

**ASSEMBLY AMENDMENT 2,  
TO 2001 ASSEMBLY BILL 361**

October 30, 2001 – Offered by Representative BLACK.

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

2 **1.** Page 2, line 1: before that line insert:

3 “**SECTION 1c.** 20.445 (1) (gr) of the statutes is created to read:

4 20.445 **(1)** (gr) *Employment discrimination assessments.* All moneys received  
5 from assessments collected under s. 111.39 (4) (c) 2., for the administration of subch.  
6 II of ch. 111.”.

7 **2.** Page 2, line 1: substitute “**SECTION 1m**” for “**SECTION 1**”.

8 **3.** Page 2, line 19: after that line insert:

9 “**SECTION 5.** 111.39 (4) (c) of the statutes is renumbered 111.39 (4) (c) 1. and  
10 amended to read:

11 111.39 **(4)** (c) 1. If, after hearing, the examiner finds that the respondent has  
12 engaged in discrimination, unfair honesty testing, or unfair genetic testing, the  
13 examiner shall make written findings and order such action by the respondent as

1 will effectuate the purpose of this subchapter, with or without back pay. If the  
2 examiner awards any payment to an employee because of a violation of s. 111.321 by  
3 an individual employed by the employer, under s. 111.32 (6), the employer of that  
4 individual is liable for the payment. If the examiner finds a respondent violated s.  
5 111.322 (2m), the examiner shall award compensation in lieu of reinstatement if  
6 requested by all parties and may award compensation in lieu of reinstatement if  
7 requested by any party. Compensation in lieu of reinstatement for a violation of s.  
8 111.322 (2m) may not be less than 500 times nor more than 1,000 times the hourly  
9 wage of the person discriminated against when the violation occurred. Back pay  
10 liability may not accrue from a date more than 2 years prior to the filing of a  
11 complaint with the department. Interim earnings or amounts earnable with  
12 reasonable diligence by the person discriminated against or subjected to unfair  
13 honesty testing or unfair genetic testing shall operate to reduce back pay otherwise  
14 allowable. Amounts received by the person discriminated against or subject to the  
15 unfair honesty testing or unfair genetic testing as unemployment benefits or welfare  
16 payments shall not reduce the back pay otherwise allowable, but shall be withheld  
17 from the person discriminated against or subject to unfair honesty testing or unfair  
18 genetic testing and immediately paid to the unemployment reserve fund or, in the  
19 case of a welfare payment, to the welfare agency making the payment.

20 **SECTION 6.** 111.39 (4) (c) 2. of the statutes is created to read:

21 111.39 (4) (c) 2. If the examiner finds that a respondent has discriminated  
22 against a person in promotion, compensation, or in terms, conditions, or privileges  
23 of employment on the basis of sex, race, color, national origin, or ancestry, the  
24 examiner, in addition to any action ordered under subd. 1., shall order the  
25 respondent to pay to the person compensatory and punitive damages in an amount

1 that the examiner finds appropriate and to pay to the department an assessment  
2 equal to 10% of the amount of compensatory and punitive damages ordered. All  
3 assessments collected under this subdivision shall be deposited in the general fund  
4 and credited to the appropriation account under s. 20.445 (1) (gr).

5 **SECTION 7.** 111.39 (4) (c) 3. of the statutes is created to read:

6 111.39 (4) (c) 3. If the examiner orders any payment under subd. 1. or 2. because  
7 of a violation of s. 111.321 by an individual employed by an employer, the employer  
8 of that individual is liable for the payment.

9 **SECTION 8.** 111.39 (4) (c) 4. of the statutes is created to read:

10 111.39 (4) (c) 4. If the examiner finds a respondent violated s. 111.322 (2m), the  
11 examiner shall award compensation in lieu of reinstatement if requested by all  
12 parties and may award compensation in lieu of reinstatement if requested by any  
13 party. Compensation in lieu of reinstatement for a violation of s. 111.322 (2m) may  
14 not be less than 500 times nor more than 1,000 times the hourly wage of the person  
15 discriminated against when the violation occurred.

16 **SECTION 9. Nonstatutory provisions.**

17 (1) WAGE DISPARITY STUDY.

18 (a) *Definition.* In this subsection, “minority group member” has the meaning  
19 given in section 560.036 (1) (f) of the statutes.

20 (b) *Committee.* By the first day of the 3rd month beginning after the effective  
21 date of this paragraph, the secretary of workforce development shall create and  
22 appoint a committee consisting of the members specified in paragraph (c) to study  
23 the issues specified in paragraph (d) and report its findings, conclusions, and  
24 recommendations as provided in paragraph (e).

25 (c) *Membership.* The committee shall consist of the following members:

1           1. Two members who are representatives of business and industry, who shall  
2 be appointed from a list of candidates submitted by an association that represents  
3 the interests of businesses and industries in this state.

4           2. Two members who are representatives of organized labor, who shall be  
5 appointed from a list of candidates submitted by a labor organization that is  
6 chartered by a federation of national or international labor organizations, admits to  
7 membership local labor organizations, and exists primarily to carry on educational,  
8 legislative, and coordinating activities.

9           3. Two members who are representatives of organizations whose objectives  
10 include the elimination of wage disparities between men and women and between  
11 minority group members and nonminority group members and who have  
12 undertaken advocacy, educational, or legislative initiatives in pursuit of that  
13 objective.

14           4. Three members who are employees of an institution of higher education or  
15 a research institution and who have experience and expertise in the collection and  
16 analysis of data concerning wage disparities between men and women and between  
17 minority group members and nonminority group members and whose research has  
18 been used in efforts to eliminate those disparities.

19           (d) *Study.* The committee shall study all of the following:

20           1. The extent to which wage disparities exist, in both the public and private  
21 sectors, between men and women and between minority group members and  
22 nonminority group members.

23           2. The factors that cause, or that tend to cause, those wage disparities,  
24 including segregation between men and women and between minority group  
25 members and nonminority group members, both within and across occupations; the

1 payment of lower wages in occupations dominated by women or by minority group  
2 members; disparities between men and women in child-rearing responsibilities; and  
3 disparities in education and training between men and women and between minority  
4 group members and nonminority group members.

5 3. The consequences of those wage disparities on the economy and on individual  
6 families.

7 (e) *Recommendations.* The committee shall recommend solutions and policy  
8 alternatives, including proposed legislation, to eliminate and prevent wage  
9 disparities between men and women and between minority group members and  
10 nonminority group members. By the first day of the 15th month beginning after the  
11 effective date of this paragraph, the committee shall report its findings, conclusions,  
12 and recommendations to the secretary of workforce development who shall submit  
13 that report to the appropriate standing committees of the legislature in the manner  
14 provided under section 13.72 (3) of the statutes and to the governor by the first day  
15 of the 16th month beginning after publication.

16 **SECTION 10. Initial applicability.**

17 (1) EMPLOYMENT DISCRIMINATION DAMAGES. The renumbering and amendment  
18 of section 111.39 (4) (c) of the statutes and the creation of section 111.30 (4) (c) 2., 3.,  
19 and 4. of the statutes first apply to acts of employment discrimination committed on  
20 the effective date of this subsection.”.

21 (END)