

 **09hr_SC-LEUA_sb0020_pt01**



Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Labor, Elections, and Urban
Affairs (SC-LEUA)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Senate Bill 20

Relating to: authorizing the circuit court to order a person who engages in discrimination in employment to pay compensatory and punitive damages and a surcharge and making an appropriation.

By Senators Hansen, Robson, Lassa, Lehman, Miller, Vinehout, Taylor and Erpenbach; cosponsored by Representatives Sinicki, Jorgensen, Sheridan, Pohan, Nelson, Seidel, Colon, Parisi, Grigsby, Sherman, Shilling, Mason, Van Akkeren, Toles, Benedict, Soletski, Molepske Jr., Roys, Fields, Pasch, A. Williams, Young, Dexter, Richards, Hilgenberg, Pope-Roberts, Black, Garthwaite, Hixson, Berceau, Hintz, Smith, Turner, Vruwink, Zepnick, Cullen, Clark, Steinbrink, Schneider and Hubler.

February 05, 2009 Referred to Committee on Labor, Elections and Urban Affairs.

March 12, 2009 **PUBLIC HEARING HELD**

Present: (5) Senators Coggs, Wirch, Lehman, A. Lasee and Grothman.

Absent: (0) None.

Appearances For

- Dave Hansen — Senator
- Christine Sinicki — Representative
- Brenda Lewison — Individual Rights & Responsibilities Section, State Bar of Wisconsin
- Paul Kinne — Wisconsin Association for Justice

Appearances Against

- John Metcalf — Wisconsin Manufacturers & Commerce
- Laura Lindner — Lindner & Marsack
- Bill Smith — National Federation of Independent Business
- Pete Hanson — Wisconsin Restaurant Association
- Andrew Cook — Wisconsin Civil Justice Council

Appearances for Information Only

- None.

Registrations For

- Joanne Ricca — Wisconsin State AFL-CIO
- Craig Peachy — UTU Local 583
- William Hauck

- Tim Deneen — United Transportation Union
- John Gabel — AFSCME
- Phil Neuenfeldt — Wisconsin State AFL-CIO
- Susan McMurray — AFSCME
- Mike Williquette — Teamsters Joint Council 39
- Beth Kirdman — Teamsters Local 662
- Kathy Williquette
- Michael Thoms — Teamsters Local 662
- Tom Millonzi — Teamsters Local 200
- Thomas Bonnett — Teamsters Local 200/Joint Council 39

Registrations Against

- Ann Barry Hanneman — Independent Business Association
- Julaine Appling — Wisconsin Family Action
- Ann Barry Hanneman — Metropolitan Milwaukee SHRM
- David Callender — Wisconsin Counties Association
- Brian Mitchell — Wisconsin Cast Metals Association
- Brian Mitchell — Wisconsin Car Rental Alliance
- Brian Mitchell — Associated General Contractors of Greater Milwaukee
- Chet Gerlach — Association of Wisconsin Tourism Attractions
- Dave Storey — Wisconsin Retail Council
- Dan Schwartz — Independent Business Association
- Chuck D'Amico — Jorgensen Conveyors
- Tracy Klass — Cardinal IG
- Pam Christensen — Wisconsin Petroleum Marketers & Convenience Store Association
- Dan Rossmiller — Wisconsin Association of School Boards
- Kathi Kilgore — Wisconsin Association of Campground Owners
- Trisha Pugal — Wisconsin Innkeepers Association
- Michelle Kussow — Wisconsin Grocers Association
- Ed Huck — Wisconsin Alliance of Cities
- Curt Witynski — League of Wisconsin Municipalities
- Mary Ann Gerrard
- Paul Merline — Wisconsin Hospital Association
- Marc Bentley — Wisconsin Engine Manufacturers & Distribution Alliance
- Marc Bentley — Wisconsin Motor Carriers Association
- Marc Bentley — Schneider National
- Brad Boycks — Wisconsin Builders Association
- Nick George Jr. — Midwest Food Processors Association
- Andrew Cook — Civil Trial Counsel of Wisconsin

- Amy Boyer — Wisconsin Association of Convention & Visitor Bureaus
- Penny Seebruck — Cardinal TG
- Joey Monson
- Robyn Salonek — Cardinal Glass
- Rick Stadelman — Wisconsin Towns Association
- Gwen Mertens — Cardinal Glass
- Rhonda Adams — Cardinal Glass
- Norine Hanke
- Richard Hanke

Registrations for Information Only

- None.

March 19, 2009

EXECUTIVE SESSION HELD

Present: (0) None.

Absent: (0) None.

Adam Plotkin
Committee Clerk

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Senate Bill 20

Relating to: authorizing the circuit court to order a person who engages in discrimination in employment to pay compensatory and punitive damages and a surcharge and making an appropriation.

By Senators Hansen, Robson, Lassa, Lehman, Miller, Vinehout, Taylor and Erpenbach; cosponsored by Representatives Sinicki, Jorgensen, Sheridan, Pocan, Nelson, Seidel, Colon, Parisi, Grigsby, Sherman, Shilling, Mason, Van Akkeren, Toles, Benedict, Soletski, Molepske Jr., Roys, Fields, Pasch, A. Williams, Young, Dexter, Richards, Hilgenberg, Pope-Roberts, Black, Garthwaite, Hixson, Berceau, Hintz, Smith, Turner, Vruwink, Zepnick, Cullen, Clark, Steinbrink, Schneider and Hubler.

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Present: (5) Senators Coggs, Wirch, Lehman, A. Lasee and Grothman.

Absent: (0) None.

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- Laura Lindner — Lindner & Marsack
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- Pete Hanson — Wisconsin Restaurant Association
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- Craig Peachy — UTU Local 583
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- Rick Stadelman — Wisconsin Towns Association
- Gwen Mertens — Cardinal Glass
- Rhonda Adams — Cardinal Glass
- Norine Hanke
- Richard Hanke

Registrations for Information Only

- None.

April 14, 2009

EXECUTIVE SESSION HELD

Present: (5) Senators Coggs, Wirch, Lehman, A. Lasee and Grothman.

Absent: (0) None.

Moved by Senator Wirch, seconded by Senator Lehman that **Senate Substitute Amendment 1** be recommended for adoption.

Ayes: (3) Senators Coggs, Wirch and Lehman.

Noes: (2) Senators A. Lasee and Grothman.

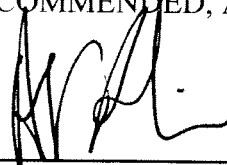
ADOPTION OF SENATE SUBSTITUTE AMENDMENT 1
RECOMMENDED, Ayes 3, Noes 2

Moved by Senator Wirch, seconded by Senator Lehman that **Senate Bill 20** be recommended for passage as amended.

Ayes: (3) Senators Coggs, Wirch and Lehman.

Noes: (2) Senators A. Lasee and Grothman.

PASSAGE AS AMENDED RECOMMENDED, Ayes 3, Noes 2



Adam Plotkin
Committee Clerk

Vote Record

Committee on Labor, Elections and Urban Affairs

Date: Tuesday, April 14, 2009

Moved by: Wirch Seconded by: LEHMAN

AB _____ SB 20 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 S Sub Amdt 1 _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Spencer Coggs, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alan Lasee	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>3</u>	<u>2</u>	_____	_____

Motion Carried Motion Failed

February 21, 2009

To: Senator Spencer Coggs, Chair
Senator Robert Wirch
Senator John Lehman
Senator Alan Lasee
Senator Glenn Grothman

P.O. Box 7882
State Capitol
Madison, WI 53707-7882

Dear Chairman Coggs,

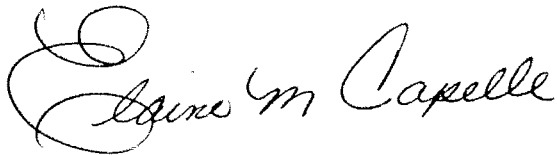
As a member of the Wisconsin Federation of Business & Professional Women I encourage you and your committee to forward SB20, the Equal Pay Enforcement Act, to the Senate floor for a vote.

For over 10 years we have been working with Legislators to pass this critical legislation for the women and families of Wisconsin. Only when there is pay equity will there be true equality in the lives of all the citizens of this state.

Pay inequity keeps women, minorities and their families from achieving their full potential in the economies of the state.

The year 2009 can be the year to set things straight and give women the equity in pay that they deserve.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Elaine M. Capelle". The signature is written in black ink and is positioned below the typed text of the letter.

February 21, 2009

To: Senator Spencer Coggs, Chair
Senator Robert Wirth
Senator John Lehman
Senator Alan Lasee
Senator Glenn Grothman

P.O. Box 7882
State Capitol
Madison, WI 53707-7882

Dear Chairman Coggs,

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Thank you for your consideration.

Mary L. Schinguck
Immed. Past State President
WI Business & Prof Women

February 21, 2009

To: Senator Spencer Coggs, Chair
Senator Robert Wirch
Senator John Lehman
Senator Alan Lasee
Senator Glenn Grothman

P.O. Box 7882
State Capitol
Madison, WI 53707-7882

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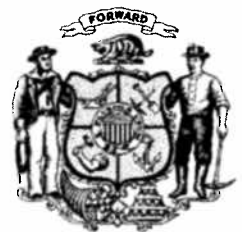
The year 2009 can be the year to set things straight and give women the equity in pay that they deserve.

Thank you for your consideration.

Jane M Panosh
4754 Vista Road
Manitowoc WI 54220



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR GLENN GROTHMAN
FROM: ^{JK} Jessica L. Karls, Staff Attorney
RE: Employment Discrimination Statistics
DATE: March 5, 2009

SB 20?

This memorandum responds to your request for statistics relating to employment discrimination claims received by the Equal Rights Division (ERD) of the Department of Workforce Development. The attached documents, prepared by Jennifer Ortiz, Administrator of the ERD, provide the requested employment discrimination statistics for state fiscal year (SFY) 2007 and 2008.

Attachments 1 and 2 provide the number of employment discrimination claims received by the ERD, separated by bases of discrimination, in SFY 2007 and 2008, respectively. The attachments also provide the percentage that each basis accounts for as a portion of the total number of employment discrimination claims.

Attachments 3 and 4 provide the number of Family and Medical Leave Act (FMLA) claims received by the ERD, separated by bases, in SFY 2007 and 2008, respectively. The attachments also provide the percentage that each basis accounts for as a portion of the total number of FMLA claims.

Attachment 5 provides a summary of the outcomes from the investigation stage in SFY 2007 and 2008 for claims received by the ERD. The outcomes are divided into four categories: dismissed, settled, finding of no probable cause, and finding of probable cause.

Attachment 6 provides, for each basis of discrimination, the percentage of probable cause findings as a portion of the total claims processed by the ERD for that basis in SFY 2007 and 2008.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

JK:ksm

Attachments

Employment Discrimination Report for SFY 2007
7/1/2006 to 6/30/2007 as of 3/4/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	707	12.45%
Arrest Record	378	6.66%
Color	159	2.80%
Conviction Record	526	9.26%
Disability	1,049	18.47%
FMLA Retaliation - File Compt	10	0.18%
FMLA Retaliation - Testified	2	0.04%
Honesty Testing	5	0.09%
Lawful Products	23	0.41%
LS-Retaliation	106	1.87%
Marital Status	38	0.63%
Military Status	6	0.11%
National Origin/Ancestry	156	2.75%
Pregnancy / Maternity	151	2.66%
Race	792	13.95%
Religion/Creed	71	1.25%
Retaliation - Made a Complaint	195	3.43%
Retaliation - Opposing a Practice	554	9.76%
Retaliation - Testified/Assisted	17	0.30%
Sex	684	12.05%
Sexual Orientation	51	0.90%

During this time period, 3,498 complainants filed 5,678 separate bases.

Employment Discrimination Report for SFY 2008

7/1/2007 to 6/30/2008 as of 3/4/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	722	13.12%
Arrest Record	217	3.94%
Color	141	2.56%
Conviction Record	381	6.92%
Disability	949	17.24%
FMLA Retaliation - File Compt	9	0.16%
FMLA Retaliation - Testified	1	0.02%
Honesty Testing	1	0.02%
Lawful Products	24	0.44%
LS-Retaliation	83	1.51%
Marital Status	25	0.45%
Military Status	10	0.18%
National Origin/Ancestry	182	3.31%
Pregnancy / Maternity	159	2.89%
Race	887	16.12%
Religion/Creed	64	1.16%
Retaliation - Made a Complaint	194	3.52%
Retaliation - Opposing a Practice	642	11.66%
Retaliation - Testified/Assisted	24	0.44%
Sex	733	13.32%
Sexual Orientation	56	1.02%

During this time period, 3,505 complainants filed 5,504 separate bases.

Family & Medical Leave Report for SFY 2007
7/1/2006 to 6/30/2007 as of 3/4/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Family Birth/Adoption - FMLA	24	8.14%
Medical - Employee - FMLA	161	54.58%
Medical - Family Member - FMLA	62	21.02%
Posting	44	14.92%
Retaliation - Opposing a Practice	4	1.36%

During this time period, 234 complainants filed 295 separate bases.

Family & Medical Leave Report for SFY 2008

7/1/2007 to 6/30/2008 as of 3/4/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Family Birth/Adoption - FMLA	16	7.11%
Medical - Employee - FMLA	129	57.33%
Medical - Family Member - FMLA	55	24.44%
Posting	24	10.67%
Retaliation - Opposing a Practice	1	0.44%

During this time period, 195 complainants filed 225 separate bases.

Summary of Outcomes from Investigation Stage**Wisconsin Equal Rights Division**

Outcomes	Dismissed ¹	Settled ²	No probable cause	Probable cause
SFY 2007	1830	304	1955	579
SFY 2008	1213	295	1700	475

¹ Dismissals include closures as a result of withdrawals, no jurisdiction, processing by another agency or the failure of a complainant to cooperate with investigation.

² Settlements include cases where the parties have reached an agreement either privately or with the assistance of Equal Rights Division staff before an initial determination.

Percentages of probable cause, rounded to the nearest %, as a portion of the total claims processed for that basis in SFY 2007 and 2008

Wisconsin Equal Rights Division

Basis	SFY 2007	SFY 2008
Age	11	8
Arrest record	11	22
Color	10	9
Conviction	13	19
Disability	13	14
Marital status	3	15
Military status	12	13
National origin	13	6
Race	9	6
Religion	15	15
Retaliation (all)	16	15
Sex	17	16
Sexual orientation	12	13



Laundrie, Julie

From: Knutson, Tryg
Sent: Monday, March 09, 2009 9:51 AM
To: Laundrie, Julie
Subject: FW: Important Public Hearing - Thursday, March 12 - Business Owners, Leaders, and Concerned Citizens Needed in Madison to Keep Jobs and Businesses in this State.

From: Dennis Nussbaum [mailto:buddy4946@charter.net]
Sent: Friday, March 06, 2009 5:36 AM
To: Sen.Grothman
Cc: Sen.Erpenbach
Subject: RE: Important Public Hearing - Thursday, March 12 - Business Owners, Leaders, and Concerned Citizens Needed in Madison to Keep Jobs and Businesses in this State.

Senator;
Thank you for the heads up. This sounds like a bill Erpendork would sponsor. He is out of touch with the main stream voter. We can only hope the voters get to him at the next election and send this guy back home and he has to get a real job.

Dennis Nussbaum

From: Sen.Grothman [mailto:Sen.Grothman@legis.wisconsin.gov]
Sent: Thursday, March 05, 2009 3:40 PM
Subject: Important Public Hearing - Thursday, March 12 - Business Owners, Leaders, and Concerned Citizens Needed in Madison to Keep Jobs and Businesses in this State.
Importance: High

Dear Friends,

I just received word that **the Senate Committee on Labor has scheduled a Public Hearing for Senate Bill 20, the Employee Discrimination Bill on Thursday, March 12 at 10 a.m. in Room 411-South in the State Capitol.**

Members of the public are encouraged to attend and share their views as to how this overreaching bill will negatively impact Wisconsin's business climate and drive more jobs out of the state.

For those not familiar with the specific details of SB 20, here is a link to the actual text to the bill, the Bill History as well as the fiscal estimate - <http://www.legis.state.wi.us/2009/data/SB20hst.html>

Dangerous provisions of Senate Bill 20 with regard to discrimination law (e.g. age, race, creed, disability, marital status, sex, ancestry, arrest and conviction, or National Guard service) include the following:

- 1) The ability to go to circuit court and get a jury to award compensatory damages (for example, psychologists fees for dealing with problems caused by the alleged discrimination);
- 2) Unlimited punitive damages assessed by a jury (currently, parties to a suit must deal with

administrative law);

- 3) Particularly damaging for employers with 15 or fewer employees that are not covered by federal law.
- 4) Backpay becomes unlimited rather than restricted to the last two years; and
- 5) Bizarre 10-percent surcharge goes to the Department of Workforce Development. This will result in a carrot for DWD to bring more suits because they will get more money (it will be as if a policeman got to keep 10-percent of every traffic ticket he writes.)

Since this legislation will negatively impact all employers, all groups with employees should be concerned about the ramifications of Senate Bill 20. This bill passed the Senate during the 2007-08 Session, and we cannot just allow WMC and the WSHRM to carry the ball alone this time. If signed into law, this bill will result in many more frivolous actions as employers will be forced to settle rather than engage in expensive and lengthy lawsuits. We need a strong grassroots effort to defeat SB 20 this time.

Very Truly Yours,



Glenn Grothman
State Senator
20th Senate District
1-800-662-1227 - Capitol

<<REVISED NOTICE - Senate Committee on Labor, Elections, and Urban Affairs - PUBLIC HEARING - Thur. Mar. 12>> -
Hearing Notice (pasted below)

Senate

PUBLIC HEARING

Committee on Labor, Elections and Urban Affairs

The committee will hold a public hearing on the following items at the time specified below:

Thursday, March 12, 2009

10:00 AM

411 South

State Capitol

Senate Bill 20

Relating to: authorizing the circuit court to order a person who engages in discrimination in employment to pay

compensatory and punitive damages and a surcharge and making an appropriation.

By Senators Hansen, Robson, Lassa, Lehman, Miller, Vinehout, Taylor and Erpenbach; cosponsored by Representatives Sinicki, Jorgensen, Sheridan, Pocan, Nelson, Seidel, Colon, Parisi, Grigsby, Sherman, Shilling, Mason, Van Akkeren, Toles, Benedict, Soletski, Molepske Jr., Roys, Fields, Pasch, A. Williams, Young, Dexter, Richards, Hilgenberg, Pope-Roberts, Black, Garthwaite, Hixson, Berceau, Hintz, Smith, Turner, Vruwink, Zepnick, Cullen, Clark, Steinbrink, Schneider and Hubler.

Senate Bill 46

Relating to: arbitration and fair-share agreements during collective bargaining negotiations under the Municipal Employment Relations Act.

By Senators Hansen, Wirch, Lehman, Vinehout, Coggs and Erpenbach; cosponsored by Representatives Soletski, Berceau, Mason, Smith and Zepnick.

03/04/2009: Senate Resolution 5 was removed from the list of items to be heard.

A handwritten signature in black ink, reading "Spencer Coggs". The signature is written in a cursive style with a large, sweeping initial "S" and a prominent "C" for "Coggs".

Senator Spencer Coggs
Chair

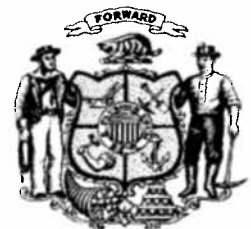
The Committee on Labor, Elections and Urban Affairs has scheduled a meeting for March 12, 2009 10:00 AM.

REVISION HISTORY:

03/04/2009: Senate Resolution 5 was removed from the list of items to be heard.



WISCONSIN STATE LEGISLATURE



Plotkin, Adam

From: Wagnitz, John
Sent: Wednesday, March 11, 2009 4:34 PM
To: Plotkin, Adam
Cc: Hansen, Dave; Wadd, Jay; George, Mary Beth
Subject: RE: Senate Bill 20

a rather timely article in today's news...we'll fix Wisconsin at least!

<http://news.yahoo.com/s/oneworld/world3608891236722203>

New Report Shows Global Gender Pay Gap Bigger Than Previously Thought

From: [International Trade Union Confederation](#)



Study also covers the impact of the economic crisis on women's jobs and incomes and reveals costs of violence against women

Brussels, 5 March 2009: A new report released by the ITUC for March 8, International Women's Day, has revealed that the pay gap between men and women worldwide may be much higher than official government figures. The report, "Gender (in)Equality in the Labour Market", is based on survey results of some 300,000 women and men in 20 countries. It puts the global pay gap at up to 22%, rather than the 16.5% figure taken from official government figures and released by the ITUC on March 8 last year.

The report also confirms previous findings that union membership, and particularly the inclusion of women in collective bargaining agreements, leads to much better incomes for both women and men, as well as better pay for women relative to their male co-workers. The study, which follows the March 8 ITUC Global Gender Pay Gap report, was written by London-based pay specialists Incomes Data Services and is based on internet surveys conducted in industrialised and developing countries in 2008 by the WageIndicator Foundation.

"This report clearly confirms the advantage which men and women workers gain from union membership, which is all the more important in the current global economic crisis when jobs and living standards for millions of workers are under severe threat," said Guy Ryder, ITUC general secretary.

03/11/2009

Other key findings in the report include confirmation that women with higher educational qualifications actually experience a larger income gap compared to males with similar qualifications and that the pay gap increases with age.

"There are a number of reasons why women still earn so much less than men, including overt as well as subtle discrimination against women in the labour market and in the workplace, the way that employers, especially in the private sector, handle promotions to better-paid jobs, and lack of maternity protection for women and parenting leave that both men and women can access," said Sharan Burrow, president of the ITUC and of the Australian Trade Union Centre ACTU.

A special new ITUC video on maternity protection aims to bring public attention to the problems faced by women workers in balancing work and activities at home and in the community.

Impact of Economic Crisis on Women

The report also examines the impact of economic recession on women's access to employment and incomes. Previous downturns have had a particularly negative effect on women in developing countries working in export industries and agriculture. Any reductions in government spending on health, social protection and education also often hit women hardest. Special attention must be given to the impacts of policy responses on women in the context of government action taken to tackle the current crisis.

"The global trend towards regular employment being replaced by contract labour and agency employment has had a particular effect on women, and these precarious jobs are the first to go as employers reduce their payrolls in this global recession. Millions upon millions of women working in domestic service and as migrant workers are facing unemployment or have already lost their jobs, and already-struggling households around the world are being hit hard because of this," said Ryder.

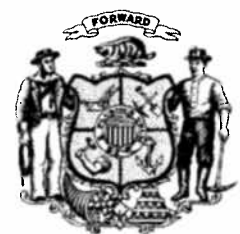
A special chapter in the report also tackles the appalling human and economic cost of violence against women, taking a close look at the impact of violence against women at home, in society and at work. The report cites WHO figures indicting that in some countries a majority of women experience physical assault and psychological intimidation, while a global average of some one-third of women suffer from violence at some stage in their lives. Along with the lasting physical and mental damage caused by violence against women, the report advances clear evidence of its economic effects on women's employment and economic situation. Examples are given of the total economic cost of violence against women in several countries indicating that the total global cost is likely to be in the tens or even hundreds of billions of dollars.

"Unions around the world are working to stop violence against women, through government action, raising awareness and also action in workplaces. We are calling on governments to work together to build a complete picture of the causes and effects, including analysis of the huge economic costs which add to the impacts on women themselves and on society," said Burrow.

To see the [full report please click here](#)



WISCONSIN STATE LEGISLATURE



Plotkin, Adam

From: Mary Graylow [mgraylow@boardmanlawfirm.com]
Sent: Wednesday, March 11, 2009 4:00 PM
To: Sen.Coggs; Sen.Grothman; Sen.Lasee; Sen.Lehman; Sen.Wirch
Cc: gmanke@medaassn.com
Subject: [Possible Spam] Senate Bill 20
Importance: Low
Attachments: SENATOR COGGS re SB 20 (A0789325).DOC

Please see the attached letter sent on behalf of the Midwest Equipment Dealer's Association regarding Senate Bill 20.

Thank you.

Mary Graylow
Litigation Paralegal
Boardman Law Firm, LLP
direct: (608) 283-7567
email: mgraylow@boardmanlawfirm.com

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Phone • (608) 257-9521
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Gary L. Antoniewicz
Direct Dial Number • (608) 283-1759
gantoni@boardmanlawfirm.com

March 11, 2009

Senator Spencer Coggs
Senate Committee on Labor, Elections
and Urban Affairs
123 South
Wisconsin State Capitol
Madison, Wisconsin

Re: Opposition to Senate Bill 20 re: authorizing the circuit court to order a person who engages in discrimination in employment to pay compensatory and punitive damages and a surcharge and making an appropriation

Dear Senator Coggs and Members of the Committee:

I am writing on behalf of the Midwest Equipment Dealers Association, Inc. ("MEDA") in opposition to Senate Bill 20 which is before your Committee for hearing on March 12, 2009. MEDA is the trade association representing farm, industrial, construction and outdoor power dealers in Wisconsin; and MEDA members for the most part are small family businesses.

While SB 20 may sound good at first blush, MEDA believes it would greatly harm small businesses and also harm a system to prevent and remedy discrimination that is effective and is working. By requiring compensatory and punitive damages in discrimination lawsuits, the bill would make higher stakes for such suits and would be a disincentive to early settlement. Further, the higher stakes would put the viability of many small businesses at risk. Unlike under federal law, the bill provides no caps on the amount of compensatory and punitive damages available.

Having no caps on damages, many lawsuits now brought in federal court would be shifted to state courts creating a greater burden on our state court system. MEDA believes this bill would have numerous adverse consequences to MEDA members and the state in general.

MEDA is a member of the Conference of Retail Associations which we believe has submitted a more detailed analysis and MEDA joins in this analysis. We ask that the Committee carefully review and reject SB 20.

Thank you for the opportunity to make our views known.

Sincerely,

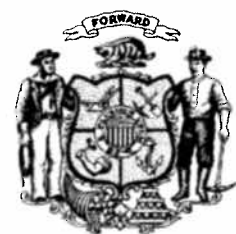
Boardman, Suhr, Curry & Field LLP
By

GLA/jmc
cc: Gary Manke

Gary L. Antoniewicz



WISCONSIN STATE LEGISLATURE





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March 11, 2009

Senator Spencer Coggs
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123 South
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Boardman, Suhr, Curry & Field LLP

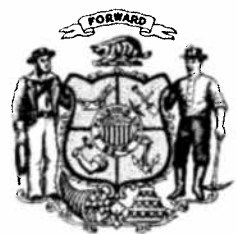
By


Gary L. Antoniewicz

GLA/jmc
cc: Gary Manke



WISCONSIN STATE LEGISLATURE



Plotkin, Adam

From: Lin Clousing [lincie@prodigy.net]
Sent: Wednesday, March 11, 2009 9:15 AM
To: Sen.Coggs
Cc: Sen.Hansen; Rep.Sinicki
Subject: Equal Pay Enforcement Act
Attachments: pay equity letter.doc

SB 20?

Senator Coggs-

The attached is being sent as written testimony for the Committee hearing tomorrow. Thank you for your consideration of it.

Lin Clousing
BPW/WI Legislative Chair



Wisconsin

March 12, 2009

Senate Labor, Elections and Urban Affairs Committee

Senator Spencer Coggs

Senator Robert Wirch

Senator John Lehman

Senator Alan Lasee

Senator Glenn Grothman

As in years past, we are asking our State Legislators to pass the Equal Pay Enforcement Act. As members of the Wisconsin Federation of Business & Professional Women we understand the importance of pay equity in the lives of women, families, and businesses of Wisconsin.

Pay discrimination still exists. It exists for women, minorities, and older workers. The national gap for women and minorities is at \$.778 to a man's dollar, only a slight improvement over last year. Over the last seven years little change has occurred in the gap. In Wisconsin the gap is \$.70 based on a 4-year degree. While we acknowledge that part of the gap is attributed to differences in education, experience and time in the work force that does not account for all of it.

Undervaluing the work women do, limiting the opportunities for advancement and the perks given is related to the existing stereotypes about what kind of work is appropriate for women and the importance of their jobs. When parking lot attendants are paid more than childcare workers, we know that the work women do is undervalued. If women and men have different jobs in a company, women may not be choosing the lower paying jobs. They may have trouble advancing in a company due to bias about women's abilities or levels of commitment.

Pay inequity is across the board. It can be found in all careers and in all income levels. According the US Census, among workers with high school diplomas, women received \$24,253 in comparison to the \$40,706 in the median annual income earned by men. Among workers with a bachelor's degree, women's median annual income level was \$39,865 to the men's \$53,108.

The wage disparity also grows as women get older. Ultimately, women in the workforce will receive \$8000 less annually in retirement income than their male counterparts. It is no surprise that elderly women comprise a large portion of those living in poverty. In a country and state such as ours, that is a disgrace.

We need to start working at the elimination of pay inequity. The Equal Pay Enforcement Act is a step in the right direction to accomplish this. It puts teeth behind the current labor laws in existence and holds employers accountable for their actions. If companies are being fair in their employment actions, they have nothing to fear.

We are not asking for special consideration, just an even playing field. We encourage you to support Bill SB20, The Equal Pay Enforcement Act and pass it out of committee and to the Senate floor for a vote.

Thank you for your time and consideration.


Lin Clousing
BPW/WI Legislative Chair

Cc: Senator Dave Hansen
Representative Christine Sinicki



MEMORANDUM

TO: Honorable Members of the Senate Committee on Labor, Elections
and Urban Affairs

FROM: David Callender, Legislative Associate 

DATE: March 12, 2009

SUBJECT: Opposition for Senate Bill 20

The Wisconsin Counties Association (WCA) opposes Senate Bill 20 (SB20). While WCA has a long record of support for fair hiring and employment practices, we have identified a number of troubling questions in this proposal which must be resolved:

1. Federal law already provides a judicial remedy for most cases of discrimination under the Wisconsin Fair Employment Act (except in cases where state law offers protections where federal law is silent or less restrictive, such as in sexual orientation or Wisconsin's own FMLA). This proposal would give claimants an avenue of relief in all discrimination cases that is much more relaxed than the federal court standards, which are designed to ensure a fair and full vetting of cases. Is this additional avenue of relief actually needed except in these limited cases where there is no federal language?
2. The bill uses the word "shall" in the context of punitive damages. Would this impact the typical standard for the award of punitive damages in other sections of the Statutes?
3. What is the preclusive effect of a finding of discrimination at the Department of Workforce Development administrative hearing, as the bill requires that a court independently "find" discrimination?

Under current law, if there is a finding of fact of one tribunal, that finding of fact is binding on another tribunal if the burden of proof is the same or heightened in the original tribunal.

For example, if an individual is found to have been driving while intoxicated in a criminal proceeding (where the burden of proof is beyond a reasonable doubt), that person cannot contest a finding that he was driving while intoxicated in a civil proceeding (where the burden is simply the preponderance of evidence). This change is extremely bothersome because any extenuating

Page 2
WCA Memorandum
March 12, 2009

circumstances relating to the charge would have already been litigated and, potentially, would never be heard in the context of the "damages enhancement" hearing.

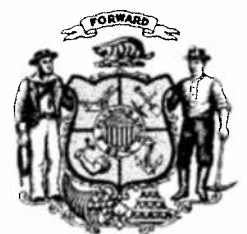
4. Under Wis. Stats. 893.80(4), municipalities are exempt from punitive damage awards. This bill does not say whether those limitations would continue to apply. In fact, one of the exceptions to 893.80(4) in the context of notice of claim and damage cap limitations is in the case of DWD/Equal Rights Division claims. Does the committee want to open the door to punitive damage claims assessed against municipalities?

These issues are significant and could have a negative impact upon counties. WCA respectfully urges the committee to address these questions, and, most significantly, to maintain the current exemption of municipalities from punitive damages.

Thank you for considering our comments. Please contact me if you have any questions.



WISCONSIN STATE LEGISLATURE





**Testimony of Paul A. Kinne
on behalf of the
Wisconsin Association for Justice
before the
Senate Labor, Elections & Urban Affairs Committee
Sen. Spencer Coggs, Chair
on
2009 Senate Bill 20
March 12, 2009**

MARK L. THOMSEN
PRESIDENT
BROOKFIELD

PAUL GAGLIARDI
PRESIDENT-ELECT
SALEM

J. MICHAEL END
VICE-PRESIDENT
MILWAUKEE

EDWARD J. VOPAL
SECRETARY
GREEN BAY

JEFFREY A. PLIMAN
TREASURER
MILWAUKEE

CHRISTINE BREMER MUGGLI
PAST PRESIDENT
WAUSAU

JANE E. GARROTT
EXECUTIVE DIRECTOR

Good afternoon, Senator Coggs and members of the Committee. My name is Paul A. Kinne. I am a member in the law firm of Gingras, Cates & Luebke, Madison, Wisconsin. I am a member of the Wisconsin Association for Justice (WAJ) and serve as Co-Chair of the Employment Law and Civil Rights Committee. I appear on behalf of WAJ in favor of SB 20. Thank you for this opportunity to testify.

Discrimination is a pervasive problem in society. Numerous complaints are filed each year in Wisconsin alleging discrimination on the basis of race, sex, religion, national origin, physical disability, age and sexual orientation. Discriminatory practices include bias in hiring, promotion, job assignment, termination, compensation, and various types of harassment.

The main body of employment discrimination laws is composed of federal and state statutes. The United States Constitution and some state constitutions provide additional protection where the employer is a governmental body or the government has taken significant steps to foster the discriminatory practice of the employer. Discrimination in the private sector is not directly constrained by the Constitution, but has become subject to a growing body of federal and state statutes.

Under federal anti-discrimination statutes, a person alleging discrimination is entitled to compensatory and punitive damages. A complaint is filed with the Equal Opportunity Employment Commission (EEOC), which interprets and enforces the Equal Payment Act, Age Discrimination in Employment Act, Title VII, Americans With Disabilities Act, and sections of the Rehabilitation Act. These federal laws, however, only apply to employers with 15 or more employees.

After an investigation, the EEOC issues a notice of right to sue. This is an expensive and time-consuming proposition because the lawsuit must be brought in federal court.

The State of Wisconsin and the EEOC have concurrent jurisdiction in the investigation of discrimination complaints. In other words, the responsibility for investigating discrimination complaints is shared between the state and federal agencies. An employee can file suit in either state court or federal court to enforce his or her rights under the federal statutes. However, an employee is limited exclusively to an administrative hearing to assert his or her rights that arise under the state law that prohibits discrimination, retaliation and harassment.

Current state remedies for discrimination are very limited, which is why passage of SB 20 is very important. Right now a person alleging discrimination can only recover damages for lost wages and the right to be reinstated in the job. The claim for lost wage damages maybe very little because it is reduced by wages earned in a new job. In other

words, if a person is earning \$8 an hour and leaves because of discrimination and then finds a new job for \$6 an hour, he or she can only recover the \$2 an hour lost.

There are other gaps left between the federal and state law. For example, federal law offers no protection from discrimination on account of sexual orientation, regardless of the number of people employed by a business. A victim of sexual orientation discrimination, then, cannot recover damages done to his or her career resulting from a termination, nor can he or she be compensated for the emotional harm caused by the employer's unlawful acts. Passage of this law would provide an aggrieved employee the opportunity to recover those kind of damages.

In addition, Wisconsin has no provision for providing damages if people have not lost their jobs, but are working in a "hostile work environment." Why should people lose their job before they can bring a claim for discrimination in Wisconsin?

I am presently working on a case in which the employer employed fewer than 15 employees. The company had no policy prohibiting sexual harassment. One of the co-owners of the company sent sexually charged text messages and propositioned my client. She complained to the other co-owner, who promised to take action. When the harassment did not end, my client complained again. This time, the other co-owner fired her.

She was a part time employee, so the amount of back wage loss damages she can recover are minimal. The real damages in this case are emotional: during a portion of her employment, her husband had been serving in Iraq, and she was left here to take care of and support their children. To have one of her bosses proposition her and ask her questions about her sex life made a bad situation even worse. But my client is left without a means to be compensated for this harm.

Limited damages make it very difficult to bring discrimination cases. Attorneys turn down dozens of cases because damages are limited and most people cannot afford to pay an hourly fee.

Although the Wisconsin Association for Justice supports the legislation, it has some procedural quirks. For example, as it reads, an aggrieved employee would not have recourse to damages for emotional distress unless the employer appealed an unfavorable finding in the Equal Rights Division. That creates an absurd result.

It is also somewhat confusing as to whether damages would be awarded as part of the circuit court's current authority to review Labor and Industry Review Commission decisions, or in a separate proceeding after circuit court review is complete. Finally, this would all take a lot of time. The best approach would simply allow an employee to bring a discrimination case against any employer directly into circuit court (or the agency, if the employee prefers). But this legislation is certainly a step in the right direction.

Employers know the penalties for discrimination are very low in Wisconsin and that they can engage in discriminatory practices without being held accountable. This thwarts the purpose of the Wisconsin Fair Employment Act, which was designed to eliminate discrimination and harassment based on a person's membership in one of the protected classes set forth in the statute. Passage of SB 20 sends a very important message to employers that Wisconsin will no longer tolerate discrimination in the workplace.

Thank you for this opportunity to testify.





WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

Officers & Members

President-Bill Smith
National Federation of Independent Business

Vice President-James Buchen
Wisconsin Manufacturers & Commerce

Treasurer-Andy Franken
Wisconsin Insurance Alliance

Secretary - Pat Stevens
Wisconsin Builders Association

John Mielke
Associated Builder & Contractors

James Boullion
Associated General Contractors of Wisconsin

Michael Crooks
Civil Trial Counsel of Wisconsin

Beata Kalies
Electric Cooperatives

Gary Manke
Midwest Equipment Dealers Association

Nickolas George
Midwest Food Processors Association

Mary Ann Gerrard
Wisconsin Automobile & Truck Dealers Association

Peter Thillman
Wisconsin Economic Development Association

Eric Borgerding
Wisconsin Hospital Association Inc.

Mark Grapentine
Wisconsin Medical Society

Thomas Howells
Wisconsin Motor Carriers Association

Matthew Hauser
Wisconsin Petroleum Marketers & Convenience Store Association

Edward Lump
Wisconsin Restaurant Association

TO: Members, Senate Committee on Labor, Elections, and Urban Affairs
FROM: Andrew Cook on behalf of the Wisconsin Civil Justice Council
RE: Opposition to Senate Bill 20
DATE: March 12, 2009

The Wisconsin Civil Justice Council (WCJC) represents Wisconsin business interests on civil justice issues before the Legislature. The WCJC's primary goal is to achieve fairness and equity, reduce costs, and enhance Wisconsin's image as a place to live and work. WCJC opposes Senate Bill 20 because of the negative effect it would have on Wisconsin's business climate, especially during this economic downturn.

WCJC is particularly concerned with Senate Bill 20's provision adding *unlimited* punitive and compensatory damages. Moreover, WCJC is concerned that Senate Bill 20 fails to require that the plaintiff prove some sort of intent by the defendant before seeking compensatory and punitive damages.

By adding no limitations on the amount of compensatory and punitive damages, Senate Bill 20 creates an incentive for plaintiffs to file lawsuits as a means to extract money from a defendant in some cases where no discrimination has occurred. Unlike Senate Bill 20, federal employment discrimination law places limitations on punitive damages, ranging from \$50,000 to \$300,000, depending on the size of the employer.¹ Although WCJC opposes *any* compensatory or punitive damages under this law, it is extremely concerned about the potential for lawsuit abuse—especially without any caps on damages. In addition, WCJC opposes a 10 percent “surcharge” on top of the unlimited compensatory and punitive damages that would be used by the Department of Workforce Development (DWD) towards administering the fair employment law. This provision creates the unintended consequence of giving DWD the incentive to alter its decisions in order to increase its budget.

Furthermore, WCJC is concerned that Senate Bill 20 fails to require any showing by the plaintiff that the employer acted with malice or recklessness. Under federal law, the plaintiff must prove that the defendant “engaged in a discriminatory practice” with “malice or reckless indifference to the federally protected rights of an aggrieved individual” in order to receive punitive damages.² Similarly, *Black's Law Dictionary* defines “punitive damages” as “[d]amages awarded in addition to actual damages when the defendant acted with recklessness, malice, or deceit.” Senate Bill 20 would allow punitive damages without making any such finding. As such, Senate Bill 20 provides an employer little to no protection against an aggrieved employee filing a baseless lawsuit with the hope of receiving damages—even if there is no proof the employer had intent to discriminate against the employee.

In conclusion, Senate Bill 20 imposes unlimited compensatory and punitive damages and fails to require that the plaintiff prove that the defendant acted with malice or recklessness—the prerequisite for punitive damages. Therefore, WCJC respectfully requests that you oppose recommending passage of Senate Bill 20.

¹ 42 U.S.C. § 1981a(b)(3).

² 42 U.S.C. § 1981a(b)(1).





Wisconsin

**Statement Before the
Senate Committee on Labor, Elections and Urban Affairs**

By

**Bill G. Smith
State Director
National Federation of Independent Business
Wisconsin Chapter**

**Thursday, March 12, 2009
Senate Bill 20**

Mr. Chairman, members of the Committee, I appreciate this opportunity to make a brief statement on behalf of NFIB's 12,000 members located across the state of Wisconsin.

Earlier this week, NFIB's Research Foundation released the results of the NFIB's monthly small business economic report. The optimism index of our small business owners has fallen once again for the third consecutive month – to a new level, the second lowest level in the 35 year history of the survey study.

However, there was some encouraging news – 10% of the small business owners said they were planning to reduce employment (down from 14% in January); 13% said they were planning to create new jobs (up from 9% in January). But, make no mistake, these are still the lowest readings aside from the deep recessions in the early 1980's and 1970's.

I mentioned this data because it is important that members of this committee understand the economic struggles on Main Street, and whether Senate Bill 20 would help promote job creation and job growth, or would Senate Bill 20 contribute further to the current economic hardship being experienced by our small business community.

As a result of expanding the incentive to file lawsuits against employers, Senate Bill 20 would clearly also expand job growth, but mainly for the legal community – not the small business community.

Even under current law, nearly 50% of the respondents to a small business liability study fear they will become defendants in a lawsuit, according to the NFIB Research Foundation.

Testimony by Bill G. Smith, NFIB – continued
Senate Committee on Labor, Elections and Urban Affairs
Page Two

This fear of becoming involved in a lawsuit causes over 20 percent of the small business owners in the NFIB's Liability Study to report they spend more time on liability problems and potential liability problems than such vital business activities as: introducing new technologies or processes, evaluating changes in employee wages and benefits, obtaining or repaying business loans, evaluating the competition, or looking for ways to cut costs. These are the activities small employers should be engaged in – rather than spending both time and money on liability insurance and legal fees.

The median time between engagement of a lawyer to handle a dispute, and its resolution is 4-5 months, and median legal expenses for those who incurred them were between \$4,000 and \$5,000, 10 percent had legal expenses of \$25,000 or more (NFIB Research Foundation Study, Use of Lawyers).

This legislation would essentially allow unlimited punitive and compensatory damages, unlimited back-pay, a 10 percent penalty surcharge for the Department of Workforce Development, and unlike federal law, which includes a small business exemption and tiering of penalties, Senate Bill 20 would apply to all employers large and small.

I urge members of the committee to reject Senate Bill 20, not because any of us approve of discrimination of any kind in the workplace, but Senate Bill 20 should be rejected because the penalties for employment discrimination under current law are effective, and the unreasonably harsh penalties created by Senate Bill 20 will put in place incentives that will have a severe and costly impact on small business.

Thank you, Mr. Chairman.





Serving the
Lodging Industry
for Over 100 Years

March 12, 2009

To : Senate Committee on Labor, Elections, and Urban
Affairs
Senator Coggs, Chairman

From: Trisha Pugal, CAE
President, CEO

RE: **Opposition to SB 20 Expansion of
Discrimination Damages & Incentives to DWD**

On behalf of almost 1,000 lodging properties around the state, we would like to share our concerns relating to SB 20, and ask that you Oppose this bill.

Under the current system, if an employer is found at fault in employment discrimination they are responsible for penalties imposed by the Department of Workforce Development (DWD), such as paying back wages the DWD finds as warranted. Whether they were aware of the claimed discrimination or not, the employer pays or takes the action required.

With SB 20, new additional compensatory and punitive penalties may be imposed by the circuit courts that are very discretionary, plus an incentive to assign these new penalties is included.

By including a 10% surcharge (or "commission"), with the revenue going to the DWD, there is an incentive for the DWD to encourage larger and broader compensatory and punitive damages than is warranted. This seems inappropriate at best.

Please do not encourage frivolous lawsuits with penalties assigned beyond what is reasonable. Please oppose SB 20.

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wia@wisconsinlodging.info
www.wisconsinlodging.info



Cc: WIA Executive Committee
Kathi Kilgore