

1985 Senate Bill 76

Date of enactment: May 16, 1985
Date of publication: May 24, 1985

1985 Wisconsin Act 17

AN ACT to repeal 108.04 (7) (h) 2, 108.06 (4) (b), 108.07 (5), 108.141 (8), 108.16 (2) (bm) and 108.16 (6) (d); to renumber 108.09 (3) (title), (a) and (b), 108.09 (3) (d), 108.09 (3) (f), 108.09 (3) (h) and (i) and (3m), 108.16 (8) (c), 108.16 (8) (d), 108.16 (8) (e), 108.16 (8) (g) and 108.16 (8) (h) 2 and (i); to renumber and amend 108.04 (7) (h) 1, 108.06 (4) (a), 108.09 (3) (c), 108.09 (3) (e), 108.09 (3) (g), 108.09 (4) and 108.16 (8) (h) (intro.) and 1; to amend 20.445 (1) (u) and (v), 108.02 (3) and (13) (a), (c) 1 and 3, (d) and (e) 1, 108.02 (20) and (21) (b), 108.03 (3), 108.04 (1) (b), 108.04 (4) (b), 108.04 (5) and (7) (a), 108.04 (8) (a) and (b), 108.04 (11) (c), 108.04 (13) (e), 108.04 (16) (a) 2, 108.05 (3), (4) (a) and (b) (intro.) and (5) (intro.), 108.06 (5) (b), 108.08 (1), 108.14 (2m), 108.14 (8n) (e) and (8r) (c), 108.15 (5) (b), 108.151 (5) (b) and (f), 108.16 (2) (b), 108.16 (2) (e), 108.16 (2) (f), 108.16 (6) (h), 108.16 (7) (a), 108.18 (1) (b) and (2) (a) and (b) 1, 108.18 (4) (figure) Schedule A, lines 22 and 23, 108.18 (5), 108.18 (7) (a) 2, (b) and (c), 108.18 (9) (intro.) and (figure) Schedule A, 108.20 (2m) and (3), 108.22 (1) (b) and (c) and 227.22 (2); to repeal and recreate 108.02 (29), 108.04 (4) (a), 108.04 (13) (a) and (b), 108.141 (7), 108.16 (8) (b) 3 and 108.18 (10); and to create 108.04 (17) (d), 108.105, 108.16 (2) (em), 108.16 (8) (c), 108.16 (8) (d), 108.16 (8) (e) 3, 108.18 (2) (d), 108.18 (9m), 108.18 (9s) and 108.18 (12) of the statutes, relating to various changes in the unemployment compensation law, providing for a study, 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. 20.445 (1) (u) and (v) of the statutes are amended to read:

20.445 (1) (u) *Unemployment administration fund; research.* From the unemployment administration fund, biennially, the amounts in the schedule from interest and penalties ~~on delinquent payments collected~~ under ch. 108 for research relating to the current and anticipated condition of the unemployment reserve fund under s. 108.14 (6).

(v) *Unemployment administration fund; interest payments.* From the unemployment administration fund, all moneys not appropriated under par. (u) received from employers as interest and penalties ~~on delinquent payments collected~~ under ch. 108 and assessments under s. 108.19 (1m), for the payment of interest due on advances from the federal unemployment account under title XII of the social security act to the unemployment reserve fund, except as otherwise provided in s. 108.20.

SECTION 2. 108.02 (3) and (13) (a), (c) 1 and 3, (d) and (e) 1 of the statutes are amended to read:

108.02 (3) AVERAGE WEEKLY WAGE. An employe's "average weekly wage" with respect to a given employer and benefit computation is the amount obtained by dividing the employe's number of weeks of employment by such employer, within the employe's base period, ~~which have not been used in a previous benefit computation~~ into the total gross wages paid for such employment. For purposes of this subsection, "total gross wages" includes all payments described in sub. (29) (b) and (c) which were paid or payable to an employe with respect to a specific week, except that if an employe receives tempo-

rary total disability payments under ch. 102, the federal longshoreman's and harbor workers' compensation act (33 USC 901 to 950) or similar federal worker's compensation legislation applicable to a specific week "total gross wages" are the amount the employe would have received in his or her employment in the same week for which the payments are received.

(13) (a) "Employer", except where the term by its context may apply to any unit employing one or more individuals, means every government unit and any person, partnership, association, corporation, whether domestic or foreign, or legal representative, debtor in possession or trustee in bankruptcy or receiver or trustee of a person, partnership, association or corporation, or guardian of the estate of a person, or legal representative of a deceased person, and any fraternal benefit society as defined in s. 614.01 (1) (a), who is subject to this chapter under the statutes of 1975, or who has had employment in this state and becomes subject to this chapter under this subsection and, notwithstanding any other provisions of this section, any service insurance corporation organized or operating under ch. 613.

(c) 1. Any employer of an individual or individuals in agricultural labor shall become an "employer" subject to this chapter as of the beginning of any calendar year if ~~such~~ the employer paid or incurred a liability to pay cash wages for agricultural labor which totaled \$20,000 or more during any calendar quarter in either the current or preceding calendar year, or if such the employer employed as many as 10 individuals in some agricultural labor for some portion of a day on at least 20 days, each day being in a different calendar week, whether or not such weeks were consecutive, in either the current or preceding calendar year.

3. For the purposes of this paragraph, if any individual who is furnished by a crew leader to perform service in agricultural labor is not an employe of the crew leader under subd. 2, other person, and not the crew leader, is the employer of ~~such that~~ individual and the other person shall be considered to have paid or incurred liability to pay cash remuneration to ~~such the~~ individual in an amount equal to the amount of cash remuneration paid or payable to ~~such the~~ individual by the crew leader, either on behalf of the crew leader or such other person, for the service in agricultural labor performed for such other person.

(d) Any employer of an individual or individuals in domestic service shall become an "employer" subject to this chapter as of the beginning of any calendar year if ~~such the~~ employer paid or incurred liability to pay cash wages of \$1,000 or more during any calendar quarter in either the current or preceding calendar year for such domestic service.

(e) 1. Paid or incurred liability to pay wages for employment which totaled \$1,500 or more during any calendar quarter in either that year or the preceding calendar year; or

SECTION 3. 108.02 (20) and (21) (b) of the statutes are amended to read:

108.02 (20) PARTIAL UNEMPLOYMENT. An employe is "partially unemployed" in any week for which he or she earns some wages ~~which are less than the weekly benefit rate for that employe which could apply to that week~~ and is eligible for some benefits under s. 108.05 (3).

(21) (b) Notwithstanding par. (a), except as provided in s. 108.18 (3m), an employer's "payroll" ~~for the 1983 calendar year includes only the first \$8,000 of wages paid by the employer, for the 1984 and 1985 calendar years year includes only the first \$9,500 of wages paid by the employer, and for the 1986 calendar year and thereafter includes only the first \$9,700 \$10,500 of wages paid by the employer during that year to an individual with respect to "employment", including any employment covered by the unemployment compensation law of any other state.~~

SECTION 4. 108.02 (29) of the statutes is repealed and recreated to read:

108.02 (29) WEEKS OF EMPLOYMENT. "Weeks of employment" means:

(a) All weeks during an employe's base period in which an employe performs wage-earning services in employment for an employer.

(b) All other weeks during an employe's base period for which an employe receives or is entitled to receive holiday pay, vacation pay, termination pay, sick pay when paid or payable directly by the employer at the employe's usual rate of pay, or temporary total disability payments under ch. 102, the federal longshoreman's and harbor workers' compensation act (33 USC 901 to 950) or similar federal worker's compensation legislation as a result of employment for an employer.

(c) All other weeks during an employe's base period for which an employe receives or is entitled to receive back pay under federal law, the law of any state or a collective bargaining agreement, for wage-earning services paid or payable as a result of employment for an employer.

SECTION 5. 108.03 (3) of the statutes is amended to read:

108.03 (3) When an employer, after due notice of a benefit claim, has conceded liability or failed to file the ~~required~~ report required under s. 108.09 (1), or has failed to raise any eligibility question in objection to ~~such the~~ claim, any benefits allowable under any resulting benefit computation shall, unless the department ~~has taken administrative notice of any fact indicating the claimant's ineligibility applies a provision of this chapter to disqualify the claimant,~~ be promptly paid. Any eligibility question in objection to ~~such the~~ claim thereafter raised by the employer ~~shall does~~ not affect benefits paid prior to the end of the week in which a determination is issued as to ~~such the~~ eligibility question.

SECTION 6. 108.04 (1) (b) of the statutes is amended to read:

108.04 (1) (b) An employe ~~shall be~~ is ineligible for benefits ~~from an employer's account:~~

1. While ~~he~~ the employe is physically unable to work, or substantially unavailable for work, if his or her employment with ~~such an~~ employer was suspended by the employe or by the employer or was terminated by ~~such the~~ employer because the employe was physically unable to do, or unavailable for, his work otherwise available with the employer; or

2. While ~~he~~ the employe is on a voluntary leave of absence granted for a definite period, until ~~such the~~ period ~~has ended ends~~ or until the employe ~~has returned returns~~ to work, whichever occurs first.

SECTION 7. 108.04 (4) (a) of the statutes is repealed and recreated to read:

108.04 (4) (a) A claimant is not eligible to start a benefit year unless the claimant has the weeks of employment and wages required by this paragraph in his or her base period. For purposes of this paragraph, "wages" includes all wages which are paid or payable to a claimant with respect to work weeks in his or her base period during which wage-earning services were performed, and all payments described in s. 108.02 (29) (b) and (c) which were paid or payable by the claimant's employer with respect to a specific week in his or her base period, except that if the claimant received temporary total disability payments under ch. 102, the federal longshoreman's and harbor workers' compensation act (33 USC 901 to 950) or similar federal worker's compensation legislation, "wages" includes, in lieu of such payments, the wages the claimant would have received in the employment in the same weeks for which the payments are received. For benefit years beginning between the effective date of this paragraph [revisor inserts date], and Janu-

ary 4, 1986, 18 weeks of employment and \$1,734.84 of wages are required. For benefit years which begin after January 4, 1986, 19 weeks of employment and wages of at least 19 times 30% of the average wages per average week as determined under s. 108.05 (2) (b) for the 12 months ending on the preceding June 30 are required. The department shall publish this amount as part of the class I notice required by s. 108.05 (2) (e). For purposes of this paragraph, the department shall redetermine the state's average wages per week for each calendar year under s. 108.05 (2) (b) no later than December 1 of the preceding year.

SECTION 8. 108.04 (4) (b) of the statutes is amended to read:

108.04 (4) (b) There shall be counted toward the "weeks of employment" and wages required by par. (a) any federal service, within the relevant period, which is assigned to Wisconsin under an agreement pursuant to 5 USC 8501 to 8525.

SECTION 9. 108.04 (5) and (7) (a) of the statutes are amended to read:

108.04 (5) DISCHARGE FOR MISCONDUCT. An employe's eligibility, for benefits based on those credit weeks then accrued with respect to an employing unit, shall be barred for any week of unemployment completed after he or she has been discharged by the employing unit for misconduct connected with his or her employment, and the employe is ineligible for any benefits based upon employment with an employer other than the employer from whom the employe is discharged for the week in which the discharge occurs and thereafter until he or she has again ~~been employed~~ worked within at least 7 weeks in employment covered by the unemployment compensation law of any state or the federal government and has earned wages for work actually performed in that employment covered by the unemployment compensation law of any state or the federal government equaling at least 14 times the employe's weekly benefit rate with the employer against whom benefits are initially chargeable. The employe's benefit rate shall be that which is otherwise applicable.

(7) (a) If an employe terminates his or her employment with an employing unit, the employe is ineligible for any benefits for the week of termination and thereafter until he or she has again ~~been employed~~ worked within at least 7 weeks in employment covered by the unemployment compensation law of any state or the federal government and has earned wages for work actually performed in that employment covered by the unemployment compensation law of any state or the federal government equaling at least 14 times the employe's weekly benefit rate with the employer against whom benefits would otherwise be chargeable, and the remaining amount of benefits payable to the employe based on employment with the employer with whom the employe terminated shall be reduced by 50% but not below the weekly benefit amount for one week of total unemployment applicable to the

employe based on the employment terminated, except as otherwise provided in this subsection. The employe's benefit rate shall be that which is otherwise applicable.

SECTION 10. 108.04 (7) (h) 1 of the statutes is renumbered 108.04 (7) (h) and amended to read:

108.04 (7) (h) Any benefits paid based on ~~the~~ employment terminated by an employe of an employer that is subject to the contribution requirements of ss. 108.17 and 108.18 to which par. (a), (c), (d), (e), (k) or (L) is applied shall be charged against the fund's balancing account; but the employer shall be recognized as an interested party.

SECTION 11. 108.04 (7) (h) 2 of the statutes is repealed.

SECTION 12. 108.04 (8) (a) and (b) of the statutes are amended to read:

108.04 (8) (a) An employe who fails either to apply for work when notified by a public employment office or to accept work when offered shall, if the failure was without good cause as determined by the department, be ineligible for benefits for the week in which the failure occurs and thereafter until the employe has again ~~been employed~~ worked within at least 7 weeks in employment covered by the unemployment compensation law of any state or the federal government and has earned wages for work actually performed in that employment covered by the unemployment compensation law of any state or the federal government equaling at least 14 times the employe's weekly benefit rate with the employer against whom benefits are initially chargeable, and the remaining amount of benefits payable to the employe based on employment with the employer with whom benefits are chargeable at the time that the failure occurs shall be reduced by 50% but not below the weekly benefit amount for one week of total unemployment applicable to the employe in the week in which the failure occurs. The employe's benefit rate shall be that which is otherwise applicable.

(b) An employe who fails to return to work with a former employer who has duly recalled the employe within 52 weeks after having last worked for that employer shall, if the failure was without good cause as determined by the department, be ineligible for benefits from that employer's account for the week in which the failure occurs and thereafter until the employe has again ~~been employed~~ worked within at least 7 weeks in employment covered by the unemployment compensation law of any state or the federal government and has earned wages for work actually performed in that employment covered by the unemployment compensation law of any state or the federal government equaling at least 14 times the employe's weekly benefit rate with the employer against whom benefits are initially chargeable, and the remaining amount of benefits payable to the employe based on employment with the employer with whom benefits are chargeable at the time that the failure occurs shall be reduced by 50% but not below the weekly benefit

amount for one week of total unemployment applicable to the employe in the week in which the failure occurs. The employe's benefit rate shall be that which is otherwise applicable. If the employe received actual notice of the recall to work, par. (a) applies in lieu of this paragraph.

SECTION 13. 108.04 (11) (c) of the statutes is amended to read:

108.04 (11) (c) Any employer that aids and abets a claimant in committing an act of concealment described in par. (a) may, by a determination issued under s. 108.09, be required, as to each act of concealment the employer aids and abets, to forfeit an amount equal to the amount of the benefits the claimant improperly received as a result of the concealment. The amount forfeited shall be credited to the ~~fund's balancing account~~ administration fund.

SECTION 14. 108.04 (13) (a) and (b) of the statutes are repealed and recreated to read:

108.04 (13) (a) Except as provided in par. (b), the department may apply any provision of this chapter which disqualifies a claimant from receiving benefits whether or not the claimant's employing unit questions the claimant's eligibility or files the report required under s. 108.09 (1).

(b) In the absence of fraud, the department may not apply sub. (5), (6), (7), (10), (17) or (19) or s. 108.02 (15) to disqualify a claimant from receiving benefits that are chargeable to the account of the claimant's employer if the employer has failed to duly file a report required by or under this chapter in the manner and within the time prescribed by the department's rules or has elected not to question the claimant's eligibility on the required report.

SECTION 15. 108.04 (13) (e) of the statutes is amended to read:

108.04 (13) (e) Whenever an individual claims benefits and is receiving, is entitled to receive, or has applied for a pension payment or payments from any government or other retirement system as defined in s. 108.05 (7) (b), the individual and any employer by whom the individual was employed in his or her base period shall promptly notify the department and furnish all relevant to the department any information relating thereto as to the payment that the department may request requests. The government or other retirement system shall, on request from of the department, report to it the relevant information as to the individual's eligibility for and receipt of payments under that system.

SECTION 16. 108.04 (16) (a) 2 of the statutes is amended to read:

108.04 (16) (a) 2. The course is expected to increase the individual's opportunities to obtain employment, ~~is of not more than 10 months duration, or 2 years duration for a course beginning not later than June 30, 1985,~~ does not grant substantial credit leading to a bachelor's or higher degree, and is given by a school

established under s. 38.02 or other training institution approved by the department; and

SECTION 17. 108.04 (17) (d) of the statutes is created to read:

108.04 (17) (d) An employe of an employer other than a government unit or nonprofit organization who performs services as a bus driver under a contract by the employer with an educational institution and at least 75% of whose base period wages received from the employer are earned for performance of services as a school bus driver is ineligible for benefits based upon those services for any week of unemployment which occurs during a period between 2 successive academic years or terms or during an established customary vacation period or holiday recess if the employe performed the services in the first academic year or term and the employer provides written assurance to the employe prior to the end of the year or term that the employe will perform the services in the 2nd year or term, or if the employe performed the services in the period immediately before the vacation period or holiday recess and the employer provides written assurance to the employe prior to the beginning of the period or recess that the employe will perform the services in the period immediately following the period or recess. If an employe is denied benefits under this paragraph, but the department later determines that the employe was not offered the opportunity to perform such services for the employer in the 2nd academic year or term or immediately following the vacation period or holiday recess, the employe is entitled to retroactive payment of benefits for each week of such denial if he or she filed a claim for that week and was otherwise eligible.

SECTION 18. 108.05 (3), (4) (a) and (b) (intro.) and (5) (intro.) of the statutes are amended to read:

108.05 (3) BENEFITS FOR PARTIAL UNEMPLOYMENT. If an eligible employe earns wages in a given week totaling less than his or her weekly benefit rate, the first \$20 of such wages shall be disregarded and the employe's applicable weekly benefit rate payment shall be reduced by 67% of any the remaining amount, except that if the employe's wages are at least one half of his or her weekly benefit rate otherwise applicable, the employe's weekly benefit rate may not be less than one half of the rate otherwise applicable and if the employe's wages are less than one half of his or her weekly benefit rate otherwise applicable, the employe's weekly benefit rate may not be reduced no payment of less than \$5 may be made. In applying this paragraph, the department shall disregard discrepancies of less than \$2 between wages reported by employes and employers unless a violation of s. 108.04 (11) occurs.

(4) (a) An employe's holiday pay for a given week shall, for benefit purposes of eligibility for benefits for partial unemployment under sub. (3), be treated as wages for that week only if it has become definitely

payable to the employe within 4 days after the close of that week.

(b) (intro.) An employe's vacation pay shall, for ~~benefit~~ purposes of eligibility for benefits for partial unemployment under sub. (3), 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 the employe~~ has had due notice thereof, and only if such pay (until fully assigned) is allocated:

(5) TERMINATION PAY. (intro.) An employe's dismissal or termination pay shall, for ~~benefit~~ purposes of eligibility for benefits for partial unemployment under sub. (3), 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 the employe~~ has had due notice thereof, and only if such pay (until fully assigned) is allocated:

SECTION 19. 108.06 (4) (a) of the statutes is renumbered 108.06 (4) and amended to read:

108.06 (4) ~~Except as provided in par. (b), an~~ An employe's "base period" shall be the 52 weeks which immediately precede a "valid new claim week", and an employe's "benefit year" shall be the 52 weeks which begin with a "valid new claim week".

SECTION 20. 108.06 (4) (b) of the statutes is repealed.

SECTION 21. 108.06 (5) (b) of the statutes is amended to read:

108.06 (5) (b) ~~The employe is totally or partially unemployed in employe's wages for that week are less than any weekly benefit rate that could apply in that benefit year, and the employe has claimed as to benefits for that week pursuant to s. 108.08 (1).~~

SECTION 22. 108.07 (5) of the statutes is repealed.

SECTION 23. 108.08 (1) of the statutes is amended to read:

108.08 (1) To receive benefits for any given week of his unemployment ~~an employe, a claimant~~ shall give notice to the department with respect to such week of unemployment, ~~through a public employment office,~~ within such time limit and in such manner as the department may by rule prescribe.

SECTION 24. 108.09 (3) (title), (a) and (b) of the statutes are renumbered 108.09 (4) (title), (a) and (b).

SECTION 25. 108.09 (3) (c) of the statutes is renumbered 108.09 (4) (c) and amended to read:

108.09 (4) (c) If the party requesting a hearing fails to appear at the hearing, the appeal tribunal ~~or an examiner designated for this purpose~~ may issue its decision dismissing the appeal request for hearing, provided that due notice of the hearing was mailed to the party's last-known address.

SECTION 26. 108.09 (3) (d) of the statutes is renumbered 108.09 (4) (d).

SECTION 27. 108.09 (3) (e) of the statutes is renumbered 108.09 (4) (e) and amended to read:

108.09 (4) (e) If a party, having failed to appear at a hearing, shows probable good cause for such failure to the appeal tribunal within 7 21 days after the decision was mailed to such party's last-known address the appeal tribunal may set aside its decision and afford further opportunity to be heard, either before the same or another appeal tribunal.

SECTION 28. 108.09 (3) (f) of the statutes is renumbered 108.09 (4) (f).

SECTION 29. 108.09 (3) (g) of the statutes is renumbered 108.09 (4) (g) and amended to read:

108.09 (4) (g) Within 14 21 days after its decision was mailed to the parties the appeal tribunal may on its own motion amend or set aside its decision and may thereafter make new findings and decision on the basis of evidence previously submitted in such case, or the same or another appeal tribunal may make new findings and a decision after taking additional testimony.

SECTION 30. 108.09 (3) (h) and (i) and (3m) of the statutes are renumbered 108.09 (4) (h) and (i) and (4m).

SECTION 31. 108.09 (4) of the statutes is renumbered 108.09 (3) and amended to read:

108.09 (3) APPEAL TRIBUNALS. (a) To hear and decide disputed claims, the department shall establish one or more appeal tribunals, each of which shall consist of a ~~salari~~ed examiner an individual who is an a permanent employe of the department. Upon request of a party to an appeal or upon its own motion, the department may appoint an individual who is not a permanent employe of the department to hear an appeal in which the department or an employe or former employe of the department is an interested party. No individual may hear any appeal in which the individual is a directly interested party.

(b) The appeal tribunal may affirm, reverse or modify the deputy's initial determination or set aside the determination and remand the matter to a department deputy for further proceedings. No examiner may hear any case in which the examiner is a directly interested party.

SECTION 32. 108.105 of the statutes is created to read:

108.105 Suspension of agents. The department may suspend the privilege of any agent to appear before the department at hearings under this chapter for a specified period if the department finds that the agent has engaged in an act of fraud or misrepresentation, or repeated failure to comply with departmental rules. Prior to imposing a suspension under this section, the secretary or the secretary's designee shall conduct a hearing concerning the proposed suspension. The hearing shall be conducted under ch. 227 and the decision of the department may be appealed under s. 227.16.

SECTION 33. 108.14 (2m) of the statutes is amended to read:

108.14 (2m) In the discharge of their duties under this chapter a ~~member of an appeal tribunal, and any or a deputy, examiner,~~ commissioner or duly authorized representative of the department or commission may administer oaths to persons appearing before them, take depositions, certify to official acts, and by subpoenas, served in the manner in which circuit court subpoenas are served, ~~to~~ compel attendance of witnesses and the production of books, papers, documents and records necessary or convenient to be used by them in connection with any investigation, hearing or other proceeding under this chapter. However, in any investigation, hearing or other proceeding involving the administration of oaths or the use of subpoenas under this subsection due notice shall be given to any interested party involved, who shall be given an opportunity to appear and be heard at any such proceeding and to examine witnesses and otherwise participate therein. Witness fees and other expenses involved in proceedings under this chapter, including a party's traveling expenses, may be allowed by the appeal tribunal or representative of the department at rates specified by general department rules, and shall be paid from the unemployment administration fund.

SECTION 34. 108.14 (8n) (e) and (8r) (c) of the statutes are amended to read:

108.14 (8n) (e) This state's share of any benefits paid under this subsection shall be charged to the account of each employer by whom the employe was employed in the applicable base period, in proportion to the total amount of wages he or she earned from each employer in such base period, except that if s. 108.04 (5) or (7) (a), (c), (d), (e), (k) or (L) would have applied to employment by such an employer, who is not exempt from the contribution requirements of ss. 108.17 and 108.18 under s. 108.15 or 108.151, the share of benefits based on employment with that employer shall be charged to the fund's balancing account. The balancing account shall be charged with any other state's share of such benefits pending reimbursement by that state.

(8r) (c) In making allocations, if the department determines that s. 108.04 (5) or (7) (a), (c), (d), (e), (k) or (L) applies to employment by an employer who is not exempt from the contribution requirements of ss. 108.17 and 108.18 under s. 108.15 or 108.151, the share of benefits based on employment with that employer shall be charged to the fund's balancing account.

SECTION 35. 108.141 (7) of the statutes is repealed and recreated to read:

108.141 (7) CHARGES OF BENEFITS. (a) The state's share of the cost of each week of extended benefits shall be charged to each employer's account in proportion to the employer's share of the total wages of the employe receiving the benefits in the employe's base period, except that if the employer is subject to the contribution requirements of ss. 108.17 and 108.18 the share of extended benefits to which s. 108.04 (5) or

(7) (a), (c), (d), (e), (k) or (L) applies shall be charged to the balancing account.

(b) The full amount of extended benefits based on employment for a government unit shall be charged to the account of the government unit, except that if s. 108.04 (5) or (7) applies and the government unit has elected contribution financing one-half of those benefits to which s. 108.04 (5) or (7) applies shall be charged to the balancing account.

SECTION 36. 108.141 (8) of the statutes is repealed.

SECTION 37. 108.15 (5) (b) of the statutes is amended to read:

108.15 (5) (b) The department shall monthly bill each government unit for any reimbursements required under this section, and any reimbursement thus billed shall be due and shall be paid by such government unit within ~~30~~ 20 days after the date such bill is mailed to it by the department.

SECTION 38. 108.151 (5) (b) and (f) of the statutes are amended to read:

108.151 (5) (b) The employer's reimbursement account shall be charged with all regular benefits, and with ~~one-half its share~~ of any extended benefits under s. 108.141, based on weeks of employment ended while its election is in effect.

(f) Whenever an employer's reimbursement account has a negative balance as of the close of any calendar month, the fund's treasurer shall promptly bill such employer, at its last-known address, for that portion of its negative balance which has resulted from the net benefits charged to such account within such month. Reimbursement payment shall be due within ~~30~~ 20 days thereafter. Any required payment which remains unpaid after its applicable due date is a delinquent payment. Section 108.22 shall apply for collecting delinquent payments.

SECTION 39. 108.16 (2) (b) of the statutes is amended to read:

108.16 (2) (b) Each employer's account shall be credited with all its contributions paid into the fund, and shall be charged with all benefits duly paid ~~and deemed payable~~ from the fund to its employes based on their past employment by it, except as otherwise specified in this chapter.

SECTION 40. 108.16 (2) (bm) of the statutes is repealed.

SECTION 41. 108.16 (2) (e) of the statutes is amended to read:

108.16 (2) (e) ~~Benefits~~ Except as provided in par. (em), benefits to be "charged" against a given employer's account shall be so charged as of the date shown by the check covering such benefits; ~~and, Each~~ such check shall be promptly mailed and shall, in determining the experience or status of such account for contribution purposes, be deemed "paid" on the date shown on the check.

SECTION 42. 108.16 (2) (em) of the statutes is created to read:

108.16 (2) (em) Benefits improperly charged or credited to an employer's account shall, when so identified, be credited or debited from that account and, where appropriate, recharged to the correct account as of the date of correction. This paragraph shall be used solely in determining the experience or status of accounts for contribution purposes.

SECTION 43. 108.16 (2) (f) of the statutes is amended to read:

108.16 (2) (f) The department shall promptly advise the employer as to all benefits ~~paid or deemed payable and~~ charged to its account.

SECTION 44. 108.16 (6) (d) of the statutes is repealed.

SECTION 45. 108.16 (6) (h) of the statutes is amended to read:

108.16 (6) (h) Any amount of solvency contribution or special contribution received for or transferred to the balancing account pursuant to s. 108.18 ~~(8) to (10)~~.

SECTION 46. 108.16 (7) (a) of the statutes is amended to read:

108.16 (7) (a) All benefits shall be paid from the fund. ~~All benefits paid or deemed payable and duly~~ Benefits chargeable to an employer's account shall be so charged, whether or not such account is overdrawn. All other benefits shall be charged to the fund's balancing account.

SECTION 47. 108.16 (8) (b) 3 of the statutes is repealed and recreated to read:

108.16 (8) (b) 3. The same financing provisions under s. 108.15, 108.151 or 108.18 apply to the transferee as applied to the transferor on the date of the transfer.

SECTION 48. 108.16 (8) (c) of the statutes is renumbered 108.16 (8) (g).

SECTION 49. 108.16 (8) (c) of the statutes is created to read:

108.16 (8) (c) Notwithstanding par. (b), if the business of an employer is transferred, the transferee is deemed a successor for purposes of this chapter if the department determines that all of the following conditions have been satisfied:

1. The transferee is a legal representative, debtor in possession or trustee in bankruptcy or receiver or trustee of a person, partnership, association or corporation, or guardian of the estate of a person, or legal representative of a deceased person.

2. The transferee has continued or resumed the business of the transferor, either in the same establishment or elsewhere, or the transferee has employed substantially the same employees as those the transferor had employed in connection with the business transferred.

3. The same financing provisions under s. 108.15, 108.151 or 108.18 apply to the transferee as applied to the transferor on the date of transfer.

SECTION 50. 108.16 (8) (d) of the statutes is renumbered 108.16 (8) (j).

SECTION 51. 108.16 (8) (d) of the statutes is created to read:

108.16 (8) (d) Notwithstanding par. (b), if the business of an employer of a kind specified in par. (c) 1 is transferred, the transferee is deemed a successor for purposes of this chapter if the transferee would have been a successor under par. (e) but for the intervening existence of the successor employer under par. (c).

SECTION 52. 108.16 (8) (e) of the statutes is renumbered 108.16 (8) (h).

SECTION 53. 108.16 (8) (e) 3 of the statutes is created to read:

108.16 (8) (e) 3. The same financing provisions under s. 108.15, 108.151 or 108.18 apply to the transferee as applied to the transferor on the date of the transfer.

SECTION 54. 108.16 (8) (g) of the statutes is renumbered 108.16 (8) (i).

SECTION 55. 108.16 (8) (h) (intro.) and 1 of the statutes are renumbered 108.16 (8) (e) (intro.) and 1 and amended to read:

108.16 (8) (e) (intro.) Notwithstanding par. (b), a transferee is deemed a successor for purposes of this chapter, if the department determines that ~~both~~ all of the following conditions ~~have been~~ are satisfied:

1. At the time of business transfer, the transferor and the transferee are owned or controlled in whole or in substantial part, either directly or indirectly by legally enforceable means or otherwise, by the same interest or interests. Without limitation by reason of enumeration, it is presumed unless shown to the contrary that the "same interest or interests" includes the spouse, child or parent of the individual who owned or controlled the business, or any combination of more than one of them.

SECTION 56. 108.16 (8) (h) 2 and (i) of the statutes are renumbered 108.16 (8) (e) 2 and (k).

SECTION 57. 108.18 (1) (b) and (2) (a) and (b) 1 of the statutes are amended to read:

108.18 (1) (b) An employer's contributions shall be credited to the employer's account in the fund, but only after any solvency contribution or special contribution paid or payable by the employer under subs. (8) to (10) has been credited to the fund's balancing account.

(2) (a) Except as provided in ~~par. pars. (c) and (d)~~, an employer's contribution rate shall be 2.7% on its payroll for each of the first 2 calendar years with respect to which contributions are credited to its account, except as additional contributions apply under this section.

(b) 1. ~~At the close of that~~ As of January 31 of the following calendar year was overdrawn on a cash basis, with the benefits paid ~~or deemed payable~~ and charged to the account exceeding the contributions

paid and credited thereto, through the close of the year January 31; or

SECTION 57m. 108.18 (2) (d) of the statutes is created to read:

108.18 (2) (d) No later than 90 days after becoming an employer, any employer other than an employer specified in par. (c), having a payroll exceeding \$10,000,000 in a calendar year may elect that its contribution rate shall be one percent on its payroll for the first 3 calendar years with respect to which contributions are credited to its account. In such case, the department shall refund the amount collected in excess of this amount after the close of each calendar year in which an election applies. No later than October 1 preceding the end of the 3rd calendar year in which the election applies, an employer making the election may reelect coverage under this paragraph for the succeeding 2 calendar years. If an employer qualifies for and makes an election under this paragraph, the employer shall, upon notification by the department, make a special contribution after the close of each calendar quarter equivalent to the amount by which its account is overdrawn, if any, for the preceding calendar quarter. The department shall credit any timely payment of contributions to the employer's account before making a determination of liability for a special contribution under this paragraph. An employer does not qualify for an alternate contribution rate under this paragraph at any time during which the employer's special contribution payment is delinquent.

SECTION 58. 108.18 (4) (figure) Schedule A, lines 22 and 23 of the statutes is amended to read:

108.18 (4) (figure) Schedule A	
line 22.	6.4% <u>6.7%</u>
line 23.	6.4% <u>6.7%</u>

SECTION 58m. 108.18 (5) of the statutes is amended to read:

108.18 (5) An employer's Except as provided in subs. (2) and (8), the contribution rate for any calendar year of an employer whose reserve percentage equals or exceeds zero may in no case exceed by more than one percent on the employer's payroll the rate which applied to the employer at the close of the preceding calendar year, and the contribution rate for

any calendar year of an employer whose reserve percentage is less than zero may in no case exceed by more than 2% on the employer's payroll the rate which applied to it the employer at the close of the preceding calendar year, except as provided in subs. (2) and (8).

SECTION 59. 108.18 (7) (a) 2, (b) and (c) of the statutes are amended to read:

108.18 (7) (a) 2. 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 except as a refund or credit is authorized under par. (b).

(b) No employer may, by means of a voluntary contribution under par. (a), reduce the employer's contribution rate to a rate lower than the rate next lowest to the rate which would otherwise have applied to the employer in any calendar year. Notwithstanding par. (a) 2, the department shall refund any Any contributions in excess of the amount required to reduce an employer's rate to the extent permitted under this paragraph shall be applied against any outstanding liability of the employer, or if there is no such liability shall be refunded to the employer or established as a credit against future contributions payable by the employer, at the employer's option.

(c) No employer whose overdrafts have been charged to the fund's balancing account under s. 108.16 (7) (c) may make a voluntary contribution under par. (a) prior to the 5th calendar year commencing after the date of the most recent such charge. Any voluntary contribution made prior to that year shall be treated as an excess contribution under par. (b).

SECTION 60. 108.18 (9) (intro.) and (figure) Schedule A of the statutes are amended to read:

108.18 (9) SOLVENCY RATES. (intro.) An employer's solvency rate on its payroll for a given calendar year shall be based solely on the contribution rate of its account for the calendar year under this section, ~~as follows:~~ For purposes of rate determination under this subsection, an employer's payroll shall be calculated for the 12-month period ending with the computation date preceding the calendar year for which the rate applies. [See Figure 108.18 (9) following]

(9) (figure) Schedule A

Line	Contri- bution Rate	Schedule A	
		Solvency Rate	
		<u>Employers</u> <u>having</u> <u>a pay-</u> <u>roll of</u> <u>less than</u> <u>\$100,000</u>	<u>Employers</u> <u>having</u> <u>a pay-</u> <u>roll of</u> <u>\$100,000</u> <u>or more</u>
1.	0.3%	0.1%	0.8%
2.	0.5%	0.1%	0.8%
3.	0.7%	0.1%	0.8%
4.	0.8%	0.2%	0.9%
5.	0.9%	0.3%	1.0%
6.	1.0%	0.4%	1.1%
7.	1.1%	0.5%	1.2%
8.	1.3%	0.6%	1.3%
9.	1.6%	0.7%	1.4%
10.	2.0%	0.8%	1.5%
11.	2.4%	0.9%	1.6%
12.	2.7%	0.9%	1.6%
13.	2.8%	1.0%	1.7%
14.	3.2%	1.1%	1.8%
15.	3.6%	1.2%	1.9%
16.	4.0%	1.3%	2.0%
17.	4.3%	1.5% 2.5%	2.5%
18.	4.7%	1.6% 2.6%	2.6%
19.	5.1%	1.7% 2.7%	2.7%
20.	5.5%	1.8% 2.8%	2.8%
21.	5.9%	1.9% 2.9%	2.9%
22.	6.3%	2.0% 3.0%	3.0%
23.	6.4% 6.7%	2.1% 3.3%	3.3%
24.	6.4% 6.7%	2.1% 3.3%	3.3%

SECTION 60m. 108.18 (9m) of the statutes is created to read:

108.18 (9m) SOLVENCY CONTRIBUTION EXEMPTION. No solvency contribution is required of any employer which qualifies for and elects an alternate contribution rate under sub. (2) (d).

SECTION 60s. 108.18 (9s) of the statutes is created to read:

108.18 (9s) SPECIAL SOLVENCY RATE DETERMINATION. Notwithstanding sub. (9), an employer which has a payroll of less than \$100,000 shall have no higher solvency rate for the 1987 calendar year as applied to it for the 1986 calendar year.

SECTION 61. 108.18 (10) of the statutes is repealed and recreated to read:

108.18 (10) SPECIAL CONTRIBUTIONS. (a) In addition to other contributions required under this sec-

tion, each employer shall make contributions in an amount required by the department under this paragraph. The department may, with the approval of the council on unemployment compensation, assess additional contributions to be paid at such times as the department determines at a uniform percentage of amounts assessed under s. 108.19 (1m) for all employers sufficient to yield not more than \$5,000,000 annually, if such action is necessary to obtain a lower interest rate or deferral of interest payments on advances from the federal unemployment account under Title XII of the social security act (42 USC 1321 to 1324). Contributions under this paragraph are due on the 30th day commencing after the date on which notice of the contribution requirement is mailed by the department. An employer having a payroll of \$25,000 or less for the preceding calendar year is exempt from

any contribution required under this subsection. Contributions received under this subsection shall be credited to the fund's balancing account.

(b) Paragraph (a) does not apply after December 31, 1985.

SECTION 61w. 108.18 (12) of the statutes is created to read:

108.18 (12) EMPLOYERS WITH MAXIMUM RESERVE PERCENTAGE. Notwithstanding sub. (9), whenever schedule B, C or D is in effect under sub. (3m), the solvency rate of every employer having a reserve percentage of 10.0% or more and an annual payroll of \$200,000 or less is 0.0%.

SECTION 62. 108.20 (2m) and (3) of the statutes are amended to read:

108.20 (2m) From the moneys not appropriated under s. 20.445 (1) (u) which are received by the administration fund as interest and penalties ~~on delinquent payments~~ under this chapter, the department may pay interest due on advances from the federal unemployment account under title XII of the social security act to the unemployment reserve fund. After such payment, any remaining moneys received by the administration fund as interest and penalties ~~on delinquent payments~~ shall be credited to the balancing account under s. 108.16 (6), except that any interest earned pending disbursement of federal employment security grants under s. 20.445 (1) (z) shall be credited to the general fund. Any moneys reverting to the administration fund from the appropriation under s. 20.445 (1) (u) shall be utilized for interest payments or credited as provided in this subsection.

(3) There shall be included in the moneys governed by sub. (2m) any amounts collected by the department under s. ~~108.04 (11) (c) or 108.19 (1) or (2), or under s. 108.04 (13) (c) or s. 108.22 (1) (a) as tardy filing fees, forfeitures or as interest on delinquent payments.~~

SECTION 63. 108.22 (1) (b) and (c) of the statutes are amended to read:

108.22 (1) (b) If the due date of a report or payment under s. ~~108.15 (5) or (6), 108.151 (5), 108.16 (8) or 108.17 (2)~~ would otherwise be a Saturday, Sunday or legal holiday under state or federal law, the due date is the next following day which is not a Saturday, Sunday or legal holiday under state or federal law.

(c) Any report or payment, except a payment required by s. 108.15 (5) (b) or 108.151 (5) (f), to which this subsection applies is delinquent, within the meaning of par. (a), unless it is received by the department no later than its due date as determined under par. (b), or if mailed is either postmarked no later than that due date or is received by the department no later than 3 days after that due date. Any payment required by s. 108.15 (5) (b) or 108.151 (5) (f) is delinquent, within the meaning of par. (a), unless it is received by the department no later than its due date.

SECTION 64. 227.22 (2) of the statutes is amended to read:

227.22 (2) ~~Only~~ Except as provided in s. 108.105, only the provisions of ss. 227.01 to 227.21 relative to rules are applicable to matters arising out of s. 40.65 (2), 56.07 (7), 56.21, 66.191, 1981 stats., 101.22 or 144.445, ch. 102, subch. II of ch. 107 or ch. 108 or 949.

SECTION 65. **Nonstatutory provisions.** (1) DEVELOPMENT OF WAGE REPORTING SYSTEM. (a) The department of industry, labor and human relations shall study and prepare proposals for implementation of a wage reporting system, which shall provide for employers to report at least quarterly all payrolls subject to the unemployment compensation law. The system shall be in full effect no later than September 30, 1988, and information shall be available after reimbursement of costs to state and federal agencies for income and eligibility verification for food stamps, aid to families with dependent children, medicaid and unemployment compensation. The wage data generated by the system shall be used in determining the amount of unemployment compensation benefits payable to each claimant. The system shall be developed for statewide administration by the department of industry, labor and human relations, giving due attention to the needs of other state agencies. The system shall be developed in conjunction with changes in unemployment compensation benefits which shall include the following elements:

1. The base period as defined in section 108.02 (4) of the statutes shall be the first 4 of the last 5 completed calendar quarters.

2. The weekly benefit rate shall be a single rate applicable to the benefit year, as defined in section 108.02 (5) of the statutes.

3. Duration of benefits shall be based upon the claimant's earnings during the base period.

4. The allocation of benefit charges among employers shall be in proportion to each employer's share of a claimant's earnings in his or her base period.

5. At the claimant's request, a benefit year shall be established based upon a layoff, without the necessity of being eligible for benefits.

(b) The changes specified in paragraph (a) shall be effected in such a way as to achieve, to the maximum extent practicable, simplification and procedural compatibility with the wage reporting systems of other states.

(c) The secretary of industry, labor and human relations shall submit his or her proposals under this subsection to the governor and the presiding officer of each house of the legislature no later than October 1, 1987.

(2) WISCONSIN SUPPLEMENTAL BENEFITS APPLICABILITY. Notwithstanding section 108.142 (1) (a) of the statutes, no Wisconsin supplemental benefit period for purposes of benefits under section 108.142 of the statutes may begin during the period commencing on the effective date of this subsection and ending on September 28, 1985.

(3) **OVERDRAFT WRITE-OFFS IN 1985 AND 1986.** Notwithstanding section 108.16 (7) (c) of the statutes, no write-off of an overdraft in an employer's account may be made to reduce an employer's reserve percent-

age, as defined in section 108.02 (22) of the statutes, determined by the department of industry, labor and human relations in 1985 or 1986.

SECTION 66. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
108.10 (2)	108.09 (4)	108.09 (3)
108.10 (2)	108.09 (3) and (5)	108.09 (4) and (5)
108.16 (6)(f)	108.04 (11)	108.04 (11)(b)

SECTION 67. Initial applicability. (1) The treatment of sections 108.02 (13) (a) and 108.16 (8) (b) 3 and (c) to (e) and (g) to (i) of the statutes and the creation of section 108.16 (8) (c), (d) and (e) 3 of the statutes by this act apply to business transfers occurring on or after the effective date of this subsection.

(2) The treatment of sections 108.02 (20) and 108.05 (3), (4) (a) and (b) (intro.) and (5) of the statutes by this act applies with respect to benefits initially paid on or after October 7, 1985, or the Monday of the 7th week commencing after publication of this act, whichever is later. Any adjustment of benefits initially paid under those sections shall be made in accordance with the law in effect at the time the benefits were first paid.

(3) The treatment of sections 108.02 (3) and (29), 108.04 (4) (a) and (b) and 108.06 (4) and (5) (b) of the statutes by this act applies to benefit years beginning on or after September 29, 1985, or the first day of the 7th week commencing after publication of this act, whichever is later.

(4) The treatment of sections 108.04 (1) (b), (5), (7) (a) and (8) (a) and (b), 108.07 (5) and 108.16 (2) (b), (bm) and (f), (6) (d) and (7) (a) of the statutes by this act applies to initial determinations issued on or after October 1, 1985, or the first day of the 4th week commencing after publication of this act, whichever is later.

(5) The treatment of sections 108.04 (7) (h) and 108.14 (8n) (e) and (8r) (c) of the statutes by this act applies to initial determinations issued on or after October 1, 1985, or the first day of the 7th week commencing after publication of this act, whichever is later.

(6) The treatment of section 108.04 (16) (a) 2 of the statutes by this act applies to weeks of unemployment beginning on or after June 30, 1985.

(7) The creation of section 108.04 (17) (d) of the statutes by this act applies to benefits payable for weeks of unemployment commencing on or after March 31, 1985, or the first week commencing after publication of this act, whichever is later.

(8) The treatment of sections 108.15 (5) (b), 108.151 (5) (f) and 108.22 (1) (b) and (c) of the statutes by this act applies to reimbursements payable for months commencing on or after publication of this act.

(9) The treatment of section 108.16 (2) (e) of the statutes and the creation of section 108.16 (2) (em) of the statutes by this act apply to benefits credited, charged or recharged on or after January 1, 1986, or the first day of the 4th month commencing after publication of this act, whichever is earlier.

(10) The treatment of section 108.18 (4) (figure) and (9) (figure) of the statutes by this act applies with respect to payrolls beginning on January 1, 1986.

(11) The treatment of section 108.18 (5) of the statutes by this act applies to employer contribution rates for the 1986 calendar year and thereafter.

SECTION 68. Effective dates. (1) Except as provided in subsection (2), this act takes effect on the day following publication.

(2) The treatment of sections 20.445 (1) (u) and (v), 108.03 (3), 108.04 (11) (c), 108.09 (3), (3m) and (4), 108.14 (2m), 108.18 (2) (b) 1 and (7) (a) 2, (b) and (c), 108.20 (2m) and (3) and 227.22 (2) and the creation of section 108.105 of the statutes take effect on the first day of the 3rd week commencing after publication.