

2009 ASSEMBLY BILL 9

January 27, 2009 – Introduced by Representatives TURNER, BERCEAU, GRIGSBY, HILGENBERG, SINICKI and YOUNG, cosponsored by Senators HANSEN and ERPENBACH. Referred to Committee on Veterans and Military Affairs.

1 **AN ACT to amend** 111.322 (2m) (a) and 111.322 (2m) (b); and **to create** 103.06
2 and 106.54 (8) of the statutes; **relating to:** a requirement that all employers
3 in this state grant a paid leave of absence on Veterans Day to employees who
4 are veterans.

Analysis by the Legislative Reference Bureau

Under current law, November 11 (Veterans Day) is a legal holiday. This bill requires that every public and private employer in this state grant to each employee who is a veteran a paid leave of absence for the entire workday on Veterans Day, or on the following Monday if Veterans Day falls on a Saturday or Sunday and the employee is not scheduled to work on that day. Under the bill, for employees who are included in a collective bargaining unit, the paid leave of absence is granted only if so provided in a collective bargaining agreement.

The bill prohibits an employer from discharging or discriminating against an employee in promotion, in compensation, or in the terms, conditions, or privileges of employment for taking a paid leave of absence on Veterans Day; 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 the Department of Workforce Development (DWD), and DWD must process the complaint in the same manner that employment discrimination complaints are processed under current law. That

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processing may include the ordering of back pay, reinstatement, compensation in lieu of reinstatement, and costs and attorney fees.

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

2 **103.06 Paid leave of absence on Veterans Day. (1)** In this section:

3 (a) “Employee” means an individual employed in this state by an employer.

4 (b) “Employer” means a person engaging in any activity, enterprise, or business
5 in this state. “Employer” includes the state and any office, department, independent
6 agency, authority, institution, association, society, or other body in state government
7 created or authorized to be created by the constitution or any law, including the
8 legislature and the courts.

9 (c) “Veteran” has the meaning given in s. 45.01 (12).

10 **(2)** (a) Subject to par. (b), an employer shall grant to each employee who is a
11 veteran a paid leave of absence on November 11 or, if November 11 falls on a Saturday
12 or Sunday and the employee is not scheduled to work on November 11, on the
13 following Monday. The leave of absence shall be for the entire workday. If an
14 employee intends to take a leave of absence under this paragraph, the employee
15 shall, in a reasonable and practicable manner, give the employer advance notice of
16 the leave of absence.

17 (b) For employees whose wages, hours, and conditions of employment are
18 determined in a collective bargaining agreement, par. (a) applies only if the paid
19 leave of absence described in par. (a) is provided in an applicable collective
20 bargaining agreement.

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1 **(3)** An employer may not discharge or discriminate against an employee in
2 promotion, in compensation, or in the terms, conditions, or privileges of employment
3 for taking a paid leave of absence as provided in sub. (2), opposing a practice
4 prohibited under this section, filing a complaint or attempting to enforce any right
5 under this section, or testifying or assisting in any action or proceeding to enforce any
6 right under this section.

7 **(4)** An employee who is discharged or discriminated against in violation of sub.
8 (3) may file a complaint with the department, and the department shall process the
9 complaint in the same manner that employment discrimination complaints are
10 processed under s. 111.39. If the department finds that an employer has violated sub.
11 (3), it may order the employer to take such action under s. 111.39 as will effectuate
12 the purpose of this section. Section 111.322 (2m) applies to a discharge or other
13 discriminatory act arising in connection with any proceeding under this subsection.

14 **SECTION 2.** 106.54 (8) of the statutes is created to read:

15 106.54 **(8)** The division shall receive complaints under s. 103.06 (4) and shall
16 process the complaints in the same manner that employment discrimination
17 complaints are processed under s. 111.39.

18 **SECTION 3.** 111.322 (2m) (a) of the statutes is amended to read:

19 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any
20 right under s. 103.02, 103.06, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50,
21 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to 101.599 or 103.64 to
22 103.82.

23 **SECTION 4.** 111.322 (2m) (b) of the statutes is amended to read:

24 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
25 held under or to enforce any right under s. 103.02, 103.06, 103.10, 103.13, 103.28,

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1 103.32, 103.455, 103.50, 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to
2 101.599 or 103.64 to 103.82.

3 (END)