State of Wisconsin
2015 – 2016 LEGISLATURE

LRB–3433/1
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2015 ASSEMBLY BILL 416

October 15, 2015 – Introduced by Representative KNODL, cosponsored by Senator NASS. Referred to Committee on Jobs and the Economy.

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

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:

SECTION 1. 108.04 (13) (g) of the statutes is created to read:

108.04 **(13)** (g) 1. In this paragraph:

a. "Combined–wage claim" means a claim for benefits under this chapter that is filed pursuant to a reciprocal arrangement entered into under s. 108.14 (8n).

b. "Out–of–state employer" means a person that employs an individual who files a combined–wage claim in which the wages and employment from that person are covered under the unemployment compensation law of another state.

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

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

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

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

SECTION 3. 108.062 (7) of the statutes is repealed.

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. Nonstatutory provisions.

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

SECTION 10. Initial applicability.

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

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

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

(END)