

RESOLUTION

ROCK COUNTY BOARD OF SUPERVISORS

Supervisor Terry Fell
INITIATED BY

Public Safety & Justice Committee
SUBMITTED BY



Chief Deputy Barbara Tillman
DRAFTED BY

September 12, 2018
DATE DRAFTED

MAINTAINING PROTECTIVE OCCUPATION STATUS FOR CORRECTIONAL OFFICERS

- 1 **WHEREAS**, County Administrator Smith informed the County Board of Supervisors via his September
- 2 7, 2018, memo of his intended action of making a change to the protective occupation status of Rock
- 3 County Sheriff's Office Correctional Officers effective January 1, 2019; and,
- 4
- 5 **WHEREAS**, County Administrator Smith has indicated this change from protective occupation status
- 6 category to general occupation status category will bring Rock County into compliance with state law;
- 7 and,
- 8
- 9 **WHEREAS**, in March of 2016, the Wisconsin Employee Trust Funds (ETF) Board issued a decision for
- 10 a case from Chippewa County regarding the appropriate classification of correctional officers under the
- 11 Wisconsin Retirement System (WRS); and,
- 12
- 13 **WHEREAS**, the Chippewa County case does not specifically mandate or require other Wisconsin
- 14 counties to change the protective occupation status of their jailers/correctional officers as evidenced by
- 15 the fact that there are ten Wisconsin counties (Dane, Door, Green, Iowa, Jefferson, Juneau, LaFayette,
- 16 Rock, Rusk, Sauk) that have not enacted a change to the protective occupation status of their
- 17 jailers/correctional officers; and,
- 18
- 19 **WHEREAS**, according to ETF, the decision on who decides the applicable employment category for an
- 20 individual employee is determined by the employer (County of Rock), not state law; and,
- 21
- 22 **WHEREAS**, the decision on making a change to the protective occupation status of Rock County
- 23 Sheriff's Office Correctional Officers is fundamentally a policy choice made by the employer as there is
- 24 no law which requires the employer to change the employment category of correctional officers; and,
- 25
- 26 **WHEREAS**, the Rock County Board of Supervisors is a policy governance board charged as a whole,
- 27 with authority to establish policy with regard to County employees.
- 28
- 29 **NOW THEREFORE BE IT RESOLVED**, that the Rock County Board of Supervisors duly assembled
- 30 this 11th day of October 2018, direct the County to maintain protective occupation status for Rock
- 31 County Sheriff's Office Correctional Officers.

Respectfully Submitted,

PUBLIC SAFETY & JUSTICE COMMITTEE

Mary Beaver
Mary Beaver, Chair

Philip Owens
Philip Owens, Vice Chair

Terry Fell
Terry Fell

Kara Hawes
Kara Hawes

Brian Knudson
Brian Knudson

18-10A-100

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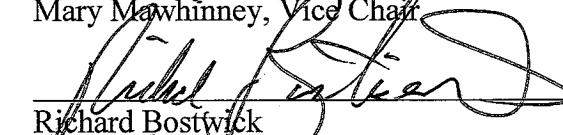
COUNTY BOARD STAFF COMMITTEE




J. Russell Podzilni, Chair



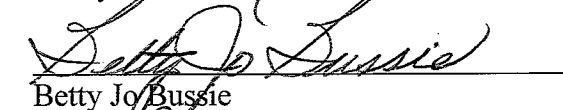
Mary Mawhinney, Vice Chair



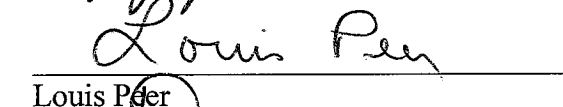
Richard Bostwick



Henry Brill



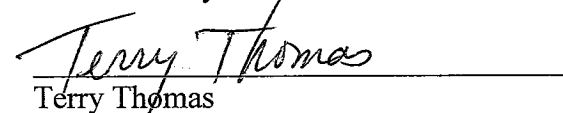
Betty Jo Bussie



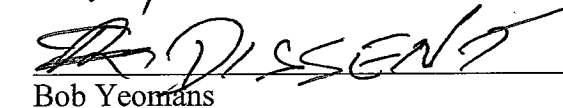
Louis Peer



Alan Sweeney

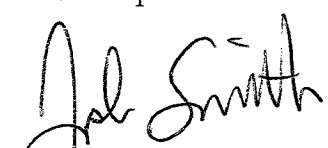


Terry Thomas




Bob Yeomans
ADMINISTRATIVE NOTE:

I believe the appropriate interpretation of statutes and related case law is that correctional officers do not meet the definition of Protective Occupation Participants.




Josh Smith
County Administrator
LEGAL NOTE:

The County is empowered under Wis. Stat. §§ 59.02, 59.04, & 40.06(1)(dm) to determine which of its employees qualify as Protective Occupation Participants with the Wisconsin Retirement System. Under Wis. Stat. § 40.02(48)(a) a Protective Occupation Participant must spend more than 50% of their job duties performing active law enforcement services, must subject the employee to frequent exposure of a high degree of danger or peril, and require a high degree of physical conditioning.



Richard Greenlee
Corporation Counsel
FISCAL NOTE:

The change in protective status, if approved, will have an impact on the Correctional Facility WRS contributions.



Sherry Oja
Finance Director

EXECUTIVE SUMMARY

Correctional Officers from the Rock County Sheriff's Office have been classified as Protective Service employees for the last 40 years. This important benefit provides these workers, who fulfill a difficult and frequently dangerous service for the residents of Rock County, with duty disability insurance, higher retirement benefits and the ability to separate from service at a younger age than General Service employees. When these correctional officers agreed to accept employment with Rock County, these benefits, along with their wage, were a part of their employment package.

The correctional officer job duties and the Rock County Jail environment have not become less dangerous. The behavior and needs of inmates has not improved. The unfortunate reality is that today's inmates have more significant addiction and mental health issues, making their behavior more unruly and unpredictable. Since 2002, there have been 2,367 individual officers involved in use of force incidents in the Rock County Jail and at least 144 of those officers have reported injuries during those physical altercations.

Now, the intended action by County Administrator Smith to make a change to the protective occupation status of the Rock County Sheriff's Office Correctional Officers effective January 1, 2019, placing these officers in the general occupation status of the Wisconsin Retirement System (WRS) is not specifically mandated or required by state law. The fact remains, that the decision to change an employee's occupation status from protective to general category is fundamentally a policy choice made by the employer.

The County Administrator's stated rationale for the change is that it is necessary to bring Rock County into compliance with the law. However, according to Staff Attorney for the Wisconsin Legislative Council, "whether to classify them (Correctional Officers/Jailers) as protective occupation participants is at the county's discretion". Further, WPPA Staff Attorney Roger Palek states that, "The bottom line is that manner in which Rock County has categorized its correctional officers as protective remains as lawful and appropriate as it ever has."

The Wisconsin Employee Trust Funds (ETF) Board Chippewa County decision is not a binding precedent on any other Wisconsin County or employee. There is no legal sanction or legal penalty to counties that do not change the protective occupation status of their correctional officers.

In passing this resolution, the County Board utilizes its policy discretion to continue to designate Correctional Officers at the Rock County Sheriff's Office as protective status employees with the corresponding protections and benefits.