2017 DRAFTING REQUEST

Bill

For:

Joan Ballweg (608) 266-8077

Drafter:

kpleviak

By:

David

Secondary Drafters:

Date:

10/5/2017

May Contact:

Same as LRB:

-2015

Submit via email:

YES

Requester's email: Carbon copy (CC) to:

Rep.Ballweg@legis.wisconsin.gov krista.pleviak@legis.wisconsin.gov

michael.duchek@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Family leave; exemption for employers providing federal family and medical leave

Instructions:

Companion to LRB-2015

Drafting History:

Vers.

Drafted

Reviewed

Submitted

Jacketed

Required

/1

kpleviak 10/5/2017

aernsttr 10/5/2017 mbarman 10/5/2017

mbarman 10/17/2017

State S&L

FE Sent For:

<**END>**

At lutro

Pleviak, Krista

From:

Boardman, David

Sent:

Thursday, October 05, 2017 9:42 AM

To:

Keith, Rachel; Pleviak, Krista

Subject:

RE: LRB 2015/1

Krista,

Please send the assembly companion of LRB 2015/1 to our office. Thank you!

David Boardman
Office of Representative Ballweg

608-266-8077 Room 210 North, State Capitol Madison, WI 53708

From: Keith, Rachel

Sent: Thursday, October 05, 2017 9:28 AM

To: Boardman, David < David. Boardman@legis.wisconsin.gov>

Subject: FW: LRB 2015/1

From: Pleviak, Krista

Sent: Wednesday, October 04, 2017 4:52 PM

To: Keith, Rachel < Rachel. Keith@legis.wisconsin.gov>

Subject: RE: LRB 2015/1

Sure. As soon as I receive a request for the companion from Rep. Ballweg's office, I will be happy to prepare that for them.

Krista R. Pleviak

Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 266 - 7290
krista.pleviak@legis.wisconsin.gov

From: Keith, Rachel

Sent: Wednesday, October 04, 2017 3:53 PM

To: Pleviak, Krista < Krista. Pleviak@legis.wisconsin.gov>

Subject: LRB 2015/1

Hi Krista,

Can you please release LRB 2015/1 to Rep. Ballweg's office for an Assembly companion?

Rachel Keith

Office of State Senator Alberta Darling 608-266-5830



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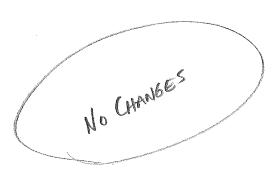
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State of Misconsin 2017 - 2018 LEGISLATURE

TODAY

4474/1 LRB-2015/P1} e KRP:ahe

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



AN ACT to create 103.10 (15) of the statutes; relating to: exempting from the state family and medical leave law an employer that is covered under the federal family and medical leave law.

Analysis by the Legislative Reference Bureau

This bill provides an exemption from state family and medical leave law for an employer that is covered under the federal family and medical leave law.

Under the current state family and medical leave law, an employer, including the state, that employs at least 50 individuals on a permanent basis in this state must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52 weeks to take six weeks of family leave in a 12-month period for the birth or adoptive placement of a child or two weeks of family leave in a 12-month period to care for a child, spouse, parent, or domestic partner of the employee or a parent of the spouse or domestic partner of the employee (parent-in-law) who has a serious health condition. Current law also requires an employer to permit an employee to take two weeks of medical leave in a 12-month period when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties.

Under the current federal family and medical leave law, an employer that employs at least 50 individuals for each working day for 20 or more weeks in the current or preceding year and the state or a political subdivision of the state, regardless of the number of employees employed (employer), must permit an employee who has been employed by the employer for at least 12 months and who

has worked at least 1,250 hours for that employer during the preceding 12 months (eligible employee) to take 12 weeks of family or medical leave in a 12-month period for the birth or adoptive or foster care placement of a child; to care for a spouse, child, or parent, but not a domestic partner or parent-in-law, who has a serious health condition; or when the employee has a serious health condition that makes the employee unable to perform the functions of his or her position. Federal law, however, excludes from the definition of "eligible employee" an employee who works at a worksite with fewer than 50 employees if the employer employs fewer than 50 employees within 75 miles of the worksite. In addition, the U.S. Supreme Court has held, in *Coleman v. Court of Appeals of Maryland*, 566 U.S. 30 (2012), that, absent a waiver of sovereign immunity, a state may not be sued for damages for a violation of the medical leave provisions of the federal family and medical leave law.

The bill provides that the state family and medical leave law does not apply to any of the following:

- 1. An employer that is required to provide leave under the federal family and medical leave law.
- 2. An employer that opts to provide leave under the federal family and medical leave law to an employee who is not an eligible employee, so long as the employer provides leave to such an employee in the same manner as the employer provides leave to an eligible employee.

The bill, however, does not prohibit any of the following:

- 1. An employee from taking leave under the state family and medical leave law to care for a spouse, child, parent, domestic partner, or parent-in-law who has a serious health condition.
- 2. An employee of the state who has a serious health condition that makes the employee unable to perform his or her employment duties from taking medical leave under the state family and medical leave law.

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:

- **Section 1.** 103.10 (15) of the statutes is created to read:
- 2 103.10 (15) Nonapplicability. (a) Subject to par. (b), this section does not apply to any of the following:
- 1. An employer, as defined in 29 USC 2611 (4), that is required to provide leave under 29 USC 2612.

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- 2. An employer, as defined in 29 USC 2611 (4), that opts to provide leave under 29 USC 2612 to an employee who is not an eligible employee, as defined in 29 USC 2611 (2), so long as the employer provides leave to that employee in the same manner as the employer provides leave to an eligible employee. (b) Paragraph (a) does not prohibit any of the following: 1. An employee of an employer, as defined in 29 USC 2611 (4), that is required to provide leave under 29 USC 2612 from taking family leave under this section to care for a person specified in sub. (3) (b) 3. 2. An employee of a public agency, as defined in 29 USC 203 (x), that may not be sued for damages under 29 USC 2617 for a violation of 29 USC 2615 relating to the leave specified in 29 USC 2612 (a) (1) (D) who has a serious health condition that makes the employee unable to perform his or her employment duties from taking medical leave under this section for the period during which he or she is unable to perform those duties. Section 2. Initial applicability. (1) Family and medical leave. 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.
- SECTION 3. Effective date.

(1) Family and medical leave. This act takes effect on the first day of the 6th month beginning after publication.

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Barman, Mike

From:

Boardman, David

Sent:

Tuesday, October 17, 2017 12:13 PM

To:

LRB.Legal

Subject:

Draft Review: LRB -4474/1

Please Jacket LRB -4474/1 for the ASSEMBLY.