

2001 Jr2 DRAFTING REQUEST

Senate Amendment (SA-SSA1-AB1)

Received: **06/27/2002**

Received By: **malaigm**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3847**

By/Representing: **Reinhardt**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - Wis works**

Extra Copies:

Submit via email: **NO**

Pre Topic:

LFB:.....Reinhardt -

Topic:

W-2 dispute resolution

Instructions:

Redraft b2841/4, but include only provisions relating to retroactivity of benefits

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketcd</u>	<u>Required</u>
/?	malaigm 06/27/2002	jdye 06/27/2002		_____			
/1			pgreensl 06/27/2002	_____	lrb_docadmin 06/27/2002		
/2	malaigm 07/02/2002	chanaman 07/02/2002	rschluet 07/02/2002	_____	lrb_docadmin 07/02/2002		

FE Sent For:

<END>

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7-2-2

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1/?	malaigm	11/6/02 JLD	6/27 P8	6/27 P8/LE			

FE Sent For:

<END>

b30881,

Malaise, Gordon

From: Reinhardt, Rob
Sent: Thursday, June 27, 2002 8:35 AM
To: Malaise, Gordon
Subject: W-2 Dispute Resolution

Hi Gordon,

The conferees have decided to go with the W-2 dispute resolution provisions we discussed earlier this week. So go ahead and draft it according to your 6-25 email and our follow-up phone conversation about section 119gj. Let me know if you need anything else. Thanks.

Rob

Malaise, Gordon

From: Malaise, Gordon
Sent: Tuesday, June 25, 2002 3:41 PM
To: Reinhardt, Rob
Subject: W-2 Fair Hearing Process Compromise

Rob:

Thanks for the heads up as to the probable compromise of the W-2 Fair Hearing Process item. To accomplish that compromise, b2841/4 would be redrafted with the following changes:

1. Section 49.152 (1) would simply be renumbered 49.16 (1), not renumbered and amended.
2. Section 49.152 (2) would be renumbered 49.16 (2), not repealed.
3. Section 49.16 (2) and (4) would not be created.

Otherwise, the treatment of s. 49.152 (3) (title), (a), and (b), 49.195 (3), and 49.26 (1) (h) 1. as. would remain the same.

When you get a chance, please review the plan of action proposed above and advise whether it captures the intent of the compromise. If that is not how the committee wants the amendment drafted, let me know and I will redraft accordingly.

Gordon M. Malaise
Senior Legislative Attorney
Legislative Reference Bureau
266-9738



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

b3088/
LRB5284174
GMM:jld&kjf:jf

~~SCC.....Engel - CN6134, Wisconsin works fair hearing process~~

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

~~CAUCUS~~ SENATE AMENDMENT,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 37, line 25: after that line insert:

3 "SECTION 119g. 49.152 (title) of the statutes is renumbered 49.16 (title).

4 ^{Fix component} SECTION 119gd. 49.152 (1) of the statutes is renumbered 49.16 (1) ^{and}

5 amended to read:

~~49.16 (1) PETITION FOR REVIEW. Any individual whose application for any component of Wisconsin works is not acted upon by the Wisconsin works agency with reasonable promptness after the filing of the application, as defined by the department by rule, or is denied in whole or in part, whose benefit is modified or canceled, or who believes that the benefit was calculated incorrectly or that the~~

10

SEC. RV; 49.152 (2); 49.16 (2)

1 ~~employment position in which the individual was placed is inappropriate, may~~
2 ~~petition the Wisconsin works agency department for a review of such action. Review~~
3 ~~is unavailable if the action by the Wisconsin works agency occurred more than 45~~
4 ~~days prior to submission of the petition for review.~~

5 SECTION 119gg. 49.152 (2) of the statutes is repealed.

6 SECTION 119gj. 49.152 (3) (title) and (b) of the statutes are consolidated,
7 renumbered 49.16 (3) and amended to read:

8 ^{stet} 49.16 (3) REMEDIES. (b) If, following review under sub. (2), the Wisconsin works
9 agency or the department determines that an individual's application was not acted
10 upon with reasonable promptness or was improperly denied in whole or in part, that
11 a participant's benefit was improperly modified or canceled, or was calculated
12 incorrectly, or that a participant was placed in an inappropriate Wisconsin works
13 employment position, the Wisconsin works agency shall restore the benefit to the
14 level determined to be appropriate by the Wisconsin works agency or by the
15 department grant the appropriate benefit, retroactive to the date on which the
16 individual's application was first not acted upon with reasonable promptness or
17 improperly denied in whole or in part, the individual's benefit was first improperly
18 modified or canceled or incorrectly calculated, or the individual was first placed in
19 an inappropriate Wisconsin works position.

20 SECTION 119gm. 49.152 (3) (a) of the statutes is repealed. "

21 SECTION 119j. 49.16 (2) and (4) of the statutes are created to read:

22 49.16 (2) REVIEW. The department shall give an applicant or participant who
23 files a timely petition under sub. (1) an opportunity for a fair hearing. Upon receipt
24 of a timely petition under sub. (1), the department shall provide reasonable notice
25 of the hearing to the applicant or participant, the Wisconsin works agency, and, if

1 appropriate, the county clerk. The department may make any additional
2 investigation that it considers necessary. The Wisconsin works agency and, if
3 appropriate, the county may be represented at the hearing. The department shall
4 render its decision as soon as possible after the hearing and shall send a certified copy
5 of its decision to the applicant or participant, the Wisconsin works agency, and, if
6 appropriate, the county clerk. The decision of the department shall be final, but may
7 be revoked or modified as altered conditions may require. The department shall deny
8 a petition for a hearing or shall refuse to grant relief if any of the following applies:

9 (a) The applicant or participant withdraws the petition in writing.

10 (b) The sole issue in the petition concerns an automatic grant adjustment or
11 change for a class of participants as required by state or federal law, unless the issue
12 concerns an incorrect computation of the participant's benefit.

13 (c) The applicant or participant abandons the petition. Abandonment occurs
14 if the applicant or participant fails to appear in person or by a representative at a
15 scheduled hearing without providing the department with good cause for that failure
16 to appear.

17 (4) NONENTITLEMENT. This section does not create an entitlement to any
18 services or benefits under Wisconsin works."

19 2. Page 38, line 6: after that line insert:

20 "SECTION 119r. 49.195 (3) of the statutes, as affected by 2001 Wisconsin Act 16,
21 is amended to read:

22 49.195 (3) A county, tribal governing body, Wisconsin works agency or the
23 department shall determine whether an overpayment has been made under s. 49.19,
24 49.148, 49.155 or 49.157 and, if so, the amount of the overpayment. The county, tribal

1 governing body, Wisconsin works agency or department shall provide notice of the
2 overpayment to the liable person. The department shall give that person an
3 opportunity for a review following the procedure specified under s. ~~49.152~~ 49.16, if
4 the person received the overpayment under s. 49.141 to 49.161, and for a hearing
5 under ch. 227. Notwithstanding s. 49.96, the department shall promptly recover all
6 overpayments made under s. 49.19, 49.148, 49.155 or 49.157 that have not already
7 been received under s. 49.161 or 49.19 (17) and shall promulgate rules establishing
8 policies and procedures to administer this subsection. The rules shall include
9 notification procedures similar to those established for child support collections.”.

10 **3.** Page 38, line 20: after that line insert:

11 “**SECTION 121k.** 49.26 (1) (h) 1. as. of the statutes is amended to read:

12 49.26 (1) (h) 1. as. The individual has failed to request a hearing or has failed
13 to show good cause for not cooperating with case management efforts in a hearing.
14 The hearing shall be requested and held under s. ~~49.152~~ 49.16. The department shall
15 determine by rule the criteria for good cause.”.

16 **4.** Page 438, line 8: after that line insert:

17 “(2f) FAIR HEARING PROCESS FOR REVIEW OF WISCONSIN WORKS AGENCY DECISIONS.

18 The treatment of sections 49.152 (title), (1), ~~(2)~~ and (3) (title), (a), and (b), ~~49.16~~ (2)
19 ~~and (4)~~, 49.195 (3), and 49.26 (1) (h) 1. as. of the statutes first applies to petitions filed
20 under section 49.16 (1) of the statutes, as affected by this act, on the effective date
21 of this subsection.”.

22 **5.** Page 449, line 5: after that line insert:

23 “(2f) FAIR HEARING PROCESS FOR REVIEW OF WISCONSIN WORKS AGENCY DECISIONS.

24 The treatment of sections 49.152 (title), (1), ~~(2)~~ and (3) (title), (a), and (b), ~~49.16~~ (2)

1

~~and (4)~~ 49.195 (3), and 49.26 (1) (b) 1. as of the statutes and SECTION 9358 (2f) of this
act take effect on the first day of the 7th month beginning after publication.”.

2

3

(END)



State of Wisconsin
2001 - 2002 LEGISLATURE

January 2002 Special Session

Now!!!

LRBb3088/1 (2)
GMM:jld&kjf:pg RMR
Stays

LFB:.....Reinhardt - W-2 dispute resolution

FOR 2001-03 BUDGET -- NOT READY FOR INTRODUCTION

SENATE AMENDMENT,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1



- 1
- 2
- 3
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- 10

At the locations indicated, amend the substitute amendment as follows:

1. Page 37, line 25: after that line insert:

"SECTION 119g. 49.152 (title) of the statutes is renumbered 49.16 (title).

SECTION 119gd. 49.152 (1) of the statutes is renumbered 49.16 (1).

SECTION 119gh. 49.152 (2) of the statutes is renumbered 49.16 (2).

SECTION 119g. 49.152 (3) ~~title and~~ (b) of the statutes are consolidated,
~~renumbered 49.16 (3) and amended to read:~~
(plain)

49.16 (3) ~~renumbered~~ (b) If, following review under sub. (2), the Wisconsin works
agency or the department determines that an individual's application was not acted
upon with reasonable promptness or was improperly denied in whole or in part that

change
amended (7)
(8)

or

1 a participant's benefit was improperly modified or canceled, or was calculated
2) incorrectly, ~~or that a participant was placed in an inappropriate Wisconsin works~~
3) ~~employment position~~, the Wisconsin works agency shall restore the benefit to the
4 level determined to be appropriate by the Wisconsin works agency or by the
5 department grant the appropriate benefit, retroactive to the date on which the
6 individual's application was first not acted upon with reasonable promptness or
7) improperly denied in whole or in part, ^{or} (the individual's benefit was first improperly
8 modified or canceled or incorrectly calculated, or the individual was first placed in
9 an inappropriate Wisconsin works position.) "

10 ~~SECTION 119gm. 49.152 (3) (a) of the statutes is repealed."~~

11 **2.** Page 38, line 6: after that line insert:

12 "SECTION 119r. 49.195 (3) of the statutes, as affected by 2001 Wisconsin Act 16,
13 is amended to read:

14 49.195 (3) A county, tribal governing body, Wisconsin works agency or the
15 department shall determine whether an overpayment has been made under s. 49.19,
16 49.148, 49.155 or 49.157 and, if so, the amount of the overpayment. The county, tribal
17 governing body, Wisconsin works agency or department shall provide notice of the
18 overpayment to the liable person. The department shall give that person an
19 opportunity for a review following the procedure specified under s. ~~49.152~~ 49.16, if
20 the person received the overpayment under s. 49.141 to 49.161, and for a hearing
21 under ch. 227. Notwithstanding s. 49.96, the department shall promptly recover all
22 overpayments made under s. 49.19, 49.148, 49.155 or 49.157 that have not already
23 been received under s. 49.161 or 49.19 (17) and shall promulgate rules establishing

1 policies and procedures to administer this subsection. The rules shall include
2 notification procedures similar to those established for child support collections.”

3 **3.** Page 38, line 20: after that line insert:

4 “SECTION 121k. 49.26 (1) (h) 1. as. of the statutes is amended to read:

5 49.26 (1) (h) 1. as. The individual has failed to request a hearing or has failed
6 to show good cause for not cooperating with case management efforts in a hearing.
7 The hearing shall be requested and held under s. ~~49.152~~ 49.16. The department shall
8 determine by rule the criteria for good cause.”

9 **4.** Page 438, line 8: after that line insert:

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11 The treatment of sections 49.152 (title), (1), (2), and (3) ~~(title)~~ (a) and (b), 49.195 (3),
12 and 49.26 (1) (h) 1. as. of the statutes first applies to petitions filed under section
13 49.16 (1) of the statutes, as affected by this act, on the effective date of this
14 subsection.”

stat / no change

15 **5.** Page 449, line 5: after that line insert:

16 “(2f) FAIR HEARING PROCESS FOR REVIEW OF WISCONSIN WORKS AGENCY DECISIONS.

17 The treatment of sections 49.152 (title), (1), (2), and (3) ~~(title)~~ (a) and (b), 49.195 (3),
18 and 49.26 (1) (b) 1. as. of the statutes and SECTION 9358 (2f) of this act take effect on
19 the first day of the 7th month beginning after publication.”

(stat) / no change

20

(END)

Insert 1-5

renumbered 49.16 (3)(a)
and

119gj

Section #. 49.152 (3) (a) of the statutes is amended to read:

49.16

~~49.152~~ (3) (a) If, following review under sub. (2), the Wisconsin works agency or the department determines that an individual, ~~whose application for a Wisconsin works employment position was denied based on eligibility, was in fact eligible, or that the individual~~ was placed in an inappropriate Wisconsin works employment position, the Wisconsin works agency shall place the individual in the first available Wisconsin works employment position that is appropriate for that individual, as determined by the Wisconsin works agency or the department. An individual who is placed in a Wisconsin works employment position under this paragraph is eligible for the benefit for that position under s. 49.148 beginning on the date on which the individual begins participation under s. 49.147.

History: 1995 a. 289; 1997 a. 27.
(Ed of mt)

Section 119gj, RN; 49.152 (3) (title);
49.16 (3) (title)



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb3088/2
GMM:jld&kjf:rs

LFB:.....Reinhardt – W-2 dispute resolution

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TO ASSEMBLY BILL 1

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5 **SECTION 119gh.** 49.152 (2) of the statutes is renumbered 49.16 (2).

6 **SECTION 119gi.** 49.152 (3) (title) of the statutes is renumbered 49.16 (3) (title).

7 **SECTION 119gj.** 49.152 (3) (a) of the statutes is renumbered 49.16 (3) (a) and
8 amended to read:

9 49.16 (3) (a) If, following review under sub. (2), the Wisconsin works agency or
10 the department determines that an individual, ~~whose application for a Wisconsin~~

1 works employment position was denied based on eligibility, was in fact eligible, or
2 that the individual was placed in an inappropriate Wisconsin works employment
3 position, the Wisconsin works agency shall place the individual in the first available
4 Wisconsin works employment position that is appropriate for that individual, as
5 determined by the Wisconsin works agency or the department. An individual who
6 is placed in a Wisconsin works employment position under this paragraph is eligible
7 for the benefit for that position under s. 49.148 beginning on the date on which the
8 individual begins participation under s. 49.147.

9 **SECTION 119gk.** 49.152 (3) (b) of the statutes is renumbered 49.16 (3) (b) and
10 amended to read:

11 49.16 (3) (b) If, following review under sub. (2), the Wisconsin works agency or
12 the department determines that an individual's application was not acted upon with
13 reasonable promptness or was improperly denied in whole or in part or that a
14 participant's benefit was improperly modified or canceled, or was calculated
15 incorrectly, the Wisconsin works agency shall restore the benefit to the level
16 determined to be appropriate by the Wisconsin works agency or by the department
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21 **2.** Page 38, line 6: after that line insert:

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23 49.16 (1) of the statutes, as affected by this act, on the effective date of this
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5 the first day of the 7th month beginning after publication.”.

6 **(END)**