

**2001 DRAFTING REQUEST**

**Bill**

Received: 02/07/2001

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Marlin Schneider (608) 266-0215

By/Representing: Memo

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: **Employ Priv - miscellaneous  
Discrimination - employment**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Discrimination against employee who discloses compensation

**Instructions:**

See Attached--Prohibit retaliation against employee who discloses his or her compensation

**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 02/08/2001	jdyer 02/09/2001		_____			S&L
/1			rschluet 02/09/2001	_____	lrb_docadmin 02/09/2001	lrb_docadmin 03/08/2001	

FE Sent For:

<END>

→ At  
Intro.

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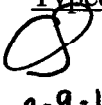
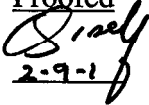
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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2420/2  
GMM...r:....  
Jld

1 AN ACT <sup>gen</sup>...; <sup>✓</sup>relating to: discharge or discrimination against an employee for  
disclosing the 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 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.

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

1           SECTION 1. 103.135<sup>✓X</sup> 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,<sup>✓</sup> 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),<sup>✓</sup> any employee who is discharged or discriminated  
10 against in violation of sub. (1)<sup>✓</sup> may file a complaint with the department,<sup>✓</sup> and the  
11 department shall process the complaint in the same manner that employment  
12 discrimination complaints are processed under s. 111.39.<sup>✓</sup>

13           (b) Any employee of a state agency, as defined in s. 111.32 (6),<sup>✓</sup> who is discharged  
14 or discriminated against in violation of sub. (1)<sup>✓</sup> 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.<sup>✓</sup>

18           SECTION 2. 106.54 (7)<sup>✓X</sup> of the statutes is created to read:

19           106.54 (7) The division shall receive complaints under s. 103.135 (2) (a)<sup>✓</sup> and  
20 shall process the complaints in the same manner that employment discrimination  
21 complaints are processed under s. 111.39.<sup>✓</sup>

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(plan)  
SECTION 3. 230.45 (1) (m) of the statutes is created to read:

230.45 (1) (m) Receive complaints under s. 103.135 (2) (b) and, except as provided in sub. (1m), process the complaints in the same manner that employment discrimination complaints are processed under s. 111.39.

**SECTION 4. Initial applicability.**

(1) This act first applies to an employee who, on the day before the effective date of this subsection, is affected by a collective bargaining or other employment agreement that contains provisions inconsistent with section 103.135 of the statutes, as created by this act, on the day on which the agreement expires or is extended, modified, or renewed, whichever occurs first.

(END)



STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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

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

February 9, 2001

### MEMORANDUM

To: Representative Schneider

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-2420 Discrimination against employee who discloses compensation

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.