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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Elections and Urban Affairs (SC-LEUA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Clearinghouse Rule 06-032

Relating to unemployment insurance and temporary help employers and affecting small businesses.

Submitted by Department of Workforce Development.

January 19, 2007 Referred to Committee on Labor, Elections and Urban Affairs.

February 13, 2007 **EXECUTIVE SESSION HELD**

Present: (5) Senators Coggs, Wirch, Lehman, Grothman
and A. Lasee.

Absent: (0) None.

Moved by Senator Wirch, seconded by Senator Lehman that
Clearinghouse Rule 06-032 be recommended for modifications
requested.

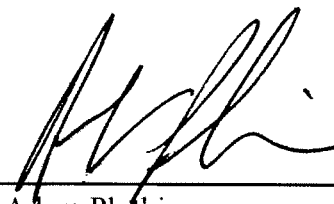
Ayes: (4) Senators Coggs, Wirch, Lehman and A.
Lasee.

Noes: (1) Senator Grothman.

**MODIFICATIONS REQUESTED RECOMMENDED, Ayes 4,
Noes 1**

May 18, 2007 Modifications received.

June 5, 2007 No action taken.



Adam Plotkin
Committee Clerk



Vote Record Committee on Labor, Elections and Urban Affairs

Date: Tue. Feb. 13, 2007

Moved by: Wirch

Seconded by: Lehman

AB _____

SB _____

Clearinghouse Rule Ob-032-Modifications

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

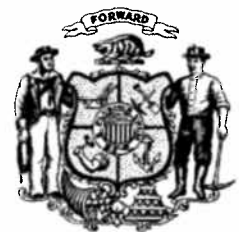
	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Spencer Coggs, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alan Lasee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>4</u>	<u>1</u>	_____	_____

Motion Carried

Motion Failed




WISCONSIN STATE LEGISLATURE



Plotkin, Adam

From: on behalf of Sen.Coggs
To: Labor, Elections, & Urban Affairs Members
Subject: Clearinghouse Rule 06-032 (DWD 133) for Review

Attachments:  CR 06-032 (DWD133).pdf

Date?

Colleagues,

Clearinghouse Rule 06-032, creating DWD Chapter 133, has been referred to our committee. I have attached a copy of the rule for your review.

If you would like the committee to hold a hearing on this rule, please contact Adam Plotkin in my office at 266-2500 **no later than 5:00pm on Tuesday, February 6.**

Thank you,

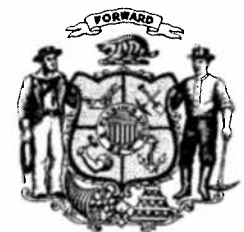
Senator Spencer Coggs
Chairman, Committee on Labor, Elections, and Urban Affairs



CR 06-032
WD133).pdf (41 KB)



WISCONSIN STATE LEGISLATURE



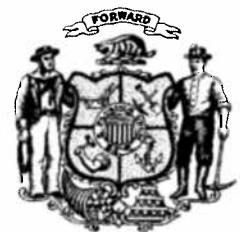
Senate Committee on Labor, Elections, and Urban Affairs

Tuesday, February 13, 2007

- The Committee on Labor, Elections, and Urban Affairs will now come to order
- Roll call
- Any opening remarks — *other comtes. going on NAT RESOURCES JCARR, JUDICIARY*
- Talk about procedure for the day
 - Public hearing on appointments and bill, then executive session on the same plus a Clearinghouse Rule dealing with employees of temporary help agencies
 - Know that Rosemay Finora and Carl Theorin are here, Patrick McNamara not able to make it, but his is a re-appointment
- Call the appointments
 - Rosemary Finora, new appointment to Employee Trust Funds Board
 - Carl Theorin, re-appointment to Auctioneer Board
- Testimony on SB 6
 - Risser (lead Senate author) here for sure
 - Rep. Musser (Lead Assembly author) MAY be there
- Roll call for executive session
- Discussion & Roll call on all three appointments
 - Technically it's best to have a separate vote on each, but it is possible to do them en masse
- Discussion & Roll Call on SB 6
- Discussion on Clearinghouse Rule 06-032
 - Ask Russ from Leg. Council for brief application
 - He, or you, can turn it over to Hal Bergen the DWD UI Administrator, for a brief description
 - Either Russ or you can broach the concerns regarding the 1 day notification period (this is the only thing that we'll be bringing up in the meeting)
 - After discussion, roll call on the motion to ask DWD for modifications



WISCONSIN STATE LEGISLATURE



Spencer Coggs



State Senator

February 14, 2007

Secretary Roberta Gassman
Department of Workforce Development
201 E. Washington Ave., Rm. A400
Madison, WI 53707

Dear Secretary Gassman,

Please find enclosed a copy of a motion asking for modifications to Clearinghouse Rule 06-032 as passed by the Senate Committee on Labor, Elections, and Urban Affairs at its February 13, 2007 meeting.

I appreciate your willingness to consider these modifications that we feel would add protections for employees of temporary help agencies.

If you have any questions, please do not hesitate to contact my office directly.

Sincerely,

A handwritten signature in cursive script that reads "Spencer Coggs".

Senator Spencer Coggs
Chairman, Committee on Labor, Elections and Urban Affairs

Enc.
SC/ajp

Committee on Labor, Elections and Urban Affairs Motion on Clearinghouse Rule 06-032

It has been moved and seconded that the Senate Committee on Labor, Elections and Urban Affairs requests, pursuant to s. 227. 19(4) (b) 2., Stats., the Department of Workforce Development to consider modifications in Clearinghouse Rule 06-032, relating to Unemployment Insurance and Temporary Help Employees. Specifically, the Committee requests that the Department consider making modifications in the length of the time employees are given to provide notices to employers regarding the end of assignments and any other germane modifications the agency deems appropriate to implement the rule.

If the Department agrees in writing to consider modifications to the rule, the review period for the Senate and Assembly Committees is extended to the 10th working day following receipt by the Committees of the modified proposed rule or a written statement to the committee that the agency will not make modifications or to the expiration of the review period.



Department of Workforce Development
Secretary's Office
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-3131
Fax: (608) 266-1784
Email: dwdsec@dwd.state.wi.us



State of Wisconsin
Department of Workforce Development
Jim Doyle, Governor
Roberta Gassman, Secretary

February 26, 2007

The Honorable Spencer Coggs, Chair
Committee on Labor, Elections and Urban Affairs
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Coggs:

Thank you for your letter of February 14th, 2007 to the Department of Workforce Development (DWD) regarding Clearinghouse Rule 06-032. This will confirm that DWD is willing to consider modifications to the rule.

Sincerely,

A large, handwritten signature in black ink, which appears to read 'Roberta Gassman'. The signature is written over the word 'Sincerely,' and extends across the width of the page.

Roberta Gassman
Secretary



Department of Workforce Development
Unemployment Insurance Division
201 East Washington Avenue
P.O. Box 7905
Madison, WI 53707-7905
Telephone: (608) 267-8997
Fax: (608) 267-0593
Email: dwdui@dwd.state.wi.us



State of Wisconsin
Department of Workforce Development
Jim Doyle, Governor
Roberta Gassman, Secretary
Hal Bergan, Division Administrator

May 18, 2007

The Honorable Spencer Coggs
Chairman
Committee on Labor, Elections and Urban Affairs
P.O. Box 7882
Madison, WI 53707-7882

Packet

Re: Clearinghouse Rule 06-032

Dear Senator Coggs:

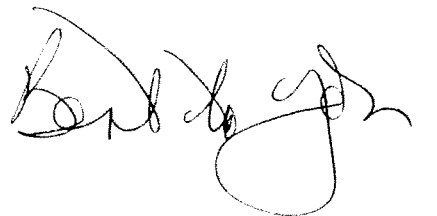
On April 17, 2007 the Unemployment Insurance Advisory Council passed a resolution approving proposed rule DWD 133 Temporary Help Employers. The proposed rule contains modifications suggested by the February 13, 2007 resolution of the Senate Committee on Labor, Elections and Urban Affairs regarding Clearinghouse Rule 06-032. Accordingly, the Department of Workforce Development submits the proposed rule as enclosed for further legislative review by the Committee.

Thank you for your attention to the proposed rule.

Sincerely,


Roberta Gassman
Secretary

Enclosure



State of Wisconsin
Department of Workforce Development
Unemployment Insurance Division

Unemployment Insurance and Temporary Help Employers
Chapter DWD 133

The Wisconsin Department of Workforce Development proposes an order to create Chapter DWD 133, relating to unemployment insurance and temporary help employers and affecting small businesses.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 108.14 (2) and 227.11, Stats.

Statutes interpreted: Sections 108.04 (7), 108.04 (8)

Related statutes: Sections 108.02 (24m) and 108.065, Stats.

Explanation of agency authority. Section 108.14 (2), Stats., provides that the Department may adopt and enforce all rules which it finds necessary or suitable to carry out Chapter 108, Stats., regarding unemployment insurance. Section 108.04 (7), Stats., provides that if an employee terminates work with an employing unit, the employee is ineligible for unemployment insurance except under certain conditions. Section 108.04 (8), Stats., provides that if an employee fails, without good cause, to accept suitable work when offered, the employee is ineligible for unemployment insurance except under certain conditions.

Summary of proposed rule. For the purpose of unemployment insurance, an employment relationship normally ends when an employee is laid off without a definite return-to-work date, even if recall is anticipated. If a subsequent offer is refused, it is considered a refusal of new work under s. 108.04 (8), Stats. The employment relationship between a temporary help agency and its employees does not follow the patterns that apply to most other employment relationships. In the temporary help industry, it is common for employees to be assigned to a series of assignments at different locations with different duties, wages, and other conditions. It is also common for these assignments to end with little or no notice to either the employee or the employer. While the parties may fully intend to continue the relationship, the short notice that an assignment has ended may require that a short period of time pass before the employer is able to send the employee to the next assignment. This proposed rule establishes standards for determining whether the employment relationship continues or is terminated for the purpose of unemployment insurance benefit eligibility.

When an assignment from a temporary help employer ends, an employee is eligible for unemployment insurance benefits while the employment relationship continues between assignments, if he or she is otherwise qualified. Under the proposed rule, the

employment relationship between a temporary help employer and the employee is considered to be a continuing relationship if all of the following conditions are met:

- Prior to the end of the ~~first~~second full business day after the end of the assignment, the employee contacts the employer, or the employer contacts the employee, and informs the other that the assignment has ended or will end on a certain date. The department may waive the requirement for the deadline or notice, or both, if it determines that the employee's failure to so contact the employer was for good cause and the employer and employee have otherwise acted in a manner consistent with the continuation of the employment relationship.
- Prior to the end of the ~~first~~second full business day after the end of the assignment, or prior to the end of the first full business day after the date the notice of the end of the assignment was given if the deadline for the notice was waived, the employer informs the employee that the employer will provide a new assignment that will begin within 7 days and either 1) the employer provides a new assignment that begins within 7 days; 2) a new assignment does not begin in 7 days but the employer notifies the employee that the start of the assignment will be delayed for a period not to exceed an additional 7 days and the delayed assignment begins within these 7 days; or 3) a new assignment does not begin within 7 days but the employer notifies the employee that the employer will provide another assignment that will begin within 7 days and the assignment does begin.
- The assignment offered by the employer meets the conditions under which the individual offered to work, including the type of work, rate of pay, days and hours of availability, distance willing to travel to work, and available modes of transportation, as set forth in the individual's written application for employment with the employer submitted prior to the first assignment, or as subsequently amended by mutual agreement. The employer has the burden of proof to show that the assignment meets these requirements. If the employer offers an assignment that does not conform to these requirements, the employment relationship ends as a separation by the employer.

Chapter 108, Stats., provides that an employee is ineligible for unemployment insurance if the employee voluntarily separated from the employment, unless certain exceptions apply. Under the proposed rule, the employment relationship between a temporary help employer and the employee is considered to be voluntarily separated by the employee when any of the following occur:

- The employee fails to notify the employer that an assignment has ended if the employer's policy requires such notification and the employee had notice of this policy prior to the end of the assignment, provided that the employer is not aware that the assignment has ended.
- The employee refuses an assignment while the employment relationship continues.
- The employee fails to respond to an offer of work by the employer within a reasonable time period, while the employment relationship continues.

- The employer is unable to communicate an offer of work to the employee because of the employee's failure to provide the employer with a correct address, telephone number, or other contact information while the employment relationship continues.
- Any other circumstances that would be considered separation by the employee under Chapter 108, Stats.

If an employment relationship does not continue under the terms of the proposed rule, the employment shall be considered separated by the employer unless the employee has voluntarily separated from the employment as provided in the list above or any other provision of Chapter 108, Stats.

When the employment relationship terminates, the employee's application for employment shall expire. If the employee returns to work for the employer, a new application for employment will be required for this chapter to be applicable. If the employee agrees in writing, the original application may be treated as a new application for employment.

Summary of factual data and analytical methodologies. In 1994 the Department responded to concerns expressed by temporary help employers and adopted a policy that considers the employment relationship between a temporary help employer and its employee to continue for a maximum of 14 days after the last day of work while the employer looks for another assignment for the employee, provided the employer guaranteed the employee an assignment to begin within that time period. Refused assignments during that 14-day extension period are considered separations by the employee.

The proposed Chapter DWD 133 codifies the informal policy that is currently in place, with minor adjustments. The proposed rule provides for an extension of the employment relationship while the employer finds a new assignment for the employee, provided that future offers of work are within the confines of the application for employment. The application for employment will be treated as a quasi-employment contract. This provides protection for the employer and the employee as both parties are put on notice as to what type of work will continue the employment relationship. If a subsequent assignment made within the confines of the application for employment is refused during the extension period, the employee is considered to have separated because the employment relationship is considered to still exist.

Comparison with federal law. There is no federal unemployment insurance law that specifically covers treatment of employees of temporary help companies.

Comparison with rules in adjacent states. Minnesota. An individual who within 5 calendar days after completion of a suitable temporary job assignment fails without good cause to affirmatively request an additional job assignment or refuses without good cause an additional suitable job assignment offered shall be considered to have quit employment. This provision applies only if at the beginning of employment with the

temporary help company, the applicant signed and was provided a copy of a separate document that informed the applicant of this paragraph and that unemployment benefits may be affected.

Iowa. An individual who fails without good cause to notify the temporary help company of the completion of an assignment and seek reassignment within 3 working days shall be considered to have voluntarily quit employment, unless the individual was not advised in writing of the duty to notify the temporary help company of the completion of an assignment.

Michigan. An individual is disqualified from receiving benefits if the temporary help company provided the employee with written notice before the employee began performing services stating that within 7 days after completion of an assignment the employee must notify the temporary help company and failure to provide notice of completion of an assignment constitutes a voluntary quit that will affect the employee's eligibility for unemployment insurance and the employee did in fact not notify the temporary help company of completion of the assignment within 7 days.

Illinois. There is a rebuttable presumption that an individual is not actively seeking work if the individual was last employed by a temporary help company and the temporary help company alleges that during the week for which the individual claimed benefits, he or she did not contact the temporary help company for an assignment. The presumption is rebutted if the individual shows that he or she did contact the temporary help company or that he or she had good cause for failure to contact the temporary help company for an assignment.

Effect on small business. The proposed rule will affect temporary help employers, some of which are small businesses. Using the best data available, the Department estimates that the number of temporary help employers in 2004 was 721. Of these, 203 had a monthly average of 1-25 employees but may involve a larger number of individuals given the temporary nature of employment provided.

There are no reporting, bookkeeping, or other procedures required for compliance with the proposed rule and no professional skills are required. The proposed rule was developed in consultation with the temporary help industry and reflects current best practices in the industry. It is not expected to qualify or disqualify more claimants of employers following these practices.

Analysis and supporting documents used to determine effect on small business. There is no data available that allows the Department to accurately determine the number of temporary help employers that meet the definition of small business in s. 227.114 (1), Stats. The data that is available on a business entity's number of employees is from the Quarterly Census of Employment and Wages (QCEW) program, which is based on UI reports and Multiple Worksite Reports (MWR). When available, MWRs provide a disaggregation of data. The data does not identify if a business is independently owned and operated, if employees are full-time or part-time, or if a business is dominant in its field.

The Department requested information on the number of temporary help employers that have gross annual sales of less than \$5 million from the Department of Revenue, but DOR was unable to provide it.

Agency contact person. Daniel LaRocque, Director, UI Bureau of Legal Affairs.
(608) 267-1406; daniel.larocque@dwd.state.wi.us.

Place where comments are to be submitted and deadline for submission.
Comments may be submitted to Elaine Pridgen, Office of Legal Counsel, Dept. of
Workforce Development, P.O. Box 7946, Madison, WI 53707-7946 or
elaine.pridgen@dwd.state.wi.us. The comment deadline is May 3, 2006.

Chapter DWD 133
TEMPORARY HELP EMPLOYERS

DWD 133.001 Definitions. (1) Except as provided in sub. (2) and unless the context clearly indicates a different meaning, the definitions in ch. DWD 100 apply to this chapter.

(2) Notwithstanding ch. DWD 100 and unless the context clearly indicates a different meaning, in this chapter:

(a) “Assignment” means work assigned by an employer to an employee to be performed for a client company of the employer. An assignment ends when it is completed or when the employee is removed from the assignment.

(b) “Client company” means an entity that contracts with an employer for the employer to provide labor for a determinate or indeterminate time.

(c) “Employer” has the same meaning given “temporary help company,” in s. 108.02 (24m), Stats., and does not include a “professional employer organization” as defined in s. 108.02 (21e), Stats.

Note: Section 108.02 (24m), Stats., provides that “temporary help company” means “an entity which contracts with a client to supply individuals to perform services for the client on a temporary basis to support or supplement the workforce of the client in situations such as personnel absences, temporary personnel shortages, and workload changes resulting from seasonal demands or special assignments or projects, and which, both under contract and in fact:

- (a) Negotiates with clients for such matters as time, place, type of work, working conditions, quality, and price of the services;
- (b) Determines assignments or reassignments of individuals to its clients, even if the individuals retain the right to refuse specific assignments;
- (c) Sets the rate of pay of the individuals, whether or not through negotiation;
- (d) Pays the individuals from its account or accounts; and
- (e) Hires and terminates individuals who perform services for the clients.”

DWD 133.01 Purpose. The purpose of this chapter is to recognize that the employment relationship between a temporary help employer and an employee is, in

limited circumstances, unlike that of other employment relationships. An employee of a temporary help employer commonly performs multiple assignments for one or more client companies. An assignment may end with little or no advance notice. While the employer and employee may intend to continue the employment relationship, the employer may not immediately be able to provide a new assignment to the employee. This chapter establishes standards for determining whether the employment relationship continues or is terminated for the purpose of unemployment insurance benefit eligibility.

DWD 133.02 Employment relationship. (1) CONTINUATION OF EMPLOYMENT RELATIONSHIP. When an assignment ends, the employment relationship between an employer and an employee shall be considered a continuing relationship if all of the following conditions are met:

(a) Prior to the end of the ~~first~~second full business day after the end of the assignment, the employee contacts the employer, or the employer contacts the employee, and informs the other that the assignment has ended or will end on a certain date. The department may waive the requirement for the deadline or notice, or both, if it determines that the employee's failure to so contact the employer was for good cause and the employer and employee have otherwise acted in a manner consistent with the continuation of the employment relationship.

(b) Prior to the end of the ~~first~~second full business day after the end of the assignment, or prior to the end of the first full business day after the date notice was given under par. (a) if the deadline for the notice was waived, the employer informs the employee that the employer will provide a new assignment that will begin within 7 days and any of the following occur:

1. The employer provides a new assignment that begins within 7 days of the date of the notice.

2. A new assignment does not begin within the 7-day period specified in par. (b) (intro.), but within that same 7-day period, the employer notifies the employee that the start of the assignment will be delayed for a period not to exceed an additional 7 days. The delayed assignment begins within 7 days of the date that the employer notified the employee of the delay.

3. A new assignment does not begin within the 7-day period specified in par. (b) (intro.), but within that same 7-day period, the employer notifies the employee that the employer will provide another assignment that will begin within 7 days. This assignment begins within 7 days of the date that the employer notified the employee of the assignment.

(c) The assignment offered by the employer meets the conditions under which the individual offered to work, including the type of work, rate of pay, days and hours of availability, distance willing to travel to work, and available modes of transportation, as set forth in the individual's written application for employment with the employer submitted prior to the first assignment, or as subsequently amended by mutual agreement. The employer shall have the burden of proof to show that the assignment meets the requirements of this paragraph. If the employer offers an assignment that does not conform to the requirements of this paragraph, the employment relationship ends under sub. (2).

(2) SEPARATION OF EMPLOYMENT BY EMPLOYER. If the employment relationship does not continue under sub. (1), the employment shall be considered

separated by the employer unless the employee has voluntarily separated from the employment under sub. (3).

(3) SEPARATION OF EMPLOYMENT BY EMPLOYEE. (a) An employee voluntarily separates from the employment when any of the following occur:

1. The employee fails to notify the employer that an assignment has ended if the employer's policy requires ~~such~~ the notification prescribed by sub. (1)(a) and the employee had notice of this policy prior to the end of the assignment, provided that the employer is not aware that the assignment has ended, and provided that the notice requirement was not waived under sub. (1) (a).
2. The employee refuses an assignment while the employment relationship continues.
3. The employee fails to respond to an offer of work by the employer within a reasonable time period, while the employment relationship continues.
4. The employer is unable to communicate an offer of work to the employee because of the employee's failure to provide the employer with his or her correct address, telephone number, or other contact information while the employment relationship continues.

(b) Nothing in this chapter shall preclude the application of other provisions of ch. 108, Stats., to determine whether the employee separated from the employment.

DWD 133.03 Treatment of time between assignments. An employee shall be eligible for unemployment insurance benefits while the employment relationship continues between assignments pursuant to s. DWD 133.02 (1), if the employee is otherwise qualified for those benefits.

DWD 133.04 Relationship following termination. When an employee's employment relationship with an employer terminates, his or her application for employment with that employer shall expire. If the employee returns to work for the employer, a new written application for employment shall be required for this chapter to be applicable. If the employee agrees in writing, the original application may be treated as a new application for employment.

SECTION 2. INITIAL APPLICABILITY. This rule first applies to an action or inaction by an employee or employer that may affect the employee's eligibility for benefits under this chapter beginning with the Sunday following the effective date of this chapter.

SECTION 3. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Administrative Register as provided in s. 227.22 (2) (intro.), Stats.



CR 06-032 (DWD 133)

Date?

Temporary help agency

no problems when it left the council

no big objections

- check w/ Phil Neuenfeldt

Clarifies when the relationship w/ a temp agency is over or just between assignments

affects small businesses

- no significant economic impact

gives temp agency 7-14 days to assign new work under same conditions

7. who pays the benefits - temp agency or the business?

- temp agency

employee can't refuse an assignment in that time

several temp agencies testified in favor at public hgs.

Leg Council - not many suggestions - limited to form

no Fiscal Effect



CR-032
06-032
Folder

Will sample concerns

- doesn't like temps
- new work concerns (Cornwall or Linde)
 - right of refusal
 - refuse new work + collect unemployment
 - not looking to overrule - codifying law based on Linde
- up to 14 calendar days between assignments

History

- mid 90's DWD wt deal w/ Cornwall
- written policy
- challenged by URC since there was no formal rule
- wanted to codify, but change that policy
- used subcommittee to improve situation
- really trying to protect against the lowest of the temp agencies



Will Sample, staff aty. from an agency → Labor & Industry
Review Comm

has problems w/ DWD 133

- it's a screw job of temp workers
- no good cause provision for workers to refuse work
- contract w/ temp agency trumps right of refusal
- no modifications were incorporated
- will put together a summary
- can't understand why labor is not concerned

266-9803, work

CR 06-032

DWD 133
CR 06-032

- * ~~find out about the Labor & Industry Review Comm.~~
- * talk to Joanna after getting Will's letter
- * Monday - ask Diane about Will Sample
- * questions for Russ
 - can anyone in the Senate ask for hearing or only committee members?
 - what is the normal practice if someone (Kisser) in the caucus wants a hearing?
 - what constitutes negotiations with agency for 10 day extension to request hearing?
 - does he see any problems with the rule (after getting Will's info)?
- * contact Phil Nevenfeldt - get name + number of subcommittee
 - Dennis Pinkowski, Carpenters

ASAP!!

- * ~~scan sample comments and DWD response + have Russ review them~~
- * is legislation needed to correct the Cornwell decision and to help with the implementation of DWD 133?

- * Good cause provision in rule
 - SR - why not included?
 - RW - why not include?
 - SR - protection for employees?

- * offers for work after initial is refused?

LIRC

- * ONLY handles appeals of administrative law judge decisions for UI, WC + ER
- * 3 mbr. commission
 - Jim Flynn, chair
 - David Falstad - from Kenosha (possibly Wisch's friend)
 - Robert Glaser
- * administratively attached to DWD but an independent agency

Russ Whitford

- * sounds like a vendetta
- * seems like he doesn't like the compromise
- * DND has legal basis for what they've done
- * employees are getting a ~~good~~ better deal than they have now
- * tap into labor to support the compromise
- * better to respect the process in this case

- Phil
- * of groups
 - Bob Anderson, ^{WI} ~~WI~~ ^{Legal Aid now} ~~Council on Kids & Families~~
 - Dennis Pinkowski, Carpenters
- 608-284-0580, x.

- clause in temp contract shouldn't trump the rule

Bob Anderson, WI Legal Action, 256-3304, 1

- read Will Sample's comments
- terrible rule
 - went through same time as package
 - was not in package
 - purported to be part of agreement
- can't testify against it
- people don't understand problems
 - feds have warned WI may lose \$
 - feds toothless lately

3 problems - ① Cornwell decision - DWD adhered to what judge said - DWD codifying decision

- judge said was not law of the case
- was case for other reasons
- not a binding decision for DWD - not basis for codifying decision

- ② temp help employee told by employer - get 1 day to tell agency - this is what's in the rule
- good cause exception
- ③ new work - temp agency can make offer
current law - new work, can still quit & get benefits
rule - once start, can't quit & get benefits
- temp agencies trying to get this for long time
 - temps headache for UI division & WMC
 - can't figure why Nevenfeldt would think he supports
 - glad Sample is involved
 - urges SC to ~~get~~ hold hearing
 - let Sample say his piece

loser - employees

why was this separated from the package?
no one should be surprised if SC wants a hearing

Dan LaRocque made a point of going through Sample's memo

he can't testify

2/5

- talked to Lehman & Wisch's offices
- talked to Joanna Richard
- left messages for Ron Hermes & Phil Newenfeldt
- Russ Whitford
 - don't NEED public hearing, but may be add not to
 - DWD agreed

2/6 status (S) - have public hearing or just exec?

*(RW) - do letter requesting modification

*(SR) - verify notification procedure

(S) - have me give heads up to Repubs in advance of sending out exec. notice?
- including WMC

*(RW) - can we pre-release letter to DWD?

*(RW) - do we need FE for SB6?
- may be an actual deal for that bill

*(RW) - memo on unconstitutionality of Voter ID

Nevenfelst - 2/6

- Phil had pulled it out
- confused w/ able + available
- being advised by Dept, so they followed that
- concerned about Fed. non-compliance

- call James Buchen @ WMC
 - get him to ask his members
 - based on non-binding court case
 - concerned about 1 day turnaround

Hal Berger

LC-8533



Committee on Labor, Elections and Urban Affairs
Motion on Clearinghouse Rule 06-032

It has been moved and seconded that the Senate Committee on Labor, Elections and Urban Affairs requests, pursuant to s. 227. 19(4) (b) 2., Stats., the Department of Workforce Development to consider modifications in Clearinghouse Rule 06-032, relating to Unemployment Insurance and Temporary Help Employees. Specifically, the Committee requests that the Department consider making modifications in the length of the time employees are given to provide notices to employers regarding the end of assignments and any other germane modifications the agency deems appropriate to implement the rule.

If the Department agrees in writing to consider modifications to the rule, the review period for the Senate and Assembly Committees is extended to the 10th working day following receipt by the Committees of the modified proposed rule or a written statement to the committee that the agency will not make modifications or to the expiration of the review period.