
Wisconsin Legislative Council

AMENDMENT MEMO



Memo published: February 23, 2022

Contact: Anna Henning, Senior Staff Attorney

2021 Assembly Bill 675

Senate Amendment 1

BACKGROUND

Under current law, public and private employers generally may choose to require their employees to receive vaccination or testing for COVID-19, subject to state and federal requirements to offer reasonable accommodations for employees with disabilities and religious objections. Federal requirements for vaccination or testing also apply in some circumstances.¹

2021 ASSEMBLY BILL 675, AS PASSED BY THE ASSEMBLY

2021 Assembly Bill 675, as amended by Assembly Substitute Amendment 1 and passed by the Assembly, requires employers² to accept documentation demonstrating natural immunity to COVID-19 in lieu of any vaccine or testing requirement the employer applies to employees or prospective employees.

Under the bill, as passed by the Assembly, the documentation may be any of the following:

- A positive COVID-19 test result, dated after March 1, 2020, that is signed by a health care provider.³
- A serology test, dated after March 1, 2020 and signed by a health care provider, showing the presence of naturally occurring antibodies against the SARS-CoV-2 coronavirus in the individual's blood.
- A notarized letter stating that, to the best of the employee or prospective employee's knowledge, the person recovered from COVID-19.

The bill requires employers to inform employees and prospective employees in writing of the option to provide documentation of natural immunity in lieu of vaccination or testing and prohibits employers from discriminating against employees who do so.

¹ In January 2022, the Supreme Court of the United States [stayed](#) a [rule](#) promulgated by the Occupational Safety and Health Administration, but [allowed](#) a [rule](#) promulgated by the Centers for Medicare & Medicaid Services to take effect. The effect of those orders is that federal law currently requires health care employers that receive federal funding to require vaccinations or testing, but does not currently require other private employers to do so. Relevant to 2021 Assembly Bill 675, both of the federal rules require employers to allow employees to forgo testing for 90 days after a positive COVID-19 test or diagnosis.

² The bill defines “employer” to mean a person engaging in any activity, enterprise, or business in this state, including the state and any officer department, independent agency, authority, institution, association, society, or other body in state government created or authorized to be created by the Wisconsin Constitution or any other law.

³ The bill defines “health care provider” to mean any of the following, if the individual is licensed to practice in any state or territory of the United States: a nurse; a practical nurse; a chiropractor, a physician assistant, a physician, or a pharmacist.

SENATE AMENDMENT 1

Senate Amendment 1 removes the option to submit an affidavit as documentation showing proof of natural immunity to COVID-19.

BILL HISTORY

Assembly Action

Representative Horlacher offered Assembly Substitute Amendment 1 on January 10, 2022. In addition to new provisions, the amendment incorporated changes proposed in two simple amendments offered earlier by Representative Wichgers. On January 13, 2022, the Assembly Committee on Constitution and Ethics voted to recommend adoption of the substitute amendment and passage of the bill, as amended, both on votes of Ayes, 6; Noes, 3. On January 25, 2022, the Assembly adopted the substitute amendment on a voice vote and passed the bill, as amended, on a vote of Ayes, 59; Noes, 34.

Senate Action

Senator Felzkowski offered Senate Amendment 1 on February 14, 2022. On February 15, 2022, the Senate adopted the amendment on a voice vote and passed the bill, as amended, on a vote of Ayes, 20; Noes, 12.

AH:ksm