

# Governor Walker's Budget Could Affect Wisconsin Employment Laws

On February 8, 2017, Wisconsin Governor Scott Walker presented his two year executive budget bill (the "Bill") to the Wisconsin legislature. Buried deep within the nearly 1,000 page document are a number of proposed revisions to Wisconsin employment law that, if passed into law, would significantly alter proceedings under the Wisconsin Fair Employment Act ("WFEA") and the Wisconsin Family and Medical Leave Act ("WFMLA").

## Statutory Settlement Procedure

The Bill creates a statutory settlement procedure for resolution of claims filed under the WFEA and WFMLA. Between ten days after the issuance of a complaint and ten days before the conclusion of a hearing, either party may make a settlement offer to resolve the claim. An offer of settlement suspends obligations regarding discovery and other matters until the offer is either accepted, declined, or naturally expires ten days after it was first served. If the offer is accepted, then the parties negotiate and execute the documents necessary to effectuate the settlement and the case is closed.

But, most significantly, the Bill penalizes employees and employers who decline settlement offers and then fail to obtain a "more favorable" award from the agency. For example, if a claimant declines a statutory settlement offer from the employer and subsequently receives a final judgment of less than what the employer offered, **then the employer is entitled to all post offer costs (including reasonable attorneys' fees) from the claimant.** If, on the other hand, the employer declines a statutory settlement offer and the claimant later receives a "more favorable" award, then the claimant is entitled to prejudgment interest on the amount awarded.

Under either scenario, there would be a powerful incentive for both parties to make reasonable settlement offers and to strongly consider accepting such an offer.

## Elimination of LIRC

Under current law, the Labor and Industry Review Commissions ("LIRC")—an

### POSTED:

Feb 14, 2017

### RELATED PRACTICES:

[Labor and Employment](#)

<https://www.reinhartlaw.com/practices/labor-and-employment>

### RELATED PEOPLE:

[Robert S. Driscoll](#)

<https://www.reinhartlaw.com/people/robert-driscoll>



independent state agency composed of three commissioners appointed by the Governor—reviews administrative decisions rendered by the Department of Workforce Development ("DWD") and Division of Hearings and Appeals ("DHA") relating to unemployment insurance, discrimination in employment, equal enjoyment of places of public accommodation and worker's compensation. Before proceeding to state court, a claimant must first have his or her claim adjudicated by an Administrative Law Judge ("ALJ") or Hearing Officer of the DWD or DHA, and then have the decision reviewed by LIRC.

The Bill proposes to eliminate LIRC and keep the review of decisions rendered by the DWD and DHA in house. Instead of review by LIRC, an ALJ or Hearing Officer's decision would be reviewed by the administrator of the appropriate division in the DWD and DHA before proceeding to circuit court.

## Conclusion

It remains to be seen whether these portions of the Bill will become the law in Wisconsin. Reinhart is monitoring this matter closely and will publish updates as additional information becomes available. If you have any questions about these revisions, the WFEA or WFMLA, please contact Rob Driscoll, Christopher Schuele, or your Reinhart attorney.

*These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.*