



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0970/1
GMM:wlj&jlg:mrc

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RMR

1999 BILL

Rebate

1 AN ACT *to renumber* 106.04 (1), 106.04 (1m) (intro.), 106.04 (1m) (ad), 106.04
2 (1m) (am), 106.04 (1m) (b), 106.04 (1m) (d), 106.04 (1m) (e), 106.04 (1m) (f),
3 106.04 (1m) (g), 106.04 (1m) (h), 106.04 (1m) (i), 106.04 (1m) (j), 106.04 (1m) (k),
4 106.04 (1m) (km), 106.04 (1m) (L), 106.04 (1m) (m), 106.04 (1m) (mm), 106.04
5 (1m) (n), 106.04 (1m) (nm), 106.04 (1m) (om), 106.04 (1m) (p), 106.04 (1m) (q),
6 106.04 (1m) (r), 106.04 (1m) (t), 106.04 (1s), 106.04 (2), 106.04 (2m), 106.04 (2r),
7 106.04 (5m), 106.04 (6), 106.04 (6m), 106.04 (8) (title), 106.04 (8) (b), 106.04 (9),
8 106.04 (10) (title), 106.04 (10) (a) (title), 106.04 (10) (b), 106.04 (10) (d) (title),
9 106.04 (10) (d) 3., 106.04 (10) (e) (title), 106.04 (10) (e) 2., 106.04 (10) (e) 3.,
10 106.06, 106.07 (title), 106.07 (1), 106.07 (2), 106.07 (3), 106.07 (4) (b) and 106.08;
11 *to renumber and amend* 106.04 (title), 106.04 (1m) (c), 106.04 (1m) (s), 106.04
12 (8) (a), 106.04 (10) (a) 1., 106.04 (10) (a) 2., 106.04 (10) (a) 3., 106.04 (10) (a) 4.,
13 106.04 (10) (a) 5., 106.04 (10) (c), 106.04 (10) (d) 1., 106.04 (10) (d) 2., 106.04 (10)
14 (e) 1. and 106.07 (4) (a); *to amend* 15.157 (3), 16.009 (5) (d), 46.90 (4) (b) 2. b.,

BILLand reorganizing certain statutes concerning
vocational rehabilitation

1 50.07 (3) (b), 66.432 (1), 66.432 (1m) (a), 66.432 (1m) (b), 66.432 (1m) (c), 66.432
 2 (1m) (d), 66.432 (2), 77.265 (4), 101.055 (8) (ag), 101.132 (1) (e), 101.132 (1) (f),
 3 101.132 (1) (g), 101.132 (2) (a) (intro.), 101.62, 103.04 (1), chapter 106 (title),
 4 224.77 (5) (b), 227.03 (3m), 227.40 (2) (e), 452.17 (4) (b), 452.23 (1), 703.10 (2m),
 5 814.04 (intro.) and 895.437 (1) (c); and **to create** subchapter III (title) of chapter
 6 106 [precedes 106.50], 106.52 (title), 106.52 (1), 106.52 (2) and 106.52 (5) of the
 7 statutes; **relating to:** the location in the statutes of the equal rights programs
 8 administered by the department of workforce development, (suggested as
 9 remedial legislation by the department of workforce development).

(DWB)

Analysis by the Legislative Reference Bureau

Under current law, the department of workforce development administers certain equal rights programs, including programs to prohibit discrimination in housing, discrimination in the enjoyment of public places of accommodation or amusement, discrimination in public education, discrimination in postsecondary education and discrimination or retaliation against a person who reports elder abuse or who provides information relating to an alleged violation by a long-term care facility to a state official, including the long-term care ombudsman. Currently, the statutory provisions governing those equal rights programs are located in chapter 106 of the statutes, which is entitled "Apprentice and Employment Programs" and, within that chapter, are located in subchapter II, which is entitled "Employment Programs". This bill changes the title of chapter 106 of the statutes to "Apprentice, Employment and Equal Rights Programs", creates a new subchapter III within that chapter entitled "Equal Rights Programs" and renumbers the equal rights provisions of chapter 106 to place those provisions under the new subchapter created by the bill.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of workforce development and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill

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makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 15.157 (3) of the statutes is amended to read:

2 15.157 (3) DWELLING CODE COUNCIL. There is created in the department of
3 commerce, a dwelling code council, consisting of 17 members appointed for staggered
4 3-year terms. Four members shall be representatives of building trade labor
5 organizations; 4 members shall be certified building inspectors employed by local
6 units of government; 2 members shall be representatives of building contractors
7 actively engaged in on-site construction of one- and 2-family housing; 2 members
8 shall be representatives of manufacturers or installers of manufactured one- and
9 2-family housing; one member shall be an architect, engineer or designer actively
10 engaged in the design or evaluation of one- and 2-family housing; 2 members shall
11 represent the construction material supply industry; and 2 members shall represent
12 the public, one of whom shall represent persons with disabilities, as defined in s.
13 ~~106.04~~ 106.50 (1m) (g). An employe of the department designated by the secretary
14 of commerce shall serve as nonvoting secretary of the council. The council shall meet
15 at least twice a year. Eleven members of the council shall constitute a quorum. For
16 the purpose of conducting business a majority vote of the council is required.

17 **SECTION 2.** 16.009 (5) (d) of the statutes is amended to read:

18 16.009 (5) (d) Any employe of an employer not described in par. (c) and who is
19 discharged or otherwise retaliated or discriminated against in violation of par. (a)
20 may file a complaint with the department of workforce development under s. ~~106.06~~
21 106.54 (5).

22 **SECTION 3.** 46.90 (4) (b) 2. b. of the statutes is amended to read:

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1 46.90 (4) (b) 2. b. Any employe of an employer not described in subd. 2. a. who
is discharged or otherwise discriminated against may file a complaint with the
department of workforce development under s. ~~106.06~~ 106.54 (5).

4 **SECTION 4.** 50.07 (3) (b) of the statutes is amended to read:

5 50.07 (3) (b) Any employe of an employer not described in par. (a) who is
6 discharged or otherwise retaliated or discriminated against in violation of sub. (1)
7 (e) or (em) may file a complaint with the department of workforce development under
8 s. ~~106.06~~ 106.54 (5).

9 **SECTION 5.** 66.432 (1) of the statutes is amended to read:

10 66.432 (1) **DECLARATION OF POLICY.** The right of all persons to have equal
11 opportunities for housing regardless of their sex, race, color, physical condition,
12 disability as defined in s. ~~106.04~~ 106.50 (1m) (g), sexual orientation as defined in s.
13 111.32 (13m), religion, national origin, marital status, family status as defined in s.
14 ~~106.04~~ 106.50 (1m) (k), lawful source of income, age or ancestry is a matter both of
15 statewide concern under ss. 101.132 and ~~106.04~~ 106.50 and also of local interest
16 under this section and s. 66.433. The enactment of ss. 101.132 and ~~106.04~~ 106.50 by
17 the legislature shall not preempt the subject matter of equal opportunities in housing
18 from consideration by political subdivisions, and shall not exempt political
19 subdivisions from their duty, nor deprive them of their right, to enact ordinances
20 which prohibit discrimination in any type of housing solely on the basis of an
21 individual being a member of a protected class.

22 **SECTION 6.** 66.432 (1m) (a) of the statutes is amended to read:

23 66.432 (1m) (a) "Aggrieved person" has the meaning given in s. ~~106.04~~ 106.50
24 (1m) (b).

25 **SECTION 7.** 66.432 (1m) (b) of the statutes is amended to read:

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1 66.432 (1m) (b) "Complainant" has the meaning given in s. ~~106.04~~ 106.50 (1m)

2 (c).

3 **SECTION 8.** 66.432 (1m) (c) of the statutes is amended to read:

4 66.432 (1m) (c) "Discriminate" has the meaning given in s. ~~106.04~~ 106.50 (1m)

5 (h).

6 **SECTION 9.** 66.432 (1m) (d) of the statutes is amended to read:

7 66.432 (1m) (d) "Member of a protected class" has the meaning given in s.

8 ~~106.04~~ 106.50 (1m) (nm).

9 **SECTION 10.** 66.432 (2) of the statutes is amended to read:

10 66.432 (2) ANTIDISCRIMINATION HOUSING ORDINANCES. Political subdivisions may
11 enact ordinances prohibiting discrimination in housing within their respective
12 boundaries solely on the basis of an individual being a member of a protected class.
13 Such an ordinance may be similar to ss. 101.132 and ~~106.04 (1) to (8)~~ 106.50 or may
14 be more inclusive in its terms or in respect to the different types of housing subject
15 to its provisions, but any such ordinance establishing a forfeiture as a penalty for
16 violation shall not be for an amount that is less than the statutory forfeitures under
17 s. ~~106.04~~ 106.50 (6) (h). Such an ordinance may permit a complainant, aggrieved
18 person or respondent to elect to remove the action to circuit court after a finding has
19 been made that there is reasonable cause to believe that a violation of the ordinance
20 has occurred. Such an ordinance may also authorize the political subdivision, at any
21 time after a complaint has been filed alleging an ordinance violation, to file a
22 complaint in circuit court seeking a temporary injunction or restraining order
23 pending final disposition of the complaint.

24 **SECTION 11.** 77.265 (4) of the statutes is amended to read:

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1 77.265 (4) The department of workforce development may use the returns
2 under s. ~~106.04~~ 106.50.

3 **SECTION 12.** 101.055 (8) (ag) of the statutes is amended to read:

4 101.055 (8) (ag) In this subsection, “division of equal rights” means the division
5 of equal rights in the department of workforce development acting under the
6 authority provided in s. ~~106.06~~ 106.54 (4).

7 **SECTION 13.** 101.132 (1) (e) of the statutes is amended to read:

8 101.132 (1) (e) “Disability” has the meaning given in s. ~~106.04~~ 106.50 (1m) (g).

9 **SECTION 14.** 101.132 (1) (f) of the statutes is amended to read:

10 101.132 (1) (f) “Dwelling unit” has the meaning given in s. ~~106.04~~ 106.50 (1m)
11 (i).

12 **SECTION 15.** 101.132 (1) (g) of the statutes is amended to read:

13 101.132 (1) (g) “Housing” has the meaning given in s. ~~106.04~~ 106.50 (1m) (L).

14 **SECTION 16.** 101.132 (2) (a) (intro.) of the statutes is amended to read:

15 101.132 (2) (a) (intro.) In addition to discrimination prohibited under s. ~~106.04~~
16 106.50 (2), (2m) and (2r) (b) and (bm), no person may design or construct covered
17 multifamily housing unless it meets all of the following standards:

18 **SECTION 17.** 101.62 of the statutes is amended to read:

19 **101.62 Dwelling code council; power.** The dwelling code council shall
20 review the standards and rules for one- and 2-family dwelling construction and
21 recommend a uniform dwelling code for adoption by the department which shall
22 include rules providing for the conservation of energy in the construction and
23 maintenance of dwellings and for costs of specific code provisions to home buyers to
24 be related to the benefits derived from such provisions. The council shall study the
25 need for and availability of one-family and 2-family dwellings that are accessible to

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1 persons with disabilities, as defined in s. ~~106.04~~ 106.50 (1m) (g), and shall make
 2 recommendations to the department for any changes to the uniform dwelling code
 3 that may be needed to ensure an adequate supply of one-family and 2-family
 4 dwellings. Upon its own initiative or at the request of the department, the council
 5 shall consider and make recommendations to the department pertaining to rules and
 6 any other matters related to this subchapter. The council shall recommend variances
 7 for different climate and soil conditions throughout the state.

8 **SECTION 18.** 103.04 (1) of the statutes is amended to read:

9 103.04 (1) The commission shall issue its decision in any case where a petition
 10 for review is filed under ch. 102 or 108 or s. 66.191, 1981 stats., or s. 40.65 (2), ~~106.04~~
 11 ~~(10), 106.07~~ 106.52 (4), 106.56 (4), 111.39, 303.07 (7) or 303.21.

NOTE: SECTIONS 1 to 16 ^{3 and 22 to 36} change cross-references to reflect the new structure created
 for ch. 106, stats., by this bill.

12 **SECTION 19.** Chapter 106 (title) of the statutes is amended to read: * *

CHAPTER 106**APPRENTICE AND, EMPLOYMENT AND****EQUAL RIGHTS PROGRAMS**

NOTE: The title of ch. 106, stats., is amended to reflect that the chapter deals with
 three topics: apprentice, employment and equal rights programs.

16 **SECTION 20.** 106.04 (title) of the statutes is renumbered 106.50 (title) and
 17 amended to read:

18 **106.50 (title) Equal rights Open housing.**

NOTE: The change in the title of the renumbered provision reflects that the
 provisions in current s. 106.04, stats., that relate to housing discrimination are placed in
 a new statute relating only to that topic. Other provisions in current s. 106.04, stats., that
 relate to discrimination in public places of accommodation or amusement are placed in
 new s. 106.52, stats., created by this bill.

19 **SECTION 21.** 106.04 (1) of the statutes is renumbered 106.50 (1).

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1 **SECTION 22.** 106.04 (1m) (intro.) of the statutes is renumbered 106.50 (1m)
2 (intro.).

3 **SECTION 23.** 106.04 (1m) (ad) of the statutes is renumbered 106.50 (1m) (ad).

4 **SECTION 24.** 106.04 (1m) (am) of the statutes is renumbered 106.50 (1m) (am).

5 **SECTION 25.** 106.04 (1m) (b) of the statutes is renumbered 106.50 (1m) (b).

6 **SECTION 26.** 106.04 (1m) (c) of the statutes is renumbered 106.50 (1m) (c) and
7 amended to read:

8 106.50 (1m) (c) "Complainant" means a person who files a complaint alleging
9 discrimination in housing ~~or public place of accommodation or amusement.~~

10 **SECTION 27.** 106.04 (1m) (d) of the statutes is renumbered 106.50 (1m) (d).

11 **SECTION 28.** 106.04 (1m) (e) of the statutes is renumbered 106.50 (1m) (e).

12 **SECTION 29.** 106.04 (1m) (f) of the statutes is renumbered 106.50 (1m) (f).

13 **SECTION 30.** 106.04 (1m) (g) of the statutes is renumbered 106.50 (1m) (g).

14 **SECTION 31.** 106.04 (1m) (h) of the statutes is renumbered 106.50 (1m) (h).

15 **SECTION 32.** 106.04 (1m) (i) of the statutes is renumbered 106.50 (1m) (i).

16 **SECTION 33.** 106.04 (1m) (j) of the statutes is renumbered 106.50 (1m) (j).

17 **SECTION 34.** 106.04 (1m) (k) of the statutes is renumbered 106.50 (1m) (k).

18 **SECTION 35.** 106.04 (1m) (km) of the statutes is renumbered 106.50 (1m) (km).

19 **SECTION 36.** 106.04 (1m) (L) of the statutes is renumbered 106.50 (1m) (L).

20 **SECTION 37.** 106.04 (1m) (m) of the statutes is renumbered 106.50 (1m) (m).

21 **SECTION 38.** 106.04 (1m) (mm) of the statutes is renumbered 106.50 (1m) (mm).

NOTE: ^{39 to 56} SECTIONS 27 to 38 place provisions of current s. 106.04, stats., relating to open housing in new s. 106.50 stats., created by this bill.

22 **SECTION 39.** 106.04 (1m) (n) of the statutes is renumbered 106.52 (1) (d).

NOTE: This SECTION moves the definition of "lodging establishment", which is used only in the provisions relating to discrimination in public places of accommodation or amusement, to new s. 106.52, stats., created by this bill.

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1 **SECTION 40.** 106.04 (1m) (nm) of the statutes is renumbered 106.50 (1m) (nm).

2 **SECTION 41.** 106.04 (1m) (om) of the statutes is renumbered 106.50 (1m) (om).

NOTE: SECTIONS 40 and 41 place definitions in current s. 106.04, stats., relating to open housing in new s. 106.50, stats., created by this bill.

3 **SECTION 42.** 106.04 (1m) (p) of the statutes is renumbered 106.52 (1) (e).

NOTE: This SECTION places the definition of "public place of accommodation or amusement" in new s. 106.52, stats., created by this bill, relating to discrimination in public places of accommodation or amusement created by this bill.

4 **SECTION 43.** 106.04 (1m) (q) of the statutes is renumbered 106.50 (1m) (q).

5 **SECTION 44.** 106.04 (1m) (r) of the statutes is renumbered 106.50 (1m) (r).

6 **SECTION 45.** 106.04 (1m) (s) of the statutes is renumbered 106.50 (1m) (s) and

7 amended to read:

8 106.50 (1m) (s) "Respondent" means the person accused in a complaint or
9 amended complaint of discrimination in housing and any other person identified in
10 the course of an investigation as allegedly having discriminated in housing ~~or in~~
11 ~~providing a public place of accommodation or amusement.~~

12 **SECTION 46.** 106.04 (1m) (t) of the statutes is renumbered 106.50 (1m) (t).

NOTE: SECTIONS 46 to 53 move definitions that are used in the open housing law to new s. 106.50, stats., created by this bill.

13 **SECTION 47.** 106.04 (1s) of the statutes is renumbered 106.50 (1s).

14 **SECTION 48.** 106.04 (2) of the statutes is renumbered 106.50 (2).

15 **SECTION 49.** 106.04 (2m) of the statutes is renumbered 106.50 (2m).

16 **SECTION 50.** 106.04 (2r) of the statutes is renumbered 106.50 (2r).

17 **SECTION 51.** 106.04 (5m) of the statutes is renumbered 106.50 (5m).

18 **SECTION 52.** 106.04 (6) of the statutes is renumbered 106.50 (6).

19 **SECTION 53.** 106.04 (6m) of the statutes is renumbered 106.50 (6m).

NOTE: SECTIONS 47 to 53 move provisions relating to administration of the open housing law, discrimination in housing, representations designed to induce panic sales, discrimination in housing against persons with disabilities, exemptions and exclusions,

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fair housing enforcement and civil actions for discrimination in housing to the new s. 106.50, stats., created by this bill, relating to open housing.

1 **SECTION 54.** 106.04 (8) (title) of the statutes is renumbered 106.50 (8) (title).

2 **SECTION 55.** 106.04 (8) (a) of the statutes is renumbered 106.50 (8) (a) and
3 amended to read:

4 106.50 (8) (a) If the department finds reasonable cause to believe that an act
5 of discrimination has been or is being committed in violation of this section by a
6 person taking an action prohibited under sub. (2), (2m) or (2r), ~~or probable cause to~~
7 ~~believe that an act has been or is being committed in violation of sub. (9), and that~~
8 the person is licensed or chartered under state law, the department shall notify the
9 licensing or chartering agency of its findings, and may file a complaint with such
10 agency together with a request that the agency initiate proceedings to suspend or
11 revoke the license or charter of such person or take other less restrictive disciplinary
12 action.

13 **SECTION 56.** 106.04 (8) (b) of the statutes is renumbered 106.50 (8) (b).

NOTE: SECTIONS 54 to 56 place provisions relating to discrimination in housing by licensed or chartered persons in new s. 106.50, stats., created by this bill, relating to open housing.

14 **SECTION 57.** 106.04 (9) of the statutes is renumbered 106.52 (3).

NOTE: This SECTION renumbers a statutory provision relating to discrimination in public places of accommodation or amusement to place it in new s. 106.52, stats., created by this bill.

15 **SECTION 58.** 106.04 (10) (title) of the statutes is renumbered 106.52 (4) (title).

16 **SECTION 59.** 106.04 (10) (a) (title) of the statutes is renumbered 106.52 (4) (a)
17 (title).

18 **SECTION 60.** 106.04 (10) (a) 1. of the statutes is renumbered 106.52 (4) (a) 1. and
19 amended to read:

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1 106.52 (4) (a) 1. The department may receive and investigate a complaint
2 charging a violation of sub. ~~(9)~~ (3) if the complaint is filed with the department no
3 more than 300 days after the alleged act prohibited under sub. ~~(9)~~ (3) occurred. A
4 complaint shall be a written statement of the essential facts constituting the act
5 prohibited under sub. ~~(9)~~ (3) charged, and shall be verified.

6 **SECTION 61.** 106.04 (10) (a) 2. of the statutes is renumbered 106.52 (4) (a) 2. and
7 amended to read:

8 106.52 (4) (a) 2. In carrying out this subsection, the department and its duly
9 authorized agents may hold hearings, subpoena witnesses, take testimony and make
10 investigations as provided in this chapter. The department, upon its own motion,
11 may test and investigate for the purpose of establishing violations of sub. ~~(9)~~ (3), and
12 may make, sign and file complaints alleging violations of sub. ~~(9)~~ (3), and initiate
13 investigations and studies to carry out the purposes of ~~sub. (9) and~~ this subsection
14 and sub. (3).

15 **SECTION 62.** 106.04 (10) (a) 3. of the statutes is renumbered 106.52 (4) (a) 3. and
16 amended to read:

17 106.52 (4) (a) 3. The department shall employ such examiners as are necessary
18 to hear and decide complaints of acts prohibited under sub. ~~(9)~~ (3) and to assist in the
19 effective administration of this subsection. The examiners may make findings and
20 orders under this subsection.

21 **SECTION 63.** 106.04 (10) (a) 4. of the statutes is renumbered 106.52 (4) (a) 4. and
22 amended to read:

23 106.52 (4) (a) 4. If the department finds probable cause to believe that any act
24 prohibited under sub. ~~(9)~~ (3) has been or is being committed, ~~it~~ the department may
25 endeavor to eliminate the ~~discrimination or other~~ act by conference, conciliation and

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1 persuasion. If the department determines that such conference, conciliation and
2 persuasion has not eliminated the alleged act prohibited under sub. ~~(9)~~ (3), the
3 department shall issue and serve a written notice of hearing, specifying the nature
4 and acts prohibited under sub. ~~(9)~~ (3) which appear to have been committed, and
5 requiring the person named, in this subsection called the “respondent”, to answer the
6 complaint at a hearing before an examiner. The notice shall specify a time of hearing,
7 not less than 10 days after service of the complaint, and a place of hearing within the
8 county in which the violation of sub. ~~(9)~~ (3) is alleged to have occurred. ~~A party's~~ The
9 attorney of record for any party may issue a subpoena to compel the attendance of
10 a witness or the production of evidence. A subpoena issued by an attorney must be
11 in substantially the same form as provided in s. 805.07 (4) and must be served in the
12 manner provided in s. 805.07 (5). The attorney shall, at the time of issuance, send
13 a copy of the subpoena to the appeal tribunal or other representative of the
14 department responsible for conducting the proceeding. The testimony at the hearing
15 shall be recorded by the department. In all hearings before an examiner, except those
16 for determining probable cause, the burden of proof is on the party alleging an act
17 prohibited under sub. ~~(9)~~ (3). If, after the hearing, the examiner finds by a fair
18 preponderance of the evidence that the respondent has violated sub. ~~(9)~~ (3), the
19 examiner shall make written findings and order such action by the respondent as
20 will effectuate the purpose of sub. ~~(9)~~ and this subsection and sub. (3). The
21 department shall serve a certified copy of the examiner's findings and order on the
22 respondent and complainant, ~~the~~. The order to shall have the same force as other
23 orders of the department and shall be enforced as provided in this subsection, except
24 that the enforcement of the order is automatically stayed upon the filing of a petition
25 for review with the commission. If the examiner finds that the respondent has not

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1 engaged in an act prohibited under sub. ~~(9)~~ (3) as alleged in the complaint, the
2 department shall serve a certified copy of the examiner's findings on the complainant
3 and the respondent together with an order dismissing the complaint. If the
4 complaint is dismissed, costs in an amount not to exceed \$100 plus actual
5 disbursements for the attendance of witnesses may be assessed against the
6 department in the discretion of the department.

7 **SECTION 64.** 106.04 (10) (a) 5. of the statutes is renumbered 106.52 (4) (a) 5. and
8 amended to read:

9 106.52 (4) (a) 5. At any time after a complaint is filed, the department may file
10 a petition in the circuit court for the county in which the act prohibited under sub.
11 ~~(9)~~ (3) allegedly occurred, or for the county in which a respondent resides or transacts
12 business, seeking appropriate temporary relief against the respondent, pending
13 final determination of proceedings under this subsection, including an order or
14 decree restraining the respondent from performing an act tending to render
15 ineffectual an order the department may enter with respect to the complaint. The
16 court may grant such temporary relief or restraining order as ~~it~~ the court deems just
17 and proper.

18 **SECTION 65.** 106.04 (10) (b) of the statutes is renumbered 106.52 (4) (b).

19 **SECTION 66.** 106.04 (10) (c) of the statutes is renumbered 106.52 (4) (c) and
20 amended to read:

21 106.52 (4) (c) *Judicial review.* Within 30 days after service upon all parties of
22 an order of the commission under par. (b), the respondent or complainant may appeal
23 the order to the circuit court for the county in which the alleged act prohibited under
24 sub. ~~(9)~~ (3) took place by the filing of a petition for review. The respondent or
25 complainant shall receive a new trial on all issues relating to any alleged act

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1 prohibited under sub. ~~(9)~~ (3) and a further right to a trial by jury, if so desired. The
2 department of justice shall represent the commission. In any such trial the burden
3 shall be to prove an act prohibited under sub. ~~(9)~~ (3) by a fair preponderance of the
4 evidence. Costs in an amount not to exceed \$100 plus actual disbursements for the
5 attendance of witnesses may be taxed to the prevailing party on the appeal.

6 **SECTION 67.** 106.04 (10) (d) (title) of the statutes is renumbered 106.52 (10) (d)
7 (title).

8 **SECTION 68.** 106.04 (10) (d) 1. of the statutes is renumbered 106.52 (4) (d) 1. and
9 amended to read:

10 106.52 (4) (d) 1. A person who wilfully violates sub. ~~(9)~~ (3) or any lawful order
11 issued under this subsection shall, for the first violation, forfeit not less than \$100
12 nor more than \$1,000.

13 **SECTION 69.** 106.04 (10) (d) 2. of the statutes is renumbered 106.52 (4) (d) 2. and
14 amended to read:

15 106.52 (4) (d) 2. A person adjudged to have violated sub. ~~(9)~~ (3) within 5 years
16 after having been adjudged to have violated sub. ~~(9)~~ (3), for every violation committed
17 within the 5 years, shall forfeit not less than \$1,000 nor more than \$10,000.

18 **SECTION 70.** 106.04 (10) (d) 3. of the statutes is renumbered 106.52 (4) (d) 3.

19 **SECTION 71.** 106.04 (10) (e) (title) of the statutes is renumbered 106.52 (4) (e)
20 (title).

21 **SECTION 72.** 106.04 (10) (e) 1. of the statutes is renumbered 106.52 (4) (e) 1. and
22 amended to read:

23 106.52 (4) (e) 1. A person, including the state, alleging a violation of sub. ~~(9)~~ (3)
24 may bring a civil action for appropriate injunctive relief, for damages including
25 punitive damages, and, in the case of a prevailing plaintiff, for court costs and

BILL

1 reasonable attorney fees. The attorney general shall represent the department in
2 an action to which the department is a party.

3 **SECTION 73.** 106.04 (10) (e) 2. of the statutes is renumbered 106.52 (4) (e) 2.

4 **SECTION 74.** 106.04 (10) (e) 3. of the statutes is renumbered 106.52 (4) (e) 3.

NOTE: SECTIONS ⁷⁶ 73 through ⁹² 74 place various provisions of current s. 106.04 (10), stats., relating to investigation and review of claims charging discrimination in public places of accommodation or amusement in the new s. 106.52, stats., created by this bill, relating to discrimination in public places of accommodation or amusement.

5 **SECTION 75.** 106.06 of the statutes is renumbered 106.54.

NOTE: This SECTION places the current statutory duties of the division of equal rights in the department of workforce development in new s. 106.54, stats., created by this bill. This provision will be in new subch. III of ch. 106, stats., relating to equal rights programs, created by the bill.

6 **SECTION 76.** 106.07 (title) of the statutes is renumbered 106.56 (title).

7 **SECTION 77.** 106.07 (1) of the statutes is renumbered 106.56 (1).

8 **SECTION 78.** 106.07 (2) of the statutes is renumbered 106.56 (2).

9 **SECTION 79.** 106.07 (3) of the statutes is renumbered 106.56 (3).

10 **SECTION 80.** 106.07 (4) (a) of the statutes is renumbered 106.56 (4) (a) and
11 amended to read:

12 106.56 (4) (a) The department shall receive and investigate complaints
13 charging discrimination or discriminatory practices in particular cases, and
14 publicize its findings with respect thereto. The department has all powers provided
15 under s. 111.39 with respect to the disposition of such complaints. The findings and
16 orders of examiners may be reviewed as provided under s. ~~106.04 (10)~~ 106.52 (4) (b).

17 **SECTION 81.** 106.07 (4) (b) of the statutes is renumbered 106.56 (4) (b).

NOTE: SECTIONS ⁹⁴ 78 to ⁹⁹ 81 renumber provisions relating to prohibitions on discrimination on the basis of physical condition or developmental disability in postsecondary education to place them into the new subch. III of ch. 106, stats., relating to equal rights programs created by this bill.

18 **SECTION 82.** 106.08 of the statutes is renumbered 106.58.

BILL**SECTION 82**

NOTE: This SECTION rennumbers s. 106.08, stats., relating to discrimination in public education on account of sex, race, religion or national origin to place them in the new subch. III of ch. 106, stats., relating to equal rights programs created by this bill.

1 **SECTION 83.** Subchapter III (title) of chapter 106 [precedes 106.50] of the
2 statutes is created to read:

CHAPTER 106**SUBCHAPTER III****EQUAL RIGHTS PROGRAMS**

NOTE: This SECTION creates a title for the new subch. III of ch. 106, stats., under which statutes relating to discrimination in housing, public places of accommodation or amusement and education are being placed by this bill.

6 **SECTION 84.** 106.52 (title) of the statutes is created to read:

NOTE: This SECTION creates a title for new s. 106.52, stats., created by this bill, relating to discrimination in public places of accommodation or amusement.

7 **106.52 (title) Public places of accommodation or amusement.**

8 **SECTION 85.** 106.52 (1) of the statutes is created to read:

9 106.52 (1) DEFINITIONS. In this section:

10 (a) "Complainant" means a person who files a complaint alleging a violation of
11 sub. (3).

12 (b) "Conciliation" has the meaning given in s. 106.50 (1m) (d).

13 (c) "Disability" has the meaning given in s. 106.50 (1m) (g).

14 (f) "Respondent" means the person accused in a complaint or amended
15 complaint of committing a violation of sub. (3).

16 (g) "Sexual orientation" has the meaning given in s. 111.32 (13m).

NOTE: ^{This} SECTION ~~84~~ creates the definitions required for new s. 106.52, stats., created by this bill, relating to discrimination in public places of accommodation or amusement.

17 **SECTION 86.** 106.52 (2) of the statutes is created to read:

18 106.52 (2) DEPARTMENT TO ADMINISTER. The department shall administer this
19 section through its division of equal rights. The department may promulgate such

BILL

1 rules as are necessary to carry out this section. No rule may prohibit the processing
2 of any class action complaint or the ordering of any class-based remedy, and no rule
3 may provide that complaints may be consolidated for administrative convenience
4 only.

NOTE: This SECTION requires the department of workforce development to administer the statutes relating to discrimination in public places of accommodation or amusement through its division of equal rights. The SECTION also grants the department rule-making authority to carry out those statutes and prohibits the rules from prohibiting the processing of class action complaints or the ordering of any class-based remedy and from providing that complaints may be consolidated for administrative convenience only.

5 **SECTION 87.** 106.52 (5) of the statutes is created to read:

6 106.52 (5) DISCRIMINATION BY LICENSED OR CHARTERED PERSONS. (a) If the
7 department finds probable cause to believe that an act has been or is being
8 committed in violation of sub. (3) and that the person who committed or is
9 committing the act is licensed or chartered under state law, the department shall
10 notify the licensing or chartering agency of its findings and may file a complaint with
11 such agency together with a request that the agency initiate proceedings to suspend
12 or revoke the license or charter of such person or take other less restrictive
13 disciplinary action.

14 (b) Upon filing a complaint under par. (a), the department shall make available
15 to the appropriate licensing or chartering agency all pertinent documents and files
16 in its custody, and shall cooperate fully with such agency in the agency's proceedings.

NOTE: This SECTION creates a new statute relating to discrimination by licensed or chartered persons in public places of accommodation or amusement, similar to current s. 106.04 (8), stats., to reflect the fact that the statutes relating to discrimination in housing and in public places of accommodation or amusement are separated by this bill into two separate statutes.

17 **SECTION 88.** 224.77 (5) (b) of the statutes is amended to read:

18 224.77 (5) (b) *Other penalties.* The penalty under par. (a) may be imposed in
19 addition to any penalty imposed under s. 66.432, ~~106.04~~ 106.50 or 224.80.

Insert
17-16

BILL

1 **SECTION 89.** 227.03 (3m) of the statutes is amended to read:

2 227.03 (3m) (a) This chapter does not apply to proceedings before the
3 department of workforce development relating to housing discrimination under s.
4 ~~106.04 (1) to (8)~~ 106.50, except as provided in s. ~~106.04~~ 106.50 (6).

5 (b) Only the provisions of this chapter relating to rules are applicable to matters
6 arising out of protection against discrimination in a public place of accommodation
7 or amusement under s. ~~106.04 (9) and (10)~~ 106.52.

8 **SECTION 90.** 227.40 (2) (e) of the statutes is amended to read:

9 227.40 (2) (e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), ~~106.04~~
10 106.50, 106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or
11 949 for review of decisions and orders of administrative agencies if the validity of the
12 rule involved was duly challenged in the proceeding before the agency in which the
13 order or decision sought to be reviewed was made or entered.

14 **SECTION 91.** 452.17 (4) (b) of the statutes is amended to read:

15 452.17 (4) (b) This penalty may be imposed in addition to any penalty imposed
16 under this chapter or s. 66.432 or ~~106.04~~ 106.50.

17 **SECTION 92.** 452.23 (1) of the statutes is amended to read:

18 452.23 (1) A broker or salesperson may not disclose to any person in connection
19 with the sale, exchange, purchase or rental of real property information, the
20 disclosure of which constitutes unlawful discrimination in housing under s. ~~106.04~~
21 106.50 or unlawful discrimination based on handicap under 42 USC 3604, 3605,
22 3606 or 3617.

23 **SECTION 93.** 703.10 (2m) of the statutes is amended to read:

24 703.10 (2m) **LIMITATION ON ENFORCEMENT OF CERTAIN PROVISIONS.** No bylaw or
25 rule adopted under a bylaw and no covenant, condition or restriction set forth in a

BILL

1 declaration or deed to a unit may be applied to discriminate against an individual
2 in a manner described in s. ~~106.04~~ 106.50.

3 **SECTION 94.** 814.04 (intro.) of the statutes is amended to read:

4 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m),
5 ~~106.04~~ 106.50 (6) (i) and (6m) (a), 115.80 (9), 769.313, 814.025, 814.245, 895.035 (4),
6 895.75 (3), 895.77 (2), 895.79 (3), 895.80 (3), 943.212 (2) (b), 943.245 (2) (d) and 943.51
7 (2) (b), when allowed costs shall be as follows:

8 **SECTION 95.** 895.437 (1) (c) of the statutes is amended to read:

9 895.437 (1) (c) "Lodging establishment" has the meaning given in s. ~~106.04~~
10 ~~(1m) (n)~~ 106.52 (1) (d).

(Handwritten notes: 106-113, 107 to 114)

NOTE: SECTIONS ~~88 to 96~~ change cross-references to reflect the new numbering of
ch. 106, stats., by this bill.

11

(END)



State of Wisconsin
1999-2000 LEGISLATURE

LRB-0965/1
GMM:kmg:km

Insert A

1999 BILL

DWD

1 **AN ACT to renumber** 47.02 (3) (intro.), 47.02 (3) (a), 47.02 (3) (b), 47.02 (3) (c);
 2 47.02 (3) (e), 47.02 (3) (f), 47.02 (3) (g), 47.02 (3) (h), 47.02 (3) (i), 47.02 (3) (k),
 3 47.02 (3) (L), 47.02 (3) (m), 47.02 (3) (n), 47.02 (3) (o) and 47.02 (4); **to renumber**
 4 **and amend** 47.02 (3) (d) and 47.02 (3) (j); and **to amend** 47.035 (1) and 108.02
 5 (13) (k) of the statutes; **relating to:** reorganizing certain statutes concerning
 6 vocational rehabilitation (suggested as remedial legislation by the department
 7 of workforce development).

Analysis by the Legislative Reference Bureau

Under current law, the department of workforce development administers the vocational rehabilitation program and specialized programs for persons with disabilities. This bill reorganizes the statutes related to vocational rehabilitation and specialized programs for persons with disabilities so that they appear in the order in which they are typically applied.

The following chart specifies the current and new statutory citations:

Current Citation	New Citation
47.02 (3) (intro.)	47.02 (3m) (intro.)
47.02 (3) (a)	47.02 (3m) (c)



BILL

Insert A

47.02 (3) (b)	47.02 (3m) (L)
47.02 (3) (c)	47.02 (3m) (e)
47.02 (3) (d)	47.02 (3m) (g)
47.02 (3) (e)	47.02 (3m) (d)
47.02 (3) (f)	47.02 (3m) (a)
47.02 (3) (g)	47.02 (3m) (o)
47.02 (3) (h)	47.02 (3m) (b)
47.02 (3) (i)	47.02 (3m) (h)
47.02 (3) (j)	47.02 (3m) (m)
47.02 (3) (k)	47.02 (3m) (i)
47.02 (3) (L)	47.02 (3m) (j)
47.02 (3) (m)	47.02 (3m) (k)
47.02 (3) (n)	47.02 (3m) (f)
47.02 (3) (o)	47.02 (3m) (n)
47.02 (4)	47.02 (6)

For further information, see the Notes provided by the law revision committee of the joint legislative council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of workforce development and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 47.02 (3) (intro.) of the statutes is renumbered 47.02 (3m) (intro.).

SECTION 2. 47.02 (3) (a) of the statutes is renumbered 47.02 (3m) (c).

SECTION 3. 47.02 (3) (b) of the statutes is renumbered 47.02 (3m) (L).

SECTION 4. 47.02 (3) (c) of the statutes is renumbered 47.02 (3m) (e).

SECTION 5. 47.02 (3) (d) of the statutes is renumbered 47.02 (3m) (g) and

amended to read:

(end of insert)

BILL

- 2 -
Insert 4-3

47.02 (3) (b)	47.02 (3m) (L)
47.02 (3) (c)	47.02 (3m) (e)
47.02 (3) (d)	47.02 (3m) (g)
47.02 (3) (e)	47.02 (3m) (d)
47.02 (3) (f)	47.02 (3m) (a)
47.02 (3) (g)	47.02 (3m) (o)
47.02 (3) (h)	47.02 (3m) (b)
47.02 (3) (i)	47.02 (3m) (h)
47.02 (3) (j)	47.02 (3m) (m)
47.02 (3) (k)	47.02 (3m) (i)
47.02 (3) (L)	47.02 (3m) (j)
47.02 (3) (m)	47.02 (3m) (k)
47.02 (3) (n)	47.02 (3m) (f)
47.02 (3) (o)	47.02 (3m) (n)
47.02 (4)	47.02 (6)

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of workforce development and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

- 1 SECTION ~~47.02~~ [#] 47.02 (3) (intro.) of the statutes is renumbered 47.02 (3m) (intro.).
- 2 SECTION ~~47.02~~ [#] 47.02 (3) (a) of the statutes is renumbered 47.02 (3m) (c).
- 3 SECTION ~~47.02~~ [#] 47.02 (3) (b) of the statutes is renumbered 47.02 (3m) (L).
- 4 SECTION ~~47.02~~ [#] 47.02 (3) (c) of the statutes is renumbered 47.02 (3m) (e).
- 5 SECTION ~~47.02~~ [#] 47.02 (3) (d) of the statutes is renumbered 47.02 (3m) (g) and
- 6 amended to read:



Insert 3-4-3

BILL

1 47.02 (3m) (g) Aid persons with disabilities in securing the services needed to
2 make them more employable, place persons with disabilities in suitable occupations
3 and provide postemployment services, as defined in the rehabilitation program
4 developed under par. (e) (e) of a person with a disability, necessary to maintain
5 employment.

6 SECTION ~~10~~ 47.02 (3) (e) of the statutes is renumbered 47.02 (3m) (d).

7 SECTION ~~11~~ 47.02 (3) (f) of the statutes is renumbered 47.02 (3m) (a).

8 SECTION ~~12~~ 47.02 (3) (g) of the statutes is renumbered 47.02 (3m) (o).

9 SECTION ~~13~~ 47.02 (3) (h) of the statutes is renumbered 47.02 (3m) (b).

10 SECTION ~~14~~ 47.02 (3) (i) of the statutes is renumbered 47.02 (3m) (h).

11 SECTION ~~15~~ 47.02 (3) (j) of the statutes is renumbered 47.02 (3m) (m) and

12 amended to read:

13 47.02 (3m) (m) Except as provided in par. (e) (n), determine the financial need
14 of persons with disabilities based upon a uniform fee schedule as provided under s.
15 46.03 (18) for the provision or purchase of vocational rehabilitation services specified
16 in the rehabilitation program developed under par. (e) (e) of the person with a
17 disability.

18 SECTION ~~16~~ 47.02 (3) (k) of the statutes is renumbered 47.02 (3m) (i).

19 SECTION ~~17~~ 47.02 (3) (L) of the statutes is renumbered 47.02 (3m) (j).

20 SECTION ~~18~~ 47.02 (3) (m) of the statutes is renumbered 47.02 (3m) (k).

21 SECTION ~~19~~ 47.02 (3) (n) of the statutes is renumbered 47.02 (3m) (f).

22 SECTION ~~20~~ 47.02 (3) (o) of the statutes is renumbered 47.02 (3m) (n).

NOTE: SECTIONS ~~16~~ to ~~20~~ place the ~~16~~ statutory responsibilities of the department of
workforce development with respect to vocational rehabilitation services in a new
sequence to reflect the order in which those responsibilities are typically applied. No
substantive changes are made in the provisions.

23 SECTION ~~21~~ 47.02 (4) of the statutes is renumbered 47.02 (6).

NOTE: SECTION 20 places a provision containing the authority of the
department of workforce development to provide financial assistance to persons with disabilities,
accept gifts, grants and donations for purposes of ch. 47, stats., and provide personal
assistance to persons with disabilities in a more logical sequence in the statute.

- 4 -
Insert 4-3

1 **SECTION 18.** 47.035 (1) of the statutes is amended to read:

2 47.035 (1) Except as authorized in sub. (2) if an individual receives direct
3 funding for personal assistance services that are provided to the individual under s.
4 47.02 (4) (6) (c), and the services are provided through a county department of human
5 services or social services or an aging unit, the county department or aging unit
6 through which the services are provided shall serve directly as a fiscal agent or
7 contract with a fiscal intermediary to serve as a fiscal agent for that individual for
8 the purposes of performing the responsibilities and protecting the interests of the
9 individual under the unemployment insurance law. The fiscal agent under this
10 subsection is responsible for remitting any federal unemployment compensation
11 taxes or state unemployment insurance contributions owed by the individual,
12 including any interest and penalties which are owed by the individual; for serving
13 as the representative of the individual in any investigation, meeting, hearing or
14 appeal involving ch. 108 or the federal unemployment tax act (26 USC 3301 to 3311)
15 in which the individual is a party; and for receiving, reviewing, completing and
16 returning all forms, reports and other documents required under ch. 108 or the
17 federal unemployment tax act on behalf of the individual.

18 ~~SECTION 19.~~ 108.02 (13) (k) of the statutes is amended to read.

19 ~~108.02 (13) (k) "Employer" does not include a county department or aging unit~~
20 ~~that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal~~
21 ~~agent under s. 46.27 (5) (i) or 47.035 as to any individual performing services for a~~
22 ~~person receiving long-term support services under s. 46.27 (5) (b), 46.275, 46.277,~~
23 ~~46.278, 46.495, 51.42 or 51.437 or personal assistance services under s. 47.02 (4) (6)~~
24 (c).

(ed & inst)

BILL

SECTION 18

Insert 17-16

~~SECTION 18. 47.035 (1) of the statutes is amended to read:~~

~~47.035 (1) Except as authorized in sub. (2) if an individual receives direct funding for personal assistance services that are provided to the individual under s. 47.02 (4) (6) (c), and the services are provided through a county department of human services or social services or an aging unit, the county department or aging unit through which the services are provided shall serve directly as a fiscal agent or contract with a fiscal intermediary to serve as a fiscal agent for that individual for the purposes of performing the responsibilities and protecting the interests of the individual under the unemployment insurance law. The fiscal agent under this subsection is responsible for remitting any federal unemployment compensation taxes or state unemployment insurance contributions owed by the individual, including any interest and penalties which are owed by the individual; for serving as the representative of the individual in any investigation, meeting, hearing or appeal involving ch. 108 or the federal unemployment tax act (26 USC 3301 to 3311) in which the individual is a party; and for receiving, reviewing, completing and returning all forms, reports and other documents required under ch. 108 or the federal unemployment tax act on behalf of the individual.~~

~~SECTION 19. 108.02 (13) (k) of the statutes is amended to read:~~

~~108.02 (13) (k) "Employer" does not include a county department or aging unit that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i) or 47.035 as to any individual performing services for a person receiving long-term support services under s. 46.27 (5) (b), 46.275, 46.277, 46.278, 46.495, 51.42 or 51.437 or personal assistance services under s. 47.02 (4) (6) (c).~~

BILL

~~Insert 17-16~~ (14, 21 and 106)
cont.

NOTE: SECTIONS ~~11, 18~~ and ~~19~~ insert new cross-references to reflect the renumbering ~~made by~~ this bill.
done in

1

(END)

(ed of insert)

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 01/04/2000

To: Legislative Council - LRC

Relating to LRB drafting number: LRB-0970

Topic

Statutory location of equal rights programs

Subject(s)

Discrimination

1. **JACKET** the draft for introduction Law Revision Committee - Gordon M. Malaise

in the Senate ____ or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738