



1995 SENATE BILL 213

May 18, 1995 - Introduced by Senators DRZEWIECKI, COWLES, RUDE, BUETTNER, DARLING, HUELSMAN, WEEDEN and PANZER, cosponsored by Representatives KELSO, GARD, LEHMAN, LADWIG, MUSSER, KREIBICH, GOETSCH, SCHNEIDERS, VRAKAS, BRANDEMUEHL, AINSWORTH, OTT, FREESE, ALBERS, OLSEN, OWENS, F. LASEE, URBAN, SERATTI, SILBAUGH, KRUSICK, RYBA and LA FAVE. Referred to Committee on Judiciary.

1 **AN ACT to amend** 111.37 (3), 111.37 (5) (b) (intro.), 111.37 (5) (c) and 111.37 (6)
2 (b); and **to create** 111.37 (5) (bm) of the statutes; **relating to:** polygraph testing
3 of prospective employes of a law enforcement agency.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, an employer, including the state and local governments, may not require an employe or prospective employe to take a polygraph test, that is, a test by an instrument that records changes in cardiovascular, respiratory and electrodermal patterns and that is used to render an opinion about the honesty or dishonesty of an individual. Current law also prohibits an employer from taking any adverse employment action against an employe based on the results of a polygraph test, a refusal to take such a test or otherwise exercising his or her rights under current law with respect to polygraph testing. Current law does, however, permit employers to administer polygraph tests under 3 narrow exceptions: 1) as part of an ongoing investigation of economic loss, such as theft or embezzlement; 2) to employes and prospective employes of businesses providing security services; and 3) to employes and prospective employes of businesses that manufacture or distribute controlled substances. Current law guarantees certain rights to an employe who is tested under one of those exceptions, including the right to terminate the test at any time, the right not to be asked questions concerning race, religion, politics, sex or union activities and the right not to be subjected to adverse employment action solely on the basis of the test results. This bill permits a state or local law enforcement agency to administer polygraph tests, or to have polygraph tests administered, to its prospective employes, subject to the rights provided to employes and prospective employes under current law.

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.** 111.37 (3) of the statutes is amended to read:

2 111.37 (3) NOTICE OF PROTECTION. The department shall prepare and distribute
3 a notice setting forth excerpts from, or summaries of, the pertinent provisions of this
4 section. Each employer that administers lie detector tests, or that has lie detector
5 tests administered, to its employes shall post and maintain that notice in
6 conspicuous places on its premises where notices to employes and applicants for
7 employment are customarily posted.

8 **SECTION 2.** 111.37 (5) (b) (intro.) of the statutes is amended to read:

9 111.37 (5) (b) (intro.) Except as provided in sub. (6), this section does not
10 prohibit ~~the use of an employer from administering~~ polygraph tests, or from having
11 polygraph tests administered, on a prospective employe who, if hired, would perform
12 the employer's primary business purpose if the employer's primary business purpose
13 is providing security personnel, armored car personnel or personnel engaged in the
14 design, installation and maintenance of security alarm systems and if the employer
15 protects any of the following:

16 **SECTION 3.** 111.37 (5) (bm) of the statutes is created to read:

17 111.37 (5) (bm) Except as provided in sub. (6), this section does not prohibit a
18 Wisconsin law enforcement agency from administering a polygraph test, or from
19 having a polygraph test administered, on a prospective employe.

20 **SECTION 4.** 111.37 (5) (c) of the statutes is amended to read:

