2011 ASSEMBLY BILL 729

March 15, 2012 – Introduced by Representatives ROYS, SINICKI, C. TAYLOR, TURNER, BERCEAU and POCAN, cosponsored by Senators S. COGGS, TAYLOR and RISSE. Referred to Committee on Assembly Organization.

AN ACT to amend 111.31 (1), 111.31 (2), 111.31 (3), 111.321 and 111.322 (intro.);
and to create 111.367 of the statutes; relating to: prohibiting discrimination in employment against an individual for signing or refusing to sign a recall petition.

Analysis by the Legislative Reference Bureau

Current law prohibits discrimination in employment on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of a lawful product off the employer’s premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious or political matters.

This bill prohibits discrimination in employment against an individual who signs or refuses to sign a petition for the recall of any incumbent elective official (recall petition). The bill provides, however, that it is not employment discrimination on the basis of signing a recall petition for an employer to refuse to hire or employ an individual, to suspend or terminate the employment of an individual, or to discriminate against an individual in promotion, in compensation, or in terms, conditions, or privileges of employment, because the individual signed a recall petition if the individual is a nonpartisan employee of or an applicant for nonpartisan employment with the Government Accountability Board, a legislative service agency, either house of the legislature, a community relations-social development commission, a municipal public utility, the Citizens Utility Board, or the Judicial
Commission and signing a recall petition impairs the nonpartisan character of the employer.

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

SECTION 1. 111.31 (1) of the statutes is amended to read:

111.31 (1) The legislature finds that the practice of unfair discrimination in employment against properly qualified individuals by reason of their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, signing or refusing to sign a recall petition under s. 9.10, or declining to attend a meeting or to participate in any communication about religious matters or political matters, substantially and adversely affects the general welfare of the state. Employers, labor organizations, employment agencies, and licensing agencies that deny employment opportunities and discriminate in employment against properly qualified individuals solely because of their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, signing or refusing to sign a recall petition under s. 9.10, or declining to attend a meeting or to participate in any communication about religious matters or political matters, deprive those individuals of the earnings that are necessary to maintain a just and decent standard of living.

SECTION 2. 111.31 (2) of the statutes is amended to read:

111.31 (2) It is the intent of the legislature to protect by law the rights of all individuals to obtain gainful employment and to enjoy privileges free from
employment discrimination because of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, signing or refusing to sign a recall petition under s. 9.10, or declining to attend a meeting or to participate in any communication about religious matters or political matters, and to encourage the full, nondiscriminatory utilization of the productive resources of the state to the benefit of the state, the family, and all the people of the state. It is the intent of the legislature in promulgating this subchapter to encourage employers to evaluate an employee or applicant for employment based upon the individual qualifications of the employee or applicant rather than upon a particular class to which the individual may belong.

**SECTION 3.** 111.31 (3) of the statutes is amended to read:

111.31 (3) In the interpretation and application of this subchapter, and otherwise, it is declared to be the public policy of the state to encourage and foster to the fullest extent practicable the employment of all properly qualified individuals regardless of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, signing or refusing to sign a recall petition under s. 9.10, or declining to attend a meeting or to participate in any communication about religious matters or political matters. Nothing in this subsection requires an affirmative action program to correct an imbalance in the work force. This subchapter shall be liberally construed for the accomplishment of this purpose.

**SECTION 4.** 111.321 of the statutes is amended to read:
111.321 **Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.367, no employer, labor organization, employment agency, licensing agency, or other person may engage in any act of employment discrimination as specified in s. 111.322 against any individual on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, signing or refusing to sign a recall petition under s. 9.10, or declining to attend a meeting or to participate in any communication about religious matters or political matters.

**SECTION 5.** 111.322 (intro.) of the statutes is amended to read:

111.322 **Discriminatory actions prohibited.** (intro.) Subject to ss. 111.33 to 111.367, it is an act of employment discrimination to do any of the following:

**SECTION 6.** 111.367 of the statutes is created to read:

111.367 **Signing recall petition; exceptions and special cases.** Notwithstanding s. 111.322, it is not employment discrimination because of signing a recall petition under s. 9.10 for an employer to refuse to hire or employ an individual, to suspend or terminate the employment of an individual, or to discriminate against an individual in promotion, in compensation, or in terms, conditions, or privileges of employment, because the individual signed a recall petition under s. 9.10 if the individual is a nonpartisan employee of or an applicant for nonpartisan employment with the government accountability board, a legislative service agency, as defined in s. 13.90 (1m) (a), either house of the legislature, a community relations–social development commission, a municipal public utility, the
citizens utility board, or the judicial commission and signing a recall petition under s. 9.10 impairs the nonpartisan character of the employer.

SECTION 7. Initial applicability.

(1) This act first applies to an employee who is affected by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

(END)