



Tony Evers

OFFICE OF THE GOVERNOR

March 29, 2024

TO THE HONORABLE MEMBERS OF THE SENATE:

I am vetoing Assembly Bill 398 in its entirety.

This bill specifies that compensated participants in clinical research trials shall not be treated as employees for purposes of minimum wage, worker's compensation, and unemployment insurance laws.

I am vetoing this bill in its entirety because I object to potentially depriving clinical research trial participants from receiving the protections and benefits to which employees are generally entitled, as well as related legal remedies. Additionally, the changes in this bill create a specific carveout from provisions that could otherwise classify an independent contractor as an employee for purposes of worker's compensation protections. There continues to be a well-established process that the Department of Workforce Development uses to navigate employee and contractor determinations on a case-by-case basis. The department uses a six-part test for minimum wage, and a nine-part test for unemployment insurance and worker's compensation benefits. These tests provide a guideline and consistency for classification between the relationships of individuals and employers.

I object to providing a specific carveout for clinical research trials, which may signal to other employers that they may seek similar special treatment for other work or services that would otherwise qualify for worker's compensation benefits under the law, which may further limit employee protections.

Moreover, I am concerned this bill may cause Wisconsin to fail to conform with federal requirements. Specifically, it could put Wisconsin in nonconformity with the Federal Unemployment Tax Act which may put employer tax credits and Unemployment Insurance administrative grant dollars at risk of terminating.

Finally, neither the Worker's Compensation Advisory Council nor the Unemployment Insurance Advisory Council has taken a position on the changes in the bill, and these councils should be key stakeholders for recommending such policy changes for enactment.

Respectfully submitted,

Tony Evers
Governor