



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-1774/P2  
MED:kjf&cjs

DOA:.....Hynek, BB0277 - UI Drug Testing

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT** ...; **relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT**

**1. *Unemployment insurance; drug testing***

Current state law requires DWD to establish a program to test for the presence of controlled substances certain claimants who apply for unemployment insurance (UI) benefits. A claimant who tests positive for a controlled substance for which the claimant does not have a prescription is ineligible for UI benefits until certain requalification criteria are satisfied or unless he or she enrolls in a substance abuse treatment program and undergoes a job skills assessment, and a claimant who declines to submit to a test is simply ineligible for benefits until he or she requalifies. However, under federal law, the state may only require the drug testing under the program in accordance with regulations issued by the federal secretary of labor. As of February 13, 2019, final federal regulations have not been issued. This bill repeals the requirement to establish the drug testing program.

Also under current law, an employer may voluntarily submit to DWD the results of a preemployment test for the presence of controlled substances that was conducted on an individual as a condition of an offer of employment or notify DWD that an individual declined to submit to such a test. If DWD then verifies that submission, the employee may be ineligible for benefits until he or she requalifies. However, a claimant who tested positive may maintain eligibility by enrolling in a substance abuse treatment program and undergoing a job skills assessment. This bill repeals these preemployment drug testing provisions.

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

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

**SECTION 1.** 20.445 (1) (aL) of the statutes is repealed.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

**SECTION 2.** 108.04 (8) (a) of the statutes is amended to read:

108.04 (8) (a) ~~Except as provided in par. (b), if~~ If an employee fails, without good cause, to accept suitable work when offered, the employee is ineligible to receive benefits until the employee earns wages after the week in which the failure occurs equal to at least 6 times the employee's weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment insurance law of any state or the federal government. For purposes of requalification, the employee's weekly benefit rate shall be that rate which would have been paid had the failure not occurred. This paragraph does not preclude an employee from establishing a benefit year during a period in which the employee is ineligible to receive benefits under this paragraph if the employee qualifies to establish a benefit year under s. 108.06 (2) (a). ~~Except as provided in par. (b), the~~ The department shall charge to the fund's balancing account any benefits otherwise chargeable to the account of an employer that is subject to the contribution requirements under ss. 108.17 and 108.18 whenever an employee of that employer fails, without good cause, to accept suitable work offered by that employer.

**SECTION 3.** 108.04 (8) (b) of the statutes, as affected by [2017 Wisconsin Act 157](#), is repealed.

**SECTION 4.** 108.133 of the statutes, as affected by [2017 Wisconsin Act 157](#), sections [26](#) to [37](#), is repealed.

**SECTION 5.** 108.14 (8n) (e) of the statutes is amended to read:

108.14 **(8n)** (e) The department shall charge this state's share of any benefits paid under this subsection to the account of each employer by which the employee claiming benefits was employed in the applicable base period, in proportion to the total amount of wages he or she earned from each employer in the base period, except that if s. 108.04 (1) (f), (5), (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a) ~~or (b)~~, or 108.07 (3), (3r), or (5) (b), ~~or 108.133 (3) (f)~~ would have applied to employment by such an employer who is subject to the contribution requirements of ss. 108.17 and 108.18, the department shall charge the share of benefits based on employment with that employer to the fund's balancing account, or, if s. 108.04 (1) (f) or (5) or 108.07 (3) would have applied to an employer that is not subject to the contribution requirements of ss. 108.17 and 108.18, the department shall charge the share of benefits based on that employment in accordance with s. 108.07 (5) (a) and (b). The department shall also charge the fund's balancing account with any other state's share of such benefits pending reimbursement by that state.

**SECTION 6.** 108.141 (7) (a) of the statutes is amended to read:

108.141 **(7)** (a) The department shall charge the state's share of each week of extended benefits to each employer's account in proportion to the employer's share of the total wages of the employee receiving the benefits in the employee's base period, except that if the employer is subject to the contribution requirements of ss. 108.17 and 108.18 the department shall charge the share of extended benefits to which s. 108.04 (1) (f), (5), (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a) ~~or (b)~~, or 108.07 (3), (3r), or (5) (b), ~~or 108.133 (3) (f)~~ applies to the fund's balancing account.

**SECTION 7.** 108.16 (6m) (a) of the statutes is amended to read:

108.16 **(6m)** (a) The benefits thus chargeable under s. 108.04 (1) (f), (5), (5g), (7) (h), (8) (a) ~~or (b)~~, (13) (c) or (d) or (16) (e), 108.07 (3), (3r), (5) (b), (5m), or (6), ~~108.133 (3) (f)~~, 108.14 (8n) (e), 108.141, 108.151, or 108.152 or sub. (6) (e) or (7) (a) and (b).

**SECTION 8.** 108.19 (1s) (a) 5. of the statutes is repealed.

**SECTION 9350. Initial applicability; Workforce Development.**

(1) UNEMPLOYMENT INSURANCE; DRUG TESTING. The treatment of ss. 108.04 (8) (b) and 108.133 (4) (a) first applies to initial claims for benefits filed on the effective date of this subsection.

**SECTION 9450. Effective dates; Workforce Development.**

(1) UNEMPLOYMENT INSURANCE; DRUG TESTING. The treatment of ss. 108.04 (8) (a) and (b), 108.133, 108.14 (8n) (e), 108.141 (7) (a), 108.16 (6m) (a), and 108.19 (1s) (a) 5. and SECTION 9350 (1) of this act take effect on the Sunday after publication.

**(END)**