



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-4087/2  
GMM:med:jm

## 2011 ASSEMBLY BILL 729

March 15, 2012 - Introduced by Representatives ROYS, SINICKI, C. TAYLOR, TURNER, BERCEAU and POCAN, cosponsored by Senators S. COGGS, TAYLOR and RISSER. Referred to Committee on Assembly Organization.

1     **AN ACT to amend** 111.31 (1), 111.31 (2), 111.31 (3), 111.321 and 111.322 (intro.);  
2             **and to create** 111.367 of the statutes; **relating to:** prohibiting discrimination  
3             in employment against an individual for signing or refusing to sign a recall  
4             petition.

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### *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 record, 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.

This bill prohibits discrimination in employment against an individual who signs or refuses to sign a petition for the recall of any incumbent elective official (recall petition). The bill provides, however, that it is not employment discrimination on the basis of signing a recall petition for an employer to refuse to hire or employ an individual, to suspend or terminate the employment of an individual, or to discriminate against an individual in promotion, in compensation, or in terms, conditions, or privileges of employment, because the individual signed a recall petition if the individual is a nonpartisan employee of or an applicant for nonpartisan employment with the Government Accountability Board, a legislative service agency, either house of the legislature, a community relations-social development commission, a municipal public utility, the Citizens Utility Board, or the Judicial

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Commission and signing a recall petition impairs the nonpartisan character of the employer.

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*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, military service, use or nonuse of lawful  
6 products off the employer's premises during nonworking hours, signing or refusing  
7 to sign a recall petition under s. 9.10, or declining to attend a meeting or to participate  
8 in any communication about religious matters or political matters, substantially and  
9 adversely affects the general welfare of the state. Employers, labor organizations,  
10 employment agencies, and licensing agencies that deny employment opportunities  
11 and discriminate in employment against properly qualified individuals solely  
12 because of their age, race, creed, color, disability, marital status, sex, national origin,  
13 ancestry, sexual orientation, arrest record, conviction record, military service, use or  
14 nonuse of lawful products off the employer's premises during nonworking hours,  
15 signing or refusing to sign a recall petition under s. 9.10, or declining to attend a  
16 meeting or to participate in any communication about religious matters or political  
17 matters, deprive those individuals of the earnings that are necessary to maintain a  
18 just and decent standard of living.

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

20           111.31 (2) It is the intent of the legislature to protect by law the rights of all  
21 individuals to obtain gainful employment and to enjoy privileges free from

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1 employment discrimination because of age, race, creed, color, disability, marital  
2 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction  
3 record, military service, use or nonuse of lawful products off the employer's premises  
4 during nonworking hours, signing or refusing to sign a recall petition under s. 9.10,  
5 or declining to attend a meeting or to participate in any communication about  
6 religious matters or political matters, and to encourage the full, nondiscriminatory  
7 utilization of the productive resources of the state to the benefit of the state, the  
8 family, and all the people of the state. It is the intent of the legislature in  
9 promulgating this subchapter to encourage employers to evaluate an employee or  
10 applicant for employment based upon the individual qualifications of the employee  
11 or applicant rather than upon a particular class to which the individual may belong.

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

13 111.31 (3) In the interpretation and application of this subchapter, and  
14 otherwise, it is declared to be the public policy of the state to encourage and foster  
15 to the fullest extent practicable the employment of all properly qualified individuals  
16 regardless of age, race, creed, color, disability, marital status, sex, national origin,  
17 ancestry, sexual orientation, arrest record, conviction record, military service, use or  
18 nonuse of lawful products off the employer's premises during nonworking hours,  
19 signing or refusing to sign a recall petition under s. 9.10, or declining to attend a  
20 meeting or to participate in any communication about religious matters or political  
21 matters. Nothing in this subsection requires an affirmative action program to  
22 correct an imbalance in the work force. This subchapter shall be liberally construed  
23 for the accomplishment of this purpose.

24 **SECTION 4.** 111.321 of the statutes is amended to read:

**ASSEMBLY BILL 729****SECTION 4**

1           **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to  
2 ~~111.365~~ 111.367, no employer, labor organization, employment agency, licensing  
3 agency, or other person may engage in any act of employment discrimination as  
4 specified in s. 111.322 against any individual on the basis of age, race, creed, color,  
5 disability, marital status, sex, national origin, ancestry, arrest record, conviction  
6 record, military service, use or nonuse of lawful products off the employer's premises  
7 during nonworking hours, signing or refusing to sign a recall petition under s. 9.10,  
8 or declining to attend a meeting or to participate in any communication about  
9 religious matters or political matters.

10           **SECTION 5.** 111.322 (intro.) of the statutes is amended to read:

11           **111.322 Discriminatory actions prohibited.** (intro.) Subject to ss. 111.33  
12 to ~~111.365~~ 111.367, it is an act of employment discrimination to do any of the  
13 following:

14           **SECTION 6.** 111.367 of the statutes is created to read:

15           **111.367 Signing recall petition; exceptions and special cases.**

16 Notwithstanding s. 111.322, it is not employment discrimination because of signing  
17 a recall petition under s. 9.10 for an employer to refuse to hire or employ an  
18 individual, to suspend or terminate the employment of an individual, or to  
19 discriminate against an individual in promotion, in compensation, or in terms,  
20 conditions, or privileges of employment, because the individual signed a recall  
21 petition under s. 9.10 if the individual is a nonpartisan employee of or an applicant  
22 for nonpartisan employment with the government accountability board, a legislative  
23 service agency, as defined in s. 13.90 (1m) (a), either house of the legislature, a  
24 community relations-social development commission, a municipal public utility, the

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1 citizens utility board, or the judicial commission and signing a recall petition under  
2 s. 9.10 impairs the nonpartisan character of the employer.

3 **SECTION 7. Initial applicability.**

4 (1) This act first applies to an employee who is affected by a collective  
5 bargaining agreement that contains provisions inconsistent with this act on the day  
6 on which the collective bargaining agreement expires or is extended, modified, or  
7 renewed, whichever occurs first.

8 (END)