, is amended to read:

12 111.70 (1) (f) "Fair-share agreement" means an agreement between a
13 municipal employer and a labor organization ~~that represents public safety~~
14 ~~employees or transit employees~~ under which all or any of the public safety employees
15 ~~or transit employees~~ in the collective bargaining unit are required to pay their
16 proportionate share of the cost of the collective bargaining process and contract
17 administration measured by the amount of dues uniformly required of all members.

18 **SECTION 123.** 111.70 (1) (fm) of the statutes, as affected by 2011 Wisconsin Act
19 32, is repealed.

20 **SECTION 124.** 111.70 (1) (j) of the statutes, as affected by 2011 Wisconsin Act
21 10, is amended to read:

22 111.70 (1) (j) "Municipal employer" means any city, county, village, town,
23 metropolitan sewerage district, school district, long-term care district, transit
24 authority under s. 59.58 (7) or 66.1039, ~~local cultural arts district created under~~
25 ~~subch. V of ch. 229~~, or any other political subdivision of the state, or instrumentality

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1 of one or more political subdivisions of the state, that engages the services of an
2 employee and includes any person acting on behalf of a municipal employer within
3 the scope of the person's authority, express or implied, but specifically does not
4 include a local cultural arts district created under subch. V of ch. 229.

5 **SECTION 125.** 111.70 (1) (mm) of the statutes, as affected by 2011 Wisconsin Act
6 32, is repealed.

7 **SECTION 126.** 111.70 (1) (n) of the statutes, as affected by 2011 Wisconsin Act
8 32, is amended to read:

9 111.70 (1) (n) "Referendum" means a proceeding conducted by the commission
10 in which ~~public safety employees or transit~~ employees in a collective bargaining unit
11 may cast a secret ballot on the question of authorizing a labor organization and the
12 employer to continue a fair-share agreement.

13 **SECTION 127.** 111.70 (1) (p) of the statutes, as created by 2011 Wisconsin Act
14 32, is repealed.

15 **SECTION 128.** 111.70 (1g) of the statutes is created to read:

16 111.70 (1g) DECLARATION OF POLICY. (a) The public policy of the state as to labor
17 disputes arising in municipal employment is to encourage voluntary settlement
18 through the procedures of collective bargaining. Accordingly, it is in the public
19 interest that municipal employees so desiring be given an opportunity to bargain
20 collectively with the municipal employer through a labor organization or other
21 representative of the employees' own choice. If such procedures fail, the parties
22 should have available to them a fair, speedy, effective and, above all, peaceful
23 procedure for settlement as provided in this subchapter.

24 (b) In creating this subchapter the legislature recognizes that the municipal
25 employer must exercise its powers and responsibilities to act for the government and

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

5 **SECTION 129.** 111.70 (2) of the statutes, as affected by 2011 Wisconsin Act 32,
6 is amended to read:

7 111.70 (2) RIGHTS OF MUNICIPAL EMPLOYEES. Municipal employees have the right
8 of self-organization, and the right to form, join, or assist labor organizations, to
9 bargain collectively through representatives of their own choosing, and to engage in
10 lawful, concerted activities for the purpose of collective bargaining or other mutual
11 aid or protection. Municipal employees have the right to refrain from any and all
12 such activities. ~~A general municipal employee has the right to refrain from paying~~
13 ~~dues while remaining a member of a collective bargaining unit. A public safety~~
14 ~~employee or a transit employee, however, except that an employee may be required~~
15 ~~to pay dues in the manner provided in a fair-share agreement; a fair-share~~
16 ~~agreement covering a public safety employee or a transit employee must contain a~~
17 ~~provision requiring the municipal employer to deduct the amount of dues as certified~~
18 ~~by the labor organization from the earnings of the employee affected by the~~
19 ~~fair-share agreement and to pay the amount deducted to the labor organization. A~~
20 ~~fair-share agreement covering a public safety employee or transit employee is~~
21 ~~subject to the right of the municipal employer or a labor organization to petition the~~
22 ~~commission to conduct a referendum. Such petition must be supported by proof that~~
23 ~~at least 30% of the employees in the collective bargaining unit desire that the~~
24 ~~fair-share agreement be terminated. Upon so finding, the commission shall conduct~~
25 ~~a referendum. If the continuation of the agreement is not supported by at least the~~

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1 majority of the eligible employees, it shall terminate. The commission shall declare
2 any fair-share agreement suspended upon such conditions and for such time as the
3 commission decides whenever it finds that the labor organization involved has
4 refused on the basis of race, color, sexual orientation, creed, or sex to receive as a
5 member any ~~public safety employee or transit~~ employee of the municipal employer
6 in the bargaining unit involved, and such agreement is subject to this duty of the
7 commission. Any of the parties to such agreement or any ~~public safety employee or~~
8 ~~transit~~ municipal employee covered by the agreement may come before the
9 commission, as provided in s. 111.07, and ask the performance of this duty.

10 **SECTION 130.** 111.70 (3) (a) 3. of the statutes, as affected by 2011 Wisconsin Act
11 32, is amended to read:

12 111.70 (3) (a) 3. To encourage or discourage a membership in any labor
13 organization by discrimination in regard to hiring, tenure, or other terms or
14 conditions of employment; but the prohibition shall not apply to a fair-share
15 agreement ~~that covers public safety employees or transit employees.~~

16 **SECTION 131.** 111.70 (3) (a) 5. of the statutes, as affected by 2011 Wisconsin Act
17 32, is amended to read:

18 111.70 (3) (a) 5. To violate any collective bargaining agreement previously
19 agreed upon by the parties with respect to wages, hours and conditions of
20 employment affecting ~~public safety employees or transit~~ municipal employees,
21 including an agreement to arbitrate questions arising as to the meaning or
22 application of the terms of a collective bargaining agreement or to accept the terms
23 of such arbitration award, where previously the parties have agreed to accept such
24 award as final and binding upon them ~~or to violate any collective bargaining~~

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1 ~~agreement affecting general municipal employees, that was previously agreed upon~~
2 ~~by the parties with respect to wages.~~

3 **SECTION 132.** 111.70 (3) (a) 6. of the statutes, as affected by 2011 Wisconsin Act
4 32, is amended to read:

5 111.70 (3) (a) 6. To deduct labor organization dues from the earnings of a ~~public~~
6 ~~safety employee or a transit~~ municipal employee, unless the municipal employer has
7 been presented with an individual order therefor, signed by the employee personally,
8 and terminable by at least the end of any year of its life or earlier by the ~~public safety~~
9 ~~employee or transit~~ municipal employee giving at least 30 days' written notice of such
10 termination to the municipal employer and to the representative organization,
11 except when a fair-share agreement is in effect.

12 **SECTION 133.** 111.70 (3) (a) 7. of the statutes is created to read:

13 111.70 (3) (a) 7. To refuse or otherwise fail to implement an arbitration decision
14 lawfully made under sub. (4) (cm).

15 **SECTION 134.** 111.70 (3) (a) 7m. of the statutes, as created by 2011 Wisconsin
16 Act 32, is repealed.

17 **SECTION 135.** 111.70 (3) (a) 9. of the statutes, as affected by 2011 Wisconsin Act
18 32, is amended to read:

19 111.70 (3) (a) 9. ~~If the collective bargaining unit contains a public safety~~
20 ~~employee or transit employee, after~~ After a collective bargaining agreement expires
21 and before another collective bargaining agreement takes effect, to fail to follow any
22 fair-share agreement in the expired collective bargaining agreement.

23 **SECTION 136.** 111.70 (3) (b) 6. of the statutes is created to read:

24 111.70 (3) (b) 6. To refuse or otherwise fail to implement an arbitration decision
25 lawfully made under sub. (4) (cm).

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1 **SECTION 137.** 111.70 (3) (b) 6m. of the statutes, as created by 2011 Wisconsin
2 Act 32, is repealed.

3 **SECTION 138.** 111.70 (3g) of the statutes, as created by 2011 Wisconsin Act 10,
4 is repealed.

5 **SECTION 139.** 111.70 (3m) of the statutes is created to read:

6 111.70 **(3m)** MILWAUKEE COUNTY ENROLLMENT SERVICES UNIT. A collective
7 bargaining agreement that covers municipal employees performing services for the
8 Milwaukee County enrollment services unit under s. 49.825 shall contain a provision
9 that permits the terms of the agreement to be modified with respect to hours and
10 conditions of employment by a memorandum of understanding under s. 49.825 (3)
11 (b) 4.

12 **SECTION 140.** 111.70 (3p) of the statutes is created to read:

13 111.70 **(3p)** CHILD CARE PROVIDER SERVICES UNIT. A collective bargaining
14 agreement that covers municipal employees performing services for the child care
15 provider services unit under s. 49.826 shall contain a provision that permits the
16 terms of the agreement to be modified with respect to hours and conditions of
17 employment by a memorandum of understanding under s. 49.826 (3) (b) 4.

18 **SECTION 141.** 111.70 (4) (bm) of the statutes, as created by 2011 Wisconsin Act
19 32, is repealed.

20 **SECTION 142.** 111.70 (4) (c) (title) of the statutes, as affected by 2011 Wisconsin
21 Act 10, is amended to read:

22 111.70 **(4)** (c) (title) *Methods for peaceful settlement of disputes; ~~public safety~~*
23 *employees law enforcement and fire fighting personnel.*

24 **SECTION 143.** 111.70 (4) (c) 1. of the statutes, as affected by 2011 Wisconsin Act
25 10, is renumbered 111.70 (4) (c) 1m. and amended to read:

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1 111.70 (4) (c) 1m. ‘Mediation.’ The commission may function as a mediator in
2 labor disputes involving a collective bargaining unit containing a public safety
3 employee. Such mediation may be carried on by a person designated to act by the
4 commission upon request of one or both of the parties or upon initiation of the
5 commission. The function of the mediator is to encourage voluntary settlement by
6 the parties but no mediator has the power of compulsion.

7 **SECTION 144.** 111.70 (4) (c) 1g. of the statutes is created to read:

8 111.70 (4) (c) 1g. ‘Applicability.’ This paragraph applies only to municipal
9 employees who are engaged in law enforcement or fire fighting functions.

10 **SECTION 145.** 111.70 (4) (c) 2. of the statutes, as affected by 2011 Wisconsin Act
11 32, is amended to read:

12 111.70 (4) (c) 2. ‘Arbitration.’ Parties to a dispute pertaining to the meaning
13 or application of the terms of a written collective bargaining agreement involving a
14 ~~collective bargaining unit containing a public safety employee~~ may agree in writing
15 to have the commission or any other appropriate agency serve as arbitrator or may
16 designate any other competent, impartial and disinterested person to so serve.

17 **SECTION 146.** 111.70 (4) (c) 3. (intro.) of the statutes, as affected by 2011
18 Wisconsin Act 10, is amended to read:

19 111.70 (4) (c) 3. ‘Fact-finding.’ (intro.) Unless s. 111.77 applies, if a dispute
20 involving a collective bargaining unit containing a public safety employee has not
21 been settled after a reasonable period of negotiation and after the settlement
22 procedures, if any, established by the parties have been exhausted, and the parties
23 are deadlocked with respect to any dispute between them arising in the collective
24 bargaining process, either party, or the parties jointly, may petition the commission,

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1 in writing, to initiate fact-finding, and to make recommendations to resolve the
2 deadlock, as follows:

3 **SECTION 147.** 111.70 (4) (cg) of the statutes, as created by 2011 Wisconsin Act
4 32, is repealed.

5 **SECTION 148.** 111.70 (4) (cm) (title), 1., 2., 3. and 4. of the statutes, as affected
6 by 2011 Wisconsin Act 10, are amended to read:

7 111.70 (4) (cm) (title) *Methods for peaceful settlement of disputes; general*
8 *municipal employees other personnel.*

9 1. 'Notice of commencement of contract negotiations.' For the purpose of
10 advising the commission of the commencement of contract negotiations ~~involving a~~
11 ~~collective bargaining unit containing general municipal employees~~, whenever either
12 party requests the other to reopen negotiations under a binding collective bargaining
13 agreement, or the parties otherwise commence negotiations if no such agreement
14 exists, the party requesting negotiations shall immediately notify the commission in
15 writing. Upon failure of the requesting party to provide such notice, the other party
16 may so notify the commission. The notice shall specify the expiration date of the
17 existing collective bargaining agreement, if any, and shall set forth any additional
18 information the commission may require on a form provided by the commission.

19 2. 'Presentation of initial proposals; open meetings.' The meetings between
20 parties to a collective bargaining agreement or proposed collective bargaining
21 agreement under this subchapter that ~~involve a collective bargaining unit~~
22 ~~containing a general municipal employee and that~~ are held for the purpose of
23 presenting initial bargaining proposals, along with supporting rationale, shall be
24 open to the public. Each party shall submit its initial bargaining proposals to the

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1 other party in writing. Failure to comply with this subdivision is not cause to
2 invalidate a collective bargaining agreement under this subchapter.

3 3. 'Mediation.' The commission or its designee shall function as mediator in
4 labor disputes involving general municipal employees upon request of one or both of
5 the parties, or upon initiation of the commission. The function of the mediator shall
6 be to encourage voluntary settlement by the parties. No mediator has the power of
7 compulsion.

8 4. 'Grievance arbitration.' Parties to a dispute pertaining to the meaning or
9 application of the terms of a written collective bargaining agreement ~~involving a~~
10 ~~collective bargaining unit containing a general municipal employee~~ may agree in
11 writing to have the commission or any other appropriate agency serve as arbitrator
12 or may designate any other competent, impartial and disinterested person to so
13 serve.

14 **SECTION 149.** 111.70 (4) (cm) 5. of the statutes is created to read:

15 111.70 (4) (cm) 5. 'Voluntary impasse resolution procedures.' In addition to the
16 other impasse resolution procedures provided in this paragraph, a municipal
17 employer and labor organization may, as a permissive subject of bargaining, agree
18 in writing to a dispute settlement procedure, including authorization for a strike by
19 municipal employees or binding interest arbitration, that is acceptable to the parties
20 for resolving an impasse over terms of any collective bargaining agreement under
21 this subchapter. The parties shall file a copy of the agreement with the commission.
22 If the parties agree to any form of binding interest arbitration, the arbitrator shall
23 give weight to the factors enumerated under subs. 7. and 7g. for a collective
24 bargaining unit consisting of municipal employees who are not school district

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1 employees and under subd. 7r. for a collective bargaining unit consisting of municipal
2 employees.

3 **SECTION 150.** 111.70 (4) (cm) 6. of the statutes is created to read:

4 111.70 (4) (cm) 6. 'Interest arbitration.' a. If in any collective bargaining unit
5 a dispute relating to any issue has not been settled after a reasonable period of
6 negotiation and after mediation by the commission under subd. 3. and other
7 settlement procedures, if any, established by the parties have been exhausted, and
8 the parties are deadlocked with respect to any dispute between them over wages,
9 hours, or conditions of employment to be included in a new collective bargaining
10 agreement, either party, or the parties jointly, may petition the commission, in
11 writing, to initiate compulsory, final, and binding arbitration, as provided in this
12 paragraph. At the time the petition is filed, the petitioning party shall submit in
13 writing to the other party and the commission its preliminary final offer containing
14 its latest proposals on all issues in dispute. Within 14 calendar days after the date
15 of that submission, the other party shall submit in writing its preliminary final offer
16 on all disputed issues to the petitioning party and the commission. If a petition is
17 filed jointly, both parties shall exchange their preliminary final offers in writing and
18 submit copies to the commission at the time the petition is filed.

19 am. Upon receipt of a petition to initiate arbitration, the commission shall
20 investigate, with or without a formal hearing, whether arbitration should be
21 commenced. If in determining whether an impasse exists the commission finds that
22 the procedures under this paragraph have not been complied with and that the
23 compliance would tend to result in a settlement, it may order compliance before
24 ordering arbitration. The validity of any arbitration award or collective bargaining
25 agreement is not affected by failure to comply with the procedures. Prior to the close

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

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

9 b. The arbitrator shall, within 10 days of his or her appointment, establish a
10 date and place for the conduct of the arbitration hearing. Upon petition of at least
11 5 citizens of the jurisdiction served by the municipal employer, filed within 10 days
12 after the date on which the arbitrator is appointed, the arbitrator shall hold a public
13 hearing in the jurisdiction to provide the opportunity to both parties to explain or
14 present supporting arguments for their positions and to members of the public to
15 offer their comments and suggestions. The final offers of the parties, as transmitted
16 by the commission to the arbitrator, are the basis for continued negotiations, if any,
17 between the parties with respect to the issues in dispute. At any time prior to the
18 arbitration hearing, either party, with the consent of the other party, may modify its
19 final offer in writing.

20 c. Prior to the arbitration hearing, either party may, within a time limit
21 established by the arbitrator, withdraw its final offer and mutually agreed upon
22 modifications, if any, and shall immediately provide written notice of any withdrawal
23 to the other party, the arbitrator, and the commission. If both parties withdraw their
24 final offers and mutually agreed upon modifications, the labor organization, after
25 giving 10 days' written advance notice to the municipal employer and the

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1 commission, may strike. Unless both parties withdraw their final offers and
2 mutually agreed upon modifications, the final offer of neither party is considered
3 withdrawn and the arbitrator shall proceed to resolve the dispute by final and
4 binding arbitration as provided in this paragraph.

5 d. Before issuing his or her arbitration decision, the arbitrator shall, on his or
6 her own motion or at the request of either party, conduct a meeting open to the public
7 to provide the opportunity to both parties to explain or present supporting
8 arguments for their complete offer on all matters to be covered by the proposed
9 agreement. The arbitrator shall adopt without further modification the final offer
10 of one of the parties on all disputed issues submitted under subd. 6. am., except those
11 items that the commission determines not to be mandatory subjects of bargaining
12 and those items that have not been treated as mandatory subjects by the parties, and
13 including any prior modifications of the offer mutually agreed upon by the parties
14 under subd. 6. b., which decision is final and binding on both parties and shall be
15 incorporated into a written collective bargaining agreement. The arbitrator shall
16 serve a copy of his or her decision on both parties and the commission.

17 e. Arbitration proceedings may not be interrupted or terminated by reason of
18 any prohibited practice complaint filed by either party at any time.

19 f. The parties shall equally divide the costs of arbitration. The arbitrator shall
20 submit a statement of his or her costs to both parties and to the commission.

21 g. If a question arises as to whether any proposal made in negotiations by either
22 party is a mandatory, permissive, or prohibited subject of bargaining, the
23 commission shall determine the issue pursuant to par. (b). If either party to the
24 dispute petitions the commission for a declaratory ruling under par. (b), the
25 proceedings under subd. 6. c. and d. may not occur until the commission renders a

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1 decision in the matter and the decision is final. The arbitrator's award shall be made
2 in accordance with the commission's ruling, subject to automatic amendment by any
3 subsequent court reversal.

4 **SECTION 151.** 111.70 (4) (cm) 7. of the statutes is created to read:

5 111.70 (4) (cm) 7. 'Factor given greatest weight.' In making any decision under
6 the arbitration procedures authorized by this paragraph, except for any decision
7 involving a collective bargaining unit consisting of school district employees, the
8 arbitrator or arbitration panel shall consider and shall give the greatest weight to
9 any state law or directive lawfully issued by a state legislative or administrative
10 officer, body, or agency that limits expenditures that may be made or revenues that
11 may be collected by a municipal employer. The arbitrator or arbitration panel shall
12 give an accounting of the consideration of this factor in the arbitrator's or panel's
13 decision.

14 **SECTION 152.** 111.70 (4) (cm) 7g. of the statutes is created to read:

15 111.70 (4) (cm) 7g. 'Factor given greater weight.' In making any decision under
16 the arbitration procedures authorized by this paragraph, except for any decision
17 involving a collective bargaining unit consisting of school district employees, the
18 arbitrator or arbitration panel shall consider and shall give greater weight to
19 economic conditions in the jurisdiction of the municipal employer than to any of the
20 factors specified in subd. 7r.

21 **SECTION 153.** 111.70 (4) (cm) 7r. of the statutes is created to read:

22 111.70 (4) (cm) 7r. 'Other factors considered.' In making any decision under the
23 arbitration procedures authorized by this paragraph, the arbitrator or arbitration
24 panel shall give weight to the following factors:

25 a. The lawful authority of the municipal employer.

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- 1 b. Stipulations of the parties.
- 2 c. The interests and welfare of the public and the financial ability of the unit
3 of government to meet the costs of any proposed settlement.
- 4 d. Comparison of wages, hours, and conditions of employment of the municipal
5 employees involved in the arbitration proceedings with the wages, hours, and
6 conditions of employment of other employees performing similar services.
- 7 e. Comparison of the wages, hours, and conditions of employment of the
8 municipal employees involved in the arbitration proceedings with the wages, hours,
9 and conditions of employment of other employees generally in public employment in
10 the same community and in comparable communities.
- 11 f. Comparison of the wages, hours, and conditions of employment of the
12 municipal employees involved in the arbitration proceedings with the wages, hours,
13 and conditions of employment of other employees in private employment in the same
14 community and in comparable communities.
- 15 g. The average consumer prices for goods and services, commonly known as the
16 cost of living.
- 17 h. The overall compensation presently received by the municipal employees,
18 including direct wage compensation, vacation, holidays and excused time, insurance
19 and pensions, medical and hospitalization benefits, the continuity and stability of
20 employment, and all other benefits received.
- 21 i. Changes in any of the foregoing circumstances during the pendency of the
22 arbitration proceedings.
- 23 j. Factors, not included in subd. 7r. a. to i., which are normally or traditionally
24 taken into consideration in the determination of wages, hours, and conditions of
25 employment through voluntary collective bargaining, mediation, fact-finding,

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1 arbitration, or otherwise between the parties, in the public service, or in private
2 employment.

3 **SECTION 154.** 111.70 (4) (cm) 8. of the statutes is created to read:

4 111.70 (4) (cm) 8. 'Rule making.' The commission shall adopt rules for the
5 conduct of all arbitration proceedings under subd. 6., including, but not limited to,
6 rules for:

7 a. The appointment of tripartite arbitration panels when requested by the
8 parties.

9 b. The expeditious rendering of arbitration decisions, such as waivers of briefs
10 and transcripts.

11 c. The removal of individuals who have repeatedly failed to issue timely
12 decisions from the commission's list of qualified arbitrators.

13 d. Proceedings for the enforcement of arbitration decisions.

14 **SECTION 155.** 111.70 (4) (cm) 8m. of the statutes, as affected by 2011 Wisconsin
15 Act 10, is amended to read:

16 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for
17 the initial collective bargaining agreement between the parties and except as the
18 parties otherwise agree, every collective bargaining agreement covering general
19 municipal employees subject to this paragraph shall be for a term of ~~one year and~~
20 ~~may not be extended 2 years, but in no case may a collective bargaining agreement~~
21 for any collective bargaining unit consisting of municipal employees subject to this
22 paragraph other than school district employees be for a term exceeding 3 years nor
23 may a collective bargaining agreement for any collective bargaining unit consisting
24 of school district employees subject to this paragraph be for a term exceeding 4 years.
25 No arbitration award may contain a provision for reopening of negotiations during

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1 ~~the term of a collective bargaining agreement covering general municipal employees~~
2 ~~may be reopened for negotiations,~~ unless both parties agree to reopen the collective
3 bargaining agreement. The requirement for agreement by both parties does not
4 apply to a provision for reopening of negotiations with respect to any portion of an
5 agreement that is declared invalid by a court or administrative agency or rendered
6 invalid by the enactment of a law or promulgation of a federal regulation.

7 **SECTION 156.** 111.70 (4) (cm) 9. of the statutes is created to read:

8 111.70 (4) (cm) 9. 'Application.'

9 a. Chapter 788 does not apply to arbitration proceedings under this paragraph.

10 b. This paragraph does not apply to labor disputes involving municipal
11 employees who are engaged in law enforcement or fire fighting functions.

12 **SECTION 157.** 111.70 (4) (d) 2. a. of the statutes, as affected by 2011 Wisconsin
13 Act 32, is amended to read:

14 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
15 bargaining unit for the purpose of collective bargaining and shall whenever possible
16 avoid fragmentation by maintaining as few collective bargaining units as practicable
17 in keeping with the size of the total municipal workforce. The commission may
18 decide whether, in a particular case, the municipal employees in the same or several
19 departments, divisions, institutions, crafts, professions, or other occupational
20 groupings constitute a collective bargaining unit. Before making its determination,
21 the commission may provide an opportunity for the municipal employees concerned
22 to determine, by secret ballot, whether they desire to be established as a separate
23 collective bargaining unit. The commission may not decide, however, that any group
24 of municipal employees constitutes an appropriate collective bargaining unit if the
25 group includes both professional employees and nonprofessional employees, unless

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1 a majority of the professional employees vote for inclusion in the unit. The
2 commission may not decide that any group of municipal employees constitutes an
3 appropriate collective bargaining unit if the group includes both school district
4 employees and general municipal employees who are not school district employees.
5 ~~The commission may not decide that any group of municipal employees constitutes~~
6 ~~an appropriate collective bargaining unit if the group includes both public safety~~
7 ~~employees and general municipal employees, if the group include includes both~~
8 ~~transit employees and general municipal employees, or if the group includes both~~
9 ~~transit employees and public safety employees.~~ The commission may not decide that
10 any group of municipal employees constitutes an appropriate collective bargaining
11 unit if the group includes both craft employees and noncraft employees unless a
12 majority of the craft employees vote for inclusion in the unit. The commission shall
13 place the professional employees who are assigned to perform any services at a
14 charter school, as defined in s. 115.001 (1), in a separate collective bargaining unit
15 from a unit that includes any other professional employees whenever at least 30%
16 of those professional employees request an election to be held to determine that issue
17 and a majority of the professional employees at the charter school who cast votes in
18 the election decide to be represented in a separate collective bargaining unit.

19 **SECTION 158.** 111.70 (4) (d) 3. a. and c. of the statutes, as affected by 2011
20 Wisconsin Act 10, are consolidated, renumbered 111.70 (4) (d) 3. and amended to
21 read:

22 111.70 (4) (d) 3. Whenever, in a particular case, a question arises concerning
23 representation or appropriate unit, calling for a vote, the commission shall certify the
24 results in writing to the municipal employer and the labor organization involved and
25 to any other interested parties. e. Any ballot used in a representation proceeding

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1 under this subdivision shall include the names of all persons having an interest in
2 representing or the results. The ballot should be so designed as to permit a vote
3 against representation by any candidate named on the ballot. The findings of the
4 commission, on which a certification is based, shall be conclusive unless reviewed as
5 provided by s. 111.07 (8).

6 **SECTION 159.** 111.70 (4) (d) 3. b. of the statutes, as affected by 2011 Wisconsin
7 Act 32, is repealed.

8 **SECTION 160.** 111.70 (4) (L) of the statutes, as affected by 2011 Wisconsin Act
9 10, is amended to read:

10 111.70 (4) (L) *Strikes prohibited.* ~~Nothing~~ Except as authorized under par. (cm)
11 5. and 6. c., nothing contained in this subchapter constitutes a grant of the right to
12 strike by any municipal employee or labor organization, and such strikes are hereby
13 expressly prohibited. Paragraph (cm) does not authorize any strike after an
14 injunction has been issued against such strike under sub. (7m).

15 **SECTION 161.** 111.70 (4) (m) of the statutes is created to read:

16 111.70 (4) (m) *Prohibited subjects of bargaining; school district municipal*
17 *employers.* In a school district, the municipal employer is prohibited from bargaining
18 collectively with respect to:

19 1. Reassignment of municipal employees who perform services for a board of
20 school directors under ch. 119, with or without regard to seniority, as a result of a
21 decision of the board of school directors to contract with an individual or group to
22 operate a school as a charter school, as defined in s. 115.001 (1), or to convert a school
23 to a charter school, or the impact of any such reassignment on the wages, hours, or
24 conditions of employment of the municipal employees who perform those services.

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1 2. Reassignment of municipal employees who perform services for a board of
2 school directors, with or without regard to seniority, as a result of the decision of the
3 board to close or reopen a school under s. 119.18 (23), or the impact of any such
4 reassignment on the wages, hours, or conditions of employment of the municipal
5 employees who perform those services.

6 4. Any decision of a board of school directors to contract with a school or agency
7 to provide educational programs under s. 119.235, or the impact of any such decision
8 on the wages, hours, or conditions of employment of the municipal employees who
9 perform services for the board.

10 6. Solicitation of sealed bids for the provision of group health care benefits for
11 school district employees as provided in s. 120.12 (24).

12 **SECTION 162.** 111.70 (4) (mb) of the statutes, as affected by 2011 Wisconsin Act
13 32, is repealed.

14 **SECTION 163.** 111.70 (4) (mbb) of the statutes, as created by 2011 Wisconsin Act
15 32, is repealed.

16 **SECTION 164.** 111.70 (4) (mc) (intro.) of the statutes, as affected by 2011
17 Wisconsin Act 10, is renumbered 111.70 (4) (mc) and amended to read:

18 111.70 (4) (mc) *Prohibited subjects of bargaining; public safety employees.* The
19 If the municipal employee is a clerk who is not an employee of a city of the first class,
20 the municipal employer is prohibited from bargaining collectively with a collective
21 bargaining unit containing a public safety employee with respect to any of the
22 following: the judge's authority over the supervisory tasks provided in s. 755.10.

23 **SECTION 165.** 111.70 (4) (mc) 5. and 6. of the statutes, as created by 2011
24 Wisconsin Act 32, are repealed.

25 **SECTION 166.** 111.70 (4) (n) and (o) of the statutes are created to read:

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

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

11 **SECTION 167.** 111.70 (4) (p) of the statutes, as affected by 2011 Wisconsin Act
12 32, is amended to read:

13 111.70 (4) (p) *Permissive subjects of collective bargaining: ~~public safety and~~*
14 *transit employees.* A municipal employer is not required to bargain with ~~public safety~~
15 ~~employees or transit employees~~ on subjects reserved to management and direction
16 of the governmental unit except insofar as the manner of exercise of such functions
17 affects the wages, hours, and conditions of employment of the ~~public safety~~
18 ~~employees or of the transit~~ municipal employees in a collective bargaining unit.

19 (b) This subsection applies only to municipal employees who are engaged in law
20 enforcement or fire fighting functions.

21 **SECTION 168.** 111.70 (7) of the statutes is created to read:

22 111.70 (7) PENALTY FOR STRIKER. (a) Whoever violates sub. (4) (L) after an
23 injunction against such a strike has been issued shall be fined \$10. After the
24 injunction has been issued, any employee who is absent from work because of
25 purported illness shall be presumed to be on strike unless the illness is verified by

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1 a written report from a physician to the employer. Each day of continued violation
2 constitutes a separate offense. The court shall order that any fine imposed under this
3 subsection be paid by means of a salary deduction at a rate to be determined by the
4 court.

5 **SECTION 169.** 111.70 (7m) (b) of the statutes is created to read:

6 111.70 (7m) (b) *Injunction; threat to public health or safety.* At any time after
7 a labor organization gives advance notice of a strike under sub. (4) (cm) which is
8 expressly authorized under sub. (4) (cm), the municipal employer or any citizen
9 directly affected by the strike may petition the circuit court to enjoin the strike. If
10 the court finds that the strike poses an imminent threat to the public health or safety,
11 the court shall, within 48 hours after the receipt of the petition but after notice to the
12 parties and after holding a hearing, issue an order immediately enjoining the strike,
13 and in addition shall order the parties to submit a new final offer on all disputed
14 issues to the commission for final and binding arbitration as provided in sub. (4) (cm).
15 The commission, upon receipt of the final offers of the parties, shall transmit them
16 to the arbitrator or a successor designated by the commission. The arbitrator shall
17 omit preliminary steps and shall commence immediately to arbitrate the dispute.

18 **SECTION 170.** 111.70 (7m) (c) 1. a. of the statutes, as affected by 2011 Wisconsin
19 Act 32, is amended to read:

20 111.70 (7m) (c) 1. a. Any labor organization that ~~represents public safety or~~
21 ~~transit employees which~~ violates sub. (4) (L) may not collect any dues under a
22 collective bargaining agreement or under a fair-share agreement from any
23 municipal employee covered by either agreement for a period of one year. At the end
24 of the period of suspension, any such agreement shall be reinstated unless the labor
25 organization is no longer authorized to represent the ~~public safety employees or~~

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1 transit municipal employees covered by the collective bargaining agreement or
2 fair-share agreement or the agreement is no longer in effect.

3 **SECTION 171.** 111.70 (7m) (c) 3. of the statutes is created to read:

4 111.70 (7m) (c) 3. 'Strike in violation of award.' Any person who authorizes or
5 otherwise participates in a strike after the issuance of any final and binding
6 arbitration award or decision under sub. (4) (cm) and prior to the end of the term of
7 the agreement which the award or decision amends or creates shall forfeit not less
8 than \$15. Each day of continued violation constitutes a separate offense.

9 **SECTION 172.** 111.70 (7m) (e) of the statutes is created to read:

10 111.70 (7m) (e) *Civil liability.* Any party refusing to include an arbitration
11 award or decision under sub. (4) (cm) in a written collective bargaining agreement
12 or failing to implement the award or decision, unless good cause is shown, shall be
13 liable for attorney fees, interest on delayed monetary benefits, and other costs
14 incurred in any action by the nonoffending party to enforce the award or decision.

15 **SECTION 173.** 111.70 (7m) (f) of the statutes is created to read:

16 111.70 (7m) (f) *Application.* This subsection does not apply to strikes involving
17 municipal employees who are engaged in law enforcement or fire fighting functions.

18 **SECTION 174.** 111.70 (8) (a) of the statutes, as affected by 2011 Wisconsin Act
19 32, is amended to read:

20 111.70 (8) (a) This section, except sub. subs. (1) (nm), (4) ~~(eg)~~ and (cm), and (7m),
21 applies to law enforcement supervisors employed by a 1st class city. This section,
22 except sub. subs. (1) (nm), (4) (cm) and (jm), and (7m) applies to law enforcement
23 supervisors employed by a county having a population of 500,000 or more. For
24 purposes of such application, the terms term "municipal employee" and "public
25 safety employee" ~~include~~ includes such a supervisor.

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1 **SECTION 175.** 111.71 (2) of the statutes, as affected by 2011 Wisconsin Act 32,
2 is amended to read:

3 111.71 (2) The commission shall assess and collect a filing fee for filing a
4 complaint alleging that a prohibited practice has been committed under s. 111.70 (3).
5 The commission shall assess and collect a filing fee for filing a request that the
6 commission act as an arbitrator to resolve a dispute involving the interpretation or
7 application of a collective bargaining agreement under s. 111.70 (4) (c) 2., ~~(eg) 4.,~~ or
8 (cm) 4. The commission shall assess and collect a filing fee for filing a request that
9 the commission initiate fact-finding under s. 111.70 (4) (c) 3. The commission shall
10 assess and collect a filing fee for filing a request that the commission act as a
11 mediator under s. 111.70 (4) (c) 1., ~~(eg) 3.,~~ or (cm) 3. The commission shall assess and
12 collect a filing fee for filing a request that the commission initiate compulsory, final
13 and binding arbitration under s. 111.70 (4) ~~(eg)~~ (cm) 6. or (jm) or 111.77 (3). For the
14 performance of commission actions under ss. 111.70 (4) (c) ~~1., 1m., 2., and 3., (eg) 3.,~~
15 ~~4., and 6.,~~ (cm) 3. and 4., and 6., and (jm) and 111.77 (3), the commission shall require
16 that the parties to the dispute equally share in the payment of the fee and, for the
17 performance of commission actions involving a complaint alleging that a prohibited
18 practice has been committed under s. 111.70 (3), the commission shall require that
19 the party filing the complaint pay the entire fee. If any party has paid a filing fee
20 requesting the commission to act as a mediator for a labor dispute and the parties
21 do not enter into a voluntary settlement of the dispute, the commission may not
22 subsequently assess or collect a filing fee to initiate fact-finding or arbitration to
23 resolve the same labor dispute. If any request for the performance of commission
24 actions concerns issues arising as a result of more than one unrelated event or
25 occurrence, each such separate event or occurrence shall be treated as a separate

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1 request. The commission shall promulgate rules establishing a schedule of filing fees
2 to be paid under this subsection. Fees required to be paid under this subsection shall
3 be paid at the time of filing the complaint or the request for fact-finding, mediation
4 or arbitration. A complaint or request for fact-finding, mediation or arbitration is
5 not filed until the date such fee or fees are paid, except that the failure of the
6 respondent party to pay the filing fee for having the commission initiate compulsory,
7 final and binding arbitration under s. 111.70 (4) ~~(eg)~~ (cm) 6. or (jm) or 111.77 (3) may
8 not prohibit the commission from initiating such arbitration. The commission may
9 initiate collection proceedings against the respondent party for the payment of the
10 filing fee. Fees collected under this subsection shall be credited to the appropriation
11 account under s. 20.425 (1) (i).

12 **SECTION 176.** 111.71 (4) of the statutes is created to read:

13 111.71 (4) The commission shall collect on a systematic basis information on
14 the operation of the arbitration law under s. 111.70 (4) (cm). The commission shall
15 report on the operation of the law to the legislature on an annual basis. The report
16 shall be submitted to the chief clerk of each house of the legislature for distribution
17 to the legislature under s. 13.172 (2).

18 **SECTION 177.** 111.71 (4m) of the statutes, as created by 2011 Wisconsin Act 32,
19 is repealed.

20 **SECTION 178.** 111.71 (5) of the statutes is created to read:

21 111.71 (5) The commission shall, on a regular basis, provide training programs
22 to prepare individuals for service as arbitrators or arbitration panel members under
23 s. 111.70 (4) (cm). The commission shall engage in appropriate promotional and
24 recruitment efforts to encourage participation in the training programs by
25 individuals throughout the state, including at least 10 residents of each

ASSEMBLY BILL 338**SECTION 178**

1 congressional district. The commission may also provide training programs to
2 individuals and organizations on other aspects of collective bargaining, including on
3 areas of management and labor cooperation directly or indirectly affecting collective
4 bargaining. The commission may charge a reasonable fee for participation in the
5 programs.

6 **SECTION 179.** 111.71 (5m) of the statutes, as created by 2011 Wisconsin Act 32,
7 is repealed.

8 **SECTION 180.** 111.77 (intro.) of the statutes, as affected by 2011 Wisconsin Act
9 10, is amended to read:

10 **111.77 Settlement of disputes in collective bargaining units composed**
11 **of law enforcement personnel and fire fighters.** (intro.) Municipal In fire
12 departments and city and county law enforcement agencies municipal employers
13 and ~~public safety~~ employees, as provided in sub. (8), have the duty to bargain
14 collectively in good faith including the duty to refrain from strikes or lockouts and
15 to comply with the following:

16 **SECTION 181.** 111.77 (8) (a) of the statutes, as affected by 2011 Wisconsin Act
17 10, is amended to read:

18 111.77 (8) (a) This section applies to ~~public safety employees who are~~ law
19 enforcement supervisors employed by a county having a population of 500,000 or
20 more. For purposes of such application, the term “municipal employee” includes
21 such a supervisor.

22 **SECTION 182.** 111.77 (9) of the statutes, as affected by 2011 Wisconsin Act 32,
23 is amended to read:

24 111.77 (9) Section 111.70 (4) (c) 3., ~~(eg)~~, and (cm) does not apply to employments
25 covered by this section.

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1 **SECTION 183.** 111.80 of the statutes is created to read:

2 **111.80 Declaration of policy.** The public policy of the state as to labor
3 relations and collective bargaining in state employment, in the furtherance of which
4 this subchapter is enacted, is as follows:

5 **(1)** It recognizes that there are 3 major interests involved: that of the public,
6 that of the employee, and that of the employer. These 3 interests are to a considerable
7 extent interrelated. It is the policy of this state to protect and promote each of these
8 interests with due regard to the situation and to the rights of the others.

9 **(2)** Orderly and constructive employment relations for employees and the
10 efficient administration of state government are promotive of all these interests.
11 They are largely dependent upon the maintenance of fair, friendly, and mutually
12 satisfactory employee management relations in state employment, and the
13 availability of suitable machinery for fair and peaceful adjustment of whatever
14 controversies may arise. It is recognized that whatever may be the rights of
15 disputants with respect to each other in any controversy regarding state
16 employment relations, neither party has any right to engage in acts or practices that
17 jeopardize the public safety and interest and interfere with the effective conduct of
18 public business.

19 **(3)** Where permitted under this subchapter, negotiations of terms and
20 conditions of state employment should result from voluntary agreement between the
21 state and its agents as employer, and its employees. For that purpose an employee
22 may, if the employee desires, associate with others in organizing and in bargaining
23 collectively through representatives of the employee's own choosing without
24 intimidations or coercion from any source.

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1 (4) It is the policy of this state, in order to preserve and promote the interests
2 of the public, the employee, and the employer alike, to encourage the practices and
3 procedures of collective bargaining in state employment subject to the requirements
4 of the public service and related laws, rules, and policies governing state
5 employment, by establishing standards of fair conduct in state employment
6 relations, and by providing a convenient, expeditious, and impartial tribunal in
7 which these interests may have their respective rights determined.

8 **SECTION 184.** 111.81 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
9 is amended to read:

10 111.81 (1) “Collective bargaining” means the performance of the mutual
11 obligation of the state as an employer, by its officers and agents, and the
12 representatives of its employees, to meet and confer at reasonable times, in good
13 faith, with respect to the subjects of bargaining provided in s. 111.91 (1), ~~with respect~~
14 ~~to public safety employees, and to the subjects of bargaining provided in s. 111.91 (3),~~
15 ~~with respect to general employees,~~ with the intention of reaching an agreement, or
16 to resolve questions arising under such an agreement. The duty to bargain, however,
17 does not compel either party to agree to a proposal or require the making of a
18 concession. Collective bargaining includes the reduction of any agreement reached
19 to a written and signed document.

20 **SECTION 185.** 111.81 (3h) of the statutes is created to read:

21 111.81 (3h) “Consumer” has the meaning given in s. 46.2898 (1) (cm).

22 **SECTION 186.** 111.81 (3n) of the statutes, as created by 2011 Wisconsin Act 10,
23 is repealed.

24 **SECTION 187.** 111.81 (7) (g) of the statutes is created to read:

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1 111.81 (7) (g) For purposes of this subchapter only, home care providers. This
2 paragraph does not make home care providers state employees for any other purpose
3 except collective bargaining.

4 **SECTION 188.** 111.81 (9) of the statutes, as affected by 2011 Wisconsin Act 10,
5 is amended to read:

6 111.81 (9) “Fair-share agreement” means an agreement between the employer
7 and a labor organization representing ~~public safety~~ employees or supervisors
8 specified in s. 111.825 (5) under which all of the ~~public safety~~ employees or
9 supervisors in a collective bargaining unit are required to pay their proportionate
10 share of the cost of the collective bargaining process and contract administration
11 measured by the amount of dues uniformly required of all members.

12 **SECTION 189.** 111.81 (9g) of the statutes, as created by 2011 Wisconsin Act 10,
13 is repealed.

14 **SECTION 190.** 111.81 (9k) of the statutes is created to read:

15 111.81 (9k) “Home care provider” means a qualified provider under s. 46.2898
16 (1) (f).

17 **SECTION 191.** 111.81 (12) (intro.) of the statutes, as affected by 2011 Wisconsin
18 Act 10, is amended to read:

19 111.81 (12) (intro.) “Labor organization” means any employee organization
20 whose purpose is to represent employees in collective bargaining with the employer,
21 or its agents, on matters ~~that are subject to collective bargaining under s. 111.91 (1)~~
22 ~~or (3), whichever is applicable~~ pertaining to terms and conditions of employment; but
23 the term shall not include any organization:

24 **SECTION 192.** 111.81 (12m) of the statutes, as affected by 2011 Wisconsin Act
25 10, is amended to read:

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1 111.81 (12m) “Maintenance of membership agreement” means an agreement
2 between the employer and a labor organization representing ~~public safety~~ employees
3 or supervisors specified in s. 111.825 (5) which requires that all of the ~~public safety~~
4 employees or supervisors whose dues are being deducted from earnings under s.
5 20.921 (1) or 111.84 (1) (f) at the time the agreement takes effect shall continue to
6 have dues deducted for the duration of the agreement, and that dues shall be
7 deducted from the earnings of all ~~public safety~~ employees or supervisors who are
8 hired on or after the effective date of the agreement.

9 **SECTION 193.** 111.81 (15r) of the statutes, as created by 2011 Wisconsin Act 10,
10 is repealed.

11 **SECTION 194.** 111.81 (16) of the statutes, as affected by 2011 Wisconsin Act 10,
12 is amended to read:

13 111.81 (16) “Referendum” means a proceeding conducted by the commission in
14 which ~~public safety~~ employees, or supervisors specified in s. 111.825 (5), in a
15 collective bargaining unit may cast a secret ballot on the question of directing the
16 labor organization and the employer to enter into a fair-share or maintenance of
17 membership agreement or to terminate such an agreement.

18 **SECTION 195.** 111.815 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
19 is amended to read:

20 111.815 (1) In the furtherance of this subchapter, the state shall be considered
21 as a single employer and employment relations policies and practices throughout the
22 state service shall be as consistent as practicable. The office shall negotiate and
23 administer collective bargaining agreements except that the department of health
24 services, subject to the approval of the federal centers for medicare and medicaid
25 services to use collective bargaining as the method of setting rates for

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1 reimbursement of home care providers, shall negotiate and administer collective
2 bargaining agreements entered into with the collective bargaining unit specified in
3 s. 111.825 (2g). To coordinate the employer position in the negotiation of agreements,
4 the office, or the department of health services with regard to collective bargaining
5 agreements entered into with the collective bargaining unit specified in s. 111.825
6 (2g), shall maintain close liaison with the legislature relative to the negotiation of
7 agreements and the fiscal ramifications of those agreements. Except with respect
8 to the collective bargaining unit units specified in s. 111.825 (2) (f) and (2g), the office
9 is responsible for the employer functions of the executive branch under this
10 subchapter, and shall coordinate its collective bargaining activities with operating
11 state agencies on matters of agency concern. The legislative branch shall act upon
12 those portions of tentative agreements negotiated by the office that require
13 legislative action. With respect to the collective bargaining unit specified in s.
14 111.825 (2) (f), the governing board of the charter school established by contract
15 under s. 118.40 (2r) (cm) is responsible for the employer functions under this
16 subchapter. With respect to the collective bargaining unit specified in s. 111.825 (2g),
17 the department of health services is responsible for the employer functions of the
18 executive branch under this subchapter.

19 **SECTION 196.** 111.815 (1) of the statutes, as affected by 2011 Wisconsin Acts 32
20 and ... (this act), is repealed and recreated to read:

21 111.815 (1) In the furtherance of this subchapter, the state shall be considered
22 as a single employer and employment relations policies and practices throughout the
23 state service shall be as consistent as practicable. The office shall negotiate and
24 administer collective bargaining agreements except that the department of health
25 services, subject to the approval of the federal centers for medicare and medicaid

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1 services to use collective bargaining as the method of setting rates for
2 reimbursement of home care providers, shall negotiate and administer collective
3 bargaining agreements entered into with the collective bargaining unit specified in
4 s. 111.825 (2g). To coordinate the employer position in the negotiation of agreements,
5 the office, or the department of health services with regard to collective bargaining
6 agreements entered into with the collective bargaining unit specified in s. 111.825
7 (2g), shall maintain close liaison with the legislature relative to the negotiation of
8 agreements and the fiscal ramifications of those agreements. Except with respect
9 to the collective bargaining units specified in s. 111.825 (1r), (1t), and (2g), the office
10 is responsible for the employer functions of the executive branch under this
11 subchapter, and shall coordinate its collective bargaining activities with operating
12 state agencies on matters of agency concern. The legislative branch shall act upon
13 those portions of tentative agreements negotiated by the office that require
14 legislative action. With respect to the collective bargaining units specified in s.
15 111.825 (1r), the Board of Regents of the University of Wisconsin System is
16 responsible for the employer functions under this subchapter. With respect to the
17 collective bargaining units specified in s. 111.825 (1t), the chancellor of the
18 University of Wisconsin-Madison is responsible for the employer functions under
19 this subchapter. With respect to the collective bargaining unit specified in s. 111.825
20 (1r) (ef), the governing board of the charter school established by contract under s.
21 118.40 (2r) (cm) is responsible for the employer functions under this subchapter.
22 With respect to the collective bargaining unit specified in s. 111.825 (2g), the
23 department of health services is responsible for the employer functions of the
24 executive branch under this subchapter.

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1 **SECTION 197.** 111.815 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
2 is amended to read:

3 111.815 (2) ~~The In the furtherance of the policy under s. 111.80 (4), the director~~
4 of the office shall, together with the appointing authorities or their representatives,
5 represent the state in its responsibility as an employer under this subchapter except
6 with respect to negotiations in the collective bargaining unit units specified in s.
7 111.825 (2) (f) and (2g). The director of the office shall establish and maintain,
8 wherever practicable, consistent employment relations policies and practices
9 throughout the state service.

10 **SECTION 198.** 111.815 (2) of the statutes, as affected by 2011 Wisconsin Acts 32
11 and (this act), is repealed and recreated to read:

12 111.815 (2) In the furtherance of the policy under s. 111.80 (4), the director of
13 the office shall, together with the appointing authorities or their representatives,
14 represent the state in its responsibility as an employer under this subchapter except
15 with respect to negotiations in the collective bargaining units specified in s. 111.825
16 (1r), (1t), and (2g). The director of the office shall establish and maintain, wherever
17 practicable, consistent employment relations policies and practices throughout the
18 state service.

19 **SECTION 199.** 111.82 of the statutes, as affected by 2011 Wisconsin Act 10, is
20 amended to read:

21 **111.82 Rights of employees.** Employees have the right of self-organization
22 and the right to form, join, or assist labor organizations, to bargain collectively
23 through representatives of their own choosing under this subchapter, and to engage
24 in lawful, concerted activities for the purpose of collective bargaining or other mutual
25 aid or protection. Employees also have the right to refrain from any or all of such

ASSEMBLY BILL 338**SECTION 199**

1 activities. ~~A general employee has the right to refrain from paying dues while~~
2 ~~remaining a member of a collective bargaining unit.~~

3 **SECTION 200.** 111.825 (1) (g) of the statutes, as created by 2011 Wisconsin Act
4 10, is repealed.

5 **SECTION 201.** 111.825 (2g) of the statutes is created to read:

6 111.825 (2g) A collective bargaining unit for employees who are home care
7 providers shall be structured as a single statewide collective bargaining unit.

8 **SECTION 202.** 111.825 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
9 is amended to read:

10 111.825 (3) The commission shall assign employees to the appropriate
11 collective bargaining units set forth in subs. (1) ~~and~~, (2), and (2g).

12 **SECTION 203.** 111.825 (3) of the statutes, as affected by 2011 Wisconsin Acts 32
13 and ... (this act), is repealed and recreated to read:

14 111.825 (3) The commission shall assign employees to the appropriate
15 collective bargaining units set forth in subs. (1), (1r), (1t), (2), and (2g).

16 **SECTION 204.** 111.825 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
17 is amended to read:

18 111.825 (4) Any labor organization may petition for recognition as the exclusive
19 representative of a collective bargaining unit specified in sub. (1) ~~or~~, (2), or (2g) in
20 accordance with the election procedures set forth in s. 111.83, provided the petition
21 is accompanied by a 30% showing of interest in the form of signed authorization
22 cards. Each additional labor organization seeking to appear on the ballot shall file
23 petitions within 60 days of the date of filing of the original petition and prove,
24 through signed authorization cards, that at least 10% of the employees in the
25 collective bargaining unit want it to be their representative.

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1 **SECTION 205.** 111.825 (4) of the statutes, as affected by 2011 Wisconsin Acts 32
2 and ... (this act), is repealed and recreated to read:

3 111.825 (4) Any labor organization may petition for recognition as the exclusive
4 representative of a collective bargaining unit specified in sub. (1), (1r), (1t), (2), or (2g)
5 in accordance with the election procedures set forth in s. 111.83, provided the petition
6 is accompanied by a 30% showing of interest in the form of signed authorization
7 cards. Each additional labor organization seeking to appear on the ballot shall file
8 petitions within 60 days of the date of filing of the original petition and prove,
9 through signed authorization cards, that at least 10% of the employees in the
10 collective bargaining unit want it to be their representative.

11 **SECTION 206.** 111.825 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
12 is amended to read:

13 111.825 (5) Although supervisors are not considered employees for purposes
14 of this subchapter, the commission may consider a petition for a statewide collective
15 bargaining unit of professional supervisors or a statewide unit of nonprofessional
16 supervisors in the classified service, but the representative of supervisors may not
17 be affiliated with any labor organization representing employees. For purposes of
18 this subsection, affiliation does not include membership in a national, state, county
19 or municipal federation of national or international labor organizations. The
20 certified representative of supervisors ~~who are not public safety employees~~ may not
21 bargain collectively with respect to any matter other than wages and fringe benefits
22 as provided in s. ~~111.91 (3)~~, and the certified representative of supervisors ~~who are~~
23 ~~public safety employees may not bargain collectively with respect to any matter other~~
24 ~~than wages and fringe benefits as provided in s. 111.91 (1).~~

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1 **SECTION 207.** 111.825 (6) (a) of the statutes, as affected by 2011 Wisconsin Act
2 10, is renumbered 111.825 (6).

3 **SECTION 208.** 111.825 (6) (b) of the statutes, as created by 2011 Wisconsin Act
4 10, is repealed.

5 **SECTION 209.** 111.83 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
6 is amended to read:

7 111.83 (1) Except as provided in ~~sub.~~ subs. (5) and (5m), a representative
8 chosen for the purposes of collective bargaining by a majority of the employees voting
9 in a collective bargaining unit shall be the exclusive representative of all of the
10 employees in such unit for the purposes of collective bargaining. Any individual
11 employee, or any minority group of employees in any collective bargaining unit, may
12 present grievances to the employer in person, or through representatives of their own
13 choosing, and the employer shall confer with said employee or group of employees in
14 relation thereto if the majority representative has been afforded the opportunity to
15 be present at the conference. Any adjustment resulting from such a conference may
16 not be inconsistent with the conditions of employment established by the majority
17 representative and the employer.

18 **SECTION 210.** 111.83 (3) (a) of the statutes, as affected by 2011 Wisconsin Act
19 10, is renumbered 111.83 (3).

20 **SECTION 211.** 111.83 (3) (b) of the statutes, as affected by 2011 Wisconsin Act
21 32, is repealed.

22 **SECTION 212.** 111.83 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
23 is amended to read:

24 111.83 (4) Whenever an election has been conducted under sub. (3) ~~(a)~~ in which
25 the name of more than one proposed representative appears on the ballot and results

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1 in no conclusion, the commission may, if requested by any party to the proceeding
2 within 30 days from the date of the certification of the results of the election, conduct
3 a runoff election. In that runoff election, the commission shall drop from the ballot
4 the name of the representative who received the least number of votes at the original
5 election. The commission shall drop from the ballot the privilege of voting against
6 any representative if the least number of votes cast at the first election was against
7 representation by any named representative.

8 **SECTION 213.** 111.83 (5m) of the statutes is created to read:

9 111.83 (5m) (a) This subsection applies only to a collective bargaining unit
10 specified in s. 111.825 (2g).

11 (am) 1. Subject to subd. 2., the department of health services shall provide a
12 labor organization with the list of home care providers provided to the department
13 of health services under s. 52.20 (5) if any of the following apply:

14 a. The labor organization demonstrates a showing of interest of at least 3
15 percent of home care providers included in the collective bargaining unit under s.
16 111.825 (2g) to be represented by that labor organization.

17 b. The labor organization is a certified representative of any home care
18 providers in this state.

19 c. The labor organization was a certified representative of any home care
20 providers in this state prior to July 1, 2009.

21 2. A labor organization shall agree to use any list it receives under subd. 1. only
22 for communicating with home care providers concerning the exercise of their rights
23 under s. 111.82 and shall agree to keep the list confidential.

24 (b) Upon the filing of a petition with the commission indicating a showing of
25 interest of at least 30 percent of the home care providers included in the collective

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1 bargaining unit under s. 111.825 (2g) to be represented by a labor organization or to
2 change the existing representative, the commission shall hold an election in which
3 the home care providers may vote on the question of representation. The labor
4 organization named in the petition shall be included on the ballot. Within 60 days
5 of the time that the petition is filed, another petition may be filed with the
6 commission indicating a showing of interest of at least 10 percent of the home care
7 providers who are included in the collective bargaining unit under s. 111.825 (2g) to
8 be represented by another labor organization, in which case the name of that labor
9 organization shall also be included on the ballot.

10 (c) If at an election held under par. (b), a majority of home care providers voting
11 in the collective bargaining unit vote for a single labor organization, the labor
12 organization shall be the exclusive representative for all home care providers in that
13 collective bargaining unit. If no single labor organization receives a majority of the
14 votes cast, the commission may hold one or more runoff elections under sub. (4) until
15 one labor organization receives a majority of the votes cast.

16 **SECTION 214.** 111.84 (1) (b) of the statutes, as affected by 2011 Wisconsin Act
17 10, is amended to read:

18 111.84 (1) (b) Except as otherwise provided in this paragraph, to initiate,
19 create, dominate or interfere with the formation or administration of any labor or
20 employee organization or contribute financial support to it. Except as provided in
21 ss. 40.02 (22) (e) and 40.23 (1) (f) 4., no change in any law affecting the Wisconsin
22 retirement system under ch. 40 and no action by the employer that is authorized by
23 such a law constitutes a violation of this paragraph unless an applicable collective
24 bargaining agreement covering a collective bargaining unit under s. 111.825 (1) (g)
25 specifically prohibits the change or action. No such change or action affects the

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1 continuing duty to bargain collectively ~~with a collective bargaining unit under s.~~
2 ~~111.825 (1) (g)~~ regarding the Wisconsin retirement system under ch. 40 to the extent
3 required by s. 111.91 ~~(1)~~. It is not an unfair labor practice for the employer to
4 reimburse an employee at his or her prevailing wage rate for the time spent during
5 the employee's regularly scheduled hours conferring with the employer's officers or
6 agents and for attendance at commission or court hearings necessary for the
7 administration of this subchapter. Professional supervisory or craft personnel may
8 maintain membership in professional or craft organizations; however, as members
9 of such organizations they shall be prohibited from those activities related to
10 collective bargaining in which the organizations may engage.

11 **SECTION 215.** 111.84 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
12 10, is amended to read:

13 111.84 (1) (d) To refuse to bargain collectively on matters set forth in s. 111.91
14 (1) ~~or (3), whichever is appropriate~~, with a representative of a majority of its
15 employees in an appropriate collective bargaining unit. Where the employer has a
16 good faith doubt as to whether a labor organization claiming the support of a majority
17 of its employees in appropriate collective bargaining unit does in fact have that
18 support, it may file with the commission a petition requesting an election as to that
19 claim. It is not deemed to have refused to bargain until an election has been held and
20 the results thereof certified to it by the commission. A violation of this paragraph
21 includes, but is not limited to, the refusal to execute a collective bargaining
22 agreement previously orally agreed upon.

23 **SECTION 216.** 111.84 (1) (f) of the statutes, as affected by 2011 Wisconsin Act
24 10, is amended to read:

ASSEMBLY BILL 338**SECTION 216**

1 111.84 (1) (f) To deduct labor organization dues from ~~the~~ an employee's
2 earnings of a public safety employee, unless the employer has been presented with
3 an individual order therefor, signed by the ~~public safety~~ employee personally, and
4 terminable by at least the end of any year of its life or earlier by the ~~public safety~~
5 employee giving at least 30 but not more than 120 days' written notice of such
6 termination to the employer and to the representative labor organization, except if
7 there is a fair-share or maintenance of membership agreement in effect. The
8 employer shall give notice to the labor organization of receipt of such notice of
9 termination.

10 **SECTION 217.** 111.84 (2) (c) of the statutes, as affected by 2011 Wisconsin Act
11 10, is amended to read:

12 111.84 (2) (c) To refuse to bargain collectively on matters set forth in s. 111.91
13 (1) ~~or (3), whichever is appropriate,~~ with the duly authorized officer or agent of the
14 employer which is the recognized or certified exclusive collective bargaining
15 representative of employees specified in s. 111.81 (7) (a) in an appropriate collective
16 bargaining unit or with the certified exclusive collective bargaining representative
17 of employees specified in s. 111.81 (7) (b) to ~~(f)~~ (g) in an appropriate collective
18 bargaining unit. Such refusal to bargain shall include, but not be limited to, the
19 refusal to execute a collective bargaining agreement previously orally agreed upon.

20 **SECTION 218.** 111.84 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
21 is amended to read:

22 111.84 (3) It is an unfair labor practice for any person to do or cause to be done
23 on behalf of or in the interest of employers or employees, or in connection with or to
24 influence the outcome of any controversy as to employment relations, any act
25 prohibited by ~~sub.~~ subs. (1) ~~or~~ and (2).

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1 **SECTION 219.** 111.845 of the statutes, as created by 2011 Wisconsin Act 10, is
2 repealed.

3 **SECTION 220.** 111.85 (1), (2) and (4) of the statutes, as affected by 2011
4 Wisconsin Act 10, are amended to read:

5 111.85 (1) (a) No fair-share or maintenance of membership agreement
6 ~~covering public safety employees~~ may become effective unless authorized by a
7 referendum. The commission shall order a referendum whenever it receives a
8 petition supported by proof that at least 30% of the ~~public safety employees~~ or
9 supervisors specified in s. 111.825 (5) in a collective bargaining unit desire that a
10 fair-share or maintenance of membership agreement be entered into between the
11 employer and a labor organization. A petition may specify that a referendum is
12 requested on a maintenance of membership agreement only, in which case the ballot
13 shall be limited to that question.

14 (b) For a fair-share agreement to be authorized, at least two-thirds of the
15 eligible ~~public safety employees~~ or supervisors voting in a referendum shall vote in
16 favor of the agreement. For a maintenance of membership agreement to be
17 authorized, at least a majority of the eligible ~~public safety employees~~ or supervisors
18 voting in a referendum shall vote in favor of the agreement. In a referendum on a
19 fair-share agreement, if less than two-thirds but more than one-half of the eligible
20 ~~public safety employees~~ or supervisors vote in favor of the agreement, a maintenance
21 of membership agreement is authorized.

22 (c) If a fair-share or maintenance of membership agreement is authorized in
23 a referendum, the employer shall enter into such an agreement with the labor
24 organization named on the ballot in the referendum. Each fair-share or
25 maintenance of membership agreement shall contain a provision requiring the

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1 employer to deduct the amount of dues as certified by the labor organization from the
2 earnings of the ~~public safety employees~~ or supervisors affected by the agreement and
3 to pay the amount so deducted to the labor organization. Unless the parties agree
4 to an earlier date, the agreement shall take effect 60 days after certification by the
5 commission that the referendum vote authorized the agreement. The employer shall
6 be held harmless against any claims, demands, suits and other forms of liability
7 made by ~~public safety employees~~ or supervisors or local labor organizations which
8 may arise for actions taken by the employer in compliance with this section. All such
9 lawful claims, demands, suits and other forms of liability are the responsibility of the
10 labor organization entering into the agreement.

11 (d) Under each fair-share or maintenance of membership agreement, ~~a public~~
12 ~~safety~~ an employee or supervisor who has religious convictions against dues
13 payments to a labor organization based on teachings or tenets of a church or religious
14 body of which he or she is a member shall, on request to the labor organization, have
15 his or her dues paid to a charity mutually agreed upon by the ~~public safety employee~~
16 or supervisor and the labor organization. Any dispute concerning this paragraph
17 may be submitted to the commission for adjudication.

18 **(2)** (a) Once authorized, a fair-share or maintenance of membership
19 agreement ~~covering public safety employees~~ shall continue in effect, subject to the
20 right of the employer or labor organization concerned to petition the commission to
21 conduct a new referendum. Such petition must be supported by proof that at least
22 30% of the ~~public safety employees~~ or supervisors in the collective bargaining unit
23 desire that the fair-share or maintenance of membership agreement be
24 discontinued. Upon so finding, the commission shall conduct a new referendum. If
25 the continuance of the fair-share or maintenance of membership agreement is

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1 approved in the referendum by at least the percentage of eligible voting ~~public safety~~
2 employees or supervisors required for its initial authorization, it shall be continued
3 in effect, subject to the right of the employer or labor organization to later initiate a
4 further vote following the procedure prescribed in this subsection. If the
5 continuation of the agreement is not supported in any referendum, it is deemed
6 terminated at the termination of the collective bargaining agreement, or one year
7 from the date of the certification of the result of the referendum, whichever is earlier.

8 (b) The commission shall declare any fair-share or maintenance of
9 membership agreement suspended upon such conditions and for such time as the
10 commission decides whenever it finds that the labor organization involved has
11 refused on the basis of race, color, sexual orientation or creed to receive as a member
12 any ~~public safety~~ employee or supervisor in the collective bargaining unit involved,
13 and the agreement shall be made subject to the findings and orders of the
14 commission. Any of the parties to the agreement, or any ~~public safety~~ employee or
15 supervisor covered thereby, may come before the commission, as provided in s.
16 111.07, and petition the commission to make such a finding.

17 (4) The commission may, under rules adopted for that purpose, appoint as its
18 agent an official of a state agency whose ~~public safety~~ employees are entitled to vote
19 in a referendum to conduct a referendum provided for herein.

20 **SECTION 221.** 111.90 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
21 is amended to read:

22 111.90 (2) ~~Manage~~ Subject to s. 111.91 (1) (am), manage the employees of a state
23 agency; hire, promote, transfer, assign or retain employees in positions within the
24 agency; and in that regard establish reasonable work rules.

25 **SECTION 222.** 111.905 of the statutes is created to read:

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1 **111.905 Rights of consumer. (1)** This subchapter does not interfere with the
2 rights of the consumer to hire, discharge, suspend, promote, retain, lay off, supervise,
3 or discipline home care providers or to set conditions and duties of employment.

4 **(2)** A home care provider is an at will provider of home care services to a
5 consumer, and this subchapter does not interfere with that relationship.

6 **SECTION 223.** 111.91 (1) (a) of the statutes, as affected by 2011 Wisconsin Act
7 10, is amended to read:

8 111.91 (1) (a) Except as provided in pars. (b) to (d), ~~with regard to a collective~~
9 ~~bargaining unit under s. 111.825 (1) (g) (e)~~, matters subject to collective bargaining
10 to the point of impasse are wage rates, consistent with sub. (2), the assignment and
11 reassignment of classifications to pay ranges, determination of an incumbent's pay
12 status resulting from position reallocation or reclassification, and pay adjustments
13 upon temporary assignment of classified ~~public safety~~ employees to duties of a higher
14 classification or downward reallocations of a classified ~~public safety~~ employee's
15 position; fringe benefits consistent with sub. (2); hours and conditions of
16 employment.

17 **SECTION 224.** 111.91 (1) (b) of the statutes, as affected by 2011 Wisconsin Act
18 10, is amended to read:

19 111.91 (1) (b) The employer is not required to bargain ~~with a collective~~
20 ~~bargaining unit under s. 111.825 (1) (g)~~ on management rights under s. 111.90, except
21 that procedures for the adjustment or settlement of grievances or disputes arising
22 out of any type of disciplinary action referred to in s. 111.90 (3) shall be a subject of
23 bargaining.

24 **SECTION 225.** 111.91 (1) (c) of the statutes, as affected by 2011 Wisconsin Act
25 10, is amended to read:

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1 111.91 (1) (c) The employer is prohibited from bargaining with a collective
2 bargaining unit under s. 111.825 (1) (g) on matters contained in sub. (2).

3 **SECTION 226.** 111.91 (1) (cg) of the statutes is created to read:

4 111.91 (1) (cg) The representative of home care providers in the collective
5 bargaining unit specified under s. 111.825 (2g) may not bargain collectively with
6 respect to any matter other than wages and fringe benefits.

7 **SECTION 227.** 111.91 (1) (cm) of the statutes, as affected by 2011 Wisconsin Act
8 32, is amended to read:

9 111.91 (1) (cm) Except as provided in sub. (2) (g) and (h) and ss. 40.02 (22) (e)
10 and 40.23 (1) (f) 4., all laws governing the Wisconsin retirement system under ch. 40
11 and all actions of the employer that are authorized under any such law which apply
12 to nonrepresented individuals employed by the state shall apply to similarly situated
13 public safety employees, unless otherwise specifically provided in a collective
14 bargaining agreement that applies to the public safety employees.

15 **SECTION 228.** 111.91 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
16 10, is amended to read:

17 111.91 (1) (d) ~~In the case of a collective bargaining unit under s. 111.825 (1) (g),~~
18 ~~demands~~ Demands relating to retirement and group insurance shall be submitted
19 to the employer at least one year prior to commencement of negotiations.

20 **SECTION 229.** 111.91 (1) (e) of the statutes is created to read:

21 111.91 (1) (e) The employer shall not be required to bargain on matters related
22 to employee occupancy of houses or other lodging provided by the state.

23 **SECTION 230.** 111.91 (2) (intro.) of the statutes, as affected by 2011 Wisconsin
24 Act 10, is amended to read:

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1 111.91 (2) (intro.) The employer is prohibited from bargaining with a collective
2 bargaining unit under s. 111.825 (1) (g) with respect to all of the following:

3 **SECTION 231.** 111.91 (2) (fm) of the statutes, as created by 2011 Wisconsin Act
4 32, is repealed.

5 **SECTION 232.** 111.91 (2) (gu) of the statutes, as affected by 2011 Wisconsin Act
6 10, is amended to read:

7 111.91 (2) (gu) The right of ~~a public safety employee, who is an employee, as~~
8 defined in s. 103.88 (1) (d), ~~and who is a fire fighter, emergency medical technician,~~
9 first responder, or ambulance driver for a volunteer fire department or fire company,
10 a public agency, as defined in s. 256.15 (1) (n), or a nonprofit corporation, as defined
11 in s. 256.01 (12), to respond to an emergency as provided under s. 103.88 (2).

12 **SECTION 233.** 111.91 (2c) of the statutes is created to read:

13 111.91 (2c) In addition to the prohibited subjects under sub. (2), the employer
14 is prohibited from bargaining with a collective bargaining unit formed under s.
15 111.825 (2g) on any of the following:

16 (a) Policies.

17 (b) Work rules.

18 (c) Hours of employment.

19 (d) Any right of the consumer under s. 111.905.

20 **SECTION 234.** 111.91 (3) of the statutes, as affected by 2011 Wisconsin Acts 10,
21 and 32 is repealed.

22 **SECTION 235.** 111.91 (3q) of the statutes, as created by 2011 Wisconsin Act 10,
23 is repealed.

24 **SECTION 236.** 111.92 (1) (a) of the statutes, as affected by 2011 Wisconsin Act
25 10, is amended to read:

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1 111.92 (1) (a) Any tentative agreement reached between the office, or, as
2 provided in s. 111.815 (1), the department of health services, acting for the state, and
3 any labor organization representing a collective bargaining unit specified in s.
4 111.825 (1) ~~or~~, (2) (a) to (e), or (2g) shall, after official ratification by the labor
5 organization, be submitted by the office or department of health services to the joint
6 committee on employment relations, which shall hold a public hearing before
7 determining its approval or disapproval. If the committee approves the tentative
8 agreement, it shall introduce in a bill or companion bills, to be put on the calendar
9 or referred to the appropriate scheduling committee of each house, that portion of the
10 tentative agreement which requires legislative action for implementation, such as
11 salary and wage adjustments, changes in fringe benefits, and any proposed
12 amendments, deletions or additions to existing law. Such bill or companion bills are
13 not subject to ss. 13.093 (1), 13.50 (6) (a) and (b) and 16.47 (2). The committee may,
14 however, submit suitable portions of the tentative agreement to appropriate
15 legislative committees for advisory recommendations on the proposed terms. The
16 committee shall accompany the introduction of such proposed legislation with a
17 message that informs the legislature of the committee's concurrence with the
18 matters under consideration and which recommends the passage of such legislation
19 without change. If the joint committee on employment relations does not approve
20 the tentative agreement, it shall be returned to the parties for renegotiation. If the
21 legislature does not adopt without change that portion of the tentative agreement
22 introduced by the joint committee on employment relations, the tentative agreement
23 shall be returned to the parties for renegotiation.

24 **SECTION 237.** 111.92 (2m) of the statutes is created to read:

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1 111.92 (2m) A collective bargaining agreement entered into by a collective
2 bargaining unit specified in s. 111.825 (2g) may not take effect before July 1, 2011.

3 **SECTION 238.** 111.92 (3) (a) of the statutes, as affected by 2011 Wisconsin Act
4 10, is renumbered 111.92 (3) and amended to read:

5 111.92 (3) Agreements covering a collective bargaining unit specified under s.
6 111.825 (1) (g) shall coincide with the fiscal year or biennium.

7 **SECTION 239.** 111.92 (3) (b) of the statutes, as created by 2011 Wisconsin Act
8 10, is repealed.

9 **SECTION 240.** 111.93 (3) (intro.) and (a) of the statutes, as affected by 2011
10 Wisconsin Act 10, are consolidated, renumbered 111.93 (3) and amended to read:

11 111.93 (3) Except as provided in ss. 7.33 (4), 40.05, 40.80 (3), 111.91 (1) (cm),
12 230.35 (2d) and (3) (e) 6., and 230.88 (2) (b), all of the following apply: ~~(a) If~~ if a
13 collective bargaining agreement exists between the employer and a labor
14 organization representing employees in a collective bargaining unit ~~under s. 111.825~~
15 ~~(1) (g)~~, the provisions of that agreement shall supersede the provisions of civil service
16 and other applicable statutes, as well as rules and policies of the board of regents of
17 the University of Wisconsin System, related to wages, fringe benefits, hours, and
18 conditions of employment whether or not the matters contained in those statutes,
19 rules, and policies are set forth in the collective bargaining agreement.

20 **SECTION 241.** 111.93 (3) (b) of the statutes, as created by 2011 Wisconsin Act
21 10, is repealed.

22 **SECTION 242.** Subchapter VI of chapter 111 [precedes 111.95] of the statutes is
23 created to read:

CHAPTER 111**SUBCHAPTER VI**

24
25

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UNIVERSITY OF WISCONSIN SYSTEM

FACULTY AND ACADEMIC STAFF

LABOR RELATIONS

111.95 Declaration of policy. The public policy of the state as to labor relations and collective bargaining involving faculty and academic staff at the University of Wisconsin System, in furtherance of which this subchapter is enacted, is as follows:

(1) The people of the state of Wisconsin have a fundamental interest in developing harmonious and cooperative labor relations within the University of Wisconsin System.

(2) It recognizes that there are 3 major interests involved: that of the public, that of the employee, and that of the employer. These 3 interests are to a considerable extent interrelated. It is the policy of this state to protect and promote each of these interests with due regard to the rights of the others.

111.96 Definitions. In this subchapter:

(1) "Academic staff" means academic staff under s. 36.15, but does not include any individual holding an appointment under s. 36.13 or 36.15 (2m) or who is appointed to a visiting faculty position.

(2) "Board" means the Board of Regents of the University of Wisconsin System.

(3) "Collective bargaining" means the performance of the mutual obligation of the state as an employer, by its officers and agents, and the representatives of its employees, to meet and confer at reasonable times, in good faith, with respect to the subjects of bargaining provided in s. 111.998 with the intention of reaching an agreement, or to resolve questions arising under such an agreement. The duty to bargain, however, does not compel either party to agree to a proposal or require the

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1 making of a concession. Collective bargaining includes the reduction of any
2 agreement reached to a written and signed document.

3 (4) "Collective bargaining unit" means a unit established under s. 111.98 (1).

4 (5) "Commission" means the employment relations commission.

5 (6) "Election" means a proceeding conducted by the commission in which the
6 employees in a collective bargaining unit cast a secret ballot for collective bargaining
7 representatives, or for any other purpose specified in this subchapter.

8 (7) "Employee" includes:

9 (a) All faculty, including specifically faculty who are supervisors or
10 management employees, but not including faculty holding a limited appointment
11 under s. 36.17 or deans.

12 (b) All academic staff, except for supervisors, management employees, and
13 individuals who are privy to confidential matters affecting the employer-employee
14 relationship.

15 (8) "Employer" means the state of Wisconsin.

16 (9) "Faculty" means faculty under s. 36.13, except for an individual holding an
17 appointment under s. 36.15.

18 (10) "Fair-share agreement" means an agreement between the employer and
19 a labor organization representing employees under which all of the employees in a
20 collective bargaining unit are required to pay their proportionate share of the cost
21 of the collective bargaining process and contract administration measured by the
22 amount of dues uniformly required of all members.

23 (11) "Institution" has the meaning given in s. 36.05 (9).

24 (12) "Labor dispute" means any controversy with respect to the subjects of
25 bargaining provided in this subchapter.

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1 **(13)** “Labor organization” means any employee organization whose purpose is
2 to represent employees in collective bargaining with the employer, or its agents, on
3 matters pertaining to terms and conditions of employment, but does not include any
4 organization that does any of the following:

5 (a) Advocates the overthrow of the constitutional form of government in the
6 United States.

7 (b) Discriminates with regard to the terms or conditions of membership
8 because of race, color, creed, sex, age, sexual orientation, or national origin.

9 **(14)** “Maintenance of membership agreement” means an agreement between
10 the employer and a labor organization representing employees that requires that all
11 of the employees whose dues are being deducted from earnings under s. 20.921 (1)
12 or 111.992 at or after the time the agreement takes effect shall continue to have dues
13 deducted for the duration of the agreement and that dues shall be deducted from the
14 earnings of all employees who are hired on or after the effective date of the
15 agreement.

16 **(15)** “Management employees” includes those personnel engaged
17 predominately in executive and managerial functions.

18 **(16)** “Office” means the office of state employment relations in the department
19 of administration.

20 **(17)** “Referendum” means a proceeding conducted by the commission in which
21 employees, or supervisors specified in s. 111.98 (5), in a collective bargaining unit
22 may cast a secret ballot on the question of directing the labor organization and the
23 employer to enter into a fair-share agreement or to terminate a fair-share
24 agreement.

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1 (18) “Representative” includes any person chosen by an employee to represent
2 the employee.

3 (19) “Strike” includes any strike or other concerted stoppage of work by
4 employees, any concerted slowdown or other concerted interruption of operations or
5 services by employees, or any concerted refusal to work or perform their usual duties
6 as employees of the state.

7 (20) “Supervisor” means any individual whose principal work is different from
8 that of the individual’s subordinates and who has authority, in the interest of the
9 employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign,
10 reward, or discipline employees, or to adjust their grievances, or to authoritatively
11 recommend such action, if the individual’s exercise of such authority is not of a
12 merely routine or clerical nature, but requires the use of independent judgment.

13 (21) “Unfair labor practice” means any unfair labor practice specified in s.
14 111.991.

15 **111.965 Duties of the state.** (1) In the furtherance of this subchapter, the
16 state shall be considered as a single employer. The board shall negotiate and
17 administer collective bargaining agreements. To coordinate the employer position
18 in the negotiation of agreements, the board shall maintain close liaison with the
19 office relative to the negotiation of agreements and the fiscal ramifications of those
20 agreements. The board shall coordinate its collective bargaining activities with the
21 office. The legislative branch shall act upon those portions of tentative agreements
22 negotiated by the board that require legislative action.

23 (2) The board shall establish a collective bargaining capacity and shall
24 represent the state in its responsibility as an employer under this subchapter. The
25 board shall coordinate its actions with the director of the office.

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1 **111.97 Rights of employees.** Employees shall have the right of
2 self-organization and the right to form, join, or assist labor organizations, to bargain
3 collectively through representatives of their own choosing under this subchapter,
4 and to engage in lawful, concerted activities for the purpose of collective bargaining
5 or other mutual aid or protection. Employees shall also have the right to refrain from
6 any such activities.

7 **111.98 Collective bargaining units. (1)** Collective bargaining units for
8 faculty and staff shall be structured with a collective bargaining unit for each of the
9 following groups:

- 10 (a) Faculty of the University of Wisconsin-Madison.
11 (b) Faculty of the University of Wisconsin-Milwaukee.
12 (c) Faculty of the University of Wisconsin-Extension.
13 (cm) Faculty of the University of Wisconsin-Eau Claire.
14 (d) Faculty of the University of Wisconsin-Green Bay.
15 (dm) Faculty of the University of Wisconsin-La Crosse.
16 (e) Faculty of the University of Wisconsin-Oshkosh.
17 (em) Faculty of the University of Wisconsin-Parkside.
18 (f) Faculty of the University of Wisconsin-Platteville.
19 (fm) Faculty of the University of Wisconsin-River Falls.
20 (g) Faculty of the University of Wisconsin-Stevens Point.
21 (gm) Faculty of the University of Wisconsin-Stout.
22 (h) Faculty of the University of Wisconsin-Superior.
23 (hm) Faculty of the University of Wisconsin-Whitewater.
24 (i) Faculty of the University of Wisconsin Colleges.
25 (j) Academic staff of the University of Wisconsin-Madison.

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1 (jk) Academic staff employed at the University of Wisconsin System
2 administration.

3 (jm) Academic staff of the University of Wisconsin-Milwaukee.

4 (k) Academic staff of the University of Wisconsin-Extension.

5 (km) Academic staff of the University of Wisconsin-Eau Claire.

6 (L) Academic staff of the University of Wisconsin-Green Bay.

7 (Lm) Academic staff of the University of Wisconsin-La Crosse.

8 (n) Academic staff of the University of Wisconsin-Oshkosh.

9 (nm) Academic staff of the University of Wisconsin-Parkside.

10 (o) Academic staff of the University of Wisconsin-Platteville.

11 (om) Academic staff of the University of Wisconsin-River Falls.

12 (p) Academic staff of the University of Wisconsin-Stevens Point.

13 (pm) Academic staff of the University of Wisconsin-Stout.

14 (q) Academic staff of the University of Wisconsin-Superior.

15 (qm) Academic staff of the University of Wisconsin-Whitewater.

16 (r) Academic staff of the University of Wisconsin Colleges.

17 **(2)** (a) Notwithstanding sub. (1), 2 or more collective bargaining units described
18 under sub. (1) (a) to (r) may be combined into a single unit. If 2 or more collective
19 bargaining units seek to combine into a single collective bargaining unit, the
20 commission shall, upon the petition of at least 30 percent of the employees in each
21 unit, hold an election, or include on any ballot for an election held under s. 111.990
22 (2) the question of whether to combine units, to determine whether a majority of
23 those employees voting in each unit desire to combine into a single unit. A combined
24 collective bargaining unit shall be formed including all employees from each of those
25 units in which a majority of the employees voting in the election approve a combined

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1 unit. The combined collective bargaining unit shall be formed immediately if there
2 is no existing collective bargaining agreement in force in any of the units to be
3 combined. If there is a collective bargaining agreement in force at the time of the
4 election in any of the collective bargaining units to be combined, the combined unit
5 shall be formed upon expiration of the last agreement for the units concerned.

6 (b) If 2 or more collective bargaining units have combined under par. (a), the
7 commission shall, upon petition of at least 30 percent of the employees in any of the
8 original units, hold an election of the employees in the original unit to determine
9 whether the employees in that unit desire to withdraw from the combined collective
10 bargaining unit. If a majority of the employees voting desire to withdraw from the
11 combined collective bargaining unit, separate units consisting of the unit in which
12 the election was held and a unit composed of the remainder of the combined unit shall
13 be formed. The new collective bargaining units shall be formed immediately if there
14 is no collective bargaining agreement in force for the combined unit. If there is a
15 collective bargaining agreement in force for the combined collective bargaining unit,
16 the new units shall be formed upon the expiration of the agreement. While there is
17 a collective bargaining agreement in force for the combined collective bargaining
18 unit, a petition for an election under this paragraph may be filed only during October
19 in the calendar year prior to the expiration of the agreement.

20 (4) Any labor organization may petition for recognition as the exclusive
21 representative of a collective bargaining unit described under sub. (1) or (2) in
22 accordance with the election procedures under s. 111.990 if the petition is
23 accompanied by a 30 percent showing of interest in the form of signed authorization
24 cards. Any additional labor organization seeking to appear on the ballot shall file a
25 petition within 60 days of the date of filing of the original petition and prove, through

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1 signed authorization cards, that at least 10 percent of the employees in the collective
2 bargaining unit want it to be their representative.

3 (5) Although academic staff supervisors are not considered employees for the
4 purpose of this subchapter, the commission may consider a petition for a statewide
5 collective bargaining unit consisting of academic staff supervisors, but the
6 representative of the supervisors may not be affiliated with any labor organization
7 representing employees. For purposes of this subsection, affiliation does not include
8 membership in a national, state, county, or municipal federation of national or
9 international labor organizations. The certified representative of the supervisors
10 may not bargain collectively with respect to any matter other than wages and fringe
11 benefits.

12 **111.990 Representatives and elections. (1)** A representative chosen for the
13 purposes of collective bargaining by a majority of the employees voting in a collective
14 bargaining unit shall be the exclusive representative of all of the employees in such
15 unit for the purposes of collective bargaining. Any individual employee, or any
16 minority group of employees in any collective bargaining unit, may present any
17 grievance to the employer in person, or through representatives of their own
18 choosing, and the employer shall confer with the individual employee or group of
19 employees with respect to the grievance if the majority representative has been
20 afforded the opportunity to be present at the conference. Any adjustment resulting
21 from such a conference may not be inconsistent with the conditions of employment
22 established by the majority representative and the employer.

23 (2) (a) Whenever a question arises concerning the representation of employees
24 in a collective bargaining unit, the commission shall determine the representation
25 by taking a secret ballot of the employees and certifying in writing the results to the

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1 interested parties. There shall be included on any ballot for the election of
2 representatives the names of all labor organizations having an interest in
3 representing the employees participating in the election as indicated in petitions
4 filed with the commission. The name of any existing representative shall be included
5 on the ballot without the necessity of filing a petition. The commission may exclude
6 from the ballot one who, at the time of the election, stands deprived of his or her rights
7 under this subchapter by reason of a prior adjudication of his or her having engaged
8 in an unfair labor practice. The ballot shall be so prepared as to permit a vote against
9 representation by anyone named on the ballot.

10 (b) 1. Except as provided in subd. 2., for elections in a collective bargaining unit
11 composed of employees who are members of the faculty or academic staff, whenever
12 more than one representative qualifies to appear on the ballot, the ballot shall be so
13 prepared as to provide separate votes on 2 questions. The first question shall be:
14 "Shall the employees of the (name of collective bargaining unit) participate in
15 collective bargaining?" The 2nd question shall be: "If the employees of the (name
16 of collective bargaining unit) elect to participate in collective bargaining, which labor
17 organization do you favor to act as representative of the employees?" The 2nd
18 question shall not include a choice for no representative. All employees in the
19 collective bargaining unit may vote on both questions. Unless a majority of those
20 employees voting in the election vote to participate in collective bargaining, no votes
21 for a particular representative may be counted. If a majority of those employees
22 voting in the election vote to participate in collective bargaining, the ballots for
23 representatives shall be counted.

24 2. For elections in a collective bargaining unit composed of employees who are
25 members of the faculty or academic staff, whenever more than one representative

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1 qualifies to appear on the ballot and a question of whether to combine collective
2 bargaining units as permitted under s. 111.98 (2) (a) qualifies to appear on the ballot,
3 the ballot shall be so prepared as to provide separate votes on 3 questions and each
4 ballot shall identify the collective bargaining unit to which each voter currently
5 belongs. The first question shall be: "Shall the employees of the (name of the
6 voter's current collective bargaining unit) participate in collective bargaining?" The
7 2nd question shall be "Shall the employees of the (names of all of the collective
8 bargaining units that qualify to appear on the ballot, including the name of the
9 voter's current collective bargaining unit) combine to participate in collective
10 bargaining?" The 3rd question shall be: "If the employees of the (name of the
11 voter's current collective bargaining unit) elect to participate in collective
12 bargaining, which labor organization do you favor to act as representative of the
13 employees?" The 3rd question shall not include a choice for no representative. All
14 employees in the collective bargaining unit may vote on all questions. Unless a
15 majority of those employees voting in the election vote to participate in collective
16 bargaining, no votes for combination or for a particular representative may be
17 counted. If a majority of those employees voting in the election vote to participate
18 in collective bargaining, the ballots for combination shall be counted. If the ballots
19 for combination are counted and a majority of those employees voting from each
20 collective bargaining unit listed in the 2nd question on the ballot vote to combine,
21 then the ballots for representatives of the combined collective bargaining unit shall
22 be counted. If the ballots for combination are counted and a majority of those
23 employees voting from each collective bargaining unit listed in the 2nd question on
24 the ballot do not vote to combine, then the ballots for representatives of each current
25 collective bargaining unit shall be counted.

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1 (c) The commission's certification of the results of any election is conclusive as
2 to the findings included therein unless reviewed under s. 111.07 (8).

3 (3) Whenever an election has been conducted under sub. (2) in which the ballots
4 for representatives have been counted but in which no named representative is
5 favored by a majority of the employees voting, the commission may, if requested by
6 a party to the proceeding within 30 days from the date of the certification of the
7 results of the election, conduct a runoff election. In that runoff election, the
8 commission shall drop from the ballot the name of the representative who received
9 the least number of votes at the original election.

10 (4) While a collective bargaining agreement between a labor organization and
11 an employer is in force under this subchapter, a petition for an election in the
12 collective bargaining unit to which the agreement applies may be filed only during
13 October in the calendar year prior to the expiration of that agreement. An election
14 held under that petition may be held only if the petition is supported by proof that
15 at least 30 percent of the employees in the collective bargaining unit desire a change
16 or discontinuance of existing representation. Within 60 days of the time that an
17 original petition is filed, another petition may be filed supported by proof that at least
18 10 percent of the employees in the same collective bargaining unit desire a different
19 representative. If a majority of the employees in the collective bargaining unit vote
20 for a change or discontinuance of representation by any named representative, the
21 decision takes effect upon expiration of any existing collective bargaining agreement
22 between the employer and the existing representative.

23 **111.991 Unfair labor practices.** (1) It is an unfair labor practice for an
24 employer individually or in concert with others:

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1 (a) To interfere with, restrain, or coerce employees in the exercise of their rights
2 guaranteed under s. 111.97.

3 (b) Except as otherwise provided in this paragraph, to initiate, create,
4 dominate, or interfere with the formation or administration of any labor or employee
5 organization or contribute financial support to it. Except as provided in ss. 40.02 (22)
6 (e) and 40.23 (1) (f) 4., no change in any law affecting the Wisconsin Retirement
7 System under ch. 40 and no action by the employer that is authorized by such a law
8 is a violation of this paragraph unless an applicable collective bargaining agreement
9 specifically prohibits the change or action. No such change or action affects the
10 continuing duty to bargain collectively regarding the Wisconsin Retirement System
11 under ch. 40 to the extent required by s. 111.998. It is not an unfair labor practice
12 for the employer to reimburse an employee at his or her prevailing wage rate for the
13 time spent during the employee's regularly scheduled hours conferring with the
14 employer's officers or agents and for attendance at commission or court hearings
15 necessary for the administration of this subchapter.

16 (c) To encourage or discourage membership in any labor organization by
17 discrimination in regard to hiring, tenure, or other terms or conditions of
18 employment. This paragraph does not apply to fair-share or maintenance of
19 membership agreements.

20 (d) To refuse to bargain collectively on matters set forth in s. 111.998 with a
21 representative of a majority of its employees in an appropriate collective bargaining
22 unit. Whenever the employer has a good faith doubt as to whether a labor
23 organization claiming the support of a majority of its employees in an appropriate
24 collective bargaining unit does in fact have that support, it may file with the
25 commission a petition requesting an election as to that claim. The employer is not

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1 considered to have refused to bargain until an election has been held and the results
2 of the election are certified to the employer by the commission. A violation of this
3 paragraph includes the refusal to execute a collective bargaining agreement
4 previously orally agreed upon.

5 (e) To violate any collective bargaining agreement previously agreed upon by
6 the parties with respect to wages, hours, and conditions of employment affecting the
7 employees, including an agreement to arbitrate or to accept the terms of an
8 arbitration award, when previously the parties have agreed to accept such award as
9 final and binding upon them.

10 (f) To deduct labor organization dues from an employee's earnings, unless the
11 employer has been presented with an individual order therefor, signed by the
12 employee personally, and terminable by at least the end of any year of its life or
13 earlier by the employee giving at least 30 but not more than 120 days' written notice
14 of such termination to the employer and to the representative labor organization,
15 except if there is a fair-share or maintenance of membership agreement in effect.
16 The employer shall give notice to the labor organization of receipt of such notice of
17 termination.

18 (g) To use any moneys received for any purpose to discourage, to train any
19 supervisor, management employee, or other employee to discourage, or to contract
20 with any person for the purposes of discouraging, employees in the exercise of their
21 rights guaranteed under s. 111.97.

22 **(1m)** Notwithstanding sub. (1), it is not an unfair labor practice for the board
23 to implement changes in salaries or conditions of employment for members of the
24 faculty or academic staff at one institution, and not for other members of the faculty
25 or academic staff at another institution, but this may be done only if the differential

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1 treatment is based on comparisons with the compensation and working conditions
2 of employees performing similar services for comparable higher education
3 institutions or based upon other competitive factors.

4 (2) It is unfair practice for an employee individually or in concert with others:

5 (a) To coerce or intimidate an employee in the enjoyment of the employee's legal
6 rights, including those guaranteed under s. 111.97.

7 (b) To coerce, intimidate, or induce any officer or agent of the employer to
8 interfere with any of the employer's employees in the enjoyment of their legal rights
9 including those guaranteed under s. 111.97 or to engage in any practice with regard
10 to its employees which would constitute an unfair labor practice if undertaken by the
11 officer or agent on the officer's or agent's own initiative.

12 (c) To refuse to bargain collectively on matters specified in s. 111.998 with the
13 authorized officer or agent of the employer that is the recognized or certified
14 exclusive collective bargaining representative of employees in an appropriate
15 collective bargaining unit. Such refusal to bargain shall include a refusal to execute
16 a collective bargaining agreement previously orally agreed upon.

17 (d) To violate the provisions of any written agreement with respect to terms and
18 conditions of employment affecting employees, including an agreement to arbitrate
19 or to accept the terms of an arbitration award, when previously the parties have
20 agreed to accept such awards as final and binding upon them.

21 (e) To engage in, induce, or encourage any employees to engage in a strike or
22 a concerted refusal to work or perform their usual duties as employees.

23 (f) To coerce or intimidate a supervisory employee, officer, or agent of the
24 employer, working at the same trade or profession as the employer's employees, to

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1 induce the person to become a member of or act in concert with the labor organization
2 of which the employee is a member.

3 (3) It is an unfair labor practice for any person to do or cause to be done on
4 behalf of or in the interest of employers or employees, or in connection with or to
5 influence the outcome of any controversy as to employment relations, any act
6 prohibited by subs. (1) and (2).

7 (3m) This section does not interfere with a faculty member's right of academic
8 freedom.

9 (4) Any controversy concerning unfair labor practices may be submitted to the
10 commission as provided in s. 111.07, except that the commission shall schedule a
11 hearing on complaints involving alleged violations of sub. (2) (e) within 3 days after
12 filing of a complaint, and notice shall be given to each party interested by service on
13 the party personally, or by telegram, advising the party of the nature of the complaint
14 and of the date, time, and place of hearing. The commission may appoint a substitute
15 tribunal to hear unfair labor practice charges by either appointing a 3-member panel
16 or submitting a 7-member panel to the parties and allowing each to strike 2 names.
17 Any such panel shall report its finding to the commission for appropriate action.

18 **111.992 Fair-share and maintenance of membership agreements. (1)**

19 (a) 1. No fair-share agreement may become effective unless authorized by a
20 referendum. The commission shall order a referendum whenever it receives a
21 petition supported by proof that at least 30 percent of the employees or supervisors
22 specified in s. 111.98 (5) in a collective bargaining unit desire that a fair-share
23 agreement be entered into between the employer and a labor organization.

24 2. For a fair-share agreement to be authorized, at least a majority of the eligible
25 employees or supervisors voting in a referendum shall vote in favor of the agreement.

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1 (b) No maintenance of membership agreement may be effective unless
2 authorized. For a maintenance of membership agreement to be authorized, the
3 employer and the labor organization representing the employees must voluntarily
4 agree to establish the maintenance of membership agreement.

5 (c) If a fair-share agreement is authorized in a referendum, the employer shall
6 enter into a fair-share agreement with the labor organization named on the ballot
7 in the referendum. If a maintenance of membership agreement is authorized under
8 par. (b), the employer shall enter into the maintenance of membership agreement
9 with the labor union that voluntarily agreed to establish the agreement. Each
10 fair-share or maintenance of membership agreement shall contain a provision
11 requiring the employer to deduct the amount of dues as certified by the labor
12 organization from the earnings of the employees or supervisors affected by the
13 agreement and to pay the amount so deducted to the labor organization. Unless the
14 parties agree to an earlier date, a fair-share agreement shall take effect 60 days after
15 the commission certifies that the referendum vote authorized the fair-share
16 agreement and a maintenance of membership agreement shall take effect 60 days
17 after the commission certifies that the parties have voluntarily agreed to establish
18 the maintenance of membership agreement. The employer shall be held harmless
19 against any claims, demands, suits, and other forms of liability made by employees
20 or supervisors or local labor organizations which may arise for actions taken by the
21 employer in compliance with this section. All such lawful claims, demands, suits,
22 and other forms of liability are the responsibility of the labor organization entering
23 into the agreement.

24 (d) Under each fair-share or maintenance of membership agreement, an
25 employee or supervisor who has religious convictions against dues payments to a

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1 labor organization based on teachings or tenets of a church or religious body of which
2 he or she is a member shall, on request to the labor organization, have his or her dues
3 paid to a charity mutually agreed upon by the employee or supervisor and the labor
4 organization. Any dispute concerning this paragraph may be submitted to the
5 commission for adjudication.

6 (2) (a) 1. Once authorized, a fair-share agreement shall continue in effect,
7 subject to the right of the employer or labor organization concerned to petition the
8 commission to conduct a new referendum. Such a petition must be supported by
9 proof that at least 30 percent of the employees or supervisors in the collective
10 bargaining unit desire that the fair-share agreement be discontinued. Upon so
11 finding, the commission shall conduct a new referendum. If the continuance of the
12 fair-share agreement is approved in the referendum by at least the percentage of
13 eligible voting employees or supervisors required for its initial authorization, it shall
14 be continued in effect, subject to the right of the employer or labor organization to
15 later initiate a further vote following the procedure prescribed in this subsection. If
16 the continuance of the fair-share agreement is not supported in any referendum, it
17 is considered terminated at the termination of the collective bargaining agreement,
18 or one year from the date of the certification of the result of the referendum,
19 whichever is earlier.

20 2. Once authorized, a maintenance of membership agreement shall continue
21 in effect, subject to the right of the employer or the labor organization concerned to
22 notify the commission that it no longer voluntarily agrees to continue the agreement.
23 After the commission is notified, the maintenance of membership agreement is
24 terminated at the termination of the collective bargaining agreement or one year
25 from the notification, whichever is earlier.

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1 (b) The commission shall declare any fair-share or maintenance of
2 membership agreement suspended upon such conditions and for such time as the
3 commission decides whenever it finds that the labor organization involved has
4 refused on the basis of race, color, sexual orientation, or creed to receive as a member
5 any employee or supervisor in the collective bargaining unit involved, and the
6 agreement shall be made subject to the findings and orders of the commission. Any
7 of the parties to the agreement, or any employee or supervisor covered under the
8 agreement, may come before the commission, as provided in s. 111.07, and petition
9 the commission to make such a finding.

10 (3) A stipulation for a referendum executed by an employer and a labor
11 organization may not be filed until after the representation election has been held
12 and the results certified.

13 (4) The commission may, under rules adopted for that purpose, appoint as its
14 agent an official of a state agency whose employees are entitled to vote in a
15 referendum to conduct a referendum under this section.

16 **111.993 Grievance arbitration.** (1) Parties to the dispute pertaining to the
17 interpretation of a collective bargaining agreement may agree in writing to have the
18 commission or any other appointing state agency serve as arbitrator or may
19 designate any other competent, impartial, and disinterested persons to so serve.
20 Such arbitration proceedings shall be governed by ch. 788.

21 (2) The board shall charge an institution for the employer's share of the cost
22 related to grievance arbitration under sub. (1) for any arbitration that involves one
23 or more employees of the institution. Each institution so charged shall pay the
24 amount that the board charges from the appropriation account or accounts used to

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1 pay the salary of the grievant. Funds received under this subsection shall be credited
2 to the appropriation account under s. 20.545 (1) (km).

3 **111.994 Mediation.** The commission may appoint any competent, impartial,
4 disinterested person to act as mediator in any labor dispute either upon its own
5 initiative or upon the joint request of both parties to the dispute. It is the function
6 of a mediator to bring the parties together voluntarily under such favorable auspices
7 as will tend to effectuate settlement of the dispute, but neither the mediator nor the
8 commission shall have any power of compulsion in mediation proceedings.

9 **111.995 Fact-finding. (1)** If a dispute has not been settled after a reasonable
10 period of negotiation and after the settlement procedures, if any, established by the
11 parties have been exhausted, the representative that has been certified by the
12 commission after an election, as the exclusive representative of employees in an
13 appropriate bargaining unit, and the employer, its officers, and agents, after a
14 reasonable period of negotiation, are deadlocked with respect to any dispute between
15 them arising in the collective bargaining process, either party, or the parties jointly,
16 may petition the commission, in writing, to initiate fact-finding under this section,
17 and to make recommendations to resolve the deadlock.

18 **(2)** Upon receipt of a petition to initiate fact-finding, the commission shall
19 make an investigation with or without a formal hearing, to determine whether a
20 deadlock in fact exists. The commission shall certify the results of the investigation.
21 If the commission decides that fact-finding should be initiated, it shall appoint a
22 qualified, disinterested person or, when jointly requested by the parties, a 3-member
23 panel to function as a fact finder.

24 **(3)** The fact finder may establish dates and place of hearings and shall conduct
25 the hearings under rules established by the commission. Upon request, the

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1 commission shall issue subpoenas for hearings conducted by the fact finder. The fact
2 finder may administer oaths. Upon completion of the hearing, the fact finder shall
3 make written findings of fact and recommendations for solution of the dispute and
4 shall cause the same to be served on the parties and the commission. In making
5 findings and recommendations, the fact finder shall take into consideration among
6 other pertinent factors the principles vital to the public interest in efficient and
7 economical governmental administration. Upon the request of either party, the fact
8 finder may orally present the recommendations in advance of service of the written
9 findings and recommendations. Cost of fact-finding proceedings shall be divided
10 equally between the parties. At the time the fact finder submits a statement of his
11 or her costs to the parties, the fact finder shall submit a copy thereof to the
12 commission at its Madison office.

13 (4) A fact finder may mediate a dispute at any time prior to the issuance of the
14 fact finder's recommendations.

15 (5) Within 30 days of the receipt of the fact finder's recommendations or within
16 a time period mutually agreed upon by the parties, each party shall advise the other,
17 in writing, as to the party's acceptance or rejection, in whole or in part, of the fact
18 finder's recommendations and, at the same time, send a copy of the notification to
19 the commission at its Madison office. Failure to comply with this subsection, by the
20 employer or employee representative, is a violation of s. 111.991 (1) (d) or (2) (c).

21 **111.996 Strike prohibited.** (1) Upon establishing that a strike is in progress,
22 the employer may either seek an injunction or file an unfair labor practice charge
23 with the commission under s. 111.991 (2) (e) or both. It is the responsibility of the
24 board to decide whether to seek an injunction or file an unfair labor practice charge.

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1 The existence of an administrative remedy does not constitute grounds for denial of
2 injunctive relief.

3 (2) The occurrence of a strike and the participation in the strike by an employee
4 do not affect the rights of the employer, in law or in equity, to deal with the strike,
5 including all of the following:

6 (a) The right to impose discipline, including discharge, or suspension without
7 pay, of any employee participating in the strike.

8 (b) The right to cancel the reinstatement eligibility of any employee engaging
9 in the strike.

10 (c) The right of the employer to request the imposition of fines, either against
11 the labor organization or the employee engaging in the strike, or to sue for damages
12 because of such strike activity.

13 **111.997 Management rights.** Nothing in this subchapter shall interfere with
14 the right of the board, in accordance with this subchapter, to do any of the following:

15 (1) Carry out the statutory mandate and goals assigned to the board by the
16 most appropriate and efficient methods and means and utilize personnel in the most
17 appropriate and efficient manner possible.

18 (2) Suspend, demote, discharge, or take other appropriate disciplinary action
19 against the employee; or to lay off employees in the event of lack of work or funds or
20 under conditions where continuation of such work would be inefficient and
21 nonproductive.

22 **111.998 Subjects of bargaining.** (1) (a) Except as provided in pars. (b) to
23 (f), matters subject to collective bargaining to the point of impasse are salaries; fringe
24 benefits consistent with sub. (2); and hours and conditions of employment.

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1 (b) The board is not required to bargain on management rights under s.
2 111.997, except that procedures for the adjustment or settlement of grievances or
3 disputes arising out of any type of disciplinary action in s. 111.997 (2) is a subject of
4 bargaining.

5 (c) The board is prohibited from bargaining on matters contained in sub. (2).

6 (d) Except as provided in sub. (2) and ss. 40.02 (22) (e) and 40.23 (1) (f) 4., all
7 laws governing the Wisconsin Retirement System under ch. 40 and all actions of the
8 board that are authorized under any such law which apply to nonrepresented
9 individuals employed by the state shall apply to similarly situated employees, unless
10 otherwise specifically provided in a collective bargaining agreement that applies to
11 those employees.

12 (e) Demands relating to retirement and group insurance shall be submitted to
13 the board at least one year prior to commencement of negotiations.

14 (f) The board is not required to bargain on matters related to employee
15 occupancy of houses or other lodging provided by the state.

16 **(2)** The board is prohibited from bargaining on:

17 (a) The mission and goals of the University of Wisconsin System as set forth
18 in the statutes; the diminution of the right of tenure provided the faculty under s.
19 36.13, the rights granted faculty under s. 36.09 (4) and academic staff under s. 36.09
20 (4m), or the rights of appointment provided academic staff under s. 36.15; or
21 academic freedom.

22 (b) Amendments to this subchapter.

23 (c) Family leave and medical leave rights below the minimum afforded under
24 s. 103.10. Nothing in this paragraph prohibits bargaining on rights to family leave

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1 or medical leave which are more generous to the employee than the rights provided
2 under s. 103.10.

3 (d) An increase in benefit adjustment contribution rates under s. 40.05 (2n) (a)
4 3.

5 (e) The rights of employees to have retirement benefits computed under s.
6 40.30.

7 (f) Honesty testing requirements that provide fewer rights and remedies to
8 employees than are provided under s. 111.37.

9 (h) Creditable service to which s. 40.285 (2) (b) 4. applies.

10 (i) Compliance with the health benefit plan requirements under ss. 632.746 (1)
11 to (8) and (10), 632.747, and 632.748.

12 (j) Compliance with the insurance requirements under s. 631.95.

13 (k) The definition of earnings under s. 40.02 (22).

14 (L) The maximum benefit limitations under s. 40.31

15 (m) The limitations on contributions under s. 40.32.

16 (n) The provision to employees of the health insurance coverage required under
17 s. 632.895 (11) to (14).

18 (o) The requirements related to coverage of and prior authorization for
19 treatment of an emergency medical condition under s. 632.85.

20 (p) The requirements related to coverage of drugs and devices under s. 632.853.

21 (q) The requirements related to experimental treatment under s. 632.855.

22 (r) The requirements under s. 609.10 related to offering a point-of-service
23 option plan.

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1 (s) The requirements related to internal grievance procedures under s. 632.83
2 and independent review of certain health benefit plan determinations under s.
3 632.835.

4 (3) Upon request, the chancellor at each institution, or his or her designee,
5 shall meet and confer with the collective bargaining representative, if any, with
6 regard to any issue that is a permissive subject of bargaining, except when the issue
7 is under active consideration by a governance organization under s. 36.09 (4) or (4m).

8 **111.999 Labor proposals.** The board shall notify and consult with the joint
9 committee on employment relations, in such form and detail as the committee
10 requests, regarding substantial changes in wages, employee benefits, personnel
11 management, and program policy contract provisions to be included in any contract
12 proposal to be offered to any labor organization by the state or to be agreed to by the
13 state before such proposal is actually offered or accepted.

14 **111.9991 Agreements. (1)** Any tentative agreement reached between the
15 board, acting for the state, and any labor organization representing a collective
16 bargaining unit specified in s. 111.98 shall, after official ratification by the labor
17 organization, be submitted by the board to the joint committee on employment
18 relations, which shall hold a public hearing before determining its approval or
19 disapproval. If the committee approves the tentative agreement, it shall introduce
20 in a bill or companion bills, to be put on the calendar or referred to the appropriate
21 scheduling committee of each house, that portion of the tentative agreement which
22 requires legislative action for implementation, such as salary and wage adjustments,
23 changes in fringe benefits, and any proposed amendments, deletions, or additions to
24 existing law. Such bill or companion bills are not subject to ss. 13.093 (1), 13.50 (6)
25 (a) and (b), and 16.47 (2). The committee may, however, submit suitable portions of

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1 the tentative agreement to appropriate legislative committees for advisory
2 recommendations on the proposed terms. The committee shall accompany the
3 introduction of such proposed legislation with a message that informs the legislature
4 of the committee's concurrence with the matters under consideration and that
5 recommends the passage of such legislation without change. If the joint committee
6 on employment relations does not approve the tentative agreement, it shall be
7 returned to the parties for renegotiation. If the legislature does not adopt without
8 change that portion of the tentative agreement introduced by the joint committee on
9 employment relations, the tentative agreement shall be returned to the parties for
10 renegotiation.

11 (2) No portion of any tentative agreement shall become effective separately.

12 (3) Agreements shall coincide with the fiscal year or biennium.

13 (4) The negotiation of collective bargaining agreements and their approval by
14 the parties should coincide with the overall fiscal planning and processes of the state.

15 (5) All compensation adjustments for employees shall be effective on the
16 beginning date of the pay period nearest the statutory or administrative date.

17 **111.9992 Status of existing benefits and rights.** Unless a prohibited
18 subject of bargaining under s. 111.998 (2), and except as provided in ss. 7.33 (4),
19 40.05, 40.80 (3), 111.998 (1) (d), and 230.35 (2d) and (3) (e) 6., all statutes and rules
20 governing the salaries, fringe benefits, hours, and conditions of employment apply
21 to each employee, unless otherwise provided in a collective bargaining agreement.

22 **111.9993 Rules, transcripts, fees.** (1) The commission may adopt
23 reasonable and proper rules relative to the exercise of its powers and authority and
24 proper rules to govern its proceedings and to regulate the conduct of all elections and
25 hearings under this subchapter. The commission shall, upon request, provide a

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1 transcript of a proceeding to any party to the proceeding for a fee, established by rule,
2 by the commission at a uniform rate per page. All transcript fees shall be credited
3 to the appropriation account under s. 20.425 (1) (i).

4 **(2)** The commission shall assess and collect a filing fee for filing a complaint
5 alleging that an unfair labor practice has been committed under s. 111.991. The
6 commission shall assess and collect a filing fee for filing a request that the
7 commission act as an arbitrator to resolve a dispute involving the interpretation or
8 application of a collective bargaining agreement under s. 111.993. The commission
9 shall assess and collect a filing fee for filing a request that the commission initiate
10 fact-finding under s. 111.995. The commission shall assess and collect a filing fee
11 for filing a request that the commission act as a mediator under s. 111.994. For the
12 performance of commission actions under ss. 111.993, 111.994, and 111.995, the
13 commission shall require that the parties to the dispute equally share in the payment
14 of the fee and, for the performance of commission actions involving a complaint
15 alleging that an unfair labor practice has been committed under s. 111.991, the
16 commission shall require that the party filing the complaint pay the entire fee. If any
17 party has paid a filing fee requesting the commission to act as a mediator for a labor
18 dispute and the parties do not enter into a voluntary settlement of the labor dispute,
19 the commission may not subsequently assess or collect a filing fee to initiate
20 fact-finding to resolve the same labor dispute. If any request concerns issues arising
21 as a result of more than one unrelated event or occurrence, each such separate event
22 or occurrence shall be treated as a separate request. The commission shall
23 promulgate rules establishing a schedule of filing fees to be paid under this
24 subsection. Fees required to be paid under this subsection shall be paid at the time
25 of filing the complaint or the request for fact-finding, mediation, or arbitration. A

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1 complaint or request for fact-finding, mediation, or arbitration is not filed until the
2 date such fee or fees are paid. Fees collected under this subsection shall be credited
3 to the appropriation account under s. 20.425 (1) (i).

4 **SECTION 243.** 111.965 of the statutes, as created by 2011 Wisconsin Act ... (this
5 act), is renumbered 111.965 (1m) and amended to read:.

6 111.965 (1m) (a) In the furtherance of this subchapter, the state shall be
7 considered as a single employer. The With respect to a collective bargaining unit
8 specified in s. 111.98 (1) (b) to (i) or (jk) to (r), the board shall negotiate and administer
9 collective bargaining agreements. To coordinate the employer position in the
10 negotiation of agreements, the board shall maintain close liaison with the office
11 relative to the negotiation of agreements and the fiscal ramifications of those
12 agreements. The board shall coordinate its collective bargaining activities with the
13 office. The legislative branch shall act upon those portions of tentative agreements
14 negotiated by the board that require legislative action.

15 (b) The With respect to a collective bargaining unit specified in s. 111.98 (1) (b)
16 to (i) or (jk) to (r), the board shall establish a collective bargaining capacity and shall
17 represent the state in its responsibility as an employer under this subchapter. The
18 board shall coordinate its actions with the director of the office.

19 **SECTION 244.** 111.965 (2m) of the statutes is created to read:

20 111.965 (2m) (a) With respect to a collective bargaining unit specified in s.
21 111.98 (1) (a) or (j), the University of Wisconsin-Madison shall negotiate and
22 administer collective bargaining agreements. To coordinate the employer position
23 in the negotiation of agreements, the University of Wisconsin-Madison shall
24 maintain close liaison with the office relative to the negotiation of agreements and
25 the fiscal ramifications of those agreements. The University of Wisconsin-Madison

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1 shall coordinate its collective bargaining activities with the office. The legislative
2 branch shall act upon those portions of tentative agreements negotiated by the
3 University of Wisconsin-Madison that require legislative action.

4 (b) With respect to a collective bargaining unit specified in s. 111.98 (1) (a) or
5 (j), the University of Wisconsin-Madison shall establish a collective bargaining
6 capacity and shall represent the state in its responsibility as an employer under this
7 subchapter. The University of Wisconsin-Madison shall coordinate its actions with
8 the director of the office.

9 **SECTION 245.** 111.98 (2) (a) of the statutes, as created by 2011 Wisconsin Act
10 (this act), is amended to read:

11 111.98 (2) (a) Notwithstanding sub. (1), 2 or more collective bargaining units
12 described under sub. (1) ~~(a) (b) to (i) or (jk)~~ to (r) may be combined into a single unit
13 or the collective bargaining units described under sub. (1) (a) and (j) may be combined
14 into a single unit. If 2 or more collective bargaining units seek to combine into a
15 single collective bargaining unit, the commission shall, upon the petition of at least
16 30 percent of the employees in each unit, hold an election, or include on any ballot
17 for an election held under s. 111.990 (2) the question of whether to combine units, to
18 determine whether a majority of those employees voting in each unit desire to
19 combine into a single unit. A combined collective bargaining unit shall be formed
20 including all employees from each of those units in which a majority of the employees
21 voting in the election approve a combined unit. The combined collective bargaining
22 unit shall be formed immediately if there is no existing collective bargaining
23 agreement in force in any of the units to be combined. If there is a collective
24 bargaining agreement in force at the time of the election in any of the collective

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1 bargaining units to be combined, the combined unit shall be formed upon expiration
2 of the last agreement for the units concerned.

3 **SECTION 246.** 111.997 (intro.) and (1) of the statutes, as created by 2011
4 Wisconsin Act (this act), are amended to read:

5 **111.997 Management rights.** (intro.) Nothing in this subchapter shall
6 interfere with the right of the board or of the University of Wisconsin-Madison, in
7 accordance with this subchapter, to do any of the following:

8 (1) Carry out the statutory mandate and goals assigned to the board or to the
9 University of Wisconsin-Madison by the most appropriate and efficient methods and
10 means and utilize personnel in the most appropriate and efficient manner possible.

11 **SECTION 247.** 111.998 (1) (b) of the statutes, as created by 2011 Wisconsin Act
12 (this act), is amended to read:

13 111.998 (1) (b) The With respect to a collective bargaining unit specified in s.
14 111.98 (1) (b) to (i) or (jk) to (r), the board and, with respect to a collective bargaining
15 unit specified in s. 111.98 (1) (a) or (j), the University of Wisconsin-Madison is not
16 required to bargain on management rights under s. 111.997, except that procedures
17 for the adjustment or settlement of grievances or disputes arising out of any type of
18 disciplinary action in s. 111.997 (2) is a subject of bargaining.

19 **SECTION 248.** 111.998 (1) (c) of the statutes, as created by 2011 Wisconsin Act
20 (this act), is amended to read:

21 111.998 (1) (c) The board is and the University of Wisconsin-Madison are
22 prohibited from bargaining on matters contained in sub. (2).

23 **SECTION 249.** 111.998 (1) (d) of the statutes, as created by 2011 Wisconsin Act
24 (this act), is amended to read:

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1 111.998 (1) (d) Except as provided in sub. (2) and ss. 40.02 (22) (e) and 40.23
2 (1) (f) 4., all laws governing the Wisconsin Retirement System under ch. 40 and all
3 actions of the board and of the University of Wisconsin-Madison that are authorized
4 under any such law which apply to nonrepresented individuals employed by the state
5 shall apply to similarly situated employees, unless otherwise specifically provided
6 in a collective bargaining agreement that applies to those employees.

7 **SECTION 250.** 111.998 (1) (e) of the statutes, as created by 2011 Wisconsin Act
8 (this act), is amended to read:

9 111.998 (1) (e) Demands relating to retirement and group insurance shall be
10 submitted to the board or to the University of Wisconsin-Madison, whichever is
11 appropriate, at least one year prior to commencement of negotiations.

12 **SECTION 251.** 111.998 (1) (f) of the statutes, as created by 2011 Wisconsin Act
13 (this act), is amended to read:

14 111.998 (1) (f) ~~The~~ Neither the board nor the University of Wisconsin-Madison
15 ~~is not~~ required to bargain on matters related to employee occupancy of houses or
16 other lodging provided by the state.

17 **SECTION 252.** 111.998 (2) (intro.) of the statutes, as created by 2011 Wisconsin
18 Act (this act), is amended to read:

19 111.998 (2) (intro.) The board is and the University of Wisconsin-Madison are
20 prohibited from bargaining on:

21 **SECTION 253.** 111.999 of the statutes, as created by 2011 Wisconsin Act (this
22 act), is renumbered 111.999 (1) and amended to read:

23 111.999 (1) ~~The~~ With respect to a collective bargaining unit specified in s.
24 111.98 (1) (b) to (i) or (jk) to (r), the board shall notify and consult with the joint
25 committee on employment relations, in such form and detail as the committee

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1 requests, regarding substantial changes in wages, employee benefits, personnel
2 management, and program policy contract provisions to be included in any contract
3 proposal to be offered to any labor organization by the state or to be agreed to by the
4 state before such proposal is actually offered or accepted.

5 **SECTION 254.** 111.999 (2) of the statutes is created to read:

6 111.999 (2) With respect to a collective bargaining unit specified in s. 111.98 (1)
7 (a) or (j), the University of Wisconsin–Madison shall notify and consult with the joint
8 committee on employment relations, in such form and detail as the committee
9 requests, regarding substantial changes in wages, employee benefits, personnel
10 management, and program policy contract provisions to be included in any contract
11 proposal to be offered to any labor organization or to be agreed to before such proposal
12 is actually offered or accepted.

13 **SECTION 255.** 111.9991 (1) of the statutes, as created by 2011 Wisconsin Act ...
14 (this act), is renumbered 111.9991 (1) (a) and amended to read:

15 111.9991 (1) (a) Any tentative agreement reached between the board, acting for
16 the state, and any labor organization representing a collective bargaining unit
17 specified in s. 111.98 (1) (b) to (i) or (jk) to (r) shall, after official ratification by the
18 labor organization, be submitted by the board to the joint committee on employment
19 relations, which shall hold a public hearing before determining its approval or
20 disapproval.

21 (c) If the committee approves the a tentative agreement under par. (a) or (b),
22 it shall introduce in a bill or companion bills, to be put on the calendar or referred
23 to the appropriate scheduling committee of each house, that portion of the tentative
24 agreement which requires legislative action for implementation, such as salary and
25 wage adjustments, changes in fringe benefits, and any proposed amendments,

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1 deletions, or additions to existing law. Such bill or companion bills are not subject
2 to ss. 13.093 (1), 13.50 (6) (a) and (b), and 16.47 (2). The committee may, however,
3 submit suitable portions of the tentative agreement to appropriate legislative
4 committees for advisory recommendations on the proposed terms. The committee
5 shall accompany the introduction of such proposed legislation with a message that
6 informs the legislature of the committee's concurrence with the matters under
7 consideration and that recommends the passage of such legislation without change.
8 If the joint committee on employment relations does not approve the tentative
9 agreement, it shall be returned to the parties for renegotiation. If the legislature
10 does not adopt without change that portion of the tentative agreement introduced by
11 the joint committee on employment relations, the tentative agreement shall be
12 returned to the parties for renegotiation.

13 **SECTION 256.** 111.9991 (1) (b) of the statutes is created to read:

14 111.9991 (1) (b) Any tentative agreement reached between the University of
15 Wisconsin-Madison, acting for the state, and any labor organization representing a
16 collective bargaining unit specified in s. 111.98 (1) (a) or (j) shall, after official
17 ratification by the labor organization, be submitted by the University of
18 Wisconsin-Madison to the joint committee on employment relations, which shall
19 hold a public hearing before determining its approval or disapproval.

20 **SECTION 257.** 118.22 (4) of the statutes is created to read:

21 118.22 (4) A collective bargaining agreement may modify, waive, or replace any
22 of the provisions of this section as they apply to teachers in the collective bargaining
23 unit, but neither the employer nor the bargaining agent for the employees is required
24 to bargain such modification, waiver, or replacement.

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1 **SECTION 258.** 118.223 of the statutes, as created by 2011 Wisconsin Act 10, is
2 repealed.

3 **SECTION 259.** 118.23 (5) of the statutes is created to read:

4 118.23 (5) A collective bargaining agreement may modify, waive, or replace any
5 of the provisions of this section as they apply to teachers in the collective bargaining
6 unit, but neither the employer nor the bargaining agent for the employees is required
7 to bargain such modification, waiver, or replacement.

8 **SECTION 260.** 118.245 of the statutes, as created by 2011 Wisconsin Act 10, is
9 repealed.

10 **SECTION 261.** 118.40 (2r) (b) 3. a. of the statutes, as affected by 2011 Wisconsin
11 Act 10, is amended to read:

12 118.40 (2r) (b) 3. a. Delegate to the governing board of the charter school the
13 board of regents' authority to establish and adjust all compensation and fringe
14 benefits of instructional staff, subject to the terms of any collective bargaining
15 agreement under subch. V of ch. 111 that covers the instructional staff. In the
16 absence of a collective bargaining agreement, the governing board may establish and
17 adjust all compensation and fringe benefits of the instructional staff only with the
18 approval of the chancellor of the University of Wisconsin-Parkside.

19 **SECTION 262.** 118.42 (3) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
20 10, is amended to read:

21 118.42 (3) (a) 4. Implement changes in administrative and personnel
22 structures that are consistent with applicable collective bargaining agreements.

23 **SECTION 263.** 118.42 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
24 is amended to read:

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1 118.42 (5) Nothing in this section alters or otherwise affects the rights or
2 remedies afforded school districts and school district employees under federal or
3 state law or under the terms of any applicable collective bargaining agreement.

4 **SECTION 264.** 119.04 (1) of the statutes, as affected by 2011 Wisconsin Acts 10
5 and 32, is amended to read:

6 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
7 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
8 115.345, 115.365 (3), 115.38 (2), 115.445, 118.001 to 118.04, 118.045, 118.06, 118.07,
9 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153,
10 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, ~~118.223~~, 118.225, 118.24
11 (1), (2) (c) to (f), (6), (8), and (10), ~~118.245~~, 118.255, 118.258, 118.291, 118.30 to 118.43,
12 118.46, 118.51, 118.52, 118.55, 120.12 (~~4m~~), (5), and (15) to (27), 120.125, 120.13 (1),
13 (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21
14 (3), and 120.25 are applicable to a 1st class city school district and board.

15 **SECTION 265.** 120.12 (4m) of the statutes, as created by 2011 Wisconsin Act 10,
16 is repealed.

17 **SECTION 266.** 120.12 (15) of the statutes, as affected by 2011 Wisconsin Act 10,
18 is amended to read:

19 120.12 (15) SCHOOL HOURS. Establish rules scheduling the hours of a normal
20 school day. The school board may differentiate between the various elementary and
21 high school grades in scheduling the school day. The equivalent of 180 such days, as
22 defined in s. 115.01 (10), shall be held during the school term. This subsection does
23 not eliminate a school district's duty to bargain with the employee's collective
24 bargaining representative over any calendaring proposal that is primarily related to
25 wages, hours, or conditions of employment.

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1 **SECTION 267.** 120.18 (1) (gm) of the statutes, as affected by 2011 Wisconsin Act
2 10, is amended to read:

3 120.18 (1) (gm) Payroll and related benefit costs for all school district
4 employees in the previous school year. ~~Payroll costs~~ Costs for represented employees
5 shall be based upon the costs ~~of wages~~ of any collective bargaining agreements
6 covering such employees for the previous school year. If, as of the time specified by
7 the department for filing the report, the school district has not entered into a
8 collective bargaining agreement for any portion of the previous school year with the
9 recognized or certified representative of any of its employees and the school district
10 and the representative have been required to submit final offers under s. 111.70 (4)
11 (cm) 6., increased costs of wages limited to the lower of the school district's offer or
12 the representative's offer shall be reflected in the report ~~shall be equal to the~~
13 ~~maximum wage expenditure that is subject to collective bargaining under s. 111.70~~
14 ~~(4) (mb) 2. for the employees.~~ The school district shall amend the annual report to
15 reflect any change in such costs as a result of any collective bargaining agreement
16 ~~entered into~~ award or settlement under s. 111.70 (4) (cm) 6. between the date of filing
17 the report and October 1. Any such amendment shall be concurred in by the certified
18 public accountant licensed or certified under ch. 442 certifying the school district
19 audit.

20 **SECTION 268.** 230.01 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
21 is amended to read:

22 230.01 (3) Nothing in this chapter shall be construed to either infringe upon
23 or supersede the rights guaranteed state employees under subch. V or VI of ch. 111.

24 **SECTION 269.** 230.03 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
25 is amended to read:

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1 230.03 (3) “Agency” means any board, commission, committee, council, or
2 department in state government or a unit thereof created by the constitution or
3 statutes if such board, commission, committee, council, department, unit, or the
4 head thereof, is authorized to appoint subordinate staff by the constitution or
5 statute, except a legislative or judicial board, commission, committee, council,
6 department, or unit thereof or an authority created under subch. II of ch. 114 or
7 subch. III of ch. 149 or under ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.
8 “Agency” does not mean any local unit of government or body within one or more local
9 units of government that is created by law or by action of one or more local units of
10 government.

11 **SECTION 270.** 230.046 (10) (a) of the statutes, as affected by 2011 Wisconsin Act
12 10, is amended to read:

13 230.046 (10) (a) Conduct off-the-job employee development and training
14 programs relating to functions under this chapter or subch. V or VI of ch. 111.

15 **SECTION 271.** 230.10 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
16 is amended to read:

17 230.10 (1) Except as provided under sub. (2), the compensation plan provisions
18 of s. 230.12 apply to all employees of the classified service. ~~If an employee is covered
19 under a collective bargaining agreement under subch. V of ch. 111, the compensation
20 plan provisions of s. 230.12 apply to that employee, except for those provisions
21 relating to matters that are subject to bargaining under a collective bargaining
22 agreement that covers the employee, unless they are covered by a collective
23 bargaining agreement under subch. V of ch. 111.~~

24 **SECTION 272.** 230.12 (3) (e) 1. of the statutes, as affected by 2011 Wisconsin Act
25 10, is amended to read:

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1 230.12 (3) (e) 1. The director, after receiving recommendations from the board
2 of regents, shall submit to the joint committee on employment relations a proposal
3 for adjusting compensation and employee benefits for employees under ss. 20.923
4 (4g), (5) and (6) (m) and 230.08 (2) (d) who are not included in a collective bargaining
5 unit under subch. V or VI of ch. 111 for which a representative is certified. The
6 proposal shall include the salary ranges and adjustments to the salary ranges for the
7 university senior executive salary groups 1 and 2 established under s. 20.923 (4g).
8 The proposal shall be based upon the competitive ability of the board of regents to
9 recruit and retain qualified faculty and academic staff, data collected as to rates of
10 pay for comparable work in other public services, universities and commercial and
11 industrial establishments, recommendations of the board of regents and any special
12 studies carried on as to the need for any changes in compensation and employee
13 benefits to cover each year of the biennium. The proposal shall also take proper
14 account of prevailing pay rates, costs and standards of living and the state's
15 employment policies. The proposal for such pay adjustments may contain
16 recommendations for across-the-board pay adjustments, merit or other
17 adjustments and employee benefit improvements. Paragraph (b) and sub. (1) (bf)
18 shall apply to the process for approval of all pay adjustments for such employees
19 under ss. 20.923 (4g), (5) and (6) (m) and 230.08 (2) (d). The proposal as approved
20 by the joint committee on employment relations and the governor shall be based
21 upon a percentage of the budgeted salary base for such employees under ss. 20.923
22 (4g), (5) and (6) (m) and 230.08 (2) (d). The amount included in the proposal for merit
23 and adjustments other than across-the-board pay adjustments is available for
24 discretionary use by the board of regents.

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1 **SECTION 273.** 230.34 (1) (ar) of the statutes, as affected by 2011 Wisconsin Act
2 10, is amended to read:

3 230.34 (1) (ar) Paragraphs (a) and (am) apply to all employees with permanent
4 status in class in the classified service and all employees who have served with the
5 state as an assistant district attorney for a continuous period of 12 months or more,
6 except that for employees specified in s. 111.81 (7) (a) in a collective bargaining unit
7 for which a representative is recognized or certified, or for employees specified in s.
8 111.81 (7) (b) or (c) in a collective bargaining unit for which a representative is
9 certified, if a collective bargaining agreement is in effect covering employees in the
10 collective bargaining unit, the provisions of the collective bargaining agreement
11 govern just cause and all aspects of the appeal procedure.

12 **SECTION 274.** 230.35 (1s) of the statutes, as affected by 2011 Wisconsin Act 10,
13 is amended to read:

14 230.35 (1s) Annual leave of absence with pay for instructional staff employed
15 by the board of regents of the University of Wisconsin System who provide services
16 for a charter school established by contract under s. 118.40 (2r) (cm) shall be
17 determined by the governing board of the charter school established by contract
18 under s. 118.40 (2r) (cm), as approved by the chancellor of the University of
19 Wisconsin-Parkside and subject to the terms of any collective bargaining agreement
20 under subch. V of ch. 111 covering the instructional staff.

21 **SECTION 275.** 230.35 (2d) (e) of the statutes, as affected by 2011 Wisconsin Act
22 10, is amended to read:

23 230.35 (2d) (e) For employees who are included in a collective bargaining unit
24 for which a representative is recognized or certified under subch. V or VI of ch. 111,

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1 this subsection shall apply unless otherwise provided in a collective bargaining
2 agreement.

3 **SECTION 276.** 230.35 (3) (e) 6. of the statutes, as affected by 2011 Wisconsin Act
4 10, is amended to read:

5 230.35 (3) (e) 6. For employees who are included in a collective bargaining unit
6 for which a representative is recognized or certified under subch. V or VI of ch. 111,
7 this paragraph shall apply unless otherwise provided in a collective bargaining
8 agreement.

9 **SECTION 277.** 230.88 (2) (b) of the statutes, as affected by 2011 Wisconsin Act
10 10, is amended to read:

11 230.88 (2) (b) No collective bargaining agreement supersedes the rights of an
12 employee under this subchapter. However, nothing in this subchapter affects any
13 right of an employee to pursue a grievance procedure under a collective bargaining
14 agreement under subch. V or VI of ch. 111, and if the division of equal rights
15 determines that a grievance arising under such a collective bargaining agreement
16 involves the same parties and matters as a complaint under s. 230.85, it shall order
17 the arbitrator's final award on the merits conclusive as to the rights of the parties
18 to the complaint, on those matters determined in the arbitration which were at issue
19 and upon which the determination necessarily depended.

20 **SECTION 278.** 233.02 (1) (h) of the statutes is created to read:

21 233.02 (1) (h) Two nonvoting members appointed by the governor, one of whom
22 shall be an employee or a representative of a labor organization recognized or
23 certified to represent employees in one of the collective bargaining units specified in
24 s. 111.05 (5) (a) and one of whom shall be an employee or a representative of a labor

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1 organization recognized or certified to represent employees in one of the collective
2 bargaining units specified in s. 111.825 (1m).

3 **SECTION 279.** 233.02 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
4 is amended to read:

5 233.02 (8) The members of the board of directors shall annually elect a
6 chairperson and may elect other officers as they consider appropriate. Eight voting
7 members of the board of directors constitute a quorum for the purpose of conducting
8 the business and exercising the powers of the authority, notwithstanding the
9 existence of any vacancy. The members of the board of directors specified under sub.
10 (1) (c) and (g) may not be the chairperson of the board of directors for purposes of 1995
11 Wisconsin Act 27, section 9159 (2). The board of directors may take action upon a vote
12 of a majority of the members present, unless the bylaws of the authority require a
13 larger number.

14 **SECTION 280.** 233.03 (7) of the statutes, as affected by 2011 Wisconsin Act 10,
15 is amended to read:

16 233.03 (7) Subject to s. 233.10 and ch. 40 and 1995 Wisconsin Act 27, section
17 9159 (4) and the duty to engage in collective bargaining with employees in a collective
18 bargaining unit for which a representative is recognized or certified under subch. I
19 of ch. 111, employ any agent, employee or special advisor that the authority finds
20 necessary and fix his or her compensation and provide any employee benefits,
21 including an employee pension plan.

22 **SECTION 281.** 233.10 (2) (intro.) of the statutes, as affected by 2011 Wisconsin
23 Act 10, is amended to read:

24 233.10 (2) (intro.) Subject to subs. (3), (3r), and (3t) and ch. 40 and the duty to
25 engage in collective bargaining with employees in a collective bargaining unit for

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1 which a representative is recognized or certified under subch. I of ch. 111, the
2 authority shall establish any of the following:

3 **SECTION 282.** 281.75 (4) (b) 3. of the statutes, as affected by 2011 Wisconsin Act
4 10, is amended to read:

5 281.75 (4) (b) 3. An authority created under subch. II of ch. 114 or ch. 52, 231,
6 233, 234, 237, or 238.

7 **SECTION 283.** 285.59 (1) (b) of the statutes, as affected by 2011 Wisconsin Act
8 10, is amended to read:

9 285.59 (1) (b) "State agency" means any office, department, agency, institution
10 of higher education, association, society or other body in state government created
11 or authorized to be created by the constitution or any law which is entitled to expend
12 moneys appropriated by law, including the legislature and the courts, the Wisconsin
13 Housing and Economic Development Authority, the Bradley Center Sports and
14 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics
15 Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace
16 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
17 Development Corporation, and the Wisconsin Health and Educational Facilities
18 Authority.

19 **SECTION 284.** 704.31 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
20 is amended to read:

21 704.31 (3) This section does not apply to a lease to which a local professional
22 baseball park district created under subch. III of ch. 229, the Wisconsin Quality
23 Home Care Authority, or the Fox River Navigational System Authority is a party.

24 **SECTION 285.** 851.71 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
25 is amended to read:

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1 851.71 (4) In counties having a population of 500,000 or more, the appointment
2 under subs. (1) and (2) shall be made as provided in those subsections but the judges
3 shall not remove the register in probate and deputy registers, except through charges
4 for dismissal made and sustained under s. 63.10 or an applicable collective
5 bargaining agreement.

6 **SECTION 286.** 904.085 (2) (a) of the statutes is amended to read:

7 904.085 (2) (a) “Mediation” means mediation under s. 93.50 (3), conciliation
8 under s. 111.54, mediation under s. 111.11, 111.70 (4) ~~(eg) or (cm) 3.~~ or 111.87,
9 mediation under s. 115.797, negotiation under s. 289.33 (9), mediation under ch. 655
10 or s. 767.405, or any similar statutory, contractual or court-referred process
11 facilitating the voluntary resolution of disputes. “Mediation” does not include
12 binding arbitration or appraisal.

13 **SECTION 287.** 978.12 (1) (c) of the statutes, as affected by 2011 Wisconsin Act
14 10, is amended to read:

15 978.12 (1) (c) *Assistant district attorneys.* Assistant district attorneys shall be
16 employed outside the classified service. For purposes of salary administration, the
17 director of the office of state employment relations shall establish one or more
18 classifications for assistant district attorneys in accordance with the classification
19 or classifications allocated to assistant attorneys general. Except as provided in s.
20 111.93 (3) ~~(b)~~, the salaries of assistant district attorneys shall be established and
21 adjusted in accordance with the state compensation plan for assistant attorneys
22 general whose positions are allocated to the classification or classifications
23 established by the director of the office of state employment relations.

24 **SECTION 288.** 2011 Wisconsin Act 10, section 9132 is repealed.

25 **SECTION 289.** 2011 Wisconsin Act 10, section 9155 is repealed.

