

1999 SENATE BILL 250

October 13, 1999 – Introduced by Senator BURKE, cosponsored by Representative BERCEAU. Referred to Committee on Labor.

1 **AN ACT** *to create* 111.383 and 230.049 of the statutes; **relating to:** an annual
2 report of the racial or ethnic background, gender and salary of each senior level
3 management employe in this state and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, each agency of the state must furnish to the secretary of employment relations relevant racial, ethnic, gender and handicap information on every new employe hired by the agency, and the secretary must maintain the information to permit a periodic review of the agency's affirmative action plan accomplishments, which are the agency's accomplishments in ensuring equal opportunity, eliminating the present effects of past discrimination and eliminating substantial disparities between the proportion of racial, ethnic, gender and handicap groups in job groups within the civil service and the proportion of those groups in the relevant labor pool.

This bill requires every employer employing 100 or more individuals in this state to file with the department of workforce development (DWD), and every state agency employing 100 or more individuals to file with the department of employment relations, an annual report disclosing the racial or ethnic background (African American, American Indian or Alaska Native, Asian or Pacific Islander, Caucasian, other than Hispanic, or Hispanic), gender and salary of each senior management level employe of the employer. DWD must then compile and analyze the information disclosed in those annual reports and publish an annual report of that compilation and analysis showing the level of racial, ethnic and gender diversity that exists in

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senior management in this state both on an overall statewide basis and on an employer-by-employer basis. The bill prohibits an employer from disclosing any personally identifiable information about an employe in filing its annual report and requires an employer that keeps any records about the racial or ethnic background of an employe to keep those records separate from any records that may be used in determining the employe's qualifications for promotion, transfer or additional compensation or in determining whether to discharge, terminate or take other disciplinary action against the employe. At the request of any employer, other than a state agency, that wishes its identity to be kept confidential, DWD must keep confidential and may not disclose the identity of that employer.

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

2 **111.383 Senior management diversity reports. (1)** (a) Every employer
3 employing 100 or more individuals in this state, other than an agency, as defined in
4 s. 230.03 (3), shall file an annual report with the department disclosing the racial or
5 ethnic background, gender and salary of each senior management level employe of
6 the employer. In filing the annual report, an employer may not disclose any
7 personally identifiable information, as defined in s. 19.62 (5), about any employe. In
8 disclosing the racial or ethnic background of an employe, an employer shall indicate
9 whether the employe's background is African American, American Indian or Alaska
10 Native, Asian or Pacific Islander, Caucasian, other than Hispanic, or Hispanic. If an
11 employer keeps any records about the racial or ethnic background of an employe, the
12 employer shall keep those records separate from any records that may be used in
13 determining the employe's qualifications for promotion, transfer or additional
14 compensation or in determining whether to discharge, terminate or take other
15 disciplinary action against the employe.

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1 (b) Any employer that fails to file an annual report under par. (a) by the date
2 established by the department under sub. (3) (d) or that files a false report may be
3 required to forfeit not less than \$10 nor more than \$100 for each offense. Each day
4 of continued violation constitutes a separate offense.

5 **(2)** The department shall compile and analyze all information disclosed under
6 sub. (1) (a) and all information disclosed under s. 230.049 (1) (a) and shall publish
7 an annual report of that compilation and analysis showing the level of racial, ethnic
8 and gender diversity that exists in senior management in this state both on an
9 overall statewide basis and on an employer-by-employer basis. The department
10 shall make the annual report available for public inspection and shall distribute the
11 annual report to the legislature under s. 13.72 (2) and to the governor. At the request
12 of any employer, other than an agency, as defined in s. 111.32 (6) (a), that wishes its
13 identity to be kept confidential, the department shall keep confidential and may not
14 disclose the identity of that employer.

15 **(3)** The department of workforce development shall administer this section
16 according to policies and procedures established by that department in consultation
17 with the department of employment relations. Notwithstanding s. 227.10 (1), the
18 department of workforce development is not required to promulgate those policies
19 and procedures as rules. The policies and procedures established by the department
20 of workforce development under this subsection shall include policies and
21 procedures governing all of the following:

22 (a) The types of positions that are considered to be senior level management
23 positions for purposes of this section.

24 (b) The manner in which an employer may determine the racial or ethnic
25 background of an employe.

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1 (c) The manner in which an employer may file the annual report under sub. (1)
2 (a), including paper or electronic means.

3 (d) The date by which the annual reports under sub. (1) (a) must be submitted
4 to the department.

5 **SECTION 2.** 230.049 of the statutes is created to read:

6 **230.049 Senior management diversity reports. (1)** (a) Every agency
7 employing 100 or more individuals in this state shall file an annual report with the
8 department disclosing the racial or ethnic background, gender and salary of each
9 senior management level employe of the agency. In filing the annual report, an
10 agency may not disclose any personally identifiable information, as defined in s.
11 19.62 (5), about any employe. In disclosing the racial or ethnic background of an
12 employe, an agency shall indicate whether the employe's background is African
13 American, American Indian or Alaska Native, Asian or Pacific Islander, Caucasian,
14 other than Hispanic, or Hispanic. If an agency keeps any records about the racial
15 or ethnic background of an employe, the agency shall keep those records separate
16 from any records that may be used in determining the employe's qualifications for
17 promotion, transfer or additional compensation or in determining whether to
18 discharge, terminate or take other disciplinary action against the employe.

19 (b) Any agency that fails to file an annual report under par. (a) by the date
20 established by the department under sub. (3) (d) or that files a false report may be
21 required to forfeit not less than \$10 nor more than \$100 for each offense. Each day
22 of continued violation constitutes a separate offense.

23 **(2)** The department shall deliver all information disclosed under sub. (1) (a) to
24 the department of workforce development for compilation, analysis and publication
25 under s. 111.383 (2).

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1 **(3)** The department of employment relations shall administer this section
2 according to policies and procedures established by that department in consultation
3 with the department of workforce development. Notwithstanding s. 227.10 (1), the
4 department of employment relations is not required to promulgate those policies and
5 procedures as rules. The policies and procedures established by the department of
6 employment relations under this subsection shall include policies and procedures
7 governing all of the following:

8 (a) The types of positions that are considered to be senior level management
9 positions for purposes of this section.

10 (b) The manner in which an agency may determine the racial or ethnic
11 background of an employe.

12 (c) The manner in which an agency may file the annual report under sub. (1)
13 (a), including paper or electronic means.

14 (d) The date by which the annual reports under sub. (1) (a) must be submitted
15 to the department.

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