

# WORKFORCE DEVELOPMENT

Budget Summary						FTE Position Summary				
Fund	2022-23 Adjusted Base	Governor		2023-25 Change Over Base Year Doubled		2022-23	Governor		2024-25 Over 2022-23	
		2023-24	2024-25	Amount	%		2023-24	2024-25	Number	%
GPR	\$55,107,500	\$295,483,800	\$79,469,100	\$264,737,900	240.2%	151.03	168.45	168.45	17.42	11.5%
FED	209,806,100	239,281,400	226,586,300	46,255,500	11.0	1,237.97	1,177.55	1,168.55	- 69.42	- 5.6
PR	79,048,400	78,413,300	78,435,000	- 1,248,500	- 0.8	212.65	213.65	213.65	1.00	0.5
SEG	26,451,200	97,259,600	209,137,400	253,494,600	479.2	72.80	117.80	270.80	198.00	272.0
<b>TOTAL</b>	<b>\$370,413,200</b>	<b>\$710,438,100</b>	<b>\$593,627,800</b>	<b>\$563,239,500</b>	<b>76.0%</b>	<b>1,674.45</b>	<b>1,677.45</b>	<b>1,821.45</b>	<b>147.00</b>	<b>8.8%</b>

## Budget Change Items

### Departmentwide and Vocational Rehabilitation

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor:** Adjust the base budget by \$3,207,600 and -62.0 positions in 2023-24, and \$1,836,200 and -71.0 positions in 2024-25. The adjustments are for: (a) turnover reduction (-\$263,800 GPR, -\$1,919,600 FED, -\$486,300 PR, and -\$103,700 SEG annually); (b) removal of noncontinuing elements from the base (-\$2,661,400 FED and -62.0 FED positions in 2023-24 and -\$4,032,800 FED and -71.0 FED positions in 2024-25); (c) full funding of continuing position salaries and fringe benefits (\$685,400 GPR, \$8,674,100 FED, \$93,700 PR, and \$208,300 SEG annually); (d) overtime (\$153,600 PR annually); and (e) full funding of lease and directed move costs (\$70,300 GPR, -\$684,600 FED, -\$494,400 PR, and -\$64,000 SEG annually).

	Funding	Positions
GPR	\$983,800	0.00
FED	5,445,600	- 71.00
PR	- 1,466,800	0.00
SEG	81,200	0.00
<b>Total</b>	<b>\$5,043,800</b>	<b>- 71.00</b>

#### 2. SUPPLIES AND SERVICES FUNDING

GPR	\$234,800
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**Governor:** Provide \$117,400 of annual funding for the Department's general program operations appropriation for workforce development to reflect increased supplies and services costs for current activities.

**3. TRIBAL LIAISON POSITION**

	<b>Funding</b>	<b>Positions</b>
GPR	\$151,000	1.00

**Governor:** Provide \$64,700 in 2023-24 and \$86,300 in 2024-25 and 1.0 position annually to create an agency tribal liaison position. The agency tribal liaison would be responsible for working with Native American tribes and bands on behalf of the agency, as well as coordinating with the Director of Native American Affairs in the Department of Administration. [See "Administration -- General Agency Provisions."]

**4. EQUITY OFFICER POSITION**

	<b>Funding</b>	<b>Positions</b>
PR	\$173,900	1.00

**Governor:** Provide \$76,100 in 2023-24 and \$97,800 in 2024-25 and 1.0 position annually to create an agency equity officer position. The agency equity officer would be responsible for collaborating with the chief equity officer in the Department of Administration and with other agency equity officers to identify opportunities to advance equity in government operations. [See "Administration -- General Agency Provisions."]

**5. FEDERAL REESTIMATES**

FED	\$40,809,900
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**Governor:** Increase estimated federal funding by \$26,066,800 in 2023-24 and \$14,743,100 in 2024-25. The adjustments are to align expenditure authority with the amount of revenue that DWD estimates will be deposited into those appropriations. The adjustments would affect the following federal appropriations:

<u>Appropriation</u>	<u>2023-24</u>	<u>2024-25</u>
Workforce investment and assistance	\$1,823,000	\$2,047,000
Unemployment administration	20,092,500	8,544,800
Vocational rehabilitation program aids	1,081,300	1,081,300
Vocational rehabilitation project aids	<u>3,070,000</u>	<u>3,070,000</u>
Total	\$26,066,800	\$14,743,100

**6. VOCATIONAL REHABILITATION SELF-EMPLOYMENT CLIENTS**

	<b>Positions</b>
GPR	0.42
FED	<u>1.58</u>
Total	2.00

**Governor:** Provide 0.42 GPR positions and 1.58 FED positions beginning in 2023-24. The Executive Budget Book indicates that these positions would provide dedicated staff for vocational rehabilitation self-employment clients.

# Employment and Training

## 1. WORKFORCE INNOVATION GRANTS

GPR	\$200,000,000
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**Governor:** Provide \$200,000,000 in 2023-24 in a new, continuing appropriation for workforce innovation grants, which would remain in the appropriation until exhausted or redirected by law.

Require DWD to establish and operate a program to provide grants to regional organizations to design and implement plans to address their region's workforce challenges that arose during or were exacerbated by the COVID-19 pandemic.

Require DWD to receive and review applications for these grants and prescribe the form, nature, and extent of the information that must be contained in a grant application. Specify that in addition to duties relating to grant applications, DWD would have all other powers necessary and convenient to implement these provisions, including the power to audit and inspect the records of grant recipients.

Require DWD to allocate \$100,000,000 of this funding in 2023-24 for grants to health care-related regional organizations to address their region's workforce challenges that arose during or were exacerbated by the COVID-19 pandemic.

[Bill Sections: 450, 1883 and 9150(1)]

## 2. WORKER ADVANCEMENT INITIATIVE

GPR	\$26,500,000
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**Governor:** Provide \$15,500,000 in 2023-24 and \$11,000,000 in 2024-25 in a new, continuing appropriation for a worker advancement initiative, which would remain in the appropriation until exhausted or redirected by law.

*Subsidized Employment and Skills Training.* Require DWD to establish and administer a worker advancement initiative to offer participants subsidized employment and skills training opportunities with local employers. Require DWD to target these opportunities to individuals in sectors of the workforce that have not recovered from the loss of employees due to the COVID-19 pandemic.

*Health-Care Workforce Opportunity.* Require DWD to establish and administer a program to do all of the following: (a) make grants to local workforce development boards to assist individuals whose employment status was negatively affected by the COVID-19 pandemic and whose employment status has not improved, where DWD would be required to prioritize connecting individuals to health-care-related employment opportunities; (b) make grants to technical colleges and nursing schools to implement strategies to increase the number of graduates who go on to work in health-care-related fields; (c) provide solutions to reduce barriers to employment in health-care-related fields and create ways to attract individuals to employment in

those fields, where solutions to barriers could include services to fulfill clinical requirements, career navigation services, and the provision of supplies. Require DWD during the 2023-25 biennium to allocate \$2,500,000 annually for establishing and administering this program.

*CDL Training.* Require DWD to make grants to local workforce development boards to provide sector-based training programs related to increasing the number of individuals obtaining commercial driver licenses (CDL).

*ROBUST Program.* Require DWD to establish and administer a program for reengaging out-of-work, barriered, and underserved individuals through system transformation (ROBUST). Provide that DWD would, through the program, find methods to more effectively reach and serve population groups that are underserved and disconnected from the labor force. Require DWD to allocate \$4,500,000 in 2023-24 for establishing and administering this program.

Require DWD to receive and review applications for health-care-related and CDL grants and prescribe the form, nature, and extent of the information that must be contained in a grant application. Specify that in addition to duties relating to grant applications, DWD would have all other powers necessary and convenient to implement these provisions, including the power to audit and inspect the records of grant recipients.

[Bill Sections: 451 and 1877]

### 3. CLEAN ENERGY TRAINING AND REEMPLOYMENT

GPR	\$10,000,000
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**Governor:** Provide \$5,000,000 annually in a new, continuing appropriation for a clean energy training and reemployment program, which would remain in the appropriation until exhausted or redirected by law. Require DWD to use this funding to establish and administer a clean energy training and reemployment program to connect workers with employers and use other apprenticeship and technical college programs to deliver training for clean energy jobs.

[Bill Sections: 449 and 1882]

### 4. REGISTERED APPRENTICESHIPS FOR INFORMATION TECHNOLOGY CAREERS

GPR	\$9,000,000
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**Governor:** Provide \$9,000,000 in 2023-24 in the general program operations appropriation for workforce development for supplies and services. The Executive Budget Book indicates that this funding would be used to expand registered apprenticeship within the information technology sector in southeast Wisconsin.

### 5. YOUTH SERVICES GRANTS

GPR	\$8,800,000
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**Governor:** Provide \$4,400,000 annually in a new, continuing appropriation for grants to local workforce development boards, which would remain in the appropriation until exhausted or redirected by law. Require DWD to award grants to these boards for youth services and training

in school and outside school settings. Specify that grants under this program could be used for any of the following purposes: (a) tutoring, paid and unpaid work experiences, pre-apprenticeship programs and internships; (b) on-the-job training, occupational skills training, and education offered concurrently with workforce preparation and training; (c) leadership development opportunities, supportive series, mentoring, follow-up services, and counseling; (d) financial literacy education and entrepreneurial skills training; and (e) education related to labor market and employment information, and postsecondary education and training preparation.

Require DWD to do all of the following to implement this program: (a) promulgate rules prescribing procedures and criteria for awarding these grants and the information to be included in required annual reports; (b) receive and review grant applications and prescribe the information required in a grant application; and (c) require annual reports from boards that receive grants describing how the board expended the grant and the outcomes the board achieved, including the number of youth who participated in the programs and services funded in part or wholly by the grant.

Require DWD, annually, by December 31, to submit a report to the Governor and the Co-Chairpersons of the Joint Committee on Finance accounting for DWD's activities under this program in the preceding fiscal year and detailing the amounts expended for each of the grants in that fiscal year.

[Bill Sections: 446 and 1876]

## 6. WISCONSIN GREEN JOBS TRAINING PROGRAM

GPR	\$2,000,000
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**Governor:** Provide \$2,000,000 in 2023-24 in a new, continuing appropriation for green jobs training program grants, which would remain in the appropriation until exhausted or redirected by law. Require DWD to award grants to public or private organizations for the development and implementation of green jobs training programs in Wisconsin. Define "green jobs" to mean jobs that produce goods or provide services that benefit the environment or conserve natural resources. Specify that as a condition of receiving a grant, DWD may require such an organization to provide matching funds at a percentage to be determined by DWD. Authorize DWD to prescribe procedures and criteria for awarding these grants, including the information that must be including in an application for a grant, as well as the information that must be reported describing how the grant moneys were expended and the outcomes achieved under the program. Specify that a current law administrative appropriation could be used to fund the administration of this program.

[Bill Sections: 447, 448, and 1878 thru 1881]

## 7. FAST FORWARD

GPR	\$2,000,000
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**Governor:** Provide \$1,000,000 annually for the Department's workforce training grants appropriation ("Fast Forward"). Base level funding for the appropriation is \$6,250,000. The Executive Budget Book indicates that this funding is intended for training grants for green jobs, such as environmental and conservation career paths.

**8. REGISTERED APPRENTICESHIPS FOR HEALTH CARE CAREERS**

	<b>Funding</b>	<b>Positions</b>
GPR	\$936,600	1.00

**Governor:** Provide \$801,400 in 2023-24 and \$135,200 in 2024-25 and 1.0 position beginning in 2023-24 in the general program operations appropriation for workforce development. In 2023-24, \$39,500 would be provided for salary, \$17,600 for fringe benefits, and \$744,300 for supplies and services; in 2024-25, \$52,700 would be provided for salary, \$23,500 for fringe benefits, and \$59,000 for supplies and services. The Executive Budget Book indicates that this funding would be used for: (a) outreach to develop new apprenticeship pathways related to health care; (b) one-time funding to support curriculum development for such programs; and (c) one-time funding to evaluate and implement one-year apprenticeships for licensed practical nurses at state-operated facilities.

**9. SERVICES FOR VETERANS**

	<b>Funding</b>	<b>Positions</b>
GPR	\$900,000	

**Governor:** Provide \$450,000 annually for supplies and services in the general program operations appropriation for workforce development. The Executive Budget Book indicates that this funding is intended to expand training and technical assistance support for employers by promoting outreach services and on-the-job learning services for veterans.

**10. CORRECTIONAL INSTITUTION JOB CENTERS**

	<b>Funding</b>	<b>Positions</b>
GPR	\$886,200	6.00

**Governor:** Provide \$379,800 in 2023-24 and \$506,400 in 2024-25 with 6.0 positions beginning in 2023-24 in the general program operations appropriation for workforce development. In 2023-24, \$166,500 would be provided for salaries, \$74,300 for fringe benefits, and \$139,000 for supplies and services; in 2024-25, \$222,000 would be provided for salaries, \$99,000 for fringe benefits, and \$185,400 for supplies and services. The Executive Budget Book indicates that this funding is intended to increase correctional institution job center staffing to assist incarcerated individuals in finding and maintaining employment once released.

**11. JOB CENTER STAFFING**

	<b>Funding</b>	<b>Positions</b>
GPR	\$709,800	3.00

**Governor:** Provide \$304,200 in 2023-24 and \$405,600 in 2024-25 with 3.0 positions beginning in 2023-24 in the general program operations appropriation for workforce development. In 2023-24, \$118,600 would be provided for salaries, \$53,000 for fringe benefits, and \$132,600 for supplies and services; in 2024-25, \$158,100 would be provided for salaries, \$70,500 for fringe benefits, and \$177,000 for supplies and services. The Executive Budget Book indicates that this funding is intended to provide additional job center staffing to assist more individuals in obtaining meaningful employment.

**12. EMPLOYMENT OPPORTUNITY DEMONSTRATION PROJECTS**

GPR	\$401,200
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**Governor:** Provide \$200,600 annually in a current appropriation for this purpose for the state to supplement, on a one-to-one matching basis, federal employment opportunity demonstration project funds or from other federal or private sources, to be distributed to community action agencies and organizations. Base level funding for this appropriation is \$200,600.

**Equal Rights and Employment Regulation**

**1. TRANSFER TO FAMILY AND MEDICAL LEAVE BENEFITS INSURANCE TRUST FUND**

GPR-Transfer	\$243,413,400
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**Governor:** Transfer \$243,413,400 in the 2023-25 fiscal biennium from the general fund to the family and medical leave benefits insurance trust fund as created under the bill.

[Bill Section: 9250(2)]

**2. FAMILY AND MEDICAL LEAVE BENEFITS INSURANCE PROGRAM**

	Funding	Positions
SEG	\$243,413,400	198.00

**Governor:** Provide \$65,767,800 and 45.0 positions in 2023-24 and \$177,645,600 and 198.0 positions in 2024-25 for the administration, enforcement, and initial benefit payments for a family and medical leave benefits insurance program.

In 2023-24, \$1,569,500 would be provided for salaries, \$700,000 for fringe benefits, and \$63,498,300 for supplies and services; in 2024-25, \$8,686,800 would be provided for salaries, \$3,873,700 for fringe benefits, and \$6,218,500 for supplies and services. These monies would be provided from the family and medical leave benefits insurance trust fund, to a newly created biennial appropriation for administrative expenses of the family and medical leave benefits insurance program.

In 2024-25, \$158,866,600 would be provided from the family and medical leave benefits insurance trust fund, to a newly created sum sufficient appropriation to pay for the payment of benefits to covered individuals in the family and medical leave benefits insurance program.

Create a separate nonlapsible trust fund designated as the family and medical leave benefits insurance trust fund, to consist of all moneys deposited in that fund as provided under the bill.

*Eligibility for Benefits.* Provide that a covered individual who is on family leave or medical leave is eligible to receive family or medical leave insurance benefits in the amount and duration

specified under the bill. Require that, to receive family or medical leave insurance benefits, a covered individual must file a claim for those benefits within the time and in the manner that DWD prescribes by rule. Specify that, on receipt of a claim for benefits, DWD may request from the individual's employer or from the self-employed individual any information necessary for DWD to determine the individual's eligibility for those benefits and the amount and duration of those benefits. Require the employer or self-employed individual to provide such information to DWD within the time and in the manner prescribed by the Department by rule. Require DWD to provide benefits to all covered individuals determined to be eligible to receive family or medical leave insurance benefits.

*Election by a Self-Employed Individual.* Provide that a self-employed individual may elect to be a covered individual by filing a written notice of election with DWD in a form and manner prescribed by the Department by rule. Specify that an initial election by an individual becomes effective on the date on which the notice of election is filed, and must be for a period of not less than three years, and may be renewed for subsequent one-year periods by the filing of a written notice with DWD that the individual intends to continue his or her coverage. Provide that a self-employed individual who elects coverage may withdraw that election no earlier than three years after the date of the initial election, or at such other times as the Department may prescribe by rule, by providing notice of that withdrawal to DWD not less than 30 days before the expiration date of the election.

*Amount of Benefits.* Require that the amount of family or medical leave insurance benefits payable for a week be based upon the covered individual's average weekly earnings, as follows: (a) for the amount of the covered individual's average weekly earnings that are less than 50% of the state annual median wage in the calendar year before the covered individual's application year, 90% of the covered individual's average weekly earnings; (b) for the amount of the covered individual's average weekly earnings that are more than or equal to 50% of the state annual median wage in the calendar year before the covered individual's application year, 50% of the covered individual's average weekly earnings.

*Duration of Benefits.* Specify that the maximum number of weeks for which family or medical leave insurance benefits are payable in an application year is 12 weeks. Provide that a covered individual may be paid these benefits continuously, or at the option of the covered individual, intermittently.

*Employer Exemption from Participation in Paid Family and Medical Leave Benefits Insurance Program.* Provide that if an employer provides family and medical leave benefits that are identical to or more generous than benefits provided under the paid family and medical leave benefits insurance program, the employer may elect to not participate in the program. Specify that if DWD grants such an exemption, the employer is required to pay benefits that are at least identical to benefits under the program, and an employee is entitled to be paid those benefits. Require an employer that elects to not participate in the program to request an exemption from DWD in writing, in the manner prescribed by the Department. An exemption from participation would not be effective until approved by the Department in writing. Allow DWD to grant a written exemption from participation to an employer who complies with statutes and rules governing the program. Provide that DWD may withdraw its written exemption order if DWD determines that an employer



is not providing paid family and medical leave benefits to employees that are at least identical to those provided under the program.

Specify that if an employee believes that his or her employer, that has an exemption, has violated the employee's right to paid family and medical leave benefits identical to those provided under this program, the employee may file a complaint with DWD alleging the violation, and the Department must process the complaint through an administrative proceeding in the same manner as complaints filed under current family or medical leave law. If the Department finds the employer to be in violation, DWD may order the employer to take action to remedy the violation, including providing the paid family and medical leave benefits, and, paying reasonable actual attorney fees to the employee. After the completion of an administrative proceeding, including judicial review, an employee or the Department may bring a civil action in circuit court, as provided under current law, against an employer to recover damages caused by a violation of these provision. Require DWD to promulgate rules to implement the employer exemption provisions.

*Federal Tax Treatment of Benefits.* With respect to the federal income taxation of family or medical leave insurance benefits, require DWD to do all of the following: (a) at the time an individual files a claim for those benefits, advise the individual that those benefits may be subject to federal income taxation, that requirements exist under federal law pertaining to estimated tax payments; (b) allow the individual to elect to have federal income tax deducted and withheld from the individual's benefit payments, allow the individual to change that election not more than one time in an application year, and deduct and withhold that tax in accordance with the individual's election as provided under federal law; (c) upon making a deduction, transfer the amount deducted from the family and medical leave insurance trust fund to the Internal Revenue Service; and (d) in deducting and withholding federal income taxes from an individual's benefit payments, follow all procedures specified by the IRS pertaining to the deducting and withholding of federal income tax.

*Family and Medical Leave Insurance Trust Fund.* Require DWD to determine the amount of the required contribution by each employee, self-employed individual who elects coverage, and each employer. Specify that the required contribution be based on the employee's wages or the self-employed individual's earnings, and be equally shared between each employee and the employee's employer.

Require each employer to withhold from the wages of its employees the amount determined by DWD. Require the Department to create rules to establish procedures for filing wage reports and collecting the contributions withheld by employers and employer-required contributions. Specify that DWD may utilize the unemployment insurance (UI) quarterly wage reports submitted by employers as required under current law, in lieu of separate contribution reports and may utilize the procedures for collecting contributions that apply to the collection of contributions to the UI trust fund. Require DWD to create rules to provide for a right to a hearing in cases involving the liability of employers for required contributions. Require that Department decisions be subject to the rights and procedures specified for contested cases under current law for administrative procedure and review.

Require DWD to collect contributions from self-employed individuals pursuant to procedures established by the Department, and deposit contributions received in the family and

medical leave benefits insurance trust fund. Require DWD to use moneys deposited in the trust fund to pay benefits, to refund amounts erroneously paid by employers, and to pay for the administration of program, and for no other purpose.

*Denial of Claims; Overpayments.* Require DWD to create rules providing for a right to a hearing in cases of disputes involving an individual's eligibility for benefits or status as a covered individual. Require that Department decisions be subject to the rights and procedures specified for contested cases under current law for administrative procedures and review. Specify that DWD may prescribe procedures in conjunction with any rules promulgated for administrative proceedings under the existing family or medical leave law.

Specify that if DWD pays family or medical leave insurance benefits to an individual erroneously or as a result of willful misrepresentation, the individual's liability to reimburse the fund for the overpayment may be set forth in a determination that is subject to review. To recover an overpayment to a covered individual that is not otherwise repaid or the recovery of which has not been waived, provide that DWD may recoup the amount of the overpayment by, in addition to its other remedies, deducting the amount of the overpayment from benefits the individual would otherwise be eligible to receive. Provide that DWD may establish other procedures for recovering overpayments and may utilize procedures under current UI law, including DWD's remedies for collecting UI benefit overpayments under current law, subject to rules created by the Department. Specify that the Department may not collect any interest on any benefit overpayments, and that DWD may prescribe procedures for waiver of overpayments.

*Prohibited Acts and Enforcement.* Prohibit any person from interfering with, restraining, or denying the exercise of any right provided under the family or medical leave benefits insurance program. Specify that no person may discharge or otherwise discriminate against any person for exercising any right provided, opposing a practice prohibited, filing a complaint or attempting to enforce any right provided, or testifying or assisting in any action or proceeding to enforce any right provided under the family or medical leave benefits insurance program. Specify that no collective bargaining agreement or employer policy may diminish or abridge an employee's rights as provided under the program. Provide that any agreement purporting to waive or modify an employee's rights under this provision is void as against public policy and unenforceable.

Provide that any person who believes that his or her rights have been interfered with, restrained, or denied in violation of the above prohibited acts, or that he or she has been discharged or otherwise discriminated against in violation, within 30 days after the violation occurs or the person should reasonably have known that the violation occurred, whichever is later, file a complaint with DWD alleging the violation, and that the Department must process the complaint in the same manner as complaints filed under the family or medical leave law. Specify that if DWD finds that an employer has violated any of the prohibited acts, the Department may order the employer to take action to remedy the violation, including providing the requested family leave or medical leave, reinstating an employee, providing back pay accrued not more than two years before the complaint was filed, and paying reasonable actual attorney fees to the complainant. After the completion of this administrative enforcement proceeding, including judicial review, an employee or the Department may bring a civil action in circuit court against an employer to recover damages caused by a violation of a prohibited act.

*Administration.* Require DWD to administer the family and medical leave benefits insurance program, and to do all of the following: (a) establish procedures and forms for the filing of claims for benefits; (b) establish procedures and forms for collecting contributions from self-employed individuals; (c) promulgate rules to implement the program; (d) use information sharing and integration technology to facilitate the exchange of information as necessary for DWD to administer the program; (e) submit a report by September 1 of each year, to the Governor, the Joint Committee on Finance, and the appropriate standing committees of the Legislature on the program. Require the report to include the projected and actual rates of participation in the program, the premium rates for coverage under the program, and the balance in the family and medical leave benefits insurance trust fund.

*Records.* Specify that the records made or maintained by DWD in connection with the administration of program are confidential, and must be open to public inspection or disclosure only to the extent that the Department allows in the interest of the program. Specify that the Department may provide records made or maintained by DWD in connection with the administration of the program to any governmental unit, corresponding unit in the government of another state, or any unit of the federal government. Specify that no person or governmental unit may allow inspection or disclosure of any record provided by the Department unless DWD authorizes the inspection or disclosure.

Provide that, upon request of the Department of Revenue, DWD may provide information, including social security numbers, concerning covered individuals to DOR for the purpose of administering state taxes, identifying fraudulent tax returns, providing information for tax-related prosecutions, or locating persons or the assets of persons who have failed to file tax returns, who have underreported their taxable income, or who are delinquent debtors. Specify that DOR may not allow inspection or disclosure of any record provided by the DWD, unless DWD authorizes the inspection or disclosure.

*Benefit Amount Adjustment.* Provide that, on April 1 of each year, DWD may adjust the maximum weekly benefit payment to 90% of the state average weekly earnings, which becomes effective on October 1 of that year, and require the Department to annually publish the adjusted amount in the Wisconsin Administrative Register.

*Proper Notice.* Require each employer to post, on its website and in one or more conspicuous places where notices to employees are customarily posted, a notice in a form approved by DWD, setting forth employees' rights under the program and any annual adjustment to the weekly benefit amount. Specify that an employer in violation of the proper notice provision must forfeit not more than \$100 for each violation.

*Definitions.* Define "application year" to mean the 12-month period beginning on the first day of the first calendar week for which family or medical leave insurance benefits are claimed by a covered individual. Define "average weekly earnings" to mean one-thirteenth of the wages paid to an employee during the last completed calendar quarter prior to the covered individual's date of eligibility for benefits under this section and includes all sick, holiday, vacation, and termination pay that is paid directly by an employer to an employee at the employee's usual rate of pay during his or her last completed calendar quarter as a result of employment for an employer and any total

or partial disability payments under Wisconsin's worker's compensation law, or a federal law that provides for payments on account of a work-related injury or illness. For self-employed individuals, define "average weekly earnings" to mean one fifty-second of the gross income reported as income to the federal internal revenue service in the most recent tax year in which the individual filed taxes prior to the individual's date of eligibility for benefits under this provision.

Define "covered individual" to mean an employee who has been employed by the same employer for more than 52 consecutive weeks and who worked for the employer for at least 680 hours during the preceding 52-week period, or a self-employed individual who elects coverage under the self-employed individual provision of the bill, regardless of whether the individual is employed or unemployed at the time the individual files an application for benefits. Define "self-employed individual" to mean a sole proprietor, partner of a partnership, member of a limited liability company, or other individual engaged in a vocation, profession, or business for himself or herself and not for an employer.

Define "family leave" to mean an individual's leave from employment, self-employment, or availability for employment: (a) for the birth of the employee's natural child, if the leave begins within 16 weeks of the child's birth; (b) for the placement of a child with the employee for adoption or as a precondition to adoption under current law, if the leave begins within 16 weeks of the child's placement; (c) to care for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling, with a serious health condition; (d) for any qualifying exigency, as determined by DWD by rule, arising from the spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee being on covered active duty or having been notified of an impending call or order to covered active duty; (e) to fill an unforeseen or unexpected short-term gap in childcare, as determined by DWD by rule, for the employee's child, grandchild, or sibling; (f) to care for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling, that is in medical isolation; (g) to address issues of the employee or the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling related to being the victim of domestic abuse, sexual abuse, or stalking; or (h) to serve as a bone marrow or organ donor.

Define "medical leave" to mean leave from employment, self-employment, or availability for employment for an employee who is in medical isolation or has a serious health condition which makes the employee unable to perform his or her employment duties may take medical leave for the period during which he or she is unable to perform those duties. Define "state annual median wage" to mean the median hourly wage for all occupations in this state in a calendar year, as determined by the Bureau of Labor Statistics of the U.S. department of Labor, multiplied by 2,080. Define "family or medical leave insurance benefits" to mean benefits payable under this program from the family and medical leave benefits insurance trust fund.

Under Wisconsin's Fair Employment law, specify that it would be employment discrimination to discharge or otherwise discriminate against any individual because the individual files a complaint or attempts to enforce any right under the family or medical leave benefits insurance program, or because the individual testifies or assists in any action or proceeding held under or to enforce any right under the family or medical leave benefits insurance program.

Authorize DWD to promulgate emergency rules for the period before the effective date of

the permanent rules promulgated and exempt the Department from the requirements to make a finding of an emergency and to demonstrate the need for an emergency rule.

No later than the first day of the fourth month beginning after the effective date of the bill, require DWD to submit for consideration to the Legislative Council staff the proposed permanent rules required for the family or medical leave benefits insurance program. Exempt DWD from certain permanent rule-making requirements under current law.

Specify that the requirement that employers withhold contribution amounts from employee wages, would first apply to wages earned on January 1, 2025.

Provide that family and medical leave benefit eligibility would first apply to a period of family leave, or a period of medical leave, commencing on January 1, 2025.

Specify that the rights to family and medical leave insurance benefits first apply to an employee who is affected by a collective bargaining agreement that contains provisions inconsistent with rights, on the day on which the collective bargaining agreement expires or is extended, modified, or renewed.

[Bill Sections: 457, 458, 586, 605, 1826, 1929, 1931, 2336 9150(4) thru 9150(6), and 9350(8)]

### **3. FAMILY AND MEDICAL LEAVE EXPANSION**

**Governor:** Under current family and medical leave law, an employer that employs at least 50 individuals on a permanent basis in this state is required to allow 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 the following: (a) six weeks of family leave in a 12-month period for the birth or adoptive placement of a child; (b) two weeks of family leave in a 12-month period to care for the employee's child, spouse, domestic partner, or parent with a serious health condition; and (c) 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.

Specify the following changes to current family and medical leave law: (a) decrease the number of hours an employee is required to work before qualifying for family and medical leave to 680 hours during the preceding 52 weeks; (b) increase the number of weeks a covered employee may take family or medical leave to 12 weeks in a 12-month period; (c) allow a covered employee to take family leave for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling who is in medical isolation; (d) specify that an employee who is in medical isolation that makes the employee unable to perform his or her employment duties may take medical leave for the period during which he or she is unable to perform those duties; (e) amend the statute of limitations for filing a complaint from 30 days to 300 days for an employee who believes his or her employer has violated the family and medical leave law; (f) add coverage for any qualifying exigency, as determined by the Department by rule, arising out of the fact that the spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee is on

covered active duty or has been notified of an impending call or order to covered active duty; (g) add coverage if there is an unforeseen or unexpected short-term gap, as defined by the Department by rule, in childcare for the employee's child, grandchild, or sibling that the employee must fill; (h) add coverage to address issues related to the employee or the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling being the victim of domestic abuse, sexual abuse, or stalking; and (i) add grandparent, grandchild, and sibling for whom an employee may take family leave.

*Definitions.* Expand the current law definition of "serious health condition" to include medical isolation. Define "medical isolation" as any of the following: (a) when a health care professional, a local health officer, or the Department of Health Services advises that the individual seclude herself, himself, or themselves from others when the individual is awaiting the result of a diagnostic test for a communicable disease or when the individual is infected with a communicable disease; (b) when a local health officer or the department of health services advises that an individual isolate or quarantine; and (c) when an individual's employer advises that the individual not come to the workplace due to a concern that the individual may have been exposed to or infected with a communicable disease.

Define "covered active duty" to mean: (a) a member of a regular component of the U.S. armed forces, duty during the deployment of the member with the U.S. armed forces to a foreign country; or (b) a member of a reserve component of the U.S. armed forces, duty during the deployment of the member with the U.S. armed forces to a foreign country under a call or order to active duty as specified under current federal law.

Modify the definition of "child" under current law to eliminate the requirement that an individual, 18 years of age or older, can only be considered a child if they cannot take care for themselves because of a serious health condition. The term "child" would continue to be defined a natural, adopted, or foster child, a stepchild, or a legal ward. Define "sibling" to mean a brother, sister, half-brother, half-sister, stepbrother, or stepsister, whether by blood, marriage, or adoption.

*Notice.* Specify that if the employee intends to take family leave that is foreseeable because the spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee is on covered active duty or has been notified of an impending call or order to covered active duty, the employee must provide notice of that intention to the employer in a reasonable and practicable manner.

*Certification.* Specify that if an employee requests family leave for covered active duty, the employer may require the employee to provide certification that the spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee is on covered active duty or has been notified of an impending call or order to covered active duty. Require the certification to be issued at such time and in such manner as DWD may prescribe by rule, and require the employee to provide a copy of that certification to the employer in a timely manner.

Provide that if an employee requests family leave due to a gap in childcare, the employer may require the employee to provide certification that there is an unforeseen or unexpected short-term gap in childcare, as defined in rule by DWD, for the employee's child, grandchild, or sibling, that the employee must fill. If an employee requests family leave due to being the victim of

domestic abuse, sexual abuse, or stalking, the employer may require the employee to provide certification that the employee is addressing issues of the employee or the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling related to being the victim of domestic abuse, sexual abuse, or stalking. Specify that if an employee requests family or medical leave due to medical isolation, the employer may require the employee to provide certification issued by a local public health official, the Department of Health Services, a health care provider, or Christian Science practitioner of the child, spouse, domestic partner, parent, grandparent, grandchild, sibling, or employee, except that no employer may require certification if the sole reason for the medical isolation is if the employer had advised that the individual not come to the workplace due to a concern that the individual may have been exposed to or infected with a communicable disease. Provide that no employer may require certification stating more than that the child, spouse, domestic partner, parent, grandparent, grandchild, sibling, or employee is in medical isolation. Specify that if the employee requests family leave, the employer may require the employee to provide certification that the employee is responsible for the care of a child, spouse, domestic partner, parent, grandparent, grandchild, sibling, or employee who is in medical isolation.

Provide \$65,600 FED in 2023-24 and \$87,500 FED in 2024-25 and 1.0 FED position in the Department's federal equal rights administration appropriation and specify corresponding FED decreases in the Department's federal unemployment insurance administration appropriation. According to the Department, the project position would perform outreach and technical assistance activities that support the expanded family and medical leave provisions.

Under current law, an individual that is the employer's parent, spouse, domestic partner, or child, cannot be considered an employee. Expanded the current law definition to also include an employer's grandparent, grandchild, or sibling to those that cannot be considered an employee.

Apply the expanded 300 day statute of limitations for certain violation to first apply to a violation that occurs, or that an employee should reasonably have known occurred, on the effective date of the bill.

[Bill Sections: 1787 thru 1795, 1797 thru 1825, and 9350(7)]

#### 4. MIGRANT WORKERS

**Governor:** Provide \$451,600 in 2023-24 and \$282,000 in 2024-25 and 3.0 positions beginning in 2023-24 in a new appropriation. In 2023-24, \$93,900 would be provided for salaries, \$41,900 for fringe benefits, and \$315,800 for supplies and services; in 2024-25, \$125,200 would be provided for salaries, \$55,800 for fringe benefits, and \$101,000 for supplies and services. Specify that this funding and positions would be used for enforcement activities related to wages, hours, and working conditions of migrant workers, the certification, maintenance, and inspection of migrant labor camps, and the recruitment and hiring of migrant worker under employment regulations established under current law governing migrant labor.

	Funding	Positions
GPR	\$733,600	3.00

[Bill Section: 452]

**5. MIGRANT LABOR CONTRACTOR AND CAMP FEES**

PR	\$44,400
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**Governor:** Provide \$22,200 annually of supplies and services funding to the Department's auxiliary services appropriation. Specify that fees paid for certificates of registration by migrant labor contractors and persons who operate migrant labor camps would be deposited in this appropriation rather than to the general fund. Modify the appropriation so that funds could be expended on administrative services related to the migrant labor provisions of current law.

[Bill Section: 453]

**6. SUBSTANCE ABUSE PREVENTION ON PUBLIC WORKS PROJECTS**

	Funding	Positions
GPR	\$500,900	3.0

**Governor:** Provide \$214,700 in 2023-24 and \$286,200 in 2024-25 and 3.0 positions beginning in 2023-24 to the Department's general program operations appropriation for the administration and enforcement of a substance abuse prevention program. In 2023-24, \$99,300 would be provided for salaries, \$44,100 for fringe benefits, and \$71,300 for supplies and services; in 2024-25, \$132,300 would be provided for salaries, \$58,800 for fringe benefits, and \$95,100 for supplies and services. The Executive Budget Book indicates that the additional position authority and funding would be for outreach and investigative activities related to state law prohibitions on workers possessing, distributing, delivering or being under the influence of alcohol and drugs on public works or utility projects.

Under current law, no employee may use, possess, attempt to possess, distribute, deliver, or be under the influence of a drug, or use or be under the influence of alcohol, while performing work on a public works project or public utility project. An employee is considered to be under the influence of alcohol if he or she has an alcohol concentration of .04 or more. Employers also must have in place a written program for the prevention of employee substance abuse.

**7. MINIMUM WAGE**

**Governor:** Specify annual increases to the minimum wage level for most employees, from the effective date of the bill to January 1, 2027. The following table shows the current minimum wages rates and those provided under the bill.



## Minimum Wage Rates

	<u>Current Law</u>	Beginning on Effective Date of Bill Through <u>12/31/24</u>	Beginning 1/1/25 Through <u>12/31/25</u>	Beginning 1/1/26 through <u>12/31/26</u>
Adult, Minor, Agricultural Employee	\$7.25	\$8.25	\$9.25	\$10.25
Opportunity Employee	5.90	6.71	7.52	8.33
Tipped Employee	2.33	2.65	2.97	3.29
Tipped Opportunity Employee	2.13	2.42	2.71	3.00
Caddies				
9 Holes	5.90	6.71	7.52	8.33
18 Holes	10.50	11.95	13.40	14.85
Camp Counselors (Adult and Minor), weekly rate				
No Board or Lodging	350.00	398.28	446.56	494.84
Board Only	265.00	301.55	338.50	375.09
With Board and Lodging	210.00	238.97	267.94	296.91

Require DWD to revise each minimum wage rate in effect on January 1, 2027 (last column in the table), and on each January 1 thereafter, by the percentage change in the Consumer Price Index (CPI) for the most recent 12-month period for which full-month information is available. The bill would require DWD to annually revise the amount published in the Wisconsin Administrative Register and on the DWD internet site, and would specify that these adjustments would not be considered rules for purposes of current law governing administrative rules.

Define "consumer price index" to mean the average of the CPI over each 12-month period for all urban consumers (CPI-U), U.S. city average, all items, not seasonally adjusted, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor.

*Minimum Wage Study Committee.* Require the DWD Secretary to establish a minimum wage study committee to consist of the following members: (a) five members appointed by the Governor; (b) one member appointed by the Speaker of the Assembly; (c) one member appointed by the Minority Leader of the Assembly; (d) one member appointed by the Majority Leader of the Senate; and (e) one member appointed by the Minority Leader of the Senate. Require the committee to study options to achieve a \$15 per hour minimum wage and other options to increase compensation for workers in this state. No later than October 1, 2024, require the committee to submit to the Governor and the appropriate standing committees of the Legislature a report that includes recommendations regarding the options for achieving a \$15 per hour minimum wage and other means of increasing worker compensation in this state. Specify that the minimum wage study committee would terminate upon submission of the report.

[Bill Sections: 1840 thru 1874, 2450, and 9150(2)]

## 8. PREVAILING WAGE

**Governor:** Restore the state prevailing wage law as the law existed prior to 2015 Act 55 by repealing: (a) the provisions of 2015 Act 55 that eliminated the state prevailing wage law applying

to local projects of public works (counties, villages, towns, cities, school districts, municipal utilities and technical colleges); and (b) the provisions of 2017 Act 59 that eliminated the state prevailing wage law that applied to state agency and state highway projects.

Under current law, there are no state prevailing wage standards for local projects of public works, state agency projects, or state highway projects. The state prevailing wage requirements for local projects were repealed effective January 1, 2017. The state prevailing wage requirements for state agency and state highway projects were repealed effective September 23, 2017. These changes did not affect federal Davis-Bacon Act requirements, which specify that building and highway projects that utilize at least \$2,000 in federal funds are subject to the federal prevailing wage rates as determined by the U.S. Department of Labor.

Under the bill, the state prevailing wage law would be as it was immediately prior to the passage of 2015 Act 55. Generally, the prevailing wage law under the bill would consist of the following major elements:

*Application of the Prevailing Wage Law.* Specify that state prevailing wage requirements apply based on various project cost thresholds. For a single-trade project, the threshold is \$48,000, whereas the threshold for a multiple-trade project is either \$100,000 or \$234,000; the latter applies to public works projects erected, constructed, repaired, remodeled, or demolished by a private contractor for a city or village with a population less than 2,500, or for a town. A "single-trade project" is defined as one in which a single trade (such as a carpenter, glazier, or electrician) accounts for 85% or more of the total labor cost of the project. A "multiple-trade project" is defined as one in which no single trade accounts for more than 85% of the total labor cost of the project.

*Prevailing Hours of Labor.* Specify that workers to whom state prevailing wage law applies may not be permitted to work a greater number of hours per day or per week than the prevailing hours of labor, unless they are paid for all hours worked in excess of prevailing hours of labor at a rate of at least 1.5 times their hourly basic rate of pay. Define "prevailing hours of labor" to mean 10 hours per day and 40 hours per week, not including any hours worked on a Saturday or Sunday, or on certain holidays.

*Prevailing Wage Rate.* Define "prevailing wage rate" to mean the hourly basic rate of pay, plus the hourly contribution for health insurance, vacation, pension, and any other economic benefit, paid for a majority of the hours worked in a trade or occupation on projects in an area (generally the county). If there is no rate at which a majority of the hours worked in the occupation on projects in the area is paid, the prevailing wage rate would mean the average hourly basic rate of pay, weighted by the number of hours worked, plus the average hourly contribution, weighted by the number of hours worked, for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, paid for all hours worked at the hourly basic rate of pay of the highest-paid 51% of hours worked in that trade or occupation on projects in that area.

*Survey Process.* Require DWD to determine prevailing wage rates for each trade or occupation in each area of the state by January 1 of each year. The survey would be based on a statutorily prescribed annual survey process for all types of local public works projects, state agency public works projects excluding highways and bridges, and state-contracted highway construction projects. Provide that DWD may not collect survey data from projects that are subject

to the state or federal prevailing wage requirements unless DWD determines that there is insufficient wage data in the area to determine a prevailing wage rate.

*Administration and Enforcement.* Require DWD to enforce all local and state prevailing wage laws, and require the Department of Transportation (DOT) to administer and enforce federal and state prevailing wage laws for highway and bridge construction projects. Require DWD, by May 1 of each year, to certify to DOT the prevailing wage rates in each area for all trades or occupations commonly employed in the highway construction industry.

Specify that all provisions regarding compliance, enforcement, inspection, notice, appeals, remedies, coverage, and penalties from the state prevailing wage law as it was prior to the enactment of 2015 Act 55 would be recreated and made effective on the date of the bill, and would first apply to bids, contracts, or actions that occur on or after that date.

Retain the current prohibition against local governments enacting or administering their own prevailing wage laws or similar ordinances. Currently, a local governmental unit may not enact and administer an ordinance or other enactment requiring laborers, workers, mechanics, and truck drivers employed on projects of public works, or on publicly funded private construction projects, to be paid the prevailing wage rate and to be paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the prevailing hours of labor.

[Bill Sections: 252, 1175, 1221 thru 1227, 1684, 1780, 1831 thru 1837, 1839, 1875, 1911, 1933, 2451, 2479, 2513, 3307, 3386, and 9350(3)&(9)]

## **9. REPEAL RIGHT TO WORK**

**Governor:** Repeal the provisions of 2015 Wisconsin Act 1 that specify that no person may require, as a condition of obtaining or continuing employment, an individual to do any of the following: (a) refrain or resign from membership in, voluntary affiliation with, or voluntary financial support of a labor organization; (b) become or remain a member of a labor organization; (c) pay any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value, to a labor organization; or (d) pay to any third party an amount that is in place of, equivalent to, or any portion of dues, fees, assessments, or other charges or expenses required of members of, or employees represented by, a labor organization. Delete current law specifying that these provisions apply to the extent permitted under federal law and that if a section of a contract violates this provision, that section of the contract is void.

*Unfair Labor Practices.* For the purposes of the following provisions, the definition of "employer" does not include the state or any political subdivision thereof.

Modify the current declaration of an unfair labor practice relating to an employer encouraging or discouraging membership in any labor organization, employee agency, committee, association, or representation plan by discrimination in regard to hiring, tenure, or other terms or conditions of employment. Create an exception for a collective bargaining unit where an all-union agreement is in effect. Under current law, an "all-union agreement" means an agreement between an employer and the representative of the employer's employees in a collective bargaining unit

whereby all or any of the employees in such unit are required to be members of a single labor organization.

Modify the current declaration of unfair labor practice for an employer to bargain collectively with the representatives of less than a majority of the employer's employees in a collective bargaining unit, or to enter into an all-union agreement, by creating an exception for an employer who does so with the voluntarily recognized representative of the employees in a collective bargaining unit, where at least a majority of such employees voting have voted affirmatively, by secret ballot, in favor of the all-union agreement in a referendum conducted by the Wisconsin Employment Relations Commission (WERC). If the bargaining representative has been certified by either WERC or the National Labor Relations Board as the result of a representation election, no referendum is required to authorize the entry into an all-union agreement.

Specify that the authorization of an all-union agreement continues, subject to the right of either party to the agreement to petition WERC to conduct a new referendum on the subject. Upon receipt of the petition, if WERC determines there is reasonable ground to believe that the employees concerned have changed their attitude toward the all-union agreement, WERC shall conduct a referendum. If the continuance of the all-union agreement is supported on a referendum by a majority vote, it may continue, subject to the right to petition for a further vote by the same procedure. If the continuance of the all-union agreement is not supported on a referendum, it terminates at the expiration of the contract of which it is then a part or at the end of one year from the date of the announcement by WERC of the result of the referendum, whichever is earlier. Require WERC to declare any all-union agreement terminated whenever it finds that the labor organization involved has unreasonably refused to receive as a member any employee of such employer. An interested person may, as specified in current law, request WERC to perform this duty.

Modify the current declaration of an unfair labor practice that prohibits an employer from deducting labor organization dues or assessments from an employee's earnings, unless the employer has been presented with an individual order signed by the employee and terminable by the employee at the end of any year of its life. Create an exception for cases in which there is an all-union agreement in effect. Specify that the employer must give notice to the labor organization of receipt of a notice of termination.

*Declaration of Policy.* Recreate a state declaration of policy on employment relations repealed under Act 1. The declaration would state, in part:

(a) that the public policy of the state, as to employment relations and collective bargaining, recognizes that there are three major interests: the public, the employee, and the employer; and that these three interests are interrelated and that it is the policy of the state to protect and promote each of these interests with due regard to the situation and to the rights of the others; and

(b) that industrial peace, regular and adequate income for the employee, and uninterrupted production of goods and services are promotive of all of these interests and are largely dependent upon the maintenance of fair, friendly, and mutually satisfactory employment relations and the availability of suitable machinery for the peaceful adjustment of whatever controversies may arise;

that certain employers, including farmer, farmer cooperatives, and unincorporated farmer cooperative associations face special problems arising from perishable commodities and seasonal production that requires adequate consideration; that whatever may be the rights of disputants, they should not be permitted to intrude directly into the primary rights of third parties to earn a livelihood, transact business, and engage in the ordinary affairs of life; and

(c) that negotiations of terms and conditions of work should result from voluntary agreement between employer and employee; and that an employee has the right, if the employee desires, to associate with others in organizing and bargaining collectively through representatives of the employee's own choosing; and

(d) that it would be the policy of the state, in order to preserve and promote the interests of the public, the employee, and the employer, to establish standards of fair conduct in employment relations and to provide a convenient, expeditious, and impartial tribunal by which these interests may have their respective rights and obligations adjudicated; while limiting individual and group rights of aggression and defense, the state substitutes processes of justice for the more primitive methods of trial by combat.

*Penalties.* Repeal the provision that specifies that anyone who violates the right to work law is guilty of a Class A misdemeanor.

[Bill Sections: 1914 thru 1919 and 3309]

## 10. PROJECT LABOR AGREEMENTS

**Governor:** Repeal the provisions of 2017 Wisconsin Act 3, which prohibits state and local units of government from any of the following in letting bids for state procurement or public works contracts: (a) requiring that a bidder enter into or adhere to an agreement with a labor organization; (b) considering, as a factor in making an award, whether any bidder has or has not entered into an agreement with a labor organization; or (c) requiring that a bidder enter into, adhere to, or enforce any agreement that requires, as a condition of employment, that the bidder or bidder's employees become or remain members of, or be affiliated with, a labor organization or pay any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value, to a labor organization or a labor organization's health, welfare, retirement, or other benefit plan or program.

[Bill Sections: 129, 156, and 1216 thru 1220]

## 11. LOCAL EMPLOYMENT REGULATIONS

**Governor:** Repeal the provisions of 2017 Wisconsin Act 327, which prohibits local units of government from enacting or enforcing ordinances related to any of the following: (a) regulations related to wage claims and collections; (b) requiring a person to accept provisions of a collective bargaining agreement or to waive rights under state or federal labor relations laws (defined as the National Labor Relations Act and the Labor Management Relations Act); (c)

regulation of employee hours of labor or overtime, including scheduling of employee work hours or shifts; (d) requiring an employer to provide certain employment benefits, including retirement, pension, profit sharing, insurance, or leave benefits; (e) prohibiting an employer from requesting the salary history of a prospective employee; (f) prohibiting requiring any person to waive the person's rights under state or federal labor laws, or compel or attempt to compel a person to agree to waive the person's rights under state or federal labor laws, as a condition of any regulatory approval or other approval by the local governmental unit; or (g) imposing occupational licensing requirements on an individual that are more stringent than state-imposed licensing requirements for the profession.

Recreate provisions from the 2015 statutes specifying that the prohibition on a local government (county, city, village, or town) from enacting a minimum wage ordinance does not affect a local government ordinance that applies the state prevailing wage law requirements specified under the bill to an employee of a local government, a contractor for the local government, or a person performing work using financial assistance from the local government.

[Bill Sections: 1176, 1179, 1781, 1827, 1838, 1912, and 3310]

## **12. DISCRIMINATION ON THE BASIS OF GENDER EXPRESSION OR GENDER IDENTITY**

**Governor:** Prohibit public and private employers, labor organizations, employment agencies, licensing agencies, or other persons from discriminating against employees, job applicants, or licensing applicants on the basis of an individual's gender identity or gender expression.

Define "gender expression" to mean an individual's actual or perceived gender-related appearance, behavior, or expression, regardless of whether these traits are stereotypically associated with the individual's assigned sex at birth.

Define "gender identity" to mean an individual's internal understanding of the individual's gender, or the individual's perceived gender identity.

*Wisconsin Fair Employment Law.* The Wisconsin Fair Employment Law (Chapter 111, Subchapter II) prohibits discrimination in recruitment and hiring, job assignments, pay, leave or benefits, promotion, licensing, union membership, training, layoff and firing, and other employment-related actions. Under the law, an otherwise properly qualified individual cannot be discriminated against in employment based on 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, or declining to attend a meeting or to participate in any communication about religious matters or political matters. The bill would add gender expression and gender identity as protected categories ("prohibited bases of discrimination") under the state's Fair Employment Law. The bill would amend the stated policy and findings of the Legislature to include discrimination based on gender identity or gender expression as substantially and adversely affecting the welfare of the state, and that the Legislature's intent is to protect by law the rights of all individuals to obtain gainful

employment and enjoy privileges free from such discrimination.

Specify that, under the Wisconsin Fair Employment Law, employment discrimination because of sex includes engaging in harassment that consists of unwelcome verbal or physical conduct directed at another individual because of that individual's gender, gender expression or gender identity, other than certain specified forms of sexual harassment, and that has the purpose or effect of creating an intimidating, hostile or offensive work environment, or has the purpose or effect of substantially interfering with that individual's work performance. Under current law, gender expression and gender identity are not specified.

Specify that, under the Wisconsin Fair Employment Law, employment discrimination because of sex includes: (a) refusing to hire, employ, admit or license any individual; (b) barring or terminating from employment, membership, or licensure any individual; or (c) discriminating against any individual in promotion, in compensation, or in the terms, conditions, or privileges of employment because of the individual's sexual orientation, gender expression, or gender identity. Under current law, gender expression and gender identity are not specified.

Specify that, under the Wisconsin Fair Employment Law, employment discrimination because of sex includes, but is not limited to, discriminating against any individual ("woman" under current law) on the basis of pregnancy, childbirth, parental ("maternity" under current law) leave or related medical conditions by engaging in certain prohibited actions including, but not limited to, actions concerning fringe benefit programs covering illnesses and disability.

Specify that it is not employment discrimination for an employer to require an employee to adhere to reasonable workplace appearance, grooming, and dress standards not precluded by other provisions of state or federal law, provided that an employer shall allow an employee to appear or dress consistently with the employee's gender identity or gender expression.

Revise certain current references of "he or she" to "the person" under the Wisconsin Fair Employment Law.

*State Employee Labor Organizations.* Specify that a labor organization representing state employees for the purpose of collective bargaining may not discriminate with regard to the terms or conditions of membership because of gender expression or gender identity. Under current law, a labor organization representing state employees for the purpose of collective bargaining may not discriminate with regard to the terms or conditions of membership because of race, color, creed, sex, age, sexual orientation, or national origin. The bill would amend this statute to add gender expression and gender identity to the list of individual characteristics upon which a state employee labor organization cannot discriminate.

*State Contracts.* Specify that contracting agencies in the executive branch, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, and the Bradley Center Sports and Entertainment Corporation must include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of gender expression or gender identity. Under current law, the contracting entities listed above must include

in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, or national origin. The bill would amend this statute to add gender expression and gender identity to the list of individual characteristics upon which a contractor cannot discriminate.

*State Employment.* Specify that it is the policy of the state to provide for equal opportunity by ensuring that all personnel actions by executive branch agencies including hire, tenure or term, and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to gender expression or gender identity. Further, specify that no discrimination may be exercised in the recruitment, application, or hiring process against or in favor of any person because of the person's gender expression or gender identity except as otherwise provided.

Under current law, it is the policy of the state to provide for equal opportunity by ensuring that all personnel actions by executive branch agencies including hire, tenure or term, and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to age, race, creed or religion, color, disability, sex, national origin, ancestry, sexual orientation, or political affiliation. Also under current law, no discrimination may be exercised in the recruitment, application, or hiring process against or in favor of any person because of the person's age, sex, disability, race, color, sexual orientation, national origin, or ancestry except as otherwise provided. The bill would amend these statutes to add gender expression and gender identity to the list of individual characteristics upon which state executive branch agency employment decisions cannot be based.

*University of Wisconsin System Employment.* Specify that the UW Board of Regents not consider sexual orientation, gender expression or gender identity in the appointment of employees of the UW System. Under current law, the Board of Regents must not consider or exercise sectarian or partisan tests or any tests based upon race, religion, national origin, or sex in the appointment of employees of the UW System.

*Vocational Rehabilitation Services.* Specify that eligibility for vocational rehabilitation services is determined without regard to sexual orientation, gender expression or gender identity. Under current law, eligibility for vocational rehabilitation services is determined without regard to the sex, race, age, creed, color, or national origin of the individual applying for services, that no class of individuals is found ineligible solely on the basis of type of disability and that no age limitations for eligibility exist.

*Public School Employment.* Specify that in the employment of teachers or administrative personnel in public schools, or in their assignment or reassignment, sexual orientation, gender expression or gender identity may not be considered. Under current law, there may be no discrimination in the employment of teachers or administrative personnel in public schools because of sex, except where sex is a bona fide occupational qualification, race, national origin, or political or religious affiliation.

*Wisconsin Housing and Economic Development Authority (WHEDA).* Specify that WHEDA require contractors and subcontractors engaged in the construction of economic development or



housing projects to provide an equal opportunity for employment, without discrimination as to gender expression or gender identity. Under current law, WHEDA must require contractors and subcontractors engaged in the construction of economic development or housing projects to provide an equal opportunity for employment, without discrimination as to sex, race, religion, sexual orientation, or creed.

*National Guard.* Specify that no person, otherwise qualified, may be denied membership in the National Guard or state defense force because of gender expression or gender identity, and no member of the National Guard or state defense force may be segregated within the National Guard or state defense force on the basis of gender expression or gender identity. Under current law, no person, otherwise qualified, may be denied membership in the National Guard or state defense force because of sex, color, race, creed, or sexual orientation, and no member of the National Guard or state defense force may be segregated on the basis of sex, color, race, creed, or sexual orientation. The bill would also specify that no person may be denied equal access to facilities most consistent with the person's gender identity. Current law relating to no discrimination does not prohibit separate facilities for persons of different sexes with regard to dormitory accommodations, toilets, showers, saunas, and dressing rooms.

The bill would also prohibit discrimination on the basis of a person's status as a holder or a non-holder of a REAL ID non-compliant license and add this license status as a prohibited basis for discrimination in public or private employment, and occupancy of housing projects. [See "Transportation -- Motor Vehicles."]

[Bill Sections: 152, 153, 642, 817, 1920 thru 1924, 1928, 1943 thru 1948, 1990, 2139, 2519, 2529, 2555, and 2712]

### **13. CIVIL ACTIONS REGARDING EMPLOYMENT DISCRIMINATION, UNFAIR HONESTY TESTING, AND UNFAIR GENETIC TESTING**

**Governor:** Specify that the Department or an individual alleged or found to have been discriminated against or subjected to unfair honesty testing or unfair genetic testing may bring an action in circuit court requesting relief against an employer, labor organization, or employment agency that is alleged or found to have engaged in the conduct. Under current law, DWD has statutory responsibilities to receive and investigate complaints alleging discrimination and discriminatory practices. This includes actions responding to alleged honesty testing, such as a polygraph test, or genetic testing by employers, both of which employers generally may not require of employees or coerce them into accepting. DWD's authorities include the ability to conduct hearings, make findings, and issue orders to eliminate unfair or unlawful action, including awarding compensation for violations. DWD findings are reviewable by the Labor and Industry Review Commission (LIRC), and decisions of LIRC can be reviewed further by a circuit court upon petition of a party.

The following paragraphs describe changes under the bill to these procedures, including the creation of civil actions for instances of discrimination or unfair honesty or genetic testing.

*Notices.* Require DWD to serve a certified copy of its findings and order on the complainant,

together with a notice advising the complainant about: (a) the right to seek, and the time for seeking, review by LIRC; (b) the right to bring, and the time for bringing, an action for judicial review; and (c) the right to bring, and the time for bringing, a civil action as described separately. This notice would be in addition to current requirements of serving notice of findings to the respondent alleged to have committed a discriminatory or unfair practice, or to the complainant if DWD finds reason to dismiss the complaint.

Require LIRC to serve a certified copy of the Commission's decision on the respondent. Require LIRC to also serve a certified copy of the Commission's decision on the complainant, together with a notice advising the complainant about the right to bring, and the time for bringing, an action for judicial review under current law and about the right to bring, and the time for bringing, a civil action as specified under the provision.

*Civil Action Procedures and Limitations.* Specify that an action may not be brought against: (a) a local governmental unit, including a political subdivision, special purpose district, an instrumentality or corporation of either type of governmental unit, or any other combination of political subdivision or special entity created by a political subdivision; or (b) an employer, labor organization, or employment agency that employs fewer than 15 individuals for each working day in each of 20 or more calendar weeks in the current or preceding year. Require that the civil action commence within 300 days after the alleged discrimination, unfair honesty testing, or unfair genetic testing occurred.

Specify that if a petition for judicial review of a LIRC finding and order of concerning the same violation as the violation giving rise to the civil action is filed, the circuit court shall consolidate the proceeding for judicial review and the civil action.

Specify that an individual alleged or found to have been discriminated against or subjected to unfair honesty testing or unfair genetic testing is not required to file a complaint with the Department or seek judicial review in order for DWD or the individual to bring a civil action as provided.

*Noneconomic Losses and Punitive Damages Cap and Cap Indexing.* Specify that in a civil action permitted under this provision, if the circuit court finds that discrimination, unfair honesty testing, or unfair genetic testing has occurred, or if such a finding has been made by an examiner or LIRC and not been further appealed, the circuit court may order any relief that an examiner would be empowered to order under current law after a hearing on a discrimination complaint. In addition, require the circuit court to order the defendant to pay to the individual discriminated against or subjected to unfair honesty testing or unfair genetic testing any other compensatory damages, and punitive damages, as permitted under current law, that the circuit court or jury finds appropriate, plus reasonable costs and attorney fees incurred in the action. Require the circuit court to specify whether the relief ordered from the civil action, as provided under the bill, is in addition to or replaces any relief as ordered by DWD, LIRC or the circuit courts. Specify that civil action court costs would be exempted from certain thresholds under current law.

Provide that the sum of the amount of compensatory damages for future economic losses and for pain and suffering, emotional distress, mental anguish, loss of enjoyment of life, and other noneconomic losses and the amount of punitive damages that a circuit court may order may not

exceed the following:

(a) For a defendant that employs 100 or fewer employees for each working day in each of 20 or more calendar weeks in the current or preceding year, \$50,000.

(b) For a defendant that employs more than 100 but fewer than 201 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, \$100,000.

(c) For a defendant that employs more than 200 but fewer than 501 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, \$200,000.

(d) For a defendant that employs more than 500 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, \$300,000.

Specify that if the circuit court orders a payment because an individual was found to have been discriminated against or subjected to unfair honesty testing or unfair genetic testing by an individual employed by an employer, the employer of that individual is liable for the payment.

Require DWD, beginning on July 1, 2024, and on each July 1 after that, to adjust the caps on gross damages, by the percentage change in the consumer price index for the 12-month period ending on December 31 of the preceding year. Require DWD to publish the adjusted amounts calculated under this provision in the Wisconsin Administrative Register, and the adjusted amounts would apply to civil actions commenced beginning on July 1 of the year of publication. Specify that this provision would not apply for years in which the CPI decreased over the preceding calendar year.

*Initial Applicability.* Specify that these provisions would first apply to acts of employment discrimination, unfair honesty testing, or unfair genetic testing committed on the effective date of the bill.

[Bill Sections: 1949 thru 1952, 3202, 3231, and 9350(4)]

#### **14. JOB APPLICANT CONVICTION RECORD**

**Governor:** Provide that employment discrimination because of conviction record would include a prospective employer requesting an applicant for employment, on an application form or otherwise, to supply information regarding the conviction record of the applicant, or otherwise inquiring into or considering the conviction record of an applicant for employment, before the applicant has been selected for an interview by the prospective employer. Specify that this provision would not prohibit an employer from notifying applicants for employment that an individual with a particular conviction record may be disqualified by law or under the employer's policies from employment in particular positions. Provide that these provisions would take effect and first apply to an application for employment submitted to an employer on the first day of the sixth month beginning after publication of the bill.

[Bill Sections: 1935, 9350(1), and 9450(1)]

## 15. EMPLOYEE COMPENSATION INFORMATION

**Governor:** Prohibit an employer from directly or indirectly doing any of the following: (a) rely on or solicit from a prospective employee or their current or former employer information about the employee's current or prior compensation; (b) require that a prospective employee's current or prior compensation meet certain criteria in order for the employee to be considered for employment; and (c) refuse to hire or employ or otherwise discriminate against a prospective employee in compensation or in the terms of employment for opposing a prohibited practice, filing or indicating an intent to file a complaint or otherwise exercising any right under this provision, or participating in any manner in any investigation, action or proceeding to enforce any right under this provision. Repeal a provision of current law that authorizes an employer to solicit salary history information and preempts any local ordinance restrictions on this.

Authorize an employee to disclose information about their compensation to anyone and discuss compensation of other employees of their employer and ask other employees of their employer for details regarding their compensation. Prohibit an employer from interfering with such activity, or from discharging or discriminating against an employee engaging in such activity or an employee taking actions to enforce their rights under this provision. Specify that an employer may prohibit a human resources or payroll employee or other employee with access to compensation information from disclosing information about any other employee's compensation without that employee's prior written consent.

Provide that any employee who is refused employment, terminated, or otherwise discriminated against under these provisions could file a complaint with DWD, which DWD would be required to process in the same manner as employment discrimination complaints are processed under current law. Specify that if DWD finds that a violation has occurred, DWD could order the employer to remedy the violation, including reinstating the employee, providing compensation in lieu of reinstatement, providing back pay accrued not more than two years before the complaint was filed, and paying reasonable actual costs and attorney fees.

Require each employer provide notice to employees and prospective employees of their rights under these provisions by doing all of the following: (a) posting in once or more conspicuous places where notices to employees are customarily posted, a notice in a form approved by DWD of employee and prospective employee rights under these provisions; (b) including on each listing for a job vacancy or other employment opportunity that is advertised by email, website, or other electronic means, all of the following: (1) a statement that the employer is prohibited from relying on a prospective employee's current or former compensation when making an offer of employment or setting compensation; (2) a statement that the employer is prohibited from asking about a prospective employee's compensation until after the employer has made an employment offer with agree upon details of compensation; (3) a statement that the employer is prohibited from requiring that a prospective employee's current or prior compensation meet certain criteria in order for the employee to be considered for employment; and (4) information or a hyperlink to information regarding prohibited bases of discrimination under current law governing fair employment. Specify that any employer who violates these notice requirements would forfeit not more than \$100 for each offense.

Provide that these provisions would first apply to an employee who is affected by a collective bargaining agreement that has provisions inconsistent with these provisions on the day on which the agreement expires or is extended, modified or renewed, whichever occurs first. Provide that these provisions would take effect on the first day of the 6<sup>th</sup> month beginning after publication of the bill.

[Bill Sections: 1828, 1830, 1895, 1930, 1932, 3203, 9350(6), and 9450(3)]

## Worker's Compensation and Unemployment Insurance

### 1. SUPPLEMENTAL BENEFITS APPROPRIATION

SEG	\$10,000,000
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**Governor:** Provide \$5,000,000 annually in a new, annual appropriation from the Department's segregated worker's compensation operations fund (WCOF). Specify that on the bill's effective date, the unencumbered balance of moneys DWD collected from licensed worker's compensation carriers and deposited in an existing appropriation would be transferred to the new appropriation, and such future collections would be deposited to the new appropriation. 2015 Act 55 terminated reimbursements for certain supplemental benefits paid by insurers from the Department's segregated work injury supplemental benefits fund, and instead provided that an insurer paying supplemental benefits would be entitled to annual reimbursement from the WCOF. Under Act 55, annual reimbursements to insurers are supported by WCOF revenues from a special assessment on insurers. Assessments from insurers of up to \$5,000,000 in each calendar year must be deposited in the WCOF and used to provide reimbursement to insurers paying supplemental benefits. Act 55 authorized DWD to collect and pay out a maximum of \$5,000,000 per year from the WCOF for supplemental benefit payments, but did not provide the additional budget authority needed to make those additional payments.

[Bill Sections: 454, 455, 1772, and 9250(1)]

### 2. EMPLOYEE MISCLASSIFICATION

**Governor:** Under current law, employers are required to correctly classify each worker as either an "employee" or "independent contractor." Worker misclassification is the unlawful practice of labeling employees as independent contractors, thereby allowing employers to forego certain tax withholdings, as well as health, retirement, and unemployment insurance benefits. In addition, misclassified employees can be denied access to protections they are entitled to by law, including minimum wage, overtime compensation, worker's compensation coverage, and family and medical leave.

Modify current law as follows:

*Worker's Compensation Fraud.* Specify that it would be a violation to present an application for worker's compensation insurance coverage that falsely or fraudulently misclassifies employees to lower worker's compensation insurance premiums. Provide that if an insurer has evidence that an application for worker's compensation insurance coverage is false or fraudulent or that an employer has committed fraud by misclassifying employees, the insurer is required to report the claim to the Department.

Provide that DWD may require an insurer to investigate an allegedly fraudulent application or alleged fraud by misclassification of employees and may provide the insurer with any records of the Department relating to that alleged fraud. Require an insurer that investigates alleged fraud under this provision to report the results of that investigation to the Department. Increase penalties for employers with repeat violations of the worker's compensation law due to misclassification and failure to insure.

Specify that DWD may request the Department of Justice (DOJ) to assist in an investigation into alleged fraud as provided under this provision. Require the Department, if DWD has a reasonable basis to believe that fraud has occurred, to refer the results of the investigation to DOJ or to the district attorney of the county in which the alleged violation occurred for prosecution.

*Worker's Compensation Misclassification and Providing Escalating Penalties for Repeat Violations.* Under current law, all uninsured employers must pay to DWD the greater of either \$750, or twice the amount determined by the Department to equal what the uninsured employer would have paid during periods of illegal nonpayment for worker's compensation insurance in the preceding three-year period based on the employer's payroll in the preceding three years. Provide that: (a) for a third determination of a violation, the employer be assessed a \$3,000 penalty or three times the amount determined by DWD to equal what the uninsured employer would have paid during periods of illegal nonpayment for worker's compensation insurance in the preceding three-year period based on the employer's payroll in the preceding three years, whichever is greater; and (b) for a fourth determination of a violation, the employer be assessed a \$4,000 penalty, or four times the amount determined by DWD to equal what the uninsured employer would have paid during periods of illegal nonpayment for worker's compensation insurance in the preceding three-year period based on the employer's payroll in the preceding three years, whichever is greater.

Under current law, an employer who fails to comply with certain worker's compensation insurance requirements (failure to insure, or soliciting money from an employee for the purpose of discharging a worker's compensation liability) for less than 11 days must forfeit not less than \$100 nor more than \$1,000. An employer who fails to comply with those same requirements for more than 10 days must forfeit not less than \$10 nor more than \$100 for each day on which the employer fails to comply. Replace these penalty provisions as follows: (a) for a first determination of a violation, forfeit the greater of \$1,000 or the amount of the premium that would have been payable for each act; (b) for a second determination, forfeit the greater of \$2,000 or two times the amount of the premium that would have been payable for each act; (c) for a third determination of a violation, the employer would be assessed a penalty in the amount of \$3,000 or three times the amount of the premium that would have been payable for each act, whichever is greater; and (b) for a fourth determination of a violation, the employer would be assessed a penalty in the amount of \$4,000 or four times the amount of the premium that would have been payable for each act,

whichever is greater.

Under current law, an employer who is required to provide worker's compensation insurance coverage must forfeit not less than \$100 nor more than \$1,000 if the employer does any of the following: (a) gives false information about the coverage to his or her employees, the Department, or any other person who contracts with the employer and who requests evidence of worker's compensation coverage in relation to that contract; or (b) fails to notify a person who contracts with the employer that the coverage has been canceled in relation to that contract. Provide that for a third violation, an employer who is required to provide worker's compensation insurance coverage would forfeit \$3,000 and for a fourth violation, \$4,000.

*Unemployment Insurance Misclassification and Providing a Penalty.* Specify that any employer who knowingly and intentionally provides false information to DWD for the purpose of misclassifying or attempting to misclassify an individual who is an employee of the employer as a nonemployee shall, for each incident, be assessed an administrative penalty by the Department in the amount of \$500 for each employee who is misclassified. For any repeat violation, the employer would be assessed an administrative penalty of \$1,000 for each employee who is misclassified. Under current law, this provision only applies to certain construction industry employers and penalties are capped at \$7,500 per incident. Provide that any employer who, through coercion, requires an individual to adopt the status of a nonemployee shall be assessed an administrative penalty by the Department in the amount of \$1,000 for each individual coerced. For any repeat violation, the employer would be assessed an administrative penalty of \$2,000 for each employee so coerced. Under current law, this provision only applies to certain construction industry employers and penalties may not exceed \$10,000 per calendar year.

Specify that any employer who, after having previously been assessed an administrative penalty by DWD, knowingly and intentionally provides false information to the Department for the purpose of misclassifying or attempting to misclassify an individual who is an employee of the employer as a nonemployee shall be fined \$1,000 for each employee who is misclassified, subject to a maximum fine of \$25,000 for each violation. Under current law, this provision only applies to certain construction industry employers.

Clarify current law authorizing DWD to refer violations of these provisions for prosecution to specify that such referral may be made regardless of whether an employer has been subject to any administrative assessment.

*Notice of Worker Classification Laws.* Require DWD to design and make available to employers a notice regarding worker classification laws, requirements for employers and employees, and penalties for noncompliance, and to promulgate rules to implement this. Require employers to post the notice in one or more conspicuous places where notices are customarily placed, and specify that any employer who violates this posting requirement to forfeit not more than \$100 for each offense. Require DWD to establish and maintain on its website information regarding worker classification laws, requirements for employers and employees, and penalties for noncompliance as well as contact information at each state agency that administers worker classification laws. Require the Department of Financial Institutions (DFI) to provide informational materials and resources on worker misclassification to each person who files with

DFI articles of incorporation, articles of organization, a limited liability partnership statement of qualification, or a certificate of limited partnership.

*Criminal Penalty.* Modify current law governing fraudulent insurance and employee benefit program claims so that it applies to someone who knowingly presents an application for worker's compensation insurance coverage that is false or fraudulent or that falsely or fraudulently misclassifies employees to lower worker's compensation insurance premiums. Under current law, violations of this provision are considered Class A misdemeanor if the value of the claim or benefit does not exceed \$2,500, or a Class I felony if it exceeds \$2,500.

[Bill Sections: 1752 thru 1754, 1760, 1773 thru 1779, 1782 thru 1786, 1905 thru 1909, 2401, and 3306]

### **3. PTSD COVERAGE FOR FIRST RESPONDERS**

**Governor:** Expand current law that applies to a law enforcement officer or a full-time fire fighter relating to post-traumatic stress disorder (PTSD) to also apply to the following: (a) an emergency medical responder; (b) an emergency services practitioner; (c) a correctional officer; (d) a public safety answering point dispatcher; (e) a coroner; (f) a medical examiner; (g) a medicolegal investigation staff member; and (h) a volunteer fire fighter. Specify that a medicolegal investigation staff member includes a chief deputy coroner, a deputy coroner, a deputy medical examiner, and any person who assists the office of a coroner or medical examiner with an investigation of a death, excluding individuals performing solely administrative functions in such offices.

Under current law, as provided under 2021 Wisconsin Act 29, if a law enforcement officer or a full-time fire fighter is diagnosed with PTSD by a licensed psychiatrist or psychologist and the mental injury is not accompanied by a physical injury, that person can bring a claim for worker's compensation benefits if the conditions of liability are proven by the preponderance of evidence and the mental injury is not the result of a good faith employment action by the person's employer, such as a disciplinary action, work evaluation, transfer, layoff, demotion, or termination. The diagnosis does not need to be based on unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by similarly situated employees. No person can receive compensation for a claim under this provision more than three times in their lifetime. Under current law, the other workers under the proposal must demonstrate a diagnosis based on unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by all employees in order to bring a claim for worker's compensation benefits for PTSD.

Require the Commissioner of Insurance to submit to the Legislative Reference Bureau for publication in the Wisconsin Administrative Register a notice of the effective date of new rates for worker's compensation insurance first approved by the Commissioner after the effective date of the bill. Specify that these provisions would first apply to injuries reported on the effective date of such new rates.

[Bill Sections: 1762 thru 1767, 9150(3), and 9350(5)]



#### **4. WORKER'S COMPENSATION--UNINSURED EMPLOYERS FUND**

**Governor:** Modify the sum-sufficient SEG appropriation for uninsured employers fund payments to a continuing appropriation for all monies received from sources identified under current law. The uninsured employers fund is funded through penalties assessed against employers for illegally operating a business without worker's compensation insurance as well as reimbursement payments from uninsured employers for benefit payments made by the fund. The Executive Budget Book indicates that modification to the uninsured employers fund appropriation is needed for DWD to properly account for continuing segregated revenue balances and expenditures.

[Bill Section: 456]

#### **5. RECEIPT OF SOCIAL SECURITY DISABILITY INSURANCE PAYMENTS**

**Governor:** Repeal the statutory provisions disallowing UI benefits to a claimant for each week in the entire month in which the person receives a Social Security Disability Insurance (SSDI) payment. Specify that if a monthly SSDI payment is issued to a claimant for UI benefits, the Department must apportion a claimant's monthly SSDI payment as the fraction of the payment attributable to that week and reduce UI benefits otherwise payable to the claimant for a given week on that basis. This provision would not apply to a lump sum SSDI payment, such as a retroactive payment or back pay.

Provide that, if the claimant is receiving SSDI payments, the claimant must, in the manner prescribed by DWD, report to the Department the amount of the SSDI payments. Certain existing provisions relating to the rounding of benefits and calculating benefit payment deductions to payments would continue to apply under this provision.

Specify that these provisions would take effect on the first Sunday of the 7<sup>th</sup> month beginning after the publication, and would first apply to determinations that occur on that effective date.

[Bill Sections: 1897, 1899 thru 1904, 9350(2), and 9450(2)]