



2009 ASSEMBLY BILL 266

May 12, 2009 – Introduced by Representatives DEXTER, BERNARD SCHABER, BERCEAU, DAVIS, HEBL, HINTZ, JORGENSEN, A. OTT, SEIDEL, SINICKI, TOLES, VRUWINK, A. WILLIAMS and ZEPNICK, cosponsored by Senators KREITLOW, SULLIVAN, LEHMAN, MILLER and TAYLOR. Referred to Committee on Workforce Development.

1 **AN ACT** *to renumber and amend* 109.07 (1m); *to amend* 109.07 (1) (a), 109.07
2 (1) (h), 109.07 (3) (a) (intro.), 109.07 (3) (c), 109.07 (4) (a), 109.07 (4m) (a), 109.07
3 (5) (a) (intro.), 109.07 (5) (a) 1., 109.07 (5) (a) 2., 109.07 (6) (intro.), 560.15 (1)
4 (b) 1., 560.71 (1) (e) 4. e. and 560.797 (2) (a) 4. e.; and *to create* 109.07 (1m) (c)
5 of the statutes; **relating to:** the provision of support services information to
6 employees who are affected by a business closing or mass layoff and providing
7 a penalty.

Analysis by the Legislative Reference Bureau

Under current law, any employer employing 50 or more persons in this state (employer) who decides upon a permanent or temporary shutdown that affects 25 or more employees (business closing) or upon a reduction in force affecting at least 25 percent of the employer's workforce or 25 employees, whichever is greater, or affecting at least 500 employees (mass layoff) must notify, among others: 1) the Department of Workforce Development (DWD); and 2) any employee who loses, or who may reasonably be expected to lose, his or her employment with the employer because of the business closing or mass layoff (affected employee). The notice must be provided no later than 60 days before the business closing or mass layoff. DWD must provide a copy of the notice to the Department of Commerce and the Office of the Commissioner of Insurance and cooperate with those agencies to provide certain

ASSEMBLY BILL 266

types of assistance to the employer and affected employees and information regarding health insurance options available to affected employees.

This bill requires the business closing or mass layoff notice to an affected employee to include contact information for the local workforce development board serving the area in which the employment site is located. The bill requires DWD to provide a copy of the notice to that local workforce development board and requires the board, no later than 30 days after receipt of the notice, to provide to the employer a list of resources available in that area that provide career planning, job search, job skills training, and other support services for affected employees. The employer must provide a copy of this list to an affected employee no later than 14 days after an affected employee's last day of work or the date of the final payment of the affected employee's wages, whichever is earlier.

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.** 109.07 (1) (a) of the statutes is amended to read:

2 109.07 (1) (a) “Affected employee” means an employee who loses, or who may
3 reasonably be expected to lose, his or her employment with an employer who that is
4 required to give notice under sub. (1m) (a) because of the business closing or mass
5 layoff.

6 **SECTION 2.** 109.07 (1) (h) of the statutes is amended to read:

7 109.07 (1) (h) “New or low-hour employee” means an employee who has been
8 employed by an employer for fewer than 6 of the 12 months preceding the date on
9 which a notice is required under sub. (1m) (a) or who averages fewer than 20 hours
10 of work per week.

11 **SECTION 3.** 109.07 (1m) of the statutes is renumbered 109.07 (1m) (a) and
12 amended to read:

13 109.07 (**1m**) (a) Subject to sub. (5) or (6), an employer who that has decided
14 upon a business closing or mass layoff in this state shall promptly notify the subunit

ASSEMBLY BILL 266

1 of the department that administers s. 106.15, any affected employee, any collective
2 bargaining representative of any affected employee, and the highest official of any
3 municipality in which the affected employment site is located, in writing of such
4 action no later than 60 days prior to the date that on which the business closing or
5 mass layoff takes place. The notice to an affected employee shall also include contact
6 information for the local workforce development board under 29 USC 2832 serving
7 the area in which the employment site is located. The employer shall provide in
8 writing all information concerning its payroll, affected employees, and the wages and
9 other remuneration owed to such those employees as the department may require.
10 The department may in addition require the employer to submit a plan setting forth
11 the manner in which final payment in full shall be made to affected employees.

12 (b) The department shall promptly provide a copy of the notice required under
13 ~~this subsection par. (a)~~ to the department of commerce and to the office of the
14 commissioner of insurance and shall cooperate with the department of commerce in
15 the performance of its responsibilities under s. 560.15 and with the office of the
16 commissioner of insurance in the performance of its responsibilities under s. 601.41
17 (7).

18 (d) This subsection does not apply to a business closing or mass layoff that is
19 caused by a strike or lockout.

20 **SECTION 4.** 109.07 (1m) (c) of the statutes is created to read:

21 109.07 (1m) (c) The department shall also promptly provide a copy of the notice
22 required under par. (a) to the local workforce development board under 29 USC 2832
23 serving the area in which the employment site is located. By no later than 30 days
24 after receipt of the notice, the local workforce development board shall prepare and
25 provide to the employer a list of resources available in that area that provide career

ASSEMBLY BILL 266**SECTION 4**

1 planning, job search, job skills training, and other support services for affected
2 employees, which list shall include contact information for those resources. By no
3 later than 14 days after an affected employee's last day of work or the date of final
4 payment of an affected employee's wages, whichever is earlier, the employer shall
5 provide a copy of the list to the affected employee. Any employer that violates this
6 paragraph shall forfeit not more than \$100 for each violation.

7 **SECTION 5.** 109.07 (3) (a) (intro.) of the statutes is amended to read:

8 109.07 (3) (a) (intro.) If an employer fails to give timely notice to an affected
9 employee as required under sub. (1m) (a), the affected employee may recover, as
10 provided under sub. (4), all of the following:

11 **SECTION 6.** 109.07 (3) (c) of the statutes is amended to read:

12 109.07 (3) (c) The recovery period under par. (a) begins on the day ~~that~~ on which
13 the business closing or mass layoff occurs. The recovery period equals the number
14 of days in the period beginning on the day on which an employer is required to give
15 notice under sub. (1m) (a) and ending on whichever of the following occurs first:

- 16 1. The day ~~that~~ on which the employer actually gave the notice to the employee.
- 17 2. The day ~~that~~ on which the business closing or mass layoff occurred.

18 **SECTION 7.** 109.07 (4) (a) of the statutes is amended to read:

19 109.07 (4) (a) An employee whose employer fails to notify timely the employee
20 under sub. (1m) (a) may file a claim with the department. If the employee files a claim
21 with the department no later than 300 days after the day on which the business
22 closing or mass layoff occurred, the department shall, in the manner provided in s.
23 109.09, investigate the claim, determine the number of days that the employer was
24 late in providing notice and, on behalf of the employee, attempt to recover from the
25 employer the payment under sub. (3).

ASSEMBLY BILL 266

1 **SECTION 8.** 109.07 (4m) (a) of the statutes is amended to read:

2 109.07 (**4m**) (a) If an employer fails to give timely notice to the highest official
3 of a municipality as required under sub. (1m) (a), the department shall assess a
4 business closing surcharge against the employer of not more than \$500 for each day
5 in the period beginning on the day ~~that~~ on which the employer was required to give
6 notice to the highest official and ending on the earlier of the day ~~that~~ on which the
7 employer actually gave notice to the highest official or the day ~~that~~ on which the
8 business closing or mass layoff occurred.

9 **SECTION 9.** 109.07 (5) (a) (intro.) of the statutes is amended to read:

10 109.07 (**5**) (a) (intro.) An employer is not liable under this section for a failure
11 to give notice to any person under sub. (1m) (a), if the department determines all of
12 the following:

13 **SECTION 10.** 109.07 (5) (a) 1. of the statutes is amended to read:

14 109.07 (**5**) (a) 1. When the notice under sub. (1m) (a) would have been timely
15 given, that the employer was actively seeking capital or business to enable the
16 employer to avoid or postpone indefinitely the business closing or mass layoff.

17 **SECTION 11.** 109.07 (5) (a) 2. of the statutes is amended to read:

18 109.07 (**5**) (a) 2. That the employer reasonably and in good faith believed that
19 giving the notices to all parties required under sub. (1m) (a) would have prevented
20 the employer from obtaining the capital or business.

21 **SECTION 12.** 109.07 (6) (intro.) of the statutes is amended to read:

22 109.07 (**6**) (intro.) An employer is not liable under this section for a failure to
23 give notice to any person under sub. (1m) (a), if the department determines that the
24 business closing or mass layoff is the result of any of the following:

25 **SECTION 13.** 560.15 (1) (b) 1. of the statutes is amended to read:

