

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3682/P1dn

JTK:....pg

August 28, 2001

Michelle Kho:

1. It seems to me that forfeitures imposed under s. 108.04 (11) (c), stats., should already be subject to collection by levy under s. 108.225, stats., because s. 108.225 (1) (a), stats., defines “contributions” to include “...penalties assessed by the department...”, and under s. 108.225 (1) (b), stats., a “debt” includes contributions. Therefore, this draft does not address that issue. Concerning the levy procedure, in s. 108.225 (1) (a), stats., [definition of “contributions”], do you want to include a reference to fees?

2. Concerning the proposed elimination of the benefit offset for social security benefit payments under s. 108.05 (7), stats., the council may wish to consider treating railroad retirement benefit payments analogously because railroad employees who receive railroad retirement benefit payments are ineligible to receive social security benefit payments [42 USC 402 (l)].

3. Under proposed s. 108.19 (3) (a) 2. [temporary reserve appeal tribunals], I have added that any individual who is appointed to serve must be “an attorney who is licensed to practice in this state”. I think this is the equivalent of a good standing requirement, because I assume that lack of good standing would mean that an attorney’s license was suspended or revoked, or had lapsed. If you intended something more, please let me know.

4. Concerning proposed s. 108.14 (2e), relating to electronic interchange, I have inserted a sentence that clarifies the due date for an electronic submission. You can elect something different, but if you intend for this date and time to be anything other than the date and time that would apply to in-person delivery, you probably need to treat this issue in the law. In addition, you may wish to clarify whether this subsection covers payments. You will also probably need to address, either now or later by rule, the effect of a failure or alleged failure of transmission. This is in part a security issue, because with current technology, it is not feasible to make an electronic transmission completely hackproof; partly a technical issue, because of the substantial potential for breakdowns and outages; and partly a fairness issue, because of the potential for technical reasons to be cited as an excuse for an untimely submission. The federal E-Sign law does not treat this issue, but the proposed Uniform Electronic Transactions Act does treat it, albeit in a confusing way. One other issue that you don’t need to deal with here but may need to deal with ultimately is that E-Sign contains some

restrictions on the powers of governments to require the use of or change to non-neutral technology. P.L. 106-229, sec. 104 (2) (C) (iii) and (3) (A).

5. In s. 108.16 (8) (f), stats., I retained language that treats situations in which less than 100% of a transferor's assets are transferred, because that situation can still arise under proposed s. 108.16 (8) (c) 4.

6. This draft includes a blank appropriation increase for the appropriation under s. 20.445 (1) (nb), stats., [Unemployment insurance IT systems development]. You will need to give me the dollar amount, if any, that we need to insert in the blank at some point before the drafting process concludes.

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