

**2003 DRAFTING REQUEST**

**Bill**

Received: **01/25/2003**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 4-8259**

By/Representing: **Hummert**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination  
Employ Priv - family leave  
Employ Priv - wage claims  
Employ Priv - prevailing wage**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

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**Pre Topic:**

DOA:.....Hummert - BB0434,

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**Topic:**

Equal rights enforcement

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**Instructions:**

See Attached

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**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>
/?	gmalaise 01/30/2003			_____			S&L
/1		kgilfoy 01/31/2003	chaugen 01/31/2003	_____	lemery 01/31/2003		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	gmalaise 02/04/2003	kgilfoy 02/04/2003	chaskett 02/04/2003	_____	amentkow 02/04/2003		

FE Sent For:

<END>

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/?	gmalaise 01/30/2003			JF/cew <u>2/9</u>			S&L
/1		kgilfoy 01/31/2003	chaugen 01/31/2003		lemery 01/31/2003		
		12-2/4/03 Kmg	1/2 2/4 CPH				

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/?	gmalaise	1/1-1/30 img	DN 1-31	CAH 1-31 PS			

FE Sent For:

<END>

## CORRESPONDENCE MEMORANDUM

STATE OF WISCONSIN  
Department of Administration**Date:** January 24, 2003**To:** Steve Miller  
Legislative Reference Bureau**From:** Joshua Hummert *JH*  
Executive Policy and Budget Analyst**Subject:** Department of Workforce Development; Equal Rights

Combine the divisions of Equal Rights and Worker's Compensation in a single division and modify equal rights law. Since equal rights appropriations and worker's compensation appropriations are both under s.20.445(1), this request should not require significant modifications to the appropriation structure. This request is to make the following changes to DWD's structure:

- No*
- No drafts*
1. Eliminate the division administrator positions for the former Division of Workforce Excellence and the Division of Equal Rights.
  2. Transfer responsibility for the establishment of prevailing wage rates to the Division of Workforce Solutions. *no drafts*
  3. Conduct the prevailing wage survey every other year and issue prevailing wage rates that will be effective for two years.
  4. Eliminate the prevailing wage surveying in Class E types of construction (residential and agricultural construction).
  5. Transfer labor standard enforcement activities to the Department of Justice.
  6. Modify equal rights law to allow a paper review by an administrative law judge of equal rights cases where there is an initial finding of no probable cause and give the complainants the right to sue.
- No*

If the drafter has any questions, please call me at 4-8259.

BB0434

## Malaise, Gordon

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**From:** Hummert, Joshua  
**Sent:** Sunday, January 26, 2003 3:22 PM  
**To:** Malaise, Gordon  
**Subject:** RE: Equal Rights

Gordon, there has been a change for the Equal Rights draft. Equal Rights will remain as a separate division in DWD with all of its current responsibilities. Items 3, 4 and 6 on the drafting request should still be drafted. The major change proposed today is to allow people who have an equal rights complaint to either enter the current administrative review process or to immediately file a complaint in court. If you have any questions, feel free to call me at 4-8259.

Thanks,  
Josh

-----Original Message-----

**From:** Malaise, Gordon  
**Sent:** Friday, January 24, 2003 6:26 PM  
**To:** Hummert, Joshua  
**Subject:** Equal Rights

Josh:

I have received your drafting request relating to the Division of Equal Rights in DWD. An initial question that arises relates to item 5 of your narrative which says to "transfer labor standard enforcement activities to DOJ." I want to make sure we are on the same page as to what we mean by "labor standards enforcement." If by "labor standards" we mean what is currently administered by the Bureau of Labor Standards, then all of ch. 103 except the Family and Medical Leave law (s. 103.10) and the migrant labor law (s. 103.90, et. seq.) and all of chs. 104 (minimum wage), ch. 105 (employment agents), and ch. 109 (wage claims) go to DOJ. Is that the intent or is a more limited definition of "labor standards" intended?

I will probably have more questions as I study your request further, but that is it for now.

Gordon

Gordon M. Malaise  
Senior Legislative Attorney  
Legislative Reference Bureau  
266-9738

withdrawal, the department shall dismiss the complaint by written order. Such dismissal shall be with prejudice unless otherwise expressly stated in the order.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**DWD 218.04 Notification of respondent. (1) WHEN NOTICE IS TO BE SENT.** Except where prevented by the anonymity requirement of s. 111.375 (1), Stats., the department shall serve a copy of a complaint which meets the requirements of s. DWD 218.03 upon each respondent prior to the commencement of any investigation.

**(2) CONTENT OF NOTICE.** The notice shall include a copy of the complaint, which shall indicate on its face the date the complaint was filed. The notice shall direct the respondent to respond in writing to the allegations of the complaint within a time period specified by the department. The notice shall further state that, if the respondent fails to answer the complaint in writing, the department may make an initial determination as to whether an act of employment discrimination, unfair honesty testing or unfair genetic testing has occurred based only on the department's investigation and the information supplied by the complainant.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**DWD 218.05 Preliminary review of complaints.**

**(1) REVIEW OF COMPLAINT.** The department shall review every complaint filed to determine all of the following:

- (a) Whether the complainant is protected by the act.
- (b) Whether the respondent is subject to the act.
- (c) Whether the complaint states a claim for relief under the act.
- (d) Whether the complaint was filed within the time period set forth in the act, if that issue is raised in writing by the respondent.

**(2) PRELIMINARY DETERMINATION DISMISSING COMPLAINT.** The department shall issue a preliminary determination dismissing any complaint which fails to meet the requirements of sub. (1). In the event the respondent raises a jurisdictional defense, including but not limited to federal preemption, and the respondent admits that but for the lack of jurisdiction the allegations are not disputed and constitute a violation, the department shall proceed to only decide the jurisdictional issue, and shall issue the appropriate order. The order of dismissal shall be sent by first class mail to the last known address of each party and to their attorneys of record.

**(3) APPEAL OF PRELIMINARY DETERMINATION.** A complainant may appeal from an order dismissing a complaint under sub. (2) by filing a written appeal with the department. The appeal shall be filed within 20 days of the date of the order and shall state specifically the grounds upon which it is based. If a timely appeal is filed, the department shall serve a copy of the appeal upon all other parties. The matter shall be referred to the hearing section of the division for review by an administrative law judge. The administrative law judge shall issue a decision which shall either affirm, reverse, modify or set aside the preliminary determination. The decision of the administrative law judge shall be served upon the parties. If the decision reverses or sets aside the preliminary determination, the complaint shall be remanded for investigation. If the decision affirms the preliminary determination, it shall be appealed to the labor and industry review commission if it is a final decision and order as defined in s. DWD 218.21 (1).

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**DWD 218.06 Investigations. (1) CONDUCT OF INVESTIGATION.** The department shall investigate all complaints which satisfy the review under s. DWD 218.05 (1). In conducting investigations under this chapter, the department may seek the cooperation of all persons to provide requested materials to the department; to obtain access to premises, records, documents, individuals, and other possible sources of information; to examine, record, and copy necessary materials; and to take state-

ments of persons reasonably necessary for the furtherance of the investigation. The department may subpoena persons or documents for the purpose of the investigation. Subpoenas may be enforced pursuant to s. 885.11, Stats.

**(2) ADVISING COMPLAINANT TO AMEND COMPLAINT.** If, during an investigation, it appears that the respondent has engaged in discrimination against the complainant which is not alleged in the complaint, the department may advise the complainant that the complaint should be amended.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**DWD 218.07 Initial determination. (1) GENERAL.** At the conclusion of the investigation, the department shall issue a written initial determination which shall state whether or not there is probable cause to believe that an act of employment discrimination, unfair honesty testing or unfair genetic testing occurred as alleged in the complaint. This initial determination shall set forth the facts upon which its conclusion is based and shall be served upon the parties.

**(2) INITIAL DETERMINATION OF PROBABLE CAUSE.** If the department initially determines that there is probable cause to believe that any discrimination, unfair honesty testing or unfair genetic testing occurred as alleged in the complaint, it shall certify the case to hearing. A hearing on the merits shall thereafter be noticed and conducted in accordance with the provisions of ss. DWD 218.11 to 218.20.

**(3) INITIAL DETERMINATION OF NO PROBABLE CAUSE.** If the department initially determines that there is no probable cause to believe that employment discrimination, unfair honesty testing or unfair genetic testing occurred as alleged in the complaint, it may dismiss those allegations. The department shall, by a notice to be incorporated in the initial determination, notify the parties and their attorneys of record of the complainant's right to appeal as provided in s. DWD 218.08.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**DWD 218.08 Appeal of initial determination of no probable cause. (1) WHEN FILED.** Within 30 days after the date of an initial determination finding that there is no probable cause, a complainant may file a written request for a hearing on the issue of probable cause. The request for hearing shall state specifically the grounds upon which the appeal is based. The department shall notify the respondent that an appeal has been filed within 10 days of receiving the appeal.

**(2) DISMISSAL FINAL IF NO APPEAL FILED.** If no timely written request for a hearing is filed, the initial determination's order of dismissal shall be the final determination of the department.

**(3) CERTIFICATION TO HEARING ON ISSUE OF PROBABLE CAUSE; RIGHT TO STIPULATE THAT CASE BE DECIDED ON MERITS.** If a timely appeal is filed, the division shall issue a notice certifying the matter to hearing. A hearing on the issue of probable cause shall be noticed and conducted in accordance with the provisions of ss. DWD 218.11 to 218.20, except that the parties may stipulate prior to the hearing that the administrative law judge may decide the case on the merits. If a hearing on the issue of probable cause is requested in a case in which the initial determination also found probable cause with respect to one or more issues the department may, with the consent of the parties, consolidate the hearing on probable cause and the hearing on the merits.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**DWD 218.09 Private settlement and conciliation.** The parties may enter into an agreement to settle the complaint at any time during the proceedings, with or without assistance by the department. The department may assist the parties to reach a settlement agreement. The parties shall notify the department immediately upon reaching a settlement.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.





State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1756/1  
GMM...  
King

DOA:.....Hummert – BB0434, Equal rights enforcement

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>DON'T GEN. CPT.</sup> ..., relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
**EMPLOYMENT**

Under current law, a person alleging discrimination in employment may file a complaint with DWD seeking such action as will effectuate the purpose of the Fair Employment Law, including the payment of back pay, reinstatement of the employee, and the payment of compensation in lieu of reinstatement, but may not bring a civil action in circuit court seeking that action. This bill permits a person alleging discrimination in employment to bring a civil action in circuit court seeking such action as will effectuate the purpose of the Fair Employment Law.

*court* Under current law, an employee who believes that his or her employer has violated the Family and Medical Leave Law may file a complaint with DWD seeking action to remedy the violation, including an order requiring the employer to provide the requested leave, to reinstate the employee, to provide back pay, and to pay reasonable actual attorney fees. Current law also permits an employee to bring an action in circuit court to recover damages caused by a violation of the Family and Medical Leave Law, but only after completion of an administrative proceeding concerning the violation. This bill eliminates the requirement that an administrative proceeding first be completed before an employee may bring an action in circuit court for a violation of the Family and Medical Leave Law.

Under current law, when DWD receives a complaint alleging discrimination in employment, housing, or the equal enjoyment of a public place of accommodation or

a complaint alleging a violation of the Family and Medical Leave Law, DWD must investigate the complaint to determine whether there is probable cause to believe that the discrimination or violation occurred. Under current DWD rules, if DWD finds that there is no probable cause to believe that the discrimination or violation occurred, the complainant may request a hearing on the issue by a hearing examiner. This bill eliminates the right to a hearing on the issue of probable cause and instead provides for a review by a hearing examiner based solely of DWD's record of the complaint.

Current law requires certain laborers, workers, mechanics, and truck drivers employed on a state or local public works project to be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the county in which the project is located (prevailing wage). Current law requires DWD annually to determine the prevailing wage rates for each trade or occupation in each area of the state. In determining those prevailing wage rates for projects other than state highway projects, DWD may not use data from projects for which the prevailing wage must be paid unless there is insufficient wage data in the area to determine those prevailing wage rates, in which case DWD may use wage data from such projects. In determining those prevailing wage rates for state highway projects, DWD must use data from projects for which the prevailing wage must be paid.

This bill requires DWD to determine prevailing wage rates biennially in each odd-numbered year. The bill also prohibits DWD from using data from residential or agricultural projects in determining prevailing wage rates unless there is insufficient wage data in the area to determine those prevailing wage rates, in which case DWD may use wage data from such projects.

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.** 66.0903 (3) (ar) of the statutes is amended to read:  
2           66.0903 (3) (ar) The department shall, by January 1 of each odd-numbered  
3 year, compile the prevailing wage rates for each trade or occupation in each area. The  
4 compilation shall, in addition to the current prevailing wage rates, include future  
5 prevailing wage rates when those prevailing wage rates can be determined for any  
6 trade or occupation in any area and shall specify the effective date of those future

1 prevailing wage rates. If a construction project extends into more than one area  
2 there shall be but one standard of prevailing wage rates for the entire project.

History: 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

3 **SECTION 2.** 66.0903 (3) (av) of the statutes is amended to read:

4 66.0903 (3) (av) In determining prevailing wage rates under par. (am) or (ar),  
5 the department may not use data from projects that are subject to this section, s.  
6 103.49 or 103.50, or 40 USC 276a or from residential or agricultural projects unless  
7 the department determines that there is insufficient wage data in the area to  
8 determine those prevailing wage rates, in which case the department may use data  
9 from projects that are subject to this section, s. 103.49 or 103.50, or 40 USC 276a or  
10 from residential or agricultural projects.

History: 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

11 **SECTION 3.** 103.10 (12) (bm) of the statutes is created to read:

12 103.10 (12) (bm) If the department initially finds that there is no probable  
13 cause to believe that a violation of sub. (11) (a) or (b) occurred as alleged in the  
14 complaint, the department may dismiss the complaint. The department shall, by a  
15 notice to be served with the findings, notify the parties of the complainant's right to  
16 appeal the dismissal of the complaint by requesting a review by a hearing examiner  
17 of the findings, which review shall be based solely on the department's record of the  
18 complaint. Service of the findings shall be made by certified mail, return receipt  
19 requested. If the hearing examiner determines that no probable cause exists, that  
20 determination is the final determination of the department and may be appealed  
21 under s. 227.52.

22 **SECTION 4.** 103.10 (13) of the statutes is amended to read:

1           103.10 (13) CIVIL ACTION. (a) An employee who believes that his or her  
2 employer has violated sub. (11) (a) or (b), or the department may bring an action in  
3 circuit court against an employer to recover damages caused by a violation of sub.  
4 (11) after the completion of an administrative proceeding, including judicial review,  
5 concerning the same violation seeking action, as described in sub. (12) (d), to remedy  
6 the violation and damages caused by the violation.

7           (b) An action commenced under par. (a) may be brought in the circuit court for  
8 the county where the violation occurred or for the county where the person against  
9 whom the action is filed resides or has a principal place of business, and shall be  
10 commenced within the later of the following periods, or be barred:

11           1. Within 60 days ~~from~~ after the completion of an administrative proceeding,  
12 including judicial review, concerning the same violation.

13           2. ~~Twelve~~ Within 12 months after the violation occurred, or the department or  
14 employee should reasonably have known that the violation occurred. The 12-month  
15 statute of limitations under this subdivision shall be tolled while an administrative  
16 proceeding, including judicial review, concerning the same violation is pending.

17 History: 1987 a. 287; 1989 a. 228; 1991 a. 39; 1993 a. 446; 1995 a. 27 s. 9130 (4); 1997 a. 3, 156; 2001 a. 74.

18           **SECTION 5.** 103.49 (3) (am) of the statutes is amended to read:

19           103.49 (3) (am) The department shall, by January 1 of each odd-numbered  
20 year, compile the prevailing wage rates for each trade or occupation in each area. The  
21 compilation shall, in addition to the current prevailing wage rates, include future  
22 prevailing wage rates when those prevailing wage rates can be determined for any  
trade or occupation in any area and shall specify the effective date of those future

1 prevailing wage rates. If a construction project extends into more than one area  
2 there shall be but one standard of prevailing wage rates for the entire project.

History: 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

3 **SECTION 6.** 103.49 (3) (ar) of the statutes is amended to read:

4 103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am), the  
5 department may not use data from projects that are subject to this section, s. 66.0903,  
6 103.50, or 229.8275, or 40 USC 276a or from residential or agricultural projects  
7 unless the department determines that there is insufficient wage data in the area  
8 to determine those prevailing wage rates, in which case the department may use data  
9 from projects that are subject to this section, s. 66.0903, 103.50, or 229.8275, or 40  
10 USC 276a or from residential or agricultural projects.

History: 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

11 **SECTION 7.** 103.50 (4) of the statutes is amended to read:

12 103.50 (4) CERTIFICATION OF PREVAILING WAGE RATES. The department of  
13 workforce development shall, by May 1 of each odd-numbered year, certify to the  
14 department of transportation the prevailing wage rates in each area for all trades  
15 or occupations commonly employed in the highway construction industry. The  
16 certification shall, in addition to the current prevailing wage rates, include future  
17 prevailing wage rates when such prevailing wage rates can be determined for any  
18 such trade or occupation in any area and shall specify the effective date of those  
19 future prevailing wage rates. If a construction project extends into more than one  
20 area there shall be but one standard of prevailing wage rates for the entire project.

History: 1977 c. 29 s. 1654 (8) (c); 1979 c. 269; 1985 a. 332 ss. 143, 144, 253; 1989 a. 228; 1993 a. 492; 1995 a. 215, 225; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 ss. 629, 672; 2001 a. 30.

21 **SECTION 8.** 103.50 (4m) of the statutes is amended to read:

22 103.50 (4m) WAGE RATE DATA. In determining prevailing wage rates for projects  
23 that are subject to this section, the department of workforce development shall use

1 data from projects that are subject to this section, s. 66.0903 or 103.49, or 40 USC  
 2 276a, but may not use data from residential or agricultural projects unless that  
 3 department determines that there is insufficient wage data in the area to determine  
 4 those prevailing wage rates, in which case that department may use data from  
 5 residential or agricultural projects.

History: 1977 c. 29 s. 1654 (8) (c); 1979 c. 269; 1985 a. 332 ss. 143, 144, 253; 1989 a. 228; 1993 a. 492; 1995 a. 215, 225; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 ss. 629, 672; 2001 a. 30.

6 **SECTION 9.** 106.50 (6) (c) 4. of the statutes is amended to read:

7 106.50 (6) (c) 4. If the department initially determines that there is no probable  
 8 cause to believe that discrimination occurred as alleged in the complaint, it may  
 9 dismiss those allegations. The department shall, by a notice to be served with the  
 10 determination, notify the parties of the complainant's right to appeal the dismissal  
 11 of the claim to the secretary for a hearing on the issue ~~the~~ allegations by requesting  
 12 a review by a hearing examiner of the determination, which review shall be based  
 13 solely on the department's record of the complaint. Service of the determination shall  
 14 be made by certified mail, return receipt requested. If the hearing examiner  
 15 determines that no probable cause exists, that determination is the final  
 16 determination of the department and may be appealed under par. (j).

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 30 s. 108; 2001 a. 109.

17 **SECTION 10.** 106.52 (4) (a) 4m. of the statutes is created to read:

18 106.52 (4) (a) 4m. If the department initially finds that there is no probable  
 19 cause to believe that any act prohibited under sub. (3) has been or is being committed  
 20 as alleged in the complaint, the department may dismiss the complaint. The  
 21 department shall, by a notice to be served with the findings, notify the parties of the  
 22 complainant's right to appeal the dismissal of the complaint by requesting a review  
 23 by a hearing examiner of the findings, which review shall be based solely on the

1 department's record of the complaint. Service of the findings shall be made by  
2 certified mail, return receipt requested. If the hearing examiner determines that no  
3 probable cause exists, that determination is the final determination of the  
4 department and may be appealed under par. (b).

5 SECTION 11. 111.39 (4) (bm) of the statutes is created to read:

6 111.39 (4) (bm) If the department initially finds that there is no probable cause  
7 to believe that any discrimination has been or is being committed, that unfair  
8 honesty testing has occurred or is occurring, or that unfair genetic testing has  
9 occurred or is occurring as alleged in the complaint, the department may dismiss the  
10 complaint. The department shall, by a notice to be served with the findings, notify  
11 the parties of the complainant's right to appeal the dismissal of the complaint by  
12 requesting a review by a hearing examiner of the findings, which review shall be  
13 based solely on the department's record of the complaint. Service of the findings shall  
14 be made by certified mail, return receipt requested. If the hearing examiner  
15 determines that no probable cause exists, that determination is the final  
16 determination of the department and may be appealed under sub. (5).

17 SECTION 12. 111.40 of the statutes is created to read:

18 111.40 Civil action. (1) Any person, including the state, alleging that  
19 discrimination, unfair honesty testing, or unfair genetic testing has occurred may  
20 bring a civil action seeking such action, as described in s. 111.39 (4) (c), will effectuate  
21 the purpose of this subchapter.

22 (2) An action commenced under par. (a) may be brought in the circuit court for  
23 the county where the alleged violation occurred or for the county where the person  
24 against whom the action is filed resides or has a principal place of business, and shall  
25 be commenced within 300 days after the alleged violation occurred. The 300-day

1 statute of limitations under this subsection shall be tolled while an administrative  
2 proceeding concerning the same violation is pending.

3 SECTION 13. 893.965 of the statutes is created to read:

4 **893.965 Housing, public accommodations, and employment**  
5 **discrimination; civil remedies.** (1) HOUSING DISCRIMINATION. Any civil action  
6 arising under s. 106.50 (6m) is subject to the limitations of s. 106.50 (6m) (b).

7 (2) PUBLIC ACCOMMODATIONS DISCRIMINATION. Any civil action arising under s.  
8 106.52 (4) (e) is subject to the limitations of s. 106.52 (4) (e) 2.

9 (3) EMPLOYMENT DISCRIMINATION. Any civil action arising under s. 111.40 is  
10 subject to the limitations of s. 111.40 (2).

11 SECTION 9359. Initial applicability; workforce development.

12 (1) EQUAL RIGHTS PROCEDURES.

13 (a) *Family and medical leave actions.* The treatment of section 103.10 (13) of  
14 the statutes first applies, in the case of a violation for which an administrative  
15 proceeding under section 103.10 (12) of the statutes has been commenced, to a  
16 violation occurring 12 months before the effective date of this paragraph and, in the  
17 case of a violation for which an administrative proceeding under section 103.10 (12)  
18 of the statutes has not been commenced, to a violation occurring 30 days before the  
19 effective date of this paragraph.

20 (b) *Employment discrimination actions.* The treatment of section 111.40 of the  
21 statutes first applies to an act of employment discrimination, unfair honesty testing,  
22 or unfair genetic testing occurring 300 days before the effective date of this  
23 paragraph.

24 (c) *Review of probable cause determinations.* The treatment of sections 103.10  
25 (12) (bm), 106.50 (6) (c) 4., 106.52 (4) (a) 4m., and 111.39 (4) (bm) of the statutes first



1 applies to probable cause determinations made on the effective date of this  
2 paragraph.

3 (END)

## Malaise, Gordon

---

**From:** Hummert, Joshua  
**Sent:** Tuesday, February 04, 2003 3:03 PM  
**To:** Malaise, Gordon  
**Subject:** Draft #1756/1

Already in

Gordon, just trying to tie up loose ends right now regarding drafts, so you'll probably get a couple more e-mails from me over the next couple of hours. Regarding draft #1756/1, would you mind eliminating the provisions related to prevailing wage issues (the wage survey and residential and agricultural provisions) and adding one provision? The provision that I would like to have added would address cases where there is a no probable cause (NPC) finding. Under current law, individuals may request a hearing for NPC findings. We would like to change this item to an ALJ may conduct a paper review of NPC findings and if a NPC determination is found again, the individuals have the right to sue. I assume the second part is covered under the current draft, but I thought I would mention it anyway.

Thanks,  
Josh

## Malaise, Gordon

---

**From:** Malaise, Gordon  
**Sent:** Tuesday, February 04, 2003 4:09 PM  
**To:** Hummert, Joshua  
**Subject:** RE: Draft #1756/1

Josh:

On redraft I will delete the provisions relating to prevailing wage. The provisions relating to paper review and right to sue are already in the draft.

The operative language relating to paper review are the words "which review shall be based solely on the department's record of the complaint." That language distinguishes paper review from a hearing.

As for right to sue, the draft permits an employee to sue at any time before the running of the statute of limitations, including after a finding of no probable cause.

Gordon

-----Original Message-----

**From:** Hummert, Joshua  
**Sent:** Tuesday, February 04, 2003 3:03 PM  
**To:** Malaise, Gordon  
**Subject:** Draft #1756/1

Gordon, just trying to tie up loose ends right now regarding drafts, so you'll probably get a couple more e-mails from me over the next couple of hours. Regarding draft #1756/1, would you mind eliminating the provisions related to prevailing wage issues (the wage survey and residential and agricultural provisions) and adding one provision? The provision that I would like to have added would address cases where there is a no probable cause (NPC) finding. Under current law, individuals may request a hearing for NPC findings. We would like to change this item to an ALJ may conduct a paper review of NPC findings and if a NPC determination is found again, the individuals have the right to sue. I assume the second part is covered under the current draft, but I thought I would mention it anyway.

Thanks,  
Josh



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1756/1  
GMM:kmg:ch

(2)  
DVR

DOA:.....Hummert – BB0434, Equal rights enforcement

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1

*DENIT GEN. CAT.*  
AN ACT ..., relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT**

Under current law, a person alleging discrimination in employment may file a complaint with DWD seeking such action as will effectuate the purpose of the Fair Employment Law, including the payment of back pay, reinstatement of the employee, and the payment of compensation in lieu of reinstatement, but may not bring a civil action in circuit court seeking that action. This bill permits a person alleging discrimination in employment to bring a civil action in circuit court seeking such action as will effectuate the purpose of the Fair Employment Law.

Under current law, an employee who believes that his or her employer has violated the Family and Medical Leave Law may file a complaint with DWD seeking action to remedy the violation, including an order requiring the employer to provide the requested leave, to reinstate the employee, to provide back pay, and to pay reasonable actual attorney fees. Current law also permits an employee to bring an action in circuit court to recover damages caused by a violation of the Family and Medical Leave Law, but only after completion of an administrative proceeding concerning the violation. This bill eliminates the requirement that an administrative proceeding first be completed before an employee may bring an action in circuit court for a violation of the Family and Medical Leave Law.

Under current law, when DWD receives a complaint alleging discrimination in employment, housing, or the equal enjoyment of a public place of accommodation or

a complaint alleging a violation of the Family and Medical Leave Law, DWD must investigate the complaint to determine whether there is probable cause to believe that the discrimination or violation occurred. Under current DWD rules, if DWD finds that there is no probable cause to believe that the discrimination or violation occurred, the complainant may request a hearing on the issue by a hearing examiner. This bill eliminates the right to a hearing on the issue of probable cause and instead provides for a review by a hearing examiner based solely of DWD's record of the complaint.

~~Current law requires certain laborers, workers, mechanics, and truck drivers employed on a state or local public works project to be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the county in which the project is located (prevailing wage). Current law requires DWD annually to determine the prevailing wage rates for each trade or occupation in each area of the state. In determining those prevailing wage rates for projects other than state highway projects, DWD may not use data from projects for which the prevailing wage must be paid unless there is insufficient wage data in the area to determine those prevailing wage rates, in which case DWD may use wage data from such projects. In determining those prevailing wage rates for state highway projects, DWD must use data from projects for which the prevailing wage must be paid.~~

~~This bill requires DWD to determine prevailing wage rates biennially in each odd-numbered year. The bill also prohibits DWD from using data from residential or agricultural projects in determining prevailing wage rates unless there is insufficient wage data in the area to determine those prevailing wage rates, in which case DWD may use wage data from such projects.~~

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. 66.0903 (3) (ar) of the statutes is amended to read:~~

2 ~~66.0903 (3) (ar) The department shall, by January 1 of each odd-numbered~~ ✓  
3 ~~year, compile the prevailing wage rates for each trade or occupation in each area. The~~  
4 ~~compilation shall, in addition to the current prevailing wage rates, include future~~  
5 ~~prevailing wage rates when those prevailing wage rates can be determined for any~~  
6 ~~trade or occupation in any area and shall specify the effective date of those future~~  
7 ~~prevailing wage rates. If a construction project extends into more than one area~~  
8 ~~there shall be but one standard of prevailing wage rates for the entire project.~~

1 ~~SECTION 2. 66.0903 (3) (av) of the statutes is amended to read:~~

2 ~~66.0903 (3) (av) In determining prevailing wage rates under par. (am) or (an),~~  
3 ~~the department may not use data from projects that are subject to this section, s.~~  
4 ~~103.49 or 103.50, or 40 USC 276a or from residential or agricultural projects unless~~  
5 ~~the department determines that there is insufficient wage data in the area to~~  
6 ~~determine those prevailing wage rates, in which case the department may use data~~  
7 ~~from projects that are subject to this section, s. 103.49 or 103.50, or 40 USC 276a or~~  
8 ~~from residential or agricultural projects.~~

9 SECTION 3. 103.10 (12) (bm) of the statutes is created to read:

10 103.10 (12) (bm) If the department initially finds that there is no probable  
11 cause to believe that a violation of sub. (11) (a) or (b) occurred as alleged in the  
12 complaint, the department may dismiss the complaint. The department shall, by a  
13 notice to be served with the findings, notify the parties of the complainant's right to  
14 appeal the dismissal of the complaint by requesting a review of the findings by a  
15 hearing examiner, which review shall be based solely on the department's record of  
16 the complaint. Service of the findings shall be made by certified mail, return receipt  
17 requested. If the hearing examiner determines that no probable cause exists, that  
18 determination is the final determination of the department and may be appealed  
19 under s. 227.52.

20 SECTION 4. 103.10 (13) of the statutes is amended to read:

21 103.10 (13) CIVIL ACTION. (a) An employee who believes that his or her  
22 employer has violated sub. (11) (a) or (b), or the department, may bring an action in  
23 circuit court against an employer ~~to recover damages caused by a violation of sub.~~  
24 ~~(11) after the completion of an administrative proceeding, including judicial review,~~

1 ~~concerning the same violation seeking action, as described in sub. (12) (d), to remedy~~  
2 ~~the violation and damages caused by the violation.~~

3 (b) An action commenced under par. (a) may be brought in the circuit court for  
4 the county where the violation occurred or for the county where the person against  
5 whom the action is filed resides or has a principal place of business, and shall be  
6 commenced within the later of the following periods, or be barred:

7 1. Within 60 days ~~from~~ after the completion of an administrative proceeding,  
8 including judicial review, concerning the same violation.

9 2. ~~Twelve~~ Within 12 months after the violation occurred, or the department or  
10 employee should reasonably have known that the violation occurred. The 12-month  
11 statute of limitations under this subdivision shall be tolled while an administrative  
12 proceeding, including judicial review, concerning the same violation is pending.

13 ~~SECTION 5. 103.49 (3) (am) of the statutes is amended to read:~~

14 ~~103.49 (3) (am) The department shall, by January 1 of each odd-numbered ✓~~  
15 ~~year, compile the prevailing wage rates for each trade or occupation in each area. The~~  
16 ~~compilation shall, in addition to the current prevailing wage rates, include future~~  
17 ~~prevailing wage rates when those prevailing wage rates can be determined for any~~  
18 ~~trade or occupation in any area and shall specify the effective date of those future~~  
19 ~~prevailing wage rates. If a construction project extends into more than one area~~  
20 ~~there shall be but one standard of prevailing wage rates for the entire project.~~

21 ~~SECTION 6. 103.49 (3) (ar) of the statutes is amended to read:~~

22 ~~103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am), the~~  
23 ~~department may not use data from projects that are subject to this section, s. 66.0903,~~  
24 ~~103.50, or 229.8275, or 40 USC 276a or from residential or agricultural projects ✓~~  
25 ~~unless the department determines that there is insufficient wage data in the area~~

1 to determine those prevailing wage rates, in which case the department may use data  
2 from projects that are subject to this section, s. 66.0903, 103.50, or 229.8275, or 40  
3 USC 276a or from residential or agricultural projects. ✓

4 **SECTION 7.** 103.50 (4) of the statutes is amended to read:

5 103.50 (4) CERTIFICATION OF PREVAILING WAGE RATES. The department of  
6 workforce development shall, by May 1 of each odd-numbered year, certify to the  
7 department of transportation the prevailing wage rates in each area for all trades  
8 or occupations commonly employed in the highway construction industry. The  
9 certification shall, in addition to the current prevailing wage rates, include future  
10 prevailing wage rates when such prevailing wage rates can be determined for any  
11 such trade or occupation in any area and shall specify the effective date of those  
12 future prevailing wage rates. If a construction project extends into more than one  
13 area there shall be but one standard of prevailing wage rates for the entire project.

14 **SECTION 8.** 103.50 (4m) of the statutes is amended to read:

15 103.50 (4m) WAGE RATE DATA. In determining prevailing wage rates for projects  
16 that are subject to this section, the department of workforce development shall use  
17 data from projects that are subject to this section, s. 66.0903 or 103.49, or 40 USC  
18 276a, but may not use data from residential or agricultural projects unless that  
19 department determines that there is insufficient wage data in the area to determine  
20 those prevailing wage rates, in which case that department may use data from  
21 residential or agricultural projects. ✓

22 **SECTION 9.** 106.50 (6) (c) 4. of the statutes is amended to read:

23 106.50 (6) (c) 4. If the department initially determines that there is no probable  
24 cause to believe that discrimination occurred as alleged in the complaint, it may  
25 dismiss those allegations. The department shall, by a notice to be served with the



1 determination, notify the parties of the complainant's right to appeal the dismissal  
2 of the claim to the secretary for a hearing on the issue allegations by requesting a  
3 review of the determination by a hearing examiner, which review shall be based  
4 solely on the department's record of the complaint. Service of the determination shall  
5 be made by certified mail, return receipt requested. If the hearing examiner  
6 determines that no probable cause exists, that determination is the final  
7 determination of the department and may be appealed under par. (j).

8 **SECTION 10.** 106.52 (4) (a) 4m. of the statutes is created to read:

9 106.52 (4) (a) 4m. If the department initially finds that there is no probable  
10 cause to believe that any act prohibited under sub. (3) has been or is being committed  
11 as alleged in the complaint, the department may dismiss the complaint. The  
12 department shall, by a notice to be served with the findings, notify the parties of the  
13 complainant's right to appeal the dismissal of the complaint by requesting a review  
14 of the findings by a hearing examiner, which review shall be based solely on the  
15 department's record of the complaint. Service of the findings shall be made by  
16 certified mail, return receipt requested. If the hearing examiner determines that no  
17 probable cause exists, that determination is the final determination of the  
18 department and may be appealed under par. (b).

19 **SECTION 11.** 111.39 (4) (bm) of the statutes is created to read:

20 111.39 (4) (bm) If the department initially finds that there is no probable cause  
21 to believe that any discrimination has been or is being committed, that unfair  
22 honesty testing has occurred or is occurring, or that unfair genetic testing has  
23 occurred or is occurring as alleged in the complaint, the department may dismiss the  
24 complaint. The department shall, by a notice to be served with the findings, notify  
25 the parties of the complainant's right to appeal the dismissal of the complaint by

1 requesting a review of the findings by a hearing examiner, which review shall be  
2 based solely on the department's record of the complaint. Service of the findings shall  
3 be made by certified mail, return receipt requested. If the hearing examiner  
4 determines that no probable cause exists, that determination is the final  
5 determination of the department and may be appealed under sub. (5).

6 **SECTION 12.** 111.40 of the statutes is created to read:

7 **111.40 Civil action.** (1) Any person, including the state, alleging that  
8 discrimination, unfair honesty testing, or unfair genetic testing has occurred may  
9 bring a civil action seeking such action, as described in s. 111.39 (4) (c), as will  
10 effectuate the purpose of this subchapter.

11 (2) An action commenced under sub. (1) may be brought in the circuit court for  
12 the county where the alleged violation occurred or for the county where the person  
13 against whom the action is filed resides or has a principal place of business, and shall  
14 be commenced within 300 days after the alleged violation occurred. The 300-day  
15 statute of limitations under this subsection shall be tolled while an administrative  
16 proceeding concerning the same violation is pending.

17 **SECTION 13.** 893.965 of the statutes is created to read:

18 **893.965 Housing, public accommodations, and employment**  
19 **discrimination; civil remedies.** (1) HOUSING DISCRIMINATION. Any civil action  
20 arising under s. 106.50 (6m) is subject to the limitations of s. 106.50 (6m) (b).

21 (2) PUBLIC ACCOMMODATIONS DISCRIMINATION. Any civil action arising under s.  
22 106.52 (4) (e) is subject to the limitations of s. 106.52 (4) (e) 2.

23 (3) EMPLOYMENT DISCRIMINATION. Any civil action arising under s. 111.40 is  
24 subject to the limitations of s. 111.40 (2).

25 **SECTION 9359. Initial applicability; workforce development.**

1 (1) EQUAL RIGHTS PROCEDURES.

2 (a) *Family and medical leave actions.* The treatment of section 103.10 (13) of ✓  
3 the statutes first applies, in the case of a violation for which an administrative  
4 proceeding under section 103.10 (12) of the statutes has been commenced, to a  
5 violation occurring 12 months before the effective date of this paragraph and, in the  
6 case of a violation for which an administrative proceeding under section 103.10 (12)  
7 of the statutes has not been commenced, to a violation occurring 30 days before the  
8 effective date of this paragraph.

9 (b) *Employment discrimination actions.* The treatment of section 111.40 ✓  
10 of the statutes first applies to an act of employment discrimination, unfair honesty testing,  
11 or unfair genetic testing occurring 300 days before the effective date of this  
12 paragraph.

13 (c) *Review of probable cause determinations.* The treatment of sections 103.10  
14 (12) (bm) ✓, 106.50 (6) (c) 4. ✓, 106.52 (4) (a) 4m. ✓, and 111.39 (4) (bm) ✓ of the statutes first  
15 applies to probable cause determinations made on the effective date of this  
16 paragraph.

17

(END)



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1756/2  
GMM:kmg:cph

DOA:.....Hummert – BB0434, Equal rights enforcement

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT**

Under current law, a person alleging discrimination in employment may file a complaint with DWD seeking such action as will effectuate the purpose of the Fair Employment Law, including the payment of back pay, reinstatement of the employee, and the payment of compensation in lieu of reinstatement, but may not bring a civil action in circuit court seeking that action. This bill permits a person alleging discrimination in employment to bring a civil action in circuit court seeking such action as will effectuate the purpose of the Fair Employment Law.

Under current law, an employee who believes that his or her employer has violated the Family and Medical Leave Law may file a complaint with DWD seeking action to remedy the violation, including an order requiring the employer to provide the requested leave, to reinstate the employee, to provide back pay, and to pay reasonable actual attorney fees. Current law also permits an employee to bring an action in circuit court to recover damages caused by a violation of the Family and Medical Leave Law, but only after completion of an administrative proceeding concerning the violation. This bill eliminates the requirement that an administrative proceeding first be completed before an employee may bring an action in circuit court for a violation of the Family and Medical Leave Law.

Under current law, when DWD receives a complaint alleging discrimination in employment, housing, or the equal enjoyment of a public place of accommodation or

a complaint alleging a violation of the Family and Medical Leave Law, DWD must investigate the complaint to determine whether there is probable cause to believe that the discrimination or violation occurred. Under current DWD rules, if DWD finds that there is no probable cause to believe that the discrimination or violation occurred, the complainant may request a hearing on the issue by a hearing examiner. This bill eliminates the right to a hearing on the issue of probable cause and instead provides for a review by a hearing examiner based solely of DWD's record of the complaint.

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.** 103.10 (12) (bm) of the statutes is created to read:

2           103.10 (12) (bm) If the department initially finds that there is no probable  
3 cause to believe that a violation of sub. (11) (a) or (b) occurred as alleged in the  
4 complaint, the department may dismiss the complaint. The department shall, by a  
5 notice to be served with the findings, notify the parties of the complainant's right to  
6 appeal the dismissal of the complaint by requesting a review of the findings by a  
7 hearing examiner, which review shall be based solely on the department's record of  
8 the complaint. Service of the findings shall be made by certified mail, return receipt  
9 requested. If the hearing examiner determines that no probable cause exists, that  
10 determination is the final determination of the department and may be appealed  
11 under s. 227.52.

12           **SECTION 2.** 103.10 (13) of the statutes is amended to read:

13           103.10 (13) CIVIL ACTION. (a) An employee who believes that his or her  
14 employer has violated sub. (11) (a) or (b), or the department, may bring an action in  
15 circuit court against an employer ~~to recover damages caused by a violation of sub.~~  
16 ~~(11) after the completion of an administrative proceeding, including judicial review,~~

1 ~~concerning the same violation seeking action, as described in sub. (12) (d), to remedy~~  
2 ~~the violation and damages caused by the violation.~~

3 (b) An action commenced under par. (a) may be brought in the circuit court for  
4 the county where the violation occurred or for the county where the person against  
5 whom the action is filed resides or has a principal place of business, and shall be  
6 commenced within the later of the following periods, or be barred:

7 1. Within 60 days ~~from~~ after the completion of an administrative proceeding,  
8 including judicial review, concerning the same violation.

9 2. ~~Twelve~~ Within 12 months after the violation occurred, or the department or  
10 employee should reasonably have known that the violation occurred. The 12-month  
11 statute of limitations under this subdivision shall be tolled while an administrative  
12 proceeding, including judicial review, concerning the same violation is pending.

13 **SECTION 3.** 106.50 (6) (c) 4. of the statutes is amended to read:

14 106.50 (6) (c) 4. If the department initially determines that there is no probable  
15 cause to believe that discrimination occurred as alleged in the complaint, it may  
16 dismiss those allegations. The department shall, by a notice to be served with the  
17 determination, notify the parties of the complainant's right to appeal the dismissal  
18 of the ~~claim to the secretary for a hearing on the issue~~ allegations by requesting a  
19 review of the determination by a hearing examiner, which review shall be based  
20 solely on the department's record of the complaint. Service of the determination shall  
21 be made by certified mail, return receipt requested. If the hearing examiner  
22 determines that no probable cause exists, that determination is the final  
23 determination of the department and may be appealed under par. (j).

24 **SECTION 4.** 106.52 (4) (a) 4m. of the statutes is created to read:

1           106.52 (4) (a) 4m. If the department initially finds that there is no probable  
2 cause to believe that any act prohibited under sub. (3) has been or is being committed  
3 as alleged in the complaint, the department may dismiss the complaint. The  
4 department shall, by a notice to be served with the findings, notify the parties of the  
5 complainant's right to appeal the dismissal of the complaint by requesting a review  
6 of the findings by a hearing examiner, which review shall be based solely on the  
7 department's record of the complaint. Service of the findings shall be made by  
8 certified mail, return receipt requested. If the hearing examiner determines that no  
9 probable cause exists, that determination is the final determination of the  
10 department and may be appealed under par. (b).

11           **SECTION 5.** 111.39 (4) (bm) of the statutes is created to read:

12           111.39 (4) (bm) If the department initially finds that there is no probable cause  
13 to believe that any discrimination has been or is being committed, that unfair  
14 honesty testing has occurred or is occurring, or that unfair genetic testing has  
15 occurred or is occurring as alleged in the complaint, the department may dismiss the  
16 complaint. The department shall, by a notice to be served with the findings, notify  
17 the parties of the complainant's right to appeal the dismissal of the complaint by  
18 requesting a review of the findings by a hearing examiner, which review shall be  
19 based solely on the department's record of the complaint. Service of the findings shall  
20 be made by certified mail, return receipt requested. If the hearing examiner  
21 determines that no probable cause exists, that determination is the final  
22 determination of the department and may be appealed under sub. (5).

23           **SECTION 6.** 111.40 of the statutes is created to read:

24           **111.40 Civil action.** (1) Any person, including the state, alleging that  
25 discrimination, unfair honesty testing, or unfair genetic testing has occurred may

1 bring a civil action seeking such action, as described in s. 111.39 (4) (c), as will  
2 effectuate the purpose of this subchapter.

3 (2) An action commenced under sub. (1) may be brought in the circuit court for  
4 the county where the alleged violation occurred or for the county where the person  
5 against whom the action is filed resides or has a principal place of business, and shall  
6 be commenced within 300 days after the alleged violation occurred. The 300-day  
7 statute of limitations under this subsection shall be tolled while an administrative  
8 proceeding concerning the same violation is pending.

9 **SECTION 7.** 893.965 of the statutes is created to read:

10 **893.965 Housing, public accommodations, and employment**  
11 **discrimination; civil remedies.** (1) **HOUSING DISCRIMINATION.** Any civil action  
12 arising under s. 106.50 (6m) is subject to the limitations of s. 106.50 (6m) (b).

13 (2) **PUBLIC ACCOMMODATIONS DISCRIMINATION.** Any civil action arising under s.  
14 106.52 (4) (e) is subject to the limitations of s. 106.52 (4) (e) 2.

15 (3) **EMPLOYMENT DISCRIMINATION.** Any civil action arising under s. 111.40 is  
16 subject to the limitations of s. 111.40 (2).

17 **SECTION 9359. Initial applicability; workforce development.**

18 (1) **EQUAL RIGHTS PROCEDURES.**

19 (a) *Family and medical leave actions.* The treatment of section 103.10 (13) of  
20 the statutes first applies, in the case of a violation for which an administrative  
21 proceeding under section 103.10 (12) of the statutes has been commenced, to a  
22 violation occurring 12 months before the effective date of this paragraph and, in the  
23 case of a violation for which an administrative proceeding under section 103.10 (12)  
24 of the statutes has not been commenced, to a violation occurring 30 days before the  
25 effective date of this paragraph.



1           (b) *Employment discrimination actions.* The treatment of section 111.40 of the  
2 statutes first applies to an act of employment discrimination, unfair honesty testing,  
3 or unfair genetic testing occurring 300 days before the effective date of this  
4 paragraph.

5           (c) *Review of probable cause determinations.* The treatment of sections 103.10  
6 (12) (bm), 106.50 (6) (c) 4., 106.52 (4) (a) 4m., and 111.39 (4) (bm) of the statutes first  
7 applies to probable cause determinations made on the effective date of this  
8 paragraph.

9

(END)