



2017 SENATE BILL 142

March 29, 2017 - Introduced by Senators HANSEN, RINGHAND, JOHNSON, CARPENTER, ERPENBACH, C. LARSON, MILLER, RISSER, SHILLING, L. TAYLOR and WIRCH, cosponsored by Representatives SINICKI, OHNSTAD, HESSELBEIN, SPREITZER, MEYERS, ANDERSON, BERCEAU, BILLINGS, BROSTOFF, BOWEN, CROWLEY, FIELDS, GENRICH, GOYKE, HEBL, KESSLER, KOLSTE, MASON, MILROY, POPE, RIEMER, SARGENT, SHANKLAND, STUCK, SUBECK, C. TAYLOR, WACHS, YOUNG, ZAMARRIPA and ZEPNICK. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT** *to amend* 111.322 (2m) (a) and 111.322 (2m) (b); and *to create* 103.135
2 and 106.54 (11) of the statutes; **relating to:** prohibiting an employer from
3 relying on or inquiring about a prospective employee's current or prior
4 compensation and from restricting an employee's right to disclose
5 compensation information and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits certain employer conduct related to compensation information of current and prospective employees.

The bill prohibits an employer from doing any of the following with respect to a prospective employee:

1. Relying on or soliciting information about the prospective employee's current or prior compensation.
2. Requiring that the prospective employee's current or prior compensation meet certain criteria in order for the prospective employee to be considered for employment.
3. Refusing to hire the prospective employee for exercising his or her rights relating to compensation information.

The bill also prohibits an employer from discharging or discriminating against a current employee for disclosing the details of the employee's compensation, discussing the compensation of other employees, asking other employees for details regarding their compensation, or taking certain actions to enforce an employee's rights under the bill.

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The bill requires employers to post notices, where notices to employees are customarily posted and on any electronic job posting, regarding employees' and prospective employees' rights under the bill and provides a penalty for an employer's failure to do so.

For further information see the *state* 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.** 103.135 of the statutes is created to read:

2 **103.135 Compensation information of employees and prospective**
3 **employees. (1) UNLAWFUL EMPLOYER CONDUCT RELATED TO PROSPECTIVE EMPLOYEE**
4 **COMPENSATION INFORMATION.** (a) No employer may directly or indirectly do any of the
5 following:

6 1. Rely on or, subject to par. (b), solicit from a prospective employee or a
7 prospective employee's current or former employer information about the
8 prospective employee's current or prior compensation.

9 2. Require that a prospective employee's current or prior compensation meet
10 certain criteria in order for the prospective employee to be considered for
11 employment.

12 3. Refuse to hire or employ or otherwise discriminate against a prospective
13 employee in compensation or in the terms, conditions, or privileges of employment
14 for opposing a practice prohibited under this paragraph, filing or indicating an intent
15 to file a complaint or otherwise attempting to enforce any right under this paragraph,
16 or testifying, assisting, or participating in any manner in any investigation, action,
17 or proceeding to enforce any right under this paragraph.

18 (b) After an employer has offered employment to a prospective employee and
19 the details of compensation have been agreed upon, the employer may obtain the

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1 prospective employee's written consent for the employer to solicit information about,
2 or take action to confirm, the prospective employee's current or prior compensation.

3 **(2) DISCLOSURE OF COMPENSATION INFORMATION BY EMPLOYEES.** (a) An employee
4 may disclose the details of the employee's compensation to anyone and, subject to par.
5 (d), may discuss the compensation of other employees and may ask other employees
6 for details regarding their compensation.

7 (b) Except as provided in par. (d), no employer may interfere with, restrain, or
8 deny the exercise of the right of an employee to disclose, discuss, or inquire about
9 compensation as provided in par. (a).

10 (c) An employer may not discharge or discriminate against an employee in
11 promotion, in compensation, or in the terms, conditions, or privileges of employment
12 for disclosing, discussing, or inquiring about compensation as provided in par. (a),
13 opposing a practice prohibited under par. (b), filing or indicating an intent to file a
14 complaint or otherwise attempting to enforce any right under par. (a), or testifying,
15 assisting, or participating in any manner in any investigation, action, or proceeding
16 to enforce any right under par. (a).

17 (d) Subject to s. 19.35, an employer may prohibit a human resources or payroll
18 employee, a supervisor, or any other employee whose job responsibilities require or
19 allow the employee access to other employees' compensation information from
20 disclosing information about any other employee's compensation without that
21 employee's prior written consent.

22 **(3) ENFORCEMENT.** Any employee or prospective employee who is refused
23 employment, terminated, discharged, or otherwise discriminated against in
24 violation of sub. (1) (a) or (2) (a) to (c) may file a complaint with the department, and
25 the department shall process the complaint in the same manner that employment

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1 discrimination complaints are processed under s. 111.39. If the department finds
2 that a violation has occurred, the department may order the employer to take action
3 to remedy the violation, including reinstating the employee, providing compensation
4 in lieu of reinstatement, providing back pay accrued not more than 2 years before the
5 complaint was filed, and paying reasonable actual costs and, notwithstanding s.
6 814.04 (1), reasonable attorney fees to the complainant.

7 (4) NOTICE POSTED. (a) Each employer shall provide notice to employees and
8 prospective employees regarding their rights under this section by doing all of the
9 following:

10 1. Posting, in one or more conspicuous places where notices to employees are
11 customarily posted, a notice in a form approved by the department setting forth
12 employees' and prospective employees' rights under this section.

13 2. Including, on each listing for a job vacancy or other employment opportunity
14 that is advertised by electronic mail, posting on an Internet site, or other electronic
15 means, a notice that includes all of the following information:

16 a. A statement that the employer is prohibited from relying on a prospective
17 employee's current or former compensation.

18 b. A statement that the employer is prohibited from asking about a prospective
19 employee's compensation until after the employer has offered the prospective
20 employee employment and they have agreed upon the details of compensation.

21 c. A statement that the employer is prohibited from requiring that a
22 prospective employee's current or prior compensation meet certain criteria in order
23 for the prospective employee to be considered for employment.

24 d. Information, or a hyperlink to information, regarding prohibited bases of
25 discrimination under subch. II of ch. 111.

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1 (b) Any employer who violates par. (a) shall forfeit not more than \$100 for each
2 offense.

3 **SECTION 2.** 106.54 (11) of the statutes is created to read:

4 106.54 (11) The division shall receive complaints under s. 103.135 (1) (a) and
5 (2) (a) to (c) and shall process the complaints in the same manner that employment
6 discrimination complaints are processed under s. 111.39.

7 **SECTION 3.** 111.322 (2m) (a) of the statutes is amended to read:

8 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
9 right under s. 103.02, 103.10, 103.11, 103.13, 103.135, 103.28, 103.32, 103.34,
10 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
11 or 103.64 to 103.82.

12 **SECTION 4.** 111.322 (2m) (b) of the statutes is amended to read:

13 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
14 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.135,
15 103.28, 103.32, 103.34, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
16 or ss. 101.58 to 101.599 or 103.64 to 103.82.

17 **SECTION 5. Initial applicability.**

18 (1) COLLECTIVE BARGAINING AGREEMENT. This act first applies to an employee
19 who is affected by a collective bargaining agreement that contains provisions
20 inconsistent with this act on the day on which the collective bargaining agreement
21 expires or is extended, modified, or renewed, whichever occurs first.

22 **SECTION 6. Effective date.**

23 (1) This act takes effect on the first day of the 6th month beginning after
24 publication.

25

(END)