



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 86
[2015 Assembly Bill 416]

**Various Changes to Unemployment
Insurance Law**

2015 Wisconsin Act 86 makes three changes, described below, to the state unemployment insurance law. Each of the changes were recommended by the Unemployment Insurance Advisory Council, a five-member body that is statutorily directed to advise Department of Workforce Development (DWD) on unemployment insurance law and recommend legislative changes to the Legislature.

REVIEW PROCEDURES APPLIED TO OUT-OF-STATE EMPLOYERS

Federal law requires states to participate in arrangements for the payment of unemployment insurance benefits on the basis of combining an individual's wages and employment covered under the state's law with the individual's wages and employment covered under the unemployment insurance law of another state. Additionally, in order for taxpayers to be allowed certain credits under the federal Unemployment Insurance Tax Act, state laws must provide that an employer's account must not be relieved of charges relating to a payment from the state unemployment fund if the state agency determines that the payment was made because the employer (or the employer's agent) was at fault for failing to respond to the agency's request for information in a timely or adequate manner.

Prior state law authorized DWD to issue an appealable determination regarding an employer's liability under the unemployment insurance program, but prior law did not authorize DWD to make similar determinations relating to employers in other states.

The Act authorizes DWD to issue a determination that an out-of-state employer who makes an erroneous payment is at fault for failing to respond to the agency's request. It specifies that the same procedures that apply to such determinations for in-state employers apply to determinations regarding out-of-state employers.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

BENEFITS THROUGH THE WORK-SHARE PROGRAM

Wisconsin law provides two alternate approaches to determining unemployment insurance benefits that may apply to an employee who works less than full-time hours. First, in some circumstances, an employee may be eligible to receive benefits for partial employment, which are calculated based on a percentage of the weekly benefit that would be provided under the regular unemployment insurance benefit table.

Alternatively, Wisconsin's work-share program (also referred to as short-term compensation) allows an employer to reduce the hours of employees throughout a work unit in lieu of layoffs. In that program, an employee's unemployment insurance benefit is based on a proportionate reduction in hours worked in that week as a result of the work-share program.

Under **prior law**, if both of the alternatives described above applied, then an employee received a benefit under the alternative that provides the higher benefit.

Under **the Act**, if an employee is included in a work-share program, then the employee must receive benefits as calculated under the work-share program, and not as a percentage of benefits for partial employment.

USE OF TREASURY OFFSET PROGRAM TO RECOUP OVERPAYMENTS

The federal treasury offset program, administered by the U.S. Department of Treasury, enables debts owed to state and federal agencies to be collected by reducing or withholding a federal payment, such as a tax refund. Under a federal law enacted in 2013, states must take action to recover certain unemployment compensation debts via the treasury offset program if the debts remain uncollected one year after the date that they were finally determined to be due.

Wisconsin law authorizes DWD to recoup certain overpayments through the treasury offset program. Specifically, DWD may utilize the treasury offset program to recoup overpayments made to individual recipients of unemployment insurance benefits as a result of fraud or an individual's failure to report earnings.

Prior law did not otherwise authorize DWD to recoup unemployment insurance overpayments using the treasury offset program.

The Act authorizes DWD to utilize the treasury offset program to recoup funds owed to the department by any employer or individual who is found personally liable for the funds following statutory proceedings, provided that no appeal is pending and that the time for taking an appeal or review has expired.

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