



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

**Assembly Committee on Local Government
Public Hearing, November 15, 2017**

Representative Brooks and members of the Local Government Committee, thank you for allowing me to testify on behalf of Assembly Bill 636, relating to: cause standard procedures for general municipal employees.

Currently, all 72 of Wisconsin's counties have instituted grievance procedures for general municipal employees. Traditionally, grievance procedures required a county to demonstrate cause before taking disciplinary action against or terminating an employee.

Assembly Bill 636 applies grievance procedures uniformly to all employees by subsequently removing the "cause" requirement from state statute and administrative code. Under this proposal, a county may continue to offer a cause standard to county employees within its own grievance policy but under state statute the cause standard would no longer be mandated.

Under current law, if a county employee claims he or she is entitled to "cause" protections, the process requires written and verified changes from a county taxpayer, an investigation, and the right to a prompt evidentiary hearing. The costs associated with a "cause" hearing and the consequences for failure to adhere to the outcome, can be significant. Moreover, counties often retain outside counsel to assist with the process and ensure that the terminated employee is afforded due process.

Considering that cause standard proceedings are an expensive and long-drawn out process, many counties have decided to settle with employees to avoid the litigation. In this scenario, counties are essentially buying out an employee whose work was deemed unsatisfactory. Assembly Bill 636 permits local officials to decide which method is best for their employees; a decision that is most appropriately decided at the local level.

I encourage your support of Assembly Bill 636, and at this time, I would be happy to answer any questions from committee members. Thank you for your time and consideration.



Luther S. Olsen

State Senator

14th District

TO: Assembly Committee on Local Government

FROM: Senator Luther Olsen

DATE: 11-15-17

SUBJECT: Testimony in favor of Assembly Bill 636

Thank you Chairman Brooks and the Assembly Committee on Local Government for holding a hearing and allowing me to testify on Assembly Bill 636.

Under current law, all counties adopt employee grievance procedures for general municipal employees. Normally, the grievance procedures require a county to show that it has a rational basis in policy for making a disciplinary or termination decision.

However, certain county employees have claimed that they are entitled to "cause" protections. That process requires written verified charges from a county taxpayer and the right to a speedy evidentiary hearing. The costs associated with a "cause" procedure and the consequences for failure to adhere to the procedure can be significant.

This legislation uniformly applies the grievance procedure to all county employees and removes the "cause" requirement from state statute and administrative code. Within our proposal, the county board would require a two-thirds vote of the board to terminate an employee. Subsequently, when a different body is the appointing authority, a certain percentage vote for removal may also be required.

This would result in equal treatment of county general municipal employees and provide counties with greater autonomy relating to employee disciplinary procedures.

Thank you, members. I ask for your support and would be more than happy to answer any questions.



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MEMORANDUM

TO: Honorable Members of the Assembly Committee on Local Government

FROM: Marcie Rainbolt, Government Affairs Associate

DATE: November 15, 2017

SUBJECT: Support for Assembly Bill 636

2011 Wisconsin Act 10 (Act 10) dramatically changed the course of municipal employee relations. As a result, employees are placed into two different categories – general municipal employees, or public safety employees. Public safety employees retain the right to collectively bargain on most issues impacting wages, hours, and conditions of employment (except for health insurance). General municipal employees are only able to bargain total base wages.

Since Act 10 became law in July 2011, all counties have adopted employee grievance procedures under Wis. Stat. § 66.0509(1m) applicable to general municipal employees. With rare exceptions, county grievance procedures eliminated any “cause” requirement for disciplining or terminating general municipal employees. Instead, the grievance procedures generally require a county to show that it has a rational basis in policy for making the disciplinary or termination decision.

However, certain groups of county employees have claimed that they are entitled to “cause” protections under this statute. Wis. Stat. § 17.16 defines “cause” as inefficiency, neglect of duty, official misconduct, or malfeasance in office. When a county employee is entitled to a “cause” standard, the county is forced to follow the process contained within Wis. Stat. § 17.16. That process requires written, verified charges from a county taxpayer, an investigation, and an evidentiary hearing. Ultimately, this requires county boards to act in a judicial capacity, that is burdensome and unfamiliar, as opposed to county boards’ proper legislative capacity.

The costs associated with a “cause” procedure relating to termination of certain county employees is prohibitive. Counties are often required to retain outside counsel to assist in the process and to otherwise ensure that the charged party (the terminated employee) is afforded due process under Wis. Stat. § 17.16. A county’s failure to adhere to the due process contained in statute could lead to a federal lawsuit under 42 U.S.C. § 1983. In

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other words, the costs associated with the “cause” procedure and the consequences for any failure to faithfully adhere to the procedure are significant.

Assembly Bill 636 would eliminate the “cause” standard for certain county employees. Under the legislation, all employees would be considered either general municipal or public safety employees, as intended by Act 10. All general municipal employees would be subject to the same set of rules and regulations under a county’s grievance procedure. There would be no claim that certain employees are entitled to a special “cause” protection under Chapter 17.

WCA respectfully requests the committee’s support for Assembly Bill 636 to create uniformity amongst all general municipal employees, provide certainty for counties as it relates to termination procedures, and offer financial protection to counties and local taxpayers.