



2009 ASSEMBLY BILL 831

March 11, 2010 - Introduced by Representatives VAN AKKEREN, SINICKI, MILROY, BERCEAU, BLACK, POPE-ROBERTS, PASCH, YOUNG, POCAN, TURNER and GRIGSBY, cosponsored by Senators COGGS, HANSEN, LASSA, KREITLOW, WIRCH and TAYLOR. Referred to Committee on Labor.

1 **AN ACT to amend** 111.31 (1), 111.31 (2), 111.31 (3), 111.321 and 111.322 (intro.);
2 and **to create** 111.32 (2r), 111.32 (12j), 111.32 (12p) and 111.365 of the statutes;
3 **relating to:** prohibiting discrimination against an employee who declines to
4 attend an employer-sponsored meeting or to participate in any communication
5 with the employer or with an agent, representative, or designee of the employer,
6 the primary purpose of which is to communicate the opinion of the employer
7 about religious or political matters.

Analysis by the Legislative Reference Bureau

Current law prohibits discrimination in employment on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, or use or nonuse of a lawful product off the employer's premises during nonworking hours.

This bill prohibits discrimination against an employee who declines to attend an employer-sponsored meeting or to participate in any communication with the employer or with an agent, representative, or designee of the employer, the primary purpose of which is to communicate opinions about religious or political matters. Under the bill, discrimination on that basis includes discharging or otherwise discriminating against an employee because the employee declines to attend such a meeting or to participate in such a communication or threatening to discharge or

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otherwise discriminate against an employee as a means of requiring the employee to attend such a meeting or participate in such a communication.

The bill provides, however, that it is not employment discrimination on that basis for an employer to refuse to hire or employ an individual, to suspend or terminate the employment of an individual, or to discriminate against an individual in promotion, in compensation, or in terms, conditions, or privileges of employment, because the individual declines to attend such a meeting or to participate in such a communication if any of the following applies:

1. The employer is a religious association not organized for private profit or an organization or corporation that is primarily owned or controlled by such a religious association and the primary purpose of the meeting or communication is to communicate the employer's religious beliefs, tenets, or practices.

2. The employer is a political organization, including a political party or any other organization that engages, in substantial part, in political activities, and the primary purpose of the meeting or communication is to communicate the employer's political tenets or purposes.

3. The primary purpose of the meeting or communication is to communicate information about religious matters or political matters that the employer is required by law to communicate and no information is communicated about those matters beyond what is legally required.

In addition, the bill does not limit any of the following:

1. The application of the law restricting political solicitation of public officers and employees while engaged in official duties or while on state property.

2. The right of an employer's executive, managerial, or administrative personnel to discuss issues relating to the operation of the employer's program, business, or enterprise, including issues arising under the bill.

3. The right of an employer to offer meetings or other communications about religious matters or political matters for which attendance or participation is strictly voluntary.

For purposes of the bill: 1) "religious matters" means religious affiliation or the decision to join or not to join, or to support or not to support, any bona fide religious association; 2) "political matters" means political party affiliation, a political campaign, an attempt to influence legislation, or the decision to join or not to join, or to support or not to support, any lawful political group, constituent group, or political or constituent group activity; and 3) "constituent group" includes a civic association, community group, social club, fraternal society, mutual benefit alliance, or labor organization.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 111.31 (1) The legislature finds that the practice of unfair discrimination in
2 employment against properly qualified individuals by reason of their age, race,
3 creed, color, disability, marital status, sex, national origin, ancestry, sexual
4 orientation, arrest record, conviction record, military service, ~~or~~ use or nonuse of
5 lawful products off the employer's premises during nonworking hours, or declining
6 to attend a meeting or to participate in any communication about religious matters
7 or political matters, substantially and adversely affects the general welfare of the
8 state. Employers, labor organizations, employment agencies, and licensing agencies
9 that deny employment opportunities and discriminate in employment against
10 properly qualified individuals solely because of their age, race, creed, color, disability,
11 marital status, sex, national origin, ancestry, sexual orientation, arrest record,
12 conviction record, military service, ~~or~~ use or nonuse of lawful products off the
13 employer's premises during nonworking hours, or declining to attend a meeting or
14 to participate in any communication about religious matters or political matters,
15 deprive those individuals of the earnings that are necessary to maintain a just and
16 decent standard of living.

17 **SECTION 2.** 111.31 (2) of the statutes is amended to read:

18 111.31 (2) It is the intent of the legislature to protect by law the rights of all
19 individuals to obtain gainful employment and to enjoy privileges free from
20 employment discrimination because of age, race, creed, color, disability, marital
21 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction
22 record, military service, ~~or~~ use or nonuse of lawful products off the employer's
23 premises during nonworking hours, or declining to attend a meeting or to participate
24 in any communication about religious matters or political matters, and to encourage
25 the full, nondiscriminatory utilization of the productive resources of the state to the

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1 benefit of the state, the family, and all the people of the state. It is the intent of the
2 legislature in promulgating this subchapter to encourage employers to evaluate an
3 employee or applicant for employment based upon the ~~employee's or applicant's~~
4 individual qualifications of the employee or applicant rather than upon a particular
5 class to which the individual may belong.

6 **SECTION 3.** 111.31 (3) of the statutes is amended to read:

7 111.31 (3) In the interpretation and application of this subchapter, and
8 otherwise, it is declared to be the public policy of the state to encourage and foster
9 to the fullest extent practicable the employment of all properly qualified individuals
10 regardless of age, race, creed, color, disability, marital status, sex, national origin,
11 ancestry, sexual orientation, arrest record, conviction record, military service, ~~or use~~
12 ~~or nonuse of lawful products off the employer's premises during nonworking hours,~~
13 or declining to attend a meeting or to participate in any communication about
14 religious matters or political matters. Nothing in this subsection requires an
15 affirmative action program to correct an imbalance in the work force. This
16 subchapter shall be liberally construed for the accomplishment of this purpose.

17 **SECTION 4.** 111.32 (2r) of the statutes is created to read:

18 111.32 (2r) "Constituent group" includes a civic association, community group,
19 social club, fraternal society, mutual benefit alliance, or labor organization.

20 **SECTION 5.** 111.32 (12j) of the statutes is created to read:

21 111.32 (12j) "Political matters" means political party affiliation, a political
22 campaign, an attempt to influence legislation, or the decision to join or not to join,
23 or to support or not to support, any lawful political group, constituent group, or
24 political or constituent group activity.

25 **SECTION 6.** 111.32 (12p) of the statutes is created to read:

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1 111.32 (12p) “Religious matters” means religious affiliation or the decision to
2 join or not to join, or to support or not to support, any bona fide religious association.

3 **SECTION 7.** 111.321 of the statutes is amended to read:

4 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to ~~111.36~~
5 111.365, no employer, labor organization, employment agency, licensing agency, or
6 other person may engage in any act of employment discrimination as specified in s.
7 111.322 against any individual on the basis of age, race, creed, color, disability,
8 marital status, sex, national origin, ancestry, arrest record, conviction record,
9 military service, ~~or~~ use or nonuse of lawful products off the employer’s premises
10 during nonworking hours, or declining to attend a meeting or to participate in any
11 communication about religious matters or political matters.

12 **SECTION 8.** 111.322 (intro.) of the statutes is amended to read:

13 **111.322 Discriminatory actions prohibited.** (intro.) Subject to ss. 111.33
14 to ~~111.36~~ 111.365, it is an act of employment discrimination to do any of the following:

15 **SECTION 9.** 111.365 of the statutes is created to read:

16 **111.365 Communication of opinions; exceptions and special cases. (1)**
17 Employment discrimination because of declining to attend a meeting or to
18 participate in any communication about religious matters or political matters
19 includes all of the following:

20 (a) Discharging or otherwise discriminating against an employee because the
21 employee declines to attend an employer-sponsored meeting or to participate in any
22 communication with the employer or with an agent, representative, or designee of
23 the employer, the primary purpose purpose of which is to communicate the opinion
24 of the employer about religious matters or political matters.

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1 (b) Threatening to discharge or otherwise discriminate against an employee as
2 a means of requiring the employee to attend a meeting or participate in a
3 communication described in par. (a).

4 **(2)** Notwithstanding s. 111.322, it is not employment discrimination because
5 of declining to attend a meeting or to participate in any communication about
6 religious matters or political matters for an employer to refuse to hire or employ an
7 individual, to suspend or terminate the employment of an individual, or to
8 discriminate against an individual in promotion, in compensation, or in terms,
9 conditions, or privileges of employment, because the individual declines to attend a
10 meeting or to participate in a communication described in sub. (1) (a) if any of the
11 following applies:

12 (a) The employer is a religious association not organized for private profit or
13 an organization or corporation that is primarily owned or controlled by such a
14 religious association and the primary purpose of the meeting or communication is to
15 communicate the employer's religious beliefs, tenets, or practices.

16 (b) The employer is a political organization, including a political party or any
17 other organization that engages, in substantial part, in political activities, and the
18 primary purpose of the meeting or communication is to communicate the employer's
19 political tenets or purposes.

20 (c) The primary purpose of the meeting or communication is to communicate
21 information about religious matters or political matters that the employer is
22 required by law to communicate and no information is communicated about those
23 matters beyond what is legally required.

24 **(3)** This section and s. 111.322 do not limit any of the following:

25 (a) The application of s. 11.36.

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1 (b) The right of an employer's executive, managerial, or administrative
2 personnel to discuss issues relating to the operation of the employer's program,
3 business, or enterprise, including issues arising under this section.

4 (c) The right of an employer to offer meetings or other communications about
5 religious matters or political matters for which attendance or participation is strictly
6 voluntary.

7 **SECTION 10. Initial applicability.**

8 (1) This act first applies to an employee who is affected by a collective
9 bargaining agreement that contains provisions inconsistent with this act on the day
10 on which the collective bargaining agreement expires or is extended, modified, or
11 renewed, whichever occurs first.

12

(END)