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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE CORY MASON

FROM: Margit Kelley, Staff Attorney

RE: Description of LRB-4163/1, a Bill Draft Relating to Paid Sick Leave

DATE: March 11, 2014

This memorandum, prepared at your request, briefly describes LRB-4163/1, a bill draft relating to paid sick leave.

### **CURRENT LAW**

The Wisconsin Family and Medical Leave Act (commonly referred to as the “Wisconsin FMLA”) provides that an employee may take up to six weeks’ leave from employment for the birth or adoption of a child, and up to two weeks’ leave for the employee’s or a family member’s serious medical condition. Various requirements apply to the administration of any leave taken, including eligibility, notice, timing, and coordination of the leave. [s. 103.10, Stats.]

Wisconsin law does not require an employer to provide general sick leave pay to its employees, and the law does not require payment of any salary or wages during any periods of family or medical leave, though an employee may choose to substitute any other paid or unpaid leave that may be provided by the employer for any periods of family or medical leave. [s. 103.10 (5), Stats.]

The requirements for family and medical leave are the minimum required by law to be provided by a covered employer to an eligible employee. An employer is not prohibited from providing an employee with more generous family and medical leave rights than those provided under the law. [s. 103.10 (2) (a), Stats.]

### **LRB-4163/1**

The bill draft requires employers to provide paid sick leave, and specifies various requirements for the accrual and use of the paid sick leave.

Under the draft, an employer must provide paid sick leave for any employee who has worked for the employer for at least 90 days, to accrue at the rate of one hour for every 30 hours worked after the 90-day vesting period (approximately 69.3 hours, or 8.7 days, per year for an employee who works 40 hours per week). The paid sick leave may be taken in one-hour increments.

Under the bill draft, an employer is not required to provide more than 72 hours of paid sick leave in a year, or 40 hours in a year if the employer is a small business. Paid sick leave must be allowed to carry over from year to year, but an employee is prohibited from using more than the annual accrual limit in any one year. Any unused leave has no cash value on termination of employment, but must be restored if the employee returns to work within one year of the termination.

The bill draft specifies that an employee may use paid sick leave for the employee's or a family member's health condition or preventive medical care. Additionally, an employee may use paid sick leave for the employee's or a family member's medical care or assistance relating to domestic violence, including seeking medical care or counseling, obtaining victim services, relocating a residence, or participating in a civil or criminal action.

The bill draft also specifies that an employer is prohibited from certain actions, such as interfering with an employee's use of paid sick leave, requiring the employee to find a substitute, requiring unreasonable documentation of the reasons for the leave, and discharging or otherwise treating the employee adversely because of the leave.

As under current law, an employer is not prohibited from providing an employee with more generous paid sick leave rights than those provided under the bill draft.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

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