State of Wisconsin
2009 - 2010 LEGISLATURE

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2009 BILL

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AN ACT ***to repeal*** 108.05 (7) (d) 2. b. and 108.161 (3e); ***to renumber and amend*** 108.05 (7) (d) 1. b., 108.22 (8) (b) 1. and 108.24 (3); ***to consolidate, renumber and amend*** 108.05 (7) (d) 1. (intro.) and a. and 108.05 (7) (d) 2. (intro.) and a.; ***to amend*** 20.445 (1) (n), 20.445 (1) (ne), 108.02 (15) (f) 3., 108.02 (15) (f) 6., 108.02 (15) (g) 1., 108.02 (21e) (intro.), 108.04 (7) (k), 108.04 (7) (o), 108.04 (11) (be) (intro.), 108.05 (3) (b) 1. a., b. and c., 108.10 (4), 108.16 (10), 108.161 (3), 108.161 (4) (intro.), 108.18 (7) (d), 108.19 (1m) and 108.20 (3); and ***to create*** 108.02 (15s), 108.02 (20m), 108.05 (3) (e), 108.16 (6) (L) and (m), 108.16 (6m) (g), 108.161 (4m), 108.22 (8) (b) 1. c. and d. and 108.24 (3) (a) 4. of the statutes; **relating to:** various changes in the unemployment insurance law and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law. Significant provisions include:

BENEFIT CHANGES

Disqualification for full-time work

Currently, if a claimant receives wages or certain other amounts treated as wages from an employer who paid at least 80 percent of the claimant's wages in his or her base period (period preceding a claim during which benefit rights accrue) for any week, the claimant is not eligible to receive benefits for that week if the claimant works for at least 35 hours for that employer in that week and receives pay at not less than the rate of pay that the claimant received during the calendar quarter in his or her base period in which the claimant received his or her highest wages, or the claimant receives certain other payments from that employer for that week that alone or in combination with any paid wages equal at least the pay the claimant would have received for 35 hours of work.

This bill provides that a claimant is subject to this disqualifier for any week if the claimant receives wages or certain other amounts treated as wages from such an employer for full-time work for that week. The bill defines "full-time work" as work performed for 32 or more hours per week.

Voluntary termination of work

Currently, if an employee voluntarily terminates his or her work with an employer, the employee is generally ineligible to receive benefits until four weeks have elapsed since the end of the week in which the termination occurs and the employee earns wages after the week in which the termination occurs equal to at least four times the employee's weekly benefit rate in employment covered by the unemployment insurance law of any state or the federal government. However, an employee may terminate his or her work and receive benefits without requalifying under this provision if the employee terminates his or her work with good cause attributable to his or her employer. In addition, an employee may voluntarily terminate his or her work and receive benefits without requalifying under this provision if: a) the work is part-time work consisting of not more than 30 hours per week and the employee is otherwise eligible to receive benefits because of the loss of the employee's full-time work and the loss of the full-time work makes it economically unfeasible to continue his or her part-time work; or b) the employee terminates his or her work in one of two or more concurrently held positions at least one of which consists of more than 30 hours per week, if the employee terminates his or her work before receiving notice of termination from a position which consists of more than 30 hours per week.

This bill changes the above exceptions so that an employee may receive benefits without requalifying if, under a), the work from which the employee terminates is part-time work; or, under b), the work from which the employee terminates is full-time work and the termination occurs prior to receiving notice of termination from full-time work. The bill defines "full-time work" as work consisting of 32 or more hours per week and "part-time work" as work consisting of less than 32 hours per week.

Benefit reductions due to certain loan defaults

Currently, with certain exceptions and limitations, if a claimant receives a pension, retirement, annuity, or other similar payment based on the previous work of the claimant for a given week, DWD must reduce the claimant's UI benefits otherwise payable for that week, but not below zero, by an amount equal to not more than the amount of the payment received for that week. With certain exceptions, if a payment is actually or constructively received on other than a periodic basis, DWD allocates the payment to specific weeks for purposes of the required reduction using the claimant's most recent full weekly wage rate or another reasonable basis. The actual amount of the reduction depends upon the facts of the particular situation.

This bill provides that when a claimant actually or constructively receives a pension, retirement, annuity, or similar payment based on the previous work of the claimant on other than a periodic basis, DWD must allocate the entire payment to the week in which it is received if DWD provides due notice of the proposed allocation to the claimant before the allocation is made. In most cases, the change reduces the amount of the reduction currently required.

Treatment of bonus and profit-sharing payments

Currently, with certain exceptions, if a claimant earns wages in a given week in employment covered by the UI law, the first $30 of the wages are disregarded and the claimant's weekly benefit payment is reduced by 67 percent of the remaining amount of wages earned. Whether a bonus or profit-sharing payment is earned in the same week in which it is paid depends upon the particular facts of a given situation.

This bill provides that for purposes of benefits to which a claimant may be entitled for partial unemployment, a bonus or profit-sharing payment is always considered to be earned in the week in which the bonus or payment is paid by the claimant's employer.

TAX CHANGES

OTHER CHANGES

Use of surplus assessment revenues

Currently, when this state obtains a loan from the federal government to maintain the solvency of the unemployment reserve fund, from which benefits are paid, most employers must pay an assessment to cover the cost of any interest payments due on the loan. If the amounts collected from the assessment are more than is needed to pay the interest due, the amounts are retained in the administrative account of the fund, and may be used for a variety of purposes, including administration of the UI program, research relating to the condition of the fund, and the payment of certain benefits.

This bill provides instead that excess revenues shall be credited to the balancing account of the fund, which is used to pay benefits that are not chargeable to any employer's account. The effect is to enhance the balance of the fund, which decreases the need for future borrowing and assessments to maintain the fund's solvency.

Unlawful discrimination and retaliation

Currently, it is unlawful for any person to: a) make a deduction from the wages of an employee to finance an employer's actual or potential UI costs; b) knowingly fail to furnish to an employee any required UI information; c) attempt to induce an employee not to claim UI benefits or to waive any other right under the UI law; or d) maintain a rehiring policy that discriminates against employees who claim benefits. Violators are guilty of a misdemeanor and are subject to a fine of not less than $100 nor more than $500 or imprisoned for not more than 90 days or both for each occurrence.

This bill also makes it unlawful to: a) attempt to induce an employee not to claim benefits or waive any right under the UI law by threatening to terminate the employee; b) attempt to induce an employee from participating in a UI audit or investigation, or testifying in a UI hearing, or c) discriminate against an individual because of the individual's participation in a UI audit or investigation, or testifying in a UI hearing or exercising any other right under the UI law. The bill also increases the maximum fine for all current and proposed offenses to $1,000 for each occurrence.

Recovery of UI liabilities by offset and setoff

Currently, if benefits are erroneously paid to an individual, the issue may be adjudicated administratively, subject to appeal through the court system. DWD may then collect the amount of the overpayment set forth in an administrative decision by deducting that amount from benefits otherwise payable to the individual. DWD may also levy against the available assets of any individual or employer who is determined to be liable to DWD for UI purposes. Currently, with certain exceptions, moneys withdrawn from the unemployment reserve fund may only be used for the payment of benefits.

This bill permits DWD to utilize procedures available under state and federal revenue laws to set off adjudicated UI liabilities against refunds or other payments that may be payable to a liable individual under state law or to offset adjudicated UI liabilities for fraudulent practices against refunds that may be payable to a liable individual under federal tax laws. The bill also permits DWD to pay the administrative expenses of the federal offsets from the unemployment reserve fund. The change initially applies to satisfaction of liabilities outstanding on the day the bill becomes law.

Deadline for making voluntary contributions

Currently, an employer may pay contributions (taxes) before they become due. If an employer makes a voluntary contribution by November 30 of any year, it is credited to the employer's account as of June 30 of that year and it may therefore have the effect of lowering the employer's contribution rate for the succeeding year. Currently, a voluntary contribution is timely if it is received by DWD no later than its due date or, if mailed, is either postmarked by that date or is received by DWD no later than three days after that date.

This bill provides that to be considered timely, a voluntary contribution must be received by DWD no later than its due date.

Exclusion of certain tribal employment from coverage

Currently, federal and state law generally provide for UI coverage in employment by Indian tribes. Federal law does not mandate coverage for any of the following types of positions with an Indian tribe: a) members of a legislative body; b) major nontenured policymaking or advisory positions; c) certain part-time policymaking or advisory positions; or d) certain work relief or work training positions.

This bill excludes employment in these positions from coverage under the state UI law unless an employer elects otherwise with DWD's approval. Under the bill, a position as a member of a legislative body is excluded only if the position is elective. Noncoverage means that an employee may not claim benefits based upon this type of employment and the employee's employer is not liable to pay for those benefits.

Penalty for acts of concealment

Current law provides that a claimant who conceals any material fact relating to his or her benefit eligibility or who conceals any of his or her wages earned in or paid or payable for a given week must forfeit a specified amount. The penalty increases for subsequent offenses within a specified period. A claimant who conceals wages is also denied benefits for the week in which wages are concealed.

This bill deletes additional language providing that any claimant who commits an act of concealment is disqualified from receiving benefits for an unspecified period.

Appeals of LIRC decisions

Current law provides that when an employer wishes to appeal a UI decision made by the Labor and Industry Review Commission (LIRC) to circuit court, LIRC and the adverse party must be named as defendants.

This bill clarifies that in addition to any other parties to any particular appeal DWD is always an adverse party for purposes of UI appeals brought by employers to address issues other than benefit claims and DWD must be named as a defendant. This permits DWD to have notice of the appeal and to participate in the court proceedings and avoids any potential dismissal of an employer's appeal for failure to name DWD as a defendant.

Qualification of professional employer organizations

Currently, an employer may transfer its obligations to pay UI contributions or reimbursements to a professional employer organization that meets certain conditions specified by law. Professional employer organizations are separately required to register with the Department of Regulation and Licensing (DRL), pay an annual registration fee, and meet certain financial responsibility requirements.

This bill provides that a professional employer organization does not qualify as such for UI purposes unless it is currently registered with DRL.

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.** 20.445 (1) (n) of the statutes, as affected by 2009 Wisconsin Act 28,
2 section 519a, is amended to read:
3 20.445 **(1)** (n) *Employment assistance and unemployment insurance*
4 *administration; federal moneys.* All federal moneys received, as authorized by the
5 governor under s. 16.54, for the administration of employment assistance and
6 unemployment insurance programs of the department, for the performance of the
7 department's other functions under subch. I of ch. 106 and ch. 108 and to pay the
8 compensation and expenses of appeal tribunals and of employment councils
9 appointed under s. 108.14, to be used for such purposes, ~~except as provided in s.~~
10 ~~108.161 (3e),~~ and, from the moneys received by this state under section 903 (d) of the
11 federal Social Security Act, as amended, to transfer to the appropriation account
12 under par. (nb) an amount determined by the treasurer of the unemployment reserve
13 fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the
14 amounts in the schedule under par. (nb), to transfer to the appropriation account
15 under par. (nd) an amount determined by the treasurer of the unemployment reserve
16 fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the
17 amounts in the schedule under par. (nd), and to transfer to the appropriation account
18 under par. (ne) an amount not exceeding the lesser of the amount specified in s.
19 108.161 (4) (d) or the sum of the amounts in the schedule under par. (ne) and the
20 amount determined by the treasurer of the unemployment reserve fund that is

required to pay for the cost of banking services incurred by the unemployment reserve fund.

SECTION 2. 20.445 (1) (ne) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

20.445 **(1)** (ne) *Unemployment insurance administration and bank service costs.* From the moneys received by this state under section 903 (d) of the federal Social Security Act, as amended, all moneys transferred from the appropriation account under par. (n) to be used for the administration of unemployment insurance and for the payment of the cost of banking services incurred by the unemployment reserve fund. No moneys may be expended from this appropriation unless the treasurer of the unemployment reserve fund determines that such expenditure is currently needed for the purpose specified in this paragraph.

SECTION 3. 108.02 (15) (f) 3. of the statutes is amended to read:

108.02 **(15)** (f) 3. As a member of a legislative body or the judiciary of a state or political subdivision, or as a member of an elective legislative body or the judiciary of an Indian tribe;

SECTION 4. 108.02 (15) (f) 6. of the statutes is amended to read:

108.02 **(15)** (f) 6. In a position which, under or pursuant to the laws of this state, or of an Indian tribe, is designated as a major nontenured policymaking or advisory position, or is designated as a policymaking or advisory position the performance of the duties of which does not ordinarily require more than 8 hours per week.

SECTION 5. 108.02 (15) (g) 1. of the statutes is amended to read:

108.02 **(15)** (g) 1. By an individual receiving work relief or work training as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or by an agency of a state or political

subdivision thereof or by an Indian tribe, unless otherwise required as a condition for participation by the unit or organization in such program;

SECTION 6. 108.02 (15s) of the statutes is created to read:

108.02 **(15s)** FULL-TIME WORK. "Full-time work" means work performed for 32 or more hours per week.

SECTION 7. 108.02 (20m) of the statutes is created to read:

108.02 **(20m)** PART-TIME WORK. "Part-time work" means work performed for less than 32 hours per week.

SECTION 8. 108.02 (21e) (intro.) of the statutes is amended to read:

108.02 **(21e)** PROFESSIONAL EMPLOYER ORGANIZATION. (intro.) "Professional employer organization" means any person who is currently registered as a professional employer organization with the department of regulation and licensing in accordance with ch. 461, who contracts to provide the nontemporary, ongoing employee workforce of more than one client under a written leasing contract, the majority of whose clients are not under the same ownership, management, or control as the person other than through the terms of the contract, and who under contract and in fact:

SECTION 9. 108.04 (7) (k) of the statutes is amended to read:

108.04 **(7)** (k) Paragraph (a) does not apply to an employee who terminates his or her part-time work ~~consisting of not more than 30 hours per week~~ if the employee is otherwise eligible to receive benefits because of the loss of the employee's full-time employment and the loss of the full-time employment makes it economically unfeasible for the employee to continue the part-time work.

SECTION 10. 108.04 (7) (o) of the statutes is amended to read:

108.04 **(7)** (o) Paragraph (a) does not apply to an employee who terminates his or her work in one of 2 or more concurrently held positions, at least one of which ~~consists of more than 30 hours per week~~ is full-time work, if the employee terminates his or her work before receiving notice of termination from a position which ~~consists of more than 30 hours per week~~ is full-time work.

SECTION 11. 108.04 (11) (be) (intro.) of the statutes is amended to read:

108.04 **(11)** (be) (intro.) A claimant shall forfeit benefits ~~and be disqualified from receiving benefits~~ for acts of concealment described in pars. (a) and (b) as follows:

SECTION 12. 108.05 (3) (b) 1. a., b. and c. of the statutes are amended to read:

108.05 **(3)** (b) 1. a. The claimant works full time for that employer ~~at least 35 hours~~ in that week at the same or a greater rate of pay, excluding bonuses, incentives, overtime or any other supplement to the earnings, as the claimant was paid by that employer in that quarter of the claimant's base period in which the claimant was paid his or her highest wages;

b. The claimant receives from that employer sick pay, holiday pay, vacation pay or termination pay which, by itself or in combination with wages earned for work performed in that week for that employer, is equivalent to pay for ~~at least 35 hours of~~ full-time work at that same or a greater rate of pay; or

c. The amount that the claimant would have earned within that week from that employer in available work under s. 108.04 (1) (a) which is treated as wages under s. 108.04 (1) (bm), by itself or in combination with the wages earned for work performed in that week for that employer and the pay received under subd. 1. b., is equivalent to pay for ~~at least 35 hours of~~ full-time work at that same or a greater rate of pay.

1 **SECTION 13.** 108.05 (3) (e) of the statutes is created to read:

2 108.05 **(3)** (e) For purposes of this subsection, a bonus or profit-sharing
3 payment is considered to be earned in the week in which the bonus or payment is paid
4 by the employer. A bonus or profit-sharing payment is considered to be paid on the
5 date of the check if payment is made by check, on the date of direct deposit by the
6 employer at a financial institution if payment is deposited by the employer to an
7 employee's account at a financial institution, or on the date that the bonus or
8 payment is received by the employee if any other method of payment is used.

9 **SECTION 14.** 108.05 (7) (d) 1. (intro.) and a. of the statutes are consolidated,
10 renumbered 108.05 (7) (d) 1. and amended to read:

11 108.05 **(7)** (d) 1. If a pension payment is not paid on a weekly basis, the
12 department shall allocate and attribute the payment to specific weeks in accordance
13 with subd. 2. if~~: a. The~~ the payment is actually or constructively received on a
14 periodic basis~~; or~~. If a pension payment is actually or constructively received on other
15 than a periodic basis, the department shall allocate the payment to the week in which
16 it is received.

17 **SECTION 15.** 108.05 (7) (d) 1. b. of the statutes is renumbered 108.05 (7) (d) 1m.
18 and amended to read:

19 108.05 **(7)** (d) 1m. ~~The~~ For purposes of this paragraph, a payment is actually
20 or constructively received on other than a periodic basis ~~and~~ if it has become
21 definitely allocated and payable to the claimant by the close of ~~each such~~ a given
22 week, and the department has provided due notice to the claimant that the payment
23 will be allocated in accordance with subd. ~~2. b.~~ 1.

24 **SECTION 16.** 108.05 (7) (d) 2. (intro.) and a. of the statutes are consolidated,
25 renumbered 108.05 (7) (d) 2. and amended to read:

108.05 **(7)** (d) 2. The department shall allocate a pension payment ~~as follows: a. If the payment~~ that is is actually or constructively received on a periodic basis~~, the amount allocated~~ by allocating to each week ~~is~~ the fraction of the payment attributable to that week.

SECTION 17. 108.05 (7) (d) 2. b. of the statutes is repealed.

SECTION 18. 108.10 (4) of the statutes is amended to read:

108.10 **(4)** The department or the employing unit may commence action for the judicial review of a commission decision under this section, provided the department, or the employing unit, after exhausting the remedies provided under this section, has commenced such action within 30 days after such decision was mailed to the employing unit's last-known address. The scope of judicial review, and the manner thereof insofar as applicable, shall be the same as that provided in s. 108.09 (7). In an action commenced by an employing unit under this section, the department shall be an adverse party under s. 102.23 (1) (a) and shall be named as a party in the complaint commencing the action.

SECTION 19. 108.16 (6) (L) and (m) of the statutes are created to read:

108.16 **(6)** (L) The amount of any overpayments that are recovered by the department by setoff pursuant to s. 71.93 or the amount of any overpayments resulting from fraud that are recovered by the department by offset pursuant to section 6402 (f) of the federal Internal Revenue Code in effect on June 1, 2009, or a similar federal program.

(m) Any amounts collected from assessments levied under s. 108.19 (1m) exceeding the amounts needed to pay interest due on advances from the federal unemployment account under title XII of the Social Security Act (42 USC 1321 to 1324).

SECTION 20. 108.16 (6m) (g) of the statutes is created to read:

108.16 **(6m)** (g) Any payments of fees or expenses assessed by the U.S. secretary of the treasury under section 6402 (f) of the federal Internal Revenue Code in effect on June 1, 2009, or a similar federal program.

SECTION 21. 108.16 (10) of the statutes is amended to read:

108.16 **(10)** All money withdrawn from the fund shall be used solely in the payment of benefits, exclusive of expenses of administration, and for refunds of sums erroneously paid into the fund, for refund of a positive net balance in an employer's reimbursement account under ss. 108.15 (4) and 108.151 (5) on request by the employer, ~~and~~ for expenditures made pursuant to s. 108.161 and consistently with the federal limitations applicable to s. 108.161, and for payment of fees and expenses for collection of overpayments resulting from fraud that are assessed by the U.S. secretary of the treasury under section 6402 (f) of the federal Internal Revenue Code in effect on June 1, 2009, or a similar federal program.

SECTION 22. 108.161 (3) of the statutes is amended to read:

108.161 **(3)** ~~Consistently with~~ Except as otherwise provided in this chapter and said section 903, such moneys shall be used solely for benefits or employment security administration by the department, including unemployment insurance, employment service, apprenticeship programs, and related statistical operations.

SECTION 23. 108.161 (3e) of the statutes is repealed.

SECTION 24. 108.161 (4) (intro.) of the statutes is amended to read:

108.161 **(4)** (intro.) ~~Such~~ Except as provided in sub. (4m), such moneys shall be encumbered and spent for employment security administrative purposes only pursuant to, and after the effective date of, a specific legislative appropriation enactment:

1 **SECTION 25.** 108.161 (4m) of the statutes is created to read:

2 108.161 **(4m)** Subsection (4) does not apply to the moneys received by this state
3 under section 903 (g) of the federal Social Security Act.

4 **SECTION 26.** 108.18 (7) (d) of the statutes is amended to read:

5 108.18 **(7)** (d) A payment under this subsection is timely if it is received by the
6 department no later than November 30 following the computation date for the
7 calendar year to which it applies~~, or if mailed is either postmarked no later than that~~
8 ~~date or is received by the department no later than 3 days after that date~~.

9 **SECTION 27.** 108.19 (1m) of the statutes is amended to read:

10 108.19 **(1m)** Each employer subject to this chapter as of the date a rate is
11 established under this subsection shall pay an assessment to the administrative
12 account at a rate established by the department sufficient to pay interest due on
13 advances from the federal unemployment account under title XII of the social
14 security act (42 USC 1321 to 1324). The rate established by the department for
15 employers who finance benefits under s. 108.15 (2), 108.151 (2), or 108.152 (1) shall
16 be 75% of the rate established for other employers. The amount of any employer's
17 assessment shall be the product of the rate established for that employer multiplied
18 by the employer's payroll of the previous calendar year as taken from quarterly
19 employment and wage reports filed by the employer under s. 108.205 (1) or, in the
20 absence of the filing of such reports, estimates made by the department. Each
21 assessment made under this subsection is due on the 30th day commencing after the
22 date on which notice of the assessment is mailed by the department. If the amounts
23 collected under this subsection are in excess of the amounts needed to pay interest
24 due, the ~~amounts~~ <u>excess</u> shall be ~~retained in the administrative account and utilized~~
25 ~~for the purposes specified in s. 108.20 (2m)~~ <u>credited to the balancing account</u>.

1 **SECTION 28.** 108.20 (3) of the statutes is amended to read:

2 108.20 **(3)** There shall be included in the moneys governed by sub. (2m) any
3 amounts collected by the department under ss. 108.04 (11) (c) and (cm) and 108.22
4 (1) (a), (ac), (ad), and (af) as tardy filing fees, forfeitures, interest on delinquent
5 payments, or other penalties ~~and any excess moneys collected under s. 108.19 (1m)~~.

6 **SECTION 29.** 108.22 (8) (b) 1. of the statutes is renumbered 108.22 (8) (b) 1.
7 (intro.) and amended to read:

8 108.22 **(8)** (b) 1. (intro.) To recover any overpayment to an individual which is
9 not otherwise repaid or recovery of which has not been waived, the department may
10 recoup the amount of the overpayment by:

11 a. Deducting the amount of the overpayment from benefits the individual
12 would otherwise be eligible to receive~~, or file~~;

13 b. Filing a warrant against the liable individual in the same manner as is
14 provided in this section for collecting delinquent payments from employers~~, or both~~;

15 **SECTION 30.** 108.22 (8) (b) 1. c. and d. of the statutes are created to read:

16 108.22 **(8)** (b) 1. c. Setting off the amount of the overpayment against a refund
17 or disbursement due pursuant to s. 71.93; or

18 d. If the overpayment results from fraud, offsetting the amount of the
19 overpayment against a federal tax refund as provided in section 6402 (f) of the federal
20 Internal Revenue Code in effect on June 1, 2009, or a similar federal program.

21 **SECTION 31.** 108.24 (3) of the statutes is renumbered 108.24 (3) (a) (intro.) and
22 amended to read:

23 108.24 **(3)** (a) (intro.) ~~Any person who makes~~ Whoever does any of the following
24 shall be fined not less than $100 nor more than $1,000 or imprisoned for not more
25 than 90 days or both:

1. Makes a deduction from the wages of an employee because of liability for contributions or payments in lieu of contributions under this chapter or because of the employee's potential right to benefits~~, or who knowingly~~.

2. Knowingly refuses or fails to furnish to an employee any notice, report or information duly required under this chapter by the department to be furnished to such employee~~, or who, directly~~.

3. Directly or indirectly, by promise of reemployment or by threat not to employ, to terminate, or not to reemploy or by any other means, attempts to induce an employee to ~~refrain~~:

a. Refrain from claiming or accepting benefits ~~or to waive~~, participating in an audit or investigation by the department, or testifying in a hearing held under s. 108.09 or 108.10.

b. Waive any ~~other~~ right under this chapter~~, or whose rehiring policy has discriminated against a former employee by reason of their having claimed benefits, shall be fined not less than $100 nor more than $500 or imprisoned not more than 90 days, or both; and each such deduction from wages, every day of such refusal or failure, and each such attempt to induce~~.

(b) Each violation of this subsection constitutes a separate offense.

SECTION 32. 108.24 (3) (a) 4. of the statutes is created to read:

108.24 **(3)** (a) 4. Discriminates or retaliates against an individual because the individual claims benefits, participates in an audit or investigation by the department under this chapter, testifies in a hearing under s. 108.09 or 108.10, or exercises any other right under this chapter.

SECTION 33. Nonstatutory provisions.

1 (1) Within 30 days after the effective date of this subsection, the treasurer of
2 the unemployment reserve fund shall transfer from the administrative account of
3 the fund to the balancing account of the fund any amount of money in the
4 administrative account as of the date of the transfer that is derived from assessments
5 for interest payments made under section 108.19 (1m) of the statutes and is in excess
6 of the amount needed to make those payments.

7 **SECTION 34. Initial applicability.**

8 (1) The treatment of section 108.02 (21) (e) (intro.) of the statutes (with respect
9 to liability for contributions and reimbursements) first applies with respect to
10 determinations issued under section 108.10 of the statutes beginning with the first
11 quarter beginning after the effective date of this subsection or, with respect to
12 determinations that are appealed, to decisions issued under section 108.10 of the
13 statutes beginning with the first quarter beginning after the effective date of this
14 subsection.

15 (2) The treatment of section 108.02 (21) (e) (intro.) of the statutes (with respect
16 to payment of benefits) first applies with respect to benefit years beginning on the
17 first Sunday after the beginning of the the 3rd quarter beginning after the effective
18 date of this subsection.

19 (3) The treatment of sections 108.02 (15s) and (20m) (with respect to benefits
20 for partial unemployment) and 108.05 (3) (b) 1. a., b., and c. of the statutes first
21 applies with respect to weeks of unemployment beginning on the effective date of this
22 subsection.

23 (4) The treatment of section 108.05 (3) (e) of the statutes first applies with
24 respect to weeks of unemployment beginning on the effective date of this subsection.

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not pension payments that are received on other than a periodic basis in weeks of unemployment beginning on or after the effective date of this subsection

(5) The treatment of section 108.16 (6) (L) and (m), (6m) (g), and (10) of the statutes, the renumbering and amendment of section 108.22 (8) (b) 1. of the statutes, and the creation of section 108.22 (8) (b) 1. c. and d. of the statutes first apply with respect to satisfaction of liabilities outstanding on the effective date of this subsection.

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(6) The treatment of section 108.05 (7) (d) 1. (intro.), a., and b. and 2. (intro.), a., and b. of the statutes first applies with respect to ~~benefits payable for weeks of unemployment beginning on or after the effective date of this subsection.~~ period stays

(7) The treatment of section 108.18 (7) (d) of the statutes first applies with respect to voluntary contributions made for calendar year 2011.

(8) The treatment of sections 108.02 (15s) and (20m) (with respect to terminations of employment) and 108.04 (7) (k) and (o) of the statutes first applies with respect to voluntary terminations of employment occurring on the effective date of this subsection.

SECTION 35. Effective date.

(1) This act takes effect on the first Sunday after publication.

(END)