

SENATE BILL 202 (LRB -0322)

An Act to repeal 111.39 (5) (d), 111.397 and 893.995; and to amend 111.39 (4) (d) and 814.04 (intro.) of the statutes; relating to: elimination of compensatory and punitive damages for acts of employment discrimination or unfair honesty or genetic testing. (FE)

2011

- 09-27. S. Introduced by Senators **Grothman, Galloway, Darling, Lasee, Kedzie, Zipperer and Moulton**; cosponsored by Representatives **Litjens, LeMahieu, Pridemore, Thiesfeldt, Honadel, Brooks, Knodl, Kleefisch, T. Larson, Kooyenga, Rivard, Kapenga, Steineke, Severson, Petersen, Stroebel, Vos, Knilans, Craig, A. Ott, Kaufert, Tauchen, Bies, Kuglitsch, Endsley and Strachota.**
- 09-27. S. Read first time and referred to committee on Judiciary, Utilities, Commerce, and Government Operations 466
- 10-12. S. Fiscal estimate received.
- 10-19. S. Public hearing held.
- 10-26. S. Executive action taken.
- 10-26. S. Report passage recommended by committee on Judiciary, Utilities, Commerce, and Government Operations, Ayes 3, Noes 2 539
- 10-26. S. Available for scheduling.
- 11-01. S. Placed on calendar 11-2-2011 pursuant to Senate Rule 18(1) 562
- 11-02. S. Read a second time 570
- 11-02. S. Senate substitute amendment 1 offered by Senators Taylor, Hansen, Miller, S. Coggs, C. Larson, Holperin and Carpenter (**LRB s0251**) 570
- 11-02. S. Senate substitute amendment 1 laid on table, Ayes 17, Noes 15 570
- 11-02. S. Ordered to a third reading 570
- 11-03. S. Read a third time 579
- 11-03. S. **Passed**, Ayes 17, Noes 16 579
- 11-03. S. Ordered immediately messaged 579
- 11-03. A. Received from Senate 664
- 11-03. A. Read 666
- 11-03. A. Refused to suspend the rules, Ayes 55, Noes 37 666

2012

- 02-14. A. Read first time and referred to committee on Rules 794
- 02-14. A. Placed on calendar 2-16-2012 by committee on Rules.
- 02-16. A. Read a second time 810
- 02-16. A. Ordered to a third reading 810
- 02-16. A. Refused to suspend rules to read a third time, Ayes 58, Noes 37 810
- 02-21. A. Read a third time and **concurrent in**, Ayes 60, Noes 35.
- 02-21. A. Ordered immediately messaged.
- 02-22. S. Received from Assembly concurred in.

SB

**2011
ENROLLED BILL**

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ADOPTED DOCUMENTS:

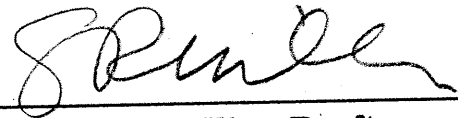
Orig Engr SubAmdt

11 - 0322/1

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic Rel

2-22-12 
Date Enrolling Drafter



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0322/1
GMM:kjfrs

2011 SENATE BILL 202

September 27, 2011 - Introduced by Senators GROTHMAN, GALLOWAY, DARLING, LASEE, KEDZIE, ZIPPERER and MOULTON, cosponsored by Representatives LITJENS, LEMAHIEU, PRIDEMORE, THIESFELDT, HONADEL, BROOKS, KNODL, KLEEFISCH, T. LARSON, KOOYENGA, RIVARD, KAPENGA, STEINEKE, SEVERSON, PETERSEN, STROEBEL, VOS, KNILANS, CRAIG, A. OTT, KAUFERT, TAUCHEN, BIES, KUGLITSCH, ENDSLEY and STRACHOTA. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT to repeal** 111.39 (5) (d), 111.397 and 893.995; and **to amend** 111.39 (4)
2 (d) and 814.04 (intro.) of the statutes; **relating to:** elimination of compensatory
3 and punitive damages for acts of employment discrimination or unfair honesty
4 or genetic testing.

Analysis by the Legislative Reference Bureau

Under the current fair employment law, a person alleging discrimination in employment or unfair honesty or genetic testing may file a complaint with the Department of Workforce Development (DWD) seeking action that will effectuate the purpose of the fair employment law, including reinstating the employee, providing back pay, and paying costs and attorney fees. In addition, the fair employment law permits DWD or a person who has been discriminated against or subjected to unfair honesty or genetic testing to bring an action in circuit court to recover compensatory and punitive damages caused by the act of discrimination or unfair honesty or genetic testing after the completion of all administrative proceedings before DWD and the Labor and Industry Review Commission concerning the violation. If the circuit court finds that a defendant has committed an act of discrimination or unfair honesty or genetic testing, the circuit court must order the defendant to pay to the person discriminated against compensatory and punitive damages in an amount that the circuit court finds appropriate, subject to certain limitations, as follows:

1. If the defendant employs 100 or fewer employees, \$50,000.

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2. If the defendant employs more than 100 but fewer than 201 employees, \$100,000.

3. If the defendant employs more than 200 but fewer than 501 employees, \$200,000.

4. If the defendant employs more than 500 employees, \$300,000.

This bill eliminates the awarding of compensatory and punitive damages to persons who have been discriminated against in employment or subjected to unfair honesty or genetic testing. Under the bill, DWD may still award to such a person back pay, costs, and attorney fees.

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.** 111.39 (4) (d) of the statutes is amended to read:

2 111.39 (4) (d) The department shall serve a certified copy of the findings and
3 order on the respondent, the order to have the same force as other orders of the
4 department and be enforced as provided in s. 103.005. Any person aggrieved by
5 noncompliance with the order may have the order enforced specifically by suit in
6 equity. If the examiner finds that the respondent has not engaged in discrimination,
7 unfair honesty testing, or unfair genetic testing as alleged in the complaint, the
8 department shall serve a certified copy of the examiner's findings on the
9 complainant, together with an order dismissing the complaint. ~~If the examiner finds~~
10 ~~that the respondent has engaged in discrimination, unfair honesty testing, or unfair~~
11 ~~genetic testing as alleged in the complaint, the department shall serve a certified~~
12 ~~copy of the examiner's findings on the complainant, together with a notice advising~~
13 ~~the complainant that after the completion of all administrative proceedings under~~
14 ~~this section he or she may bring an action as provided in s. 111.397 (1) (a) to recover~~
15 ~~compensatory and punitive damages as provided in s. 111.397 (2) (a) and advising the~~

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1 ~~complainant of the time under s. 111.397 (1) (b) within which the action must be~~
2 ~~commenced or be barred.~~

3 SECTION 2. 111.39 (5) (d) of the statutes is repealed.

4 SECTION 3. 111.397 of the statutes is repealed.

5 SECTION 4. 814.04 (intro.) of the statutes is amended to read:

6 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.195 (5m)
7 (b), 100.30 (5m), 106.50 (6) (i) and (6m) (a), ~~111.397 (2) (a)~~, 115.80 (9), 281.36 (2) (b)
8 1., 767.553 (4) (d), 769.313, 802.05, 814.245, 895.035 (4), 895.443 (3), 895.444 (2),
9 895.445 (3), 895.446 (3), 895.506, 943.212 (2) (b), 943.245 (2) (d), 943.51 (2) (b), and
10 995.10 (3), when allowed costs shall be as follows:

11 SECTION 5. 893.995 of the statutes is repealed.

12 SECTION 6. **Initial applicability.**

13 (1) ~~ELIMINATION OF EMPLOYMENT DISCRIMINATION DAMAGES.~~ This act first applies
14 to an administrative proceeding under section 111.39 of the statutes concerning a
15 violation of section 111.321, 111.37, or 111.372 of the statutes in which a copy of the
16 final decision under section 111.39 (4) (d) or (5) (d) of the statutes is mailed to the
17 last-known address of the complainant on the effective date of this subsection.

18 (END)