

2001 ASSEMBLY BILL 742

January 22, 2002 – Introduced by Representatives HUNDERTMARK and TURNER, cosponsored by Senators HANSEN and A. LASEE. Referred to Committee on Labor and Workforce Development.

1 **AN ACT to repeal** 108.142 (1e), 108.143 and 108.18 (3s); **to amend** 20.445 (1) (nc),
2 108.05 (7) (a) 1., 108.06 (1), 108.06 (1), 108.06 (2) (c), 108.06 (2) (c), 108.06 (2)
3 (cm), 108.06 (2) (cm), 108.06 (6) (intro.), 108.06 (6) (intro.) and 108.161 (3e); **to**
4 **create** 108.142 (1e), 108.143 and 108.18 (3s) of the statutes; and **to affect** 2001
5 Wisconsin Act 35, section 72 (1) (b); **relating to:** temporary supplemental
6 unemployment insurance benefits and certain other changes to the
7 unemployment insurance law.

Analysis by the Legislative Reference Bureau

Currently, under a state program, “Wisconsin supplemental benefits” are provided to certain unemployment insurance claimants who would otherwise not be eligible to receive more than 26 full weeks of benefits in a benefit year (period during which a claimant’s benefits are payable). Under this program, a claimant may potentially receive up to a total of 34 full weeks of benefits based on a benefit year that includes one or more weeks in a Wisconsin supplemental benefit period. A Wisconsin supplemental benefit period occurs when this state’s rate of insured unemployment reaches a specified level. Also currently, under a federal program, “extended benefits” are provided to certain claimants who would otherwise not be eligible to receive more than 26 or 34 full weeks of benefits based on a benefit year. Under this program, a claimant may potentially receive up to a total of 39 full weeks

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of benefits based on a benefit year that includes one or more weeks in an extended benefit period. An extended benefit period occurs when the rate of insured unemployment in the United States or in this state reaches a specified level, which is generally higher than the level required for a Wisconsin supplemental benefit period to occur. In order to receive Wisconsin supplemental benefits or extended benefits, a claimant must have earned a specified amount of wages (or certain amounts treated as wages) during his or her base period (qualifying work period during which benefit rights accrue). The cost of Wisconsin supplemental benefits is paid for entirely by employers in this state. Fifty percent of the cost of extended benefits is funded by federal taxes paid by employers and 50% of the cost of extended benefits is paid for by employers in this state. If an employer is subject to a requirement to pay regular contributions (taxes), which is applicable to all employers except most public, nonprofit, and Indian tribal employers, any costs of Wisconsin supplemental or extended benefits are charged to the individual accounts of the employer or employers of the claimants. If an employer is not subject to a contribution requirement, these costs are charged directly to that employer.

This bill creates a new type of benefits called “temporary supplemental benefits” which are payable to certain claimants who are partially or totally unemployed during the period beginning on March 3, 2002, and ending on December 28, 2002. To be eligible to receive temporary supplemental benefits, a claimant must be partially or totally unemployed at the time that the benefits are claimed, must have received all regular benefits that were potentially payable to the claimant, and must meet other requirements generally imposed upon claimants for regular benefits. Under the bill, temporary supplemental benefits are potentially payable in an amount equal to eight times a claimant’s weekly benefit rate, but may not exceed an amount equal to 50% of the total regular benefits that were potentially payable to a claimant during his or her most recent benefit year. A claimant who meets other requirements need not have earned any specified amounts of wages or other amounts treated as wages in order to receive the full amount of temporary supplemental benefits that is potentially payable to the claimant. The cost of temporary supplemental benefits is paid for by employers in this state. However, the bill provides that if an employer is subject to a contribution requirement the cost is not chargeable to the employer’s individual account but is instead chargeable to the balancing account of the unemployment reserve fund, which is supported by all employers that are subject to a contribution requirement. If an employer is not subject to a contribution requirement, this cost is charged directly to the employer or employers of the claimants.

The bill also provides that Wisconsin supplemental benefits are not payable to any claimant for weeks of unemployment beginning before January 26, 2003. In addition, the bill provides that temporary supplemental benefits are not payable to any claimant for any week in which they would otherwise be payable if the claimant receives extended benefits or other unemployment insurance benefits funded in whole or in part by the federal government for that week or for any other week during the time period that the claimant would otherwise qualify to receive temporary supplemental benefits.

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Currently, contributions are payable by employers under four schedules which establish contribution rates based on an employer's claims (layoff) experience. The schedule that applies for a given year depends on the cash balance in the unemployment reserve fund on June 30 of the preceding year, with higher rates in effect when the balance in the fund is lower. This bill prohibits any change in the contribution schedules from taking effect for the 2003 calendar year regardless of the balance in the unemployment reserve fund on June 30, 2002.

The bill also precludes the council on unemployment insurance and the department of workforce development from recommending to the legislature any reallocation of certain federal financial assistance provided to this state for any purpose other than benefit payments in the 2002 calendar year. In addition, the bill modifies current law to limit the exemption of social security payments from any required offset against unemployment insurance benefit payments to those social security payments that are based in whole or in part on taxes paid by the claimant.

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.** 20.445 (1) (nc) of the statutes is amended to read:

2 20.445 **(1)** (nc) *Unemployment insurance administration; special federal*
3 *moneys.* All moneys received from the federal government under section 903 of the
4 federal Social Security Act, as amended, ~~as authorized by the governor under s.~~
5 ~~16.54,~~ for federal fiscal years 2000, and 2001 and the first \$2,389,107 of the moneys
6 received from the federal government under that act for federal fiscal year 2002, as
7 authorized by the governor under s. 16.54, to be used for administration of
8 unemployment insurance.

9 **SECTION 2.** 108.05 (7) (a) 1. of the statutes, as affected by 2001 Wisconsin Act
10 35, is amended to read:

11 108.05 **(7)** (a) 1. "Pension payment" means a pension, retirement, annuity, or
12 other similar payment made to a claimant, based on the previous work of that
13 claimant, whether or not payable on a periodic basis, from a governmental or other

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1 retirement system maintained or contributed to by an employer from which that
2 claimant has base period wages, other than a payment received under the federal
3 Social Security Act (42 USC 301 et seq.) that is based in whole or in part upon taxes
4 paid by the claimant.

5 **SECTION 3.** 108.06 (1) of the statutes is amended to read:

6 108.06 (1) Except as provided in sub. (6) and ss. 108.141 ~~and~~, 108.142, and
7 108.143, no claimant may receive total benefits based on employment in a base
8 period greater than 26 times the claimant's weekly benefit rate under s. 108.05 (1)
9 or 40% of the claimant's base period wages, whichever is lower. Except as provided
10 in sub. (6) and ss. 108.141 ~~and~~, 108.142, and 108.143, if a claimant's base period
11 wages are reduced or canceled under s. 108.04 (5), ~~(7), (8) (a)~~ or (18), or suspended
12 under s. 108.04 (1) (f), (10) (a), ~~or~~ (17), the claimant may not receive total benefits
13 based on employment in a base period greater than 26 times the claimant's weekly
14 benefit rate under s. 108.05 (1) or 40% of the base period wages not reduced, canceled
15 or suspended which were paid or payable to the claimant, whichever is lower.

16 **SECTION 4.** 108.06 (1) of the statutes, as affected by 2001 Wisconsin Act (this
17 act), is amended to read:

18 108.06 (1) Except as provided in sub. (6) and ss. 108.141, and 108.142, ~~and~~
19 ~~108.143~~, no claimant may receive total benefits based on employment in a base
20 period greater than 26 times the claimant's weekly benefit rate under s. 108.05 (1)
21 or 40% of the claimant's base period wages, whichever is lower. Except as provided
22 in sub. (6) and ss. 108.141, and 108.142, ~~and 108.143~~, if a claimant's base period
23 wages are reduced or canceled under s. 108.04 (5) or (18), or suspended under s.
24 108.04 (1) (f), (10) (a), or (17), the claimant may not receive total benefits based on
25 employment in a base period greater than 26 times the claimant's weekly benefit rate

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1 under s. 108.05 (1) or 40% of the base period wages not reduced, canceled or
2 suspended which were paid or payable to the claimant, whichever is lower.

3 **SECTION 5.** 108.06 (2) (c) of the statutes is amended to read:

4 108.06 (2) (c) No benefits are payable to a claimant for any week of
5 unemployment not occurring during the claimant's benefit year except under ss.
6 108.141 ~~and~~, 108.142, ~~and~~ 108.143.

7 **SECTION 6.** 108.06 (2) (c) of the statutes, as affected by 2001 Wisconsin Act ...
8 (this act), is amended to read:

9 108.06 (2) (c) No benefits are payable to a claimant for any week of
10 unemployment not occurring during the claimant's benefit year except under ss.
11 108.141, and 108.142, ~~and~~ 108.143.

12 **SECTION 7.** 108.06 (2) (cm) of the statutes is amended to read:

13 108.06 (2) (cm) If an employee qualifies to receive benefits using the base period
14 described in s. 108.02 (4) (b), the wages used to compute the employee's benefit
15 entitlement are not available for use in any subsequent benefit computation for the
16 same employee, except under s. 108.141 ~~or~~, 108.142, ~~or~~ 108.143.

17 **SECTION 8.** 108.06 (2) (cm) of the statutes, as affected by 2001 Wisconsin Act
18 (this act), is amended to read:

19 108.06 (2) (cm) If an employee qualifies to receive benefits using the base period
20 described in s. 108.02 (4) (b), the wages used to compute the employee's benefit
21 entitlement are not available for use in any subsequent benefit computation for the
22 same employee, except under s. 108.141, or 108.142, ~~or~~ 108.143.

23 **SECTION 9.** 108.06 (6) (intro.) of the statutes is amended to read:

24 108.06 (6) (intro.) If a claimant has established a benefit year prior to the
25 effective date of any increase in the maximum weekly benefit rate provided under

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1 s. 108.05 (1), the claimant has not exhausted his or her total benefit entitlement
2 under sub. (1) for that benefit year on that effective date, and the claimant was
3 entitled to receive the maximum weekly benefit rate under s. 108.05 (1) that was in
4 effect prior to that effective date, the limitation on the total benefits authorized to
5 be paid to a claimant under sub. (1) does not apply to that claimant in that benefit
6 year. Unless s. 108.141 ~~or~~, 108.142, ~~or 108.143~~ applies, the claimant's remaining
7 benefit entitlement in that benefit year for the period beginning on that effective date
8 shall be computed by:

9 **SECTION 10.** 108.06 (6) (intro.) of the statutes, as affected by 2001 Wisconsin
10 Act (this act), is amended to read:

11 108.06 **(6)** (intro.) If a claimant has established a benefit year prior to the
12 effective date of any increase in the maximum weekly benefit rate provided under
13 s. 108.05 (1), the claimant has not exhausted his or her total benefit entitlement
14 under sub. (1) for that benefit year on that effective date, and the claimant was
15 entitled to receive the maximum weekly benefit rate under s. 108.05 (1) that was in
16 effect prior to that effective date, the limitation on the total benefits authorized to
17 be paid to a claimant under sub. (1) does not apply to that claimant in that benefit
18 year. Unless s. 108.141, or 108.142, ~~or 108.143~~ applies, the claimant's remaining
19 benefit entitlement in that benefit year for the period beginning on that effective date
20 shall be computed by:

21 **SECTION 11.** 108.142 (1e) of the statutes is created to read:

22 108.142 **(1e)** SUSPENSION. No Wisconsin supplemental benefits may be paid for
23 any week of unemployment beginning earlier than January 26, 2003.

24 **SECTION 12.** 108.142 (1e) of the statutes, as created by 2001 Wisconsin Act
25 (this act), is repealed.

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1 **SECTION 13.** 108.143 of the statutes is created to read:

2 **108.143 Temporary supplemental benefits. (1) DEFINITIONS.** In this
3 section:

4 (a) “Eligibility period” means the period consisting of the weeks in an
5 individual’s benefit year that begin in a temporary supplemental benefit period and,
6 if an individual’s benefit year ends within a temporary supplemental benefit period,
7 any week thereafter that begins in a temporary supplemental benefit period in which
8 an individual would have remaining benefit entitlement under this section if the
9 week had begun in the individual’s benefit year.

10 (b) “Exhaustee” means an individual who, with respect to any week of
11 unemployment in his or her eligibility period:

12 1. Has received, prior to that week, in his or her benefit year which includes
13 that week, all of the regular benefits that were potentially payable to that individual
14 under state or federal law, including dependents’ allowances, or is precluded from
15 receiving regular benefits by reason of the law of another state which meets the
16 requirement of 26 USC 3304 (a) (7);

17 2. Lacks sufficient base period wages under s. 108.04 (4) (a) or employment or
18 other work under s. 108.04 (4) (c) to establish a benefit year under s. 108.06
19 subsequent to a benefit year which expired prior to that week, and in the temporary
20 supplemental benefit period which includes that week;

21 3. Has no right to unemployment assistance under the Railroad
22 Unemployment Insurance Act or other federal laws as are specified in regulations
23 of the federal department of labor, and has not received and is not applying for
24 unemployment insurance under the laws of Canada, unless the individual is

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1 applying for that insurance and the appropriate Canadian agency finally determines
2 that he or she is not entitled to that insurance; and

3 4. Is not eligible to receive for that week and was not eligible to receive for any
4 earlier week in his or her eligibility period extended benefits under s. 108.141 or
5 other supplemental unemployment assistance funded in whole or in part by the
6 federal government that is determined by the secretary of workforce development to
7 serve as an unemployment insurance benefit program.

8 (c) “Regular benefits” means unemployment insurance benefits payable to an
9 individual under state law or federal law, including benefits payable to federal
10 civilian employees and to ex-servicemen under 5 USC ch. 85, other than extended
11 benefits under s. 108.141, federal supplemental compensation, and Wisconsin
12 supplemental benefits under s. 108.142.

13 (d) “State law” means the unemployment insurance law of any state, approved
14 by the federal secretary of labor under 26 USC 3304.

15 (e) “Temporary supplemental benefit period” means the period beginning on
16 March 3, 2002, and ending on December 28, 2002.

17 (f) “Temporary supplemental benefits” means benefits payable to an individual
18 under this section for weeks of unemployment in his or her eligibility period.

19 **(2)** ELIGIBILITY REQUIREMENTS FOR TEMPORARY SUPPLEMENTAL BENEFITS. An
20 individual is eligible to receive temporary supplemental benefits for any week of
21 unemployment beginning on or after March 3, 2002, and ending on or before
22 December 28, 2002, if:

23 (a) That week is in the individual’s eligibility period;

24 (b) The individual established a benefit year which began on or after March 11,
25 2001;

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1 (c) The individual is an exhaustee; and

2 (d) The individual is not disqualified and has satisfied the other requirements
3 of this chapter for the payment of regular benefits.

4 **(3) RECEIPT OF REGULAR BENEFITS.** For purposes of this section, an individual
5 is considered to have received all regular benefits that were available to the
6 individual in his or her benefit year which includes any week of unemployment in
7 his or her eligibility period notwithstanding that:

8 (a) The individual may subsequently be determined to be entitled to additional
9 regular benefits as a result of a pending appeal under s. 108.09 or 108.10 which were
10 not included in the determination or decision under appeal; or

11 (b) The individual is precluded from receiving regular benefits by reason of a
12 seasonal limitation in the law of another state.

13 **(4) WEEKLY TEMPORARY SUPPLEMENTAL BENEFIT RATE.** The weekly temporary
14 supplemental benefit rate payable to a claimant for a week of total unemployment
15 is the same as the rate payable to the claimant for regular benefits during his or her
16 most recent benefit year as determined under s. 108.05 (1). No subsequent
17 adjustment of the benefit rates in the schedules under s. 108.05 (1) applies to benefits
18 payable under this section.

19 **(5) MAXIMUM TEMPORARY SUPPLEMENTAL BENEFIT ENTITLEMENT.** No claimant may
20 receive total temporary supplemental benefits greater than the lesser of:

21 (a) Fifty percent of the amount of regular benefits that were payable to the
22 claimant in the claimant's most recent benefit year, rounded down to the nearest
23 dollar; or

24 (b) Eight times the claimant's weekly temporary supplemental benefit rate.

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1 **(6) EFFECT OF OTHER PROVISIONS OF THIS CHAPTER.** The provisions of this chapter
2 which apply to claims for, or the payment of, regular benefits apply to claims for, and
3 the payment of, temporary supplemental benefits, except when the result would be
4 inconsistent with other provisions of this chapter.

5 **(7) CHARGES OF BENEFITS.** The department shall charge to the fund's balancing
6 account the cost of temporary supplemental benefits paid to a claimant that are
7 otherwise chargeable to the account of an employer that is subject to the contribution
8 requirements of ss. 108.17 and 108.18. The department shall charge the cost of
9 temporary supplemental benefits based upon employment by an employer that is not
10 subject to the contribution requirements of ss. 108.17 and 108.18 in accordance with
11 s. 108.07 (5).

12 **SECTION 14.** 108.143 of the statutes, as created by 2001 Wisconsin Act (this
13 act), is repealed.

14 **SECTION 15.** 108.161 (3e) of the statutes is amended to read:

15 108.161 **(3e)** Notwithstanding sub. (3), any moneys allocated under section 903
16 of the federal Social Security Act, as amended, for federal fiscal years 2000, and 2001
17 and the first \$2,389,107 of any distribution received by this state under section 903
18 of that act in federal fiscal year 2002 shall be used solely for unemployment
19 insurance administration.

20 **SECTION 16.** 108.18 (3s) of the statutes is created to read:

21 108.18 **(3s)** **SUSPENSION OF SCHEDULE CHANGES.** Notwithstanding sub. (3m), the
22 schedule in effect under sub. (3m) for the 2003 calendar year is the same schedule
23 that was in effect under sub. (3m) for the 2002 calendar year.

24 **SECTION 17.** 108.18 (3s) of the statutes, as created by 2001 Wisconsin Act
25 (this act), is repealed.

