

**2011 DRAFTING REQUEST**

**Bill**

Received: **01/24/2011**

Received By: **rchampag**

Wanted: **Today**

Companion to LRB:

For: **Administration-Budget**

By/Representing: **Kraus**

May Contact:

Drafter: **rchampag**

Subject: **Employ Pub - civil service**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

---

**Pre Topic:**

DOA:.....Kraus, BAB0040 -

---

**Topic:**

Discharge of state employees

---

**Instructions:**

See attached.

---

**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>
/?	rchampag 01/24/2011	wjackson 01/24/2011		_____			State
/1			jfrantze 01/24/2011	_____	mbarman 01/24/2011		State
/2	rchampag 01/24/2011	wjackson 01/24/2011	mduchek 01/24/2011	_____	lparisi 01/24/2011		State
/3	rchampag 02/01/2011	wjackson 02/01/2011	rschluet 02/01/2011	_____	sbasford 02/01/2011		

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

**<END>**

## 2011 DRAFTING REQUEST

### Bill

Received: 01/24/2011

Received By: rchampag

Wanted: Today

Companion to LRB:

For: Administration-Budget

By/Representing: Kraus

May Contact:

Drafter: rchampag

Subject: Employ Pub - civil service

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

---

### Pre Topic:

DOA:.....Kraus, BAB0040 -

---

### Topic:

Discharge of <sup>a</sup>site employees

---

### Instructions:

See attached.

---

### 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>
/?	rchampag 01/24/2011	wjackson 01/24/2011		_____			State
/1			jfrantze 01/24/2011	_____	mbarman 01/24/2011		State
/2	rchampag 01/24/2011	wjackson 01/24/2011	mduchek 01/24/2011	_____	lparisi 01/24/2011		

FE Sent For:

13 w/ 2/1



**2011 DRAFTING REQUEST**

**Bill**

Received: 01/24/2011

Received By: **rchampag**

Wanted: **Today**

Companion to LRB:

For: **Administration-Budget**

By/Representing: **Kraus**

May Contact:

Drafter: **rchampag**

Subject: **Employ Pub - civil service**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

---

**Pre Topic:**

DOA:.....Kraus, BAB -

---

**Topic:**

Discharge of stte employees

---

**Instructions:**

See attached.

---

**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>
/?	rchampag 01/24/2011	wjackson 01/24/2011		_____			State
/1		1/24/11 1/24	jfrantze 01/24/2011	_____	mbarman 01/24/2011		

FE Sent For:

<END>

**2011 DRAFTING REQUEST**

**Bill**

Received: 01/24/2011

Received By: **rchampag**

Wanted: **Today**

Companion to LRB:

For: **Administration-Budget**

By/Representing: **Kraus**

May Contact:

Drafter: **rchampag**

Subject: **Employ Pub - civil service**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

---

**Pre Topic:**

DOA:.....Kraus, BAB -

---

**Topic:**

Discharge of stte employees

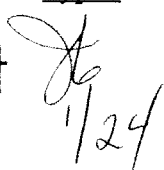
---

**Instructions:**

See attached.

---

**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>
/?	rchampag	1 wlj 1/24	 1/24	==			

FE Sent For:

<END>

## Champagne, Rick

---

**From:** Kraus, Jennifer - DOA [jennifer.kraus@wisconsin.gov]

**Sent:** Monday, January 24, 2011 12:48 PM

**To:** Champagne, Rick

**Subject:** RE: Discharge of state employees draft

thanks

---

**From:** Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]

**Sent:** Monday, January 24, 2011 12:42 PM

**To:** Kraus, Jennifer - DOA

**Cc:** Frederick, Caitlin - DOA

**Subject:** RE: Discharge of state employees draft

1. Draft already applies to non-reps as well as reps.
2. I learned of the extension yesterday, so I will redraft the Initial App.
3. My intent of the last sentence of Analysis was just to indicate that a discharge decision could be appealed, as it is under current law for non reps classified, to WERC. Nothing substantive was intended. I can certainly take it out. In fact, since the collective bargaining agreements will be in force, I will take out the last sentence.
4. I will also draft as BAB too.

---

**From:** Kraus, Jennifer - DOA [mailto:jennifer.kraus@wisconsin.gov]

**Sent:** Monday, January 24, 2011 10:58 AM

**To:** Champagne, Rick

**Cc:** Frederick, Caitlin - DOA

**Subject:** Discharge of state employees draft

**Importance:** High

Rick - a couple of issues with this draft

- 1) This needs to apply to non-rep staff as well as represented.
- 2) Initial applicability - assuming we still need this given #1, the concern is that the contracts have not expired (as they have been extended) - can you word a different way?
- 3)The OSER attorney had originally sent me the attached document -- he thought it would be helpful if you saw the whole thing as the second page outlines the grievance procedures in more detail - I think he is concerned about the last sentence in the analysis.

Finally - there is some thought that this should go in the BAB - can you draft both ways?

thanks much - Jenny



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1127/1  
RAC:wlj:rs

Today

2011 BILL

LRB-1151/1  
RAC:wlj:

State Government  
STATE EMPLOYMENT  
heading  
subheading

1 AN ACT *to create* 111.91 (2) (fm) and 230.34 (1) (ax) of the statutes; relating to:  
2 ~~discharge of state employees~~ *the budget*

**Analysis by the Legislative Reference Bureau**

Under current law, the governor may declare a state of emergency if he or she determines that an emergency exists resulting from a disaster or the imminent threat of a disaster. Generally, a disaster is a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or its critical systems. *authorizes*

This bill ~~requires~~ *authorizes* an appointing authority of a state agency to discharge any state employee who fails to report to work as scheduled for any three working days during a state of emergency. Under the bill, failure to report to work as scheduled for any three working days during a state of emergency constitutes just cause for discharge. The bill also makes this authority to discharge an employee during a state of emergency a prohibited subject of collective bargaining under the State Employment Labor Relations Act. ~~The bill does not affect the right of an employee who has been discharged to appeal that decision to the Employment Relations Commission.~~

For further information see the *state* 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:**

**BILL**

1           **SECTION 1.** 111.91 (2) (fm) of the statutes is created to read:

2           111.91 (2) (fm) The right of the employer to discharge an employee under s.  
3 230.34 (1) (ax).

4           **SECTION 2.** 230.34 (1) (ax) of the statutes is created to read:

5           230.34 (1) (ax) Notwithstanding pars. (a), (am), and (ar), during a state of  
6 emergency declared by the governor under s. 323.10, an appointing authority ~~shall~~ <sup>may</sup>  
7 discharge any employee who fails to report to work as scheduled for any 3 working  
8 days during the state of emergency. Failure to report to work as scheduled for any  
9 3 working days during the state of emergency constitutes just cause for discharge if  
10 the employee's absences from work are not approved leaves of absence. Before  
11 discharging an employee, the appointing authority shall provide the employee notice  
12 of the action and shall furnish to the employee in writing the reasons for the action.  
13 The appointing authority shall provide the employee an opportunity to respond to  
14 the reasons for the discharge.

~~**SECTION 3. Initial applicability.**~~

~~(1) For state employees who are covered by a collective bargaining agreement  
under subchapter V of chapter 111 of the statutes that expired on June 30, 2009, and  
who have not entered into a new collective bargaining agreement for the period after  
June 30, 2009, this act first applies to these employees on the effective date of this  
subsection.~~

(END)

21

Insert 2-21



2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1151/linsRC  
RAC:.....

Insert 2-21: ↓

SECTION 9343. Initial applicability; State Employment Relations, Office  
of.

(1) DISCHARGE OF STATE EMPLOYEES. The treatment of sections 111.91 (2) (fm) and  
230.34 (1) (ax) of ~~this act~~ ↓ the statutes first apply to employees who are covered by a collective  
bargaining agreement that contains provisions inconsistent with this act on the day  
on which the agreement expires or is extended, modified, or renewed, whichever  
occurs first. ↓ applies



CD-NHR  
State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1151/2  
RAC:wlj:jf

Today, if possible

stays RMR

DOA:.....Kraus, BAB - Discharge of <sup>(a)</sup>stte employees

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

Do Not Gen

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

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE EMPLOYMENT**

Under current law, the governor may declare a state of emergency if he or she determines that an emergency exists resulting from a disaster or the imminent threat of a disaster. Generally, a disaster is a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or its critical systems.

This bill authorizes an appointing authority of a state agency to discharge any state employee who fails to report to work as scheduled for any three working days during a state of emergency. Under the bill, failure to report to work as scheduled for any three working days during a state of emergency constitutes just cause for discharge. ~~The bill also makes this authority to discharge an employee during a state of emergency a prohibited subject of collective bargaining under the State Employment Labor Relations Act.~~

For further information see the *state* 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.** ~~111.91 (2) (fm) of the statutes is created to read:~~

2 ~~111.91 (2) (fm) The right of the employer to discharge an employee under s.~~  
3 ~~230.34 (1) (ax).~~

4 **SECTION 2.** 230.34 (1) (ax) of the statutes is created to read:

5 230.34 (1) (ax) Notwithstanding pars. (a), (am), and (ar), during a state of  
6 emergency declared by the governor under s. 323.10, an appointing authority may  
7 discharge any employee who fails to report to work as scheduled for any 3 working  
8 days during the state of emergency. Failure to report to work as scheduled for any  
9 3 working days during the state of emergency constitutes just cause for discharge if  
10 the employee's absences from work are not approved leaves of absence. Before  
11 discharging an employee, the appointing authority shall provide the employee notice  
12 of the action and shall furnish to the employee in writing the reasons for the action.  
13 The appointing authority shall provide the employee an opportunity to respond to  
14 the reasons for the discharge.

15 **SECTION 9343. Initial applicability; State Employment Relations, Office**

16 **of.**

17 (1) ~~DISCHARGE OF STATE EMPLOYEES.~~ The treatment of sections 111.91 (2) (fm) and  
18 230.34 (1) (ax) of the statutes first applies to employees who are covered by a  
19 collective bargaining agreement that contains provisions inconsistent with this act  
20 on the day on which the agreement expires or is extended, modified, or renewed,  
21 whichever occurs first.

22 (END)

D-NOTE

This draft assumes that SELRA  
is repeated in other provisions of the  
budget adjustment bill.

RAC

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1151/2dn  
RAC:wlj:md

January 24, 2011

This draft assumes that SELRA is repealed in other provisions of the busget adjustment bill.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: [rick.champagne@legis.wisconsin.gov](mailto:rick.champagne@legis.wisconsin.gov)

## Champagne, Rick

---

**From:** Kraus, Jennifer - DOA [jennifer.kraus@wisconsin.gov]

**Sent:** Monday, January 31, 2011 9:31 PM

**To:** Champagne, Rick

**Subject:** addition to 3 day discharge draft

Rick - I've been asked to broaden this draft to allow an appointing authority to discharge an employee for other reasons beyond just 3 unexcused absences. Pls add that discharge is possible if the appointing authority determines that the employee has participated in a strike, work stoppage, sit-down, stay-in, slowdown or other concerted interruption of operations or services including purported mass resignations or sick calls.

Just fyi for you - this language is identical to what is in the current WSEU contract....

Thanks - Jenny



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1151/3  
RAC:wj:md

stays ↑ RMR

(a)

DOA:.....Kraus, BAB0040 - Discharge of site employees

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

Tues.

LPS: Please fix request sheet.

Do Not Gen

1 AN ACT relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE EMPLOYMENT**

Under current law, the governor may declare a state of emergency if he or she determines that an emergency exists resulting from a disaster or the imminent threat of a disaster. Generally, a disaster is a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or its critical systems.

This bill authorizes an appointing authority of a state agency to discharge any state employee who fails to report to work as scheduled for any three working days during a state of emergency. Under the bill, failure to report to work as scheduled for any three working days during a state of emergency constitutes just cause for discharge.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Insert Analysis

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





**2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1151/3ins  
RAC:wlj:md

**Insert Analysis:**

This bill authorizes an appointing authority of a state agency to discharge any state employee who fails to report to work as scheduled for any three working days during a state of emergency or who participates in a strike, work stoppage, sit-down, stay-in, slowdown, or other concerted interruption of operations or services, including specifically purported mass resignations or sick calls. Under the bill, engaging in any of these actions constitutes just cause for discharge.

**Insert 2-12:**

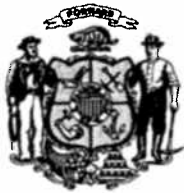
230.34 (1) (ax) 1. Notwithstanding pars. (a), (am), and (ar), during a state of emergency declared by the governor under s. 323.10, an appointing authority may discharge any employee who does any of the following:

a. Fails to report to work as scheduled for any 3 working days during the state of emergency and the employee's absences from work are not approved leaves of absence.

b. Participates in a strike, work stoppage, sit-down, stay-in, slowdown, or other concerted interruption of operations or services, including specifically purported mass resignations or sick calls.

\*  2. Engaging in any action under subd. 1. constitutes just cause for discharge.

3. Before discharging an employee, the appointing authority shall provide the employee notice of the action and shall furnish to the employee in writing the reasons for the action. The appointing authority shall provide the employee an opportunity to respond to the reasons for the discharge.



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1151/3  
RAC:wlj:rs

DOA:.....Kraus, BAB0040 - Discharge of state employees

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

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

---

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE EMPLOYMENT**

Under current law, the governor may declare a state of emergency if he or she determines that an emergency exists resulting from a disaster or the imminent threat of a disaster. Generally, a disaster is a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or its critical systems.

This bill authorizes an appointing authority of a state agency to discharge any state employee who fails to report to work as scheduled for any three working days during a state of emergency or who participates in a strike, work stoppage, sit-down, stay-in, slowdown, or other concerted interruption of operations or services, including specifically purported mass resignations or sick calls. Under the bill, engaging in any of these actions constitutes just cause for discharge.

For further information see the *state* 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:*

