



WISCONSIN LEGISLATIVE COUNCIL  
ACT MEMO

**2011 Wisconsin Act 219**  
[2011 Senate Bill 202]

**Compensatory and Punitive  
Damages for Employment  
Discrimination**

*Current law* provides that, after the completion of administrative proceedings under the Wisconsin Fair Employment Act, DWD or a person discriminated against or subjected to unfair genetic testing or unfair honesty testing may bring an action in circuit court against an employer, labor organization, or employment agency to recover compensatory damages, and punitive damages under s. 895.043, Stats., caused by the violation, plus reasonable costs and attorney fees incurred in the action. The damages are in addition to any back pay or other amounts awarded in the administrative proceedings. Such action may not be brought against a local governmental unit or against an employer, labor organization, or employment agency employing fewer than 15 individuals for each working day in each of 20 or more calendar weeks in the current or preceding year. If the circuit court orders payment because of a violation by an individual employed by an employer, the employer of that individual is liable for the payment.

Under current law, the sum of the amount of compensatory damages for future economic losses and for pain and suffering, emotional distress, mental anguish, loss of enjoyment of life, and other noneconomic losses and the amount of punitive damages may not exceed the following, as indexed for inflation:

- In the case of a defendant that employs 100 or fewer employees for each working day in each of 20 or more calendar weeks in the current or preceding year, \$50,000.
- In the case of a defendant that employs more than 100 but fewer than 201 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, \$100,000.
- In the case of a defendant that employs more than 200 but fewer than 501 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, \$200,000.

---

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

- In the case of a defendant that employs more than 500 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, \$300,000.

Lastly, under current law, an action in circuit court must be commenced within 60 days after the date on which a copy of the final decision of the hearing examiner is mailed to the last-known address of the complainant or, if that decision is reviewed by the Labor and Industry Review Commission (LIRC), within 60 days after the date on which a copy of LIRC's final decision is mailed to the last-known address of the complainant. If a petition for judicial review of the findings and order of LIRC regarding the same violation is filed, the court must consolidate the proceeding for judicial review and the civil action.

**2011 Wisconsin Act 219** repeals the provisions described above.

**Effective Date:** The Act takes effect on April 20, 2012, and first applies to an administrative proceeding in which a copy of the final decision is mailed to the last-known address of the complainant on April 20, 2012.

**Prepared by:** Jessica Karls-Ruplinger, Senior Staff Attorney

April 12, 2012

JKR:ksm:jb