



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3070/P1

JTK:cs:rs

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Stays

TODAY if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(regenerate)

1 AN ACT *to repeal* 108.04 (13) (g), 108.17 (2b), 108.17 (2g), 108.205 (4), 108.22 (1)

2 (a) 1. and 2., 108.22 (1) (ac) and 108.22 (1) (ad); *to renumber and amend*

3 108.17 (5), 108.22 (1) (a) (intro.), 108.22 (1) (ac) and 108.22 (1) (ae); *to amend*

4 108.02 (21) (b), 108.04 (7) (k), 108.04 (7) (o), 108.04 (11) (a), 108.04 (11) (bm),

5 108.04 (11) (c), 108.04 (11) (cm), 108.04 (13) (c), 108.04 (13) (e), 108.04 (13) (f),

6 108.05 (3) (a), 108.05 (3) (b) 1. a. to c., 108.05 (3) (c), 108.066 (3) (d), 108.067 (1),

7 108.151 (7) (e), 108.151 (7) (h), 108.16 (6) (f), 108.16 (8) (b) 4., 108.17 (2), 108.17

8 (2b), 108.17 (2b), 108.17 (2b), 108.17 (2g), 108.18 (8), 108.19 (1m), 108.20 (3),

9 108.20 (3), 108.205 (2), 108.205 (2), 108.205 (2), 108.205 (2), 108.22 (1) (a),

10 108.22 (1) (ac) 2., 108.22 (1) (am), 108.22 (1) (am), 108.22 (1) (c) and 108.22 (9);

11 *to repeal and recreate* 108.04 (11) (b); and *to create* 108.02 (15s), 108.02

12 (20m), 108.04 (11) (be), 108.04 (11) (f), 108.05 (3) (d), 108.17 (7), 108.22 (1) (ac)

1 2. and 108.22 (1) (af) of the statutes; **relating to:** various changes in
2 unemployment insurance law.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance law. Significant provisions include:

BENEFIT RATE CHANGES

OTHER BENEFIT CHANGES

Benefit eligibility for claimants receiving wages or other payments

Currently, a claimant is ineligible to receive benefits for a week if the claimant is engaged in employment with an employer in work covered under the unemployment insurance law with an employer from which the claimant received at least 80 percent of his or her weekly wages or certain other payments during his or her base period (qualifying work period) and the claimant works for at least 35 hours in that work or receives certain other payments from that employer that, alone or in combination with wages, are equivalent to wages for at least 35 hours of work. This bill reduces the weekly number of hours of work for which wages or other payments result in ineligibility to 32 hours per week. Currently, a claimant is ineligible to receive benefits for a week in which the claimant works for at least 40 hours in one or more jobs. This bill reduces the weekly number of hours of work that result in ineligibility to 32 hours. Currently, with numerous exceptions, an employee who voluntarily terminates his or her work is ineligible to receive benefits until the employee requalifies by earning a specified amount of wages for performing certain qualified work and a specified period of time elapses following the termination. However, this restriction does not apply under certain conditions if an employee had certain other concurrent or recent work consisting of at least 30 hours per week. This bill increases the weekly number of hours of work that are required to exempt an employee from the requalification requirement to 32 hours per week.

Concealment

Currently, if a claimant conceals any material fact relating to his or her eligibility for benefits or conceals any wages earned in or paid or payable for a given week, the claimant must forfeit not less than 25 percent nor more than 400 percent of the claimant's weekly benefit rate for the week for which the claim is made for an act of concealment that results in no overpayment or an overpayment of less than 50 percent of the claimant's weekly benefit rate; and not less than 100 percent nor more than 400 percent of the claimant's weekly benefit rate for the week in which the claim is made for an act of concealment that results in an overpayment of at least 50 percent of the claimant's weekly benefit rate.

(Not) Currently, if a claimant is partially unemployed in a given week, the claimant may be eligible to receive benefits for that week under a formula that takes into account the amount of wages or certain other benefits that the claimant receives for

that week. ^A This bill provides that if a claimant conceals any wages for a given week, the claimant is ineligible to receive any benefits for that week.

TAX CHANGES

OTHER CHANGES

Reporting and payment requirements and procedures

Currently, with certain exceptions, each employer that has employees who are engaged in employment covered by the unemployment insurance law must file quarterly contribution (tax) and wage reports and make quarterly payment of its contributions to the Department of Workforce Development (DWD). An employer of 50 or more employees or an employer agent that files reports on behalf of any employer must file its reports electronically. This bill phases in an electronic reporting requirement for all employers. Under the bill, by the third quarter of 2010, all employers are required to make wage reports electronically and contribution reports will no longer be required of any employer. The bill directs DWD to bill employers for their quarterly contribution payments due, based upon information provided by the employers in their quarterly wage reports. Each employer must then pay the amount billed.

Currently, there is no requirement or procedure established by law for making electronic payments of contributions. Effective in 2009, this bill requires each employer that makes contributions for any calendar year equal to a total of at least \$10,000 to make all contribution payments electronically in the following year. The bill also requires every employer agent to make contribution payments electronically by the same date. Currently, contribution payments must be received by DWD by the due date or if mailed must be postmarked by their due date or received within three days of their due date. This bill requires all contribution payments to be received by DWD by their due date.

Failure of employers to provide information

Currently, if benefits are erroneously paid because an employer fails to provide correct and complete information on a report to DWD, any benefits that DWD recovers do not affect charges to the employer's account for the cost of those benefits. In addition, prior to June 29, 2008, if benefits are erroneously paid because an employer fails to provide correct and complete information requested by DWD during a fact-finding investigation, but the employer later provides the requested information, then charges to the employer's account for the cost of benefits paid before the end of the week in which a redetermination or a decision of an appeal tribunal (hearing examiner) is issued regarding the matter are not affected by the redetermination or decision unless an appeal tribunal, the labor and industry review commission, or a court finds that the employer had good cause for failing to provide the information. This bill extends the current treatment by DWD of benefits erroneously paid indefinitely.

if a claimant conceals any material fact relating to his or her eligibility for benefits or conceals any wages earned in or paid or payable for a given week, the claimant must forfeit an amount equal to the claimant's weekly benefit rate for the week in which the claim is made for a first offense, the claimant must forfeit an amount equal to three times that rate for a second offense, and the claimant must forfeit all benefits for a period of six years for a third offense. The bill also provides that

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.** 108.02 (15s) of the statutes is created to read:

2 108.02 (15s) FULL-TIME WORK. "Full-time work" means work performed for 32
3 or more hours per week.

4 **SECTION 2.** 108.02 (20m) of the statutes is created to read:

5 108.02 (20m) PART-TIME WORK. "Part-time work" means work performed for
6 less than 32 hours per week.

7 **SECTION 3.** 108.02 (21) (b) of the statutes is amended to read:

8 108.02 (21) (b) Notwithstanding par. (a), except as provided in s. 108.151 (7)
9 (a), an employer's payroll includes only the first \$10,500 of wages paid by an
10 employer to an individual during a calendar year, including any wages paid for any
11 work covered by the unemployment insurance law of any other state, except as
12 authorized in s. ~~108.17(5)~~ 108.205 (3).

13 **SECTION 4.** 108.04 (7) (k) of the statutes is amended to read:

14 108.04 (7) (k) Paragraph (a) does not apply to an employee who terminates his
15 or her part-time work ~~consisting of not more than 30 hours per week~~ if the employee
16 is otherwise eligible to receive benefits because of the loss of the employee's ~~full-time~~
17 employment consisting of at least 32 hours per week and the loss of the ~~full-time~~ that
18 employment makes it economically unfeasible for the employee to continue the
19 part-time work.

20 **SECTION 5.** 108.04 (7) (o) of the statutes is amended to read:

1 108.04 (7) (o) Paragraph (a) does not apply to an employee who terminates his
2 or her work in one of 2 or more concurrently held positions, at least one of which
3 consists of more than 30 hours per week is full-time work, if the employee terminates
4 his or her work before receiving notice of termination from a position which consists
5 of more than 30 hours per week is full-time work.

6 SECTION 6. 108.04 (11) (a) of the statutes is amended to read:

7 108.04 (11) (a) If Except as provided in par. (b), if a claimant, in filing his or her
8 application for benefits or claim for any week, conceals any part of his or her wages
9 earned in or paid or payable for that week, or conceals his or her refusal within that
10 week of a job offer or any other material fact relating to his or her eligibility for
11 benefits, so much of any benefit payment as that was paid erroneously because of
12 such concealment shall be recovered by the department as an overpayment.

13 SECTION 7. 108.04 (11) (b) of the statutes is repealed and recreated to read:

14 108.04 (11) (b) If a claimant, in filing a claim for any week, conceals any of his
15 or her wages earned in or paid or payable for that week, the claimant shall be denied
16 benefits for that week and any benefits paid erroneously because of such
17 concealment shall be recovered by the department as an overpayment.

18 SECTION 8. 108.04 (11) (be) of the statutes is created to read:

19 108.04 (11) (be) A claimant shall forfeit benefits and be disqualified from
20 receiving benefits for acts of concealment described in pars. (a) and (b) as follows:

21 1. A claimant shall forfeit an amount equal to the claimant's weekly benefit rate
22 under s. 108.05 (1) for the week for which the claim is made for each single act of
23 concealment occurring before the first determination of concealment under par. (a)
24 or (b).

1 2. A claimant shall forfeit 3 times the claimant's benefit rate under s. 108.05
2 (1) for the week in which the claim is made for each single act of concealment after
3 the date of the first determination of concealment but prior to the date of the 2nd
4 determination of concealment under par. (a) or (b).

5 3. A claimant is ineligible to receive benefits for a period of 6 years beginning
6 with the week of a 2nd determination of concealment under par. (a) or (b) upon
7 issuance of a 3rd determination of concealment under par. (a) or (b). A claimant shall
8 also forfeit any unpaid benefits otherwise payable as of the date of a 3rd
9 determination of concealment under par. (a) or (b). This subdivision does not
10 preclude a claimant from establishing a benefit year during a period in which the
11 claimant is ineligible to receive benefits under this subdivision if the claimant is
12 eligible to establish a benefit year under s. 108.06 (2) (a).

13 **SECTION 9.** 108.04 (11) (bm) of the statutes is amended to read:

14 108.04 (11) (bm) The forfeiture established under par. ~~(b)~~ (be) may be applied
15 against benefits which would otherwise become payable to the claimant for weeks
16 of unemployment occurring after the week of concealment and within 6 years after
17 the date of an initial determination issued under s. 108.09 finding that a concealment
18 occurred. If no benefit rate applies to the week for which the claim is made, the
19 department shall use the claimant's benefit rate for the claimant's next benefit year
20 beginning after the week of concealment to determine the forfeiture amount. If the
21 benefits forfeited would otherwise be chargeable to an employer's account, the
22 department shall charge the amount of benefits forfeited to the employer's account
23 and shall credit the fund's balancing account for that amount. ~~Any forfeiture amount~~
24 ~~of less than \$1 shall be rounded up to the nearest whole dollar.~~

25 **SECTION 10.** 108.04 (11) (c) of the statutes is amended to read:

1 108.04 (11) (c) Any employing unit that aids and abets a claimant in
2 committing an act of concealment described in par. (a) or (b) may, by a determination
3 issued under s. 108.10, be required, as to each act of concealment the employing unit
4 aids and abets, to forfeit an amount equal to the amount of the benefits the claimant
5 improperly received as a result of the concealment. The amount forfeited shall be
6 credited to the administrative account.

7 **SECTION 11.** 108.04 (11) (cm) of the statutes is amended to read:

8 108.04 (11) (cm) If any person makes a false statement or representation in
9 order to obtain benefits in the name of another person, the benefits received by that
10 person constitute a benefit overpayment. Such person may, by a determination or
11 decision issued under s. 108.095, be required to repay the amount of the benefits
12 obtained and be assessed an administrative assessment in an additional amount
13 equal to ~~not more than 50%~~ of the amount of benefits obtained.

14 **SECTION 12.** 108.04 (11) (f) of the statutes is created to read:

15 108.04 (11) (f) For purposes of this subsection, "conceal" means intentionally
16 ~~mislead or defraud the department by withholding or hiding~~
17 ~~withhold or hide or make a false statement or misrepresentation that is intended to~~
18 ~~mislead or defraud the department.~~

information
or
making

19 **SECTION 13.** 108.04 (13) (c) of the statutes is amended to read:

20 108.04 (13) (c) If an employer, after notice of a benefit claim, fails to file an
21 objection to the claim under s. 108.09 (1), any benefits allowable under any resulting
22 benefit computation shall, unless the department applies a provision of this chapter
23 to disqualify the claimant, be promptly paid. Except as otherwise provided in this
24 paragraph, any eligibility question in objection to the claim raised by the employer
25 after benefit payments to the claimant are commenced does not affect benefits paid
prior to the end of the week in which a determination is issued as to the eligibility

1 question unless the benefits are erroneously paid without fault on the part of the
2 employer. ~~If, during the period beginning on January 1, 2006, and ending on June~~
3 ~~28, 2008, Except as otherwise provided in this paragraph, if an employer fails to~~
4 ~~provide correct and complete information requested by the department during a~~
5 ~~fact-finding investigation, but later provides the requested information, charges to~~
6 ~~the employer's account for benefits paid prior to the end of the week in which a~~
7 ~~redetermination is issued regarding the matter or, if no redetermination is issued,~~
8 ~~prior to the end of the week in which an appeal tribunal decision is issued regarding~~
9 ~~the matter, are not affected by the redetermination or decision, except unless the~~
10 ~~benefits are erroneously paid without fault on the part of the employer as provided~~
11 ~~in par. (g) (f). If benefits are erroneously paid because the employer and the employee~~
12 ~~are at fault, the department shall charge the employer for the benefits and proceed~~
13 ~~to create an overpayment under s. 108.22 (8) (a). If benefits are erroneously paid~~
14 ~~without fault on the part of the employer, regardless of whether the employee is at~~
15 ~~fault, the department shall charge the benefits as provided in par. (d), unless par. (e)~~
16 ~~applies, and proceed to create an overpayment under s. 108.22 (8) (a). If benefits are~~
17 ~~erroneously paid because an employer is at fault and the department recovers the~~
18 ~~benefits erroneously paid under s. 108.22 (8), the recovery does not affect benefit~~
19 ~~charges made under this paragraph.~~

20 **SECTION 14.** 108.04 (13) (e) of the statutes is amended to read:

21 108.04 (13) (e) If the department erroneously pays benefits from one
22 employer's account and a 2nd employer is at fault, the department shall credit the
23 benefits paid to the first employer's account and charge the benefits paid to the 2nd
24 employer's account. Filing of a tardy or corrected report or objection does not affect
25 the 2nd employer's liability for benefits paid prior to the end of the week in which the

1 department makes a recomputation of the benefits allowable or prior to the end of
2 the week in which the department issues a determination concerning any eligibility
3 question raised by the report or by the 2nd employer. If, ~~during the period beginning~~
4 ~~on January 1, 2006, and ending on June 29, 2008,~~ the 2nd employer fails to provide
5 correct and complete information requested by the department during a fact-finding
6 investigation, but later provides the requested information, the department shall
7 charge to the account of the 2nd employer the cost of benefits paid prior to the end
8 of the week in which a redetermination is issued regarding the matter or, if no
9 redetermination is issued, ^{erroneously} prior to the end of the week in which an appeal tribunal
10 unless the benefits are paid without fault on the part of the employer decision is issued regarding the matter, ~~except~~ as provided in par. ~~(g)~~ (f). If the
11 department recovers the benefits erroneously paid under s. 108.22 (8), the recovery
12 does not affect benefit charges made under this paragraph.

13 **SECTION 15.** 108.04 (13) (f) of the statutes is amended to read:

14 108.04 (13) (f) If benefits are erroneously paid because the employer fails to file
15 a report required by this chapter, the employer fails to provide correct and complete
16 information on the report, the employer fails to object to the benefit claim under s.
17 108.09 (1), the employer fails to provide correct and complete information requested
18 by the department during a fact-finding investigation, unless an appeal tribunal,
19 the commission, or a court of competent jurisdiction finds that the employer had good
20 cause for the failure to provide the information, or the employer aids and abets the
21 claimant in an act of concealment as provided in sub. (11), the employer is at fault.
22 If benefits are erroneously paid because an employee commits an act of concealment
23 as provided in sub. (11) or fails to provide correct and complete information to the
24 department, the employee is at fault.

25 **SECTION 16.** 108.04 (13) (g) of the statutes is repealed.

1 **SECTION 17.** 108.05 (3) (a) of the statutes is amended to read:

2 108.05 (3) (a) Except as provided in pars. (b) ~~and~~, (c), and (d), if an eligible
3 employee earns wages in a given week, the first \$30 of the wages shall be disregarded
4 and the employee's applicable weekly benefit payment shall be reduced by 67% of the
5 remaining amount, except that no such employee is eligible for benefits if the
6 employee's benefit payment would be less than \$5 for any week. For purposes of this
7 paragraph, "wages" includes any salary reduction amounts earned that are not
8 wages and that are deducted from the salary of a claimant by an employer pursuant
9 to a salary reduction agreement under a cafeteria plan, within the meaning of 26
10 USC 125, and any amount that a claimant would have earned in available work
11 which is treated as wages under s. 108.04 (1) (a), but excludes any amount that a
12 claimant earns for services performed as a volunteer fire fighter, volunteer
13 emergency medical technician, or volunteer first responder. In applying this
14 paragraph, the department shall disregard discrepancies of less than \$2 between
15 wages reported by employees and employers.

16 **SECTION 18.** 108.05 (3) (b) 1. a. to c. of the statutes are amended to read:

17 108.05 (3) (b) 1. a. The claimant ~~works~~ is engaged in full-time work for that
18 employer ~~at least 35 hours~~ in that week at the same or a greater rate of pay, excluding
19 bonuses, incentives, overtime or any other supplement to the earnings, as the
20 claimant was paid by that employer in that quarter of the claimant's base period in
21 which the claimant was paid his or her highest wages;

22 b. The claimant receives from that employer sick pay, holiday pay, vacation pay
23 or termination pay which, by itself or in combination with wages earned for work
24 performed in that week for that employer, is at least equivalent to pay for ~~at least 35~~
25 ~~hours of full-time work~~ at that same or a greater rate of pay; or

1 c. The amount that the claimant would have earned within that week from that
2 employer in available work which is treated as wages under s. 108.04 (1) (a), by itself
3 or in combination with the wages earned for work performed in that week for that
4 employer and the pay received under subd. 1. b., is at least equivalent to pay for at
5 least 35 hours of full-time work at that same or a greater rate of pay.

6 **SECTION 19.** 108.05 (3) (c) of the statutes is amended to read:

7 108.05 (3) (c) A claimant is ineligible to receive any benefits for a week in which
8 the claimant ~~works a total of 40 or more hours~~ is engaged in full-time work for one
9 or more employing units.

10 **SECTION 20.** 108.05 (3) (d) of the statutes is created to read:

11 108.05 (3) (d) A claimant is ineligible to receive benefits for any week in which
12 the claimant conceals wages as provided in s. 108.04 (11) (b).

13 **SECTION 21.** 108.066 (3) (d) of the statutes is amended to read:

14 108.066 (3) (d) The employer is not delinquent, at the time of designation, in
15 making any contribution ~~report or~~ payment required under this chapter.

16 **SECTION 22.** 108.067 (1) of the statutes is amended to read:

17 108.067 (1) Each professional employer organization that enters into an
18 employee leasing agreement with a client during any calendar quarter shall submit
19 to the department, no later than the due date for ~~the report~~ payment of contributions
20 under s. 108.17 (2) relating to that quarter, in the form prescribed by the department,
21 a report disclosing the identity of that client and such other information as the
22 department prescribes.

23 **SECTION 23.** 108.151 (7) (e) of the statutes is amended to read:

24 108.151 (7) (e) Except as provided in par. (f), the rate of each employer's
25 assessment under this subsection for any calendar year is the product of the rate

1 determined under par. (d) multiplied by the employer's payroll for the preceding
2 calendar year, as reported by the employer under sub. (8) or s. 108.15 (8), 108.152 (7),
3 or ~~108.17 (2)~~ 108.205 (1) or, in the absence of reports, as estimated by the department.

4 **SECTION 24.** 108.151 (7) (h) of the statutes is amended to read:

5 108.151 (7) (h) If the payroll of an employer for any quarter is adjusted to
6 decrease the amount of the payroll after ~~a contribution report~~ for the employer is filed
7 pays contributions on that payroll under s. 108.17 (2), the department shall refund
8 any assessment that is overpaid by the employer under this subsection as a result
9 of the adjustment.

10 **SECTION 25.** 108.16 (6) (f) of the statutes is amended to read:

11 108.16 (6) (f) Any amount available for such crediting under s. 108.04 (11) ~~(b)~~
12 (be), 108.14 (8n) (e) or 108.141.

13 **SECTION 26.** 108.16 (8) (b) 4. of the statutes is amended to read:

14 108.16 (8) (b) 4. The department has received a written application from the
15 transferee requesting that it be deemed a successor. Such application must be
16 received by the department on or before the contribution ~~report~~ and payment due
17 date for the first full quarter following the date of transfer.

18 **SECTION 27.** 108.17 (2) of the statutes is amended to read:

19 108.17 (2) ~~Every~~ The department shall provide written or electronic notice to
20 each employer that is subject to a contribution requirement of the amount of
21 contributions due for payment under s. 108.18 no later than the 15th day following
22 the end of each calendar quarter. Each employer that is subject to a contribution
23 requirement shall ~~file quarterly reports of contributions required under this chapter~~
24 ~~with the department, and pay contributions to the department, in the amount~~
25 specified in the notice in such manner as the department prescribes. Each

1 contribution report and payment is due at the close of the month next following the
2 end of the applicable calendar quarter, except as authorized in sub. (2c) or as the
3 department may assign a later due date pursuant to sub. (1m) or general department
4 rules.

5 **SECTION 28.** 108.17 (2b) of the statutes is amended to read:

6 108.17 (2b) The department shall prescribe a form and methodology for filing
7 contribution reports under sub. (2) electronically using the Internet. Each employer
8 of 50 or more employees, as determined under s. 108.22 (1) (ae), that does not use an
9 employer agent to file its contribution reports under this section shall file its
10 contribution reports electronically using the Internet on the form prescribed by the
11 department. Each employer that becomes subject to the reporting requirements
12 under this section after June 30, 2008, shall file its contribution reports
13 electronically using the Internet on a form prescribed by the department. Once an
14 employer becomes subject to the reporting requirements under this subsection, it
15 shall continue to file its reports under this subsection unless that requirement is
16 waived by the department.

17 **SECTION 29.** 108.17 (2b) of the statutes, as affected by 2007 Wisconsin Act ...

18 (this act), section 28, is amended to read:

19 108.17 (2b) The department shall prescribe a form and methodology for filing
20 contribution reports under sub. (2) electronically using the Internet. Each employer
21 of 50 10 or more employees, as determined under s. 108.22 (1) (ae), ^{108.205(4)} that does not use
22 an employer agent to file its contribution reports under this section shall file its
23 contribution reports electronically using the Internet on the form prescribed by the
24 department. Each employer that becomes subject to the reporting requirements
25 under this section after June 30, 2008, shall file its contribution reports

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1 electronically using the Internet on a form prescribed by the department. Once an
 2 employer becomes subject to the reporting requirements under this subsection, it
 3 shall continue to file its reports under this subsection unless that requirement is
 4 waived by the department.

5 **SECTION 30.** 108.17 (2b) of the statutes, as affected by 2007 Wisconsin Act ...
 6 (this act), section 29, is amended to read:

7 108.17 (2b) The department shall prescribe a form and methodology for filing
 8 contribution reports under sub. (2) electronically using the Internet. Each employer
 9 of ~~10~~ 4 or more employees, as determined under s. ~~108.22(1)(a)~~ ^{108.205(4)} that does not use
 10 an employer agent to file its contribution reports under this section shall file its
 11 contribution reports electronically using the Internet on the form prescribed by the
 12 department. Each employer that becomes subject to the reporting requirements
 13 under this subsection after June 30, 2008, shall file its contribution reports
 14 electronically using the Internet on a form prescribed by the department. Once an
 15 employer becomes subject to the reporting requirements under this subsection, it
 16 shall continue to file its reports under this subsection unless that requirement is
 17 waived by the department.

18 **SECTION 31.** 108.17 (2b) of the statutes, as affected by 2007 Wisconsin Act ...
 19 (this act), section 30, is repealed. *create autoref L*

20 **SECTION 32.** 108.17 (2g) of the statutes is amended to read:

21 108.17 (2g) An employer agent that prepares reports under sub. (2) on behalf
 22 of ~~less than 25~~ 10 ^{however} employers shall file those reports electronically using the Internet
 23 on the form prescribed by the department under sub. (2b). An employer agent that
 24 prepares reports under sub. (2) on behalf of ~~25~~ 10 or more employers shall file those
 25 reports using an electronic medium and format approved by the department. An

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1 employer agent that becomes subject to the reporting requirement under this
2 subsection shall file its initial reports under this subsection for the 4th quarter
3 beginning after the quarter in which the employer agent becomes subject to the
4 reporting requirement. Once an employer agent becomes subject to the reporting
5 requirement under this subsection, the employer agent shall continue to file its
6 reports under this subsection unless that requirement is waived by the department.

7 **SECTION 33.** 108.17 (2g) of the statutes, as affected by 2007 Wisconsin Act ...
8 (this act), is repealed.

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9 **SECTION 34.** 108.17 (5) of the statutes is renumbered 108.205 (3) and amended
10 to read:

11 108.205 (3) Upon application of an employer, the department may permit
12 employers ~~which~~ that are component members of a controlled group of corporations
13 under 26 USC 1563 to combine wages of a single employee for purposes of
14 determining the employers' payroll under s. 108.02 (21) (b) if the employee is subject
15 to transfer between the employers under the terms of a single collective bargaining
16 agreement. The application shall specify the calendar year in which the combination
17 is proposed to occur. This subsection does not apply to any employer for which the
18 department has written off overdrafts under s. 108.16 (7) (c) within the 2 calendar
19 years preceding the year in which the combination is proposed to occur, nor to any
20 employer whose account is overdrawn by 6% or more on the computation date for the
21 calendar year preceding the year in which the combination is proposed to occur. If
22 the department approves the application, the department shall specify the calendar
23 year in which the combination is effective and the method by which the component
24 members will report the payroll of the employee to the department under this
25 section.

1 **SECTION 35.** 108.17 (7) of the statutes is created to read:

2 108.17 (7) (a) In this subsection, "electronic funds transfer" means any transfer
3 of moneys initiated through a telephone, terminal, or computer that authorizes a
4 financial institution to debit an account and transfer the moneys debited to another
5 account.

6 (b) Each employer whose net total contributions under this section for any year
7 are at least \$10,000 shall make all contributions under this section by means of
8 electronic funds transfer.

9 (c) Each employer agent shall make pay all contributions under this section on
10 behalf of each employer that is represented by the agent by means of electronic funds
11 transfer.

12 **SECTION 36.** 108.18 (8) of the statutes is amended to read:

13 108.18 (8) SOLVENCY CONTRIBUTIONS. Each employer's solvency contribution for
14 each period of a calendar year ~~quarter~~ ^{of any year} shall be figured by applying the solvency rate
15 determined for that year under sub. (9) to the employer's payroll for that period
16 quarter, and shall be payable to the fund's balancing account by the ~~due date of its~~
17 contribution report due date for payment of contributions by the employer for that
18 quarter.

19 **SECTION 37.** 108.19 (1m) of the statutes is amended to read:

20 108.19 (1m) Each employer subject to this chapter as of the date a rate is
21 established under this subsection shall pay an assessment to the administrative
22 account at a rate established by the department sufficient to pay interest due on
23 advances from the federal unemployment account under title XII of the social
24 security act (42 USC 1321 to 1324). The rate established by the department for
25 employers who finance benefits under s. 108.15 (2), 108.151 (2), or 108.152 (1) shall

1 be 75% of the rate established for other employers. The amount of any employer's
2 assessment shall be the product of the rate established for that employer multiplied
3 by the employer's payroll of the previous calendar year as taken from quarterly
4 ~~contribution wage and employment~~ reports filed by the employer under s. 108.205
5 (1) or, in the absence of the filing of such reports, estimates made by the department.
6 Each assessment made under this subsection is due on the 30th day commencing
7 after the date on which notice of the assessment is mailed by the department. If the
8 amounts collected under this subsection are in excess of the amounts needed to pay
9 interest due, the amounts shall be retained in the administrative account and
10 utilized for the purposes specified in s. 108.20 (2m).

11 **SECTION 38.** 108.20 (3) of the statutes is amended to read:

12 108.20 (3) There shall be included in the moneys governed by sub. (2m) any
13 amounts collected by the department under ss. 108.04 (11) (c) and (cm) and 108.22
14 (1) (a), (ac), and (ad), and (af) as tardy filing fees, forfeitures, interest on delinquent
15 payments, or other penalties and any excess moneys collected under s. 108.19 (1m).

16 **SECTION 39.** 108.20 (3) of the statutes, as affected by 2007 Wisconsin Act
17 (this act), is amended to read:

18 108.20 (3) There shall be included in the moneys governed by sub. (2m) any
19 amounts collected by the department under ss. 108.04 (11) (c) and (cm) and 108.22
20 (1) (a), ~~(ae), (ad)~~, and (af) as tardy filing fees, forfeitures, interest on delinquent
21 payments, or other penalties and any excess moneys collected under s. 108.19 (1m).

22 **SECTION 40.** ~~108.205 (2) of the statutes is amended to read:~~

23 108.205 (2) All employers of 50 or more employees, as determined under s.
24 108.22 (1) (ae), that do not use an employer agent to file their reports under this
25 section shall file the quarterly report under sub. (1) using an electronic medium

1 approved by the department for such employers. Each employer that becomes
 2 subject to the reporting requirement under this subsection after June 30, 2008, shall
 3 file the quarterly report under sub. (1) using an electronic medium approved by the
 4 department. An employer that becomes subject to the reporting requirement under
 5 this subsection shall file its initial report under this subsection for the 4th quarter
 6 beginning after the quarter in which the employer becomes subject to the reporting
 7 requirement. Once an employer becomes subject to the reporting requirement under
 8 this subsection, the employer shall continue to file its quarterly reports under this
 9 subsection unless that requirement is waived by the department.

10 SECTION 41. 108.205 (2) of the statutes, as affected by 2007 Wisconsin Act

11 (this act), section 40, is amended to read:

12 108.205 (2) All employers of 50 ^{Score comma}10 or more employees, as determined under s.
 13 108.22 (1) ^{Struck comma}(ae) sub. (4), ^{and that became subject to a reporting requirement under} that do not use an employer agent to file their reports under
 14 this section shall file the quarterly report under sub. (1) using an electronic medium
 15 approved by the department. ^{for such employers} Each employer that becomes subject to the reporting
 16 requirement under this ^{score period} subsection after June 30, 2008, shall file the quarterly report
 17 under sub. (1) using an electronic medium approved by the department. ^{PLAIN PERIOD} An employer
 18 that becomes subject to the reporting requirement under this subsection shall file its
 19 initial report under this subsection for the 4th quarter beginning after the quarter
 20 in which the employer becomes subject to the reporting requirement. Once an
 21 employer becomes subject to the reporting requirement under this subsection, the
 22 employer shall continue to file its quarterly reports under this subsection unless that
 23 requirement is waived by the department.

24 SECTION 42. 108.205 (2) of the statutes, as affected by 2007 Wisconsin Act

25 (this act), section 41, is amended to read:

Handwritten notes:
 this section before July 1, 2008

1 108.205 (2) All employers of ~~10~~ ⁴ or more employees, as determined under sub.
 2 (4), ~~that do not use an employer agent to file their reports under this section~~ ^{and that became subject to a reporting requirement under this section} shall file
 3 the quarterly report under sub. (1) using an electronic medium approved by the
 4 department. Each employer that becomes subject to the reporting requirement
 5 under this ~~sub~~ ^{section} after June 30, 2008, shall file the quarterly report under sub.
 6 (1) using an electronic medium approved by the department. An employer that
 7 becomes subject to the reporting requirement under this subsection shall file its
 8 initial report under this subsection for the 4th quarter beginning after the quarter
 9 in which the employer becomes subject to the reporting requirement. Once an
 10 employer becomes subject to the reporting requirement under this subsection, the
 11 employer shall continue to file its quarterly reports under this subsection unless that
 12 requirement is waived by the department.

Section before July 1, 2008

13 SECTION 43. 108.205 (2) of the statutes, as affected by 2007 Wisconsin Act
 14 (this act), section 42, is amended to read:

15 108.205 (2) All employers of ~~4 or more employees, as determined under sub.~~ ^{the}
 16 ~~(4), that do not use an employer agent to file their reports under this section~~ ^{and that became subject to a reporting requirement under this subsection} ~~Each~~ ^{before}
 17 employer shall file ~~the~~ ^{its} quarterly ~~report~~ ^{reports} under sub. (1) using an electronic medium
 18 approved by the department. ~~Each employer that becomes subject to the reporting~~
 19 requirement under this ~~sub~~ ^{section} after June 30, 2008, shall file the quarterly report
 20 under sub. (1) using an electronic medium approved by the department. ~~An employer~~
 21 ~~that becomes subject to the reporting requirement under this subsection shall file its~~
 22 initial report under this subsection for the 4th quarter beginning after the quarter
 23 in which the employer becomes subject to the reporting requirement. ~~Once an~~
 24 employer becomes subject to the reporting requirement under this subsection, the

July 1, 2008

1 employer shall continue to file its quarterly reports under this subsection unless that
 2 requirement is waived by the department.

3 SECTION 44. 108.205 (4) of the statutes, as affected by 2007 Wisconsin Act
 4 (this act), is repealed.

5 SECTION 45. 108.22 (1) (a) (intro.) of the statutes is renumbered 108.22 (1) (a)
 6 and amended to read:

7 108.22 (1) (a) If any employer, other than an employer which has ceased
 8 business and has not paid or incurred a liability to pay wages in any quarter
 9 following the cessation of business, is delinquent in making by the assigned due date
 10 any contribution report, or other report or payment to the department required of it
 11 under this chapter except a quarterly report under s. 108.205 or a voluntary
 12 contribution, the employer shall pay interest on any delinquent payment at the rate
 13 of one percent per month or fraction thereof from the date such payment became due.
 14 If any such employer is delinquent in making any quarterly report under s. 108.205
 15 by the assigned due date, the employer shall pay a tardy filing fee of \$50 for each
 16 delinquent quarterly report as follows:

17 SECTION 46. 108.22 (1) (a) of the statutes, as affected by 2007 Wisconsin Act
 18 (this act), is amended to read:

19 108.22 (1) (a) If any employer, other than an employer which has ceased
 20 business and has not paid or incurred a liability to pay wages in any quarter
 21 following the cessation of business, is delinquent in making by the assigned due date
 22 any contribution report, or other report or payment to the department required of it
 23 under this chapter except a quarterly report under s. 108.205 or a voluntary
 24 contribution, the employer shall pay interest on any delinquent payment at the rate
 25 of one percent per month or fraction thereof from the date such payment became due.

strike period

department's reports
 electronic
 in this subsection

1 If any such employer is delinquent in making any quarterly report under s. 108.205
2 by the assigned due date, the employer shall pay a tardy filing fee of \$50 for each
3 delinquent quarterly report.

4 **SECTION 47.** 108.22 (1) (a) 1. and 2. of the statutes are repealed.

5 **SECTION 48.** 108.22 (1) (ac) of the statutes is renumbered 108.22 (1) (ac) 1. and
6 amended to read:

7 108.22 (1) (ac) 1. In Except as provided in subd. 2., in addition to any fee
8 assessed under par. (a), the department may assess an employer or employer agent
9 that is subject to the reporting requirement under s. 108.205 (2) and that fails to file
10 its report in a format prescribed under that subsection a penalty of \$10 for each
11 employee whose information is not reported in a format prescribed under s. 108.205
12 (1m) (b) or (2).

13 **SECTION 49.** 108.22 (1) (ac) of the statutes, as affected by 2007 Wisconsin Act
14 (this act), is repealed.

15 **SECTION 50.** 108.22 (1) (ac) 2. of the statutes is created to read:

16 108.22 (1) (ac) 2. In addition to any fee assessed under par. (a), the department
17 may assess any employer of 10 or more employees, any employer that becomes
18 subject to a reporting requirement under s. 108.17 (2) or 108.205 (2) after June 30,
19 2008, or any employer agent that fails to file its report in a format prescribed under
20 s. 108.17 (2b) or (2g) or 108.205 (1m) (b) or (2) a penalty of \$15 for each employee
21 whose information is not reported in a format prescribed under s. 108.17 (2b) or (2g)
22 or 108.205 (1m) (b) or (2).

23 **SECTION 51.** 108.22 (1) (ac) 2. of the statutes, as created by 2007 Wisconsin Act
24 (this act), is amended to read:

1 108.22 (1) (ac) 2. In addition to any fee assessed under par. (a), the department
2 may assess any employer of ~~10~~ 4 or more employees, any employer that becomes
3 subject to a reporting requirement under s. 108.17 (2) or 108.205 (2) after June 30,
4 2008, or any employer agent that fails to file its report in a format prescribed under
5 s. 108.17 (2b) or (2g) or 108.205 (1m) (b) or (2) a penalty of ~~\$15~~ \$20 for each employee
6 whose information is not reported in a format prescribed under s. 108.17 (2b) or (2g)
7 or 108.205 (1m) (b) or (2).

8 **SECTION 52.** 108.22 (1) (ad) of the statutes is repealed.

9 **SECTION 53.** 108.22 (1) (ae) of the statutes is renumbered 108.205 (4) and
10 amended to read:

11 108.205 (4) For purposes of ~~par. (a)~~ sub. (2), the number of employees employed
12 by an employer is the total number of employees employed by the employer at any
13 time during the reporting period.

14 **SECTION 54.** 108.22 (1) (af) of the statutes is created to read:

15 108.22 (1) (af) In addition to the fee assessed under par. (a), the department
16 may assess an employer or employer agent that is subject to a requirement to make
17 contributions by means of an electronic funds transfer under s. 108.17 (7) and that
18 pays contributions by any method inconsistent with s. 108.17 (7) a penalty of the
19 greater of \$50 or an amount equal to one-half of one percent of the total contributions
20 paid by the employer or employer agent for the quarter in which the violation occurs.

21 **SECTION 55.** 108.22 (1) (am) of the statutes is amended to read:

22 108.22 (1) (am) The interest, penalties, and tardy filing fees levied under pars.
23 (a), (ac), ~~and (ad)~~, and (af) shall be paid to the department and credited to the
24 administrative account.

1 **SECTION 56.** 108.22 (1) (am) of the statutes, as affected by 2007 Wisconsin Act
2 (this act), is amended to read:

3 108.22 (1) (am) The interest, penalties, and tardy filing fees levied under pars.
4 (a), ~~(ae), (ad)~~, and (af) shall be paid to the department and credited to the
5 administrative account.

6 **SECTION 57.** 108.22 (1) (c) of the statutes is amended to read:

7 108.22 (1) (c) Any report or payment, except a payment required by s. 108.15
8 (5) (b) or 108.151 (5) (f) or (7), to which this subsection applies is delinquent, within
9 the meaning of par. (a), unless it is received by the department, in the form prescribed
10 by law or rule of the department, no later than its due date as determined under par.
11 (b), ~~or if mailed is either postmarked no later than that due date or is received by the~~
12 ~~department no later than 3 days after that due date.~~ Any payment required by s.
13 108.15 (5) (b) or 108.151 (5) (f) or (7) is delinquent, within the meaning of par. (a),
14 unless it is received by the department, in the form prescribed by law, no later than
15 the last day of the month in which it is due.

16 **SECTION 58.** 108.22 (9) of the statutes is amended to read:

17 108.22 (9) An individual who is an officer, employee, member or manager
18 holding at least 20% of the ownership interest of a corporation or of a limited liability
19 company subject to this chapter, and who has control or supervision of or
20 responsibility for ~~filing contribution reports or making payment of contributions,~~
21 and who willfully fails to ~~file such reports or to make such payments to the~~
22 ~~department, or to ensure that such reports are filed or that such payments are made,~~
23 may be found personally liable for such amounts, including interest, tardy payment
24 or filing fees, costs and other fees, in the event that after proper proceedings for the
25 collection of such amounts, as provided in this chapter, the corporation or limited

1 liability company is unable to pay such amounts to the department. Ownership
2 interest of a corporation or limited liability company includes ownership or control,
3 directly or indirectly, by legally enforceable means or otherwise, by the individual,
4 by the individual's spouse or child, by the individual's parent if the individual is
5 under age 18, or by a combination of 2 or more of them, and such ownership interest
6 of a parent corporation or limited liability company of which the corporation or
7 limited liability company unable to pay such amounts is a wholly owned subsidiary.
8 The personal liability of such officer, employee, member or manager as provided in
9 this subsection survives dissolution, reorganization, bankruptcy, receivership,
10 assignment for the benefit of creditors, judicially confirmed extension or
11 composition, or any analogous situation of the corporation or limited liability
12 company and shall be set forth in a determination or decision issued under s. 108.10.

13 **SECTION 59. Initial applicability.**

14 (1) The treatment of sections 108.02 (15s) and (20m), 108.04 (7) (k) and (o), and
15 108.05 (3) (b) 1. a. to c. and (c) ~~(with respect to payment of benefit claims)~~
16 statutes ^{as they pertain to payment of benefit claims} first applies with respect to weeks of unemployment beginning on the
17 effective date of this subsection.

18 (2) The treatment of sections 108.02 (15s) and (20m), 108.04 (7) (k) and (o), and
19 108.05 (3) (b) 1. a. to c. and (c) of the statutes ~~(with respect to adjudication of benefit~~
20 ~~eligibility)~~ ^{as they pertain to adjudication of benefit claims} first applies with respect to determinations issued under section 108.09
21 of the statutes on the effective date of this subsection or, with respect to
22 determinations that are appealed, to decisions issued under section 108.09 of the
23 statutes on the effective date of this subsection.

24 (3) The treatment of sections 108.02 (21) (b), 108.066 (3) (d), 108.067 (1),
25 108.151 (7) (e) and (h), 108.16 (8) (b) 4., 108.17 (2) and (5), 108.18 (8), 108.19 (1m),

1 108.20 (3) (by SECTION 39), and 108.22 (1) (a) (by SECTION 46), (ad), and (am) (by
2 SECTION 56) and (9) of the statutes and the repeal of sections 108.17 (2b) and (2g),
3 108.205 (4), and 108.22 (1) (ac) of the statutes first apply with respect to
4 contributions payable for the 3rd calendar quarter of 2010.

5 (4) The treatment of sections 108.04 (11) (a), (b), (be), (bm), (c), (cm), and (f),
6 108.05 (3) (a) and (d), and 108.16 (6) (f) of the statutes first applies with respect to
7 determinations issued under section 108.09 of the statutes on the effective date of
8 this subsection or, with respect to determinations that are appealed, to decisions
9 issued under section 108.09 of the statutes on the effective date of this subsection.

10 (5) The treatment of sections 108.17 (2b) (by SECTION 29) and (2g) (by SECTION
11 32), 108.205 (2) (by SECTION 41), and 108.22 (1) (ae) of the statutes first applies with
12 respect to reports required to be filed for the 3rd quarter of 2008.

13 (6) The treatment of sections 108.17 (2b) (by SECTION 30) and 108.205 (2) (by
14 SECTION 42) of the statutes first applies with respect to reports required to be filed
15 for the 3rd quarter of 2009.

16 (7) The treatment of sections 108.17 (7), 108.20 (3) (by SECTION 38), and 108.22
17 (1) (am) (by SECTION 55), (af), and (c) of the statutes first applies with respect to
18 contributions payable during the first quarter of 2009.

19 (8) The treatment of section 108.205 (2) (by SECTION 43) of the statutes first
20 applies with respect to reports required to be filed for the 3rd quarter of 2010.

21 (9) The renumbering and amendment of section 108.22 (1) (a) (intro.) of the
22 statutes and the repeal of section 108.22 (1) (a) 1. and 2. of the statutes first apply
23 with respect to reports required to be filed for the 3rd quarter of 2008.

24 (10) The creation of section 108.22 (1) (ac) 2. of the statutes first applies with
25 respect to reports required to be filed for the 3rd quarter of 2008.

renumbering and amendment of section 108.22 (1)(ac) of the statutes and the

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P. 21

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3070/P2ins
JTK.....

INS 15-6:

create autoref M
EXTRACT
use autoref L from p. 14

SECTION 1. 108.17 (2g) of the statutes, as affected by 2007 Wisconsin Act(this act), section (32), is amended to read:

restore to plain
striking stays

108.17 (2g) An employer agent that prepares reports under sub. (2) on behalf of less than ~~10~~ 4 ~~or more~~ employers shall file those reports electronically using the Internet on the form prescribed by the department under sub. (2b). An employer agent that prepares reports under sub. (2) on behalf of ~~25~~ 4 or more employers shall file those reports using an electronic medium and format approved by the department. An employer agent that becomes subject to the reporting requirement under this subsection shall file its initial reports under this subsection for the 4th quarter beginning after the quarter in which the employer agent becomes subject to the reporting requirement. Once an employer agent becomes subject to the reporting requirement under this subsection, the employer agent shall continue to file its reports under this subsection unless that requirement is waived by the department.

History: 1973 c. 247; 1981 c. 36; 1985 a. 29; 1987 a. 38 ss. 112, 134; 1989 a. 77; 1991 a. 89; 1993 a. 492; 2001 a. 35; 2005 a. 86.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3070/P2dn

JTK:.....

JTK
gjs

Dan LaRocque:

1. This draft contains changes that respond to the editor's questions and comments, which I believe are consistent with your intent.
2. The definition of "full-time work" in proposed s. 108.02 (15s) affects the usage of that term (currently undefined) in s. 108.04 (7) (cm), stats., which relates to an exception to the quit disqualification provided that an employee remains able and available for certain full-time work. I assume that the new definition is consistent with the current interpretation of this paragraph.
3. The editor correctly points out that the definition of "conceal" in proposed s. 108.04 (11) (f) likely does not quite achieve your intent structurally. Although I originally tried to track your language, I have now changed it to resolve this issue. Let me know if you see a problem with the change.
4. Concerning the failure of employers to provide information, the transfer of language from s. 108.04 (13) (g), stats., to s. 108.04 (13) (f), stats., means that under s. 108.22 (8) (c) 1. a., stats., the department must waive benefit recovery if an employer fails without good cause to provide certain information during a fact-finding investigation. I assume this is consistent with your intent.

6. Concerning the initial applicability for the concealment changes under SECTION 59 (4), pegging the phase in to determinations or appeals seems to potentially permit offenders who commit offenses on an earlier date to be punished more severely than similarly situated offenders who commit their offenses on an earlier date. I am wondering if we would not be better off pegging the phase in to "acts of concealment".

similarly

I know we have used this timing in the past, but

a later

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

*LPS:
please
adjust
these
numbers*

Section 59(4) in the rough draft please ask me if you have questions. JTK

the numbering of the section that appears as

reflect any change in the numbering of the section that appears as

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

LRB-3070/P2dni
JTK.....

For S dni

5. Concerning the treatment of s. 108.205 (2), stats., which relates to wage reporting, the instructions specify that all new employers whose accounts are established beginning with the 3rd quarter of 2008 must file their wage reports using an electronic medium approved by the department. However, current law in the same subsection directs employers that become newly subject to the electronic reporting requirement to file their initial electronic reports for the 4th quarter beginning after the quarter in which employers become subject to the electronic reporting requirement. The interplay of these provisions seems to create an anomaly. Under this draft, the anomaly is resolved beginning with the 3rd quarter of 2010. Can we the simply the treatment of this provision during the the two years preceding that date?

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Simply

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3070/P2dn
JTK:cjs:rs

September 17, 2007

Dan LaRocque:

1. This draft contains changes that respond to the editor's questions and comments, which I believe are consistent with your intent.
2. The definition of "full-time work" in proposed s. 108.02 (15s) affects the usage of that term (currently undefined) in s. 108.04 (7) (cm), stats., which relates to an exception to the quit disqualification provided that an employee remains able and available for certain full-time work. I assume that the new definition is consistent with the current interpretation of this paragraph.
3. The editor correctly points out that the definition of "conceal" in proposed s. 108.04 (11) (f) likely does not quite achieve your intent structurally. Although I originally tried to track your language, I have now changed it to resolve this issue. Let me know if you see a problem with the change.
4. Concerning the failure of employers to provide information, the transfer of language from s. 108.04 (13) (g), stats., to s. 108.04 (13) (f), stats., means that under s. 108.22 (8) (c) 1. a., stats., the department must waive benefit recovery if an employer fails without good cause to provide certain information during a fact-finding investigation. I assume this is consistent with your intent.
5. Concerning the treatment of s. 108.205 (2), stats., which relates to wage reporting, the instructions specify that all new employers whose accounts are established beginning with the 3rd quarter of 2008 must file their wage reports using an electronic medium approved by the department. However, current law in the same subsection directs employers that become newly subject to the electronic reporting requirement to file their initial electronic reports for the 4th quarter beginning after the quarter in which the employers become subject to the electronic reporting requirement. The interplay of these provisions seems to create an anomaly. Under this draft, the anomaly is resolved beginning with the 3rd quarter of 2010. Can we simplify the treatment of this provision during the the two years preceding that date?
6. Concerning the initial applicability for the concealment changes under SECTION 58 (4), I know we have used this timing in the past, but pegging the phase in to determinations or appeals seems to potentially permit offenders who commit offenses on a later date to be punished more severely than similarly situated offenders who

commit their offenses on a later date. I am wondering if we would not be better off pegging the phase in to "acts of concealment".

Jeffery T. Kuesel
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Phone: (608) 266-6778



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3070/P2

JTK:cs:rs

stays

DIRECT
TUES

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV

(recreate)

1 AN ACT *to repeal* 108.04 (13) (g), 108.17 (2b), 108.17 (2g), 108.205 (4), 108.22 (1)

2 (a) 1. and 2., 108.22 (1) (ac) and 108.22 (1) (ad); *to renumber and amend*

3 108.17 (5), 108.22 (1) (a) (intro.), 108.22 (1) (ac) and 108.22 (1) (ae); *to amend*

4 108.02 (21) (b), 108.04 (7) (k), 108.04 (7) (o), 108.04 (11) (a), 108.04 (11) (bm),

5 108.04 (11) (c), 108.04 (11) (cm), 108.04 (13) (c), 108.04 (13) (e), 108.04 (13) (f),

6 108.05 (3) (a), 108.05 (3) (b) 1. a. to c., 108.05 (3) (c), 108.066 (3) (d), 108.067 (1),

7 108.151 (7) (e), 108.151 (7) (h), 108.16 (6) (f), 108.16 (8) (b) 4., 108.17 (2), 108.17

8 (2b), 108.17 (2b), 108.17 (2g), 108.17 (2g), 108.18 (8), 108.19 (1m), 108.20 (3),

9 108.20 (3), 108.205 (2), 108.205 (2), 108.205 (2), 108.22 (1) (a), 108.22 (1) (ac) 2.,

10 108.22 (1) (am), 108.22 (1) (am), 108.22 (1) (c) and 108.22 (9); *to repeal and*

11 *recreate* 108.04 (11) (b); and *to create* 108.02 (15s), 108.02 (20m), 108.04 (11)

12 (be), 108.04 (11) (f), 108.05 (3) (d), 108.17 (7), 108.22 (1) (ac) 2. and 108.22 (1)

1
2

(af) of the statutes; **relating to:** various changes in unemployment insurance law. *and making an appropriation* ✓

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance law. Significant provisions include:

(U I) ✓

BENEFIT RATE CHANGES

OTHER BENEFIT CHANGES

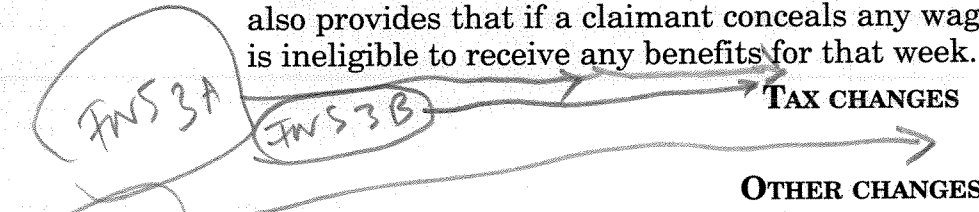
Benefit eligibility for claimants receiving wages or other payments

Currently, a claimant is ineligible to receive benefits for a week if the claimant is engaged in employment covered under the unemployment insurance law with an employer from which the claimant received at least 80 percent of his or her weekly wages or certain other payments during his or her base period (qualifying work period) and the claimant works for at least 35 hours in that work or receives certain other payments from that employer that, alone or in combination with wages, are equivalent to wages for at least 35 hours of work. This bill reduces the weekly number of hours of work for which wages or other payments result in ineligibility to 32 hours per week. Currently, a claimant is ineligible to receive benefits for a week in which the claimant works for at least 40 hours in one or more jobs. This bill reduces the weekly number of hours of work that result in ineligibility to 32 hours. Currently, with numerous exceptions, an employee who voluntarily terminates his or her work is ineligible to receive benefits until the employee requalifies by earning a specified amount of wages for performing certain qualified work and a specified period of time elapses following the termination. However, this restriction does not apply under certain conditions if an employee had certain other concurrent or recent work consisting of at least 30 hours per week. This bill increases the weekly number of hours of work that are required to exempt an employee from the requalification requirement to 32 hours per week.

Concealment

Currently, if a claimant conceals any material fact relating to his or her eligibility for benefits or conceals any wages earned in or paid or payable for a given week, the claimant must forfeit not less than 25 percent nor more than 400 percent of the claimant's weekly benefit rate for the week for which the claim is made for an act of concealment that results in no overpayment or an overpayment of less than 50 percent of the claimant's weekly benefit rate; and not less than 100 percent nor more than 400 percent of the claimant's weekly benefit rate for the week in which the claim is made for an act of concealment that results in an overpayment of at least 50 percent of the claimant's weekly benefit rate. Currently, if a claimant is partially unemployed in a given week, the claimant may be eligible to receive benefits for that week under a formula that takes into account the amount of wages or certain other benefits that the claimant receives for that week.

This bill provides that if a claimant conceals any material fact relating to his or her eligibility for benefits or conceals any wages earned in or paid or payable for a given week, the claimant must forfeit an amount equal to the claimant's weekly benefit rate for the week in which the claim is made for a first offense, the claimant must forfeit an amount equal to three times that rate for a second offense, and the claimant must forfeit all benefits for a period of six years for a third offense. The bill also provides that if a claimant conceals any wages for a given week, the claimant is ineligible to receive any benefits for that week.



Reporting and payment requirements and procedures

Currently, with certain exceptions, each employer that has employees who are engaged in employment covered by the unemployment insurance law must file quarterly contribution (tax) and wage reports and make quarterly payment of its contributions to the Department of Workforce Development (DWD). An employer of 50 or more employees or an employer agent that files reports on behalf of any employer must file its reports electronically. This bill phases in an electronic reporting requirement for all employers. Under the bill, by the third quarter of 2010, all employers are required to make wage reports electronically and contribution reports will no longer be required of any employer. The bill directs DWD to bill employers for their quarterly contribution payments due, based upon information provided by the employers in their quarterly wage reports. Each employer must then pay the amount billed.

Currently, there is no requirement or procedure established by law for making electronic payments of contributions. Effective in 2009, this bill requires each employer that makes contributions for any calendar year equal to a total of at least \$10,000 to make all contribution payments electronically in the following year. The bill also requires every employer agent to make contribution payments electronically by the same date. Currently, contribution payments must be received by DWD by the due date or if mailed must be postmarked by their due date or received within three days of their due date. This bill requires all contribution payments to be received by DWD by their due date.

Failure of employers to provide information

Currently, if benefits are erroneously paid because an employer fails to provide correct and complete information on a report to DWD, any benefits that DWD recovers do not affect charges to the employer's account for the cost of those benefits. In addition, prior to June 29, 2008, if benefits are erroneously paid because an employer fails to provide correct and complete information requested by DWD during a fact-finding investigation, but the employer later provides the requested information, then charges to the employer's account for the cost of benefits paid before the end of the week in which a redetermination or a decision of an appeal tribunal (hearing examiner) is issued regarding the matter are not affected by the redetermination or decision unless an appeal tribunal, the labor and industry review

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commission, or a court finds that the employer had good cause for failing to provide the information. This bill extends the current treatment by DWD of benefits erroneously paid indefinitely.

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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:

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SECTION 1. 108.02 (15s) of the statutes is created to read:

108.02 (15s) FULL-TIME WORK. "Full-time work" means work performed for 32 or more hours per week.

SECTION 2. 108.02 (20m) of the statutes is created to read:

108.02 (20m) PART-TIME WORK. "Part-time work" means work performed for less than 32 hours per week.

SECTION 3. 108.02 (21) (b) of the statutes is amended to read:

108.02 (21) (b) Notwithstanding par. (a), except as provided in s. 108.151 (7) (a), an employer's payroll includes only the first \$10,500 of wages paid by an employer to an individual during a calendar year, including any wages paid for any work covered by the unemployment insurance law of any other state, except as authorized in s. 108.17 (5) 108.205 (3).

SECTION 4. 108.04 (7) (k) of the statutes is amended to read:

108.04 (7) (k) Paragraph (a) does not apply to an employee who terminates his or her part-time work consisting of ~~not more than 30 hours per week~~ if the employee is otherwise eligible to receive benefits because of the loss of the employee's full-time employment consisting of at least 32 hours per week and the loss of ~~the full-time that~~

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1 employment makes it economically unfeasible for the employee to continue the
2 part-time work.

3 **SECTION 5.** 108.04 (7) (o) of the statutes is amended to read:

4 108.04 (7) (o) Paragraph (a) does not apply to an employee who terminates his
5 or her work in one of 2 or more concurrently held positions, at least one of which
6 consists of ~~more than 30 hours per week~~ full-time work, if the employee terminates
7 his or her work before receiving notice of termination from a position which consists
8 of ~~more than 30 hours per week~~ full-time work.

9 **SECTION 6.** 108.04 (11) (a) of the statutes is amended to read:

10 108.04 (11) (a) ~~If Except as provided in par. (b), if a claimant, in filing his or her~~
11 ~~application for benefits or claim for any week, conceals any part of his or her wages~~
12 ~~earned in or paid or payable for that week, or conceals his or her refusal within that~~
13 ~~week of a job offer or any other material fact relating to his or her eligibility for~~
14 ~~benefits, so much of any benefit payment as that was paid erroneously because of~~
15 ~~such concealment shall be recovered by the department as an overpayment.~~

16 **SECTION 7.** 108.04 (11) (b) of the statutes is repealed and recreated to read:

17 108.04 (11) (b) If a claimant, in filing a claim for any week, conceals any of his
18 or her wages earned in or paid or payable for that week, the claimant shall be denied
19 benefits for that week and any benefits paid erroneously because of such
20 concealment shall be recovered by the department as an overpayment.

21 **SECTION 8.** 108.04 (11) (be) of the statutes is created to read:

22 108.04 (11) (be) A claimant shall forfeit benefits and be disqualified from
23 receiving benefits for acts of concealment described in pars. (a) and (b) as follows:

24 1. A claimant shall forfeit an amount equal to the claimant's weekly benefit rate
25 under s. 108.05 (1) for the week for which the claim is made for each single act of

1 concealment occurring before the first determination of concealment under par. (a)
2 or (b).

3 2. A claimant shall forfeit 3 times the claimant's benefit rate under s. 108.05
4 (1) for the week in which the claim is made for each single act of concealment after
5 the date of the first determination of concealment but prior to the date of the 2nd
6 determination of concealment under par. (a) or (b).

7 3. A claimant is ineligible to receive benefits for a period of 6 years beginning
8 with the week of a 2nd determination of concealment under par. (a) or (b) upon
9 issuance of a 3rd determination of concealment under par. (a) or (b). A claimant shall
10 also forfeit any unpaid benefits otherwise payable as of the date of a 3rd
11 determination of concealment under par. (a) or (b). This subdivision does not
12 preclude a claimant from establishing a benefit year during a period in which the
13 claimant is ineligible to receive benefits under this subdivision if the claimant is
14 eligible to establish a benefit year under s. 108.06 (2) (a).

15 **SECTION 9.** 108.04 (11) (bm) of the statutes is amended to read:

16 108.04 (11) (bm) The forfeiture established under par. (b) (be) may be applied
17 against benefits which would otherwise become payable to the claimant for weeks
18 of unemployment occurring after the week of concealment and within 6 years after
19 the date of an initial determination issued under s. 108.09 finding that a concealment
20 occurred. If no benefit rate applies to the week for which the claim is made, the
21 department shall use the claimant's benefit rate for the claimant's next benefit year
22 beginning after the week of concealment to determine the forfeiture amount. If the
23 benefits forfeited would otherwise be chargeable to an employer's account, the
24 department shall charge the amount of benefits forfeited to the employer's account

1 and shall credit the fund's balancing account for that amount. ~~Any forfeiture amount~~
2 ~~of less than \$1 shall be rounded up to the nearest whole dollar.~~

3 **SECTION 10.** 108.04 (11) (c) of the statutes is amended to read:

4 108.04 (11) (c) Any employing unit that aids and abets a claimant in
5 committing an act of concealment described in par. (a) or (b) may, by a determination
6 issued under s. 108.10, be required, as to each act of concealment the employing unit
7 aids and abets, to forfeit an amount equal to the amount of the benefits the claimant
8 improperly received as a result of the concealment. The amount forfeited shall be
9 credited to the administrative account.

10 **SECTION 11.** 108.04 (11) (cm) of the statutes is amended to read:

11 108.04 (11) (cm) If any person makes a false statement or representation in
12 order to obtain benefits in the name of another person, the benefits received by that
13 person constitute a benefit overpayment. Such person may, by a determination or
14 decision issued under s. 108.095, be required to repay the amount of the benefits
15 obtained and be assessed an administrative assessment in an additional amount
16 equal to ~~not more than 50%~~ of the amount of benefits obtained.

17 **SECTION 12.** 108.04 (11) (f) of the statutes is created to read:

18 108.04 (11) (f) For purposes of this subsection, "conceal" means intentionally
19 mislead or defraud the department by withholding or hiding information or making
20 a false statement or misrepresentation.

21 **SECTION 13.** 108.04 (13) (c) of the statutes is amended to read:

22 108.04 (13) (c) If an employer, after notice of a benefit claim, fails to file an
23 objection to the claim under s. 108.09 (1), any benefits allowable under any resulting
24 benefit computation shall, unless the department applies a provision of this chapter
25 to disqualify the claimant, be promptly paid. Except as otherwise provided in this

1 paragraph, any eligibility question in objection to the claim raised by the employer
2 after benefit payments to the claimant are commenced does not affect benefits paid
3 prior to the end of the week in which a determination is issued as to the eligibility
4 question unless the benefits are erroneously paid without fault on the part of the
5 employer. ~~If, during the period beginning on January 1, 2006, and ending on June~~
6 ~~28, 2008, Except as otherwise provided in this paragraph, if an employer fails to~~
7 provide correct and complete information requested by the department during a
8 fact-finding investigation, but later provides the requested information, charges to
9 the employer's account for benefits paid prior to the end of the week in which a
10 redetermination is issued regarding the matter or, if no redetermination is issued,
11 prior to the end of the week in which an appeal tribunal decision is issued regarding
12 the matter, are not affected by the redetermination or decision, ~~except unless the~~
13 ~~benefits are erroneously paid without fault on the part of the employer~~ as provided
14 in par. (g) (f). If benefits are erroneously paid because the employer and the employee
15 are at fault, the department shall charge the employer for the benefits and proceed
16 to create an overpayment under s. 108.22 (8) (a). If benefits are erroneously paid
17 without fault on the part of the employer, regardless of whether the employee is at
18 fault, the department shall charge the benefits as provided in par. (d), unless par. (e)
19 applies, and proceed to create an overpayment under s. 108.22 (8) (a). If benefits are
20 erroneously paid because an employer is at fault and the department recovers the
21 benefits erroneously paid under s. 108.22 (8), the recovery does not affect benefit
22 charges made under this paragraph.

23 **SECTION 14.** 108.04 (13) (e) of the statutes is amended to read:

24 108.04 (13) (e) If the department erroneously pays benefits from one
25 employer's account and a 2nd employer is at fault, the department shall credit the

1 benefits paid to the first employer's account and charge the benefits paid to the 2nd
2 employer's account. Filing of a tardy or corrected report or objection does not affect
3 the 2nd employer's liability for benefits paid prior to the end of the week in which the
4 department makes a recomputation of the benefits allowable or prior to the end of
5 the week in which the department issues a determination concerning any eligibility
6 question raised by the report or by the 2nd employer. ~~If, during the period beginning~~
7 ~~on January 1, 2006, and ending on June 29, 2008,~~ the 2nd employer fails to provide
8 correct and complete information requested by the department during a fact-finding
9 investigation, but later provides the requested information, the department shall
10 charge to the account of the 2nd employer the cost of benefits paid prior to the end
11 of the week in which a redetermination is issued regarding the matter or, if no
12 redetermination is issued, prior to the end of the week in which an appeal tribunal
13 decision is issued regarding the matter, ~~except unless the benefits erroneously are~~
14 ~~paid without fault on the part of the employer as provided in par. (g) (f).~~ If the
15 department recovers the benefits erroneously paid under s. 108.22 (8), the recovery
16 does not affect benefit charges made under this paragraph.

17 **SECTION 15.** 108.04 (13) (f) of the statutes is amended to read:

18 108.04 (13) (f) If benefits are erroneously paid because the employer fails to file
19 a report required by this chapter, the employer fails to provide correct and complete
20 information on the report, the employer fails to object to the benefit claim under s.
21 108.09 (1), the employer fails to provide correct and complete information requested
22 by the department during a fact-finding investigation, unless an appeal tribunal,
23 the commission, or a court of competent jurisdiction finds that the employer had good
24 cause for the failure to provide the information, or the employer aids and abets the
25 claimant in an act of concealment as provided in sub. (11), the employer is at fault.

1 If benefits are erroneously paid because an employee commits an act of concealment
2 as provided in sub. (11) or fails to provide correct and complete information to the
3 department, the employee is at fault.

4 **SECTION 16.** 108.04 (13) (g) of the statutes is repealed.

5 **SECTION 17.** 108.05 (3) (a) of the statutes is amended to read:

6 108.05 (3) (a) Except as provided in pars. (b) and, (c), and (d), if an eligible
7 employee earns wages in a given week, the first \$30 of the wages shall be disregarded
8 and the employee's applicable weekly benefit payment shall be reduced by 67% of the
9 remaining amount, except that no such employee is eligible for benefits if the
10 employee's benefit payment would be less than \$5 for any week. For purposes of this
11 paragraph, "wages" includes any salary reduction amounts earned that are not
12 wages and that are deducted from the salary of a claimant by an employer pursuant
13 to a salary reduction agreement under a cafeteria plan, within the meaning of 26
14 USC 125, and any amount that a claimant would have earned in available work
15 which is treated as wages under s. 108.04 (1) (a), but excludes any amount that a
16 claimant earns for services performed as a volunteer fire fighter, volunteer
17 emergency medical technician, or volunteer first responder. In applying this
18 paragraph, the department shall disregard discrepancies of less than \$2 between
19 wages reported by employees and employers.

20 **SECTION 18.** 108.05 (3) (b) 1. a. to c. of the statutes are amended to read:

21 108.05 (3) (b) 1. a. The claimant works is engaged in full-time work for that
22 employer at least 35 hours in that week at the same or a greater rate of pay, excluding
23 bonuses, incentives, overtime or any other supplement to the earnings, as the
24 claimant was paid by that employer in that quarter of the claimant's base period in
25 which the claimant was paid his or her highest wages;

Handwritten notes: "105-4" with an arrow pointing to SECTION 17.

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1 b. The claimant receives from that employer sick pay, holiday pay, vacation pay
2 or termination pay which, by itself or in combination with wages earned for work
3 performed in that week for that employer, is at least equivalent to pay for ~~at least 35~~
4 ~~hours of full-time~~ work at that same or a greater rate of pay; or

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5 c. The amount that the claimant would have earned within that week from that
6 employer in available work which is treated as wages under s. 108.04 (1) ~~(a)~~, by itself
7 or in combination with the wages earned for work performed in that week for that
8 employer and the pay received under subd. 1. b., is at least equivalent to pay for ~~at~~
9 ~~least 35 hours of full-time~~ work at that same or a greater rate of pay.

(bn)

10 SECTION 19. 108.05 (3) (c) of the statutes is amended to read:

11 108.05 (3) (c) A claimant is ineligible to receive any benefits for a week in which
12 the claimant ~~works a total of 40 or more hours~~ is engaged in full-time work for one
13 or more employing units.

14 SECTION 20. 108.05 (3) (d) of the statutes is created to read:

15 108.05 (3) (d) A claimant is ineligible to receive benefits for any week in which
16 the claimant conceals wages as provided in s. 108.04 (11) (b).

17 SECTION 21. 108.066 (3) (d) of the statutes is amended to read:

18 108.066 (3) (d) The employer is not delinquent, at the time of designation, in
19 making any contribution ~~report or~~ payment required under this chapter.

20 SECTION 22. 108.067 (1) of the statutes is amended to read:

21 108.067 (1) Each professional employer organization that enters into an
22 employee leasing agreement with a client during any calendar quarter shall submit
23 to the department, no later than the due date for ~~the report~~ payment of contributions
24 under s. 108.17 (2) relating to that quarter, in the form prescribed by the department,

1 a report disclosing the identity of that client and such other information as the
2 department prescribes.

3 **SECTION 23.** 108.151 (7) (e) of the statutes is amended to read:

4 108.151 (7) (e) Except as provided in par. (f), the rate of each employer's
5 assessment under this subsection for any calendar year is the product of the rate
6 determined under par. (d) multiplied by the employer's payroll for the preceding
7 calendar year, as reported by the employer under sub. (8) or s. 108.15 (8), 108.152 (7),
8 or ~~108.17 (2)~~ 108.205 (1) or, in the absence of reports, as estimated by the department.

9 **SECTION 24.** 108.151 (7) (h) of the statutes is amended to read:

10 108.151 (7) (h) If the payroll of an employer for any quarter is adjusted to
11 decrease the amount of the payroll after ~~a contribution report for the employer is filed~~
12 pays contributions on that payroll under s. 108.17 (2), the department shall refund
13 any assessment that is overpaid by the employer under this subsection as a result
14 of the adjustment.

15 **SECTION 25.** 108.16 (6) (f) of the statutes is amended to read:

16 108.16 (6) (f) Any amount available for such crediting under s. 108.04 (11) ~~(b)~~
17 (be), 108.14 (8n) (e) or 108.141.

18 **SECTION 26.** 108.16 (8) (b) 4. of the statutes is amended to read:

19 108.16 (8) (b) 4. The department has received a written application from the
20 transferee requesting that it be deemed a successor. Such application must be
21 received by the department on or before the contribution ~~report and~~ payment due
22 date for the first full quarter following the date of transfer.

23 **SECTION 27.** 108.17 (2) of the statutes is amended to read:

24 108.17 (2) ~~Every~~ The department shall provide written or electronic notice to
25 each employer that is subject to a contribution requirement of the amount of

1 contributions due for payment under s. 108.18 no later than the 15th day following
2 the end of each calendar quarter. Each employer that is subject to a contribution
3 requirement shall ~~file quarterly reports of contributions required under this chapter~~
4 ~~with the department, and pay contributions to the department, in the amount~~
5 specified in the notice in such manner as the department prescribes. Each
6 contribution ~~report and~~ payment is due at the close of the month next following the
7 end of the applicable calendar quarter, except as authorized in sub. (2c) or as the
8 department may assign a later due date pursuant to sub. (1m) or general department
9 rules.

10 **SECTION 28.** 108.17 (2b) of the statutes is amended to read:

11 108.17 (2b) The department shall prescribe a form and methodology for filing
12 contribution reports under sub. (2) electronically using the Internet. Each employer
13 of ~~50~~ 10 or more employees, as determined under s. ~~108.22 (1) (ae)~~ 108.205 (4), that
14 does not use an employer agent to file its contribution reports under this section shall
15 file its contribution reports electronically using the Internet on the form prescribed
16 by the department. Each employer that becomes subject to the reporting
17 requirements under this section after June 30, 2008, shall file its contribution
18 reports electronically using the Internet on a form prescribed by the department.
19 Once an employer becomes subject to the reporting requirements under this
20 subsection, it shall continue to file its reports under this subsection unless that
21 requirement is waived by the department.

22 **SECTION 29.** 108.17 (2b) of the statutes, as affected by 2007 Wisconsin Act
23 (this act), section 28, is amended to read:

24 108.17 (2b) The department shall prescribe a form and methodology for filing
25 contribution reports under sub. (2) electronically using the Internet. Each employer

1 of ~~10~~ 4 or more employees, as determined under s. 108.205 (4), that does not use an
2 employer agent to file its contribution reports under this section shall file its
3 contribution reports electronically using the Internet on the form prescribed by the
4 department. Each employer that becomes subject to the reporting requirements
5 under this section after June 30, 2008, shall file its contribution reports
6 electronically using the Internet on a form prescribed by the department. Once an
7 employer becomes subject to the reporting requirements under this subsection, it
8 shall continue to file its reports under this subsection unless that requirement is
9 waived by the department.

10 **SECTION 30.** 108.17 (2b) of the statutes, as affected by 2007 Wisconsin Act
11 (this act), section 29, is repealed.

12 **SECTION 31.** 108.17 (2g) of the statutes is amended to read:

13 108.17 (2g) An employer agent that prepares reports under sub. (2) on behalf
14 of less than ~~25~~ 10 employers shall file those reports electronically using the Internet
15 on the form prescribed by the department under sub. (2b). An employer agent that
16 prepares reports under sub. (2) on behalf of ~~25~~ 10 or more employers shall file those
17 reports using an electronic medium and format approved by the department. An
18 employer agent that becomes subject to the reporting requirement under this
19 subsection shall file its initial reports under this subsection for the 4th quarter
20 beginning after the quarter in which the employer agent becomes subject to the
21 reporting requirement. Once an employer agent becomes subject to the reporting
22 requirement under this subsection, the employer agent shall continue to file its
23 reports under this subsection unless that requirement is waived by the department.

24 **SECTION 32.** 108.17 (2g) of the statutes, as affected by 2007 Wisconsin Act
25(this act), section 31, is amended to read:

1 108.17 (2g) An employer agent that prepares reports under sub. (2) on behalf
2 of less than ~~10~~ 4 employers shall file those reports electronically using the Internet
3 on the form prescribed by the department under sub. (2b). An employer agent that
4 prepares reports under sub. (2) on behalf of ~~10~~ 4 or more employers shall file those
5 reports using an electronic medium and format approved by the department. An
6 employer agent that becomes subject to the reporting requirement under this
7 subsection shall file its initial reports under this subsection for the 4th quarter
8 beginning after the quarter in which the employer agent becomes subject to the
9 reporting requirement. Once an employer agent becomes subject to the reporting
10 requirement under this subsection, the employer agent shall continue to file its
11 reports under this subsection unless that requirement is waived by the department.

12 **SECTION 33.** 108.17 (2g) of the statutes, as affected by 2007 Wisconsin Act
13 (this act), section 32, is repealed.

14 **SECTION 34.** 108.17 (5) of the statutes is renumbered 108.205 (3) and amended
15 to read:

16 108.205 (3) Upon application of an employer, the department may permit
17 employers ~~which~~ that are component members of a controlled group of corporations
18 under 26 USC 1563 to combine wages of a single employee for purposes of
19 determining the employers' payroll under s. 108.02 (21) (b) if the employee is subject
20 to transfer between the employers under the terms of a single collective bargaining
21 agreement. The application shall specify the calendar year in which the combination
22 is proposed to occur. This subsection does not apply to any employer for which the
23 department has written off overdrafts under s. 108.16 (7) (c) within the 2 calendar
24 years preceding the year in which the combination is proposed to occur, nor to any
25 employer whose account is overdrawn by 6% or more on the computation date for the

1 calendar year preceding the year in which the combination is proposed to occur. If
 2 the department approves the application, the department shall specify the calendar
 3 year in which the combination is effective and the method by which the component
 4 members will report the payroll of the employee to the department under this
 5 section.

6 **SECTION 35.** 108.17 (7) of the statutes is created to read:

7 108.17 (7) (a) In this subsection, "electronic funds transfer" means any transfer
 8 of moneys initiated through a telephone, terminal, or computer that authorizes a
 9 financial institution to debit an account and transfer the moneys debited to another
 10 account.

11 (b) Each employer whose net total contributions under this section for any year
 12 are at least \$10,000 shall make all contributions under this section by means of
 13 electronic funds transfer.

14 (c) Each employer agent shall make pay all contributions under this section on
 15 behalf of each employer that is represented by the agent by means of electronic funds
 16 transfer.

17 **SECTION 36.** 108.18 (8) of the statutes is amended to read:

18 108.18 (8) SOLVENCY CONTRIBUTIONS. Each employer's solvency contribution for
 19 ~~each period of a~~ calendar year quarter of any year shall be figured by applying the
 20 solvency rate determined for that year under sub. (9) to the employer's payroll for
 21 that ~~period~~ quarter, and shall be payable to the fund's balancing account by the
 22 ~~due date of its contribution report~~ due date for payment of contributions by the
 23 employer for that quarter.

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24 **SECTION 37.** 108.19 (1m) of the statutes is amended to read:

1 108.19 (1m) Each employer subject to this chapter as of the date a rate is
2 established under this subsection shall pay an assessment to the administrative
3 account at a rate established by the department sufficient to pay interest due on
4 advances from the federal unemployment account under title XII of the social
5 security act (42 USC 1321 to 1324). The rate established by the department for
6 employers who finance benefits under s. 108.15 (2), 108.151 (2), or 108.152 (1) shall
7 be 75% of the rate established for other employers. The amount of any employer's
8 assessment shall be the product of the rate established for that employer multiplied
9 by the employer's payroll of the previous calendar year as taken from quarterly
10 ~~contribution~~ wage and employment reports filed by the employer under s. 108.205
11 (1) or, in the absence of the filing of such reports, estimates made by the department.
12 Each assessment made under this subsection is due on the 30th day commencing
13 after the date on which notice of the assessment is mailed by the department. If the
14 amounts collected under this subsection are in excess of the amounts needed to pay
15 interest due, the amounts shall be retained in the administrative account and
16 utilized for the purposes specified in s. 108.20 (2m).

17 **SECTION 38.** 108.20 (3) of the statutes is amended to read:

18 108.20 (3) There shall be included in the moneys governed by sub. (2m) any
19 amounts collected by the department under ss. 108.04 (11) (c) and (cm) and 108.22
20 (1) (a), (ac), ~~and (ad)~~, and (af) as tardy filing fees, forfeitures, interest on delinquent
21 payments, or other penalties and any excess moneys collected under s. 108.19 (1m).

22 **SECTION 39.** 108.20 (3) of the statutes, as affected by 2007 Wisconsin Act
23 (this act), is amended to read:

24 108.20 (3) There shall be included in the moneys governed by sub. (2m) any
25 amounts collected by the department under ss. 108.04 (11) (c) and (cm) and 108.22

1 (1) (a), ~~(ae), (ad)~~, and (af) as tardy filing fees, forfeitures, interest on delinquent
2 payments, or other penalties and any excess moneys collected under s. 108.19 (1m).

3 **SECTION 40.** 108.205 (2) of the statutes is amended to read:

4 108.205 (2) All employers of ~~50~~ 10 or more employees, as determined under s.
5 108.22 (1) (ae), sub. (4), that do not use an employer agent to file their reports under
6 this section and that become subject to the reporting requirement under this section
7 before July 1, 2008, shall file the quarterly report under sub. (1) using an electronic
8 medium approved by the department ~~for such employers.~~ Each employer that
9 becomes subject to the reporting requirement under this section after June 30, 2008,
10 shall file the quarterly report under sub. (1) using an electronic medium approved
11 by the department. An employer that becomes subject to the reporting requirement
12 under this subsection shall file its initial report under this subsection for the 4th
13 quarter beginning after the quarter in which the employer becomes subject to the
14 reporting requirement. Once an employer becomes subject to the reporting
15 requirement under this subsection, the employer shall continue to file its quarterly
16 reports under this subsection unless that requirement is waived by the department.

17 **SECTION 41.** 108.205 (2) of the statutes, as affected by 2007 Wisconsin Act
18 (this act), section 40, is amended to read:

19 108.205 (2) All employers of ~~10~~ 4 or more employees, as determined under sub.
20 (4), that do not use an employer agent to file their reports under this section and that
21 become subject to the reporting requirement under this section before July 1, 2008,
22 shall file the quarterly report under sub. (1) using an electronic medium approved
23 by the department. Each employer that becomes subject to the reporting
24 requirement under this subsection after June 30, 2008, shall file the quarterly report
25 under sub. (1) using an electronic medium approved by the department. An employer

1 that becomes subject to the reporting requirement under this subsection shall file its
2 initial report under this section for the 4th quarter beginning after the quarter in
3 which the employer becomes subject to the reporting requirement. Once an employer
4 becomes subject to the reporting requirement under this subsection, the employer
5 shall continue to file its quarterly reports under this subsection unless that
6 requirement is waived by the department.

7 **SECTION 42.** 108.205 (2) of the statutes, as affected by 2007 Wisconsin Act
8 (this act), section 41, is amended to read:

9 108.205 (2) ~~All employers of 4 or more employees, as determined under sub.~~
10 ~~(4), that do not use an employer agent to file their reports under this section and that~~
11 ~~become subject to the reporting requirement under this section before July 1, 2008,~~
12 Each employer shall file the its quarterly report reports under sub. (1) using an
13 electronic medium approved by the department. ~~Each employer that becomes subject~~
14 ~~to the reporting requirement under this section after June 30, 2008, shall file the~~
15 ~~quarterly report under sub. (1) using an electronic medium approved by the~~
16 ~~department. An employer that becomes subject to the reporting requirement under~~
17 ~~this subsection shall file its initial report under this section for the 4th quarter~~
18 ~~beginning after the quarter in which the employer becomes subject to the reporting~~
19 ~~requirement. Once an employer becomes subject to the reporting requirement under~~
20 ~~this subsection, the employer shall continue to file its quarterly reports under this~~
21 ~~subsection unless that requirement is waived by the department.~~

22 **SECTION 43.** 108.205 (4) of the statutes, as affected by 2007 Wisconsin Act
23 (this act), is repealed.

24 **SECTION 44.** 108.22 (1) (a) (intro.) of the statutes is renumbered 108.22 (1) (a)
25 and amended to read:

create
artoreb A

1 108.22 (1) (a) If any employer, other than an employer which has ceased
 2 business and has not paid or incurred a liability to pay wages in any quarter
 3 following the cessation of business, is delinquent in making by the assigned due date
 4 any contribution report, or other report or payment to the department required of it
 5 under this chapter except a quarterly report under s. 108.205 or a voluntary
 6 contribution, the employer shall pay interest on any delinquent payment at the rate
 7 of one percent per month or fraction thereof from the date such payment became due.
 8 If any such employer is delinquent in making any quarterly report under s. 108.205
 9 by the assigned due date, the employer shall pay a tardy filing fee of \$50 for each
 10 delinquent quarterly report as follows:

11 **SECTION 45.** 108.22 (1) (a) of the statutes, as affected by 2007 Wisconsin Act
 12 (this act), is amended to read: sections 44 and 46j

13 108.22 (1) (a) If any employer, other than an employer which has ceased
 14 business and has not paid or incurred a liability to pay wages in any quarter
 15 following the cessation of business, is delinquent in making by the assigned due date
 16 any ~~contribution report, or other~~ report or payment to the department required of it
 17 under this chapter except a quarterly report under s. 108.205 or a voluntary
 18 contribution, the employer shall pay interest on any delinquent payment at the rate
 19 of one percent per month or fraction thereof from the date such payment became due.
 20 If any such employer is delinquent in making any quarterly report under s. 108.205
 21 by the assigned due date, the employer shall pay a tardy filing fee of \$50 for each
 22 delinquent quarterly report.

23 **SECTION 46.** 108.22 (1) (a) 1. and 2. of the statutes are repealed.

24 **SECTION 47.** 108.22 (1) (ac) of the statutes is renumbered 108.22 (1) (ac) 1. and
 25 amended to read:

use autoref A

use autoref B

create autoref B

create autoref X

1 108.22 (1) (ac) 1. ~~In~~ Except as provided in subd. 2., in addition to any fee
 2 assessed under par. (a), the department may assess an employer or employer agent
 3 that is subject to the reporting requirement under s. 108.205 (2) and that fails to file
 4 its report in a format prescribed under that subsection a penalty of \$10 for each
 5 employee whose information is not reported in a format prescribed under s. 108.205
 6 (1m) (b) or (2).

7 **SECTION 48.** 108.22 (1) (ac) of the statutes, as affected by 2007 Wisconsin Act
 8 (this act), is repealed. *sections 47 and 50*

9 **SECTION 49.** 108.22 (1) (ac) 2. of the statutes is created to read:
 10 108.22 (1) (ac) 2. In addition to any fee assessed under par. (a), the department
 11 may assess any employer of 10 or more employees, any employer that becomes
 12 subject to a reporting requirement under s. 108.17 (2) or 108.205 (2) after June 30,
 13 2008, or any employer agent that fails to file its report in a format prescribed under
 14 s. 108.17 (2b) or (2g) or 108.205 (1m) (b) or (2) a penalty of \$15 for each employee
 15 whose information is not reported in a format prescribed under s. 108.17 (2b) or (2g)
 16 or 108.205 (1m) (b) or (2).

17 **SECTION 50.** 108.22 (1) (ac) 2. of the statutes, as created by 2007 Wisconsin Act
 18 (this act), is amended to read:

19 108.22 (1) (ac) 2. In addition to any fee assessed under par. (a), the department
 20 may assess any employer of ~~10~~ 4 or more employees, any employer that becomes
 21 subject to a reporting requirement under s. 108.17 (2) or 108.205 (2) after June 30,
 22 2008, or any employer agent that fails to file its report in a format prescribed under
 23 s. 108.17 (2b) or (2g) or 108.205 (1m) (b) or (2) a penalty of ~~\$15~~ \$20 for each employee
 24 whose information is not reported in a format prescribed under s. 108.17 (2b) or (2g)
 25 or 108.205 (1m) (b) or (2).

1 **SECTION 51.** 108.22 (1) (ad) of the statutes is repealed.

2 **SECTION 52.** 108.22 (1) (ae) of the statutes is renumbered 108.205 (4) and
3 amended to read:

4 108.205 (4) For purposes of ~~par. (a)~~ sub. (2), the number of employees employed
5 by an employer is the total number of employees employed by the employer at any
6 time during the reporting period.

7 **SECTION 53.** 108.22 (1) (af) of the statutes is created to read:

8 108.22 (1) (af) In addition to the fee assessed under par. (a), the department
9 may assess an employer or employer agent that is subject to a requirement to make
10 contributions by means of an electronic funds transfer under s. 108.17 (7) and that
11 pays contributions by any method inconsistent with s. 108.17 (7) a penalty of the
12 greater of \$50 or an amount equal to one-half of one percent of the total contributions
13 paid by the employer or employer agent for the quarter in which the violation occurs.

14 **SECTION 54.** 108.22 (1) (am) of the statutes is amended to read:

15 108.22 (1) (am) The interest, penalties, and tardy filing fees levied under pars.
16 (a), (ac), ~~and (ad)~~, and (af) shall be paid to the department and credited to the
17 administrative account.

18 **SECTION 55.** 108.22 (1) (am) of the statutes, as affected by 2007 Wisconsin Act
19 (this act), is amended to read:

20 108.22 (1) (am) The interest, penalties, and tardy filing fees levied under pars.
21 (a), ~~(ae)~~, ~~(ad)~~, and (af) shall be paid to the department and credited to the
22 administrative account.

23 **SECTION 56.** 108.22 (1) (c) of the statutes is amended to read:

24 108.22 (1) (c) Any report or payment, except a payment required by s. 108.15
25 (5) (b) or 108.151 (5) (f) or (7), to which this subsection applies is delinquent, within

1 the meaning of par. (a), unless it is received by the department, in the form prescribed
2 by law or rule of the department, no later than its due date as determined under par.
3 (b), ~~or if mailed is either postmarked no later than that due date or is received by the~~
4 ~~department no later than 3 days after that due date.~~ Any payment required by s.
5 108.15 (5) (b) or 108.151 (5) (f) or (7) is delinquent, within the meaning of par. (a),
6 unless it is received by the department, in the form prescribed by law, no later than
7 the last day of the month in which it is due.

8 **SECTION 57.** 108.22 (9) of the statutes is amended to read:

9 108.22 (9) An individual who is an officer, employee, member or manager
10 holding at least 20% of the ownership interest of a corporation or of a limited liability
11 company subject to this chapter, and who has control or supervision of or
12 responsibility for ~~filing contribution reports or making payment of contributions,~~
13 ~~and who willfully fails to file such reports or to make such payments to the~~
14 ~~department, or to ensure that such reports are filed or that such payments are made,~~
15 may be found personally liable for such amounts, including interest, tardy payment
16 or filing fees, costs and other fees, in the event that after proper proceedings for the
17 collection of such amounts, as provided in this chapter, the corporation or limited
18 liability company is unable to pay such amounts to the department. Ownership
19 interest of a corporation or limited liability company includes ownership or control,
20 directly or indirectly, by legally enforceable means or otherwise, by the individual,
21 by the individual's spouse or child, by the individual's parent if the individual is
22 under age 18, or by a combination of 2 or more of them, and such ownership interest
23 of a parent corporation or limited liability company of which the corporation or
24 limited liability company unable to pay such amounts is a wholly owned subsidiary.
25 The personal liability of such officer, employee, member or manager as provided in

1 this subsection survives dissolution, reorganization, bankruptcy, receivership,
2 assignment for the benefit of creditors, judicially confirmed extension or
3 composition, or any analogous situation of the corporation or limited liability
4 company and shall be set forth in a determination or decision issued under s. 108.10.

5 **SECTION 58. Initial applicability.**

6 (1) The treatment of sections 108.02 (15s) and (20m), 108.04 (7) (k) and (o), and
7 108.05 (3) (b) 1. a. ^{and b} to c. and (c) of the statutes, as they pertain to payment of benefit
8 claims, ^{apply} first applies with respect to weeks of unemployment beginning on the
9 effective date of this subsection. ^{and the treatment of section 108.05 (3) (b) 1. c. of the statutes}

10 (2) The treatment of sections 108.02 (15s) and (20m), 108.04 (7) (k) and (o), and
11 108.05 (3) (b) 1. a. to c. and (c) of the statutes, as they pertain to adjudication of benefit
12 claims, first applies with respect to determinations issued under section 108.09 of the
13 statutes on the effective date of this subsection or, with respect to determinations
14 that are appealed, to decisions issued under section 108.09 of the statutes on the
15 effective date of this subsection. ^{the amendment of section 108.22 (1) (a) of the statutes}

16 (3) The treatment of sections 108.02 (21) (b), 108.066 (3) (d), 108.067 (1),
17 108.151 (7) (e) and (h), 108.16 (8) (b) 4., 108.17 (2) and (5), 108.18 (8), 108.19 (1m),
18 108.20 (3) (by SECTION 39), and 108.22 (1) (a) (by SECTION 45), (ad), and (am) (by
19 SECTION 55) and (9) of the statutes, and the repeal of sections 108.17 (2b) and (2g),
20 108.205 (4), and 108.22 (1) (ac) of the statutes first apply with respect to
21 contributions payable for the 3rd quarter of 2010.

22 (4) The treatment of sections 108.04 (11) (a), (b), (be), (bm), (c), (cm), and (f),
23 108.05 (3) (a) and (d), and 108.16 (6) (f) of the statutes first ^{apply} applies with respect to
24 determinations issued under section 108.09 of the statutes on the effective date of

and with respect to the reference to section 108.05 (3) (d) of the statutes, as created by this act, the treatment of section 108.05 (3) (a) of the statutes

and the treatment of section 108.05 (3) (a) of the statutes with respect to the reference to section 108.05 (3) (d) of the statutes

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1 this subsection or, with respect to determinations that are appealed, to decisions
2 issued under section 108.09 of the statutes on the effective date of this subsection.

3 (5) The treatment of sections 108.17 (2b) (by SECTION 28) and (2g) (by SECTION
4 31), 108.205 (2) (by SECTION 40), and 108.22 (1) (ae) of the statutes first applies with
5 respect to reports required to be filed for the 3rd quarter of 2008.

6 (6) The treatment of sections 108.17 (2b) (by SECTION 29) and (2g) (by SECTION
7 32), and 108.205 (2) (by SECTION 41) of the statutes first applies with respect to
8 reports required to be filed for the 3rd quarter of 2009.

9 (7) The treatment of sections 108.17 (7), 108.20 (3) (by SECTION 38), and 108.22
10 (1) (am) (by SECTION 54), (af), and (c) of the statutes first applies with respect to
11 contributions payable during the first quarter of 2009.

12 (8) The treatment of section 108.205 (2) (by SECTION 42) of the statutes first
13 applies with respect to reports required to be filed for the 3rd quarter of 2010.

14 (9) The renumbering and amendment of section 108.22 (1) (a) (intro.) of the
15 statutes and the repeal of section 108.22 (1) (a) 1. and 2. of the statutes first apply
16 with respect to reports required to be filed for the 3rd quarter of 2008.

17 (10) The renumbering and amendment of section 108.22 (1) (ac) of the statutes
18 and the creation of section 108.22 (1) (ac) 2. of the statutes first apply with respect
19 to reports required to be filed for the 3rd quarter of 2008.

20 (11) The amendment of section 108.22 (1) (ac) 2. of the statutes first applies
21 with respect to reports required to be filed for the 3rd quarter of 2009.

22 **SECTION 59. Effective date.**

23 (1) This act takes effect on the first Sunday after publication.

24

(END)