

### Fiscal Estimate - 2023 Session

Original     
  Updated     
  Corrected     
  Supplemental

|                             |                                    |
|-----------------------------|------------------------------------|
| LRB Number <b>23-3974/1</b> | Introduction Number <b>AB-0398</b> |
|-----------------------------|------------------------------------|

**Description**  
 participants in clinical research trials

**Fiscal Effect**

**State:**

- No State Fiscal Effect
- Indeterminate
  - Increase Existing Appropriations
  - Decrease Existing Appropriations
  - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
  - Yes       No
- Decrease Costs

**Local:**

- No Local Government Costs
- Indeterminate
  - 1.  Increase Costs
  - 2.  Decrease Costs
  - 3.  Increase Revenue
  - 4.  Decrease Revenue
- Permissive  Mandatory
  - Permissive  Mandatory
  - Permissive  Mandatory
  - Permissive  Mandatory
- 5. Types of Local Government Units Affected
  - Towns       Village       Cities
  - Counties       Others
  - School Districts       WTCS Districts

**Fund Sources Affected**      **Affected Ch. 20 Appropriations**

GPR   
  FED   
  PRO   
  PRS   
  SEG   
  SEGS   
 20.445 (1) (n)

|                                    |                                |             |
|------------------------------------|--------------------------------|-------------|
| <b>Agency/Prepared By</b>          | <b>Authorized Signature</b>    | <b>Date</b> |
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## Fiscal Estimate Narratives

DWD 9/18/2023

|  |           |                     |         |               |          |
|--|-----------|---------------------|---------|---------------|----------|
| LRB Number   | 23-3974/1 | Introduction Number | AB-0398 | Estimate Type | Original |
| <b>Description</b><br>participants in clinical research trials |           |                     |         |               |          |

### Assumptions Used in Arriving at Fiscal Estimate

This bill amends and creates language in three chapters of Wisconsin statutes related to employee and employment status for minimum wage, unemployment insurance (UI) and worker's compensation (WC) for individuals who participate in clinical research trials and receive remuneration, stipends, or compensation for that participation. The bill establishes that, for employers other than government units, Indian tribes, or nonprofit organizations, clinical trial participants are not engaged in covered employment for UI and WC purposes, unless the employer elects, and receives department approval, to cover that employment. Additionally, the minimum wage law change excludes from the definition of employee all participants in clinical research trials who receive remuneration, a stipend, or compensation regardless of employer type or employer election of covered employment under UI and WC. The fiscal effect of this bill on the department is primarily from the changes to employment status under the UI and WC statutes.

The bill is estimated to increase the department's operations costs by an indeterminate amount, but these costs are anticipated to be modest and absorbable. Increased one-time costs would be from activities to inform employers and employees about the law change, to revise DWD Administrative Rule Chapter 103 relating to the definition of "employment" as it applies to unemployment insurance, and to update IT systems to enable an option for certain employers to exclude clinical research trial participants, as defined in the bill, as employees. Increased ongoing costs would be from responding to requests from employees and stakeholders regarding whether certain employers or a particular employer is covering clinical trial participation as employment under WC and UI, as well as ongoing workload to approve employers' requests to elect to cover clinical trial participants as employees.

The bill is anticipated to decrease UI tax revenues and the UI Trust Fund balance, but the amount of the decrease is indeterminate, at this time.

During the years 2018 through 2021, the average annual tax contributions estimated to be attributed to clinical research participants was \$2.8 million annually, with no benefits charged against these accounts. If under this bill no employers elect to cover clinical research trial participants, the fiscal impact would be estimated as a reduction to the UI Trust Fund balance of approximately \$2.8 million annually (the UI Trust Fund is not a state appropriation).

However, this impact would be less if employers request, and are approved, to cover research trial participants as employees. Employers could have a financial incentive to cover clinical trial participants as employees because it makes them eligible for the Federal Unemployment Tax Act (FUTA) tax credit related to UI contributions paid on behalf of these individuals. Federal unemployment law does not provide an exclusion for clinical research trial participants, and employers who do not pay state UI taxes/contributions for their clinical research trials participants will not be eligible for the associated FUTA tax credit. Some employers could request to cover clinical trial participants as employees for the purposes of UI and WC due to the financial impact of their potential FUTA tax credit loss.

The department is not able to determine, at this time, which employers, under this bill, would seek to cover clinical trial participants as employees. Therefore, the bill's fiscal effect is estimated to decrease the UI Trust Fund Balance, but in an amount that is indeterminate.

Another impact to the Trust Fund balance under this bill that is indeterminate, but estimated to be minor, is that remunerations, stipends, or compensation paid to participants would not be counted as base period wages for the purpose of determining their future eligibility for UI benefits, which could reduce UI payments.

## Long-Range Fiscal Implications