

2017 DRAFTING REQUEST

Bill

For: **Dave Hansen (608) 266-5670** Drafter: **kpleviak**
 By: **Jay** Secondary Drafters:
 Date: **2/17/2017** May Contact:
 Same as LRB: **-1667**

Submit via email: **YES**
 Requester's email: **Sen.Hansen@legis.wisconsin.gov**
 Carbon copy (CC) to: **krista.pleviak@legis.wisconsin.gov**
michael.duchek@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Prohibit employers from asking applicants about salary history or restricting employees from disclosing wage information

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	kpleviak 3/22/2017	kfollett 2/20/2017	mbarman 2/20/2017	hkohn 2/20/2017	State
/2		anienaja 3/23/2017	lparisi 3/23/2017	lparisi 3/23/2017	State

FE Sent For: **<END>**

at intro
12

Pleviak, Krista

From: Wadd, Jay
Sent: Friday, February 17, 2017 2:55 PM
To: Pleviak, Krista
Cc: George, Mary Beth
Subject: RE: Draft review: LRB -1667/1

Thanks, Krista,

Would you please have a companion bill jacketed for the Senate?

Thanks,

Jay

Jay Wadd
Office of Senator Dave Hansen
608-266-5670

From: Pleviak, Krista
Sent: Friday, February 17, 2017 2:52 PM
To: Wadd, Jay <Jay.Wadd@legis.wisconsin.gov>
Cc: Pearson2, Mike <Mike.Pearson2@legis.wisconsin.gov>
Subject: FW: Draft review: LRB -1667/1

Jay:

Mike Pearson in Rep. Sinicki's office asked that I forward a copy of the attached draft to you. Please let Mike or me know if you have any questions.

Krista

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: LRB.Legal
Sent: Friday, February 17, 2017 2:49 PM
To: Pleviak, Krista <Krista.Pleviak@legis.wisconsin.gov>
Subject: Draft review: LRB -1667/1



State of Wisconsin
2017 - 2018 LEGISLATURE

IN: 02/17/17

DUE: 02/20/17 (Mon.)

2017 BILL

2183

LRB-16671

KRP:amn

Companion
RMK

No CHANGES

1 **AN ACT to amend** 111.322 (2m) (a) and 111.322 (2m) (b); and **to create** 103.135
2 and 106.54 (11) of the statutes; **relating to:** prohibiting an employer from
3 inquiring about a prospective employee's current or prior compensation and
4 from restricting an employee's right to disclose compensation information and
5 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits certain employer conduct related to compensation information of current and prospective employees.

The bill prohibits an employer from doing any of the following with respect to a prospective employee:

1. Soliciting information about the prospective employee's current or prior compensation.
2. Requiring that the prospective employee's current or prior compensation meet certain criteria in order for the prospective employee to be considered for employment.
3. Refusing to hire the prospective employee for exercising his or her rights relating to compensation information.

The bill also prohibits an employer from discharging or discriminating against a current employee for disclosing the details of the employee's compensation, discussing the compensation of other employees, asking other employees for details regarding their compensation, or taking certain actions to enforce an employee's rights under the bill.

BILL

The bill requires employers to post notices, where notices to employees are customarily posted and on any electronic job posting, regarding employees' and prospective employees' rights under the bill and provides a penalty for an employer's failure to do so.

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

2 **103.135 Compensation information of employees and prospective**
3 **employees. (1) UNLAWFUL EMPLOYER CONDUCT RELATED TO PROSPECTIVE EMPLOYEE**
4 **COMPENSATION INFORMATION.** (a) No employer may directly or indirectly do any of the
5 following:

6 1. Subject to par. (b), solicit from a prospective employee or a prospective
7 employee's current or former employer information about the prospective employee's
8 current or prior compensation.

9 2. Require that a prospective employee's current or prior compensation meet
10 certain criteria in order for the prospective employee to be considered for
11 employment.

12 3. Refuse to hire or employ or otherwise discriminate against a prospective
13 employee in compensation or in the terms, conditions, or privileges of employment
14 for opposing a practice prohibited under this paragraph, filing or indicating an intent
15 to file a complaint or otherwise attempting to enforce any right under this paragraph,
16 or testifying, assisting, or participating in any manner in any investigation, action,
17 or proceeding to enforce any right under this paragraph.

18 (b) After an employer has offered employment to a prospective employee and
19 the details of compensation have been agreed upon, the employer may obtain the

BILL

1 prospective employee's written consent for the employer to solicit information about,
2 or take action to confirm, the prospective employee's current or prior compensation.

3 (2) DISCLOSURE OF COMPENSATION INFORMATION BY EMPLOYEES. (a) An employee
4 may disclose the details of the employee's compensation to anyone and, subject to par.
5 (d), may discuss the compensation of other employees and may ask other employees
6 for details regarding their compensation.

7 (b) Except as provided in par. (d), no employer may interfere with, restrain, or
8 deny the exercise of the right of an employee to disclose, discuss, or inquire about
9 compensation as provided in par. (a).

10 (c) An employer may not discharge or discriminate against an employee in
11 promotion, in compensation, or in the terms, conditions, or privileges of employment
12 for disclosing, discussing, or inquiring about compensation as provided in par. (a),
13 opposing a practice prohibited under par. (b), filing or indicating an intent to file a
14 complaint or otherwise attempting to enforce any right under par. (a), or testifying,
15 assisting, or participating in any manner in any investigation, action, or proceeding
16 to enforce any right under par. (a).

17 (d) Subject to s. 19.35, an employer may prohibit a human resources or payroll
18 employee, a supervisor, or any other employee whose job responsibilities require or
19 allow the employee access to other employees' compensation information from
20 disclosing information about any other employee's compensation without that
21 employee's prior written consent.

22 (3) ENFORCEMENT. Any employee or prospective employee who is refused
23 employment, terminated, discharged, or otherwise discriminated against in
24 violation of sub. (1) (a) or (2) (a) to (c) may file a complaint with the department, and
25 the department shall process the complaint in the same manner that employment

BILL**SECTION 1**

1 discrimination complaints are processed under s. 111.39. If the department finds
2 that a violation has occurred, the department may order the employer to take action
3 to remedy the violation, including reinstating the employee, providing compensation
4 in lieu of reinstatement, providing back pay accrued not more than 2 years before the
5 complaint was filed, and paying reasonable actual costs and, notwithstanding s.
6 814.04 (1), reasonable attorney fees to the complainant.

7 (4) NOTICE POSTED. (a) Each employer shall provide notice to employees and
8 prospective employees regarding their rights under this section by doing all of the
9 following:

10 1. Posting, in one or more conspicuous places where notices to employees are
11 customarily posted, a notice in a form approved by the department setting forth
12 employees' and prospective employees' rights under this section.

13 2. Including, on each listing for a job vacancy or other employment opportunity
14 that is advertised by electronic mail, posting on an Internet site, or other electronic
15 means, a notice that includes all of the following information:

16 a. A statement that the employer is prohibited from asking about a prospective
17 employee's compensation until after the employer has offered the prospective
18 employee employment and they have agreed upon the details of compensation.

19 b. A statement that the employer is prohibited from requiring that a
20 prospective employee's current or prior compensation meet certain criteria in order
21 for the prospective employee to be considered for employment.

22 c. Information, or a hyperlink to information, regarding prohibited bases of
23 discrimination under subch. II of ch. 111.

24 (b) Any employer who violates par. (a) shall forfeit not more than \$100 for each
25 offense.

BILL

1 **SECTION 2.** 106.54 (11) of the statutes is created to read:

2 106.54 (11) The division shall receive complaints under s. 103.135 (1) (a) and
3 (2) (a) to (c) and shall process the complaints in the same manner that employment
4 discrimination complaints are processed under s. 111.39.

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

6 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
7 right under s. 103.02, 103.10, 103.11, 103.13, 103.135, 103.28, 103.32, 103.34,
8 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
9 or 103.64 to 103.82.

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

11 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
12 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.135,
13 103.28, 103.32, 103.34, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
14 or ss. 101.58 to 101.599 or 103.64 to 103.82.

15 **SECTION 5. Initial applicability.**

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

20 **SECTION 6. Effective date.**

21 (1) This act takes effect on the first day of the 6th month beginning after
22 publication.

23

(END)

Barman, Mike

From: LRB.Legal
To: Sen.Hansen
Subject: Draft review: LRB -2183/1
Attachments: 17-2183/1

State of Wisconsin - Legislative Reference Bureau
One East Main Street - Suite 200 - Madison

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Krista Pleviak, Legislative Attorney, at (608) 266-7290, at krista.pleviak@legis.wisconsin.gov, or at One East Main Street, Suite 200.

We will jacket this draft for introduction in the Senate.

(per Krista Pleviak, Legislative Attorney)

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.

Pleviak, Krista

Subject: FW: LRB ~~1667~~ 2183

From: Wadd, Jay
Sent: Tuesday, March 21, 2017 11:41 AM
To: Pleviak, Krista <Krista.Pleviak@legis.wisconsin.gov>
Subject: FW: LRB 1667

Hi, Krista,

Would you please make the changes requested by Rep. Sinicki to our bill so they are identical companions?

Thanks,

Jay

Jay Wadd
Office of Senator Dave Hansen
608-266-5670

From: Pearson2, Mike
Sent: Tuesday, March 21, 2017 11:34 AM
To: Wadd, Jay <Jay.Wadd@legis.wisconsin.gov>
Subject: FW: LRB 1667

Hi Jay,

Krista at LRB just needs confirmation from you to make the changes we discussed Friday to the Senate version of Equal Pay Transparency.

Thanks!

Michael Pearson
Office of State Representative Christine Sinicki
20th Assembly District
Room 114 North
State Capitol
Madison, WI 53708
(608) 266-8588
Mike.Pearson2@legis.wisconsin.gov
Rep.Sinicki@legis.wisconsin.gov

From: Pearson2, Mike
Sent: Monday, March 20, 2017 12:51 PM
To: Pleviak, Krista <Krista.Pleviak@legis.wisconsin.gov>
Subject: LRB 1667

Hi Krista,

Sorry I missed your callback Friday afternoon. I was calling to ask for a tweak to LRB 1667, on equal pay transparency. Can we change the language on page 1, line 6, to say an employer may not "**rely on or** solicit...information about the prospective employee's current or former compensation"? Meaning that they can't rely on information about the prospective employee's past compensation when making decisions about hiring or salary?

Our office recently spoke to the National Women's Law Center about the proposal, and they suggested this change. Apparently in Philadelphia, a law similar to our proposal has been challenged on free speech grounds, and the Women's Law Center thinks this change would better protect the proposal from this kind of challenge. The change would also have the advantage of prohibiting employers from using information about a prospective employee's past salary gleaned from a google search or social media.

Let me know if getting a /2 that makes that change is feasible.

Thanks,

Michael Pearson
Office of State Representative Christine Sinicki
20th Assembly District
Room 114 North
State Capitol
Madison, WI 53708
(608) 266-8588
Mike.Pearson2@legis.wisconsin.gov
Rep.Sinicki@legis.wisconsin.gov



State of Wisconsin
2017 - 2018 LEGISLATURE

IN: 03/22/17
DUE: 03/24/17 (Fri.)

LRB-2183/1
KRP:amn

RMR

2017 BILL

1 AN ACT to amend 111.322 (2m) (a) and 111.322 (2m) (b); and to create 103.135
2 and 106.54 (11) of the statutes; relating to: prohibiting an employer from
3 relying on or inquiring about a prospective employee's current or prior compensation and
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5 providing a penalty.

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Relying on or

relying on or

BILL

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3 **employees. (1) UNLAWFUL EMPLOYER CONDUCT RELATED TO PROSPECTIVE EMPLOYEE**
4 **COMPENSATION INFORMATION. (a) No employer may directly or indirectly do any of the**
5 **following:**

6 1. ~~Subject~~ ^{Relay on or} to par. (b), solicit from a prospective employee or a prospective
7 employee's current or former employer information about the prospective employee's
8 current or prior compensation.

9 2. Require that a prospective employee's current or prior compensation meet
10 certain criteria in order for the prospective employee to be considered for
11 employment.

12 3. Refuse to hire or employ or otherwise discriminate against a prospective
13 employee in compensation or in the terms, conditions, or privileges of employment
14 for opposing a practice prohibited under this paragraph, filing or indicating an intent
15 to file a complaint or otherwise attempting to enforce any right under this paragraph,
16 or testifying, assisting, or participating in any manner in any investigation, action,
17 or proceeding to enforce any right under this paragraph.

18 (b) After an employer has offered employment to a prospective employee and
19 the details of compensation have been agreed upon, the employer may obtain the

BILL

1 prospective employee's written consent for the employer to solicit information about,
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4 may disclose the details of the employee's compensation to anyone and, subject to par.
5 (d), may discuss the compensation of other employees and may ask other employees
6 for details regarding their compensation.

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8 deny the exercise of the right of an employee to disclose, discuss, or inquire about
9 compensation as provided in par. (a).

10 (c) An employer may not discharge or discriminate against an employee in
11 promotion, in compensation, or in the terms, conditions, or privileges of employment
12 for disclosing, discussing, or inquiring about compensation as provided in par. (a),
13 opposing a practice prohibited under par. (b), filing or indicating an intent to file a
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18 employee, a supervisor, or any other employee whose job responsibilities require or
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20 disclosing information about any other employee's compensation without that
21 employee's prior written consent.

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24 violation of sub. (1) (a) or (2) (a) to (c) may file a complaint with the department, and
25 the department shall process the complaint in the same manner that employment

BILL

1 discrimination complaints are processed under s. 111.39. If the department finds
2 that a violation has occurred, the department may order the employer to take action
3 to remedy the violation, including reinstating the employee, providing compensation
4 in lieu of reinstatement, providing back pay accrued not more than 2 years before the
5 complaint was filed, and paying reasonable actual costs and, notwithstanding s.
6 814.04 (1), reasonable attorney fees to the complainant.

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8 prospective employees regarding their rights under this section by doing all of the
9 following:

10 1. Posting, in one or more conspicuous places where notices to employees are
11 customarily posted, a notice in a form approved by the department setting forth
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13 2. Including, on each listing for a job vacancy or other employment opportunity
14 that is advertised by electronic mail, posting on an Internet site, or other electronic
15 means, a notice that includes all of the following information:

16 ^{a b}
a. A statement that the employer is prohibited from asking about a prospective
17 employee's compensation until after the employer has offered the prospective
18 employee employment and they have agreed upon the details of compensation.

19 ^{b c}
b. A statement that the employer is prohibited from requiring that a
20 prospective employee's current or prior compensation meet certain criteria in order
21 for the prospective employee to be considered for employment.

22 ^{a d}
c. Information, or a hyperlink to information, regarding prohibited bases of
23 discrimination under subch. II of ch. 111.

24 (b) Any employer who violates par. (a) shall forfeit not more than \$100 for each
25 offense.

a. A statement that the employer is prohibited from relying on
a prospective employee's current or former compensation.

BILL

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7 right under s. 103.02, 103.10, 103.11, 103.13, 103.135, 103.28, 103.32, 103.34,
8 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
9 or 103.64 to 103.82.

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

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12 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.135,
13 103.28, 103.32, 103.34, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
14 or ss. 101.58 to 101.599 or 103.64 to 103.82.

15 **SECTION 5. Initial applicability.**

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

20 **SECTION 6. Effective date.**

21 (1) This act takes effect on the first day of the 6th month beginning after
22 publication.

23

(END)