

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

- (a) Policies.
- (b) Work rules.
- (c) Hours of employment.
- (d) Any right of the consumer under s. 111.905.

SECTION 2254. 111.92 (1) (a) of the statutes is amended to read:

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

SECTION 2254g. 111.92 (2m) of the statutes is created to read:

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

SECTION 2254L. 111.935 of the statutes is created to read:

111.935 Representatives and elections for research assistants. (1) In this section, "authorization card" means a signed card that employees complete to indicate their preferences regarding collective bargaining.

(2) Notwithstanding s. 111.83 (2), the commission shall establish a procedure whereby research assistants may determine whether to form themselves into collective bargaining units under s. 111.825 (2) (g), (h), or (i) by authorization cards in lieu of secret ballot. The procedure shall provide that once a majority of research assistants have indicated their preference on the authorization cards to form themselves into a collective bargaining unit, the collective bargaining unit is established.

(3) Notwithstanding ss. 111.825 (4) and 111.83 (3), all of the following shall apply:

(a) The initial representative of the employees in the collective bargaining unit under s. 111.825 (2) (g) is the representative of the employees in the collective bargaining unit under s. 111.825 (2) (a).

(b) The initial representative of the employees in the collective bargaining unit under s. 111.825 (2) (h) is the representative of the employees in the collective bargaining unit under s. 111.825 (2) (b).

(c) The initial representative of the employees in the collective bargaining unit under s. 111.825 (2) (i) is either the representative of the employees in the collective bargaining unit under s. 111.825 (2) (a) or the representative of the employees in the collective bargaining unit under s. 111.825 (2) (b). The commission shall establish a procedure for selecting the representative by authorization cards in lieu of secret ballot.

SECTION 2255. Subchapter VI of chapter 111 [precedes 111.95] of the statutes is created to read:

CHAPTER 111

SUBCHAPTER VI

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" has the meaning given under s. 36.05 (1), 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.

**Vetoed
In Part**

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

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

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

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

(7) "Employee" includes:

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

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

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

(9) "Faculty" has the meaning given in s. 36.05 (8), except for an individual holding an appointment under s. 36.15.

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

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

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

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

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

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

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

(15) "Management employees" include those personnel engaged predominately in executive and management functions.

(16) "Office" means the office of state employment relations in the department of administration.

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

(18) "Representative" includes any person chosen by an employee to represent the employee.

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

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

(21) "Unfair labor practice" means any unfair labor practice specified in s. 111.991.

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

(2) The board shall establish a collective bargaining capacity and shall represent the state in its responsibility

as an employer under this subchapter. The board shall coordinate its actions with the director of the office.

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

111.98 Collective bargaining units. (1) Collective bargaining units for faculty and staff in the unclassified service of the state shall be structured with a collective bargaining unit for each of the following groups:

- (a) Faculty of the University of Wisconsin-Madison.
- (b) Faculty of the University of Wisconsin-Milwaukee.
- (c) Faculty of the University of Wisconsin-Extension.
- (cm) Faculty of the University of Wisconsin-Eau Claire.
- (d) Faculty of the University of Wisconsin-Green Bay.
- (dm) Faculty of the University of Wisconsin-La Crosse.
- (e) Faculty of the University of Wisconsin-Oshkosh.
- (em) Faculty of the University of Wisconsin-Parkside.
- (f) Faculty of the University of Wisconsin-Platteville.
- (fm) Faculty of the University of Wisconsin-River Falls.
- (g) Faculty of the University of Wisconsin-Stevens Point.
- (gm) Faculty of the University of Wisconsin-Stout.
- (h) Faculty of the University of Wisconsin-Superior.
- (hm) Faculty of the University of Wisconsin-Whitewater.
- (i) Faculty of the University of Wisconsin Colleges.
- (j) Academic staff of the University of Wisconsin-Madison and academic staff employed at the University of Wisconsin System administration.
- (jm) Academic staff of the University of Wisconsin-Milwaukee.
- (k) Academic staff of the University of Wisconsin-Extension.
- (km) Academic staff of the University of Wisconsin-Eau Claire.
- (L) Academic staff of the University of Wisconsin-Green Bay.
- (Lm) Academic staff of the University of Wisconsin-La Crosse.
- (n) Academic staff of the University of Wisconsin-Oshkosh.
- (nm) Academic staff of the University of Wisconsin-Parkside.

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

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

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

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

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

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

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

(2) (a) Notwithstanding sub. (1), 2 or more collective bargaining units described under sub. (1) (a) to (r) may be combined into a single unit. If 2 or more collective bargaining units seek to combine into a single collective bargaining unit, the commission shall, upon the petition of at least 30 percent of the employees in each unit, hold an election, or include on any ballot for an election held under s. 111.990 (2) the question of whether to combine units, to determine whether a majority of those employees voting in each unit desire to combine into a single unit. A combined collective bargaining unit shall be formed including all employees from each of those units in which a majority of the employees voting in the election approve a combined unit. The combined collective bargaining unit shall be formed immediately if there is no existing collective bargaining agreement in force in any of the units to be combined. If there is a collective bargaining agreement in force at the time of the election in any of the collective bargaining units to be combined, the combined unit shall be formed upon expiration of the last agreement for the units concerned.

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

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(3) The commission shall assign employees to the appropriate collective bargaining units described under sub. (1) or (2) or under s. 111.825 (1) or (2).

(4) Any labor organization may petition for recognition as the exclusive representative of a collective bargaining unit described under sub. (1) or (2) in accordance with the election procedures under s. 111.990 if the petition is accompanied by a 30 percent showing of interest in the form of signed authorization cards. Any additional labor organization seeking to appear on the ballot shall file a petition within 60 days of the date of filing of the original petition and prove, through signed authorization cards, that at least 10 percent of the employees in the collective bargaining unit want it to be their representative.

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

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

(2) (a) Whenever a question arises concerning the representation of employees in a collective bargaining unit, the commission shall determine the representation by taking a secret ballot of the employees and certifying in writing the results to the interested parties and to the board. There shall be included on any ballot for the election of representatives the names of all labor organizations having an interest in representing the employees participating in the election as indicated in petitions filed with the commission. The name of any existing representative shall be included on the ballot without the necessity of filing a petition. The commission may exclude from the ballot one who, at the time of the election, stands deprived of his or her rights under this subchapter by rea-

son of a prior adjudication of his or her having engaged in an unfair labor practice. The ballot shall be so prepared as to permit a vote against representation by anyone named on the ballot.

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

2. For elections in a collective bargaining unit composed of employees who are members of the faculty or academic staff, whenever more than one representative qualifies to appear on the ballot and a question of whether to combine collective bargaining units as permitted under s. 111.98 (2) (a) qualifies to appear on the ballot, the ballot shall be so prepared as to provide separate votes on 3 questions and each ballot shall identify the collective bargaining unit to which each voter currently belongs. The first question shall be: "Shall the employees of the (name of the voter's current collective bargaining unit) participate in collective bargaining?". The 2nd question shall be "Shall the employees of the (names of all of the collective bargaining units that qualify to appear on the ballot, including the name of the voter's current collective bargaining unit) combine to participate in collective bargaining?". The 3rd question shall be: "If the employees of the (name of the voter's current collective bargaining unit) elect to participate in collective bargaining, which labor organization do you favor to act as representative of the employees?". The 3rd question shall not include a choice for no representative. All employees in the collective bargaining unit may vote on all questions. Unless a majority of those employees voting in the election vote to participate in collective bargaining, no votes for combination or for a particular representative may be counted. If a majority of those employees voting in the election vote to participate in collective bargaining, the ballots for combination shall be counted. If the ballots for combination are counted and a majority of those employees voting from each collective bargaining unit listed in the 2nd question on the

ballot vote to combine, then the ballots for representatives of the combined collective bargaining unit shall be counted. If the ballots for combination are counted and a majority of those employees voting from each collective bargaining unit listed in the 2nd question on the ballot do not vote to combine, then the ballots for representatives of each current collective bargaining unit shall be counted.

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

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

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

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

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

(b) Except as otherwise provided in this paragraph, to initiate, create, dominate, or interfere with the formation or administration of any labor or employee organization or contribute financial support to it. Except as provided in ss. 40.02 (22) (e) and 40.23 (1) (f) 4., no change in any law affecting the Wisconsin Retirement System under ch. 40 and no action by the employer that is authorized by such a law is a violation of this paragraph unless an applicable collective bargaining agreement specifically prohibits the change or action. No such change or action affects the continuing duty to bargain collectively

regarding the Wisconsin Retirement System under ch. 40 to the extent required by s. 111.998. It is not an unfair labor practice for the employer to reimburse an employee at his or her prevailing wage rate for the time spent during the employee's regularly scheduled hours conferring with the employer's officers or agents and for attendance at commission or court hearings necessary for the administration of this subchapter.

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

(d) To refuse to bargain collectively on matters set forth in s. 111.998 with a representative of a majority of its employees in an appropriate collective bargaining unit. Whenever the employer has a good faith doubt as to whether a labor organization claiming the support of a majority of its employees in an appropriate collective bargaining unit does in fact have that support, it may file with the commission a petition requesting an election as to that claim. The employer is not considered to have refused to bargain until an election has been held and the results of the election are certified to the employer by the commission. A violation of this paragraph includes the refusal to execute a collective bargaining agreement previously orally agreed upon.

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

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

(1m) Notwithstanding sub. (1), it is not an unfair labor practice for the board to implement changes in salaries or conditions of employment for members of the faculty or academic staff at one institution, and not for other members of the faculty or academic staff at another institution, but this may be done only if the differential treatment is based on comparisons with the compensation and working conditions of employees performing similar services for comparable higher education institutions or based upon other competitive factors.

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

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

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

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

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

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

(f) To coerce or intimidate a supervisory employee, officer, or agent of the employer, working at the same trade or profession as the employer's employees, to induce the person to become a member of or act in concert with the labor organization of which the employee is a member

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

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

111.992 Fair-share and maintenance of membership agreements. (1) (a) 1. No fair-share agreement may become effective unless authorized by a referen-

dum. The commission shall order a referendum whenever it receives a petition supported by proof that at least 30 percent of the employees or supervisors specified in s. 111.98 (5) in a collective bargaining unit desire that a fair-share agreement be entered into between the employer and a labor organization.

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

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

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

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

(2) (a) 1. Once authorized, a fair-share agreement shall continue in effect, subject to the right of the employer or labor organization concerned to petition the

commission to conduct a new referendum. Such a petition must be supported by proof that at least 30 percent of the employees or supervisors in the collective bargaining unit desire that the fair-share agreement be discontinued. Upon so finding, the commission shall conduct a new referendum. If the continuance of the fair-share agreement is approved in the referendum by at least the percentage of eligible voting employees or supervisors required for its initial authorization, it shall be continued in effect, subject to the right of the employer or labor organization to later initiate a further vote following the procedure prescribed in this subsection. If the continuance of the fair-share agreement is not supported in any referendum, it is considered terminated at the termination of the collective bargaining agreement, or one year from the date of the certification of the result of the referendum, whichever is earlier.

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

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

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

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

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

(2) The board shall charge an institution for the employer's share of the cost related to grievance arbitra-

tion under sub. (1) for any arbitration that involves one or more employees of the institution. Each institution so charged shall pay the amount that the board charges from the appropriation account or accounts used to pay the salary of the grievant. Funds received under this subsection shall be credited to the appropriation account under s. 20.545 (1) (km).

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

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

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

(3) The fact finder may establish dates and place of hearings and shall conduct the hearings under rules established by the commission. Upon request, the commission shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths. Upon completion of the hearing, the fact finder shall make written findings of fact and recommendations for solution of the dispute and shall cause the same to be served on the parties and the commission. In making findings and recommendations, the fact finder shall take into consideration among other pertinent factors the principles vital to the public interest in efficient and economical governmental administration. Upon the request of either party, the fact finder may orally present the recommendations in advance of service of the written findings and recommendations. Cost of fact-finding proceedings shall be divided equally between the parties. At the time the fact finder submits a statement of his or her costs to the par-

ties, the fact finder shall submit a copy thereof to the commission at its Madison office.

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

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

111.996 Strike prohibited. (1) Upon establishing that a strike is in progress, the employer may either seek an injunction or file an unfair labor practice charge with the commission under s. 111.991 (2) (e) or both. It is the responsibility of the board to decide whether to seek an injunction or file an unfair labor practice charge. The existence of an administrative remedy does not constitute grounds for denial of injunctive relief.

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

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

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

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

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

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

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

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

(b) The board is not required to bargain on management rights under s. 111.997, except that procedures for the adjustment or settlement of grievances or disputes

arising out of any type of disciplinary action in s. 111.997 (2) is a subject of bargaining.

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

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

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

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

(2) The board is prohibited from bargaining on:

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

(b) Amendments to this subchapter.

(c) Family leave and medical leave rights below the minimum afforded under s. 103.10. Nothing in this paragraph prohibits the board from bargaining on rights to family leave or medical leave which are more generous to the employee than the rights provided under s. 103.10.

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

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

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

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

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

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

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

(L) The maximum benefit limitations under s. 40.31

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

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

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

(p) The requirements related to coverage of drugs and devices under s. 632.853.

(q) The requirements related to experimental treatment under s. 632.855.

(r) The requirements under s. 609.10 related to offering a point-of-service option plan.

(s) The requirements related to internal grievance procedures under s. 632.83 and independent review of certain health benefit plan determinations under s. 632.835.

(3) Upon request, the chancellor at each institution, or his or her designee, shall meet and confer with the collective bargaining representative, if any, with regard to any issue that is a permissive subject of bargaining, except when the issue is under active consideration by a governance organization under s. 36.09 (4) or (4m).

111.999 Labor proposals. The board shall notify and consult with the joint committee on employment relations, in such form and detail as the committee requests, regarding substantial changes in wages, employee benefits, personnel management, and program policy contract provisions to be included in any contract proposal to be offered to any labor organization by the state or to be agreed to by the state before such proposal is actually offered or accepted.

111.9991 Agreements. (1) Any tentative agreement reached between the board, acting for the state, and any labor organization representing a collective bargaining unit specified in s. 111.98 shall, after official ratification by the labor organization, be submitted by the board to the joint committee on employment relations, which shall hold a public hearing before determining its approval or disapproval. If the committee approves the tentative agreement, it shall introduce in a bill or companion bills, to be put on the calendar or referred to the appropriate scheduling committee of each house, that portion of the tentative agreement which requires legislative action for implementation, such as salary and wage adjustments, changes in fringe benefits, and any proposed amendments, deletions, or additions to existing law. Such bill or companion bills are not subject to ss. 13.093 (1), 13.50 (6) (a) and (b), and 16.47 (2). The committee may, however, submit suitable portions of the tentative agreement to appropriate legislative committees for advisory recommendations on the proposed terms. The committee shall accompany the introduction of such proposed legislation with a message that informs the legislature of the committee's concurrence with the matters under consideration and that recommends the passage of such legislation without change. If the joint committee on employment relations does not approve the tentative agreement, it shall be returned to the parties for renegotiation. If the legislature does not adopt without change that portion of the tentative agreement introduced by the joint committee on employment relations, the tentative agreement shall be returned to the parties for renegotiation.

(2) No portion of any tentative agreement shall become effective separately.

(3) Agreements shall coincide with the fiscal year or biennium.

(4) The negotiation of collective bargaining agreements and their approval by the parties should coincide with the overall fiscal planning and processes of the state.

(5) All compensation adjustments for employees shall be effective on the beginning date of the pay period nearest the statutory or administrative date.

111.9992 Status of existing benefits and rights. Unless a prohibited subject of bargaining under s. 111.998 (2), and except as provided in ss. 7.33 (4), 40.05, 40.80 (3), 111.998 (1) (d), and 230.35 (2d) and (3) (e) 6., all statutes and rules governing the salaries, fringe benefits, hours, and conditions of employment apply to each employee, unless otherwise provided in a collective bargaining agreement.

111.9993 Rules, transcripts, fees. (1) The commission may adopt reasonable and proper rules relative to the exercise of its powers and authority and proper rules to govern its proceedings and to regulate the conduct of all elections and hearings under this subchapter. The commission shall, upon request, provide a transcript of a proceeding to any party to the proceeding for a fee, established by rule, by the commission at a uniform rate per page. All transcript fees shall be credited to the appropriation account under s. 20.425 (1) (i).

(2) The commission shall assess and collect a filing fee for filing a complaint alleging that an unfair labor practice has been committed under s. 111.991. The commission shall assess and collect a filing fee for filing a request that the commission act as an arbitrator to resolve a dispute involving the interpretation or application of a collective bargaining agreement under s. 111.993. The commission shall assess and collect a filing fee for filing a request that the commission initiate fact-finding under s. 111.995. The commission shall assess and collect a filing fee for filing a request that the commission act as a mediator under s. 111.994. For the performance of commission actions under ss. 111.993, 111.994, and 111.995, the commission shall require that the parties to the dispute equally share in the payment of the fee and, for the performance of commission actions involving a complaint alleging that an unfair labor practice has been committed under s. 111.991, the commission shall require that the party filing the complaint pay the entire fee. If any party has paid a filing fee requesting the commission to act as a mediator for a labor dispute and the parties do not enter into a voluntary settlement of the labor dispute, the commission may not subsequently assess or collect a filing fee to initiate fact-finding to resolve the same labor dispute. If any request concerns issues arising as a result of more than one unrelated event or occurrence, each such separate event or occurrence shall be treated as a

separate request. The commission shall promulgate rules establishing a schedule of filing fees to be paid under this subsection. Fees required to be paid under this subsection shall be paid at the time of filing the complaint or the request for fact-finding, mediation, or arbitration. A complaint or request for fact-finding, mediation, or arbitration is not filed until the date such fee or fees are paid. Fees collected under this subsection shall be credited to the appropriation account under s. 20.425 (1) (i).

SECTION 2255m. 115.28 (52) of the statutes is amended to read:

115.28 (52) ADULT LITERACY GRANTS. From the appropriation under s. 20.255 (3) (b), award grants to nonprofit organizations, as defined in s. 108.02 (19), to support programs that train community-based adult literacy staff and to establish new volunteer-based programs in areas of this state that have a demonstrated need for adult literacy services. No grant may exceed \$10,000, and no organization may receive more than one grant in any fiscal year.

SECTION 2256g. 115.38 (2) of the statutes is renumbered 115.38 (2) (a) and amended to read:

115.38 (2) (a) Annually by January 1, each school board shall notify the parent or guardian of each pupil enrolled in the school district of the right to request a school and school district performance report under this subsection. ~~Annually~~ Except as provided in par. (b), annually by May 1, each school board shall, upon request, distribute to the parent or guardian of each pupil enrolled in the school district, including pupils enrolled in charter schools located in the school district, or give to each pupil to bring home to his or her parent or guardian, a school and school district performance report that includes the information specified by the state superintendent under sub. (1). The report shall also include a comparison of the school district's performance under sub. (1) (a) and (b) with the performance of other school districts in the same athletic conference under sub. (1) (a) and (b). If the school district maintains an Internet site, the report shall be made available to the public at that site.

SECTION 2256r. 115.38 (2) (b) of the statutes is created to read:

115.38 (2) (b) If a school board enters into an agreement with a federally recognized American Indian tribe or band in this state to establish a charter school, that school board shall, upon request, distribute to the parent or guardian of each pupil enrolled in the charter school a school and school district performance report that includes the information specified by the state superintendent under sub. (1), regardless of the location of the charter school.

SECTION 2256t. 115.436 (3) (a) (intro.), 1. and 2. of the statutes are consolidated, renumbered 115.436 (3) (a) and amended to read:

115.436 (3) (a) Beginning in the ~~2008-09~~ 2009-10 school year, ~~from the appropriation under s. 20.255 (2)~~

~~(ae) and subject to par. (b),~~ the department shall pay to each school district eligible for sparsity aid ~~the following amount from the appropriation under s. 20.255 (2) (ae), subject to par. (b):~~ 1. If less than 50 percent of the school district's membership in the previous school year was eligible for a free or reduced-price lunch under 42 USC 1758 (b), \$150 multiplied by the membership in the previous school year. 2. If 50 percent or more of the school district's membership in the previous school year was eligible for a free or reduced-price lunch under 42 USC 1758 (b), \$300 multiplied by the membership in the previous school year.

SECTION 2257. 115.745 of the statutes is created to read:

115.745 Tribal language revitalization grants. (1) A school board or cooperative educational service agency, in conjunction with a tribal education authority, may apply to the department for a grant for the purpose of supporting innovative, effective instruction in one or more American Indian languages.

(2) The department shall award grants under sub. (1) from the appropriation under s. 20.255 (2) (km).

(3) The department shall promulgate rules to implement and administer this section.

SECTION 2258m. 118.07 (4) (a) 2. of the statutes is created to read:

118.07 (4) (a) 2. If a school district is created or a public or private school opens after the effective date of this paragraph ... [LRB inserts date], the school board or governing body of the private school shall have in effect a school safety plan for each public or private school within 3 years of its creation or opening.

SECTION 2258n. 118.07 (4) (b) to (d) of the statutes are created to read:

118.07 (4) (b) A school safety plan shall be created with the active participation of appropriate parties, as specified by the school board or governing body of the private school. The appropriate parties may include local law enforcement officers, fire fighters, school administrators, teachers, pupil services professionals, as defined in s. 118.257 (1) (c), and mental health professionals. A school safety plan shall include general guidelines specifying procedures for emergency prevention and mitigation, preparedness, response, and recovery. The plan shall also specify the process for reviewing the methods for conducting drills required to comply with the plan.

(c) The school board or governing body of the private school shall determine which persons are required to receive school safety plan training and the frequency of the training. The training shall be based upon the school district's or private school's prioritized needs, risks, and vulnerabilities.

(d) Each school board and the governing body of each private school shall review the school safety plan at least once every 3 years after the plan goes into effect.