

Rob Hutton

STATE REPRESENTATIVE • 13TH ASSEMBLY DISTRICT

February 7, 20180

To: The Assembly Committee on Local Government
From: Rep. Rob Hutton
Re: Assembly Bill 748

Testimony of Rep. Rob Hutton in Support of Assembly Bill 748

Thank you Chairman Brooks and members of the Committee for the public hearing on AB 748. This legislation comes at an important time as we see the economy growing nationwide and employers expanding their operations. The topic of standards and regulations that all businesses in Wisconsin must follow should be one the State of Wisconsin is directing to ensure equity and fairness to employees and employers in Wisconsin regardless of which town, village, city, or county they work in.

AB 748 makes eight important changes to create a standard playing field for employers and to provide certainty to the rights of employees whether they are working in Milwaukee, Dane, Brown, or Eau Claire County. These include: the prohibition of Mandatory Labor Peace Agreements, prohibiting local governments from creating duplicative occupational licenses, creating statewide uniform regulation for employment hours, creating statewide uniform regulations for employee benefits, allowing employers the right to ask salary information from prospective employees, eliminating mandated pay scales for employers contracting with local governments, creating a statewide standard on wage claims and prohibiting local governments from establishing a duplicative process, creating a statewide standard for employment discrimination.

This reform follows in the footsteps of the minimum wage preemption law, signed by Governor Doyle, and the preemption of paid sick leave ordinances passed in 2011. These two changes along with the eight proposed reforms are important in establishing clarity and a straightforward process in business operations in which government is involved in. This prevents patchwork laws that employers must sift through costing time and additional resources that could be invested in the business and its employees. Just as important, this establishes certainty for employees so they know that they may receive the same treatment from the business and the government no matter where they are located. Further, it ensures that no one employee is treated differently by the government or business based on the physical location in which they work.

I appreciate your time in hearing my testimony. These reforms are the next step in continuing to improve Wisconsin's business climate, attract new businesses, better protecting Wisconsin's employment talent, and creating an atmosphere for business to provide family supporting jobs. I am happy to address any questions you have at this time.



CHRIS KAPENGA

WISCONSIN STATE SENATOR

Testimony on Assembly Bill 748 – Employment Law Standardization Act

Assembly Committee on Local Government

February 7, 2018

Thank you Chairman Brooks for holding a public hearing today on Assembly Bill 748. I also want to thank Representative Hutton for co-authoring this important legislation. I apologize that I am unable to attend today's hearing.

In 2005 Governor Jim Doyle signed Act 12 into law, pre-empting local governments from imposing minimum wage ordinances, and in 2011 Governor Walker signed Act 16 into law, preventing local governments from imposing ordinances that mandate private employers provide paid sick leave. Both governors saw the value in ensuring that Wisconsin did not become a patchwork quilt of employment laws.

Recently, there has been a nationwide movement to impose stricter and more burdensome employment laws at the local level, consequently restricting the free movement of labor and burdening employees and employers alike with excessive regulation. Senate Bill 634 makes clear that for matters regarding employment law that uniform standards are of statewide importance and establishes a baseline in a number of areas.

1. Uniformity in occupational licenses

2015 Act 65 prohibited local governments from creating additional occupational licenses moving forward. This bill builds on that legislation by restricting the ability of local governments to enforce licensing requirements that are more stringent than state standards, thus ensuring that licensees do not have to comply with duplicative rules and fees across the state.

2. Uniform regulations for employment hours

Cities across the nation, such as Seattle and San Francisco, have passed ordinances that interfere with private scheduling arrangements between an employee and employer. This bill sets a statewide standard for employee scheduling, hour and overtime regulations and prohibits municipalities from passing ordinances that regulate these practices.

3. Uniform regulations for employee benefits

Employees and employers should have the ability to negotiate a compensation package free of government interference. This bill reaffirms the right for employees and employers to agree upon the employment terms they feel are acceptable to their own personal situations.

4. Right to Ask

Employers often ask prospective employees their salary history in order to make an informed decision on compensation packages. Employees have the ability to choose whether or not to respond. Recently, there has been a nationwide push to prohibit employers from asking that question. This bill would prohibit local governments from passing ordinances that bar the right to ask.

5. Prohibit mandatory Labor Peace Agreements

Labor Peace agreements are used by municipalities across the country to force employers to relinquish their rights regarding union organizing granted under the National Labor Relations Act. Under these agreements, if employers do not agree to certain demands, they could risk not receiving the necessary permit, approval or license to operate. This bill bars local units of government and the state from mandating this coercive practice, while still allowing willing parties to utilize it.

6. Set a statewide standard and prohibit local ordinances regarding wage claims

If an employee believes they have not been paid earned wages, they currently have the ability to file a wage claim with the Department of Workforce Development or the Department of Labor. This bill reaffirms that process, but also states that local governments cannot enact an ordinance that creates a separate wage claim process.

7. Create a statewide standard for employment discrimination

This bill affirms that the standards for employment discrimination set in §111.321 are the discrimination standards that apply across the state. Local governments are prohibited under the bill from setting their own discrimination ordinances.

8. Eliminate mandated pay scales for employers that contract with local governments

Current law prohibits local governments from setting their own minimum wage ordinances, except for contractors doing business with that locality. Many local governments have used this loophole to establish wages that are based on politics and not market demands. This bill removes that loophole and allows contractors and their employees to determine an adequate wage for the job performed, but continues allowing local governments to set wages for its employees.

Wisconsin is made up of 1,924 different municipalities. Imagine the complex web of regulation that businesses and employees would be forced to comply with if every one of those municipalities passed separate ordinances governing employment laws. This possibility makes Wisconsin a less attractive place to grow or locate a business. By passing this legislation we can join other states like Tennessee that have taken similar steps towards ensuring they remain competitive.

Thank you Mr. Chair. I would be happy to answer any questions.

WORKER JUSTICE WISCONSIN

1602 South Park Street #116, Madison, WI 53715

608.255.0376 WorkerJustice.org

To: Assembly Committee on Local Government

From: Becky Schigiel, Executive Director becky@workerjustice.org

Re: Testimony in Opposition to 2017 Wisconsin AB748 – Local Labor Law Preemptions

Date: February 7, 2018

On behalf of Worker Justice Wisconsin, I offer testimony in opposition to AB 748 – the Employment Law Stabilization Act. Thank you for this opportunity.

Worker Justice Wisconsin is both a worker resource center and a coalition of community members, including congregations of many faiths. Legislation which effects the workplace effects all of us. We want working people to be able to feed and support stable households. We want to support business owners in offering good jobs.

Here are some ways that this bill will impact all of us:

- This bill would deny our right to combat a common crime. Every day, an unknown number of Wisconsinites are doing work for which they will not be paid – their paychecks are regularly missing hours of work, their checks bounce at the bank, or they are not paid at all. This is illegal and unfathomable for people who have never been robbed this way. But, unlike other theft victims, these victims can only file a complaint with a state agency.
- The workers most likely to not get paid are workers at the lowest wage levels, which means that they are also the most likely to be in crisis when missing one or more paychecks. Our local communities bear the burden when they cannot pay the rent, lose their transportation to work, or cannot afford groceries. Every year, the state determines worker are owed hundreds of thousands of dollars from their employers. But, the collection of that money is left to us locally. This bill would bar us from finding ways to do so.
- AB 748 would also leave our cities and towns unable to enforce laws against discrimination. We meet with a few hundred workers every year in our center. We see that wage theft and discrimination are most frequent here, just as they are nationally, in industries such as food service, construction, manufacturing and agriculture. When some local employers are able to cheat on labor costs, they make it impossible for our local law-abiding businesses to compete.

WORKER JUSTICE WISCONSIN

1602 South Park Street #116, Madison, WI 53715
608.255.0376 WorkerJustice.org

- We taxpayers are also employers through our cities and towns, and this bill would say to us that we have no right to decide how our tax dollars are spent. We understand our responsibility when we find ourselves benefitting from the labor of people who are being paid less than what is needed to be fed and housed – where we live, in our local communities.

We see in our worker center and in our congregations the effect of poverty and inequality on our communities. Many of us have faith beliefs that demand that we not turn away from the suffering of our own neighbors. We want good jobs, jobs that pay enough to live and schedules that help families, and we want a fair market for our local businesses that hire and pay fairly. Any statewide regulations should set these standards, rather than barring us from doing so locally.

WMC

WISCONSIN MANUFACTURERS & COMMERCE

TO: Members, Assembly Committee on Local Government

FROM: Scott Manley, Senior Vice President of Government Relations

DATE: February 7, 2018

RE: Support for Assembly Bill 748

Wisconsin Manufacturers & Commerce (WMC) thanks Chairman Brooks for holding a hearing on this important legislation, and for providing an opportunity to convey our support for Assembly Bill 748. We respectfully ask members of the Committee to support passage of this bill.

WMC is Wisconsin's largest general business association, with roughly 3,800 members representing all sectors of our state's economy. Our membership consists of small, medium and large businesses from all portions of our state. Since we were founded in 1911, WMC's mission has focused on making Wisconsin the most competitive state in the nation to do business. Having fair, consistent, predictable and uniform employment regulations is an important factor for business competitiveness.

There are many aspects of employment regulation that are best governed by a uniform statewide policy. For example, Wisconsin currently establishes a statewide standard for certain employment regulations, and explicitly prohibits local governments from enacting ordinances regulating the same activity. Those areas include establishing a minimum wage, and regulating family medical leave or sick leave. In addition, the Legislature has already preempted local governments from regulating discrimination based upon creed in a manner inconsistent with state law.

Assembly Bill 748 expands this same concept to provide uniform employment regulation for employment hours, overtime, benefits, discrimination and wage claims. The bill also prohibits a local government from requiring occupational licensing requirements that are more stringent than state law, and preempts local governments from prohibiting employers from asking about the salary history of prospective employees.

Employers face a daunting regulatory burden as it relates to state and federal employment regulation. A recent report by the National Association of Manufacturers found that the average company in the United States spending \$9,991 per employee each year to comply with the cost of federal regulation alone. Piling additional regulation on top of this substantial burden with unnecessary and unwarranted local government regulations makes it even more costly to operate a viable business. It's important to remember that every dollar a business spends to comply with local regulation is a dollar that cannot be spent toward higher wages, higher benefits or the hiring of additional workers.

A patchwork of local employment regulation is also impractical. Wisconsin is home to 190 cities, 407 villages, 1,255 towns and 72 counties. Together, these political subdivisions add up to a combined total of 1,924 local governments. Employers should not be subject to the whim of 1,924 different regulations

501 East Washington Avenue, Madison, WI 53703-2914
Phone 608.258.3400 • Fax 608.258.3413 • www.wmc.org • Facebook WisconsinMC • Twitter @WisconsinMC

Founded in 1911, WMC is Wisconsin's chamber of commerce and largest business trade association.

for wage, hour, discrimination or employee benefits. Nor should businesses have to guess what employment regulations apply based upon where they happen to do business in our state.

Assembly Bill 748 seeks to prevent employers from being caught in the regulatory spider web of nearly two-thousand local governments by preempting them from enacting and enforcing local ordinances related to employment regulation. This will ensure a uniform, fair and predictable regulatory regime in our state.

Opponents will argue against preempting local governments from regulating in these aspects of employment regulation, citing home rule as their basis for regulation. However, Wisconsin courts have consistently found that home rule does not extend to matters of statewide concern, and cannot encroach upon statewide legislative policies. As such, local governments are already preempted from regulating in many of the areas covered by Senate Bill 634 under the constitutional doctrine of *field preemption*.

Specifically, the Wisconsin Supreme Court declared that local governments are preempted from regulating in areas of statewide concern in the case Anchor Savings & Loan Ass'n v. Madison EOC. In that case, the Court stated that municipalities are prohibited from regulating where an ordinance (1) logically conflicts with state legislation; (2) defeats the purpose of state legislation; or (3) goes against the spirit of state legislation. It also stated that where the legislature has "adopted a complex and comprehensive statutory structure" an ordinance that runs counter to that structure violates the spirit of the legislation and is preempted.

In the Anchor case, the Court found the Madison EOC was preempted from enforcing its finding of discrimination based upon marital status because doing so would conflict with state laws regulating bank loan practices. Moreover, in Fox v. Racine, the Court wrote "a municipality cannot lawfully forbid what the legislature has expressly licensed, authorized, or required, or authorize what the legislature has expressly forbidden." In other words, local governments cannot override the Legislature in areas where the Legislature has already enacted statewide requirements.

The Wisconsin Legislature has already adopted a "complex and comprehensive statutory structure" related to wage claims and collection, employment discrimination, employee hours and overtime. It has also established the Department of Workforce Development as the central authority in our state to administer and enforce these statutes on a statewide basis. Consequently, **local governments are already preempted from regulating in these areas, and any ordinances attempting to do so are void.**

Finally, this legislation prohibits state and local governments from engaging in what is essentially regulatory blackmail. Specifically, the bill prohibits a local government from conditioning approval of any permitting, zoning or other approval by requiring an applicant to waive his or her rights under state or federal labor laws. Some municipalities have conditioned development approvals on a business waiving its rights under federal unionization laws. This is unfair, and must stop. No one would argue that workers should be forced to give up their state or federal labor rights as a condition of receiving state or local licenses/permits. By the same reasoning, it is patently unfair to require employers to give up their labor rights in order to obtain state or local permits.

Thank you for your thoughtful consideration of this important legislation. We believe Assembly Bill 748 will ensure that employers in our state have a fair, consistent and predictable climate for employment regulation that is free from the undue burden of local government intervention. We respectfully ask that you support passage of the bill, and would be happy to answer any questions.



To: Wisconsin State Legislature
From: Keep Families First Coalition (complete list below)
Date: Updated: February 5, 2018
Re: SB634/AB748- Local Labor protection law

We are writing to share our significant concerns regarding 2017 SB 634/AB 748, which would prevent municipalities and cities from enacting or enforcing local regulations that strengthens local employment policies and benefits. The Keep Families First Coalition, a statewide coalition of over 65 organizations that advocates for policies that promote economic security for Wisconsin families, opposes this proposal because it greatly restricts the ability of local governments to improve the economic security and working conditions of workers in their communities. These restrictions will be particularly detrimental for efforts to increase equity for women, workers of color, and LGBT Wisconsinites.

If passed, SB 634 would place the following restrictions on local governments

1. Further restrict local governments from establishing a minimum wage for any workers by prohibiting local governments from setting a higher minimum wage for local government employees, private sector employees who perform contract work for a local government, or private sector employees who perform work that is funded by a local government.
2. Prohibits local governments from enacting any regulations that would provide employees protections from employment discrimination.
3. Prohibits local governments from enacting any regulations that would provide employees with additional rights or remedies to recover wages that an employee believes she or he is owed by her employer.
4. Prohibits local governments from enacting any regulations of employee hours, including any requirements that employees be provided with advance notice regarding their schedules.
5. Prohibits local governments from enacting any regulations that require employers to provide employees with any specific type of benefit (i.e.: paid time off).
6. Prohibits local governments enacting regulations that would restrict an employer's right to solicit information regarding the salary history of a prospective employee.
7. Prohibits local governments from enacting any occupational licensing requirements that is more stringent than the state occupational licensing requirements for that particular occupation.
8. Finally, the bill prohibits state or local governments from enforcing any regulation that would require any person or business to accept any provision that is subject to collective bargaining under state or federal law. This provision is meant to preempt what are commonly referred to as "labor peace agreements," under which workers who choose to form a union agree not to protest, strike, or otherwise disrupt business, while employers agree not to pressure workers not to unionize. Many localities across the country have used such agreements to protect the

rights of workers to unionize at publicly funded or subsidized projects such as airports or mass transportation projects.

We believe the state legislature should value the uniqueness of local cities and protect laws that increase equity in the workplace. Minimum wage earners have not received a wage increase since 2008. Those most affected by this are most often women and women of color who are working to support their families in occupations that infrequently raise wages or provide meaningful career advancement opportunities. Cities in Wisconsin have been able to make minimal gains by setting different wage standards for city contractors and vendors so that residents can achieve adequate living standards, earn some savings, and have a few extra dollars to spend--- which helps drive the local economy and generates tax revenue.

As a coalition we strongly caution against removing these protections because it would drive up other related costs, such further need to access state assistance, debt for working families, , and fair scheduling policies that help low-income workers plan a path out of stagnant, low-wage work.

We also know local autonomy allows cities to create goals that help drive local innovation. SB 634 would remove the ability of cities that wish to lead in this area as a way to attract businesses and skilled workers. We are also concerned that this bill restricts the ability of local governments to address bad business actors who fail to enforce existing labor laws or adequately address workplace discrimination.

As a statewide coalition, we value the ability of workers to support themselves and their family members and for cities to have the autonomy to create policies that promote that goal. As a result, we urge the state legislature to oppose SB 634 for the wellbeing of the state and its workers.

The Keep Families First Coalition

9to5 Wisconsin

Clean Slate Wisconsin

Dignity @ Work Coalition (Madison)

Fresh Start, INC

Mary's Daughter LLC

Milwaukee African American Breastfeeding Network

Wisconsin Alliance for Women's Health

Wisconsin Democracy Campaign

Wisconsin Federation of Nurses and Health Professionals

Wisconsin Voices

South Central Federation of Labor, AFL-CIO



9to5 Testimony, February 5, 2018
Chineva Smith, Milwaukee, WI

My name is Chineva Smith. I'll give you a little background about myself. I am college trained with two degrees, a servant of my community with a passion to give back to others, and a single mother of two smart young men. My sons and I face health challenges that we did not ask for. As a matter of fact, no one asks for any health challenge. You just learn how to find adequate treatment and cope with them in the best way that you can.

One of my sons has a hidden disability. The effects of his disability have impacted our family detrimentally. There were many days that I had to leave work and/or call into to work because of symptoms and issues related to his disability. I had to use whatever vacation time or take off without pay there was no job protection. The current WI FMLA is not expansive and does not have enough detail that would have protected my jobs. Take note that I said jobs. My 1st job and most important job is to be a mother. Each of you can relate to that either from you being a parent yourself and/or from witnessing the fact that your own parent/caregiver put you first as a child. During this time period I was forced to job-hop to insure that I had an income to take care of my family because of how often I needed to take off. I was actually told that I could not take off anymore from a previous employer and it was thick in the air that I would be let go because of the time I take off. and. Parents should never be put in the position to have to choose a job over their children's health/well-being. After all if we do not tend to the needs of our child wouldn't that be a form of neglect, right?

My health challenge was significant enough that I had to sit my then eight year old and six year old down to explain to them that there was a possibility that I would not make it out of my procedure. This is an overwhelming feeling for anyone but it is the harsh truth of reality. In the midst of dealing with mixed emotions of health challenges, no one should have to deal with the stress of worrying about their career, income, and livelihood.

Again no one asks or wants to be, in situations like this. However, we do hope that there is compassion and understanding from leaders such as you to realize that everyone has different walks of life. Repealing the WI FMLA would be counterproductive to my life. It will cripple many of your constituents, including me and those trying to live, work and take care of family. Please, WALK with us and understand our lives don't trample us. Keep WI FMLA. Expand WI FMLA. Protect WI FMLA. It has been a need in the past and we made history by implementing it. We must be bold to take it a step further and address the needs of working families and pass, paid family leave insurance, It is a need now, and it will be a need in the future. Think about how you can protect generations to come when making you decision.

Thank you for your time.



Protect Local Democracy!

Legislation was recently introduced (SB634 & AB748) in the Wisconsin State Legislature that would prohibit (or “preempt”) local governments from creating or enforcing labor protections. The bill claims it wants “standardization” (title is “Employment Law Standardization Act,”) but in fact it seeks to **lower standards, choke democracy and stifle the voices of community residents and their elected officials**. The state government already prohibits local communities from passing living wage or paid sick days ordinances. Here’s what else the legislation would make sure local governments can no longer do:

1. **Raise pay for employees paid by taxpayer dollars:** Bill would prohibit a higher minimum wage for employees who perform contract work for a local government, or private sector employees who perform work that is funded by a local government.
2. **Limit discrimination:** Local governments would be unable to enact any regulations providing protections from employment discrimination – including provisions that outlaw discrimination based on gender identity.
3. **Stop wage theft:** Local governments couldn’t add rights or remedies to recover wages that an employee believes she or he is owed by her employer.
4. **Ensure fair scheduling:** The bill would ban any local regulations of employee hours, including any requirements of advance notice regarding schedules.
5. **Fight pay inequity:** Local governments couldn’t restrict an employer’s right to solicit information regarding the salary history of a prospective employee.
6. **Strengthen licensing requirements;** Local governments couldn’t enact any occupational licensing requirements more stringent than the state licensing requirements for that particular occupation.
7. **Promote labor peace:** The bill would prohibit “labor peace agreements,” under which workers who choose to form a union agree not to protest, strike or otherwise disrupt business, while employers agree not to pressure workers not to unionize. Many localities across the country have used such agreements to protect the right to unionize at publicly funded or subsidized projects such as airports.

These bills are part of a national conservative trend to attack local democracy. They go hand-in-hand with efforts to limit who can vote. And in some cases, they would set a criminal penalty for local action— for example, if a municipality passes an ordinance requiring a labor peace agreement.

The Keep Families First coalition is a statewide coalition of over 65 organizations in the state of Wisconsin.



Updated: February 7, 2018

Statement by Raina Johnson; Milwaukee resident and 9to5 Board member

If I were argue my life in front of a jury, the facts of the case would be simple: I am a person. We were all born into this world with guaranteed protections like life, liberty and the pursuit of happiness, so why take that away from me, from anyone? Yes, I honor several identities in my life, from walking around in this world as a visible black person to showing up in spaces as visibly queer, and introducing myself with my non-binary pronouns. Often, you'll see me with a person that's 4 feet tall by my side, that's my son, Elijah and yes, I am a single parent. I have worked very hard to raise him with values that every person deserves dignity and respect regardless of their station in life or how they may be perceived to be different from you. My son is 8 and had a basic understanding of this concept. Hatred isn't taught in my house, why should we enact laws that ultimately make hurdles for people like myself when truthfully, since we aren't straight, white and male, the deck is already stacked against us. I urge you to seek some guidance on these restrictive laws and really ask yourself why are you doing this. Who does this benefit? Is there a greater good to be gained from these discriminatory practices?

In addition to protections from discrimination, our state must finally protect working mothers from losing the stability we all need with good wages and fair scheduling. I seriously urge you to oppose this bill and protect all Wisconsinites, even those who are different.



22 EAST MIFFLIN STREET, SUITE 900
MADISON, WI 53703
TOLL FREE: 1.866.404.2700
PHONE: 608.663.7188
FAX: 608.663.7189
WWW.WICOUNTIES.ORG

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Local Government

FROM: Marcie Rainbolt, Government Affairs Associate

DATE: February 7, 2018

SUBJECT: Opposition to Assembly Bill 748

The Wisconsin Counties Association (WCA) is opposed to Assembly Bill 748 (AB 748), which makes numerous changes to local government's ability to regulate various aspects of employment matters, resulting in a loss of local control over those activities in the best interests of the community. WCA understands the desire to reduce regulatory oversight of business in Wisconsin; however, restricting a county's ability to regulate employment matters would negatively impact certain local industries by reducing the quality of a given workforce and impacting the quality of services delivered.

Under AB 748, local ordinances must strictly conform to statewide standards in various aspects of employment regulation. This provision applies a one-size-fits-all approach to local regulation and fails to account for varying features unique to individual counties. These unique features necessitate regulations beyond the minimum state standards. Restricting a county's ability to regulate community-specific issues within its borders would significantly impact a county's ability to increase economic growth through competitive work conditions and the quality of work delivered.

The WCA is concerned that counties would be prohibited from regulating employee hours and overtime, employee benefits, and employment discrimination because these employment issues may be very industry-specific in any given county. For example, counties whose livelihood depends on seasonal tourism have different needs in setting hours, benefits and other work conditions in order to attract and maintain the seasonal workforce. Without that workforce, the tourism industry in these counties would be severely restricted. Other industry-specific workforce needs include farming, mining and certain manufacturing operations such as timber and paper production. In other words, specific areas have specific regulatory needs that should be regulated by counties to ensure that area's continued growth. WCA requests amending AB 748 to ensure counties can continue to regulate these specific community and industry-based needs to sustain and grow local economies.

Assembly Bill 748
Page 2
February 7, 2018

In addition to these concerns, WCA and its member counties support local freedom to contract. Many counties impose contract conditions on their service providers in an effort to ensure safe and just working conditions for those individuals providing labor that benefits a county and its residents. Taking that local authority away would harm local businesses and local taxpayers.

WCA understands AB 748's intent of achieving state-wide consistency in employment regulation; however, WCA encourages the committee to understand the local needs of particular industries that are most efficiently regulated, in part, at the local level. While state-wide standards may be necessary, a county's ability to regulate industry specific needs should not be curtailed. A county's ability to regulate these local-industry needs will promote growth because the regulations will be targeted and specific based on local needs. This approach will provide consistency and fairness for both local governments and local taxpayers.

The WCA respectfully requests the committee reject AB 748 in its current form. Please feel free to contact WCA for further information.

To: Assembly Committee on Local Government
From: Laura Gutknecht
Re: Testimony in Opposition to 2017 Wisconsin AB748 – Local Labor Law Preemptions
Date: February 7, 2018

I speak as one who has worked for the past 20 years to bring the matter of gender identity discrimination to the attention of my representatives at all levels of government; federal, state and local. The only time, it seemed, that my efforts mattered was when I worked at the local level. The only time that my work produced a tangible result, was when I, with the help of my peers, were able to add gender identity as a protected class to the Madison General Ordinances.

I'm extremely proud of the work that I did with the City of Madison Equal Opportunities Commission and the City Council, when we were the first jurisdiction in the state to offer protections based on gender identity. Madison has often been on the forefront of civil rights protections because we realize that fairness and equality are important to building a strong and cohesive community. This bill would wipe out decades of work by Madison citizens dedicated to ending injustice and seeking to promote equality.

This bill cites uniformity as a matter of concern, and seeks to protect the rights of employers across the state. It says nothing about the individuals whose rights the bill seeks to eliminate. Wisconsin's neighboring states of Minnesota, Iowa, and Illinois have all found ways to include gender identity as a protected class. For the sake of a broader uniformity, do the authors seek to raise the civil rights bar in Wisconsin? I see uniformity raised merely as an excuse for an attack on the modest civil rights gains that local authorities in Wisconsin have made.

Most citizens will see this for the power grab that it is, and as an attempt to quash grassroots efforts at the local level. I urge you to vote against passage of AB748.



Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

La Keisha W. Butler
Director of Intergovernmental Relations

**City of Milwaukee Testimony on AB-748
Assembly Committee on Local Government
February 7, 2018**

Chairman Brooks, members of the committee, thank you for the opportunity to testify today. The City of Milwaukee opposes the proposed Employment Law Standardization Act because of its limiting effects on the ability of political subdivisions to control matters related to employment within its boundaries.

The Employment Law Standardization Act proposes to make several areas, namely employee hours, benefits, and wage claims, matters of statewide concern, and prohibits municipalities from enacting ordinances that relate to those subject areas. It is one thing to prohibit future legislation. However, this bill goes a step further and invalidates local legislation that has already been enacted. This is a significant negative impact on local control. AB-748 also prohibits municipalities from having more stringent requirements for occupational licenses than those required by state law. The State previously prohibited municipalities from creating occupational licenses where the State did not require one in 2015 WI Act 65. Now SB-634 proposes to limit local government's ability to set standards for occupational licenses it already has.

In addition to undoing/rolling back local ordinances statewide, the bill interferes with a municipality's ability to negotiate with vendors in good faith and develop contract terms it deems to be in the best interest of its citizens. Current law prohibits municipalities from enacting ordinances that require a different minimum wage rate for 1) an employee of the municipality; 2) an employee who performs work under a contract for the provision of services to the municipality; or 3) an employee who performs work that is funded by financial assistance from a municipality. Within these exemptions, the City of Milwaukee has determined as a matter of policy that its citizens deserve a minimum wage greater than that set by state law. The City pays its employees, and requires its contractors to pay, a minimum wage of \$10.89 per hour. AB-748 would eliminate all of the aforementioned exemptions (and thereby enforcing a correlating ordinance) and would invalidate such terms in existing contracts as of the effective date of the bill.

Finally, the bill also declares as a matter of statewide concern employment discrimination laws. It prohibits municipalities from enacting ordinances related to employment discrimination and from enforcing employment discrimination laws already on the books. The City of Milwaukee, through its Equal Rights Commission, has worked to create a process for those subjected to discrimination to be heard when the basis of the discrimination is not a protected category under federal or state employment discrimination laws. In fact, the explicit intent was to avoid infringing on claims that should be heard by either the Equal Employment Opportunity Commission or the Department of Workforce Development. AB-748 would essentially repeal that chapter of Milwaukee's Code of Ordinances.

The City of Milwaukee is opposed to AB-748 and respectfully asks the members to vote no on this bill.

For additional information, please contact:

La Keisha W. Butler, Director of Intergovernmental Relations, lbutl@milwaukee.gov, (414) 286-5513

WE ARE MANY

UNITED-AGAINST-HATE.ORG

ADVISORY BOARD MEMBERS

MASOOD AKHTAR

Madison Muslim Community

MARTIN ALVARADO

American Civil Liberties Union

A. J. NINO AMATO

Coalition of Wisconsin Aging Groups

OMIE BALDWIN

Native American Community

GADDI BEN DAN

Senior Executive Producer, Club TNT Television

TIM CULLEN

Retired Senior State Senator (Democrat)

CAROLINE TU FARLEY

Farley Center for Peace, Justice & Sustainability

PHIL FRANSEN

Veterans for Peace

KRISTIN GORTON

Memorial United Church of Christ

MOLLY HERRMANN

Department of Public Instruction

ELANA KAHN

Milwaukee Jewish Federation

PARDEEP KALEKA

Sikh Community

ISADORE KNOX

National Association for the Advancement of Colored People (Dane County)

ARNO MICHAELIS

Author / Speaker, Serve2Unite

AMIT PAL

Freedom from Religion Foundation

STEVE PORTER

Civil Rights Lawyer

GLORIA REYES

Latino/Hispanic Community

ULRICH ROSENHAGEN

Center for Religion and Global Citizenry

DALE SCHULTZ

Retired Senior State Senator (Republican)

STEVE STARKEY

OutReach LGBT Community Center

JOHN VAUDREUIL

Former U.S. Attorney for Western Wisconsin

TIM WHITE

Southwest Wisconsin Area Progressives

PAULA WINNIG

Jewish Federation of Madison

To: Members of the Assembly Committee on Local Government

From: A. Steven Porter, Esq.
Board Member
We Are Many United Against Hate
<https://www.united-against-hate.org>

Re: Opposition to AB 748—Relating to prohibiting local governments regulation of certain employment agreements, terms and conditions of work and employment discrimination.

Date: February 7, 2018

WE ARE MANY: United Against Hate is a non-partisan, non-profit, state-wide organization of common people (<https://united-against-hate.org/advisory-board>) who are urban and rural, spiritual and secular, seeking equal protection for all, united against hate, bigotry and racism. One of our major focusses is standing up against discrimination against vulnerable populations in our state. In the contentious and politically polarized climate we find ourselves in these days – both nationally and in Wisconsin – we believe that it is important for policymakers and civic leaders to step forward to send a message of tolerance and respect for the diversity that has always characterized

WE ARE MANY

UNITED-AGAINST-HATE.ORG

ADVISORY BOARD MEMBERS

MASOOD AKHTAR

Madison Muslim Community

MARTIN ALVARADO

American Civil Liberties Union

A. J. NINO AMATO

Coalition of Wisconsin Aging Groups

OMIE BALDWIN

Native American Community

GADDI BEN DAN

Senior Executive Producer, Club TNT Television

TIM CULLEN

Retired Senior State Senator (Democrat)

CAROLINE TU FARLEY

Farley Center for Peace, Justice & Sustainability

PHIL FRANSEN

Veterans for Peace

KRISTIN GORTON

Memorial United Church of Christ

MOLLY HERRMANN

Department of Public Instruction

ELANA KAHN

Milwaukee Jewish Federation

PARDEEP KALEKA

Sikh Community

ISADORE KNOX

National Association for the Advancement of Colored People (Dane County)

ARNO MICHAELIS

Author / Speaker, Serve2Unite

AMIT PAL

Freedom from Religion Foundation

STEVE PORTER

Civil Rights Lawyer

GLORIA REYES

Latino/Hispanic Community

ULRICH ROSENHAGEN

Center for Religion and Global Citizenry

DALE SCHULTZ

Retired Senior State Senator (Republican)

STEVE STARKEY

OutReach LGBT Community Center

JOHN VAUDREUIL

Former U.S. Attorney for Western Wisconsin

TIM WHITE

Southwest Wisconsin Area Progressives

PAULA WINNIG

Jewish Federation of Madison

America and the State of Wisconsin and for the democratic values and institutions which protect it and give it voice.

United Against Hate opposes AB 748 because it would severely restrict the ability of citizens to engage in democracy at the local level to control their own lives and working conditions. Local governments will no longer be able to respond to the specific, unique needs, values and wishes of their communities and their constituents. They will be restrained – upon fear of criminal prosecution, no less -- from providing greater protections for workers' rights and against discrimination in employment than state law.

Local municipalities have historically been laboratories for democracy and for innovation in areas of social and economic policy. The Madison Equal Opportunities Ordinance (MGO Sec. 39.03), for example, for over 55 years has provided unique protections against discrimination in the workplace in response to the specific needs and wishes of the diverse members of the Madison community that state law does not. As distinct from state law, the Madison Equal Opportunities Ordinance protects Madisonians against discrimination in employment based upon gender identity, non-religion, homelessness, source of income, social security number, physical appearance,

WE ARE MANY

UNITED-AGAINST-HATE.ORG

ADVISORY BOARD MEMBERS

MASOOD AKHTAR

Madison Muslim Community

MARTIN ALVARADO

American Civil Liberties Union

A. J. NINO AMATO

Coalition of Wisconsin Aging Groups

OMIE BALDWIN

Native American Community

GADDI BEN DAN

Senior Executive Producer, Club TNT Television

TIM CULLEN

Retired Senior State Senator (Democrat)

CAROLINE TU FARLEY

Farley Center for Peace, Justice & Sustainability

PHIL FRANSEN

Veterans for Peace

KRISTIN GORTON

Memorial United Church of Christ

MOLLY HERRMANN

Department of Public Instruction

ELANA KAHN

Milwaukee Jewish Federation

PARDEEP KALEKA

Sikh Community

ISADORE KNOX

National Association for the Advancement of
Colored People (Dane County)

ARNO MICHAELIS

Author / Speaker, Serve2Unite

AMIT PAL

Freedom from Religion Foundation

STEVE PORTER

Civil Rights Lawyer

GLORIA REYES

Latino/Hispanic Community

ULRICH ROSENHAGEN

Center for Religion and Global Citizenry

DALE SCHULTZ

Retired Senior State Senator (Republican)

STEVE STARKEY

OutReach LGBT Community Center

JOHN VAUDREUIL

Former U.S. Attorney for Western Wisconsin

TIM WHITE

Southwest Wisconsin Area Progressives

PAULA WINNIG

Jewish Federation of Madison

political beliefs, student status, domestic partner status, citizenship, unemployment status, criminal record and credit history. Significantly, the Madison Equal Opportunities Ordinance provides for compensation to victims of sexual harassment in the workplace, while state law does not.

It is important that the legislature stand up for local control that allows local governments to provide greater protections for civil liberties than state law. This has been a long-standing tradition in Wisconsin – a tradition that recognizes that one size does not fit all when it comes to wages, employment contracts and terms and conditions of local employment. It is a tradition that recognizes that democratic institutions flourish best in local communities and town halls. The needs of Madison and Milwaukee are vastly different than those of Superior, Wausau or Marinette. This tradition has served Wisconsin well. Where is the evidence of harm from the current tradition of local control that would compel us to change this long-lived Wisconsin tradition?

Courts in Wisconsin have consistently held that the protections against employment discrimination under the Madison Equal Opportunities Ordinance implicate matters of both state and local concern and that the Madison Ordinance, in providing greater protections against discrimination in

WE ARE MANY

UNITED-AGAINST-HATE.ORG

ADVISORY BOARD MEMBERS

MASOOD AKHTAR

Madison Muslim Community

MARTIN ALVARADO

American Civil Liberties Union

A. J. NINO AMATO

Coalition of Wisconsin Aging Groups

OMIE BALDWIN

Native American Community

GADDI BEN DAN

Senior Executive Producer, Club TNT Television

TIM CULLEN

Retired Senior State Senator (Democrat)

CAROLINE TU FARLEY

Farley Center for Peace, Justice & Sustainability

PHIL FRANSEN

Veterans for Peace

KRISTIN GORTON

Memorial United Church of Christ

MOLLY HERRMANN

Department of Public Instruction

ELANA KAHN

Milwaukee Jewish Federation

PARDEEP KALEKA

Sikh Community

ISADORE KNOX

National Association for the Advancement of
Colored People (Dane County)

ARNO MICHAELIS

Author / Speaker, Serve2Unite

AMIT PAL

Freedom from Religion Foundation

STEVE PORTER

Civil Rights Lawyer

GLORIA REYES

Latino/Hispanic Community

ULRICH ROSENHAGEN

Center for Religion and Global Citizenry

DALE SCHULTZ

Retired Senior State Senator (Republican)

STEVE STARKEY

OutReach LGBT Community Center

JOHN VAUDREUIL

Former U.S. Attorney for Western Wisconsin

TIM WHITE

Southwest Wisconsin Area Progressives

PAULA WINNIG

Jewish Federation of Madison

employment than state law, actually furthers the state's important public policy and purpose of preventing invidious discrimination in employment. See, e.g., *Fed. Rural Elec. Ins. v. MEOC* (Kessler), No. 79-538 (Ct. App. 4/27/81). It is hard to understand how curtailing, in the name of state-wide uniformity, the ability of local governments to provide greater protections against discrimination in employment than afforded in state law, as this bill would do, promotes Wisconsin's statewide policy for preventing discrimination in employment. Such uniformity would seem to promote only the narrow interests of statewide employers who wish to discriminate against their employees throughout the state with impunity.

Please take a stand for democracy and local diversity and against discrimination in employment and reject AB 748.

Thank you,

A. Steven Porter



Wisconsin

**Statement Before the
Assembly Committee on Local Government**

By

**Bill G. Smith
State Director**

**National Federation of Independent Business
Wisconsin Chapter**

Wednesday, February 7, 2018

Assembly Bill 748

Mr. Chairman, members of the Committee, thank you for scheduling today's public hearing for a proposal strongly backed by our state's small and independent business owners.

For 75 years, NFIB has been a leading advocate for our hard-working small business owners. I appear today on behalf of our nearly 10,000 members located throughout our state.

Several years ago, NFIB supported legislation signed into law by Governor James Doyle that created a statewide, uniform standard for minimum wage rates.

More recently, NFIB also supported legislation that establishes a preemption of paid sick leave proposals by local governments.

Assembly Bill 748 would continue to recognize the challenge many of our small business employers have with compliance issues relating to a variety of labor-related issues.

When Governor Doyle signed the minimum wage preemption legislation into law, he understood the difficulty employers and employees have complying with a confusing patchwork of laws and regulations that could vary from one local government entity to another.

When we asked our members if legislation should be enacted to prohibit local units of government from enacting their own labor laws – 79 percent said yes, we support labor law uniformity across the state.

Governor Doyle got it right when he signed the minimum wage preemption into law, Governor Walker got it right when he signed the paid sick leave preemption into law, and our state's small business community got it right when they said they strongly supported legislation that sets statewide labor law standards.

Mr. Chairman, I respectfully urge the Committee support passage of Assembly 748.



The Tamara D. Grigsby

Office for Equity and Inclusion

Director – Wesley N. Sparkman

Joe Parisi
Dane County Executive

February 7, 2018

Good afternoon, my name is Wesley Sparkman and I am the Director of The Tamara D. Grigsby Office for Equity and Inclusion. Thank you, Mr. Chair and members of the committee for providing the opportunity for me to testify.

Dane County and its Office for Equity and Inclusion stands firmly against any bill that would prohibit Dane County from enacting or enforcing ordinances related to employment discrimination, wage claims, employee benefits, or the living wage.

The legacy of civil rights protection dates very far back in the development of Wisconsin and the history of the country. Civil Rights legislation spans throughout the course of Federal, State, and local governments. On the Federal level, before there was the Civil Rights Act of 1964 there were the Civil Rights Act of 1866, the Civil Rights Act of 1870, the Civil Rights Act of 1875...to protect all citizens in their civil and legal rights, giving them equal treatment in public accommodations, public transportation, and to prohibit exclusion from jury service. There were the anti lynching bills of 1922, The Civil Rights Act of 1957, The Civil Rights Act of 1960 and 1968. Local government's ability to respond to discrimination complaints has allowed us to provide meaningful protection for workers rights, rights for women, rights for persons with disabilities or other challenges, rights for anyone over the age of 40, any race, or religion. Enforcing local ordinances is the way we protect our employees and the people we serve. We see this bill as an attack on local government's ability to make ordinances that protect people; which is at the heart of what local government is all about. In many cases, local government is the voice for people who are afraid or cannot speak for themselves.

We are living in an age where more voices to protect our civil rights need to be heard and not silenced....and in the words of Friedrich Gustav Emil Martin Niemoller, a prominent Protestant pastor who emerged as an outspoken public foe of Adolf Hitler and spent the last seven years of Nazi rule in concentration camps:

“First they came for the Socialist, and I did not speak out-Because I was not a Socialist. Then they came for the Trade Unionists, and I did not speak out- Because I was not a Trade Unionist. Then they came for the Jews, and I did not speak out-Because I was not a Jew. Then they came for me-and there was no one left to speak for me.”

If this bill passes it will set civil rights and the rights of all Wisconsinites back more than 100 years; which shakes the very foundation of what American Democracy stands for and disregards the plight of those who fought for freedom, justice, and equality.

Thank You for your Time.

City-County Building, Rm 356, 210 Martin Luther King, Jr. Boulevard, Madison, WI 53703
PH 608/283-1391 FAX 608/266-2138 TTY Call WI Relay 711



2801 Fish Hatchery Road | Madison, WI 53713 | (608) 270-9950 | (800) 589-3211 | FAX (608) 270-9960 | www.wirestaurant.org

AB 748/SB 634 – Employment Law Standardization Act (Preemption of local conditions of employment laws)

The Issue: Several U.S. states and municipalities are eyeing legislation that could change the way restaurant and retail employers schedule their employees for work or mandate other conditions of employment, such as required benefits. In Wisconsin, Representative Hebl has circulated legislation on “fair scheduling”. This bill would require restaurateurs to publish work schedules at least two weeks in advance and provide extra pay for split shifts or if employees are called off for bad weather. While this bill probably will not pass this session, **it provides a “blueprint” for local municipalities to create their own fair scheduling ordinances.** These laws reportedly are meant to help employees better balance their professional and personal lives. Predictive scheduling mandates challenge employers, especially restaurateurs and small business operators, whose businesses are ruled by the unpredictability of seasonal traffic, customer demand, weather, holidays and turnover issues. In locations where these laws have been enacted, restaurants have reduced their number of employees or have shuttered their doors because they can no longer stay in business.

AB 748/SB 634 is a comprehensive bill that covers eight conditions of employment, including labor peace agreements, protected classes, prohibition of an employer’s ability ask about a prospective employee’s salary history and employment hours/fair scheduling. This bill builds upon Wisconsin’s current preemption of local minimum wage and sick leave laws.

Our ask: Support AB 748/SB 634 that will pre-empt municipalities from passing laws that dictate conditions of employment. This bill follows the lead of Wisconsin’s current minimum wage preemption law that was signed by Governor Jim Doyle. The bill sets statewide employment law standards, and prohibits local governments from enacting their own employment law restrictions on private employers

Sarah Coombs

February 7th, 2018

Citizen Testimony: Opposition to A.B. 748

My name is Sarah Coombs, I am a resident of Madison, WI, and I am here today to ask you to vote against this bill because of the negative impact it would have on my fellow citizens and the Madison community.

I oppose this bill because of the text "No city, village, town, or county may enact or enforce an ordinance related to employment discrimination. If a city, village, town, or county has in effect on the effective date of this paragraph an ordinance related to employment discrimination, the ordinance does not apply and may not be enforced".

While I can understand a general desire for consistency of law, I can see no ethical justification for barring a municipality from giving much needed legal protection against discrimination to vulnerable groups. While the state of Wisconsin does already grant protection from employment discrimination based on race, religion, gender, and sexual orientation, there are other forms of discrimination that are not currently addressed on a state level. Some municipalities, such as the city of Madison, make the commendable effort to extend those protections to cover other forms of employment discrimination such as that based on gender identity, homelessness, political beliefs, physical appearance, and credit history, to name a few. I must ask why the authors of this bill felt the need to specifically bar local governments from improving on state regulations for anti-discrimination. Surely, the peace of mind citizens garner from the knowledge that their livelihoods are protected from unjust biases are far more valuable than whatever legal conveniences that would result from this bill.

Ultimately I am here today on behalf of those important people in my life who are transgender, and by extension all transgender Wisconsinites. Some of them live here in Madison, one of the very few places in Wisconsin where they have legal recourse if they are fired from their jobs due to their gender identity. If this bill is passed, that protection will be gone. That they could suffer by losing their jobs, or be denied job opportunities because of their gender identity, is heartbreaking to me.

It is on their behalf that I implore the members of the committee to not pass this bill.

Thank you.



131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

To: Assembly Committee on Local Government
From: Curt Witynski, J.D., Deputy Executive Director, League of Wisconsin Municipalities
Date: February 7, 2018
Re: **AB 748, Prohibiting local governments from establishing minimum wage standards for their own employees or employees of contractors; and prohibiting local governments from creating a broader basis for employment discrimination than provided for by state law**

The League of Wisconsin Municipalities opposes AB 748 for the following reasons:

1. The bill repeals language in current law allowing municipalities to require a different minimum wage rate for a) an employee of the municipality; b) an employee who performs work under a contract for the provision of services to the municipality; or c) an employee who performs work that is funded by financial assistance from the municipality.
2. The bill prohibits municipalities from enacting ordinances regulating employment discrimination.

These are two policy areas that should be left open to local home rule. Local elected officials are in the best position to make decisions regarding whether to differ from state law in these two matters based on the character, concerns, and values of their communities.

The wages paid to municipal employees, the employees of contractors doing work for a municipality, or the employees of non-profits receiving financial assistance from the municipality are primarily a matter of local concern and should lie outside of the state's ability to interfere. Municipalities understand that the minimum wage established by the state is uniform and must control in every community. However, state law wisely allows a community to adjust the minimum wage for their own employees or for the employees that work for a contractor that performs work for the municipality or for employees of an agency receiving a grant from the municipality. These exceptions should remain in place.

Similarly, communities should continue to have the flexibility to enact ordinances expanding upon the protected classes covered by the state's fair employment law. For example, the City of Appleton emphasizes that one of its fundamental values is being viewed as welcoming to all people. The mayor, common council, and staff view this as critical to being able to attract millennials and young families to settle in the Fox Valley. One of the ways Appleton has expressed this openness is by including in its ordinances a prohibition on discriminating against persons on the basis of gender identity and/or gender expression, which is currently not one of the protected class under the state's fair employment law. Communities should be able to expand upon the list of protected classes specified in the state's fair employment law if their residents demand it.

We urge you to vote against recommending passage of AB 748. Thanks for considering our comments.

YOUR VOICE. YOUR WISCONSIN.

TESTIMONY IN OPPOSITION ADOPTION OF AB748

Eunice Gibson
February 7, 2018

My name is Eunice Gibson. I speak in opposition to the proposed Sec. 111.315 (2)(a), which forbids local governments to enact or enforce an ordinance related to employment discrimination, and in opposition to the proposed Sec. 111.315 (2)(b), which states that local governments that have such ordinances may not apply or enforce such ordinances.

As you know, the City of Madison has had an equal opportunities ordinance since the 1960's. When I started work as an Assistant City Attorney in 1974, I was assigned to redraft the ordinance to include categories included in the federal Civil Rights Act of 1964 and in the State of Wisconsin Fair Employment Act. When employers subsequently challenged the City's authority to enforce the ordinance, I was assigned to defend it in the Wisconsin Supreme Court on several occasions. While the Court sometimes limited the applicability of the ordinance, the City's enforcement authority was regularly upheld. It appears that the intent of AB748 is to overturn those Court decisions.

I am wondering what problems have arisen or what evils have been experienced that would make it necessary to eliminate an ordinance that has functioned successfully for more than forty years. I am aware that other local governments in Wisconsin have successfully enforced equal opportunities ordinances, and I have not heard of evils wrought by such ordinances in those communities.

As the state government is only too aware, the employment situation in different localities differs substantially. Different local governments and the citizens in different localities experience very different employment problems. The same is true for employers. While uniformity is a pleasing word, sometimes the application of uniformity to situations that are not uniform is inefficient and not helpful.

I notice that the current version of AB748 does not propose to amend Sec. 66.0125, Wis. Stats., which provides in part as follows:

66.0125(2)Creation. Each local government is authorized and urged to either establish by ordinance a community relations-social development commission or to participate in a commission established on an intergovernmental basis . . .

66.0125(2)(a). The purpose of the commission is to study, analyze, and recommend solutions for the major social, economic, and cultural problems that affect people residing or working within the local governmental unit, including . . . discrimination in employment . . . on the basis of sex, class, race, religion, sexual orientation, or ethnic or minority status

66.0125(3)(c) The commission shall:

1. Recommend to the local governmental unit's governing body and chief executive officer the enactment of such ordinances or other action as they deem necessary:

b. To ensure to all residents of a local governmental unit, regardless of sex, race, sexual orientation, or color, the right to enjoy equal employment opportunities . . .

So clearly, the legislature at one point considered that employment opportunities might differ from local unit to local unit, and I think it's evident that that is still the case. Employment issues are not uniform among the various local governments, and Sec. 66.0125 recognizes that and provides a remedial procedure. But AB748 does not propose to change this language. This makes it difficult for local government attorneys to advise their clients .

Another thing I don't see in AB748 is authorization of additional staff for the Department of Workforce Development that would be necessary to investigate, conciliate, work out settlements, hear complaints and adjudicate the complaints of employment discrimination that are now being handled under local government fair employment ordinances. Either the state will spend the money to provide that staff to the Department, or the citizens will be denied their timely right a fair hearing on their complaints.

AB748 is a solution looking for a problem. Uniformity sounds like a magical word, but when the issues raised by employment discrimination are not uniform throughout the state, and they are not, uniformity will create problems, not solve them.



Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

La Keisha W. Butler
Director of Intergovernmental Relations

**City of Milwaukee Testimony on AB-748
Assembly Committee on Local Government
February 7, 2018**

Chairman Brooks, members of the committee, thank you for the opportunity to testify today. The City of Milwaukee opposes the proposed Employment Law Standardization Act because of its limiting effects on the ability of political subdivisions to control matters related to employment within its boundaries.

The Employment Law Standardization Act proposes to make several areas, namely employee hours, benefits, and wage claims, matters of statewide concern, and prohibits municipalities from enacting ordinances that relate to those subject areas. It is one thing to prohibit future legislation. However, this bill goes a step further and invalidates local legislation that has already been enacted. This is a significant negative impact on local control. AB-748 also prohibits municipalities from having more stringent requirements for occupational licenses than those required by state law. The State previously prohibited municipalities from creating occupational licenses where the State did not require one in 2015 WI Act 65. Now SB-634 proposes to limit local government's ability to set standards for occupational licenses it already has.

In addition to undoing/rolling back local ordinances statewide, the bill interferes with a municipality's ability to negotiate with vendors in good faith and develop contract terms it deems to be in the best interest of its citizens. Current law prohibits municipalities from enacting ordinances that require a different minimum wage rate for 1) an employee of the municipality; 2) an employee who performs work under a contract for the provision of services to the municipality; or 3) an employee who performs work that is funded by financial assistance from a municipality. Within these exemptions, the City of Milwaukee has determined as a matter of policy that its citizens deserve a minimum wage greater than that set by state law. The City pays its employees, and requires its contractors to pay, a minimum wage of \$10.89 per hour. AB-748 would eliminate all of the aforementioned exemptions (and thereby enforcing a correlating ordinance) and would invalidate such terms in existing contracts as of the effective date of the bill.

Finally, the bill also declares as a matter of statewide concern employment discrimination laws. It prohibits municipalities from enacting ordinances related to employment discrimination and from enforcing employment discrimination laws already on the books. The City of Milwaukee, through its Equal Rights Commission, has worked to create a process for those subjected to discrimination to be heard when the basis of the discrimination is not a protected category under federal or state employment discrimination laws. In fact, the explicit intent was to avoid infringing on claims that should be heard by either the Equal Employment Opportunity Commission or the Department of Workforce Development. AB-748 would essentially repeal that chapter of Milwaukee's Code of Ordinances.

The City of Milwaukee is opposed to AB-748 and respectfully asks the members to vote no on this bill.

For additional information, please contact:

La Keisha W. Butler, Director of Intergovernmental Relations, labutl@milwaukee.gov, (414) 286-5513



To: Assembly Committee on Local Government
From: Mike Murray, Policy Director
Re: Testimony in Opposition to 2017 Wisconsin AB 748 – Local Labor Law Preemptions
Date: February 7, 2018

Chairman Brooks and members of the Assembly Committee on Local Government, thank you for the opportunity to share my testimony in opposition to AB 748, which would significantly restrict the ability of local governments to enact or enforce several different types of labor protections that would promote economic security and workplace equity for workers in their communities.

The Wisconsin Alliance for Women's Health (WAWH) advocates for policies that promote the health, economic security, and overall wellbeing of women and girls in Wisconsin. As a result, WAWH strongly opposes AB 748, as it would foreclose many of the avenues local governments currently have to pursue policies that will improve the wages and working conditions of workers in many low- to moderate-wage occupational fields in which women are often disproportionately overrepresented.

A few specific examples of local employment laws that would be prohibited should AB 748 become law quickly illustrate our organization's concerns:

- AB 748 would significantly restrict the ability of local governments that wish to proactively address the gender wage gap by prohibiting local governments from enacting local workplace discrimination laws. Some local governments, such as the City of Madison, have existing workplace discrimination laws that are more expansive than state law. This provision is particularly troubling in light of the fact that the Legislature repealed the most meaningful enforcement mechanisms that were once contained in Wisconsin's "Equal Pay Law," which greatly reduced the effectiveness of this state law.
- AB 748 would prohibit future and repeal existing "living wage" ordinances that provide local government employees, private sector employees who perform contract work for a local government, or private sector employees who perform work that is funded by a local government with a higher minimum wage than the state minimum wage. Many of the workers who are currently covered by such policies are in traditionally low-wage occupations that are disproportionately filled by women.
- AB 748 would further undermine a local government's ability to reduce the wage gap by preempting local regulations that would prohibit prospective employers from inquiring about a job applicant's previous salary history, a practice that further perpetuates existing gender and racial wage gaps.
- AB 748 would prohibit so called "labor peace agreements," which further protect the rights of workers who wish to organize a union in their workplace in exchange for workers agreeing not to exercise some of their rights (such as the right to strike or protest) under the National Labor Relations Act. The benefits of union membership are particularly

pronounced for women workers, as women union members earn 33 percent more than their non-union counterparts. Just as importantly, the **gender wage gap for union members is 56 percent smaller than for non-union workers**, which makes unionization one of the more powerful policy tools for reducing the gender wage gap.¹

Many of these above-mentioned policies also serve to reduce racial wage gaps and racial discrimination that are faced by members of traditionally marginalized communities.

There are other provisions of AB 748 that are troubling from the perspective of women's economic security, including the bill's prohibitions regarding fair scheduling and wage theft provisions. Instead of going into the details regarding each individual provision, I would like to focus on the larger state policy picture by briefly discussing what would be a more productive state-level approach to local employment laws. Historically, states have usually used preemption laws to set a **minimum statewide employment standard** that creates a floor below which local employment laws could not descend. Such an approach would guarantee Wisconsin workers a minimum standard of wages and job protections, but still allow local governments to experiment with creative, positive solutions for workers in their communities. Should these local initiatives prove successful, then the Legislature should consider adopting such policies statewide.

Many local governments around the country have seized the opportunity to implement employment laws that have greatly benefitted workers in their communities. Unfortunately, Wisconsin has already foreclosed the ability of localities to enact most types of minimum wage and paid leave ordinances, which are two of the primary means by which localities can accelerate wage growth and improve working conditions for workers². At a minimum, Wisconsin should abandon this troubling trend of preempting higher local labor standards. If the Legislature truly feels the need to have uniform labor and employment standards throughout Wisconsin, that should be accomplished through **raising statewide standards** with long overdue policies like a minimum wage increase, paid family and medical leave, and stronger workplace antidiscrimination laws.

Thank you for the opportunity to share WAWH's concerns regarding AB 748. I would be happy to answer any questions you may have regarding my testimony.

¹ <https://nwlc.org/resources/union-membership-critical-women%E2%80%99s-wage-equality/>

² <http://www.epi.org/publication/city-governments-are-raising-standards-for-working-people-and-state-legislators-are-lowering-them-back-down/>



Written Testimony of Sarah Warbelow,
Legal Director of the Human Rights Campaign,
in Opposition to Wisconsin Assembly Bill 748
to The Assembly Committee on Local Government

February 7, 2018

Chair Brooks and Members of the Committee:

My name is Sarah Warbelow, and I am the Legal Director of the Human Rights Campaign, America's largest civil rights organization working to achieve lesbian, gay, bisexual and transgender (LGBT) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBT citizens and realize a nation that achieves fundamental fairness and equality for all. On behalf of our over three million members and supporters nationwide, including more than 23,000 members and supporters in Wisconsin, I hereby submit this statement in opposition of Assembly Bill 748, which would prevent local governments from enacting their own policies for local communities and strip away existing citywide employment non-discrimination protections.

In 1982, Wisconsin became the first state to extend non-discrimination protections for lesbian, gay, and bisexual individuals in employment, housing, education, credit and all public accommodations. In following the example set by Republican Governor Lee S. Dreyfus, the counties of Dane and Milwaukee, in addition to the cities of Appleton, Cudahy, Janesville, Madison, and Milwaukee ban discrimination based on gender identity. Wisconsin has been in the business of extending, not removing, nondiscrimination protections and should not reverse course now.

Anti-discrimination laws send a strong message that all of Wisconsin's residents matter. In a report HRC conducted in 2012, we found that 92 percent of LGBT youth say they hear negative messages about being LGBT, and six of ten LGBT youth report hearing negative messages about being LGBT from their elected leaders. More than four in ten LGBT youth state that their state government is not accepting of LGBT people, and 63 percent of LGBT youth say they will need to move from where they currently live in order to feel accepted. Wisconsin cannot afford to lose young talent because young people feel unwelcome or are unprotected by state law. Nondiscrimination laws protect the most vulnerable among us and local communities should be empowered to do just that. Wisconsinites are entitled to the nondiscrimination protections passed by local government.



Further, this legislation is a dangerous and blatant attack on local control. It would bar local governments from passing and enforcing hard-won protections for workers, including critical employment benefits and wage regulations. Constituents' right to demand change and accountability from their leaders is one of the hallmarks of an effective democratic process, and the legislature should honor cities' right to self-determination.

Non-discrimination ordinances including sexual orientation and gender identity have proven themselves over and over to be good public policy. They're good for LGBTQ people. They're good for economic development. They're good for a city's competitiveness. And they are so good that nearly every major American city has adopted them. On the other hand, bills that restrict local governments from protecting their own citizens – like North Carolina's HB2 – are not. HB2 cost the state more than \$329 billion in revenue.

The last thing Wisconsin needs is to turn back the clock on progress on these issues. Passage of AB 748 would deepen an already significant lack of civil rights protections for Wisconsinites, who do not have state-level legal protection from discrimination on the basis of gender identity. Beginning with an ordinance passed in Minneapolis in 1975, 19 states, the District of Columbia, and more than 100 cities and counties – including Milwaukee, Appleton, and Madison – have enacted laws prohibiting discrimination based on sexual orientation and gender identity. The majority of Fortune 500 companies have voluntarily adopted policies that prohibit discrimination based on sexual orientation and gender identity. A key component of supporting business and ensuring the availability of qualified workers is ensuring civil rights in the work place.

Assembly Bill 748 is harmful to the LGBTQ community, and we ask you not to support it. It strips transgender Wisconsinites of the only explicit non-discrimination protections they have in employment, sends a terrible message to LGBTQ youth, forbids cities from taking common-sense actions to protect workers and develop local economies, and hurts workers (many of whom happen to be LGBTQ). We urge you to oppose AB 748.

Sincerely,

A handwritten signature in black ink that reads "Sarah Warbelow".

Sarah Warbelow
Legal Director

RACIAL EQUITY AND SOCIAL JUSTICE TOOL

PROCESS GUIDE

Step 1: Review Best Practices 2

Step 2: Complete Scoping & Decision Guide 3

Step 3: Conduct the Analysis 4

Step 4: Complete the Follow-Up Evaluation 4



STEP 1: REVIEW BEST PRACTICES

RESJI Mission: Establish racial equity and social justice as core principles in all decisions, policies and functions of the City of Madison.

RESJI Priority Areas: 1. Equity in City Operations; 2. Equity in City Budgets and Policies; 3. Equity in the Community

BEST PRACTICES

- ▶ Identify groups and individuals most likely to be impacted by the decision, policy, program, practice or budget. Find ways to involve them in the analysis. City Departments should include their assigned RESJI Staff, Civil Rights Coordinator, Multicultural Affairs Committee Member, Women’s Initiative’s Committee Member, NRT Staff, and Latino Community Engagement Team Member.
- ▶ Conduct the analysis in the way that works best for the policy being analyzed and those affected. Some examples include: facilitated, full-group discussion; one-on-one conversations; or small group meetings
- ▶ Create accountability by sharing the analysis widely with stakeholders, decision makers and the public. Be clear about how the process occurred, including who asked for the analysis, who participated, and identified missing elements such as data or stakeholder input.
- ▶ This is not a prescriptive or linear process. Adapt it to your needs and reach out for technical assistance as needed. See information in Step 2 about technical assistance.

EQUITY

is just and fair inclusion into a society in which all (people) can participate, prosper, and reach their full potential.

POLICYLINK

RACIAL EQUITY AND SOCIAL JUSTICE TOOL

| Is: | Is NOT: |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| A systematic examination of likely impacts of decisions, policies, programs, practices and budgets on racial and ethnic groups or low-income populations | The “answer” |
| Used to minimize adverse consequences, prevent institutional racism and identify new options to remedy existing inequities | To be used for political or professional gain |
| An intentional pause | To stop a process or slow it down beyond recognition |
| Best used early in the process | Only applicable at the beginning- can be used to evaluate ongoing issues or programs |
| To be conducted with a variety of perspectives and stakeholders whenever possible | The only way to engage stakeholders |
| A way to ensure racial equity impacts are at the core of decision making | Not to be used in place of other processes that are in place such as a fiscal analysis or a public safety analysis |
| A way to raise the voice of traditionally marginalized communities | A way to create token representation in decisions |
| A way to raise awareness of racial and social justice issues in the community | A guarantee that decision makers will follow the recommendations |
| An authentic, focused and intentional effort to consider the recommendations that come out of the analysis – transformational change | A “check box” activity that does not consider creative ways to implement the recommendations – transactional change |

STEP 2: SCOPING & DECISION GUIDE

(skip this step when using the Equitable Hiring Tool – go to step 3)

These steps are designed to help you “scope” the nature of the request for tool use, and decide whether to use the tool in this situation. The following questions should be completed with as much detail as possible. Writing these down is a best practice to ensure clarity throughout the analysis process.

SCOPING QUESTIONS (attach separate sheets of paper as needed)

1. Who made the request to conduct the analysis?
2. Why did this request arise?
3. Why is there a desire to do this analysis now?
4. When did the project or issue that is the subject of the analysis begin? When is its anticipated end date?
5. What are the potential large-scale implications of this analysis with regard to public policy, budget, or city-wide impacts?
6. What is your plan for communicating: A) the potential large-scale implications listed above; as well as B) the RESJI analysis process and recommendations to the relevant department head(s), Mayor, Common Council and/or community stakeholders?

DECISION GUIDE

| | Yes | Unsure | No | Notes |
|----------------------------------------------------------------------------------------------------------------------|-----|--------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Has everyone involved in the analysis reviewed the best practices included in Step 1? | | | | If there are questions about the best practices, consider asking RESJI for technical assistance. (See below). |
| 2. Is your department prepared to make real change as a part of this tool? | | | | If decision makers are not willing to make an attempt at change as a result of the analysis, it may not be recommended to use the tool. |
| 3. Is the subject of the analysis in the early stages of planning? | | | | If the subject of the analysis is already planned or is in its final stages, it may not be recommended to use a tool. |
| 4. Does the subject of the analysis involve one or two (less than 3) departments? | | | | If the subject of the analysis involves three or more departments, consider asking RESJI for technical assistance. (See below). |
| 5. Was the analysis requested from the RESJI Strategy team, Department Head(s), or another City of Madison employee? | | | | If the analysis was requested by an external stakeholder or elected official, please contact RESJI for technical assistance. (See below). |
| 6. Is the purpose for conducting the analysis consistent with RESJI mission and goal areas? | | | | RESJI tool applications should be requested and completed with the purpose of promoting racial equity in City Operations, Policies & Budgets, and in the community. It should not be done solely for political reasons or to delay a project, for example. |
| 7. Is tool usage required by policy or current City goals? | | | | For example: an analysis needed due to equitable workforce plan goals (AA Plan). |
| 8. We are ready and able to implement the communications outlined in scoping question #6 (items A and B) above. | | | | Reach out to other departments, teams, or individuals as necessary. |

Mostly ‘Yes’ column = It seems like this is an appropriate use of racial equity tools. Continue to Step 3. RESJI Tools & Training can provide technical assistance as needed.

Mostly ‘Unsure’ and Mostly ‘No’ columns = This may not be an appropriate use of racial equity tools. Email RESJI Tools & Training team for discussion & technical assistance and/or support.

RESJI Tools & Training contact person: Melissa Gombar mgombar@cityofmadison.com

STEP 3: CONDUCT THE ANALYSIS

There are three tools available for you to use. There is a more robust description on the first page of each tool. If you have questions, please email RESJI Tools & Training Team for assistance: Melissa Gombar mgombar@cityofmadison.com



Impact Analysis Tool - Comprehensive (MS Word)

This is the default tool for a racial equity analysis (other than hiring).



Impact Analysis Tool - Fast-Track (MS Word)

This is a short version of the comprehensive tool. Use this for projects on a short timeline or without a widespread impact on legislation already drafted and introduced, or a minor budget item.



Equitable Hiring Tool (PDF)

Use this tool for hiring or personnel planning.

► When you complete the tool, don't forget to visit the RESJI tool portal on SharePoint.

STEP 4: FOLLOW-UP EVALUATION

After the analysis is complete, please answer the following questions to the best of your knowledge, incorporating input from those who participated in the analysis. You can complete these questions at this survey monkey link: www.surveymonkey.com/r/RESJI-ToolFollowUpEvaluation2017

1. Department
2. Project name
3. Your name (optional)
4. What were the final recommendations?
5. How did you communicate the recommendations to your department's management, the mayor, the common council, and/or community stakeholders?
6. Were these recommendations implemented? Why or why not?
7. In general, what went well with the analysis?
8. What did the analysis cause you and your team to consider that you wouldn't have been considered otherwise? Did you consider the results to be a success? Did the RESJI analysis contribute to the success of the project? Why or why not?
9. What challenges did you and your team experience in the analysis?
10. Were there any questions that worked particularly well for your analysis? Any that did not work well? Please explain.
11. Do you have any recommended changes for the tool or the analysis process? Please share:

RESJI MISSION:

Establish racial equity and social justice as a core principle in all decisions, policies and functions of the City of Madison.



Racial Equity
& Social Justice Initiative

RACIAL EQUITY AND SOCIAL JUSTICE TOOL

COMPREHENSIVE VERSION



Racial Equity
& Social Justice Initiative



Racial Equity and Social Justice Initiative RESJ Tool: Comprehensive Version



INSTRUCTIONS

Use this tool as early as possible in the development of City policies, plans, programs and budgets.

For issues on a short timeline or with a narrow impact, you may use the RESJ Tool – Fast Track Version.

This analysis should be completed by people with different racial and socioeconomic perspectives. When possible, involve those directly impacted by the issue. Include and document multiple voices in this process.

The order of questions may be re-arranged to suit your situation.

Mission of the Racial Equity and Social Justice (RESJ) Initiative: To establish racial equity and social justice as core principles in all decisions, policies and functions of the City of Madison.

Equity is just and fair inclusion into a society in which all, including all racial and ethnic groups, can participate, prosper, and reach their full potential. Equity gives all people a just and fair shot in life despite historic patterns of racial and economic exclusion (www.policylink.org).

The persistence of deep racial and social inequities and divisions across society is evidence of bias at the individual, institutional and structural levels. These types of bias often work to the benefit of White people and to the detriment of people of color, usually unintentionally or inadvertently.

Purpose of this Tool: To facilitate conscious consideration of equity and examine how communities of color and low-income populations will be affected by a proposed action/decision of the City.

The "What, Who, Why, and How" questions of this tool are designed to lead to strategies to prevent or mitigate adverse impacts and unintended consequences on marginalized populations.

BEGIN ANALYSIS

Title of policy, plan or proposal:

Main contact name(s) and contact information for this analysis:

Names and affiliations of others participating in the analysis:

1. WHAT

a. What is the policy, plan or proposal being analyzed, and what does it seek to accomplish?

b. What factors (including existing policies and structures) associated with this issue might be affecting communities of color and/or low-income populations differently?

c. What do available data tell you about this issue? (See page 5 for guidance on data resources.)

d. What data are unavailable or missing?

e. Which focus area(s) will the policy, plan or proposal primarily impact?
Please add any comments regarding the specific impacts on each area:

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Community/Civic Engagement <input type="checkbox"/> Criminal Justice <input type="checkbox"/> Early Childhood <input type="checkbox"/> Economic Development <input type="checkbox"/> Education <input type="checkbox"/> Employment <input type="checkbox"/> Environment <input type="checkbox"/> Other (please describe) Comments: | <input type="checkbox"/> Food Access & Affordability <input type="checkbox"/> Government Practices <input type="checkbox"/> Health <input type="checkbox"/> Housing <input type="checkbox"/> Planning & Development <input type="checkbox"/> Service Equity <input type="checkbox"/> Transportation |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

2. WHO

a. Who (individuals or groups) could be impacted by the issues related to this policy, plan or proposal?
Who would benefit?

Who would be burdened?

Are there potential disproportionate impacts on communities of color or low-income communities?

b. Have stakeholders from different racial/ethnic and socioeconomic groups—especially those most affected—been informed, involved and represented in the development of this proposal or plan? Who is missing and how can they be engaged? (See page 6 for guidance on community engagement.)

c. What input have you received from those who would be impacted and how did you gather this information? Specify sources of comments and other input.

3. WHY

a. What are the root causes or factors creating any racial or social inequities associated with this issue? (Examples: Bias in process; Lack of access or barriers; Lack of inclusive engagement)

b. What are potential unintended consequences? What benefits or burdens may result? (Specifically consider social, economic, health and environmental impacts.)

c. What identified community needs are being met or ignored in this issue or decision?

4. WHERE

a. Are there impacts on geographic areas? (Select all that apply.)

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> All Madison neighborhoods <input type="checkbox"/> Allied Drive <input type="checkbox"/> Balsam/Russet <input type="checkbox"/> Brentwood/Northport Corridor <input type="checkbox"/> Darbo/Worthington <input type="checkbox"/> Hammersley/Theresa <input type="checkbox"/> Leopold/Arbor Hills <input type="checkbox"/> Owl Creek | <input type="checkbox"/> Park Edge/Park Ridge <input type="checkbox"/> Southside <input type="checkbox"/> East Madison (general) <input type="checkbox"/> North Madison (general) <input type="checkbox"/> West Madison (general) <input type="checkbox"/> Downtown/Campus <input type="checkbox"/> Dane County (outside Madison) <input type="checkbox"/> Outside Dane County |
| Comments: | |

5. HOW: RECOMMENDATIONS SECTION

a. Describe recommended strategies to address adverse impacts, prevent unintended negative consequences and advance racial equity (program, policy, partnership and/or budget/fiscal strategies):

b. Is the proposal or plan:

Realistic?

Adequately funded?

Adequately resourced with personnel?

Adequately resourced with mechanisms (policy, systems) to ensure successful implementation and enforcement?

Adequately resourced with provisions to ensure ongoing data collection, public reporting, stakeholder participation and public accountability?

If you answered "no" to any of the above, what resources or actions are needed?

c. Who is accountable for this decision?

d. How will impacts be documented and evaluated? What are the success indicators and progress benchmarks?

e. How will those impacted by this issue be informed of progress and impacts over time?

DATA RESOURCES FOR RACIAL EQUITY AND SOCIAL JUSTICE IMPACT ANALYSIS

City of Madison

- Neighborhood Indicators (UW Applied Population Lab and City of Madison):
<http://madison.apl.wisc.edu>
- Open Data Portal (City of Madison):
<https://data.cityofmadison.com>
- Madison Measures (City of Madison):
www.cityofmadison.com/finance/documents/madisonmeasures-2013.pdf
- Census reporter (US Census Bureau):
<http://censusreporter.org/profiles/06000US5502548000-madison-city-dane-county-wi>

Dane County

- Geography of Opportunity: A Fair Housing Equity Assessment for Wisconsin's Capital Region (Capital Area Regional Planning Commission):
www.capitalarearpc.org
- Race to Equity report (Wisconsin Council on Children and Families):
<http://racetoequity.net>
- Healthy Dane (Public Health Madison & Dane County and area healthcare organizations):
www.healthydane.org
- Dane Demographics Brief (UW Applied Population Lab and UW-Extension):
www.apl.wisc.edu/publications/Dane_County_Demographics_Brief_2014.pdf

State of Wisconsin

- Wisconsin Quickfacts (US Census):
<http://quickfacts.census.gov/qfd/states/55000.html>
- Demographics Services Center (WI Dept of Administration):
www.doa.state.wi.us/section_detail.asp?linkcatid=11&linkid=64&locid=9
- Applied Population Laboratory (UW-Madison):
www.apl.wisc.edu/data.php

Federal

- American FactFinder (US Census):
<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>
- 2010 Census Gateway (US Census):
www.census.gov/2010census

CITY OF MADISON RACIAL EQUITY AND SOCIAL JUSTICE COMMUNITY ENGAGEMENT CONTINUUM

Adapted from *Community Engagement Guide: A tool to advance Equity & Social Justice in King County*

The continuum provides details, characteristics and strategies for five levels of community engagement. The continuum shows a range of actions from county-led information sharing that tends to be shorter-term to longer-term community-led activities. The continuum can be used for both simple and complex efforts. As a project develops, the level of community engagement may need to change to meet changing needs and objectives.

The level of engagement will depend on various factors, including program goals, time constraints, level of program and community readiness, and capacity and resources. There is no one right level of engagement, but considering the range of engagement and its implications on your work is a key step in promoting community participation and building community trust. Regardless of the level of engagement, the role of both the City of Madison and community partners as part of the engagement process should always be clearly defined.

| Levels of Engagement | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>City Informs City of Madison initiates an effort, coordinates with departments and uses a variety of channels to inform community to take action</p> | <p>City Consults City of Madison gathers information from the community to inform city-led projects</p> | <p>City engages in dialogue City of Madison engages community members to shape city priorities and plans</p> | <p>City and community work together Community and City of Madison share in decision-making to co-create solutions together</p> | <p>Community directs action Community initiates and directs strategy and action with participation and technical assistance from the City of Madison</p> |
| Characteristics of Engagement | | | | |
| <ul style="list-style-type: none"> Primarily one-way channel of communication One interaction Term-limited to event Addresses immediate need of City and community | <ul style="list-style-type: none"> Primarily one-way channel of communication One to multiple interactions Short to medium-term Shapes and informs city projects | <ul style="list-style-type: none"> Two-way channel of communication Multiple interactions Medium to long-term Advancement of solutions to complex problems | <ul style="list-style-type: none"> Two-way channel of communication Multiple interactions Medium to long-term Advancement of solutions to complex problems | <ul style="list-style-type: none"> Two-way channel of communication Multiple interactions Medium to long-term Advancement of solutions to complex problems |
| Strategies | | | | |
| <p>Media releases, brochures, pamphlets, outreach to vulnerable populations, ethnic media contacts, translated information, staff outreach to residents, new and social media</p> | <p>Focus groups, interviews, community surveys</p> | <p>Forums, advisory boards, stakeholder involvement, coalitions, policy development and advocacy, including legislative briefings and testimony, workshops, community-wide events</p> | <p>Co-led community meetings, advisory boards, coalitions and partnerships, policy development and advocacy, including legislative briefings and testimony</p> | <p>Community-led planning efforts, community-hosted forums, collaborative partnerships, coalitions, policy development and advocacy, including legislative briefings and testimony</p> |

RACIAL EQUITY AND SOCIAL JUSTICE TOOL

FAST TRACK VERSION



Racial Equity
& Social Justice Initiative





Racial Equity and Social Justice Initiative RESJ Tool: Fast-Track Version

INSTRUCTIONS

This abbreviated version of the full RESJ Tool is intended for issues on a short timeline or without a widespread impact.

Examples:

- single piece of legislation already drafted and introduced.
- creation of a single position description and job posting for an open position
- development of a single budget item proposal

For broader policies and legislation in its beginning phase, please use the full version of the RESJ Toolkit.

This tool should be completed by people with different racial and socioeconomic perspectives. When possible, involve those directly impacted by the issue. Include and document multiple voices in this process. The order of questions may be re-arranged to suit your situation.

Mission of the Racial Equity and Social Justice (RESJ) Initiative: To establish racial equity and social justice as core principles in all decisions, policies and functions of the City of Madison.

Equity is just and fair inclusion into a society in which all, including all racial and ethnic groups, can participate, prosper, and reach their full potential. Equity gives all people a just and fair shot in life despite historic patterns of racial and economic exclusion (www.policylink.org).

The persistence of deep racial and social inequities and divisions across society is evidence of bias at the individual, institutional and structural levels. These types of bias often work to the benefit of White people and to the detriment of people of color, usually unintentionally or inadvertently.

Purpose of this Tool: To facilitate conscious consideration of equity and examine how communities of color and low-income populations will be affected by a proposed action/decision of the City.

The "What, Who, Why, and How" questions of this tool are designed to lead to strategies to prevent or mitigate adverse impacts and unintended consequences on marginalized populations.

BEGIN ANALYSIS

Name of topic or issue being analyzed:

Main contact name(s) and contact information for this analysis:

Names and affiliations of others participating in the analysis:

1. WHAT

a. What does the policy, plan or proposal seek to accomplish?

b. What do available data tell you about this issue? (See page 3 for guidance on data resources.)

c. What data are unavailable or missing?

2. WHO

a. Who (individuals or groups) could be impacted by the issues related to this policy, plan or proposal? Who would benefit?

Who would be burdened?

Are there potential disproportionate impacts on communities of color or low-income communities?

3. WHY

a. What are potential unintended consequences (social, economic, health, environmental or other)?

4. HOW: RECOMMENDATIONS SECTION

a. Describe recommended strategies to address adverse impacts, prevent negative unintended consequences and advance racial equity (program, policy, partnership and/or budget/fiscal strategies):

DATA RESOURCES FOR RACIAL EQUITY AND SOCIAL JUSTICE IMPACT ANALYSIS

City of Madison

- Neighborhood Indicators (UW Applied Population Lab and City of Madison):
<http://madison.apl.wisc.edu>
- Open Data Portal (City of Madison):
<https://data.cityofmadison.com>
- Madison Measures (City of Madison):
www.cityofmadison.com/finance/documents/madisonmeasures-2013.pdf
- Census reporter (US Census Bureau):
<http://censusreporter.org/profiles/06000US5502548000-madison-city-dane-county-wi>

Dane County

- Geography of Opportunity: A Fair Housing Equity Assessment for Wisconsin's Capital Region (Capital Area Regional Planning Commission):
www.capitalarearpc.org
- Race to Equity report (Wisconsin Council on Children and Families):
<http://racetoequity.net>
- Healthy Dane (Public Health Madison & Dane County and area healthcare organizations):
www.healthydane.org
- Dane Demographics Brief (UW Applied Population Lab and UW-Extension):
[www.apl.wisc.edu/publications/Dane County Demographics Brief 2014.pdf](http://www.apl.wisc.edu/publications/Dane%20County%20Demographics%20Brief%202014.pdf)

State of Wisconsin

- Wisconsin Quickfacts (US Census):
<http://quickfacts.census.gov/qfd/states/55000.html>
- Demographics Services Center (WI Dept of Administration):
www.doa.state.wi.us/section_detail.asp?linkcatid=11&linkid=64&locid=9
- Applied Population Laboratory (UW-Madison):
www.apl.wisc.edu/data.php

Federal

- American FactFinder (US Census):
<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>
- 2010 Census Gateway (US Census):
www.census.gov/2010census

EQUITABLE HIRING TOOL



Racial Equity
& Social Justice Initiative





Equitable Hiring Tool

Introduction

This tool is a checklist and guide to ensure each hiring decision for the City of Madison is as equitable as possible. This can be achieved through partnership between the hiring department, Human Resources, Civil Rights, and community relationships within the specific field that are built and sustained over time.

It is imperative this tool be used with a group of people from diverse backgrounds.

Please note that this is not a comprehensive employment guide. There are many more required actions to ensure that each employee is on-boarded and feels included everyday at the workplace. Unfortunately, those items are beyond the scope of this tool, although their importance cannot be understated. Only utilizing this tool without sincere efforts in the everyday operations of a department will not have the desired effects of diversifying the City of Madison workforce or achieving racial equity at the City of Madison. Additional resources for assuring equity, diversity, inclusion, and employee engagement can be found through contacting Human Resource's Employee Development and Organizational Effectiveness Unit. Please also review the Navigating the City of Madison Hiring Process Guide.

Process and Tool Layout

Traditionally, the hiring process has been thought of as two basic steps: recruitment and interviews.



- HR Recruits
- Department Interviews

Hiring managers at the City of Madison understand that hiring typically involves more steps, with intensive pre-planning including updated position descriptions, relationship building, understanding department and societal dynamics, and benchmarking. Also, the process is department led, while there is a lot of collaboration between the department and Human Resources throughout the process. Thoughtful consideration in all of these areas is especially important to assure the City of Madison furthers racial equity and social justice. The following page is a checklist cover sheet that goes over each of the below areas to ensure each step of the hiring process has been thoroughly considered. If you click on the title of each section, you will be directed to complete that section of the tool.



- Dept & HR Knowledge
- Position Description
- Exam / Supplemental Questions
- Recruitment & Advertising
- Interview Questions
- Interview & Selection

Equitable Hiring Tool Coversheet

Date: _____

Name(s): _____

HR Analyst: _____

Requisition number: _____

Job title _____

A Department and HR Knowledge

[click on title to complete this section]

- I have reviewed:
 - My department's equitable workforce plan
 - Industry-wide demographics
 - Department demographics
 - Unit demographics
- I have a long-term plan for how this vacancy impacts the future of my work unit and department.
- I have a plan to build relationships with community members from a diverse background for ongoing recruitment efforts.

B. Position Description

[click on title to complete this section]

- I have made a list of the mandatory educational requirements for this position.
- I have made a list of the mandatory experience requirements for this position.
- I have a plan to mitigate any unintended consequences or disproportionate impacts based on these requirements and preferences.
- I have included language in the position description regarding working with multicultural communities. (Appendix A)
- I have reviewed the physical requirements of the position.
- I have a plan to mitigate any unintended consequences or disproportionate impacts related to the physical requirements of the position.
- I have updated the position description.

C. Exams (Skip if not using)

[click on title to complete this section]

- This job position requires individuals to read and write as a part of the position description.
- I have reviewed the exam in detail and made any needed changes.
- I believe the exam is relevant to the position.
- It would be appropriate if this exam could be translated to another language.
- I believe the skills on the exam are absolutely required to begin working in this position and could not be learned on the job.

- I have a plan to mitigate any unintended consequences or disproportionate impacts based on the exam.

D. Supplemental Questions (skip if not using)

[click on title to complete this section]

- This job position requires individuals to read and write as a part of the position description.
- I have included a supplemental question regarding racial equity and social justice. (Appendix B)
- There is a diverse panel of people reviewing supplemental questions.
- I have tangible benchmarks completed for the supplemental questions.
- I have a plan to mitigate any unintended consequences or disproportionate impacts based on the supplemental questions.

E. Recruitment and Advertising

[click on title to complete this section]

- I have a plan to post this position internally/externally which minimizes unintended consequences and disproportionate impacts.
- I have a plan to post this position with a wide variety of diverse stakeholder groups.

F. Interview Questions & Benchmark Development

[click on title to complete this section]

- I have included an interview question regarding racial equity and social justice. (Appendix C)
- I have tangible benchmarks completed for the interview questions.

G. Conducting Interviews and Making a Selection

[click on title to complete this section]

- There is a diverse interview panel based on race and gender.
- There is a member of another department or organization on the interview panel.
- There is sufficient time scheduled for interviewing candidates with breaks in between.
- The chosen candidate has demonstrated the ability to work with multicultural populations.

A. Department and HR Knowledge

(This information can be found in your department's equitable workforce plan. If you need further assistance understanding this data, first contact your agency's Civil Rights Coordinator, then your assigned HR Analyst and/or the Affirmative Action Specialist.)

Information to review before hiring:

- Review Department's Equitable Workforce Plan
- Review industry-wide demographics
- Review department demographics
- Review unit demographics

Please list any concerns regarding racial, gender, disability, or further inequities (if applicable) in this position.

Planning for the future:

How will this vacancy influence the future needs in your agency? Along with this vacancy, what are the future job needs you should keep in mind while planning for this position?

Building Relationships:

How have you or how do you plan to build relationships with Civil Rights, Human Resources, and leaders from diverse communities? Relationships are a key to recruitment and retention.

B. Position Description Updating

Updating the Position Description

On what date was this position description last updated?

Has it ever been updated using this Equitable Hiring tool? If yes, on what date?

Yes/No

Before looking at the existing position description, make a list below of the basic skills one needs to be successful in this position.

Educational Requirements

Based on the above listed skills, are there any minimum education requirements? If so, what are they?

Yes/No

List any groups that could be disproportionately impacted by these requirements and what you will do to mitigate the impact.

B. Position Description Updating *(continued)*

List any potential unintended consequences of these education requirements and what will you do to mitigate them.

Experience Requirements

Based on the above listed skills, are there any minimum prior experience requirements? If so, what are they?

Yes/No

List any groups that could be disproportionately impacted by these requirements and what you will do to mitigate the impact.

List any potential unintended consequences of these requirements and what will you do to mitigate them.

Update the position description based on this information.

Mandatory Language to Include

Does this Position Description include language requiring the ability to successfully work with multicultural populations? (This is a requirement for all City of Madison jobs. See Appendix A for examples. If you are not going to include this requirement, provide reasons why below.)

Yes/No

Physical Requirements

What are the physical requirements of this job? (Including sitting at a computer.)

List any groups that could be disproportionately impacted by these requirements and what you will do to mitigate the impact.

List any potential unintended consequences of these physical requirements and what will you do to mitigate them.

C. Exams

Exams (If not using an exam, skip this section)

On what date was the exam last reviewed for relevancy?

Do the questions match with what is expected at that level of hiring and are they up to date with current practices in the industry? If not, why?

Yes/No

Appropriateness of Exam

Does this job position require the applicant to sit at a desk or perform reading/writing as a part of their job duties? (If not, a written or computerized exam is not recommended. Talk to your HR Analyst for other options.)

Yes/No

Language

If a candidate demonstrates their ability to speak English and meet safety standards in English, can they take the exam in another language if the exam is available in another language? Please explain.

Yes/No

Microsoft Office Computerized Testing

Will the employee use Microsoft Office products on the job on a regular basis?

Yes/No

Is it possible for candidates to learn this on the job instead of having it tested beforehand? Please explain.

Yes/No

Final questions

List any groups that could be disproportionately impacted by these testing requirements and what you will do to mitigate the impact.

List any potential unintended consequences of these testing requirements or preferences and what will you do to mitigate them.

D. Supplemental Questions

(If not using supplemental questions skip this section)

Appropriateness of Supplemental Questions

Does this job position require the applicant to write well as a part of their job duties? (If not, supplemental questions may not be recommended, unless grammar will not be considered.)

List any groups that could be disproportionately impacted by these requirements and what you will do to mitigate the impact.

List any potential unintended consequences of these requirements and what will you do to mitigate them.

E. Recruitment and Advertising

Posting internal/external

Should this position be posted internal to city employees only, or should it be open and competitive? What is the rationale behind this decision?

List any groups that could be disproportionately impacted and what you will do to mitigate the impact.

List any potential unintended consequences and what will you do to mitigate them.

Sample Supplemental Questions

If you feel that Supplemental questions are necessary, see Appendix B for sample Equity Supplemental Questions. These questions should be benchmarked and scored at the same level of importance as the other supplemental questions being asked.

Supplemental Question Review

Assure that there is at least one person of color and one woman scoring the supplemental questionnaires. (Need help identifying people to assist you? Get in touch with your HR Analyst or the Affirmative Action Specialist. You may also reach out to the Multicultural Affairs Committee and/or the Women's Initiatives Committee. IMPORTANT NOTE: Diverse review panels are not effective if you do not take the other steps described in this tool.)

Benchmarks

Have you worked with the assigned HR Analyst to set up benchmarks for supplemental questions?

Yes/No

(If posting the job in this way leads to unintended outcomes for a group that is already underrepresented in your department, you should reconsider your decision.)

Advertising the position

How do you plan to target the underrepresented groups listed above with this job posting?

(Please consult with your HR Analyst or the Affirmative Action Specialist for advertisement sources to advertise to the underrepresented demographic. Remember that authentic relationships are the best form of advertising.)

F. Interview Questions and Benchmark Development

Interview Questions

See Appendix C for sample interview questions. Choose at least one of these or customize your current questions to assure that all new employees demonstrate their capacity and willingness toward working with multicultural communities and workplace teams. These questions should be benchmarked and scored at the same level of importance as the other supplemental questions being asked.

Benchmarks

Have you worked with the assigned HR Analyst to set up benchmarks for interview questions? Yes/No

G. Conducting Interviews and Making A Selection

Interview Panels

Racial and Gender Diversity

Assure that there is at least one person of color and one woman on the interview panel.

(Need help identifying people to assist you? Get in touch with your HR Analyst or the Affirmative Action Specialist. You may also reach out to the Multicultural Affairs Committee and/or the Women's Initiatives Committee. IMPORTANT NOTE: Diverse interview panels are not effective if you do not take the other steps described in this tool.)

Organizational Diversity

It is highly recommended to use at least one person from another department and/or another organization to be part of the panel.

(Need help identifying people to assist you? Get in touch with your HR Analyst or the Affirmative Action Specialist. You may also reach out to the Multicultural Affairs Committee and/or the Women's Initiatives Committee. IMPORTANT NOTE: Diverse interview panels are not effective if you do not take the other steps described in this tool.)

Avoid bias

Tips:

- Take your time.
- Allow at least 15-30 minutes before the interview for a candidate to review the interview questions. This allows the candidate to feel more at ease and to make the most of the interview time.
- Schedule 15 minutes between each candidate interview to fully debrief. Research shows that we rely less on bias and make more equitable hiring decisions if we slow down.

Making the final decision

Tips:

- The candidate chosen for hire does not have to be the candidate with the highest interview score and/or civil service exam score.
- Always ensure justification of your hire by taking good interview notes and being able to provide those in open records requests.
- Working with multicultural communities is a requirement for City of Madison employees. It can be more important than many years of technical skill for any City of Madison job.

Appendix A – Position Description Language

Mandatory Language:

The City of Madison is dedicated to eliminating racial inequities. Successful candidates will demonstrate the ability to successfully work with multicultural communities.

Other Examples:

Ability to consider different viewpoints.

Ability to develop and maintain working relationships with diverse coworkers, community members, customers, etc.

Appendix B – Sample Supplemental Questions

Sample A

The goal of reducing racial disparities that exist in our community is a high priority for the City of Madison. The City of Madison, including [department], will play vital roles in helping to reduce disparities and create equal outcomes for everyone.

In your experience, what concepts are important to consider when approaching work that will impact diverse populations and low income communities? What specific experiences have you had that might prepare you for such work?

Sample B

The [position name] will interact and collaborate with a diverse group of individuals and organizations. Such individuals and organizations may include youth, parents, low-income residents, school personnel, non-profit representatives, City staff and elected officials.

Please describe one or more situations which required you to work collaboratively with a diverse group on a community project or issue. Include details of your role in planning, implementing and evaluating the initiative(s). (Maximum 2 Pages)

Sample C

The [position title] will interact with a diverse group of individuals to solve problems. These groups and individuals may include City staff, neighborhood residents, property owners, social service agencies, and other stakeholders. Please describe one or more situations in which you have led and worked with a diverse group to resolve a difficult problem. Describe the approach you used, the principles that guided you, and the ultimate outcome.

Appendix C – Sample Interview Questions

Sample A

Why do you value racial equity and social justice? What work have you done that demonstrates this? Provide an example of how your life and/or professional career has embodied racial equity and social justice.

Sample B

The City of Madison and [department name] is dedicated to the Racial Equity and Social Justice Initiative, in which we examine our day to day operations and impacts with the goal of creating a fair and just community so everyone can have equal outcomes. What educational, volunteer, and life experiences demonstrate your ability to contribute to the City of Madison's goal of achieving racial equity and social justice?

Sample C

Why should [department name] consider racial equity and social justice in its day to day operations? What are some strategies that [department name] could implement to help to reduce race and other disparities seen in our community?

Sample D

Our community is becoming more racially and ethnically diverse, which magnifies the importance of serving communities of color and other historically disenfranchised groups effectively. Provide an example of a successful project you led or contributed to in working with multicultural and diverse communities. Describe the challenges and opportunities that you worked through working on this team.