



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

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.