2013 DRAFTING REQUEST

Bill

Received:	**1/17/2014**	Received By:	**gmalaise**
Wanted:	**Today**	Same as LRB:	
For:	**Mandela Barnes (608) 266-3756**	By/Representing:	**John Jacobson**
May Contact:		Drafter:	**gmalaise**
Subject:	**Employ Priv - discrimination**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Barnes@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Employment discrimination based on employment status

Instructions:

Draft companion to -3923/1

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	gmalaise 1/17/2014	scalvin 1/17/2014	rschluet 1/17/2014	_____ _____			
/1				_____ _____	srose 1/17/2014	mbarman 1/17/2014	State S&L

FE Sent For:

<END>

@ INTRO

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/?	gmalaise	/1 sac 01/17/2014	1/17/14				

P.A.'s
Go ahead & jacket.

FE Sent For:

<END>

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB-3923/1
GMM:sac:jm

2013 BILL

AN ACT *to amend* 111.31 (1), 111.31 (2), 111.31 (3) and 111.321; and *to create* 111.32 (7g) and 111.353 of the statutes; **relating to:** employment discrimination based on employment status.

Analysis by the Legislative Reference Bureau

Current law prohibits discrimination in employment on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest or conviction record, military service, use or nonuse of a lawful product off the employer's premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious or political matters. Current law specifies that it is an act of employment discrimination to: 1) refuse to hire or employ an individual because of any of those bases; or 2) print or circulate or cause to be printed or circulated any statement, advertisement, or publication, use any form of application for employment, or make any inquiry in connection with prospective employment that implies or expresses any discrimination because of any of those bases.

This bill prohibits employment discrimination based on employment status, which the bill defines as the status of being employed or unemployed. The bill specifies that employment discrimination because of employment status includes an employer, employment agency, or other person: 1) refusing to hire or employ an individual because the individual is currently unemployed; and 2) printing or circulating or causing to be printed or circulated any statement, advertisement, or publication, using any form of application for employment, or making any inquiry in

connection with prospective employment that states or suggests that the qualifications for a job include currently being employed, that the employer, employment agency, or other person will not consider or review an application for employment submitted by an individual who is currently unemployed, or that the employer, employment agency, or other person will only consider or review an application for employment submitted by an individual who is currently employed.

The bill, however, provides that it is not employment discrimination because of employment status for an employer, employment agency, or other person to print or circulate or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment that sets forth any bona fide occupational qualifications for a job, including the holding of a professional or occupational credential or the possession of a minimum level of education, training, or experience, or that states that only individuals who are currently employed by the employer, employment agency, or other person will be considered for a job.

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.** 111.31 (1) of the statutes is amended to read:

2 111.31 **(1)** The legislature finds that the practice of unfair discrimination in
3 employment against properly qualified individuals by reason of their age, race,
4 creed, color, disability, marital status, sex, national origin, ancestry, sexual
5 orientation, arrest record, conviction record, employment status, military service,
6 use or nonuse of lawful products off the employer's premises during nonworking
7 hours, or declining to attend a meeting or to participate in any communication about
8 religious matters or political matters, substantially and adversely affects the general
9 welfare of the state. Employers, labor organizations, employment agencies, and
10 licensing agencies that deny employment opportunities and discriminate in
11 employment against properly qualified individuals solely because of their age, race,
12 creed, color, disability, marital status, sex, national origin, ancestry, sexual
13 orientation, arrest record, conviction record, employment status, military service,

use or nonuse of lawful products off the employer's premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters, deprive those individuals of the earnings that are necessary to maintain a just and decent standard of living.

SECTION 2. 111.31 (2) of the statutes is amended to read:

111.31 **(2)** It is the intent of the legislature to protect by law the rights of all individuals to obtain gainful employment and to enjoy privileges free from employment discrimination because of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, employment status, military service, use or nonuse of lawful products off the employer's premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters, and to encourage the full, nondiscriminatory utilization of the productive resources of the state to the benefit of the state, the family, and all the people of the state. It is the intent of the legislature in promulgating this subchapter to encourage employers to evaluate an employee or applicant for employment based upon the individual qualifications of the employee or applicant rather than upon a particular class to which the individual may belong.

SECTION 3. 111.31 (3) of the statutes is amended to read:

111.31 **(3)** In the interpretation and application of this subchapter, and otherwise, it is declared to be the public policy of the state to encourage and foster to the fullest extent practicable the employment of all properly qualified individuals regardless of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, employment status, military service, use or nonuse of lawful products off the employer's premises during

1 nonworking hours, or declining to attend a meeting or to participate in any
2 communication about religious matters or political matters. Nothing in this
3 subsection requires an affirmative action program to correct an imbalance in the
4 work force. This subchapter shall be liberally construed for the accomplishment of
5 this purpose.

6 **SECTION 4.** 111.32 (7g) of the statutes is created to read:

7 111.32 **(7g)** "Employment status" means the status of being employed or
8 unemployed.

9 **SECTION 5.** 111.321 of the statutes is amended to read:

10 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to
11 111.365, no employer, labor organization, employment agency, licensing agency, or
12 other person may engage in any act of employment discrimination as specified in s.
13 111.322 against any individual on the basis of age, race, creed, color, disability,
14 marital status, sex, national origin, ancestry, arrest record, conviction record,
15 employment status, military service, use or nonuse of lawful products off the
16 employer's premises during nonworking hours, or declining to attend a meeting or
17 to participate in any communication about religious matters or political matters.

18 **SECTION 6.** 111.353 of the statutes is created to read:

19 **111.353 Employment status; exceptions and special cases. (1)**
20 Employment discrimination because of employment status includes all of the
21 following:

22 (a) An employer, employment agency, or other person refusing to hire or employ
23 an individual because the individual is currently unemployed.

24 (b) An employer, employment agency, or other person printing or circulating or
25 causing to be printed or circulated any statement, advertisement, or publication,

1 using any form of application for employment, or making any inquiry in connection
2 with prospective employment that states or suggests any of the following:
3 1. That the qualifications for a job include currently being employed.
4 2. That the employer, employment agency, or other person will not consider or
5 review an application for employment submitted by an individual who is currently
6 unemployed.
7 3. That the employer, employment agency, or other person will only consider
8 or review an application for employment submitted by an individual who is currently
9 employed.
10 **(2)** Notwithstanding s. 111.322, it is not employment discrimination because
11 of employment status for an employer, employment agency, or other person to print
12 or circulate or cause to be printed or circulated any statement, advertisement, or
13 publication or to use any form of application for employment that does any of the
14 following:
15 (a) Sets forth any bona fide occupational qualifications for a job, including the
16 holding of a professional or occupational license, permit, certification, certificate,
17 approval, registration, or other credential or the possession of a minimum level of
18 education, training, or experience.
19 (b) States that only individuals who are currently employed by the employer,
20 employment agency, or other person will be considered for a job.
21 **SECTION 7. Initial applicability.**
22 (1) EMPLOYMENT DISCRIMINATION BASED ON EMPLOYMENT STATUS. This act first
23 applies to an applicant for employment who is affected by a collective bargaining
24 agreement that contains provisions inconsistent with this act on the day on which

1 the collective bargaining agreement expires or is extended, modified, or renewed,
2 whichever occurs first.
3 **(END)**