

2001 ASSEMBLY BILL 409

May 18, 2001 – Introduced by Representatives SCHNEIDER and SINICKI. Referred to Committee on Labor and Workforce Development.

1 **AN ACT to create** 103.135, 106.54 (7) and 230.45 (1) (m) of the statutes; **relating**
2 **to:** discharge or discrimination against an employee for disclosing the
3 employee's compensation.

Analysis by the Legislative Reference Bureau

Current law prohibits an employer from discharging or discriminating against an employee in promotion, compensation, or in terms, conditions, or privileges of employment on the basis of the employee's age, race, creed, color, disability, marital status, sex, national origin, ancestry, arrest or conviction record, membership in the national guard or military reserves, or use or nonuse of a lawful product during nonwork hours, or because the employee filed a complaint or attempted to enforce a right under the state's labor laws or testified or assisted in any proceeding to enforce such a right. Currently, the department of workforce development (DWD) or, in the case of a state employee, the personnel commission may order an employer that has discriminated against an employee to take such action as will effectuate the purpose of the fair employment law, including the payment of back pay, reinstatement of the employee, or the payment of compensation in lieu of reinstatement.

This bill prohibits an employer from discharging or discriminating against an employee in promotion, compensation, or in terms, conditions, or privileges of employment for disclosing the employee's compensation to anyone, opposing a discharge or discrimination in violation of the bill, filing a complaint or attempting to enforce a right under the bill, or testifying or assisting in any action or proceeding

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to enforce a right under the bill. An employee who is discharged or discriminated against in violation of the bill may file a complaint with DWD or, in the case of a state employee, the personnel commission, and DWD or the personnel commission must process the complaint in the same manner that employment discrimination complaints are processed under current law, which processing may include the ordering of back pay, reinstatement, or compensation in lieu of reinstatement.

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

2 **103.135 Disclosure of compensation. (1)** An employee may disclose the
3 employee's compensation to anyone. An employer may not discharge or discriminate
4 against an employee in promotion, compensation, or in terms, conditions, or
5 privileges of employment for disclosing the employee's compensation to anyone,
6 opposing a practice prohibited under this subsection, filing a complaint or
7 attempting to enforce any right under this subsection, or testifying or assisting in
8 any action or proceeding to enforce any right under this subsection.

9 **(2)** (a) Subject to par. (b), any employee who is discharged or discriminated
10 against in violation of sub. (1) may file a complaint with the department, and the
11 department shall process the complaint in the same manner that employment
12 discrimination complaints are processed under s. 111.39.

13 (b) Any employee of a state agency, as defined in s. 111.32 (6), who is discharged
14 or discriminated against in violation of sub. (1) may file a complaint with the
15 personnel commission, and the personnel commission shall process the complaint in
16 the same manner that employment discrimination complaints are processed under
17 s. 111.39.

18 **SECTION 2.** 106.54 (7) of the statutes is created to read:

