

2021 - 2022 LEGISLATURE

2021 ASSEMBLY BILL 414

June 25, 2021 - Introduced by Representatives MAGNAFICI, RAMTHUN, ALLEN, ARMSTRONG, BEHNKE, BRANDTJEN, CABRAL-GUEVARA, GUNDRUM, HORLACHER, KUGLITSCH, ROZAR, SORTWELL, THIESFELDT, WICHGERS, SCHRAA and DITTRICH, cosponsored by Senators JACQUE, NASS and WANGGAARD. Referred to Committee on Government Accountability and Oversight.

1 **AN ACT** to create 66.05105 and 230.49 of the statutes; **relating to:** anti-racism
2 and anti-sexism training for employees of state government and local
3 government.

Analysis by the Legislative Reference Bureau

This bill prohibits sex and race stereotyping in training provided to employees of local and state government.

Under the bill, a political subdivision or state agency is prohibited from requiring an employee to attend a training that teaches, advocates, acts upon, or promotes race or sex stereotyping. Among the concepts that are prohibited from being taught under the bill are the following: that one race or sex is inherently superior to another race or sex and that an individual, by virtue of the individual's race or sex, bears responsibility for acts committed in the past by other individuals of the same race or sex. Political subdivisions and state agencies are required, with some exceptions, to post on the Internet site of the subdivision or agency all training materials that are not required to be kept confidential.

Also under this bill, if the Department of Revenue determines that a political subdivision has violated the sex and race stereotyping in training requirements and the political subdivision fails to come into compliance within 10 days of being notified of the violation, the political subdivision's shared revenue payment for the following year is reduced by 10 percent. However, if DOR determines that a political subdivision has later come into compliance with the requirements, DOR must pay the political subdivision the full amount of the shared revenue payment. The bill also

allows a local employee to file a complaint with DOR regarding an alleged violation of the bill, and to file a civil action seeking declaratory or injunctive relief regarding an alleged violation of the bill. If the employee is successful in the civil action, the court must award the employee attorney fees.

Also under this bill, if the Department of Administration determines that a state agency has violated the sex and race stereotyping in training requirements and the agency fails to come into compliance within 10 days of being notified of the violation, DOA must withhold 10 percent of the funding for all positions in the agency for the following year. However, if DOA determines that an agency has later come into compliance with the requirements, DOA must release the full funding for the

positions. The bill also allows a state employee to file a complaint with DOA regarding an alleged violation of the bill and to file a civil action seeking declaratory or injunctive relief regarding an alleged violation of the bill. If the employee is successful in the civil action, the court must award the employee attorney fees.

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 .** 66.05105 of the statutes is created to read:

2 **66.05105 Training regarding race and sex stereotyping. (1) DEFINITIONS.**

3 In this section:

4 (a) "Complainant" means an employee of a political subdivision who has been
5 required by the political subdivision to attend training.

6 (b) "Political subdivision" means a city, village, town, or county.

7 **(2) TRAINING.** A political subdivision shall not require employees of the political
8 subdivision to attend training in which the political subdivision or a contractor hired
9 by the political subdivision teaches, advocates, acts upon, or promotes race or sex
10 stereotyping, including any of the following concepts:

11 (a) One race or sex is inherently superior to another race or sex.

12 (b) An individual, by virtue of the individual's race or sex, is inherently racist,
13 sexist, or oppressive, whether consciously or unconsciously.

1 (c) An individual should be discriminated against or receive adverse treatment
2 because of the individual's race or sex.

3 (d) Individuals of one race or sex are not able to and should not attempt to treat
4 others without respect to race or sex.

5 (e) An individual's moral character is necessarily determined by the
6 individual's race or sex.

7 (f) An individual, by virtue of the individual's race or sex, bears responsibility
8 for acts committed in the past by other individuals of the same race or sex.

9 (g) An individual should feel discomfort, guilt, anguish, or any other form of
10 psychological distress because of the individual's race or sex.

11 (h) Systems based on meritocracy or traits such as a hard work ethic are racist
12 or sexist or are created by individuals of a particular race to oppress individuals of
13 another race.

14 **(3) TRAINING MATERIALS.** A political subdivision shall post on the political
15 subdivision's Internet site or, if the political subdivision does not have an Internet
16 site, shall otherwise make available to the public all training materials for training
17 provided to employees of the political subdivision, except any materials that the
18 political subdivision is required to keep confidential.

19 **(4) VIOLATION.** (a) If the department of revenue determines that a political
20 subdivision has violated sub. (2), the department of revenue shall notify the political
21 subdivision of its violation.

22 (b) If a political subdivision fails to comply with sub. (2) within 10 days of
23 receiving a notification under par. (a), the department of revenue shall reduce the
24 amount of the payment to the political subdivision under s. 79.02 (1) in the following
25 year by 10 percent.

1 (c) If the department of revenue determines that a political subdivision has
2 complied with sub. (2) after making a reduction under par. (b), the department of
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revenue shall restore the amount of the payment to the political subdivision under s. 79.02 (1) to its original amount before the reduction was made under par. (b).

(d) A complainant may file a complaint of an alleged violation of sub. (2) with the department of revenue.

(e) Notwithstanding the immunity set forth under s. 893.80 (4), a complainant may file a complaint for declaratory or injunctive relief against the political subdivision in a court of competent jurisdiction regarding a violation of sub. (2), and if successful in such an action, the complainant may be awarded attorney fees, notwithstanding s. 814.04 (1).

SECTION 2 . 230.49 of the statutes is created to read:

230.49 Training regarding race and sex stereotyping. (1) TRAINING. An agency shall not require state employees to attend training in which the agency or a contractor hired by an agency teaches, advocates, acts upon, or promotes race or sex stereotyping, including any of the following concepts:

(a) One race or sex is inherently superior to another race or sex.

(b) An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.

(c) An individual should be discriminated against or receive adverse treatment because of the individual's race or sex.

(d) Individuals of one race or sex are not able to and should not attempt to treat others without respect to race or sex.

(e) An individual's moral character is necessarily determined by the individual's race or sex.

(f) An individual, by virtue of the individual's race or sex, bears responsibility for acts committed in the past by other members of the same race or sex.

(g) An individual should feel discomfort, guilt, anguish, or any other form of psychological distress because of the individual's race or sex.

(h) Systems based on meritocracy or traits such as a hard work ethic are racist or sexist or are created by individuals of a particular race to oppress individuals of another race.

(2) TRAINING MATERIALS POSTED. Each agency shall post on the agency's Internet site all training materials for training provided to employees of the agency, except any materials that the agency is required to keep confidential.

(3) VIOLATION. (a) In this subsection, "complainant" means a state employee who is required to attend training.

(b) If the department of administration determines that an agency has violated sub. (1), the department of administration shall notify the agency of its violation.

(c) If an agency fails to comply with sub. (1) within 10 days of receiving a notification under par. (b), the department of administration shall withhold 10 percent of the funding for all positions, as defined in s. 230.03 (11), in the agency for the following year.

(d) If the department of administration determines that an agency has complied with sub. (1) after withholding funding under par. (c), the department of administration shall release the withheld funding.

(e) A complainant may file a complaint of an alleged violation of sub. (1) with the department of administration.

(f) Notwithstanding the immunity set forth under s. 893.80 (4), a complainant may file a complaint for declaratory or injunctive relief against the state in a court

of competent jurisdiction regarding a violation of sub. (1), and if successful in such an action, the complainant may be awarded attorney fees, notwithstanding s. 814.04 (1).

