

**Subtitle D—Short-Time Compensation
Program**

SEC. 2160. SHORT TITLE.

This subtitle may be cited as the “Layoff Prevention Act of 2012”.

SEC. 2161. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) DEFINITION.—

(1) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by adding at the end the following new subsection:

“(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this part, the term ‘short-time compensation program’ means a program under which—

“(1) the participation of an employer is voluntary;

“(2) an employer reduces the number of hours worked by employees in lieu of layoffs;

“(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are not disqualified from unemployment compensation;

“(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were unemployed;

“(5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by the State agency;

“(6) eligible employees may participate, as appropriate, in training (including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998) to enhance job skills if such program has been approved by

the State agency;

“(7) the State agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program;

“(8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;

“(9) the terms of the employer’s written plan and implementation shall be consistent with employer obligations under applicable Federal and State laws; and

“(10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.”.

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) TRANSITION PERIOD FOR EXISTING PROGRAMS.—In the case of a State that is administering a short-time compensation program as of the date of the enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(A) the date the State changes its State law in order to be consistent with such amendment; or

(B) the date that is 2 years and 6 months after the

date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined under section 3306(v));”.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short time compensation) and inserting the following new paragraph:

“(5) amounts may be withdrawn for the payment of short time compensation under a short-time compensation program (as defined in subsection (v)); and”;

(ii) by redesignating paragraph (5) (relating to self employment assistance program) as paragraph (6).

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking “the payment of short time compensation under a plan approved by the Secretary of Labor” and inserting “the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)”.

(3) UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—

Subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

SEC. 2162. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION PAYMENTS IN STATES WITH PROGRAMS IN LAW.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal

Revenue Code of 1986, as added by section 2161(a)) under the provisions of the State law.

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) LIMITATIONS ON PAYMENTS.—

(A) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for short time compensation paid to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(b) APPLICABILITY.—

(1) IN GENERAL.—Payments to a State under subsection

(a) shall be available for weeks of unemployment—

(A) beginning on or after the date of the enactment of this Act; and

(B) ending on or before the date that is 3 years and 6 months after the date of the enactment of this Act.

(2) THREE-YEAR FUNDING LIMITATION FOR COMBINED PAYMENTS UNDER THIS SECTION AND SECTION 2163.—States may receive payments under this section and section 2163 with respect to a total of not more than 156 weeks.

(c) TWO-YEAR TRANSITION PERIOD FOR EXISTING PROGRAMS.— During any period that the transition provision under section 2161(a)(3) is applicable to a State with respect to a short-time compensation program, such State shall be eligible for payments under this section. Subject to paragraphs (1)(B) and (2) of subsection (b), if at any point after the date of the enactment of this Act the State enacts a State law providing for the payment of short time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a), the State shall be eligible for payments under this section after the effective date of such enactment.

(d) FUNDING AND CERTIFICATIONS.—

(1) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(2) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(e) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 2163. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION AGREEMENTS.

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL.—Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State’s law does not provide for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).

(2) ABILITY TO TERMINATE.—Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

(1) IN GENERAL.—Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(2) LIMITATIONS ON PLANS.—

(A) GENERAL PAYMENT LIMITATIONS.—A short-time compensation plan approved by a State shall not permit the payment of short-time compensation to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(3) EMPLOYER PAYMENT OF COSTS.—Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State's unemployment fund and shall not be used for purposes of calculating an employer's contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) PAYMENTS TO STATES.—

(1) IN GENERAL.—There shall be paid to each State with an agreement under this section an amount equal to—

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

(B) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(4) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(d) APPLICABILITY.—

(1) IN GENERAL.—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning on or after the date on which such agreement is entered into; and

(B) ending on or before the date that is 2 years and 13 weeks after the date of the enactment of this Act.

(2) TWO-YEAR FUNDING LIMITATION.—States may receive payments under this section with respect to a total of not more than 104 weeks.

(e) SPECIAL RULE.—If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a), the State—

(1) shall not be eligible for payments under this section

for weeks of unemployment beginning after the effective date of such State law; and

(2) subject to paragraphs (1)(B) and (2) of section 2162(b), shall be eligible to receive payments under section 2162 after the effective date of such State law.

(f) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 2164. GRANTS FOR SHORT-TIME COMPENSATION PROGRAMS.

(a) GRANTS.—

(1) FOR IMPLEMENTATION OR IMPROVED ADMINISTRATION.—The Secretary shall award grants to States that enact short time compensation programs (as defined in subsection (i)(2)) for the purpose of implementation or improved administration of such programs.

(2) FOR PROMOTION AND ENROLLMENT.—The Secretary shall award grants to States that are eligible and submit plans for a grant under paragraph (1) for such States to promote and enroll employers in short-time compensation programs (as so defined).

(3) ELIGIBILITY.—

(A) IN GENERAL.—The Secretary shall determine eligibility criteria for the grants under paragraphs (1) and (2).

(B) CLARIFICATION.—A State administering a short time compensation program, including a program being administered by a State that is participating in the transition under the provisions of sections 301(a)(3) and 302(c), that does not meet the definition of a short-time compensation program under section 3306(v) of the Internal Revenue Code of 1986 (as added by 211(a)), and a State with an

agreement under section 2163, shall not be eligible to receive a grant under this section until such time as the State law of the State provides for payments under a short-time compensation program that meets such definition and such law.

(b) AMOUNT OF GRANTS.—

(1) IN GENERAL.—The maximum amount available for making grants to a State under paragraphs (1) and (2) shall be equal to the amount obtained by multiplying \$100,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Security Act (42 U.S.C. 1103) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2010, under the provisions of subsection (a) of such section.

(2) AMOUNT AVAILABLE FOR DIFFERENT GRANTS.—Of the maximum incentive payment determined under paragraph (1) with respect to a State—

(A) one-third shall be available for a grant under subsection (a)(1); and

(B) two-thirds shall be available for a grant under subsection (a)(2).

(c) GRANT APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and complete with such information as the Secretary may require. In no case may the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2014.

(2) NOTICE.—The Secretary shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements for a grant under paragraph (1) or (2) (or both) of subsection (a).

(3) CERTIFICATION.—If the Secretary finds that the State

law provisions meet the requirements for a grant under subsection (a), the Secretary shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund (as established in section 904(a) of the Social Security Act (42 U.S.C. 1104(a))) pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer to the State account within 7 days after receiving such certification.

(4) REQUIREMENT.—No certification of compliance with the requirements for a grant under paragraph (1) or (2) of subsection (a) may be made with respect to any State whose—

(A) State law is not otherwise eligible for certification under section 303 of the Social Security Act (42 U.S.C. 503) or approvable under section 3304 of the Internal Revenue Code of 1986; or

(B) short-time compensation program is subject to discontinuation or is not scheduled to take effect within 12 months of the certification.

(d) USE OF FUNDS.—The amount of any grant awarded under this section shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion and enrollment efforts associated with such programs, such as through—

(1) the creation or support of rapid response teams to advise employers about alternatives to layoffs;

(2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and

(3) the development or enhancement of systems to automate—

(A) the submission and approval of plans; and

(B) the filing and approval of new and ongoing short time compensation claims.

(e) ADMINISTRATION.—The Secretary is authorized to use 0.25 percent of the funds available under subsection (g) to provide for outreach and to share best practices with respect to this section and short-time compensation programs.

(f) RECOUPMENT.—The Secretary shall establish a process under which the Secretary shall recoup the amount of any grant awarded under paragraph (1) or (2) of subsection (a) if the Secretary determines that, during the 5-year period beginning on the first date that any such grant is awarded to the State, the State—

(1) terminated the State's short-time compensation program;
Or

(2) failed to meet appropriate requirements with respect to such program (as established by the Secretary).

(g) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, to the Secretary, \$100,000,000 to carry out this section, to remain available without fiscal year limitation.

(h) REPORTING.—The Secretary may establish reporting requirements for States receiving a grant under this section in order to provide oversight of grant funds.

(i) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) SHORT-TIME COMPENSATION PROGRAM.—The term "short time compensation program" has the meaning given such term in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(3) STATE; STATE AGENCY; STATE LAW.—The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 2165. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.

(a) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)), the Secretary of Labor (in this section referred to as the "Secretary") shall—

(1) develop model legislative language which may be used by States in developing and enacting such programs and

periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(3) establish reporting requirements for States, including reporting on—

(A) the number of estimated averted layoffs;

(B) the number of participating employers and workers;
And

(C) such other items as the Secretary of Labor determines are appropriate.

(b) MODEL LANGUAGE AND GUIDANCE.—The model language and guidance developed under subsection (a) shall allow sufficient flexibility by States and participating employers while ensuring accountability and program integrity.

(c) CONSULTATION.—In developing the model legislative language and guidance under subsection (a), and in order to meet the requirements of subsection (b), the Secretary shall consult with employers, labor organizations, State workforce agencies, and other program experts.

SEC. 2166. REPORTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress and to the President a report or reports on the implementation of the provisions of this subtitle.

(2) REQUIREMENTS.—Any report under paragraph (1) shall at a minimum include the following:

(A) A description of best practices by States and employers in the administration, promotion, and use of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).

(B) An analysis of the significant challenges to State enactment and implementation of short-time compensation

programs.

(C) A survey of employers in all States to determine the level of interest in participating in short-time compensation programs.

(b) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary of Labor, \$1,500,000 to carry out this section, to remain available without fiscal year limitation.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3454/1

-09391

THURSDAY AM.

JTK: MED: JF

2011 SENATE BILL 559

P.W.F.

March 14, 2012 - Introduced by Senators LASSA, HOLPERIN, HANSEN and S. COGGS, cosponsored by Representatives SPANBAUER, VRUWINK, BERCEAU, BEWLEY, SINICKI and ROYS. Referred to Committee on Senate Organization.

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AN ACT *to amend* 108.04 (1) (a) (intro.), 108.04 (1) (b) 1., 108.04 (2) (a) 1., 108.05 (1) (q) (intro.) and 108.05 (3) (a); and *to create* 108.062 of the statutes; **relating to:** payment of unemployment insurance benefits under a work-sharing program.

Analysis by the Legislative Reference Bureau

Currently, if a claimant under the unemployment insurance (UI) law receives no wages or certain other amounts that are treated as wages for a given week, the claimant may receive the full benefit for that week to which the claimant is entitled if the claimant meets eligibility requirements. However, with certain exceptions, if a claimant earns wages or certain other amounts treated as wages in a given week, the first \$30 of the wages or other amounts are disregarded and the claimant's weekly benefit payment is reduced by 67 percent of any remaining amount earned, but no claimant is eligible to receive UI benefits for any week if the benefits would be less than \$5, and any wages that the claimant would have earned in any week for work performed for his or her employer had the claimant accepted available work from that employer are treated as wages earned for that week.

This bill permits an employer to create a work-sharing program within a work unit of the employer. Before implementation of any program, an employer must submit a work-share plan to the Department of Workforce Development (DWD) and obtain DWD's approval of the plan. As a part of its submittal, the employer must certify that its plan is in compliance with all requirements under the law. Under the bill, a work-share program may be in effect for no longer than six months within a

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five-year period and must include at least ten percent of and at least 20 employees in the work unit. Under the program, the working hours of all of the full-time employees in the program are reduced in an equitable manner in lieu of a total layoff of some of the employees and a continuation of full-time employment by the other employees. The bill provides that a claimant who is included in a work-share program may receive UI benefits during his or her continued employment with the work-sharing employer in an amount equal to the claimant's benefit for total unemployment multiplied by the same percentage reduction in normal working hours that the claimant incurs under the program, or the benefit that would be payable to the claimant under the current formula for payment of UI benefits for partial unemployment, whichever is higher. A claimant who begins receiving UI benefits before the effective period of a work-share program and who remains eligible for benefits is eligible to receive work-share benefits up to the total amount of the claimant's benefit entitlement and a claimant who has remaining benefit entitlement after the effective period of a work-share program and who remains eligible for UI benefits may continue to receive benefits until the entitlement is exhausted. The bill does not affect eligibility for supplemental UI benefits such as federal/state extended benefits, Wisconsin supplemental benefits, and special additional federal benefits in the full amounts that would otherwise be payable.

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The bill provides that if there is a single representative of the employees who are proposed to be included under a work-share program, the plan is subject to the approval of that representative. Under the bill, a work-share program must exclude participation by employees who are employed on a regular part-time, seasonal, temporary, or intermittent basis and may only apply to employees who have been engaged in employment with the employer for at least three months before the effective period of the program and who have been regularly employed in that employment for an average of at least 32 hours per week during that period. The bill provides that an employer that creates a work-share program must maintain retirement plan and health insurance coverage for employees who are included in the program during the effective period of the program under the same terms and conditions as if the employees were not included under the program. The bill permits DWD to revoke its approval of a work-share plan for specified reasons and also permits an employer to terminate a work-share program before the end of its scheduled effective period.

Currently, with certain exceptions, a claimant is eligible for UI benefits for any week in which the claimant earns no wages only if the claimant is available for work within that week. This bill provides a claimant who is receiving UI benefits for any week in which he or she is included in a work-share program need not be available for work in that week other than for the normal hours of work that the employer worked for the work-share employer immediately before the effective period of the work-share program. Under recent federal legislation, the federal government participates in the cost of administration of qualifying work-share programs and payment of benefits to participating employees. The bill directs DWD to seek full federal financial participation in the payment of these costs by this state.

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For further information see the *state* 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. 108.04 (1) (a) (intro.) of the statutes is amended to read:

2 108.04 (1) (a) (intro.) If Except as provided in s. 108.062 (10), if an employee
3 is with due notice called on by his or her current employing unit to report for work
4 actually available within a given week and is unavailable for, or unable to perform:

5 SECTION 2. 108.04 (1) (b) 1. of the statutes is amended to read:

6 108.04 (1) (b) 1. Except as provided in s. 108.062 (10) ^{and} subd. 2. ^{and} if an
7 employee's employment is suspended by the employee or the employee's employer or
8 an employee is terminated by the employee's employer, due to the employee's
9 unavailability for work or inability to perform suitable work otherwise available
10 with the employee's employer, or if the employee is on a leave of absence, the
11 employee is ineligible for benefits while the employee is unable to work or
12 unavailable for work.

13 SECTION 3. 108.04 (2) (a) 1. of the statutes is amended to read:

14 108.04 (2) (a) 1. The Except as provided in s. 108.062 (10), the individual is able
15 to work and available for work during that week;

16 SECTION 4. 108.05 (1) (q) (intro.) of the statutes is amended to read

17 108.05 (1) (q) (intro.) ~~Each~~ Except as provided in s. 108.062 (6), each eligible
18 employee shall be paid benefits for each week of total unemployment that
19 commences on or after January 4, 2009, at the weekly benefit rate specified in this
20 paragraph. Unless sub. (1m) applies, the weekly benefit rate shall equal 4
21 percent of the employee's base period wages that were paid during that quarter of the

1 employee's base period in which the employee was paid the highest total wages,
 2 rounded down to the nearest whole dollar, except that, if that amount is less than the
 3 minimum amounts shown in the following schedule, no benefits are payable to the
 4 employee and, if that amount is more than the maximum amount shown in the
 5 following schedule, the employee's weekly benefit rate shall be the maximum
 6 amount shown in the following schedule and except that, if ^{or the} an employee's benefits
 7 are exhausted during any week under s. 108.06 (1), the employee shall be paid the
 8 remaining amount of benefits payable to the employee in lieu of the amount shown
 9 in the following schedule: [See Figure 108.05 (1) (q) following]

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SECTION 5. 108.05 (3) (a) of the statutes is amended to read:

10 108.05 (3) (a) Except as provided in s. 108.062 and pars. (b), (c), and (d), if an
 11 eligible employee earns wages in a given week, the first \$30 of the wages shall be
 12 disregarded and the employee's applicable weekly benefit payment shall be reduced
 13 by 67% of the remaining amount, except that no such employee is eligible for benefits
 14 if the employee's benefit payment would be less than \$5 for any week. For purposes
 15 of this paragraph, "wages" includes any salary reduction amounts earned that are
 16 not wages and that are deducted from the salary of a claimant by an employer
 17 pursuant to a salary reduction agreement under a cafeteria plan, within the meaning
 18 of 26 USC 125, and any amount that a claimant would have earned in available work
 19 under s. 108.04 (1) (a) which is treated as wages under s. 108.04 (1) (bm), but excludes
 20 any amount that a claimant earns for services performed as a volunteer fire fighter,
 21 volunteer emergency medical technician, or volunteer first responder. In applying
 22 this paragraph, the department shall disregard discrepancies of less than \$2
 23 between wages reported by employees and employers.
 24

SECTION 6. 108.062 of the statutes is created to read:

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1 **108.062 Work-share programs; benefit payments. (1) DEFINITIONS.** In
2 this section:

3 (a) "Regular benefits" means benefits payable to an individual under this
4 chapter or any other state law, including benefits payable to federal civilian
5 employees and to former military personnel pursuant to 5 USC ch. 85, other than
6 Wisconsin supplemental benefits, extended benefits, and additional benefits as
7 defined in P.L. 91-373.

8 (b) "Work-share program" means a program approved by the department
9 under which the hours of work of employees in a work unit are reduced in lieu of a
10 layoff of one or more employees in the work unit.

11 (c) "Work unit" means an operational unit of employees designated by an
12 employer for purposes of a work-share program, which may include more than one
13 work site.

14 **(2) ELEMENTS OF PLAN.** Any employer may create a work-share program. Prior
15 to implementing a work-share program, an employer shall submit a work-share
16 plan for the approval of the department. In its submittal, the employer shall certify
17 that its plan is in compliance with all requirements under this section. Each plan
18 shall:

19 (a) Specify the work unit in which the plan will be implemented, the affected
20 positions, and the names of the employees filling those positions on the date of
21 submittal.

22 (b) Provide for inclusion of at least 10 percent of the employees in the affected
23 work unit on the date of submittal.

24 (c) Provide for initial coverage under the plan of at least 20 positions that are
25 filled on the effective date of the work-share program.

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1 (d) Specify the period when the plan will be in effect, which may not exceed 6
2 months in any 5-year period within the same work unit.

3 (e) Provide for apportionment of reduced working hours equitably among
4 employees in the work-share program.

5 (f) Exclude participation by employees who are employed on a regular
6 part-time, seasonal, temporary, or intermittent basis.

7 (g) Apply only to employees who have been engaged in employment with the
8 employer for a period of at least 3 months on the effective date of the work-share
9 program and who are regularly employed by the employer in that employment for
10 an average of at least 32 hours per week during that period.

11 (h) Specify the normal average hours per week worked by the employees in the
12 work unit and the intended reduction or range of reduction in the average hours of
13 work per week worked by the employees under the plan, which shall be at least 10
14 percent but not more than 50 percent of the normal hours per work of the employees
15 included under the plan.

16 (i) Describe the manner in which requirements for maximum federal financial
17 participation in the plan will be implemented, including a plan for giving notice,
18 where feasible, to participating employees of changes in work schedules.

19 (j) Provide an estimate of the number of layoffs that would occur without
20 implementation of the plan.

21 (k) Specify the effect on any fringe benefits provided by the employer to the
22 employees who are included in the work-share program other than fringe benefits
23 required by law.

SENATE BILL 559

1 (L) Include a statement signed by the authorized agent of any representative
2 of the employees included in the work-share program to the effect that the
3 representative has approved the plan whenever approval is required under sub. (13).

4 (m) Include a statement affirming that the plan is in compliance with all
5 employer obligations under applicable federal and state laws.

6 (3) APPROVAL OF PLANS. The department shall approve a plan if the plan
7 includes all of the elements specified in sub. (2). The approval is effective for the
8 effective period of the plan.

9 (4) EFFECTIVE PERIOD. A work-share program becomes effective on the later of
10 the Sunday of the 2nd week beginning after approval of a work-share plan under
11 sub. (3) or any Sunday after that day specified in the plan. A work-share program
12 ends on the earlier of the last Sunday that precedes the end of the 6-month period
13 beginning on the effective date of the program or any Sunday before that day
14 specified in the plan unless the program terminates on an earlier date under sub. (5),
15 (14), or (15).

16 (5) REVOCATION OF APPROVAL. The department may revoke its approval of a
17 work-share plan for good cause, including conduct that tends to defeat the purpose
18 and effective operation of the plan, failure to comply with the requirements of this
19 section or the work-share plan, or an unreasonable change to the productivity
20 standards of the employees included under the work-share program. Any revocation
21 is effective on the Sunday of the 2nd week beginning after revocation of approval of
22 the plan under this subsection.

23 (6) BENEFIT AMOUNT. Except as provided in sub. (7), an employee who is
24 included under a work-share program and who qualifies to receive regular benefits
25 for any week during the effective period of the program shall receive a benefit

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1 payment for each week that the employee is included under the program in an
2 amount equal to the (the) employee's regular benefit amount under s. 108.05 (1)
3 multiplied by the employee's proportionate reduction in hours worked for that week
4 as a result of the work-share program.

5 (7) BENEFITS FOR PARTIAL UNEMPLOYMENT. An employee who would otherwise be
6 paid benefits under s. 108.05 (3) for any week shall receive a benefit payment for that
7 week in the amount payable to the employee under sub. (6) or the amount payable
8 to the employee under s. 108.05 (3), whichever is higher.

9 (8) BENEFIT YEAR. An employee may be paid a benefit under sub. (6) only for
10 weeks beginning in the employee's benefit year in an amount not exceeding the
11 employee's total benefit entitlement under s. 108.06 (1). Benefits paid under sub. (6)
12 may begin after the first week of the employee's benefit year or may terminate earlier
13 than the last week of the employee's benefit year.

14 (9) OTHER BENEFITS. An employee who receives benefits under sub. (6) remains
15 eligible for any benefits other than regular benefits for which the employee may
16 qualify and the amount of those benefits is not affected by the employee's receipt of
17 benefits under sub. (6).

18 (10) AVAILABILITY FOR WORK. An employee who is receiving benefits under sub.
19 (6) for any week need not be available for work in that week other than for the normal
20 hours of work that the employee worked for the employer that creates the
21 work-share program immediately before the week in which the work-share program
22 began.

23 (11) OTHER EMPLOYMENT. An employee who is included in a work-share
24 program during a benefit year may be paid wages during the same benefit year by
25 an employer other than the employer who creates the work-share program.

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1 (12) RETIREMENT PLAN AND HEALTH INSURANCE COVERAGE. An employer that
2 creates a work-share program shall maintain coverage under any defined benefit or
3 defined contribution retirement plan and any health insurance coverage that the
4 employer provides to the employees who are included in a work-share program,
5 including any particulars of coverage and percentages contributed by the employer
6 for the costs of that coverage, during the effective period of the program under the
7 same terms and conditions as if the employees were not included in the program.

8 (13) APPROVAL BY EMPLOYEE REPRESENTATIVE. If there is a single representative
9 representing some or all of the employees who are included in a work-share plan, the
10 plan is subject to approval of that representative.

11 (14) TERMINATION BY EMPLOYER. An employer that creates a work-share
12 program may terminate the program before the end of the effective period as
13 provided in the work-share plan by filing notice of termination with the department.
14 The program is then terminated on the 2nd Sunday following the date that the notice
15 of termination is filed unless the notice specifies that the program is terminated at
16 the beginning of a later week in which case the program terminates at the beginning
17 of that week.

18 (15) INVOLUNTARY TERMINATION. If in any week there are fewer than 20
19 employees who are included in a work-share program of any employer, the program
20 terminates on the 2nd Sunday following the end of that week.

21 (16) SUCCESSORSHIP. If all or any part of the business of an employer that
22 creates a work-share program is transferred as provided in s. 108.16 (8), the
23 successor employer may continue the work-share program as provided in the
24 work-share plan or may terminate the program by filing notice of termination under
25 sub. (14). Termination by a successor employer does not affect any employees of the

1 transferring employer who continue their employment with the transferring
2 employer.

3 (17) TERMINATION OF EMPLOYMENT. An employee who is included in a
4 work-share program may be terminated or may voluntarily terminate his or her
5 employment during the effective period of the program and the employee's eligibility
6 or ineligibility for benefits for any weeks beginning after the date of termination is
7 not affected solely as a result of the employee's inclusion in the program.

8 (18) FEDERAL FINANCIAL PARTICIPATION. The department shall seek to qualify
9 this state for full federal participation in the cost of administration of this section and
10 financing of benefits to employees participating in work-share programs under this
11 section.

12 (END)

D-note ↗

Ins 4-10

1 **SECTION 1.** 108.05 (3) (a) of the statutes is amended to read:

2 108.05 (3) (a) Except as provided in pars. (c), (d) and (dm) and s. 108.062, if an
3 eligible employee earns wages in a given week, the first \$30 of the wages shall be
4 disregarded and the employee's applicable weekly benefit payment shall be reduced
5 by 67% of the remaining amount, except that no such employee is eligible for benefits
6 if the employee's benefit payment would be less than \$5 for any week. For purposes
7 of this paragraph, "wages" includes any salary reduction amounts earned that are
8 not wages and that are deducted from the salary of a claimant by an employer
9 pursuant to a salary reduction agreement under a cafeteria plan, within the meaning
10 of 26 USC 125, and any amount that a claimant would have earned in available work
11 under s. 108.04 (1) (a) which is treated as wages under s. 108.04 (1) (bm), but excludes
12 any amount that a claimant earns for services performed as a volunteer fire fighter,
13 volunteer emergency medical technician, or volunteer first responder. In applying
14 this paragraph, the department shall disregard discrepancies of less than \$2
15 between wages reported by employees and employers.

History: 1971 c. 53; 1973 c. 247; 1975 c. 343; 1977 c. 29; 1979 c. 52; 1981 c. 28, 36; 1983 a. 8, 168, 384; 1985 a. 17, 40; 1987 a. 38 ss. 60 to 66, 136; 1987 a. 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15, 56, 185, 186; 2001 a. 35, 43, 105; 2003 a. 197; 2005 a. 86, 142; 2007 a. 20, 59, 97; 2009 a. 287; 2011 a. 198; s. 35.17 correction in (3) (c) 1.

16 **SECTION 2.** 108.05 (3) (c) (intro.) of the statutes is amended to read:

17 108.05 (3) (c) (intro.) ~~A~~ Except when otherwise authorized under an approved
18 work-share program under s. 108.062, a claimant is ineligible to receive any benefits
19 for a week in which one or more of the following applies to the claimant for 32 or more
20 hours in that week:

History: 1971 c. 53; 1973 c. 247; 1975 c. 343; 1977 c. 29; 1979 c. 52; 1981 c. 28, 36; 1983 a. 8, 168, 384; 1985 a. 17, 40; 1987 a. 38 ss. 60 to 66, 136; 1987 a. 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15, 56, 185, 186; 2001 a. 35, 43, 105; 2003 a. 197; 2005 a. 86, 142; 2007 a. 20, 59, 97; 2009 a. 287; 2011 a. 198; s. 35.17 correction in (3) (c) 1.

21 **SECTION 3.** 108.05 (3) (dm) (intro.) of the statutes is amended to read:

1

108.05 (3) (dm) (intro.) ~~A~~ Except when otherwise authorized ⁱⁿ ~~under~~ an

2

approved work-share program under s. 108.062, a claimant is ineligible to receive

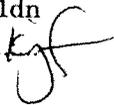
3

any benefits for a week if the claimant receives from one or more employers:

History: 1971 c. 53; 1973 c. 247; 1975 c. 343; 1977 c. 29; 1979 c. 52; 1981 c. 28, 36; 1983 a. 8, 168, 384; 1985 a. 17, 40; 1987 a. 38 ss. 60 to 66, 136; 1987 a. 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15, 56, 185, 186; 2001 a. 35, 43, 105; 2003 a. 197; 2005 a. 86, 142; 2007 a. 20, 59, 97; 2009 a. 287; 2011 a. 198; s. 35.17 correction in (3) (c) 1.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0939/P1dn
JTK&MED:...



Date

Senator Lassa:

This is a redraft of 2011 Senate Bill 559. Please note the following:

1. The redraft treats section 108.05 (3) (c) and (d) ^(intro.) to clarify that employees working ^{stats.} under a work-share program are not disqualified from receiving any UI benefits if their hours are reduced under an approved work-share program.

2. Please let us know if you would like a specific provision permitting an employer to request amendments to a plan that has already been approved by the Department of Workforce Development (DWD).

3. We recommend having DWD re-review this bill to ensure that it still captures all federal requirements for legislation and conditions imposed by the federal government, including those for federal funding or federal payment of benefits, as consistent with your intent.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Michael Duchek
Legislative Attorney
Phone: (608) 266-0130
E-mail: michael.duchek@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0939/1dn
JTK&MED:kjf:jm

January 9, 2013

Senator Lassa:

This is a redraft of 2011 Senate Bill 559. Please note the following:

1. The redraft treats section 108.05 (3) (c) (intro.) and (dm) (intro.), stats., to clarify that employees are not disqualified from receiving any UI benefits if their hours are reduced under an approved work-share program.
2. Please let us know if you would like a specific provision permitting an employer to request amendments to a plan that has already been approved by the Department of Workforce Development (DWD).
3. We recommend having DWD re-review this bill to ensure that it still captures all federal requirements for legislation and conditions imposed by the federal government, including those for federal funding or federal payment of benefits, as consistent with your intent.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Michael Duchek
Legislative Attorney
Phone: (608) 266-0130
E-mail: michael.duchek@legis.wisconsin.gov



RMNR



12

LRB-0939/M

JTK&MED:kjf:jm

Stays

TODAY BY 1 P.M.

2013 BILL

Insert

Regen

1 AN ACT to amend 108.04 (1) (a) (intro.), 108.04 (1) (b) 1., 108.04 (2) (a) 1., 108.05
 2 (1) (q) (intro.), 108.05 (3) (a), 108.05 (3) (c) (intro.) and 108.05 (3) (dm) (intro.);
 3 and to create 108.062 of the statutes; relating to: payment of unemployment
 4 insurance benefits under a work-sharing program.

Analysis by the Legislative Reference Bureau

Currently, if a claimant under the unemployment insurance (UI) law receives no wages or certain other amounts that are treated as wages for a given week, the claimant may receive the full benefit for that week to which the claimant is entitled if the claimant meets eligibility requirements. However, with certain exceptions, if a claimant earns wages or certain other amounts treated as wages in a given week, the first \$30 of the wages or other amounts are disregarded and the claimant's weekly benefit payment is reduced by 67 percent of any remaining amount earned, but no claimant is eligible to receive UI benefits for any week if the benefits would be less than \$5, and any wages that the claimant would have earned in any week for work performed for his or her employer had the claimant accepted available work from that employer are treated as wages earned for that week.

This bill permits an employer to create a work-sharing program within a work unit of the employer. Before implementation of any program, an employer must submit a work-share plan to the Department of Workforce Development (DWD) and obtain DWD's approval of the plan. As a part of its submittal, the employer must certify that its plan is in compliance with all requirements under the law. Under the bill, a work-share program may be in effect for no longer than six months within a

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five-year period and must include at least 10 percent of and at least 20 employees in the work unit. Under the program, the working hours of all of the full-time employees in the program are reduced in an equitable manner in lieu of a total layoff of some of the employees and a continuation of full-time employment by the other employees. The bill provides that a claimant who is included in a work-share program may receive UI benefits during his or her continued employment with the work-sharing employer in an amount equal to the claimant's benefit for total unemployment multiplied by the same percentage reduction in normal working hours that the claimant incurs under the program, or the benefit that would be payable to the claimant under the current formula for payment of UI benefits for partial unemployment, whichever is higher. A claimant who begins receiving UI benefits before the effective period of a work-share program and who remains eligible for benefits is eligible to receive work-share benefits up to the total amount of the claimant's benefit entitlement and a claimant who has remaining benefit entitlement after the effective period of a work-share program and who remains eligible for UI benefits may continue to receive benefits until the entitlement is exhausted. The bill does not affect eligibility for supplemental UI benefits such as federal/state extended benefits, Wisconsin supplemental benefits, and special additional federal benefits in the full amounts that would otherwise be payable.

The bill provides that if there is a single representative of the employees who are proposed to be included under a work-share program, the plan is subject to the approval of that representative. Under the bill, a work-share program must exclude participation by employees who are employed on a regular part-time, seasonal, temporary, or intermittent basis and may only apply to employees who have been engaged in employment with the employer for at least three months before the effective period of the program and who have been regularly employed in that employment for an average of at least 32 hours per week during that period. The bill provides that an employer that creates a work-share program must maintain retirement plan and health insurance coverage for employees who are included in the program during the effective period of the program under the same terms and conditions as if the employees were not included under the program. The bill permits DWD to revoke its approval of a work-share plan for specified reasons and also permits an employer to terminate a work-share program before the end of its scheduled effective period. Ins Anal. A that

Currently, with certain exceptions, a claimant is eligible for UI benefits for any week in which the claimant earns no wages only if the claimant is available for work within that week. This bill provides a claimant who is receiving UI benefits for any week in which he or she is included in a work-share program need not be available for work in that week other than for the normal hours of work that the employer worked for the work-share employer immediately before the effective period of the work-share program. Ins Anal. B Under recent federal legislation, the federal government participates in the cost of administration of qualifying work-share programs and payment of benefits to participating employees. The bill directs DWD to seek full federal financial participation in the payment of these costs by this state.

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For further information see the *state* 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.** 108.04 (1) (a) (intro.) of the statutes is amended to read:

2 108.04 (1) (a) (intro.) If Except as provided in s. 108.062 (10), if an employee
3 is with due notice called on by his or her current employing unit to report for work
4 actually available within a given week and is unavailable for, or unable to perform:

5 **SECTION 2.** 108.04 (1) (b) 1. of the statutes is amended to read:

6 108.04 (1) (b) 1. Except as provided in subd. 2. and s. 108.062 (10), if an
7 employee's employment is suspended by the employee or the employee's employer or
8 an employee is terminated by the employee's employer, due to the employee's
9 unavailability for work or inability to perform suitable work otherwise available
10 with the employee's employer, or if the employee is on a leave of absence, the
11 employee is ineligible for benefits while the employee is unable to work or
12 unavailable for work.

13 **SECTION 3.** 108.04 (2) (a) 1. of the statutes is amended to read:

14 108.04 (2) (a) 1. The Except as provided in s. 108.062 (10), the individual is able
15 to work and available for work during that week;

16 **SECTION 4.** 108.05 (1) (q) (intro.) of the statutes is amended to read

17 108.05 (1) (q) (intro.) Each Except as provided in s. 108.062 (6), each eligible
18 employee shall be paid benefits for each week of total unemployment that
19 commences on or after January 4, 2009, at the weekly benefit rate specified in this
20 paragraph. Unless sub. (1m) applies, the weekly benefit rate shall equal 4 percent
21 of the employee's base period wages that were paid during that quarter of the

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1 employee's base period in which the employee was paid the highest total wages,
2 rounded down to the nearest whole dollar, except that, if that amount is less than the
3 minimum amount shown in the following schedule, no benefits are payable to the
4 employee and, if that amount is more than the maximum amount shown in the
5 following schedule, the employee's weekly benefit rate shall be the maximum
6 amount shown in the following schedule and except that, if the employee's benefits
7 are exhausted during any week under s. 108.06 (1), the employee shall be paid the
8 remaining amount of benefits payable to the employee in lieu of the amount shown
9 in the following schedule: [See Figure 108.05 (1) (q) following]

10 **SECTION 5.** 108.05 (3) (a) of the statutes is amended to read:

11 108.05 (3) (a) Except as provided in pars. (c), (d) and (dm) and s. 108.062, if an
12 eligible employee earns wages in a given week, the first \$30 of the wages shall be
13 disregarded and the employee's applicable weekly benefit payment shall be reduced
14 by 67% of the remaining amount, except that no such employee is eligible for benefits
15 if the employee's benefit payment would be less than \$5 for any week. For purposes
16 of this paragraph, "wages" includes any salary reduction amounts earned that are
17 not wages and that are deducted from the salary of a claimant by an employer
18 pursuant to a salary reduction agreement under a cafeteria plan, within the meaning
19 of 26 USC 125, and any amount that a claimant would have earned in available work
20 under s. 108.04 (1) (a) which is treated as wages under s. 108.04 (1) (bm), but excludes
21 any amount that a claimant earns for services performed as a volunteer fire fighter,
22 volunteer emergency medical technician, or volunteer first responder. In applying
23 this paragraph, the department shall disregard discrepancies of less than \$2
24 between wages reported by employees and employers.

25 **SECTION 6.** 108.05 (3) (c) (intro.) of the statutes is amended to read:

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1 108.05 (3) (c) (intro.) ~~A~~ Except when otherwise authorized in an approved
2 work-share program under s. 108.062, a claimant is ineligible to receive any benefits
3 for a week in which one or more of the following applies to the claimant for 32 or more
4 hours in that week:

5 **SECTION 7.** 108.05 (3) (dm) (intro.) of the statutes is amended to read:

6 108.05 (3) (dm) (intro.) ~~A~~ Except when otherwise authorized in an approved
7 work-share program under s. 108.062, a claimant is ineligible to receive any benefits
8 for a week if the claimant receives from one or more employers:

9 **SECTION 8.** 108.062 of the statutes is created to read:

10 **108.062 Work-share programs; benefit payments. (1) DEFINITIONS.** In
11 this section:

12 (a) "Regular benefits" means benefits payable to an individual under this
13 chapter or any other state law, including benefits payable to federal civilian
14 employees and to former military personnel pursuant to 5 USC ch. 85, other than
15 Wisconsin supplemental benefits, extended benefits, and additional benefits as
16 defined in P.L. 91-373.

17 (b) "Work-share program" means a program approved by the department
18 under which the hours of work of employees in a work unit are reduced in lieu of a
19 layoff of one or more employees in the work unit.

20 (c) "Work unit" means an operational unit of employees designated by an
21 employer for purposes of a work-share program, which may include more than one
22 work site.

23 **(2) ELEMENTS OF PLAN.** Any employer may create a work-share program. Prior
24 to implementing a work-share program, an employer shall submit a work-share
25 plan for the approval of the department. In its submittal, the employer shall certify

BILL

1 that its plan is in compliance with all requirements under this section. Each plan
2 shall:

3 (a) Specify the work unit in which the plan will be implemented, the affected
4 positions, and the names of the employees filling those positions on the date of
5 submittal.

6 (b) Provide for inclusion of at least 10 percent of the employees in the affected
7 work unit on the date of submittal.

8 (c) Provide for initial coverage under the plan of at least 20 positions that are
9 filled on the effective date of the work-share program.

10 (d) Specify the period when the plan will be in effect, which may not exceed 6
11 months in any 5-year period within the same work unit.

12 (e) Provide for apportionment of reduced working hours equitably among
13 employees in the work-share program.

14 (f) Exclude participation by employees who are employed on a regular
15 part-time, seasonal, temporary, or intermittent basis.

16 (g) Apply only to employees who have been engaged in employment with the
17 employer for a period of at least 3 months on the effective date of the work-share
18 program and who are regularly employed by the employer in that employment for
19 an average of at least 32 hours per week during that period.

20 (h) Specify the normal average hours per week worked by the employees in the
21 work unit and the intended reduction or range of reduction in the average hours of
22 work per week worked by the employees under the plan, which shall be at least 10
23 percent but not more than 50 percent of the normal hours per work of the employees
24 included under the plan.

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1 (i) Describe the manner in which requirements for maximum federal financial
2 participation in the plan will be implemented, including a plan for giving notice,
3 where feasible, to participating employees of changes in work schedules.

4 (j) Provide an estimate of the number of layoffs that would occur without
5 implementation of the plan.

6 (k) Specify the effect on any fringe benefits provided by the employer to the
7 employees who are included in the work-share program other than fringe benefits
8 required by law.

9 (L) Include a statement signed by the authorized agent of any representative
10 of the employees included in the work-share program to the effect that the
11 representative has approved the plan whenever approval is required under sub. (13).

12 (m) Include a statement affirming that the plan is in compliance with all
13 employer obligations under applicable federal and state laws.

14 **(3) APPROVAL OF PLANS.** The department shall approve a plan if the plan
15 includes all of the elements specified in sub. (2). The approval is effective for the
16 effective period of the plan.

17 **(4) EFFECTIVE PERIOD.** A work-share program becomes effective on the later of
18 the Sunday of the 2nd week beginning after approval of a work-share plan under
19 sub. (3) or any Sunday after that day specified in the plan. A work-share program
20 ends on the earlier of the last Sunday that precedes the end of the 6-month period
21 beginning on the effective date of the program or any Sunday before that day
22 specified in the plan unless the program terminates on an earlier date under sub. (5),
23 (14), or (15).

24 **(5) REVOCATION OF APPROVAL.** The department may revoke its approval of a
25 work-share plan for good cause, including conduct that tends to defeat the purpose

BILL

1 and effective operation of the plan, failure to comply with the requirements of this
2 section or the work-share plan, or an unreasonable change to the productivity
3 standards of the employees included under the work-share program. Any revocation
4 is effective on the Sunday of the 2nd week beginning after revocation of approval of
5 the plan under this subsection.

6 (6) BENEFIT AMOUNT. Except as provided in sub. (7), an employee who is
7 included under a work-share program and who qualifies to receive regular benefits
8 for any week during the effective period of the program shall receive a benefit
9 payment for each week that the employee is included under the program in an
10 amount equal to the employee's regular benefit amount under s. 108.05 (1)
11 multiplied by the employee's proportionate reduction in hours worked for that week
12 as a result of the work-share program.

13 (7) BENEFITS FOR PARTIAL UNEMPLOYMENT. An employee who would otherwise be
14 paid benefits under s. 108.05 (3) for any week shall receive a benefit payment for that
15 week in the amount payable to the employee under sub. (6) or the amount payable
16 to the employee under s. 108.05 (3), whichever is higher.

17 (8) BENEFIT YEAR. An employee may be paid a benefit under sub. (6) only for
18 weeks beginning in the employee's benefit year in an amount not exceeding the
19 employee's total benefit entitlement under s. 108.06 (1). Benefits paid under sub. (6)
20 may begin after the first week of the employee's benefit year or may terminate earlier
21 than the last week of the employee's benefit year.

22 (9) OTHER BENEFITS. An employee who receives benefits under sub. (6) remains
23 eligible for any benefits other than regular benefits for which the employee may
24 qualify and the amount of those benefits is not affected by the employee's receipt of
25 benefits under sub. (6).

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1 (10) AVAILABILITY FOR WORK. An employee who is receiving benefits under sub.
 2 (6) for any week need not be available for work in that week other than for the normal
 3 hours of work that the employee worked for the employer that creates the
 4 work-share program immediately before the week in which the work-share program
 5 began.

6 (11) OTHER EMPLOYMENT. An employee who is included in a work-share
 7 program during a benefit year may be paid wages during the same benefit year by
 8 an employer other than the employer who creates the work-share program.

9 (12) RETIREMENT PLAN AND HEALTH INSURANCE COVERAGE. An employer that
 10 creates a work-share program shall maintain coverage under any defined benefit or
 11 defined contribution retirement plan and any health insurance coverage that the
 12 employer provides to the employees who are included in a work-share program,
 13 including any particulars of coverage and percentages contributed by the employer
 14 for the costs of that coverage, during the effective period of the program under the
 15 same terms and conditions as if the employees were not included in the program.

16 (13) APPROVAL BY EMPLOYEE REPRESENTATIVE. If there is a single representative
 17 representing some or all of the employees who are included in a work-share plan, the
 18 plan is subject to approval of that representative.

19 (14) TERMINATION BY EMPLOYER. An employer that creates a work-share
 20 program may terminate the program before the end of the effective period as
 21 provided in the work-share plan by filing notice of termination with the department.
 22 The program is then terminated on the 2nd Sunday following the date that the notice
 23 of termination is filed unless the notice specifies that the program is terminated at
 24 the beginning of a later week in which case the program terminates at the beginning
 25 of that week.

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INS ANAL A

, is registered for work during that week, and conducts a reasonable search for suitable work during that week

INS ANAL B

No # The bill also provides that the requirements to register for work and conduct a reasonable search for suitable work are waived during each week that an employee included in a work-share agreement is receiving benefits, during the effective period of the agreement. 9

INS 3-15

1 SECTION 1. 108.04 (2) (a) 2. of the statutes is amended to read:
2 108.04 (2) (a) 2. As Except as provided in s. 108.062 (10m), as of that week, the
3 individual has registered for work; and

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

4 SECTION 2. 108.04 (2) (a) 3. (intro.) of the statutes is amended to read:
5 108.04 (2) (a) 3. (intro.) The individual conducts a reasonable search for
6 suitable work during that week, unless the search requirement is waived under par.
7 (b) or s. 108.062 (10m). The search for suitable work must include 2 actions that
8 constitute a reasonable search as prescribed by rule of the department. This
9 subdivision does not apply to an individual if the department determines that the
10 individual is currently laid off from employment with an employer but there is a
11 reasonable expectation of reemployment of the individual by that employer. In
12 determining whether the individual has a reasonable expectation of reemployment
13 by an employer, the department shall request the employer to verify the individual's
14 employment status and shall also consider other factors, including:

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

15 SECTION 3. 108.04 (2) (bm) of the statutes is amended to read:

1 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
 2 which there is a determination that the claimant failed to conduct a reasonable
 3 search for suitable work and the department has not waived the search requirement
 4 under par. (b) or s. 108.062 (10m). If the department has paid benefits to a claimant
 5 for any such week, the department may recover the overpayment under s. 108.22 (8).

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

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6 **(10m) REGISTRATION FOR WORK AND WORK SEARCH.** The department shall waive
 7 the requirements to register for work under under s. 108.04 (2) (a) 2. and to conduct
 8 a search for work under s. 108.04 (2) (a) 3. for an employee during each week that the
 9 employee is receiving benefits under a work-share agreement under sub. (6).

Rose, Stefanie

From: Williams, Danielle
Sent: Thursday, February 14, 2013 1:32 PM
To: LRB.Legal
Subject: RUSH Draft Review: LRB -0939/2 Topic: Work share

Please Jacket LRB -0939/2 for the SENATE.