

## CHAPTER 12

AN ACT to repeal 108.02 (5) (g) 9, 10 and 12, (7) (c) and (d), 108.04 (4) (d), 108.05 (2) (g), 108.061 and 108.18 (8) (h), (i), (j), (k) and (l); to amend 108.02 (7) (a) and (b), (11) and (11m), 108.04 (8) (c) and (d), 108.05 (4) (b), 108.09 (7), 108.10 (5), 108.16 (8) (f) and (9) (a) (intro. par.) and 108.18 (6), (7), (8) (d), (f) and (g); to repeal and recreate 108.02 (5) (g) 7 and 15 and 108.18 (8) (c); and to create 108.04 (1) (d), (e), (f), (4) (al) and (7) (f), 108.05 (5) and (6), 108.06 (3) (f), 108.09 (6) (e), 108.141, 108.16 (6) (j) and (10m), 108.19 (2m) and 108.20 (6), (7) and (8) of the statutes, constituting recommendations made to the 1961 legislature pursuant to 108.14 (5m) by the statutory advisory committee, relating to unemployment compensation, affecting the unemployment reserve fund, granting rule making authority and making appropriations.

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

SECTION 1. 108.02 (5) (g) 7 of the statutes is repealed and recreated to read:

108.02 (5) (g) 7. Service performed in the employ of a religious, charitable, educational, or other organization described in s. 501 (c) (3) of the internal revenue code which is exempt from federal income tax under s. 501 (a) of said code.

SECTION 2. 108.02 (5) (g) 9, 10 and 12 of the statutes are repealed.

SECTION 3. 108.02 (5) (g) 15 of the statutes is repealed and recreated to read:

108.02 (5) (g) 15. Service performed in any calendar quarter in the employ of any organization exempt from federal income tax under s. 501 (a) of the internal revenue code (other than an organization described in s. 401 (a) of said code) or under s. 521 of the internal revenue code, if the remuneration for such service is less than \$50.

SECTION 4. 108.02 (7) (a) and (b) of the statutes are amended to read:

108.02 (7) (a) An employe's "average weekly wage" with respect to a given employer *and benefit determination* means the average weekly amount determined by dividing the employe's \* \* \* *number of weeks of employment by such employer, within the period specified by s. 108.06 (1) (a), which have not been used in a previous benefit determination into the total gross wages paid for such employment.*

(b) In lieu of the foregoing standard procedure for determining an employe's average weekly wage, \* \* \* the commission may, on application of an employe or his employer or on its own motion, prescribe reasonable substitute procedure for determining or redetermining the average weekly wage of any employe if it finds, after consulting the employe and the given employer, that application of the standard procedure would be inequitable in such case.

SECTION 5. 108.02 (7) (c) and (d) of the statutes are repealed.

SECTION 6. 108.02 (11) and (11m) of the statutes are amended to read:

108.02 (11) "Reserve percentage" shall for contribution purposes refer to the status of an employer's account, as determined \* \* \* by the commission as of the \* \* \* applicable "computation date". In calculating an employer's net reserve as of any computation date, his account shall be charged with benefits for weeks ending on or before said date, if paid by the close of the month which follows said date, and shall be credited with contributions, on his payroll through said date, if paid by the close of said month \* \* \* or if paid pursuant to s. 108.18 (7) and within the period therein specified. The employer's "reserve percentage" means his account's net reserve as of the computation date, stated as a percentage of \* \* \* his "payroll" \* \* \* in the year ending on such date \* \* \* or in the year applicable under s. 108.18 (6).

(11m) "Computation date" means that date as of the close of which the commission computes reserve percentages and determines contribution rates for the next calendar year \* \* \*. The computation date shall be June 30, starting in 1961, except that it shall be December 31, \* \* \* at the close of an employer's third contribution year in determining his rate for the next calendar year.

SECTION 7. 108.04 (1) (d), (e) and (f) and (4) (a) of the statutes are created to read:

108.04 (1) (d) A woman whose eligibility is suspended under par. (c) shall continue to be ineligible, after the 4 weeks specified in par. (c), until the week in which she has notified her most recent employer that she is physically able to work and available for work.

(e) An individual who is self-employed shall not be eligible for benefits for any week in which he has worked substantially full time at his self-employment, unless he establishes to the satisfaction of the commission that during such week he made an active and bona-fide search for employment.

(f) If an employe is required by law to have a license, issued by a governmental agency, to perform his customary work for an employer, the employe shall not be eligible for benefits from the employer's account where the employe's employment was suspended or terminated because his license has been suspended, revoked or not renewed due to his own fault, until he has a valid license to perform such work.

(4) (a) Paragraph (a) shall not disqualify an employe who has had 14 or more but less than 18 weeks of employment, within the 52 weeks specified by par. (a), if he has totaled 55 or more weeks of employment, including weeks under par. (af). within the 104 weeks preceding the close of his most recent week of employment.

SECTION 8. 108.04 (4) (d) of the statutes is repealed.

SECTION 9. 108.04 (7) (f) of the statutes is created to read:

108.04 (7) (f) Paragraph (a) shall not apply if the commission determines that the employe terminated his employment because he was transferred by his employing unit to work paying less than two-thirds of his immediately preceding wage rate with the employing unit; provided that he shall be ineligible for benefits for the week of termination and the 4 next following weeks.

SECTION 10. 108.04 (8) (c) and (d) of the statutes are amended to read:

108.04 (8) (c) When a claimant accepts \* \* \* work which he could have refused with good cause, and then terminates such employment with the same good cause and within the first 10 weeks after starting work, his

eligibility for benefits based on other previous employment shall not be suspended, under sub. (7), by reason of such termination.

(d) \* \* \* A claimant shall be deemed to have good cause under par. (a) if the commission determines that his failure related to \* \* \* work \* \* \* at a lower grade of skill or significantly lower rate of pay than applied to him on one or more recent jobs, and that he had not yet had a reasonable opportunity (in view of labor market conditions and his degree of skill, but not to exceed 6 weeks after he became unemployed) to seek a new job substantially in line with his job skill and prior rate of pay.

SECTION 11. 108.05 (2) (g) of the statutes is repealed.

SECTION 12. 108.05 (4) (b) of the statutes is amended to read:

108.05 (4) (b) An employee's vacation pay shall, for benefit purposes, be treated as wages for a given week only if it has by the close of that week become definitely allocated and payable to the employe for that week and he has had due notice of such allocation \* \* \*

\* \* \*

\* \* \* and only if such pay (until fully assigned) is allocated at not less than the employe's approximate full weekly wage rate.

SECTION 13. 108.05 (5) and (6) of the statutes are created to read:

108.05 (5) An employee's dismissal or termination pay shall, for benefit purposes, be treated as wages for a given week only if it has by the close of that week become definitely allocated and payable to the employe for that week, and he has had due notice thereof, and only if such pay (until fully assigned) is allocated at not less than the employe's approximate full weekly wage rate.

(6) A payment to an individual by an employing unit, which is in the nature of back pay (or in lieu of pay for personal services) for certain past weeks, whether made under a back-pay award or similar decision or otherwise, shall be wages for benefit purposes but only when paid within 104 weeks after the start of the earliest such week.

SECTION 14. 108.06 (3) (f) of the statutes is created to read:

108.06 (3) (f) As to any employe who receives temporary total disability payments under ch. 102 for more than 17 of the 52 weeks following his most recent week of employment by a given employer, for each of those disability weeks over 17 weeks one week shall be added, for the purposes of pars. (a) and (c), to the 52 weeks therein specified.

SECTION 15. 108.061 of the statutes is repealed.

SECTION 16. 108.09 (6) (e) of the statutes is created to read:

108.09 (6) (e) Where benefits are not paid to an employe on the eleventh day specified by par. (d), but are subsequently determined to be payable, they shall be calculated as of that eleventh day.

SECTION 17. 108.09 (7) of the statutes is amended to read:

108.09 (7) (a) Either party may commence judicial action for the review of a decision of the commission hereunder, provided said party (after exhausting the remedies provided hereunder) has commenced such judicial action within 30 days after a decision of the commission was mailed to his last known address \* \* \*.

(b) Any judicial review hereunder shall be confined to questions of law, and the other provisions of ch. 102 of the 1959 statutes with respect to judicial review of orders and awards shall likewise apply to any decision of the commission reviewed under this section. Any such judicial action may be defended, in behalf of the commission, by any qualified attorney

who is a regular salaried employe of the commission and has been designated by it for this purpose, or at the commission's request by the attorney-general.

SECTION 18. 108.10 (5) of the statutes is amended to read:

108.10 (5) The employer may commence action for the judicial review of a commission decision hereunder, provided said employer, after exhausting the remedies provided hereunder, has commenced such action within 30 days after such decision was mailed to his 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).

SECTION 19. 108.141 of the statutes is created to read:

108.141 EXTENDED BENEFITS. (1) If a 1961 federal enactment provides for complete federal financing of added weeks of benefits to be paid by the commission to unemployed individuals qualifying and eligible therefor, subject to an agreement between the commission and the secretary of labor as to such benefits, the commission shall execute such an agreement and shall pay such benefits accordingly.

(2) With a view to cooperating fully under such enactment, the commission shall, in making such an agreement, seek to clarify how such an enactment will apply to individuals who have received benefits under this chapter, in determining and paying their added benefit rights under such enactment consistently with such enactment and interpretations thereunder by the secretary of labor.

(3) If such enactment provides, subject to such an agreement, for reimbursing the fund for certain benefits paid under this chapter, the commission shall agree to and accept such reimbursements and credit them to the fund's balancing account.

(4) To apply such enactment fully the commission may join in amending any existing agreement as to its payment of regular benefits under a normal federal unemployment compensation program.

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

108.16 (6) (j) Any federal reimbursement of benefits paid under this chapter.

SECTION 21. 108.16 (8) (f) and (9) (a) (intro. par.) of the statutes are amended to read:

108.16 (8) (f) The contribution rates applicable with respect to the accounts of the successor employer and the transferring employer shall be respectively determined or redetermined as of the \* \* \* *applicable* computation date, to apply from the date of transfer of business until the close of the current calendar year, and shall thereafter be redetermined whenever required by s. 108.18, as follows: For the purposes of s. 108.18, the commission shall determine the "experience under this chapter" of the successor employer's account and of the transferring employer's account by allocating to the successor employer's account for each period in question the respective proportions of the transferring employer's payroll and benefits which the commission determines to be properly assignable to the business transferred.

(9) (a) (intro. par.) Consistently with s. 3305 of the federal internal revenue code, relating to federal instrumentalities which are neither wholly *nor partially* owned by the United States nor otherwise *specifically* exempt from the tax imposed by s. 3301 of said code:

SECTION 22. 108.16 (10m) of the statutes is created to read:

108.16 (10m) The commission shall not pay any interest on any benefit payment or collect any interest on any benefit overpayment.

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SECTION 23. 108.18 (6) and (7) of the statutes are amended to read:

108.18 (6) If during the \* \* \* *year ending on a computation date* an employer has been liable for contributions but has had no payroll, his reserve percentage as of that *computation date* shall be computed on the basis of his most recent year (*ending on a computation date which applied to him*) of some payroll; but his contribution rate for the *calendar year* following the computation date shall in no case be less than one per cent.

(7) Any employer may at any time make payments to the fund, in excess of the other requirements of this section. Each such payment shall be credited to the employer's account as of the date when paid, except that any such payment made during \* \* \* *the period July 1 through November 30* shall, for the purpose of computing his reserve percentage, be credited thereto as of the immediately preceding computation date; and each such payment shall be treated as a contribution required and irrevocably paid under this chapter with respect to payrolls preceding the date as of which it is thus credited.

SECTION 24. 108.18 (8), (c) of the statutes is repealed and recreated to read:

108.18 (8) (c) The fund's treasurer shall determine annually, by November 21:

1. The net total of all benefits paid by the fund (excluding federal benefits financed by the federal government) in the most recent one-year period ended on October 31; and

2. What percentage that net benefit total is of the gross wages total most recently determined and recorded under par. (b).

SECTION 25. 108.18 (8) (d) (f) and (g) of the statutes are amended to read:

108.18 (8) (d) If \* \* \* *the percentage \* \* \* thus determined is 1.4 per cent or more*, and if the close-of-October "net balance" of the fund's balancing account was \$25,000,000 or more *after deducting therefrom any amount then scheduled to be credited to employer accounts under s. 108.16 (13)*, the commission shall record in its minutes and have officially published, by December 15, the adjusted schedule of experience rates which applies hereunder for the ensuing calendar year.

(f) If the percentage \* \* \* determined under par. (c) \* \* \* *is 1.4 per cent or more but less than \* \* \* 1.8 per cent*, the adjusted rates on payroll shown on line 2 shall apply, in lieu of the normal rates on payroll shown on line 1, as follows:

	Percentage on Payroll								
Line 1. Normal:	0	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0
Line 2. Adjusted:	0	0.5	0.9	1.3	1.8	2.2	2.6	3.1	3.6

(g) If the percentage \* \* \* determined under par. (c) \* \* \* *is 1.8 per cent or more \* \* \**, the adjusted rates on payroll shown on line 2 shall apply, in lieu of the normal rates on payroll shown on line 1, as follows:

	Percentage on Payroll								
Line 1. Normal:	0	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0
Line 2. Adjusted:	0	0.4	0.8	1.2	1.6	2.0	2.4	2.8	3.2

SECTION 26. 108.18 (8) (h), (i), (j), (k) and (l) of the statutes are repealed.

SECTION 27. 108.19 (2m) of the statutes is created to read:

108.19 (2m) Within the limit specified by sub. (1), the commission may by rule prescribe at any time as to any period any such rate or rates or schedule as it deems necessary and proper hereunder. Unless thus prescribed, no such rate or rates or schedule shall apply under sub. (1) or (2).

SECTION 28. 108.20 (6), (7) and (8) of the statutes are created to read:

108.20 (6) To the extent that moneys available under s. 20.440 (74) are used to finance some or all of the capital costs involved in acquiring employment security office space, there shall be applied to the moneys thus used (the same as if they were moneys credited under s. 108.161) the provisions of s. 108.161 (7), (8), (8m) and (9), except that any resulting credits attributable to the moneys thus used shall be credited under s. 20.440 (74) and s. 108.20.

(7) To the extent that federal grants hereunder, or moneys available under s. 20.440 (74), or both, are used to amortize the capital costs of employment security office quarters in a state office buildings, s. 108.161 (9) shall apply to the costs and quarters thus amortized, except that any resulting credits shall be allocated according to the funds thus used. When such grants or moneys or both have fully amortized such costs, s. 108.161 (8m) shall apply to such quarters.

(8) As to the capital costs involved in the current state office building project on the Madison "hill farm" site, that portion of said costs which is fairly attributable to the employment security space included in said project shall be financed by employment security moneys, namely by the \$2,150,000 specified in s. 20.440 (76) (f) and by an additional sum, sufficient to finance the remainder (if any) of that portion of said costs but not to exceed \$150,000, to be paid from the moneys available under s. 20.440 (74), subject to sub. (6) hereof. Promptly after bids have been opened, the portion thus fairly attributable shall be determined, consistently with s. 108.161, by the secretary of the state building commission, an authorized representative of the industrial commission, and the regional director of the federal bureau of employment security.

SECTION 29. Section 108.14 (13) of the statutes shall apply to all changes in ch. 108 of the statutes effected by this act.

SECTION 30. The changes effected by this act in s. 108.02 (7) of the statutes shall apply to benefit determinations, issued under ch. 108 of the statutes, whose last "credit week" ends after 1961.

SECTION 31. The changes effected by this act in s. 108.02 (11) and (11m), s. 108.16 (8) (f) and s. 108.18 (6) and (7) of the statutes shall take effect as of June 30, 1961.

SECTION 32. The changes effected by this act in s. 108.04 (1) (f), (4) (a), (7) (f), (8) (c) and (d) and in s. 108.05 (6) of the statutes shall apply to all initial determinations issued after this act takes effect.

SECTION 33. The changes effected by this act in s. 108.05 (4) (b) and (5) of the statutes shall apply to calendar weeks ending after June 30, 1961.

SECTION 34. The changes effected by this act in s. 108.04 (1) (e) of the statutes shall apply to weeks which end more than 30 days after this act takes effect.

SECTION 35. The changes effected by this act in s. 108.04 (1) (d) of the statutes shall apply to any woman whose child is born after this act takes effect.

SECTION 36. The amounts appropriated by s. 20.440 (76) (a) of the statutes, to the extent that those amounts have not been spent or obligated on or before the date of enactment (namely the official publication date) of this act, are hereby reappropriated as of the day after said enactment date, for the purposes and under the conditions specified by sections 20.440

(76), 108.161 and 108.20 of the statutes. The amounts thus reappropriated shall be available for obligation pursuant to said sections (as amended) solely within the 2 years beginning on the date of enactment of this act.

SECTION 37. This measure is declared to be an emergency fiscal measure. It is an emergency appropriation bill recommended by the governor under s. 16.47 (2) of the statutes.

Approved March 23, 1961.

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