

2001 DRAFTING REQUEST

Bill

Received: 03/01/2001

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: John Ainsworth (608) 266-3097

By/Representing: Carol

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters: .

Subject: **Discrimination - employment**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Employment discrimination against volunteer fire fighters and EMT's

Instructions:

See Attached--redraft 1999 AB 168 with AA1 to AB 168, but apply only if emergency response unit is in same community as job site.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 03/07/2001	jdyer 03/07/2001		_____			S&L
/1			martykr 03/08/2001	_____	lrb_docadmin 03/08/2001		S&L
/2	malaigm 03/12/2001	jdyer 03/13/2001	martykr 03/14/2001	_____	lrb_docadmin 03/14/2001	lrb_docadmin 03/15/2001	

FE Sent For:

<END>

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/?	malaigm 03/07/2001	jdye 03/07/2001					S&L
/1		1/2 3/13 jld	martykr 03/08/2001		lrb_docadmin 03/08/2001		

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Handwritten signatures and dates:
3/14
3/14

<END>

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See Attached--redraft 1999 AB 168 with AA1 to AB 168, but apply only if emergency response unit is in same community as job site.

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1/?	malaigm	1 3/7 jld	3/7	PG 3 3/7			

FE Sent For:

<END>

Malaise, Gordon

From: Rep. Ainsworth
Sent: Thursday, March 01, 2001 1:47 PM
To: Malaise, Gordon
Subject: Re-draft of 1999 AB 168

Gordon -

John would like to re-draft 1999 AB 168 (along w/ the Assembly Amendment LRBa0294/1- I don't whether that was officially introduced) - relating to employment discrimination because of temporary absence from work while responding to an emergency call as a volunteer firefighters, emergency medical technicians, first responder or ambulance driver. He would like a slight change to the bill whereby the volunteer could only be released from his employment duties if the emergency response unit is located within the same community as his job location.

Please let me know if you have any questions.

Carol/Rep. Ainsworth's Office

NO

"Community" ? not well defined

"city, town, or village" ? - but what if job site is just over the line?

certain mile radius ?

= No - do not include - must be nearby anyway to be able to respond to call.

-269/1

jd

1999 ASSEMBLY BILL 168

March 4, 1999 — Introduced by Representatives AINSWORTH, HASENOHRL, ALBERS, GOETSCH, GRONEMUS, GUNDERSON, HAHN, KEDZIE, LASSA, M. LEHMAN, MUSSER, OTT, PETROWSKI, PORTER, POWERS, RYBA, SERATTI, SPILLNER, SYKORA, TURNER, SHERMAN, HUEBSCH, BRANDEMUEHL, KLISMAN, FREESE, WASSERMAN, MEYER and COLON, cosponsored by Senators RUDE, PLACHE, BAUMGART, FARROW, FITZGERALD, ROESSLER, WIRCH, SCHULTZ, RISSER, ROBSON and DARLING. Referred to Committee on Labor and Employment.

Regen

1 AN ACT to amend 111.31 (1), 111.31 (2), 111.31 (3), 111.321 and 111.322 (intro.);
2 and to create 111.32 (4r), 111.32 (7g) and 111.365 of the statutes; relating to:
3 employment discrimination because of temporary absence from work while
4 responding to an emergency call as a volunteer fire fighter, emergency medical
5 technician, first responder or ambulance driver. ✓

(use twice)

employee ✓

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, membership in the national guard, state defense force, or military reserves, or use or nonuse of a lawful product off the employer's premises during nonworking hours. Current law also specifies that employment discrimination because of creed or disability includes refusing to reasonably accommodate the religious observance or practice or disability of an employee or prospective employee unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise, or business.

This bill prohibits discrimination in employment based on temporary absence from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder or ambulance driver. The bill specifies that employment discrimination on that basis includes refusing to reasonably accommodate the temporary absence of an employee or prospective

employee

ASSEMBLY BILL 168

¹ employe from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder, or ambulance driver unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business. Under the bill, an employer may reasonably accommodate a temporary absence from work for that purpose by temporarily reallocating job duties, adjusting or modifying the employer's attendance policies, or making other, similar accommodations for the employe or prospective employe. The bill defines "undue hardship" as significant difficulty or expense, with respect to an accommodation for an employe or prospective employe, when considered in light of various factors such as the nature and cost of the accommodation, the overall financial resources of the employer and of the facility involved in providing the accommodation, the number of persons employed by the employer and by the facility, and the type of operation of the 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:

SECTION 1. 111.31 (1) [✓] of the statutes is amended to read:

111.31 (1) The legislature finds that the practice of unfair discrimination in employment against properly qualified individuals by reason of their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, membership in the national guard, state defense force ¹ ~~or~~ ^{score} any other reserve component of the military forces of the United States or this state ~~or~~ ² ~~use or nonuse of lawful products off the employer's premises during nonworking hours~~ or temporary absence from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder ² ~~or ambulance driver~~ substantially and adversely affects the general welfare of the state. Employers, labor organizations, employment agencies and licensing agencies that deny employment opportunities and discriminate in employment against properly qualified individuals solely because of their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual

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Insert A

ASSEMBLY BILL 168

1 orientation, arrest record, conviction record, membership in the national guard,
 2 state defense force or any other reserve component of the military forces of the United
 3 States or this state or, use or nonuse of lawful products off the employer's premises
 4 during nonworking hours or temporary absence from work while responding to an
 5 emergency call as a volunteer fire fighter, emergency medical technician, first
 6 responder or ambulance driver deprive those individuals of the earnings that are
 7 necessary to maintain a just and decent standard of living.

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

9 111.31 (2) It is the intent of the legislature to protect by law the rights of all
 10 individuals to obtain gainful employment and to enjoy privileges free from
 11 employment discrimination because of age, race, creed, color, disability, marital
 12 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction
 13 record, membership in the national guard, state defense force, or any other reserve
 14 component of the military forces of the United States or this state or, use or nonuse
 15 of lawful products off the employer's premises during nonworking hours or
 16 temporary absence from work while responding to an emergency call as a volunteer
 17 fire fighter, emergency medical technician, first responder, or ambulance driver and
 18 to encourage the full, nondiscriminatory utilization of the productive resources of the
 19 state to the benefit of the state, the family and all the people of the state. It is the
 20 intent of the legislature in promulgating this subchapter to encourage employers to
 21 evaluate an employee or applicant for employment based upon the employee's or
 22 applicant's individual qualifications rather than upon a particular class to which the
 23 individual may belong.

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

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employee (plan)

employee's (plan)

ASSEMBLY BILL 168

1 111.31 (3) In the interpretation and application of this subchapter, and
 2 otherwise, it is declared to be the public policy of the state to encourage and foster
 3 to the fullest extent practicable the employment of all properly qualified individuals
 4 regardless of age, race, creed, color, disability, marital status, sex, national origin,
 5 ancestry, sexual orientation, arrest record, conviction record, membership in the
 6 national guard, state defense force⁽²⁾ or any other reserve component of the military
 7 forces of the United States or this state or, use or nonuse of lawful products off the
 8 employer's premises during nonworking hours⁽²⁾ or temporary absence from work
 9 while responding to an emergency call as a volunteer fire fighter, emergency medical
 10 technician, first responder⁽²⁾ or ambulance driver. Nothing in this subsection requires
 11 an affirmative action program to correct an imbalance in the work force. This
 12 subchapter shall be liberally construed for the accomplishment of this purpose.

13 SECTION 4. ✓ 111.32 (4r) of the statutes is created to read:

14 111.32 (4r) "Emergency medical technician" ✓ has the meaning given in s. 146.50
15 (1) (e).

16 SECTION 5. ✓ 111.32 (7g) of the statutes is created to read:

17 111.32 (7g) "First responder" has the meaning given in s. 146.53 (1) (d).

18 SECTION 6. ✓ 111.321 of the statutes is amended to read:

19 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.36⁽²⁾
 20 111.365, ✓ no employer, labor organization, employment agency, licensing agency⁽²⁾ or
 21 other person may engage in any act of employment discrimination as specified in s.
 22 111.322 against any individual on the basis of age, race, creed, color, disability,
 23 marital status, sex, national origin, ancestry, arrest record, conviction record,
 24 membership in the national guard, state defense force⁽²⁾ or any reserve component of
 25 the military forces of the United States or this state or, use or nonuse of lawful

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PWF

ASSEMBLY BILL 168

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products off the employer's premises during nonworking hours or temporary absence from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder or ambulance driver.

SECTION 7. 111.322 (intro.) of the statutes is amended to read:

111.322 **Discriminatory actions prohibited.** (intro.) Subject to ss. 111.33 to ~~111.36~~ 111.365, it is an act of employment discrimination to do any of the following:

SECTION 8. 111.365 of the statutes is created to read:

111.365 **Volunteer fire fighters, emergency medical technicians, first responders or ambulance drivers; exceptions and special cases.** (1) In this section, "undue hardship" means, with respect to an accommodation required under sub. (2), significant difficulty or expense, when considered in light of the following factors:

(a) The nature and cost of the accommodation.

(b) The overall financial resources of the facility involved in providing the accommodation, the number of persons employed by the facility, the effect of providing the accommodation on the resources and finances of the facility and any other impact of the accommodation on the operation of the facility.

(c) The overall financial resources of the employer, the number of persons employed by the employer and the number, type and location of the employer's facilities.

(d) The type of operation of the employer, including the composition, structure and functions of the employer's workforce, the geographic separateness of the facility involved in providing the accommodation from the employer and the administrative and financial relationship of that facility to the employer.

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IV

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J

ASSEMBLY BILL 168

SECTION 8

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6-8

(use 7 times)

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(2) Employment discrimination because of temporary absence from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder or ambulance driver includes refusing to reasonably accommodate the temporary absence of an employee or prospective employee from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder or ambulance driver unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business. An employer may reasonably accommodate the temporary absence of an employee or prospective employee from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder or ambulance driver by temporarily reallocating job duties, adjusting or modifying the employer's attendance policies or making other, similar accommodations for the employee or prospective employee.

SECTION 9. Initial applicability.

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

(END)

Insert 6-8

ASSEMBLY AMENDMENT 1,
TO 1999 ASSEMBLY BILL 168

January 26, 2000 - Offered by Representative AINSWORTH.

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~~At the locations indicated, amend the bill as follows:~~

~~1. Page 6, line 8: after "business." insert "If providing the accommodation would result in more than 25% of the persons normally on duty in any particular function or operation at the time of the accommodation being temporarily absent from work, it is presumed that the accommodation would pose an undue hardship on the employer's program, enterprise or business."~~

(END)

(end insert)

Insert A

(no ④) The bill also specifies that, if providing the *
accommodation would result in more than 25% of the
persons normally on duty in any particular function
or operation at the time of the accommodation being
temporarily absent from work, it is presumed that
the accommodation would pose an unreasonable
hardship on the employer's program, business, or
enterprise. ④

(end of insert)

Malaise, Gordon

From: Redell, Carol
Sent: Monday, March 12, 2001 10:51 AM
To: Malaise, Gordon
Subject: LRB 2691 - Employment discrimination against volunteer fire fighters & EMT's

Gordon -

John would like an addition made for LRB 2691. He would like an exception granted whereby individuals employed as *full-time* fire fighters or emt's would not be excused from work to respond to an emergency call *while on duty* as a fire fighter or emt.

This seems to me that this would be a very unusual situation to occur, however, John wanted this included in his draft.

Thanks,

Carol/Ainsworth's Office
6-3097



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2691/1
GMM:jld:km

2
JMR

2001 BILL

Regen

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2 and to create 111.32 (4r), 111.32 (7g) and 111.365 of the statutes; relating to:
3 employment discrimination because of temporary absence from work while
4 responding to an emergency call as a volunteer fire fighter, emergency medical
5 technician, first responder, or ambulance driver.

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, membership in the national guard, state defense force, or military reserves, or use or nonuse of a lawful product off the employer's premises during nonworking hours. Current law also specifies that employment discrimination because of creed or disability includes refusing to reasonably accommodate the religious observance or practice or disability of an employee or prospective employee unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise, or business.

This bill prohibits discrimination in employment based on temporary absence from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder, or ambulance driver. The bill specifies that employment discrimination on that basis includes refusing to reasonably accommodate the temporary absence of an employee or prospective

BILL

Insert A ✓

employee from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder, or ambulance driver unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise, or business. Under the bill, an employer may reasonably accommodate a temporary absence from work for that purpose by temporarily reallocating job duties, adjusting or modifying the employer's attendance policies, or making other, similar accommodations for the employee or prospective employee. The bill defines "undue hardship" as significant difficulty or expense, with respect to an accommodation for an employee or prospective employee, when considered in light of various factors such as the nature and cost of the accommodation, the overall financial resources of the employer and of the facility, involved in providing the accommodation, the number of persons employed by the employer and by the facility and the type of operation of the employer. The bill also specifies that, if providing the accommodation would result in more than 25% of the persons normally on duty in any particular function or operation at the time of the accommodation being temporarily absent from work, it is presumed that the accommodation would pose an unreasonable hardship on the employer's program, business, or enterprise.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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- 2 111.31 (1) The legislature finds that the practice of unfair discrimination in
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- 4 creed, color, disability, marital status, sex, national origin, ancestry, sexual
- 5 orientation, arrest record, conviction record, membership in the national guard,
- 6 state defense force, or any other reserve component of the military forces of the
- 7 United States or this state ~~or~~, use or nonuse of lawful products off the employer's
- 8 premises during nonworking hours, or temporary absence from work while
- 9 responding to an emergency call as a volunteer fire fighter, emergency medical
- 10 technician, first responder, or ambulance driver substantially and adversely affects
- 11 the general welfare of the state. Employers, labor organizations, employment

BILL

1 agencies, and licensing agencies that deny employment opportunities and
2 discriminate in employment against properly qualified individuals solely because of
3 their age, race, creed, color, disability, marital status, sex, national origin, ancestry,
4 sexual orientation, arrest record, conviction record, membership in the national
5 guard, state defense force, or any other reserve component of the military forces of
6 the United States or this state or, use or nonuse of lawful products off the employer's
7 premises during nonworking hours, or temporary absence from work while
8 responding to an emergency call as a volunteer fire fighter, emergency medical
9 technician, first responder, or ambulance driver deprive those individuals of the
10 earnings that are necessary to maintain a just and decent standard of living.

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

12 111.31 (2) It is the intent of the legislature to protect by law the rights of all
13 individuals to obtain gainful employment and to enjoy privileges free from
14 employment discrimination because of age, race, creed, color, disability, marital
15 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction
16 record, membership in the national guard, state defense force, or any other reserve
17 component of the military forces of the United States or this state or, use or nonuse
18 of lawful products off the employer's premises during nonworking hours, or
19 temporary absence from work while responding to an emergency call as a volunteer
20 fire fighter, emergency medical technician, first responder, or ambulance driver and
21 to encourage the full, nondiscriminatory utilization of the productive resources of the
22 state to the benefit of the state, the family, and all the people of the state. It is the
23 intent of the legislature in promulgating this subchapter to encourage employers to
24 evaluate an employee or applicant for employment based upon the employee's or

BILL

1 applicant's individual qualifications rather than upon a particular class to which the
2 individual may belong.

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

4 111.31 (3) In the interpretation and application of this subchapter, and
5 otherwise, it is declared to be the public policy of the state to encourage and foster
6 to the fullest extent practicable the employment of all properly qualified individuals
7 regardless of age, race, creed, color, disability, marital status, sex, national origin,
8 ancestry, sexual orientation, arrest record, conviction record, membership in the
9 national guard, state defense force, or any other reserve component of the military
10 forces of the United States or this state or, use or nonuse of lawful products off the
11 employer's premises during nonworking hours, or temporary absence from work
12 while responding to an emergency call as a volunteer fire fighter, emergency medical
13 technician, first responder, or ambulance driver. Nothing in this subsection requires
14 an affirmative action program to correct an imbalance in the work force. This
15 subchapter shall be liberally construed for the accomplishment of this purpose.

16 **SECTION 4.** 111.32 (4r) of the statutes is created to read:

17 111.32 (4r) "Emergency medical technician" has the meaning given in s. 146.50
18 (1) (e).

19 **SECTION 5.** 111.32 (7g) of the statutes is created to read:

20 111.32 (7g) "First responder" has the meaning given in s. 146.53 (1) (d).

21 **SECTION 6.** 111.321 of the statutes is amended to read:

22 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to ~~111.36~~
23 ~~111.365~~, no employer, labor organization, employment agency, licensing agency, or
24 other person may engage in any act of employment discrimination as specified in s.
25 111.322 against any individual on the basis of age, race, creed, color, disability,

BILL

1 marital status, sex, national origin, ancestry, arrest record, conviction record,
2 membership in the national guard, state defense force, or any reserve component of
3 the military forces of the United States or this state ~~or~~, use or nonuse of lawful
4 products off the employer's premises during nonworking hours, or temporary
5 absence from work while responding to an emergency call as a volunteer fire fighter,
6 emergency medical technician, first responder, or ambulance driver.

7 **SECTION 7.** 111.322 (intro.) of the statutes is amended to read:

8 **111.322 Discriminatory actions prohibited.** (intro.) Subject to ss. 111.33
9 to ~~111.36~~ 111.365, it is an act of employment discrimination to do any of the following:

10 **SECTION 8.** 111.365 of the statutes is created to read:

11 **111.365 Volunteer fire fighters, emergency medical technicians, first**
12 **responders' or ambulance drivers; exceptions and special cases.** (1) In this
13 section, "undue hardship" means, with respect to an accommodation required under
14 sub. (2), significant difficulty or expense, when considered in light of the following
15 factors:

16 (a) The nature and cost of the accommodation.

17 (b) The overall financial resources of the facility involved in providing the
18 accommodation, the number of persons employed by the facility, the effect of
19 providing the accommodation on the resources and finances of the facility, and any
20 other impact of the accommodation on the operation of the facility.

21 (c) The overall financial resources of the employer, the number of persons
22 employed by the employer, and the number, type, and location of the employer's
23 facilities.

24 (d) The type of operation of the employer, including the composition, structure,
25 and functions of the employer's workforce, the geographic separateness of the facility

BILL

1 involved in providing the accommodation from the employer, and the administrative
2 and financial relationship of that facility to the employer.

3 (2) Employment discrimination because of temporary absence from work while
4 responding to an emergency call as a volunteer fire fighter, emergency medical
5 technician, first responder, or ambulance driver includes refusing to reasonably
6 accommodate the temporary absence of an employee or prospective employee from
7 work while responding to an emergency call as a volunteer fire fighter, emergency
8 medical technician, first responder, or ambulance driver unless the employer can
9 demonstrate that the accommodation would pose an undue hardship on the
10 employer's program, enterprise, or business. If providing the accommodation would
11 result in more than 25% of the persons normally on duty in any particular function
12 or operation at the time of the accommodation being temporarily absent from work,
13 it is presumed that the accommodation would pose an undue hardship on the
14 employer's program, enterprise, or business. An employer may reasonably
15 accommodate the temporary absence of an employee or prospective employee from
16 work while responding to an emergency call as a volunteer fire fighter, emergency
17 medical technician, first responder, or ambulance driver by temporarily reallocating
18 job duties, adjusting or modifying the employer's attendance policies, or making
19 other, similar accommodations for the employee or prospective employee.

SECTION 9. Initial applicability.

20 (1) This act first applies to an employee who is affected by a collective
21 bargaining agreement that contains provisions inconsistent with this act on the day
22 on which the collective bargaining agreement expires or is extended, modified, or
23 renewed, whichever occurs first.
24

25 (END)

✓
Insert
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Insert A & Insert B-D

or would result in a paid fire fighter, emergency medical technician, first responder, or ambulance driver being temporarily absent from work while on duty as a paid fire fighter, emergency medical technician, first responder, or ambulance driver

end of insert



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

March 14, 2001

MEMORANDUM

To: Representative Ainsworth

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-2691 Employment discrimination against volunteer fire fighters and EMT's

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9738 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.