



2015 SENATE BILL 341

October 15, 2015 – Introduced by Senator NASS, cosponsored by Representative KNODL. Referred to Committee on Labor and Government Reform.

1 **AN ACT** *to repeal* 108.062 (7); *to amend* 108.062 (6) (a), 108.16 (6) (L), 108.16
2 (6m) (g), 108.16 (10) and 108.22 (8) (b) 1. d.; and *to create* 108.04 (13) (g) and
3 108.22 (1r) of the statutes; **relating to:** various changes to the unemployment
4 insurance law.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development (DWD), including all of the following:

Recovery of employer UI debts under Treasury Offset Program

Current state law allows DWD to recoup certain UI benefit overpayments made to claimants by offsetting the amount of an overpayment against a federal tax refund through the federal Treasury Offset Program (TOP), but does not permit DWD to similarly recoup UI debts owed by employers. Under current federal law, however, a state *must* act to recover through the TOP certain UI-related debts that remain uncollected for one year or more, including those of both employers and claimants. This bill allows DWD to offset a UI debt found to be due to DWD by an employer against a federal tax refund through the TOP.

Work-share programs

Under current law, any employer may create a work-share program, defined as a program approved by DWD under which the hours of work of employees in a work unit are reduced in lieu of the layoffs of two or more employees in the work unit.

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An employee included under a work-share program who otherwise qualifies to receive regular UI benefits must receive a UI benefit payment for each week that the employee is included under the program. The amount of the benefit payment is the employee's regular UI benefit amount multiplied by the employee's proportionate reduction in hours for that week under the work-share program (work-share benefits). Current law also provides, however, that an employee included under a work-share program who would otherwise be paid benefits for any week under the UI law's partial benefits formula (partial benefits) must instead receive a benefit payment for that week in the amount payable to the employee under that formula, if that amount is higher than the work-share benefits amount.

Under this bill, employees included under a work-share program may only be paid work-share benefits, and not partial benefits.

Determinations in combined-wage claims

Under federal law, a state must, as a condition of approval of its UI law by the U.S. Secretary of Labor, participate in arrangements for the payment of UI benefits on the basis of combining an individual's wages and employment covered under that state's UI law with wages and employment covered under another state's UI law (combined-wage claim). Also under federal law, as a condition of employers being able to receive certain tax credits under the Federal Unemployment Tax Act, a state may not relieve an employer's account of certain erroneous charges in certain cases where the employer was at fault.

Under current state law, DWD may, in connection with any issue arising under the UI law as to the status or liability of an employer in this state, issue an appealable determination as to that issue. This bill allows DWD to similarly issue an appealable determination that an out-of-state employer in a combined-wage claim is at fault for the erroneous payment of benefits under a combined-wage claim.

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 (13) (g) of the statutes is created to read:
- 2 108.04 (13) (g) 1. In this paragraph:
- 3 a. "Combined-wage claim" means a claim for benefits under this chapter that
- 4 is filed pursuant to a reciprocal arrangement entered into under s. 108.14 (8n).
- 5 b. "Out-of-state employer" means a person that employs an individual who
- 6 files a combined-wage claim in which the wages and employment from that person
- 7 are covered under the unemployment compensation law of another state.

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1 2. The department may issue a determination that an out-of-state employer
2 is at fault for the erroneous payment of benefits under a combined-wage claim in the
3 same manner as the department issues determinations under s. 108.10, if the
4 unemployment insurance account of the out-of-state employer is potentially
5 chargeable.

6 3. A determination issued under subd. 2. is subject to s. 108.10 and may be
7 appealed in the same manner as a determination issued under s. 108.10.

8 **SECTION 2.** 108.062 (6) (a) of the statutes is amended to read:

9 108.062 (6) (a) Except as provided in par. (b) ~~and sub. (7)~~, an employee who is
10 included under a work-share program and who qualifies to receive regular benefits
11 for any week during the effective period of the program shall receive a benefit
12 payment for each week that the employee is included under the program in an
13 amount equal to the employee's regular benefit amount under s. 108.05 (1)
14 multiplied by the employee's proportionate reduction in hours worked for that week
15 as a result of the work-share program. Such an employee shall receive benefits as
16 calculated under this paragraph and not as provided under s. 108.05 (3).

17 **SECTION 3.** 108.062 (7) of the statutes is repealed.

18 **SECTION 4.** 108.16 (6) (L) of the statutes is amended to read:

19 108.16 (6) (L) The amount of any overpayments that are recovered by the
20 department by setoff pursuant to s. 71.93 or the amount of any overpayments
21 resulting from fraud or failure to report earnings that are recovered by the
22 department by offset pursuant to ~~section 26 USC 6402 (f) of the federal Internal~~
23 ~~Revenue Code in effect on June 1, 2009.~~

24 **SECTION 5.** 108.16 (6m) (g) of the statutes is amended to read:

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1 108.16 **(6m)** (g) Any payments of fees or expenses assessed by the U.S.
2 secretary of the treasury and charged to the department under section 26 USC 6402
3 (f) of the federal Internal Revenue Code in effect on June 1, 2009.

4 **SECTION 6.** 108.16 (10) of the statutes is amended to read:

5 108.16 **(10)** All money withdrawn from the fund shall be used solely in the
6 payment of benefits, exclusive of expenses of administration, and for refunds of sums
7 erroneously paid into the fund, for refund of a positive net balance in an employer's
8 reimbursement account under ss. 108.15 (4) and 108.151 (5) on request by the
9 employer, for expenditures made pursuant to s. 108.161 and consistently with the
10 federal limitations applicable to s. 108.161, and for payment of fees and expenses for
11 collection of overpayments resulting from fraud or failure to report earnings that are
12 assessed by the U.S. secretary of the treasury and charged to the department under
13 section 26 USC 6402 (f) of the federal Internal Revenue Code in effect on June 1,
14 2009.

15 **SECTION 7.** 108.22 (1r) of the statutes is created to read:

16 108.22 **(1r)** If any employing unit or any individual who is found personally
17 liable under sub. (9) fails to pay to the department any amount found to be due it in
18 proceedings pursuant to s. 108.10, provided that no appeal or review permitted
19 under s. 108.10 is pending and that the time for taking an appeal or review has
20 expired, the department or any authorized representative may offset the amount
21 against a federal tax refund as provided in 26 USC 6402 (f).

22 **SECTION 8.** 108.22 (8) (b) 1. d. of the statutes is amended to read:

23 108.22 **(8)** (b) 1. d. If the overpayment results from fraud or failure to report
24 earnings, offsetting the amount of the overpayment against a federal tax refund as

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1 provided in section 26 USC 6402 (f) of the federal Internal Revenue Code in effect on
2 June 1, 2009.

3 **SECTION 9. Nonstatutory provisions.**

4 (1) WORK-SHARE BENEFITS. If the department of workforce development
5 determines that it will be able to implement the treatment of section 108.062 (6) (a)
6 and (7) of the statutes by this act on a date prior to the 45th day after publication,
7 the department shall send a notice to the legislative reference bureau for publication
8 in the Wisconsin Administrative Register that states the date on which the
9 department will implement that treatment.

10 **SECTION 10. Initial applicability.**

11 (1) WORK-SHARE BENEFITS. The treatment of section 108.062 (6) (a) and (7) of
12 the statutes first applies to work-share plans approved by the department of
13 workforce development on the effective date of this subsection.

14 **SECTION 11. Effective dates.** This act takes effect on the first Sunday after
15 publication, except as follows:

16 (1) WORK-SHARE BENEFITS. The treatment of section 108.062 (6) (a) and (7) of
17 the statutes and SECTION 10 (1) of this act take effect on the 45th day after
18 publication, or on the date specified in the notice under SECTION 9 (1) of this act,
19 whichever occurs first.

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(END)