

SECTION 1. Section 4.04 is renumbered to be subsection (1) of said section 4.04 of the statutes.

SECTION 2. A new subsection is added to section 4.04 of the statutes to read: (4.04) (2) If any territory other than a village or city of more than five thousand population by the last census is hereafter annexed to any city, or heretofore annexed to any city since the last apportionment of assembly or senatorial districts, it shall become a part of the assembly or senatorial district of which the ward in which it is incorporated by annexation forms a part; provided, that if this provision shall for any reason be held unconstitutional such fact shall not invalidate any legislative apportionment act in which this subsection is included.

SECTION 3. This act shall take effect upon passage and publication.

Approved January 27, 1932.

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No. 8, A.]

[Published January 29, 1932.

## CHAPTER 20.

AN ACT to create chapter 108, section 20.573, subsection (10) of section 71.03, subsection (10) of section 71.04, and subsection (5) of section 20.57, and to amend subsection (9a) of section 101.10 of the statutes, relating to unemployment reserves and compensation, providing penalties, and making appropriations.

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

SECTION 1. LEGISLATIVE INTENT. (1) The legislature intends through this act to make it certain that by July 1, 1933, at least a majority of the employes of this state will enjoy the protection of fair and adequate systems of unemployment compensation. The largest organization of employers in the state having declared it to be the intention of its members voluntarily to establish unemployment fund systems, it is the intent of the legislature to give employers a fair opportunity to bring about the purposes of this act without legal compulsion. If by June 1, 1933, the employers of not less than one hundred seventy-five thousand employes have voluntarily established plans which comply with the standards prescribed in section 108.15 of this act, then the

compulsory system provided for in section 2 shall not take effect; otherwise, it shall take effect July 1, 1933. Should this provision for any reason be held invalid it is the intent of the legislature that the compulsory plan shall take effect July 1, 1933.

SECTION 2. A new chapter and a new section are added to the statutes to read:

## CHAPTER 108

### UNEMPLOYMENT RESERVES AND COMPENSATION

108.01 PUBLIC POLICY DECLARATION. As a guide to the interpretation and application of this chapter the public policy of this state is declared as follows:

(1) Unemployment in Wisconsin has become an urgent public problem, gravely affecting the health, morals and welfare of the people of this state. The burden of irregular employment now falls directly and with crushing force on the unemployed worker and his family, and results also in an excessive drain on agencies for private charity and for public relief. The decreased and irregular purchasing power of wage earners in turn vitally affects the livelihood of farmers, merchants and manufacturers, results in a decreased demand for their products, and thus tends partially to paralyze the economic life of the entire state. In good times and in bad times unemployment is a heavy social cost, now paid mainly by wage earners. Industrial and business units in Wisconsin should pay at least a part of this social cost, caused by their own irregular operations. To assure somewhat steadier work and wages to its own employes, a company can reasonably be required to build up a limited reserve for unemployment, and out of this to pay unemployment benefits to its workers, based on their wages and lengths of service.

(2) The economic burdens resulting from unemployment should not only be shared more fairly, but should also be decreased and prevented as far as possible. A sound system of unemployment reserves, contributions and benefits should induce and reward steady operations by each employer, since he is in a better position than any other agency to share in and to reduce the social costs of his own irregular employment. Employers and employes throughout the state should cooperate, in advisory committees under government supervision, to promote and encourage the steadiest possible employment. A more adequate system of free public employment offices should be provided, at the expense

of employers, to place workers more efficiently and to shorten the periods between jobs. Education and retraining of workers during their unemployment should be encouraged. Governmental construction providing emergency relief through work and wages should be stimulated.

(3) A gradual and constructive solution of the unemployment problem along these lines has become an imperative public need.

108.02 DEFINITIONS. As used in this chapter :

(a) "Commission" shall mean the industrial commission.

(b) "Workmen's compensation act" shall mean sections 102.01 to 102.35.

(c) "Employe", except where the context clearly shows otherwise, shall mean any person who is employed by an employer and in an employment subject to this chapter, or who has been so employed within the last six months; provided, that an independent contractor shall be deemed an "employer", and that all persons employed by subcontractors under him shall be deemed his "employes" for the purposes of this chapter.

(d) "Employer", except where the context clearly shows otherwise, shall mean any person, partnership, association, corporation, (or legal representative of a deceased person, or a receiver or trustee of a person, partnership, association or corporation), including this state and any municipal corporation or other political subdivision thereof, who or whose predecessor in interest has for four months or more within the preceding calendar year employed ten or more persons in employments subject to this chapter. There shall be included in such calculation all persons thus employed by the employer throughout the entire state, and all of the several places of employment maintained within Wisconsin by the employer shall be treated as a single "employer" for the purposes of this chapter; provided, moreover, that where any employer, either directly or through a holding company or otherwise, has a majority control or ownership of otherwise separate business enterprises employing persons in Wisconsin, all such enterprises shall be treated as a single "employer" for the purposes of this chapter.

(e) An "employment", except where the context shows otherwise, shall mean any employment, during any week, in which all or the greater part of the person's work is performed within Wisconsin, under any contract of hire, express or implied, oral or

written, including all contracts entered into by helpers and assistants of employes, whether paid by employer or employe, if employed with the knowledge actual or constructive of the employer; except that for the purposes of this chapter an "employment" shall not include:

1. Employment as a farm laborer;
2. Employment in the personal or domestic service of an employer at his home;
3. Employment on a governmental unemployment relief project, approved as such by the commission;
4. Employment as an elected or appointed public officer;
5. Employment by a governmental unit on an annual salary basis;
6. Employment as a teacher in a private or public school, college or university for the regular term for which such school, college or university is in session;
7. Employment of a person who is unable or unwilling to work normal full time and who, before accepting a part-time job, has registered at his district public employment office as a "part-time worker", in such written form as the commission may prescribe; provided, however, that for the purposes of this chapter no person shall be treated as a "part-time worker" who customarily works half or more than half the full-time hours per week which prevail in such establishment for full-time employes.
8. Employment by railroads engaged in interstate transportation and employment in logging operations.

(f) An employer's "weeks of employment" by an employer shall mean all those weeks during each of which the employe has performed any services at all for the employer.

(g) "Benefits" shall mean the money allowance payable to an employe as compensation for his wage losses due to unemployment as provided in this chapter.

(h) "Wages" shall mean what is customarily meant by the term, except that it shall include bonuses and the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer.

(i) An employer's "full-time hours per week" shall be determined for each general class of his employes (classifying together all those usually employed on substantially the same schedule of weekly hours). The commission shall calculate an employer's

full-time hours per week, applicable to all his employes of the given class, by averaging the weekly hours worked by the majority of such employes for each week during the preceding calendar year in which such prevailing hours were forty or more; provided that, in cases where it finds that the above method cannot reasonably and fairly be applied, the commission may adopt such other comparable method or methods of determining an employer's full-time hours per week as it deems reasonable and suitable under this chapter.

(j) An employe's "average weekly wage" shall mean the weekly earnings such employe would average from the particular employer if employed that number of full-time hours per week of such employer which is applicable to such employe. Accordingly each employe's "average weekly wage" shall be calculated by multiplying such applicable full-time hours per week by the employe's average earnings per hour from such employer. Each employe's earnings per hour (averaged for one hundred or more hours of employment, so far as possible) shall for this purpose be calculated at such times and in such manner and in accordance with such suitable rules as the commission may prescribe with a view to determining benefits under this chapter.

(k) "Fund" shall mean the unemployment reserve fund established in section 108.16.

(l) "Employer's account" shall mean the separate unemployment reserve account of an employer with the above fund.

(m) "Reserve per employe" shall refer to the status of an employer's account at the beginning of a calendar month. It shall be calculated by dividing the net amount such employer's account then has (or would have if all contributions due under this chapter had been paid) by the maximum number of employes subject to this chapter employed by such employer in any week during the preceding six months.

(n) "Administration fund" shall mean the fund established in section 108.20.

108.03 PAYMENT OF BENEFITS. (1) Benefits shall be paid by the commission to each unemployed employe from his employer's account in the fund under the conditions and in the amounts stated in this chapter; except that employers exempted under subsection (2) of section 108.15 shall pay benefits directly to their unemployed employes under the conditions and in the

amounts stated in the plan approved by the commission as the basis for the exemption.

(2) No benefits shall become payable from any employer's account, nor shall any employer's benefit liability begin to accrue under section 108.06, until one year after he has begun to make the regular and continuing contributions required of him under this chapter, except as otherwise provided in subsection (5) of section 108.15 and subsection (8) of section 108.16; provided, that at the end of such year period each employer's benefit liability shall begin to accrue and benefits shall accordingly become payable from his account.

(3) The commission shall determine or approve the time and method of payment of benefits.

108.04 ELIGIBILITY FOR BENEFITS. (1) No employe shall be deemed eligible for benefits for partial or total unemployment unless he gives the notification of such unemployment required under subsection (1) of section 108.08, or unless such notification is waived by the commission in accordance with such section.

(2) No employe shall be deemed eligible for benefits on account of either partial or total unemployment during any calendar week unless such employe was physically able to work and available for work whenever with due notice called on by his employer to report for work. Nor shall any employe be deemed eligible for benefits for total unemployment for any calendar week in which he has suitable employment, as defined in subsection (6) of this section; provided, that nothing in this section shall render an employe ineligible for total unemployment benefits for any calendar week on the ground that such employe is employed on a governmental unemployment relief project under section 108.25.

(3) An employe shall be deemed partially unemployed in any calendar week, and shall at once be eligible for benefits for such partial unemployment, whenever his week's wages are less than the amount of weekly benefit to which he would be entitled under this chapter if totally unemployed.

(4) An employe shall be deemed totally unemployed in any calendar week when he performs no services whatsoever for his current employer during such week. An employe thus unemployed shall be eligible for benefits for total unemployment for each week of total unemployment occurring subsequent to a wait-

ing period of two such weeks. No benefit shall be or become payable for this required waiting period, but not more than two such weeks of waiting period per employer shall be required of any employe in any twelve months in order to establish his eligibility for total unemployment benefits under this section. The commission may approve, in an approved voluntary unemployment benefit plan, such longer or shorter waiting period as will comply with the requirements of subsection (2) of section 108.15.

(5) An employe shall not be deemed eligible for any benefits for total unemployment based on his past weeks of employment, and no such benefits shall be payable to the employe, under any of the following conditions :

- (a) If he has lost his employment through misconduct ;
- (b) If he has left his employment voluntarily without good cause attributable to the employer ;
- (c) During any period for which he has left and is out of employment because of a trade dispute still in active progress in the establishment in which he was employed ;
- (d) For any period during which he is out of employment because of an act of God affecting his place of employment ;
- (e) If he has received in wages fifteen hundred dollars or more during the twelve months preceding the date on which he became totally unemployed ;
- (f) If he is ordinarily self-employed, but has been temporarily (for not more than five months) employed in an employment subject to this chapter and can, at the termination of such temporary employment, reasonably return to his self-employment ;
- (g) If he attended a school, college or university in the last preceding school term, and has been employed by his employer only during the customary summer vacation of schools, colleges and universities.

(6) A claimant shall no longer be eligible for total unemployment benefits and the liability of his past employers to pay him such benefits based on his past employment shall cease for any period after he has without good cause refused to accept suitable employment when offered to him, or has failed to apply for suitable employment when notified by the district public employment office. Suitable employment shall mean either employment in his usual employment or other employment for which he is reasonably fitted, regardless of whether it is subject to this chapter ; provided

such employment is in the vicinity of his residence or last employment, and gives him wages at least equal to his weekly benefit for total unemployment or provides him work for at least half the number of hours normally worked as full time in such occupation or establishment; and provided, further, that whenever in any specific case the commission finds that it is impracticable to apply any of the foregoing standards, the commission may apply any standard reasonably calculated to determine what is suitable employment.

(7) Nothing in this section shall require an employe to accept employment; nor shall any employe forfeit his right to benefits by refusing to accept employment under either or both of the following conditions:

(a) In a situation vacant in consequence of a stoppage of work due to a trade dispute;

(b) If the wages, hours and conditions offered be not those prevailing for similar work in the locality or are such as tend to depress wages and working conditions.

(8) No employe shall be deemed eligible to receive benefits under this chapter on account of any period of partial or total unemployment unless such employe has been a resident of Wisconsin for the two years preceding the beginning of such period of unemployment or has been gainfully employed in the state for forty weeks within such two-year period; provided, that an employe's ineligibility under this subsection shall modify his employer's benefit liability only as specifically provided in subsection (5) of section 108.06.

108.05 AMOUNT OF BENEFITS. (1) Each eligible employe shall be paid benefits for total unemployment at a rate of ten dollars a week or fifty per cent of his average weekly wage, whichever is lower; except that when fifty per cent of such wage is less than five dollars a benefit of five dollars a week shall be paid.

(2) The benefit payable for partial unemployment in any week shall be the difference between the eligible employe's actual wages for the week and the weekly benefit to which he would be entitled if totally unemployed.

(3) Benefits shall be paid to each employe for the calendar weeks during which he is totally or partially unemployed and eligible for benefits; but no employe shall ever receive in any cal-



endar year more than ten weeks of benefit for total unemployment, nor more than an equivalent total amount of benefits either for partial unemployment or for partial and total unemployment combined.

(4) The amount of benefits payable to any eligible employe shall be limited also by the benefit liability of his employer's account, as provided in sections 108.06 and 108.07.

**108.06 BENEFIT LIABILITY OF EMPLOYER'S ACCOUNT.** (1) An employer's account shall be liable to pay benefits to an employe in the ratio of one week of total unemployment benefit (or an equivalent amount of partial unemployment benefit) to each four weeks of employment of such employe by such employer within the fifty-two weeks preceding the date on which such employe last performed services for such employer. But no liability for the payment of benefits to an employe shall accrue unless the employe has been employed more than two weeks by the particular employer within such preceding year, or, in the case of an employe employed on a fixed monthly salary, unless the employe has been employed more than one month by the particular employer within such preceding year.

(2) In no case shall an employer's account remain or be liable to pay benefits to an employe for any unemployment occurring more than six months after the date on which such employe last performed services for such employer.

(3) No employer's account shall at any time be liable to pay benefits beyond the current resources his account has, or would have if all contributions due under this chapter had been paid.

(4) The liability of any employer's account to pay benefits, for weeks of partial or total unemployment occurring within or mainly within any calendar month, may be reduced, depending on the adequacy of such account at the beginning of such month. Such adequacy shall be determined at the beginning of each month, on the basis of the net "reserve per employe" which the employer's account then has, or would have if all contributions due for payment under this chapter had been paid. (Whenever during any month the maximum benefit payable from an employer's account for any week of total unemployment is reduced hereunder, this reduced maximum shall also be observed in calculating the benefits payable from that account for partial unemployment during that month. In each calendar month an employer's account shall be

liable to pay the benefits otherwise due his eligible employes for their weeks of unemployment occurring within such month only in accordance with the following schedule:

(a) When its reserve at the beginning of the month amounts to fifty dollars or more per employe, the account shall be liable for and shall pay in full all valid benefit claims for unemployment during the month;

(b) When such reserve amounts to over forty-five dollars but less than fifty dollars, all such valid benefit claims shall be paid, except that no eligible claimant shall receive for total unemployment a benefit of more than nine dollars per week;

(c) When such reserve amounts to over forty dollars but less than forty-five dollars, no claimant shall receive a benefit of more than eight dollars per week;

(d) For each further periodic drop of five dollars in the reserve per employe, there shall be a corresponding further drop of one dollar in the maximum benefit per week payable to any claimant for total unemployment.

(5) Any employe who has neither been a resident of Wisconsin for the past two years nor been gainfully employed in the state for forty weeks within such two-year period, and who is, therefore, under subsection (8) of section 108.04 ineligible to receive benefits under this chapter, shall be known as "a nonqualified employe". Whenever such a nonqualified employe loses his employment, under conditions other than those enumerated in subsection (5) of section 108.04, his employer's account shall be at once liable to pay in lieu of benefits to such person a lump sum amount to the commission. This payment shall be made at the rate of five dollars for each four weeks of employment of such person by such employer during the period of employment just ended; but not more than five dollars shall be so payable for each five dollars reserve per employe in the employer's account at the beginning of the current calendar month. The employer's liability under this subsection shall be reported by him and shall be determined in amount in accordance with suitable rules to be prescribed by the commission. The amount found to be due shall in each such case be paid over from the employer's account into the administration fund established by section 108.20.

108.07 LIABILITY OF SUCCESSIVE EMPLOYERS. (1)  
When an employe is employed by more than one employer within

any twelve-month period, the payment of benefits due such employe for total unemployment shall be made from the successive employer's accounts in inverse order to such successive employments. Until the last employer liable shall have met or been unable further to meet his benefit liability to an eligible employe no previous employer shall be due to pay benefits to such employe.

(2) When an eligible employe becomes employed in an employment or by an employer not subject to this chapter, such employment, except as provided in section 108.25, shall postpone but not terminate the liability of any former employer to pay benefits to such employe; provided, however, that if the employe fails to return to regular work offered him in his former employment by the written request of his former employer, made in good faith and not inconsistent with subsection (7) of section 108.04, such employe's right to benefits from such former employer shall be extinguished.

108.08 NOTIFICATION. (1) Any claimant of benefits must give notice of his unemployment at the public employment office for the district in which he is or was last employed, within such time and in accordance with such rules as the commission may prescribe. Thereafter he shall give notice of the continuance of his unemployment as frequently and in such manner as the commission may prescribe. But the notification prescribed under this subsection may, as to any case or class of cases, be waived by the commission for good cause (including administrative feasibility), provided the commission finds that no party in interest will be prejudiced by such waiver.

(2) The commission may require from any or each employer notification of the partial or total unemployment of his employes, within such time, in such form, and in accordance with such rules as the commission may prescribe.

108.09 ESTABLISHMENT OF CLAIMS. (1) Claims for benefits shall be filed with the superintendent of the public employment office for the district in which the claimant is or was last employed, or with a deputy of the commission designated for the purpose. Claims shall be filed within such time and in such manner as the rules of the commission may prescribe.

(2) If a claim appears to the superintendent or deputy invalid he shall reject the claim; if it appears valid he shall state the amount of benefits apparently payable to the claimant while

eligible. In either case he shall notify the claimant in writing, giving his reasons. If the claimant is dissatisfied he may, within a time limit after notification to be set by the commission, have recourse to the method set up in section 108.10 for settling disputed claims.

(3) If a claim appears to the superintendent or deputy valid he shall notify the liable employer in writing of the amount of benefits apparently payable thereunder. If the employer does not contest the claim, within a time limit after notification to be set by the commission, the amount of benefits stated by the superintendent or deputy shall, subject to the limitations set up in this chapter, become payable to the claimant from such employer's account and shall be so paid by the commission. If the employer wishes to contest the claim, he may, within a time limit to be set by the commission, have recourse to the method set up in section 108.10 for settling disputed claims.

#### 108.10 METHOD OF SETTLING DISPUTED CLAIMS.

(1) The manner in which disputed claims shall be presented, the reports thereon required from employers, and the conduct of hearings shall be governed by rules and regulations to be adopted by the industrial commission.

(2) Disputed claims, whether involving employers exempted under section 108.15 or those contributing to the fund, shall be decided in the first instance by the superintendent of the district public employment office or by a deputy of the commission designated for the purpose.

(3) Within a time limit after notification to be set by the commission either the employer or employe may take an appeal from any decision of the superintendent or deputy, to an appeal board to be appointed in each employment office district by the industrial commission. Such district appeal board shall consist of one employer or representative of employers, one employe or representative of employes, and one person who is not an employer, employe or representative of either.

(4) Decisions of a district appeal board shall be reviewable by the commission or its representative upon appeal of either party within a time limit and in accordance with other rules and regulations to be laid down by the commission. The commission may authorize a commissioner or an examiner to hear such cases and to make decisions under rules to be adopted by the commission.

(5) Either party, if dissatisfied with the decision of such commissioner or examiner, may petition the industrial commission to review it as a commission. Such petition shall be in writing specifying in detail the particular errors alleged. If no such petition is filed within ten days from the date when a copy of the decision of the commissioner or examiner was mailed to the last known address of each party in interest such decision shall be considered the decision of the industrial commission, unless set aside, reversed or modified by such commissioner or examiner within such time. Within ten days after the filing of any such petition the commission shall, on the basis of the evidence previously submitted in such case, affirm, reverse, set aside or modify such decision, or direct the taking of additional testimony. Any decision made by the commission shall, if not modified or changed by it within twenty days, become the final decision of the commission and shall then be subject to judicial review on the same grounds and in the same manner as decisions of the industrial commission under the workmen's compensation act may be reviewed.

(6) The commission shall have the power to remove or transfer the proceedings pending before a commissioner or examiner; and may on its own motion set aside, modify or change any decision, whether made by a superintendent or deputy, by a district appeal board, by a commissioner or examiner, or by the commission as a body, at any time within twenty days of the date thereof if it shall discover any mistake therein or upon the grounds of newly discovered evidence.

(7) In the discharge of their duties under this section, the superintendent of any district public employment office, any member of a district appeal board, and any member, examiner or duly authorized employe of the industrial commission shall have power to administer oaths to persons appearing before them, 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 disputed claim.

(8) A full and complete record shall be kept of all proceedings in connection with a disputed claim and all testimony shall be taken down by a stenographer appointed by the commission.

108.101 MODIFIED PROCEDURE. The commission may modify the procedure prescribed in sections 108.08, 108.09 and

108.10, with a view to such establishment and determination of claims against employers exempted under section 108.15, as will be suitable to such cases and fair to the parties in interest.

108.11 AGREEMENT TO CONTRIBUTE BY EMPLOYEES VOID. (1) No agreement by an employe or by employes to pay any portion of the contributions required under this chapter from employers shall be valid. No employer shall make a deduction for such purpose from wages. Any employe claiming a violation of this provision may, to recover wage deductions wrongfully made, have recourse to the method set up in section 108.10 for settling disputed claims.

(2) But nothing in this chapter shall affect the validity of voluntary arrangements whereby employes freely agree to make contributions to a fund for the purpose of securing unemployment compensation additional to the benefits provided in this chapter.

108.12 WAIVER OF BENEFIT VOID. No agreement by an employe to waive his right to benefits or any other rights under this chapter shall be valid.

108.13 ASSIGNMENT. No claim for benefit under this chapter or under any approved voluntary unemployment benefit plan shall be assignable before payment, but this provision shall not affect the survival thereof; nor shall any claim for benefit awarded, adjudged, or paid, be subject to be taken for the debts of the party entitled thereto.

108.14 ADMINISTRATION. (1) This chapter shall be administered by the industrial commission.

(2) The commission shall have power and authority to adopt and enforce all rules and regulations which it finds necessary or suitable to carry out the provisions of this chapter. All such rules and regulations shall be published in the state's official newspaper and shall take effect ten days after such publication. A copy of such rules and regulations shall be delivered to every person making application therefor. The commission may require from employers, whether subject to this chapter or not, any reports on employment, wages, hours and related matters which it deems necessary to carry out the provisions of this chapter.

(3) The commission may appoint, employ and pay as many persons as it deems necessary to administer and to carry out the purposes of this chapter, and may make all other expenditures of any kind which it deems necessary or suitable to this end. But it shall

not pay to any member of a district appeal board more than five dollars of compensation per day of services.

(4) The commission may create as many employment districts and district appeal boards and may establish and maintain as many free public employment offices as it deems necessary to carry out the provisions of this chapter. The commission shall have power to finance either partly or completely such public employment offices as it deems necessary under this chapter, from the funds appropriated to the commission for its expenses under this chapter, whether or not the political subdivision in which such office is located agrees to pay or does pay any part of the expenses of such office.

(5) The commission shall appoint advisory employment committees, by local districts or by industries or for the whole state, consisting in each case of one or more representatives each of employers, employes and the public, who shall assist the commission, without compensation but with reimbursement of necessary expenses, in administering and carrying out the purposes and provisions of this chapter.

(6) It shall be one of the purposes of this chapter to promote the regularization of employment in enterprises, localities, industries, and the state. The commission, with the advice and aid of its advisory employment committees, shall take all appropriate steps within its means to reduce and prevent unemployment. To this end the commission may employ experts, and may carry on and publish the results of any investigations and research which it deems relevant, whether or not directly related to the other purposes and specific provisions of this chapter. At least once a year the commission shall compile and publish a summary report stating the operations and status of each employer's account or other unemployment reserve and covering such other material as it deems significant in connection with the operations and purposes of this chapter.

108.15 EXEMPTION. (1) The commission shall exempt, from the provisions of this chapter, except sections 108.12, 108.14, 108.15, 108.19, 108.21, 108.22 and 108.24, any employer who guarantees, under a plan approved by the commission, to all his eligible employes (and to each new eligible employe who is continued in employment after a probationary period of one month), in advance for a stated one-year period, at least forty-two weeks of

work or wages, for at least thirty-six hours in each such week, if satisfied that the employer can and will make good such promise under all circumstances. The words "eligible employe" in this subsection shall mean an employe who if unemployed would not be barred from eligibility for benefits by any of paragraphs (e), (f) and (g) of subsection (5) of section 108.04 or by subsection (8) of section 108.04. But such employer shall not be required to make good such guarantee in the case of any individual employe who loses his employment under any of the conditions enumerated in subsection (5) of section 108.04.

(2) The commission shall exempt, from the provisions of this chapter, except sections 108.03, 108.04, 108.07, 108.101, 108.12, 108.13, 108.14, 108.15, 108.19, 108.21, 108.22, 108.23, 108.24, 108.25 and 108.26, any employer or group of employers submitting a plan for unemployment benefits which the commission finds: (a) makes eligible for benefits at least the employes who would be eligible for benefits under the compulsory features of this act; (b) provides that the proportion of the benefits to be financed by the employer or employers will on the whole be equal to or greater than the benefits which would be provided under the compulsory features of this act; and (c) is on the whole as beneficial in all other respects to such employes as the compulsory plan provided in this act. If under such a plan any contributions are made by employes, the accounts of the plan shall be so kept as to make clear what proportion of the benefits is financed by the employer or employers, and what proportion by the employes. If under such a plan any contributions are made by employes, the commission may require that such employes be represented, by representatives of their own choosing, in the direct administration of such plan, and the commission may take any steps necessary and appropriate to assure such representation to contributing employes.

(3) No employer or group of employers exempted under this section shall be permitted to insure the liability to pay benefits or wages in any insurance company; and if such employer or employers enters or enter into an agreement for any form of insurance coverage such action shall automatically operate as a revocation of such exemption.

(4) As a condition of granting exemption, the commission may require the employer or group to furnish such security as the commission may deem sufficient to assure payment of all promised



benefits or wages, including the setting up of proper reserves. Such reserves and other security and also the manner in which an exempted employer carries out his promises of benefits or employment shall be subject to inspection and investigation by the commission at any reasonable time. If the commission shall deem it necessary it may require an exempted employer to furnish additional security to assure fulfillment of his promises to his employes.

(5) If an exempted employer or group of employers fails to furnish security satisfactory to the commission, or fails to fulfill the promises made to employes, or wilfully fails to furnish any reports that the commission may require under this chapter, or otherwise to comply with the applicable portions of this chapter and the rules, regulations and orders of the commission pertaining to the administration thereof, the commission may, upon ten days' notice and the opportunity to be heard, revoke the exemption of such employer or group. In such case or in case any exempted employer or group voluntarily terminates exemption, such employer or each of such group of employers shall at once pay into the fund an amount equal to the balance which would have been standing to his account had he been making the contributions to the fund and paying out the benefits provided in this chapter; provided that, in any case where such balance cannot reasonably and definitely be determined, and specifically in the case of an employer exempted under subsection (1) of this section, the commission may require such employer to meet his liability under the present subsection by paying into the fund a lump sum amount equal to the contributions he would, if not exempted, have paid into the fund under section 108.18 during the twelve months preceding termination of his exemption. The account of any employer whose exemption has been terminated shall thenceforth be liable to pay to his employes the benefits which may remain or thereafter become due them, as if such employer had not been exempted under this section; and such employer shall thenceforth pay all contributions regularly required under this chapter from nonexempted employers.

(6) Each employer exempted under this section shall be liable to make all contributions, to pay directly to employes all benefits, to pay all penalties, and otherwise to comply with all the provisions of this chapter, except as specifically provided in this sec-

tion and in suitable rules to be formulated by the commission consistent with the purposes and provisions of this chapter.

(7) Such plan shall provide that upon the going out of business in this state by any employer, or the legal abandonment of the plan, the funds which shall have been contributed under such plan shall be retained for a sufficient period to meet all liability for benefits which may thereafter accrue, and that at the end of such period the proportion then remaining of employer contributions shall be released to the employer or his assigns, and the proportion then remaining of employe contributions shall be distributed in such equitable manner as the commission may approve.

(8) The rules and regulations for the government of such plan must be submitted to and approved by the commission. A plan, so approved, shall when put into effect, constitute a contract between each employer and every other employer participating in that plan, and between the employer or employers on the one hand, and, on the other hand all employes who come under it; and shall not thereafter be abandoned or modified without the approval of the commission. Provided that, at any time after five years from and after the passage of this act, the commission may, on the petition of any interested party, or on its own motion, and after public hearing, modify any such plan to conform to the standards then provided by the law for approved voluntary unemployment benefit plans.

108.16 UNEMPLOYMENT RESERVE FUND. (1) For the purpose of carrying out the provisions of this chapter there is established a fund to be known as the "Unemployment Reserve Fund", to be administered by the state without liability on the part of the state beyond the amount of the fund. This fund shall consist of all contributions and moneys paid into and received by the fund pursuant to this chapter and of properties and securities acquired by and through the use of moneys belonging to the fund.

(2) A separate account shall be kept by the industrial commission with each employer contributing to said fund, and this separate employer's account shall never be merged with any other account except as provided in subsection (3) of this section.

(3) Whenever two or more employers in the same industry or locality desire to pool their several accounts with the fund, with a view to regularizing their employment by cooperative activity, they may file with the commission a written application to merge their

several accounts in a new joint account with the fund. If in its judgment the plan has merit, the commission shall establish such a joint account, provided that the several employers each accept such suitable rules and regulations not inconsistent with the provisions of this chapter as may be drawn up by the commission with reference to the conduct and dissolution of such joint accounts.

(4) All contributions payable to the unemployment reserve fund shall be paid to the industrial commission, and shall daily be paid over by the commission to the state treasurer and credited to the unemployment reserve fund. Payments from said fund shall be made upon vouchers of the industrial commission. The state treasurer shall be ex officio the treasurer and custodian of the unemployment reserve fund. He shall give a separate and additional bond conditioned upon his faithful performance of these duties, in such amount as may be recommended by the industrial commission and fixed by the governor. All premiums upon the bond required pursuant to this section when furnished by an authorized surety company or by a duly constituted governmental bonding fund shall be paid from the interest earnings of the unemployment reserve fund.

(5) The unemployment reserve fund shall be invested by the annuity and investment board in the readily marketable obligations of the United States of America, of any of its forty-eight state governments including this state, and of any city, county or other governmental subdivision of this state, all having a maturity of not over five years from the date of purchase. The investments of the fund shall be so made that all the assets of the fund shall always be readily convertible into cash when needed. When so directed by the industrial commission, the board shall dispose of securities belonging to the fund to secure cash needed for the payment of benefits. All expenses of the annuity and investment board in the investment of the unemployment reserve fund shall be paid from the interest earnings of said fund, as provided in subsection (1) of section 20.725.

(6) All net earnings on moneys belonging to the unemployment reserve fund shall be credited thereto, and shall, at the close of each fiscal year, be apportioned by the commission equitably to the several employers' accounts.

(7) If any employer shall become exempted under section 108.15, or shall cease to be subject to this chapter, or shall permanently go out of business in this state (except as provided in subsection (8) of this section), such employer shall, upon the expiration of six months, (or prior thereto if he shall furnish surety satisfactory to the commission for the payment of benefits becoming due under this chapter during the remainder of such six-month period), receive the balance then standing to his credit in the fund.

(8) If any employer shall transfer his business in whole or in part or shall otherwise reorganize such business, the successor in interest is hereby required to take over (in proportion to the extent of such transfer, as determined for the purposes of this chapter by the commission) the resources and liabilities of such employer's account, and to continue without interruption the payment of all contributions and benefits which would have been due for payment under this chapter in case such employer had continued in business without such transfer or reorganization.

108.17 PAYMENT OF CONTRIBUTIONS. (1) On and after the first day of July, 1933, contributions shall accrue and shall become payable by each employer then subject to this chapter in accordance with its provisions. Thereafter contributions shall accrue and become payable by any employer on and after the date on which he becomes newly subject to this chapter.

(2) All contributions required under this chapter from employers shall be paid to the industrial commission, at such times and in such manner as the commission may prescribe, except as provided otherwise in the case of employers exempted under section 108.15.

108.18 CONTRIBUTIONS TO THE UNEMPLOYMENT RESERVE FUND. The contribution regularly payable by each employer into his account with the fund shall be an amount equal to two per cent per annum of his payroll. (In order that reserves shall be built up for all employes potentially eligible to benefits, "payroll" shall include all wages, salaries and remuneration paid to employes subject to this chapter; except that it shall not include the amount paid to an employe or officer employed on a contractual basis for a fixed period at a fixed monthly salary, which will aggregate at least fifteen hundred dollars if said period is less than twelve months, or amount to at least fifteen hundred

dollars per annum if such period is twelve months or more, provided such contract is duly reported to the commission by the employer; nor shall it include any salary or wage of three hundred dollars or more per month.) During an employer's first two years of contribution payments, and whenever thereafter his account amounts to less than fifty-five dollars reserve per employe, the employer shall make contributions to the fund at the rate of two per cent per annum on his payroll. If the employer has been continuously subject to this chapter during the two preceding years, the rate of contributions may be reduced or suspended under the following conditions:

(1) Whenever the employer's account amounts to fifty-five dollars but less than seventy-five dollars reserve per employe, such employer shall pay contributions to the fund at the rate of one per cent per annum on his payroll.

(2) Whenever and while the employer's account has a reserve per employe of seventy-five dollars or more, no contributions to the unemployment reserve fund shall be required of such employer.

**108.19 CONTRIBUTIONS TO THE ADMINISTRATION FUND.** Each employer subject to this chapter, including every employer exempted under section 108.15, shall regularly contribute to the unemployment administration fund created in section 108.20 at the rate of two-tenths of one per cent per annum on his payroll as defined in section 108.18. But the commission may prescribe at the close of any fiscal year such lower rates of contribution under this section, to apply to classes of employers throughout the ensuing fiscal year, as will in the commission's judgment adequately finance the administration of this chapter, and as will in the commission's judgment fairly represent the relative cost of the services rendered by the commission to each such class.

**108.20 UNEMPLOYMENT ADMINISTRATION FUND AND APPROPRIATION.** (1) To finance the administration of this chapter and to carry out its provisions and purposes there is established the "Unemployment Administration Fund". This fund shall consist of all contributions and moneys paid to the industrial commission for the administration fund as provided in subsection (5) of section 108.06, and in sections 108.19 and 108.22.

(2) All amounts received by the commission for such fund shall daily be paid over to the state treasurer and credited to the unemployment administration fund, and, as provided in section 20.573 of the statutes, are appropriated to the commission for the administration of this chapter.

**108.21 RECORD AND AUDIT OF PAYROLLS.** Every employer, whether exempted or not, shall keep a true and accurate employment record of all his employes, whether qualified and eligible to unemployment benefits or not, and of the hours worked for him by each and of the wages paid by him to each employe, and shall furnish to the commission upon demand a sworn statement of the same. Such record shall be open to inspection by the commission or its authorized representatives at any reasonable time.

**108.22 COLLECTION OF CONTRIBUTIONS IN CASE OF DEFAULT.** If any employer whether exempted or not shall default in any payment required of him under this chapter he shall become additionally liable for interest on such payment at twelve per cent per annum from the date such payment became due, such interest to be paid to the administration fund. If after due notice this payment plus interest at twelve per cent per annum is not made, it shall be collected by a civil action in the name of the state, the defaulting employer to pay the costs of such action. The payment originally due shall be paid to the commission, and credited, as may be proper in each case, either to the fund and to the defaulting employer's account or to the administration fund. The interest thus collected shall be paid to the administration fund.

**108.23 BANKRUPTCY.** In the event of bankruptcy or insolvency of any employer, unpaid claims for benefits and unpaid amounts due the fund under this chapter or to a fund or reserve under any approved voluntary unemployment benefit plan shall have the same preference as is accorded in subsection (1) of section 102.28 to unpaid claims for compensation or compensation insurance.

**108.24 PENALTIES.** (1) Any person who wilfully makes a false statement or representation to obtain any benefit or payment under the provisions of this chapter, either for himself or for any other person, or to lower any contribution required of him, and any employer who makes a deduction from the wages of any employe in order to pay any portion of the contribution re-

quired of such employer under this chapter, shall upon conviction be deemed guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not longer than thirty days, or by both such fine and imprisonment; and each such false statement and each such deduction from wages shall constitute a separate and distinct offense.

(2) Any employer who wilfully refuses or fails to pay any contribution required of him under this chapter, and any person who wilfully and unlawfully fails or neglects to appear or to testify or to produce books, papers and records as required at any hearing under this chapter, shall upon conviction be deemed guilty of a misdemeanor and be fined not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not longer than thirty days, or be punished by both such fine and imprisonment; and every day of such refusal, failure or neglect shall constitute a separate and distinct offense.

(3) On complaint of the commission the fines specified in this section may be collected by the state in an action for debt.

108.25 USE OF UNEMPLOYMENT RESERVE FOR PUBLIC WORKS. (1) If the state or any of its political subdivisions during a period of unemployment either directly or through a contractor provides work which in the opinion of the commission is an unemployment relief measure and which conforms to standards of wages and conditions prescribed by the commission, such work shall be deemed suitable employment within the meaning and subject to the limitations of subsection (6) of section 108.04; provided, that an employe who accepts such work for any calendar week in which he would otherwise be totally unemployed and eligible for benefits shall be entitled to receive such benefits in the form of wages paid him for such governmental work. To this end the state or subdivision giving such work and wages to such employe in any calendar week shall receive his benefits for such week, for the purpose of partially financing such employe's work and wages on such governmental unemployment relief project.

(2) Benefits payable under this section to an employe in the form of wages from this state or a political subdivision for work on a relief project shall cease, as provided in subsection (6) of section 108.04, for any period after such employe has without

good cause failed to apply for suitable employment other than such governmental work when notified, or has refused to accept suitable employment other than such governmental work when offered him.

108.26 VOCATIONAL EDUCATION. When any employe is unemployed and eligible for benefits under this chapter, he may be recommended by the superintendent of the district employment office to attend vocational or other school during his unemployment. If he attends school under conditions approved by such superintendent and does satisfactory work in his classes he shall be eligible for an additional benefit of one dollar per week, to be paid from the administration fund. The education shall be furnished at public expense and any fee which may customarily be charged for attendance at such classes must be paid by the town, village or city in which such employe resides.

108.27 SEPARABILITY OF PROVISIONS. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

20.573 UNEMPLOYMENT ADMINISTRATION FUND. All moneys paid to the industrial commission and deposited by it with the state treasurer pursuant to section 108.20 are appropriated to the industrial commission for the performance of the functions of the commission under chapter 108 including its conduct of public employment offices and its other efforts to regularize employment; to pay the compensation and expenses of appeal boards and the expenses of advisory employment committees; and to pay allowances stimulating education during unemployment. Any balance remaining in this fund at the close of any fiscal year shall not lapse but shall remain available for the purposes herein specified.

SECTION 3. VOLUNTARY SYSTEMS OF UNEMPLOYMENT COMPENSATION. (1) In accordance with the legislative intent expressed in section 1 the compulsory features of section 2 and section 5 of this act shall not take effect until July 1, 1933, nor shall they take effect on that date if the commission finds that on or before June 1, 1933, employers then employing in the aggregate at least one hundred seventy-five thousand employes as defined in section 108.02 shall have established plans



previously approved by the commission as plans which would be entitled to exemption under section 108.15 of the compulsory act.

(2) At any time after the taking effect of this act employers may submit to the industrial commission voluntary plans for guaranteed employment or for unemployment compensation. If, after investigation, the commission is satisfied that a plan thus submitted would be entitled to exemption under section 108.15 of the compulsory act, the commission shall give its written approval of such plan, and such approval shall apply for the purposes of the present section of this act.

(3) As soon as possible after June 1, 1933, and not later than June 15, 1933, the industrial commission shall make a finding of fact whether or not employers employing (as of June 1, 1933) in the aggregate at least one hundred seventy-five thousand employes as defined in section 108.02, have established on or before June 1, 1933, plans previously approved by the commission as plans which would be entitled to exemption under section 108.15 of the compulsory act. The commission shall file such finding with the secretary of state. Such finding of fact by the industrial commission shall be conclusive. In accordance with such finding and in accordance with subsection (1) of the present section the secretary of state shall give notice through publication in the official state paper of the taking effect or otherwise of the compulsory features of section 2 and section 5 of this act.

(5) If the compulsory plan shall not come into operation, the industrial commission shall continue its supervision over the voluntary plans of unemployment compensation established in this state. It shall be the duty of the commission to keep itself informed regarding the operations of such voluntary plans and it shall include pertinent statistics regarding such plans in its biennial reports.

SECTION 4. A new subsection is added to each of sections 20.57, 71.03 and 71.04 of the statutes to read: (20.57) (5) On January 1, 1932, twenty-five thousand dollars, to assist employers in the establishment of voluntary plans for unemployment compensation in conformity with the standards prescribed by law, and for carrying out the purposes of chapter 108. This appropriation shall remain available until June 30, 1933.

(71.03) (10) Amounts contributed to an unemployment fund, compulsory or voluntary, or an unemployment reserve established

in conformity with law, but not the amounts paid out of said fund or reserve.

(71.04) (10) Amounts contributed to an unemployment fund, compulsory or voluntary, or an unemployment reserve established in conformity with law, but not the amounts paid out of said fund or reserve.

SECTION 5. Subsection (9a) of section 101.10 of the statutes is amended to read: (101.10) (9a) \* \* \* Any county, city, town or village may enter into an agreement with the Wisconsin industrial commission for such period of time as may be deemed desirable for the purpose of establishing and maintaining local free employment offices, and it shall be lawful for any county, city, town or village to appropriate and expend the necessary money and to permit the use of public property for the joint establishment and maintenance of such offices as may be agreed upon, or in counties containing two hundred fifty thousand inhabitants or more in any city, town or village therein to purchase a site and construct necessary buildings. \* \* \* Provided, \* \* \* that in any county, city, village or town therein, wherein there is a citizens' committee on unemployment, such committee shall have the power to rent, lease, purchase or construct necessary buildings for the joint establishment and maintenance of such free employment office, *subject to the approval of such plans by the industrial commission. The industrial commission may establish such free employment offices as it may deem necessary to carry out the purposes of chapter 108. All expenses of such offices, or all expenses not defrayed by the county, city, town or village in which an office is located, shall be charged to the appropriation to the industrial commission provided in section 20.573.*

SECTION 6. Sections 2 and 5 this act shall take effect as provided in section 3 and all other provisions upon passage and publication.

Approved January 28, 1932.