



## 2013 ASSEMBLY BILL 400

October 3, 2013 - Introduced by Representatives LOUDENBECK, KUGLITSCH, BALLWEG, BERNIER, CZAJA, ENDSLEY, KAHL, KESTELL, KOLSTE, KRUG, LEMAHIEU, MARKLEIN, NYGREN, OHNSTAD, PETRYK, SINICKI, STONE, THIESFELDT, WEATHERSTON, VRUWINK, KAUFERT and BERNARD SCHABER, cosponsored by Senators LAZICH, MOULTON, COWLES, DARLING, C. LARSON, LEHMAN, OLSEN, SHILLING and L. TAYLOR. Referred to Committee on Workforce Development.

1     **AN ACT** *to repeal* 20.445 (1) (fw), 102.07 (19), 108.02 (12) (dp), 108.02 (26) (c) 17.,  
2           108.04 (8) (dm) and 108.04 (16m); *to amend* 102.11 (1) (c), 102.11 (1) (c), 108.04  
3           (2) (a) (intro.), 108.04 (2) (a) (intro.), 108.04 (2) (a) 3. (intro.), 108.04 (2) (a) 3.  
4           (intro.), 108.04 (2) (bm) and 108.04 (2) (bm); and *to create* 20.445 (1) (fw),  
5           102.07 (19), 108.02 (12) (dp), 108.02 (26) (c) 17., 108.04 (8) (dm) and 108.04  
6           (16m) of the statutes; **relating to:** participation in certain training by  
7           unemployment insurance claimants, granting rule-making authority, and  
8           making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

Currently, unemployment insurance (UI) benefits may not be denied to an otherwise eligible individual because the individual is enrolled in a vocational training course or a basic education course that is a prerequisite to such training (“approved training”) under certain conditions. A claimant who is enrolled in approved training is not subject to certain benefit denials or reductions that would otherwise preclude the claimant from claiming UI benefits while enrolled in approved training.

This bill creates a pilot program of special occupational training that is not approved training. The bill directs the Department of Workforce Development

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(DWD) to designate three areas served by local workforce development boards in which the program shall be offered. Under the bill, DWD must offer the program throughout each designated area. Under the bill, the training consists of voluntary placements of UI claimants of up to six weeks for periods of not more than 40 hours per week with employers who elect to offer the training directly. A trainee may not be an employee of the employer offering the training. The bill directs DWD to accept applications from employers who wish to offer the training and to place claimants who wish to participate in available openings. On the application, an employer must affirm that it currently has one job opening for each training participant that it seeks in a position that a successful participant would potentially qualify to fill. Under the bill, no claimant may receive more than two placements during a benefit year (period during which benefits are payable). In addition, no claimant may receive a placement for any period that includes a week beginning after the end of the first 26 weeks of the claimant's benefit year. The bill provides that a claimant who receives special occupational training is not disqualified from receiving UI benefits solely as a result of participating in the training. The bill requires each claimant to maintain eligibility for UI benefits while receiving special occupational training, except that a claimant is exempt from the requirement under the UI law to search for work for each week the claimant receives at least 20 hours of occupational training under the program and is not required to accept other suitable work under the UI law if there is a reasonable expectation that the claimant will receive a job offer from the employer providing the training. Under the bill, a claimant who participates in special occupational training receives a stipend of \$75 from DWD for each week in which the claimant participates in the training. The bill appropriates general purpose revenue to make the payments. The bill also provides that a claimant who is participating in special occupational training is considered an employee of the employer providing the training for purposes of worker's compensation benefits.

The program created by the bill sunsets two years after the bill's effective date. The bill directs DWD to report to the legislature and the governor no later than 22 months after the bill's effective date concerning the effectiveness of the program and DWD's recommendations for extension of the program or changes to the program to enhance its effectiveness.

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

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

- 1           **SECTION 1.** 20.445 (1) (fw) of the statutes is created to read:
- 2           20.445 (1) (fw) *Unemployment insurance claimant training stipends.* A sum
- 3 sufficient to be used to pay stipends to participants in special occupational training
- 4 under s. 108.04 (16m).

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1           **SECTION 2.** 20.445 (1) (fw) of the statutes, as created by 2013 Wisconsin Act ...  
2 (this act), is repealed.

3           **SECTION 3.** 102.07 (19) of the statutes is created to read:

4           102.07 **(19)** A person participating in special occupational training under s.  
5 108.04 (16m) is considered an employee of the employer that is providing that  
6 training for purposes of this chapter.

7           **SECTION 4.** 102.07 (19) of the statutes, as created by 2013 Wisconsin Act ... (this  
8 act), is repealed.

9           **SECTION 5.** 102.11 (1) (c) of the statutes, as affected by 2011 Wisconsin Act 123,  
10 section 4h, is amended to read:

11           102.11 **(1)** (c) In the case of a person performing service without fixed earnings  
12 or a person participating in special occupational training under s. 108.04 (16m), or  
13 when normal full-time days or weeks are not maintained by the employer in the  
14 employment in which the employee worked when injured, or when, for other reason,  
15 earnings cannot be determined under the methods prescribed by par. (a) or (b), the  
16 earnings of the injured person shall, for the purpose of calculating compensation  
17 payable under this chapter, be taken to be the usual going earnings paid for similar  
18 services on a normal full-time basis in the same or similar employment in which  
19 earnings can be determined under the methods set out in par. (a) or (b).

20           **SECTION 6.** 102.11 (1) (c) of the statutes, as affected by 2013 Wisconsin Act ...  
21 (this act), is amended to read:

22           102.11 **(1)** (c) In the case of a person performing service without fixed earnings  
23 ~~or a person participating in special occupational training under s. 108.04 (16m)~~, or  
24 when normal full-time days or weeks are not maintained by the employer in the  
25 employment in which the employee worked when injured, or when, for other reason,

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1 earnings cannot be determined under the methods prescribed by par. (a) or (b), the  
2 earnings of the injured person shall, for the purpose of calculating compensation  
3 payable under this chapter, be taken to be the usual going earnings paid for similar  
4 services on a normal full-time basis in the same or similar employment in which  
5 earnings can be determined under the methods set out in par. (a) or (b).

6 **SECTION 7.** 108.02 (12) (dp) of the statutes is created to read:

7 108.02 (12) (dp) Paragraph (a) does not apply to an individual who receives a  
8 stipend for participation in a special occupational training program under s. 108.04  
9 (16m).

10 **SECTION 8.** 108.02 (12) (dp) of the statutes, as created by 2013 Wisconsin Act  
11 .... (this act), is repealed.

12 **SECTION 9.** 108.02 (26) (c) 17. of the statutes is created to read:

13 108.02 (26) (c) 17. A stipend received by an individual who is participating in  
14 a special occupational training program under s. 108.04 (16m).

15 **SECTION 10.** 108.02 (26) (c) 17. of the statutes, as created by 2013 Wisconsin  
16 Act .... (this act), is repealed.

17 **SECTION 11.** 108.04 (2) (a) (intro.) of the statutes, as affected by 2011 Wisconsin  
18 Act 123, section 6s, is amended to read:

19 108.04 (2) (a) (intro.) Except as provided in par. (b) and ~~sub.~~ subs. (16) (am) and  
20 (b) and (16m) (f) and as otherwise expressly provided, a claimant is eligible for  
21 benefits as to any given week only if:

22 **SECTION 12.** 108.04 (2) (a) (intro.) of the statutes, as affected by 2013 Wisconsin  
23 Act .... (this act), is amended to read:

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1           108.04 (2) (a) (intro.) Except as provided in par. (b) and ~~subs. sub. (16) (am) and~~  
2           (b) ~~and (16m) (f)~~ and as otherwise expressly provided, a claimant is eligible for  
3           benefits as to any given week only if:

4           **SECTION 13.** 108.04 (2) (a) 3. (intro.) of the statutes, as affected by 2013  
5           Wisconsin Act 20, is amended to read:

6           108.04 (2) (a) 3. (intro.) The individual conducts a reasonable search for  
7           suitable work during that week, unless the search requirement is waived under par.  
8           (b) or sub. (16m) (fm) or s. 108.062 (10m). The search for suitable work must include  
9           at least 4 actions per week that constitute a reasonable search as prescribed by rule  
10          of the department. In addition, the department may, by rule, require an individual  
11          to take more than 4 reasonable work search actions in any week. The department  
12          shall require a uniform number of reasonable work search actions for similar types  
13          of claimants. This subdivision does not apply to an individual if the department  
14          determines that the individual is currently laid off from employment with an  
15          employer but there is a reasonable expectation of reemployment of the individual by  
16          that employer. In determining whether the individual has a reasonable expectation  
17          of reemployment by an employer, the department shall request the employer to  
18          verify the individual's employment status and shall also consider other factors,  
19          including:

20          **SECTION 14.** 108.04 (2) (a) 3. (intro.) of the statutes, as affected by 2013  
21          Wisconsin Act .... (this act), is amended to read:

22          108.04 (2) (a) 3. (intro.) The individual conducts a reasonable search for  
23          suitable work during that week, unless the search requirement is waived under par.  
24          (b) or ~~sub. (16m) (fm)~~ or s. 108.062 (10m). The search for suitable work must include  
25          at least 4 actions per week that constitute a reasonable search as prescribed by rule

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1 of the department. In addition, the department may, by rule, require an individual  
2 to take more than 4 reasonable work search actions in any week. The department  
3 shall require a uniform number of reasonable work search actions for similar types  
4 of claimants. This subdivision does not apply to an individual if the department  
5 determines that the individual is currently laid off from employment with an  
6 employer but there is a reasonable expectation of reemployment of the individual by  
7 that employer. In determining whether the individual has a reasonable expectation  
8 of reemployment by an employer, the department shall request the employer to  
9 verify the individual's employment status and shall also consider other factors,  
10 including:

11 **SECTION 15.** 108.04 (2) (bm) of the statutes, as affected by 2013 Wisconsin Act

12 11, is amended to read:

13 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for  
14 which there is a determination that the claimant failed to conduct a reasonable  
15 search for suitable work and the department has not waived the search requirement  
16 under par. (b) or sub. (16m) (fm) or s. 108.062 (10m). If the department has paid  
17 benefits to a claimant for any such week, the department may recover the  
18 overpayment under s. 108.22 (8).

19 **SECTION 16.** 108.04 (2) (bm) of the statutes, as affected by 2013 Wisconsin Act

20 .... (this act), is amended to read:

21 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for  
22 which there is a determination that the claimant failed to conduct a reasonable  
23 search for suitable work and the department has not waived the search requirement  
24 under par. (b) or ~~sub. (16m) (fm)~~ or s. 108.062 (10m). If the department has paid

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1 benefits to a claimant for any such week, the department may recover the  
2 overpayment under s. 108.22 (8).

3 **SECTION 17.** 108.04 (8) (dm) of the statutes is created to read:

4 108.04 (8) (dm) A claimant has good cause under par. (a) if the claimant is  
5 participating in special occupational training under sub. (16m) at the time that the  
6 claimant receives an offer of suitable work and the department determines that there  
7 is a reasonable expectation that the claimant will receive an offer of full-time work  
8 at the end of the training period.

9 **SECTION 18.** 108.04 (8) (dm) of the statutes, as created by 2013 Wisconsin Act  
10 .... (this act), is repealed.

11 **SECTION 19.** 108.04 (16m) of the statutes is created to read:

12 108.04 (16m) SPECIAL OCCUPATIONAL TRAINING. (a) In this subsection, “special  
13 occupational training” means training other than approved training that is offered  
14 directly by an employer to a claimant who is not employed by the employer.

15 (b) The department shall administer a pilot program to offer special  
16 occupational training for claimants who wish to participate in areas of this state  
17 designated by the department served by 3 local workforce development boards under  
18 29 USC 2832. The department shall offer the program within the entire area served  
19 by each designated local workforce development board.

20 (c) The department shall accept applications from employers to offer special  
21 occupational training to claimants and shall offer claimants the opportunity to  
22 receive placements to receive the training. On the application, an employer shall  
23 affirm that it has one job opening, as of the date of the application, for each training  
24 participant that it seeks in a position that a successful participant would potentially  
25 qualify to fill. If the department finds that an employer providing placements under

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1 this subsection has not hired a reasonable percentage of qualified trainees, the  
2 department may decline to accept further applications for placements from that  
3 employer.

4 (d) The department shall place claimants who apply to receive special  
5 occupational training with employers who offer placements. The department may  
6 only place a claimant to receive special occupational training during a claimant's  
7 benefit year.

8 (e) Each placement shall be for a period not exceeding 6 weeks. A claimant may  
9 participate in special occupational training for not more than 40 hours per week  
10 during a placement. No claimant may receive more than 2 placements during his or  
11 her benefit year. No claimant may receive a placement for any period that includes  
12 a week beginning after the end of the first 26 weeks of the claimant's benefit year.

13 (f) A claimant who participates in special occupational training is not  
14 disqualified from receiving benefits solely on account of receiving the training. The  
15 department may suspend a claimant's obligation to be available for work during  
16 those hours in which the claimant participates in special occupational training but  
17 the claimant shall maintain his or her availability for work during other hours of the  
18 work week. Except as authorized in this subsection and sub. (8) (dm), a claimant  
19 shall maintain his or her eligibility for benefits during the placement and shall  
20 terminate a placement if necessary to accept any work that the claimant is required  
21 to accept in order to maintain continuous eligibility for benefits.

22 (fm) The department shall waive the work search requirement under sub. (2)  
23 (a) 3. for each week that a claimant is participating in special occupational training  
24 under this subsection for 20 hours or more.



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1 (g) The department shall pay a stipend of \$75 per week to each claimant who  
2 participates in special occupational training unless the claimant declines the stipend  
3 for the entire period of a placement by notifying the department in writing of the  
4 declination. The department shall make the payments from the appropriation under  
5 s. 20.445 (1) (fw).

6 (i) The department shall issue a training certificate to each claimant upon  
7 successful completion of each special occupational training placement. The  
8 certificate shall describe the skills in which the claimant received training.

9 (j) The department may promulgate rules required to implement this section.

10 **SECTION 20.** 108.04 (16m) of the statutes, as created by 2013 Wisconsin Act ....  
11 (this act), is repealed.

12 **SECTION 21. Nonstatutory provisions.**

13 (1) The department of workforce development shall, under section 108.04  
14 (16m) (b) of the statutes, as created by this act, initially designate the areas of this  
15 state served by local workforce development boards under 29 USC 2832 that the  
16 department of workforce development designated under section 108.04 (16m) (b),  
17 2011 stats.

18 (2) No later than 22 months after the first Sunday after publication, the  
19 department of workforce development shall submit a report to the legislature, in the  
20 manner provided under section 13.172 (2) of the statutes, and to the governor  
21 evaluating the effectiveness of the program created by this act and providing the  
22 department's recommendations concerning extension of the program or changes to  
23 the program that may enhance its effectiveness.

24 **SECTION 22. Initial applicability.**

