



2013 BILL

1 **AN ACT to create** 252.22 of the statutes; **relating to:** limitations on requiring
2 and requesting vaccination against influenza.

Analysis by the Legislative Reference Bureau

This bill prohibits any employer, including the state and local governments, from demoting, suspending, discharging, or otherwise discriminating against an employee or contractor for refusing to be vaccinated against seasonal influenza. An employee, under the bill, includes any intern and any volunteer. The bill also prohibits any employer from doing any of the following: refusing to hire a prospective employee or renew the contract of an employee or contractor on the basis of vaccination status for seasonal influenza or refusal to be vaccinated against seasonal influenza; requiring any employee or contractor to receive a vaccination against seasonal influenza if the employee or contractor declines in writing after receiving certain information; requiring unvaccinated employees or contractors to wear masks in retaliation for refusing the influenza vaccination; or requiring employees or contractors in a health care setting to wear masks in a manner that exceeds a certain requirement. If the employer requests that any of its employees or contractors be vaccinated against seasonal influenza, that employer must provide, or arrange for, the vaccination at no cost to those employees or contractors.

Under the bill, an employer that requests employees or contractors to be vaccinated against seasonal influenza must provide, in writing, a statement of the risks and benefits to an individual of receiving that vaccine and a statement that the employee or contractor has the right to refuse the seasonal influenza vaccine for any reason without risk of discrimination for that refusal. The employer must provide

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the employee or contractor a reasonable time to review these statements before providing or arranging for seasonal influenza vaccination. An employee or contractor who has received these statements may decline the vaccination, in writing, for any reason and the employer may not require that employee or contractor to receive the vaccination. An employer may provide the vaccine information statements about the applicable form of seasonal influenza vaccine that is created by the federal Centers for Disease Control and Prevention and this satisfies the requirement to provide the statements.

Under the bill, an employer is allowed to request or require an employee, or contractor, who is showing symptoms of seasonal influenza to leave the place of employment while ill.

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

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

1 **SECTION 1.** 252.22 of the statutes is created to read:

2 **252.22 Influenza vaccination. (1) DEFINITIONS.** In this section:

3 (a) “Employee” includes any intern and any volunteer, regardless whether the
4 individual is compensated.

5 (b) “Employer” means any person, firm, corporation, state, county, town, city,
6 village, school district, sewer district, drainage district, long-term care district, or
7 other public or quasi-public corporations as well as any agent, manager,
8 representative, or other person having control or custody of any employment or place
9 of employment or of any employee.

10 **(2) PROHIBITIONS ON EMPLOYERS.** No employer may do any of the following:

11 (a) Demote, suspend, discharge, or otherwise discriminate against an employee
12 or contractor for refusing to be vaccinated against seasonal influenza.

13 (b) Refuse to hire a prospective employee, or renew the contract of an employee
14 or contractor, on the basis of vaccination status for seasonal influenza or refusal to
15 be vaccinated against seasonal influenza.

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1 (c) Require any employee or contractor to receive a vaccination against
2 seasonal influenza, if that employee or contractor declines the vaccination for any
3 reason in writing after receiving the information described in sub. (3).

4 (d) Require employees, or contractors, who are not vaccinated against seasonal
5 influenza to wear masks in retaliation for refusing the vaccination against influenza
6 or require employees or contractors in a health care setting to wear masks in a
7 manner that exceeds a requirement for an individual to wear a mask upon entry into
8 the room of a patient who has, or is suspected to have, influenza.

9 **(3) INFORMATION; RIGHT TO REFUSE.** (a) An employer that requests that any of
10 its employees or contractors be vaccinated against seasonal influenza shall provide
11 in writing to those employees and contractors all of the following:

12 1. A statement of the risks and benefits to an individual of receiving the
13 seasonal influenza vaccine.

14 2. A statement that the employee or contractor has the right to refuse the
15 seasonal influenza vaccination for any reason without risk of discrimination for that
16 refusal.

17 (b) An employer that provides the statements under par. (a) shall provide the
18 employee or contractor a reasonable time to review those statements before
19 providing or arranging for vaccination for seasonal influenza.

20 (c) To satisfy the requirement for a statement under par. (a) 1., an employer may
21 provide a vaccine information statement about the applicable form of seasonal
22 influenza vaccine that is created by the centers for disease control and prevention
23 division of the federal department of health and human services.

