



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6339/1
EVM:cdc&wlj

2019 BILL

1 **AN ACT** *to renumber* 62.13 (3); *to renumber and amend* 62.13 (1), 62.50 (1h)
2 and 62.50 (6); *to amend* 19.42 (7w) (c), 60.57 (2), 61.65 (3g) (d) 1. a., 62.13 (2)
3 (a), 62.13 (6m) (intro.), 62.50 (21) and 62.51 (1) (a); *to repeal and recreate*
4 62.50 (1e); and *to create* 62.13 (1b), 62.13 (1m) (a) 2., 62.13 (1m) (d), 62.13 (1m)
5 (e), 62.13 (3) (b), 62.13 (3) (c), 62.13 (3) (d), 62.13 (3m), 62.50 (1h) (b), 62.50 (1h)
6 (f) 3., 62.50 (5g), 62.50 (5m), 62.50 (6) (b), 62.50 (6) (c) and 62.50 (21m) of the
7 statutes; **relating to:** boards of police and fire commissioners and protective
8 services departments in populous cities.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes that affect the board of fire and police commissioners of a 1st class city (presently only Milwaukee), the board of police and fire commissioners of a 2nd class city with a population of 200,000 or more (presently only Madison) (jointly referred to as affected PFC boards), and the protective services departments of 1st class cities and 2nd class cities with a population of 200,000 or more (jointly, populous cities). The changes include altering the makeup of affected PFC boards, requiring certain training for affected PFC board members, establishing certain requirements related to hiring and oversight of chiefs of protective services departments in populous cities, creating an executive director or

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independent monitor position in populous cities, and altering the judicial review process for police and fire department disciplinary cases in a 1st class city.

Under current law, the board of fire and police commissioners of a 1st class city consists of seven or nine members selected by the mayor. Boards of police and fire commissioners of other cities, including a 2nd class city, consist of five members selected by the mayor. Under this bill, a board of fire and police commissioners of a 1st class city consists of nine members selected by the mayor, and confirmed by the common council. The board of a police and fire commission of a 2nd class city with a population of 200,000 or more consists of seven members selected by the mayor. Each of these boards must contain at least one member selected from a list provided by each of 1) the employee association that represents nonsupervisory law enforcement officers and 2) the employee association that represents fire fighters.

This bill provides a method for selecting members of affected PFC boards when the mayor fails to make an appointment to a vacant position. If the mayor fails to make an appointment within 120 days of the occurrence of a vacancy, the common council may make the appointment, except when the vacant position is one that must be filled from one of the lists described above. In this case, the association that provided the list may make the appointment without confirmation by the common council.

In a 1st class city, a three-member panel of the board of fire and police commissioners may conduct and decide a trial to evaluate a complaint against a member of the police or fire department. This bill specifies that when a three-member panel conducts such a trial, at least one member of the panel must have professional law enforcement experience if the accused is a police officer, and at least one such member must have professional fire fighting experience if the accused is a fire fighter.

The bill also requires each member of an affected PFC board to take a training class provided by the city in which it operates. The training class must cover the mission and role of the board, the procedures that apply to disciplinary hearings, the conduct policies of the police and fire departments, and use of force guidelines of the police department. A member may not participate in any action of the board until he or she completes the training class and any other training required by the city.

The bill also creates the office of executive director in a 1st class city and the office of independent monitor in a 2nd class city with a population of 200,000 or more. Despite the different titles, these positions have the same duties and requirements. This person acts as the principal staff of an affected PFC board, reviews certain situations or investigations involving the police or fire department, evaluates police and fire department policies and practices, and issues periodic reports to the public relating to the status and outcome of complaints that have been filed. The executive director or independent monitor is appointed by the mayor and confirmed by the common council and serves a four-year term, at the pleasure of the board.

This bill also specifies the following related to affected PFC boards:

1. When an affected PFC board appoints a protective services chief, the board must meet in closed session with representatives of the employee association whose members will serve under the proposed chief.

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2. When an affected PFC board appoints a protective services chief, the board must hold at least two public meetings to hear comments from residents of the city and other interested persons.

3. When a member is appointed to an affected PFC board, the common council must hold two public hearings that include public comment periods with regard to the appointments.

4. If an affected PFC board accepts an additional application for chief of police after the application period for accepting these applications has closed, the board must reopen the application period for an additional seven days.

5. If the common council adopts a resolution by a two-thirds majority to conduct a performance review of a protective services chief, an affected PFC board must conduct the review and provide a written report to the common council.

6. A PFC board member may not continue in office after the expiration of his or her term, unless reappointed and, in a 1st class city, confirmed.

Currently, if a board of fire and police commissioners of a 1st class city discharges, suspends, or reduces in rank an officer or member of the police or fire department, the disciplined person may appeal that decision to a circuit court. This bill specifies the scope of review under which a court is to review an appeal of this sort. Under the bill, a court must review the evidence independently and without deference to the board's findings; must reverse the board's decision if it finds that fairness or correctness of the action has been impaired by material or procedural errors; and must set aside or modify the board's decision if it finds that the board erroneously interpreted a provision of law, or may remand the case to the board for further action that is consistent with current law. The bill also requires the court to reverse the board's decision if it finds that the board's exercise of discretion is outside of its delegated powers; is inconsistent with a board rule, policy, or practice, unless the board's deviation is adequately explained; or violates the constitution or the statutes. The bill also authorizes a court to take additional testimony, depositions, and interrogatories, and to grant requests for additional discovery.

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.** 19.42 (7w) (c) of the statutes is amended to read:
2 19.42 (7w) (c) An appointive office or position of a local governmental unit in
3 which an individual serves for a specified term, including a member of a board
4 created under s. 60.57, 61.65, 62.13, or 62.50, except a position limited to the exercise
5 of ministerial action or a position filled by an independent contractor.

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1 **SECTION 2.** 60.57 (2) of the statutes is amended to read:

2 60.57 **(2)** A board created under this section shall be organized in the same
3 manner as boards of police and fire commissioners under s. 62.13 ~~(1)~~ (1m) (a) 1.

4 **SECTION 3.** 61.65 (3g) (d) 1. a. of the statutes is amended to read:

5 61.65 **(3g)** (d) 1. a. A board created under this section shall be organized in the
6 same manner as boards of police and fire commissioners under s. 62.13 ~~(1)~~ (1m) (a)
7 1.

8 **SECTION 4.** 62.13 (1) of the statutes is renumbered 62.13 (1m) (a) 1. and
9 amended to read:

10 62.13 **(1m)** (a) 1. Except as provided in subd. 2. and subs. (2g), (2m), (2s), and
11 (8) (b), each city shall have a board of police and fire commissioners consisting of 5
12 citizens, 3 of whom shall constitute a quorum.

13 (b) The mayor shall annually, between the last Monday of April and the first
14 Monday of May, appoint in writing to be filed with the secretary of the board, one
15 member of a board under par. (a) for a term of 5 years. For a 2nd class city with a
16 population of 200,000 or more in a year in which the terms of two members expire,
17 the mayor may appoint a second member of a board under par. (a) 2. in the same
18 manner for a term of 5 years. Except as provided in par. (a) 2. a., if the mayor of a
19 2nd class city with a population of 200,000 or more fails to make an appointment
20 within 120 days of a vacancy occurring, the common council may make the
21 appointment. No appointment shall ~~may~~ be made which ~~that~~ will result in more than
22 3 members of the board belonging to the same political party. The common council
23 of a 2nd class city with a population of 200,000 or more shall hold 2 public hearings
24 that include public comment periods with regard to each appointment to the board.

25 (c) The A board shall keep a record of its proceedings.

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1 **SECTION 5.** 62.13 (1b) of the statutes is created to read:

2 **62.13 (1b) DEFINITION.** In this section, “board” means a board of police and fire
3 commissioners under sub. (1m) (a) or a joint board of police and fire commissioners
4 under sub. (2) (b) or (2m) (b).

5 **SECTION 6.** 62.13 (1m) (a) 2. of the statutes is created to read:

6 **62.13 (1m) (a) 2. a.** Each 2nd class city with a population of 200,000 or more
7 shall have a board of police and fire commissioners consisting of 7 members,
8 including at least one member selected from a list submitted by the employee
9 association that represents nonsupervisory law enforcement officers and at least one
10 member selected from a list submitted by the employee association that represents
11 fire fighters. Lists of individuals submitted for selection under this subdivision shall
12 contain 5 names. Individuals included in a list submitted under this subdivision by
13 an employee association that represents nonsupervisory law enforcement officers or
14 fire fighters shall have professional law enforcement experience or professional
15 firefighting experience, respectively, and shall be at least 5 years removed from
16 service as a professional law enforcement officer or fire fighter, respectively. If the
17 mayor fails to make an appointment that is required to be selected from a list under
18 this subdivision within 120 days of a vacancy occurring, the association that
19 provided the list may make the appointment. Notwithstanding par. (b), the initial
20 term of the member selected from a list submitted by the employee association that
21 represents nonsupervisory law enforcement officers shall be 2 years and the initial
22 term of the member selected from a list submitted by the employee association that
23 represents fire fighters shall be 5 years. The members selected from lists submitted
24 by employee associations that represent nonsupervisory law enforcement officers

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1 and fire fighters shall comply with any residency requirements that apply to current
2 members of the police or fire department, respectively, of the city.

3 b. A board member of a 2nd class city with a population of 200,000 or more may
4 not continue in office after the expiration of his or her term, unless the member is
5 reappointed to the board.

6 c. Five members constitute a quorum of a board under this subdivision.

7 **SECTION 7.** 62.13 (1m) (d) of the statutes is created to read:

8 62.13 (1m) (d) 1. The city shall provide a training class for members of the
9 board. The city may provide this class directly or in another manner, including by
10 contracting with another person. The training class shall cover all of the following:

11 a. The mission and role of the board.

12 b. The procedures that apply to disciplinary hearings under this section,
13 including applicable rules of evidence and applicable provisions of any contract
14 between the city and employee associations that represent nonsupervisory law
15 enforcement officers or fire fighters.

16 c. The conduct policies of the police and fire departments.

17 d. Use of force guidelines of the police department.

18 2. Not later than the first day of the 7th month beginning after the mayor files
19 the appointment of a member of the board with the secretary of the board, the
20 member shall enroll in the training class under subd. 1. and, not later than the first
21 day of the 13th month beginning after the mayor files the member's appointment
22 with the secretary of the board, the member shall complete the class.

23 3. Notwithstanding sub. (5), no member may participate in any board action
24 until he or she completes the training class under subd. 1. and any other training
25 required by the city.

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1 4. This paragraph applies only in a 2nd class city with a population of 200,000
2 or more.

3 **SECTION 8.** 62.13 (1m) (e) of the statutes is created to read:

4 62.13 **(1m)** (e) All employees of the board of a 2nd class city with a population
5 of 200,000 or more shall be nonpartisan.

6 **SECTION 9.** 62.13 (2) (a) of the statutes is amended to read:

7 62.13 **(2)** (a) Except as provided under sub. (6m), subs. ~~(1)~~ (1m) to (6) shall not
8 apply to cities of less than 4,000 population except by ordinance adopted by a
9 majority of all the members of the council. A repealing ordinance may be adopted
10 by a like vote.

11 **SECTION 10.** 62.13 (3) of the statutes is renumbered 62.13 (3) (a).

12 **SECTION 11.** 62.13 (3) (b) of the statutes is created to read:

13 62.13 **(3)** (b) Before appointing a chief of police, chief of the fire department, or
14 chief of a combined protective services department under this subsection, the board
15 of a 2nd class city with a population of 200,000 or more shall do all of the following:

16 1. Meet in closed session under s. 19.85 (1) (c) with representatives of the
17 nonsupervisory employee association whose members will serve under the proposed
18 chief.

19 2. Hold at least 2 public meetings to hear comments from residents of the city
20 and other interested persons.

21 **SECTION 12.** 62.13 (3) (c) of the statutes is created to read:

22 62.13 **(3)** (c) If the board of a 2nd class city with a population of 200,000 or more
23 accepts an additional application for chief of police after the application period for
24 accepting these applications has closed, the board shall reopen the application period
25 for an additional 7 days beginning on the date it accepted the late application.

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1 **SECTION 13.** 62.13 (3) (d) of the statutes is created to read:

2 62.13 (3) (d) 1. If the common council adopts a resolution by a two-thirds vote
3 of the members-elect, as defined in s. 59.001 (2m), to conduct a performance review
4 of the chief of police, the chief of the fire department, or the chief of a combined
5 protective services department the board shall conduct the review and provide a
6 written report to the common council.

7 2. At least once each year, the chief of police and the chief of the fire department,
8 or the chief of a combined protective services department, shall meet with the
9 members of the common council at a regular meeting of the council.

10 3. Upon request by the common council or any committee of the common
11 council, the chair of the board, the vice chair of the board, or the independent monitor
12 under sub. (3m) shall attend a meeting of the common council or a committee of the
13 common council.

14 4. This paragraph applies only in a 2nd class city with a population of 200,000
15 or more.

16 **SECTION 14.** 62.13 (3m) of the statutes is created to read:

17 62.13 (3m) INDEPENDENT MONITOR. (a) No later than the 2nd Monday in June
18 occurring after the effective date of the paragraph ... [LRB inserts date], the 2nd
19 Monday in June immediately preceding the expiration of the regular term of office
20 of the independent monitor, or within 60 days of a vacancy in the position, the board
21 shall submit to the mayor a list of 3 qualified candidates for the position of
22 independent monitor. Before submitting the list of candidates to the mayor, the board
23 shall publicly announce the proposed list and hold a public hearing that includes a
24 public comment period with regard to the list. No later than 30 days after receiving

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1 the list, the mayor shall appoint an individual selected from the list as independent
2 monitor. The individual appointed is subject to confirmation by the common council.

3 (b) The common council shall fix the salary or other compensation of the
4 independent monitor.

5 (c) The initial regular term of office of the independent monitor is 4 years from
6 the 2nd Monday in July occurring after the effective date of this paragraph [LRB
7 inserts date]. Thereafter, the regular term of office is 4 years from the 2nd Monday
8 in July following appointment of an independent monitor to a regular term under
9 this subsection. An independent monitor appointed under this subsection may
10 continue to hold office until a successor is appointed and confirmed.

11 (d) 1. An independent monitor may be removed by a majority vote of the board
12 in open session.

13 2. Notwithstanding s. 17.12 (1) (c), an independent monitor may not be
14 removed by the mayor.

15 (e) The independent monitor shall do all of the following:

16 1. Act as the principal staff of the board in exercising the board's functions and
17 powers under this section.

18 2. Review situations or investigations when an individual is dissatisfied with
19 the outcome of an investigation or situation involving the police, fire, or combined
20 protective services department.

21 3. Evaluate the policies, practices, and patterns, including staff deployments,
22 crime and fire prevention training, use of force, search, seizure, citizen interaction,
23 and communication of the police and fire departments or the combined protective
24 services department.

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1 4. Issue reports to the public at least annually relating to the status and
2 outcome of complaints that have been filed, the timeliness of complaint resolution,
3 trends and patterns of concern pertaining to complaint investigations, the nature
4 and frequency of complaints, and other performance indicators.

5 (f) If the independent monitor is an attorney, no attorney-client privilege exists
6 between the independent monitor and the mayor or common council.

7 (g) This subsection applies only to a 2nd class city with a population of 200,000
8 or more.

9 **SECTION 15.** 62.13 (6m) (intro.) of the statutes is amended to read:

10 62.13 **(6m)** (intro.) If a city of less than 4,000 population has not by ordinance
11 applied subs. ~~(1)~~ (1m) to (6) to the city, the city may not suspend, reduce, suspend and
12 reduce, or remove any police chief, combined protective services chief, or other law
13 enforcement officer who is not probationary, and for whom there is no valid and
14 enforceable contract of employment or collective bargaining agreement which
15 provides for a fair review prior to that suspension, reduction, suspension and
16 reduction or removal, unless the city does one of the following:

17 **SECTION 16.** 62.50 (1e) of the statutes is repealed and recreated to read:

18 62.50 **(1e)** DEFINITION. In this section, “board” means the board of fire and
19 police commissioners of a 1st class city.

20 **SECTION 17.** 62.50 (1h) of the statutes is renumbered 62.50 (1h) (a) and
21 amended to read:

22 62.50 **(1h)** (a) In all 1st class cities, however incorporated, there shall be a board
23 of fire and police commissioners, consisting of ~~either 7 or 9~~ citizens, not more than
24 ~~3, if the board has 7 members, or 4, if the board has 9 members,~~ of whom shall at any
25 time belong to the same political party.

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1 (c) The staff and members of the board shall receive the salary or other
2 compensation for their services fixed by the common council. The salary shall be
3 fixed at the same time and in the same manner as the salary of other city officials
4 and employees. All employees of the board shall be nonpartisan.

5 (d) Except as otherwise provided in this subsection, a majority of the
6 members-elect, as that term is used in s. 59.001 (2m), of the board shall constitute
7 a quorum necessary for the transaction of business. A 3-member panel of the board
8 may conduct, and decide by majority vote, a trial described under sub. (12) or may
9 hear and decide, by majority vote, charges filed by an aggrieved person under sub.
10 (19). ~~It shall be the duty of the mayor of the city, on or before the 2nd Monday in July,~~
11 ~~to appoint 7, or 9, members of the board, designating the term of office of each, one~~
12 ~~to hold one year, 2 to hold 2 years, 2 to hold 3 years, one to hold 4 years if the board~~
13 ~~has 7 members, and 2 to hold 4 years if the board has 9 members, and one to hold 5~~
14 ~~years if the board has 7 members, and 2 to hold 5 years if the board has 9 members,~~
15 ~~and until their respective successors shall be appointed and qualified. Thereafter~~
16 ~~the~~ For a trial of a member of the police force, at least one member of the panel shall
17 have professional law enforcement experience, and for a trial of a member of the fire
18 department, at least one member of the panel shall have professional fire fighting
19 experience.

20 (e) The terms of office for members of the board shall be 5 years from the 2nd
21 Monday in July, and until a successor is appointed and qualified. The mayor may
22 ~~reduce the size of the board from 9 to 7 members by failing to appoint 2 successors~~
23 ~~for individuals whose terms expire at the same time. Every person appointed a~~
24 ~~member~~ The mayor shall appoint members of the board shall be subject to
25 confirmation by the common council and every. Except as provided in par. (b), if the

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1 mayor fails to make an appointment within 120 days of a vacancy occurring, the
2 common council may make the appointment. Before confirmation, the common
3 council shall hold 2 public hearings that include public comment periods with regard
4 to appointment. Every appointed member shall, before entering upon the duties of
5 the office take and subscribe the oath of office prescribed by article IV, section 28, of
6 the constitution, and file the same duly certified by the officer administering it, with
7 the clerk of the city. A member of the board may not continue in office after the
8 expiration of his or her term, unless the member is reappointed to the board and
9 confirmed by the common council.

10 (f) 1. The city shall provide a training class for members of the board. The city
11 may provide this class directly or in another manner, including by contracting with
12 another person. The training class shall cover all of the following:

13 a. The mission and role of the board.

14 b. The procedures that apply to disciplinary hearings under this section,
15 including applicable rules of evidence and applicable provisions of any contract
16 between the city and employee associations that represent nonsupervisory law
17 enforcement officers or fire fighters.

18 c. The conduct policies of the police and fire departments.

19 d. Use of force guidelines of the police department.

20 2. Not later than the first day of the 7th month beginning after a member of the
21 board appointed by the mayor is confirmed by the common council, the member shall
22 enroll in a ~~the~~ training class that is related to the mission of the board under subd.
23 1. and, not later than the first day of the 13th month beginning after a member
24 appointed by the mayor is confirmed by the common council, the member shall
25 complete the class. ~~The training class shall be conducted by the city. Appointments~~

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1 ~~made prior to the time this subchapter first applies to a 1st class city shall not be~~
2 ~~subject to confirmation by the common council.~~

3 **SECTION 18.** 62.50 (1h) (b) of the statutes is created to read:

4 62.50 **(1h)** (b) At least one member of the board shall be selected from a list
5 submitted by the employee association that represents nonsupervisory law
6 enforcement officers and at least one member selected from a list submitted by the
7 employee association that represents fire fighters. Lists of individuals submitted for
8 selection under this paragraph shall contain 5 names. Individuals included in a list
9 submitted under this paragraph by an employee association that represents
10 nonsupervisory law enforcement officers or fire fighters shall have professional law
11 enforcement experience or professional firefighting experience, respectively, and
12 shall be at least 5 years removed from service as a professional law enforcement
13 officer or fire fighter, respectively. If the mayor fails to make an appointment that
14 is required to be selected from a list under this paragraph within 120 days after the
15 a vacancy occurs, the association that provided the list may make the appointment
16 without confirmation by the common council. Notwithstanding the other
17 requirements regarding length of terms in this subsection, the initial term of the
18 member selected from a list submitted by the employee association that represents
19 nonsupervisory law enforcement officers shall be 2 years and the initial term of the
20 member selected from a list submitted by the employee association that represents
21 fire fighters shall be 5 years. The members selected from lists submitted by employee
22 associations that represent nonsupervisory law enforcement officers and fire
23 fighters shall comply with any residency requirements that apply to current
24 members of the police or fire department, respectively, of the city.

25 **SECTION 19.** 62.50 (1h) (f) 3. of the statutes is created to read:

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1 62.50 (1h) (f) 3. No member may participate in any board action until he or she
2 completes the training class under subd. 1. and any other training required by the
3 city.

4 **SECTION 20.** 62.50 (5g) of the statutes is created to read:

5 62.50 (5g) EXECUTIVE DIRECTOR. (a) No later than the 2nd Monday in June
6 occurring after the effective date of the paragraph [LRB inserts date], the 2nd
7 Monday in June immediately preceding the expiration of the regular term of office
8 of the executive director, or within 60 days of a vacancy in the position, the board
9 shall submit to the mayor a list of 3 qualified candidates for the position of executive
10 director. Before submitting the list of candidates to the mayor, the board shall
11 publicly announce the proposed list and hold a public hearing that includes a public
12 comment period with regard to the list. No later than the 30 days after receiving the
13 list, the mayor shall appoint an individual selected from the list as executive director.
14 The individual appointed is subject to confirmation by the common council.

15 (b) The common council shall fix the salary or other compensation of the
16 executive director.

17 (c) The initial regular term of office of the executive director is 4 years from the
18 2nd Monday in July occurring after the effective date of this paragraph [LRB
19 inserts date]. Thereafter, the regular term of office is 4 years from the 2nd Monday
20 in July following appointment of an executive director to a regular term under this
21 section. An executive director appointed under this section may continue to hold
22 office until a successor is appointed and confirmed.

23 (d) 1. An executive director may be removed by a majority vote of the board in
24 open session.

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1 2. Notwithstanding s. 17.12 (1) (c), an executive director may not be removed
2 by the mayor.

3 (e) The executive director shall do all of the following:

4 1. Act as the principal staff of the board in exercising the board's functions and
5 powers under this section.

6 2. Review situations or investigations when an individual is dissatisfied with
7 the outcome of an investigation or situation involving the police or fire department.

8 3. Evaluate the policies, practices, and patterns, including staff deployments,
9 crime and fire prevention training, use of force, search, seizure, citizen interaction,
10 and communication of the police and fire departments.

11 4. Issue reports to the public at least annually relating to the status and
12 outcome of complaints that have been filed, the timeliness of complaint resolution,
13 trends and patterns of concern pertaining to complaint investigations, the nature
14 and frequency of complaints, and other performance indicators.

15 5. Attend any regular meeting of the common council or meeting of council
16 committee where his or her presence is requested by the council.

17 (f) If the executive director is an attorney, no attorney-client privilege exists
18 between the executive director and the mayor or common council.

19 **SECTION 21.** 62.50 (5m) of the statutes is created to read:

20 **62.50 (5m) COMMON COUNCIL OVERSIGHT.** (a) If the common council adopts a
21 resolution by a two-thirds vote of the members-elect, as defined in s. 59.001 (2m),
22 to conduct a performance review of the chief of police or the chief engineer of the fire
23 department, the board shall conduct the review and provide a written report to the
24 common council.

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1 (b) At least once each year, the chief of police and the chief engineer of the fire
2 department shall meet with the members of the common council at a regular meeting
3 of the council.

4 (c) Upon request by the common council or any committee of the common
5 council, the chair of the board, the vice chair of the board, or the executive director
6 under sub. (5g) shall attend a meeting of the common council or a committee of the
7 common council.

8 **SECTION 22.** 62.50 (6) of the statutes is renumbered 62.50 (6) (a) and amended
9 to read:

10 62.50 (6) (a) If a vacancy exists in the office of chief of police or in the office of
11 chief engineer of the fire department, the board by a majority vote shall appoint
12 proper persons to fill such offices respectively. When filling a vacancy in the office
13 of chief of police or in the office of chief engineer of the fire department ~~occurring after~~
14 ~~June 15, 1977~~, the board shall appoint the person to a term of office the number of
15 years and commencement date of which shall be set by the city of the 1st class by
16 ordinance and which may not exceed 10 years, or for the remainder of an unexpired
17 term.

18 **SECTION 23.** 62.50 (6) (b) of the statutes is created to read:

19 62.50 (6) (b) Before appointing or reappointing a chief of police or chief engineer
20 of the fire department under this subsection, the board shall do all of the following:

21 1. Meet in closed session under s. 19.85 (1) (c) with representatives of the
22 nonsupervisory employee association whose members will serve under the proposed
23 chief.

24 2. Hold at least 2 public meetings to hear comments from residents of the city
25 and other interested persons.

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1 **SECTION 24.** 62.50 (6) (c) of the statutes is created to read:

2 62.50 (6) (c) If the board accepts an additional application for chief of police
3 after the application period for accepting these applications has closed, the board
4 shall reopen the application period for an additional 7 days beginning on the date it
5 accepted the late application.

6 **SECTION 25.** 62.50 (21) of the statutes is amended to read:

7 62.50 (21) CERTIFICATION AND RETURN OF RECORD; HEARING. Upon the service of
8 the demand under sub. (20), the board upon which the service is made shall within
9 5 days thereafter certify to the clerk of the circuit court of the county all charges,
10 testimony, and everything relative to the trial and discharge, suspension or
11 reduction in rank of the member. Upon the filing of the return with the clerk of court,
12 actions for review shall be given preference. Upon application of the discharged
13 member or the board, the court shall fix a date for the trial which shall be no later
14 than 15 days after the date of the application except upon agreement between the
15 board and the discharged or suspended member. ~~The action shall be tried by the
16 court without a jury and shall be tried upon the return made by the board. In
17 determining the question of fact presented, the court shall be limited in the review
18 thereof to the question: "Under the evidence is there just cause, as described in sub.
19 (17) (b), to sustain the charges against the accused?" The court may require
20 additional return to be made by the board, and may also require the board to take
21 additional testimony and make return thereof.~~

22 **SECTION 26.** 62.50 (21m) of the statutes is created to read:

23 62.50 (21m) DE NOVO REVIEW OF DISCIPLINARY DECISIONS. (a) The court shall
24 conduct its review without regard to any action taken or decision made by the board
25 and shall determine whether there is just cause, as described in sub. (17) (b). In

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1 making that determination, the court shall review the evidence independently and
2 without deference to the board's findings of fact and conclusions of law. The court
3 may take into account the credibility determinations of the board, but is not bound
4 by those determinations.

5 (b) The court shall remand the board's decision if it finds that either the fairness
6 of the proceedings or the correctness of the action has been impaired by a material
7 error in procedure or a failure to follow prescribed procedure.

8 (c) The court shall set aside or modify the board's decision if it finds that the
9 board has erroneously interpreted a provision of law and a correct interpretation
10 compels a particular result, or it shall remand the case to the board for further action
11 that is consistent with current law.

12 (d) The court shall reverse the board's decision if it finds that the board's
13 exercise of discretion is one of the following:

14 1. Outside the range of discretion delegated to the board by law.

15 2. Inconsistent with a board rule, a board policy, or a board practice, unless such
16 deviation is satisfactorily explained by the board in its ruling.

17 3. In violation of a constitutional or statutory provision.

18 (e) The court's decision shall provide appropriate relief irrespective of the
19 original form of the petition. If the court sets aside the board's decision or remands
20 the case to the board for further proceedings, it may make such interlocutory order
21 as it finds appropriate to preserve the interests of any party.

22 (f) The review described in this subsection shall be conducted without a jury.

23 (g) A review under this subsection shall be confined to the record, except that
24 in cases of alleged irregularities in procedure before the board, the court may take
25 additional testimony. If leave is granted to take additional testimony, depositions

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1 and written interrogatories may be taken before the date set for hearing in the
2 manner provided in ch. 804. The court may allow for discovery, or require additional
3 return to be made by the board, and may also require the board to take additional
4 testimony and make return thereof. The court shall grant requests for discovery if
5 there is credible evidence that it is necessary to further the appeal and provide the
6 accused with due process.

7 **SECTION 27.** 62.51 (1) (a) of the statutes is amended to read:

8 62.51 (1) (a) "Public office" means the following positions or their equivalent:
9 city engineer; city purchasing agent; commissioner of building inspection, of city
10 development, of health or of public works; director of administration, of budget and
11 management, of community development agency, of employee relations, of office of
12 telecommunications, or of safety; emergency management coordinator; employee
13 benefits administrator; executive director of the commission on community
14 relations; municipal port director; commissioner of assessments; director of liaison;
15 city personnel director; executive director of the retirement board; executive director
16 of the city board of election commissioners; city librarian; city labor negotiator;
17 ~~executive secretary of the board of fire and police commissioners;~~ and supervisor of
18 the central electronics board.

19 **SECTION 28. Initial applicability.**

20 (1) This act first applies to a vacancy on the board of fire and police
21 commissioners, a vacancy on a board of police and fire commissioners, a vacancy in
22 the office of chief of either department, a vacancy in a public office, or an action by
23 an officer or member of either department which gives rise to the need for a
24 disciplinary proceeding that occurs on the effective date of this subsection.

25 (END)