



1997 SENATE BILL 336

October 29, 1997 - Introduced by Senators PLACHE, GROBSCHMIDT, BURKE, BRESKE and MOEN, cosponsored by Representatives VANDER LOOP, RILEY, CARPENTER, R. YOUNG, DOBYNS, BOCK, SPRINGER, HASENOHRL, RYBA, LA FAVE, KREUSER, ROBSON, PLOUFF, KRUG, BOYLE, GRONEMUS, MURAT, COGGS and L. YOUNG. Referred to Committee on Labor, Transportation and Financial Institutions.

1 **AN ACT to create** 104.043 of the statutes; **relating to:** authorizing the
2 department of workforce development to promulgate a rule permitting an
3 employer to pay certain employes an opportunity wage, but requiring that rule
4 to prohibit an employer from hiring an employe at the opportunity wage if that
5 hiring would displace a regular employe and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Currently, the state minimum wage law requires an employer to pay a living wage to the employer's employes. Under that law, the department of workforce development (DWD) has provided, by rule, minimum wages for various classes of employment, including an opportunity wage for an employe who is under 20 years of age and who is in the first 90 days of his or her job. Under current law, the regular minimum wage for employes generally is \$4.75 per hour and the opportunity wage for employes generally is \$4.25 per hour. Also, under current law, the regular minimum wage for tipped employes is \$2.33 per hour and the opportunity wage for tipped employes is \$2.13 per hour.

This bill requires the rule promulgated by DWD establishing an opportunity wage to prohibit an employer from hiring an employe at the opportunity wage if that hiring would result in any of the following:

1. Displacing a regular employe or reducing the wages, benefits or hours of work of any regular employe.
2. Impairing an existing contract for services or a collective bargaining agreement.
3. Filling a position when any other person is on layoff from the same or a substantially equivalent job within the same organizational unit.
4. Filling a vacancy created by the employer terminating a regular employe or otherwise reducing the employer's workforce for the purpose of hiring an employe at the opportunity wage.

5. Infringing the promotional opportunities of a regular employe.

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.** 104.043 of the statutes is created to read:

2 **104.043 Opportunity wage; displacement prohibited.** The department
3 may promulgate a rule permitting an employer to pay to an employe who is under
4 20 years of age and who has been employed by that employer for 90 or fewer
5 consecutive calendar days from the date of initial employment with that employer
6 an opportunity wage that is less than the living-wage that the department has
7 determined for employes generally. If the department promulgates a rule under this
8 section establishing an opportunity wage, the rule shall prohibit any employer from
9 hiring an employe at the opportunity wage if that hiring would result in any of the
10 following:

11 **(1)** Displacing a regular employe or reducing the wages, employment benefits
12 or hours of work of any regular employe.

13 **(2)** Impairing an existing contract for services or a collective bargaining
14 agreement.

15 **(3)** Filling a position when any other person is on layoff from the same or a
16 substantially equivalent job within the same organizational unit.

17 **(4)** Filling a vacancy created by the employer terminating a regular employe
18 or otherwise reducing the employer's work force for the purpose of hiring an employe
19 at the opportunity wage.

