

UNOIE

2007 - 2008 LEGISLATURE

LRB-3070/PA P5

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Stays

Wanted the 11/6 if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA

(regenerate)

1 AN ACT ~~to repeal~~ 108.02 (12) (bm) 1., 108.04 (1) (c), 108.04 (13) (g) and 108.22
2 (1) (a) 1. and 2.; **to renumber** 108.04 (5g); **to renumber and amend** 108.04
3 (1) (a), 108.04 (11) (c), 108.17 (2), 108.22 (1) (a) (intro.) and 108.22 (1) (ac); **to**
4 **amend** 20.445 (1) (nc), 20.445 (1) (nd), 108.02 (12) (bm) (intro.), 108.02 (15m)
5 (a), 108.04 (1) (g) 1. and 2., 108.04 (1) (gm) 4. c., 108.04 (5), 108.04 (7) (k), 108.04
6 (7) (o), 108.04 (11) (a), 108.04 (11) (bm), 108.04 (11) (cm), 108.04 (13) (c), 108.04
7 (13) (e), 108.04 (13) (f), 108.04 (16) (a) (intro.), 108.04 (16) (b) and (c) 2., 108.04
8 (16) (c) 1., 108.04 (16) (c) 2., 108.05 (3) (a), 108.05 (3) (b) 1. a. to c., 108.05 (3) (c),
9 108.067 (1), 108.151 (7) (e), 108.151 (7) (h), 108.16 (6) (f), 108.16 (6m) (a), 108.16
10 (8) (b) 4., 108.17 (2b), 108.17 (2g), 108.17 (2g), 108.18 (8), 108.19 (1e) (a), 108.19
11 (1m), 108.20 (3), 108.205 (2), 108.22 (1) (ac) 2., 108.22 (1) (ae), 108.22 (1) (am),
12 108.22 (1) (c) and 108.22 (9); **to repeal and recreate** 108.04 (1) (b) and 108.04
13 (11) (b); and **to create** 108.02 (15s), 108.02 (20m), 108.04 (1) (a) 1. and 2., 108.04
14 (4g) (em), 108.04 (11) (be), 108.04 (11) (c) 1. to 3., 108.04 (11) (f) and (g), 108.05
15 (3) (d), 108.09 (4a), 108.17 (2) (b), 108.17 (7), 108.22 (1) (ac) 2. and 108.22 (1) (af)

1 of the statutes; **relating to:** various changes in unemployment insurance law
2 and making appropriations.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) 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 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 not more than 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. Currently, if an employer aids and abets a claimant in committing an act of concealment, the employer may be required

to forfeit an amount equal to the amount of benefits that the claimant improperly received as a result of the concealment.

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 an amount equal to five times that rate for a third or subsequent 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. In addition, the bill provides that if an employer aids and abets or attempts to aid and abet a claimant in committing an act of concealment, the employer must forfeit \$500 for a first offense, \$1,000 for a second offense, and \$1,500 for a third or subsequent offense.

Availability for work and ability to perform work

Currently, with certain exceptions, a claimant is eligible for benefits for any week in which the claimant earns no wages only if the claimant is able to work and available for work during that week. If a claimant earns some wages (or certain amounts treated as wages) for a given week, and the claimant's work is suspended by the claimant or by his or her employer or the claimant is terminated by his or her employer, the claimant may be eligible for some benefits for that week under a statutory benefit reduction formula. The formula is also applied to potentially reduce the benefits payable to a claimant for a given week if the claimant is absent from work while claiming benefits. If a claimant is on a leave of absence for a definite period of time or on family or medical leave, the claimant is ineligible for benefits except that if the claimant receives some wages (or certain amounts treated as wages) for a given week, the claimant may be eligible for some benefits for that week under the benefit reduction formula. Currently, a claimant remains eligible for benefits while the claimant is enrolled in certain employment-related training.

This bill provides that if a claimant is absent from work with a current employer for two days or less in a given week (including the first week of a leave of absence, family or medical leave, or suspension or termination) because the claimant was unable to work or unavailable for work, the claimant may be eligible for some benefits for that week under the benefit reduction formula. However, if a claimant is absent from work with a current employer for more than two days in a given week, the claimant is ineligible for any benefits for that week. Under the bill, if a claimant's employment is suspended by the claimant or by his or her employer or is terminated by his or her employer due to claimant's unavailability for work or inability to perform suitable work, if a claimant is on a leave of absence for a definite period of time, or if a claimant is on family or medical leave for a given week (other than the first week of a leave), the claimant is ineligible for benefits for that week. A claimant remains eligible for benefits while the claimant is enrolled in certain employment-related training.

The Department of Workforce Development (paren)

Employee status

Currently, in order to be eligible to claim unemployment insurance benefits, an individual must, in addition to other requirements, be an "employee" as defined in the unemployment insurance law. Generally, an "employee" is an individual who performs services for an employer in employment covered under the unemployment insurance law, whether or not the individual is directly paid by the employer. However, an individual is not an "employee" if the individual performs services as an independent contractor. An individual, other than a logger or trucker performing services for an employer other than a governmental or nonprofit employer, must meet at least seven of ten conditions specified by law in order to qualify as an independent contractor.

This bill eliminates a condition which specified that the individual holds or has applied for an identification number with the federal Internal Revenue Service. Under the bill, a qualified individual must meet at least six of the remaining nine conditions in order to qualify as an independent contractor.

TAX CHANGES

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Special assessments for financing of information technology systems

Currently, each employer that is subject to a contribution requirement must pay an annual special assessment for each year prior to 2008 in an amount that may not exceed the lesser of 0.01 percent of the employer's annual taxable payroll for UI purposes or the employer's solvency contribution for that year for the purpose of financing the renovation and modernization of the unemployment insurance tax and accounting system. DWD must reduce the solvency contribution rate that an employer must pay in each year prior to 2008 by the special assessment rate applicable to that employer for that year. (The solvency contribution rate is the portion of an employer's rate that is used to maintain the solvency of the unemployment reserve fund.) This bill makes the special assessment requirement and solvency contribution rate offset applicable to calendar years 2008 through 2011.

and 2009 ✓

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. Currently, there is no requirement or procedure established by law for making electronic payments of contributions.

This bill phases in electronic reporting requirements for additional employers with 25 or more employees and employers that become newly subject to reporting requirements. The bill also permits employers that file their wage reports electronically, in lieu of filing contribution reports, to request DWD to provide electronic notice of their contributions that are payable, and to make electronic payment of their contributions. Effective in 2009, the bill also 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 and also provides that if an employer fails to provide complete and correct information requested by DWD during a fact-finding investigation, then benefits paid before the end of the week in which a redetermination or decision is issued are not affected by a redetermination or decision (notwithstanding any eligibility issue) unless an appeal tribunal, the commission, or a court finds that the employer had good cause for failing to provide the information.

Admission of departmental records relating to benefit claims

Currently, with the exception of reports by certain experts, a departmental record relating to a benefit claim that contains uncorroborated hearsay and that is offered as evidence before an appeal tribunal (hearing examiner) may require testimony or other authentication to substantiate the information contained in the record before it may be used as evidence that an employer provided or failed to provide complete and correct information to DWD during a fact finding investigation. This bill provides that such a record, if created in the regular course of a fact-finding investigation, constitutes prima facie evidence, and shall be admissible to prove that an employer provided or failed to provide to DWD complete and correct information in a fact-finding investigation of the claim, notwithstanding that the record may contain uncorroborated hearsay, and may be used as the sole basis upon which the issue of the employer's failure is decided, if the parties appearing at the hearing before the tribunal are given an opportunity to review the record at or before the hearing and to rebut the information contained in the record. Under the bill, such a record requires no authenticating testimony or other evidence for the record to be admitted in evidence, unless the circumstances affirmatively indicate a lack of trustworthiness. If appropriate, the record may then be regarded

on appeal as sufficient without further substantiation to sustain the decision of the appeal tribunal.

Employment of certain parents by family-owned businesses

Currently, with certain exceptions, the wages accruing to an individual that are used to compute the total benefits payable to the individual may not exceed ten times the individual's weekly benefit rate based solely on employment by a corporation, partnership, or limited liability company that is treated as a corporation or partnership for UI purposes in which the individual or a family member owns or controls a significant interest. Under current law, a "family member" includes a child. ~~Currently, if a claimant is employed by a family business and terminates his or her employment because of cessation of business activity by the claimant's employer, the claimant is excluded from requirements to requalify before claiming benefits.~~ This bill excludes a child from the benefit eligibility limitation, thereby potentially making the parent of a child who, with other family members, owns a significant interest in the business by which the parent is employed eligible for benefits on the same basis as other employees of other employers. ~~The bill also excludes a child from the requalification exemption, thereby potentially making the parent of a child who, with other family members, owns a significant interest in a business from which the parent terminates his or her employment eligible for benefits on the same basis as claimants who terminate their employment with other employers.~~

Employment assistance

Currently, DWD operates an employment service that assists unemployed individuals in finding suitable employment. This program is funded with federal revenue.

This bill permits this program to be funded, in addition, from the unemployment reserve fund, which is used to pay UI benefits. The bill appropriates ~~\$1,000,000 in fiscal year 2007-08 and \$1,000,000 in fiscal year 2008-09~~ from federal revenue for this purpose. ^{an additional \$1,532,200} The use of this money potentially increases the liability of employers to finance UI benefits through contributions (taxes).

Unemployment insurance administration funding

Currently, the federal government provides regular grants to this state for the purpose of financing the cost of administration of the UI program. In addition, the federal government provides special grants to this state that may be used for the purpose of administration of UI, for the payment of UI benefits, or for certain other purposes. Currently, only the first \$3,289,107 of the moneys in a special grant for federal fiscal year 2002 may be used for UI administration. This bill permits an additional \$1,000,000 of the moneys received in the special grant for federal fiscal year 2002 to be used for UI administration. The bill also permits another \$1,000,000 of the moneys received by this state in a special federal grant for federal fiscal year 2002 to be expended for the same purpose on or after October 1, 2008. Under the bill, none of ~~the~~ ^{these} moneys may be encumbered or expended after September 30, 2009. The expenditure authorizations potentially increase the liability of employers to finance UI benefits through contributions (taxes).

Under the bill, none of this money may be encumbered or expended after December 31, 2009.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

3 2007-08 2008-09

4 **20.445 Workforce development, department of**

5 (1) WORKFORCE DEVELOPMENT

6 (inf) Unemployment insurance administration PR-F C 1,000,000 1,000,000
(ng) (nd) Employment services PR-F AC 1,000,000 1,000,000
Unemployment administration; 1,530,200 -0-

7 fix component → SECTION 2. 20.445 (1) (nc) of the statutes is ~~amended to read:~~ (repealed)

8 ~~20.445 (1) (nc) Unemployment insurance administration; special federal~~
9 ~~moneys. All From the moneys received from the federal government under section~~
10 ~~903 of the federal Social Security Act, as amended, for federal fiscal years 2000 and~~
11 ~~2001 and the first \$3,289,107 of the moneys received from the federal government~~
12 ~~under that act for federal fiscal year 2002, beginning on October 1, 2007, \$4,289,107~~
13 ~~and beginning on October 1, 2008, an additional \$1,000,000, as authorized by the~~
14 ~~governor under s. 16.54, to be used for administration of unemployment insurance.~~
15 ~~No moneys may be encumbered or expended from this appropriation after September~~
16 ~~30, 2007 2009.~~

17 SECTION 3. 20.445 (1) (nd) of the statutes is amended to read:
18 20.445 (1) (nd) Unemployment administration; apprenticeship Employment
19 services. From the moneys received from the federal government under section 903
20 (d) of the federal Social Security Act, as amended, the amounts in the schedule, as

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1 authorized by the governor under s. 16.54, to be used for administration by the
 2 department of apprenticeship programs under subch. I of ch. 106 and for
 3 administration and service delivery of employment and workforce information
 4 services, including the delivery of reemployment assistance services to
 5 unemployment insurance claimants. All moneys transferred from par. (n) for this
 6 purpose these purposes shall be credited to this appropriation account. No moneys
 7 may be expended from this appropriation unless the treasurer of the unemployment
 8 reserve fund determines that such expenditure is currently needed for the purpose
 9 purposes specified in this paragraph.

10 **SECTION 4.** 108.02 (12) (bm) (intro.) of the statutes is amended to read:

11 108.02 (12) (bm) (intro.) During the period beginning on January 1, 2000, with
 12 respect to contribution requirements, and during the period beginning on April 2,
 13 2000, with respect to benefit eligibility, par. Paragraph (a) does not apply to an
 14 individual performing services for an employing unit other than a government unit
 15 or nonprofit organization in a capacity other than as a logger or trucker, if the
 16 employing unit satisfies the department that the individual meets 7 6 or more of the
 17 following conditions by contract and in fact:

18 **SECTION 5.** 108.02 (12) (bm) 1. of the statutes is repealed.

19 **SECTION 6.** 108.02 (15m) (a) of the statutes is amended to read:

20 108.02 (15m) (a) A corporation or a limited liability company that is treated
 21 as a corporation under this chapter in which 50% or more of the ownership interest,
 22 however designated or evidenced, is or during a claimant's employment was owned
 23 or controlled, directly or indirectly, by the claimant or by the claimant's spouse or
 24 child, or by the claimant's parent if the claimant is under the age of 18, or by a
 25 combination of 2 or more of them; or

1 **SECTION 7.** 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 8.** 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 9.** 108.04 (1) (a) of the statutes is renumbered 108.04 (1) (a) (intro.)
8 and amended to read:

9 108.04 **(1)** (a) (intro.) ~~An employee’s eligibility for benefits shall be reduced for~~
10 ~~any week in which the~~ If an employee is with due notice called on by his or her current
11 employing unit to report for work actually available within such a given week and
12 is unavailable for, or unable to perform, ~~some or all of such available work.~~ the work:

13 (bm) For purposes of this paragraph par. (a) 1. and (b) 2., the department shall
14 treat the amount that the employee would have earned as wages for that a given
15 week in ~~such~~ available work as wages earned by the employee and shall apply the
16 method specified in s. 108.05 (3) (a) to compute the benefits payable to the employee.
17 The department shall estimate wages that an employee would have earned if it is not
18 possible to compute the exact amount of wages that would have been earned by the
19 employee.

20 **SECTION 10.** 108.04 (1) (a) 1. and 2. of the statutes are created to read:

21 108.04 **(1)** (a) 1. On not more than 2 days of the week, the employee’s eligibility
22 for benefits for that week shall be reduced under par. (bm).

23 2. On more than 2 days of the week, the employee is ineligible for benefits for
24 that week.

25 **SECTION 11.** 108.04 (1) (b) of the statutes is repealed and recreated to read:

1 108.04 (1) (b) 1. Except as provided in subd. 2., an employee is ineligible for
2 benefits while the employee is unable to work or unavailable for work because the
3 employee's employment is suspended by the employee or the employee's employer or
4 is terminated by the employee's employer due to the employee's unavailability for
5 work or inability to perform suitable work otherwise available with the employee's
6 employer, because the employee is on a leave of absence, or because the employee is
7 on family or medical leave.

8 2. If an employee is absent from work on not more than 2 days in the first week
9 of a leave taken under subd. 1. or in the week in which a suspension or termination
10 under subd. 1. occurs, the employee's eligibility for benefits for that week shall be
11 determined under par. (bm).

12 **SECTION 12.** 108.04 (1) (c) of the statutes is repealed.

13 **SECTION 13.** 108.04 (1) (g) 1. and 2. of the statutes are amended to read:

14 108.04 (1) (g) 1. Employment by a partnership or limited liability company that
15 is treated as a partnership under this chapter, if a one-half or greater ownership
16 interest in the partnership or limited liability company is or during such employment
17 was owned or controlled, directly or indirectly, by the individual's spouse or child, or
18 by the individual's parent if the individual is under age 18, or by a combination of 2
19 or more of them.

20 2. Employment by a corporation or limited liability company that is treated as
21 a corporation under this chapter, if one-half or more of the ownership interest,
22 however designated or evidenced, in the corporation or limited liability company is
23 or during such employment was owned or controlled, directly or indirectly, by the
24 individual or by the individual's spouse or child, or by the individual's parent if the
25 individual is under age 18, or by a combination of 2 or more of them.

1 SECTION 14. 108.04 (1) (gm) 4. c. of the statutes is amended to read:

2 108.04 (1) (gm) 4. c. Sale, due to economic inviability, if the sale does not result
3 in ownership or control by substantially the same interests that owned or controlled
4 the family corporation. It is presumed unless shown to the contrary that a sale, in
5 whole or in part, to a spouse, or parent ~~or child~~ of an individual who owned or
6 controlled the family corporation, or to any combination of 2 or more of them, is a sale
7 to substantially the same interests that owned or controlled the family corporation.

8 SECTION 15. 108.04 ^(5g) ~~(4g)~~ (em) of the statutes is created to read:

9 108.04 ^(5g) ~~(4g)~~ (em) If an employee is not penalized for his or her conduct under
10 this subsection, the employee may nevertheless be subject to a benefit eligibility
11 limitation *a requalification requirement* for the same conduct under sub. (5) if sub. (5) applies to the employee.

12 SECTION 16. 108.04 (5) of the statutes is amended to read:

13 108.04 (5) DISCHARGE FOR MISCONDUCT. ~~Unless sub. (5g) applies, an~~ An
14 employee whose work is terminated by an employing unit for misconduct connected
15 with the employee's work is ineligible to receive benefits until 7 weeks have elapsed
16 since the end of the week in which the discharge occurs and the employee earns
17 wages after the week in which the discharge occurs equal to at least 14 times the
18 employee's weekly benefit rate under s. 108.05 (1) in employment or other work
19 covered by the unemployment insurance law of any state or the federal government.
20 For purposes of requalification, the employee's weekly benefit rate shall be that rate
21 which would have been paid had the discharge not occurred. The wages paid to an
22 employee by an employer which terminates employment of the employee for
23 misconduct connected with the employee's employment shall be excluded from the
24 employee's base period wages under s. 108.06 (1) for purposes of benefit entitlement.
25 This subsection does not preclude an employee who has employment with an

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1 employer other than the employer which terminated the employee for misconduct
 2 from establishing a benefit year using the base period wages excluded under this
 3 subsection if the employee qualifies to establish a benefit year under s. 108.06 (2) (a).
 4 The department shall charge to the fund's balancing account any benefits otherwise
 5 chargeable to the account of an employer that is subject to the contribution
 6 requirements under ss. 108.17 and 108.18 from which base period wages are
 7 excluded under this subsection. If an employee is penalized for his or her conduct
 8 under sub. ^(5g) ~~(4g)~~, the employee is not subject to any ^{regualification requirement} ~~benefit limitation~~ under this
 9 subsection for the same conduct to which sub. ^(5g) ~~(4g)~~ was applied.

10 ~~SECTION 17. 108.04 (5g) of the statutes is renumbered 108.04 (4g).~~

11 SECTION 18. 108.04 (7) (k) of the statutes is amended to read:

12 108.04 (7) (k) Paragraph (a) does not apply to an employee who terminates his
 13 or her part-time work consisting of not more than 30 hours per week if the employee
 14 is otherwise eligible to receive benefits because of the loss of the employee's full-time
 15 employment work and the loss of the full-time employment work makes it
 16 economically unfeasible for the employee to continue the part-time work.

17 SECTION 19. 108.04 (7) (o) of the statutes is amended to read:

18 108.04 (7) (o) Paragraph (a) does not apply to an employee who terminates his
 19 or her work in one of 2 or more concurrently held positions, at least one of which
 20 consists of ~~more than 30 hours per week~~ full-time work, if the employee terminates
 21 his or her work before receiving notice of termination from a position which consists
 22 of ~~more than 30 hours per week~~ full-time work.

23 SECTION 20. 108.04 (11) (a) of the statutes is amended to read:

24 108.04 (11) (a) If Except as provided in par. (b), if a claimant, in filing his or her
 25 application for benefits or claim for any week, conceals any part of his or her wages

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1 earned in or paid or payable for that week, or conceals his or her refusal within that
2 week of a job offer or any other material fact relating to his or her eligibility for
3 benefits, so much of any benefit payment as that was paid made because of such
4 concealment shall be recovered by the department as an overpayment.

5 SECTION 21. 108.04 (11) (b) of the statutes is repealed and recreated to read:

6 108.04 (11) (b) If a claimant, in filing a claim for any week, conceals any of his
7 or her wages earned in or paid or payable for that week, the claimant shall be denied
8 benefits for that week and any benefits paid erroneously because of such
9 concealment shall be recovered by the department as an overpayment.

10 SECTION 22. 108.04 (11) (be) of the statutes is created to read:

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

13 1. A claimant shall forfeit an amount equal to the claimant's weekly benefit rate
14 under s. 108.05 (1) for the week for which the claim is made for each single act of
15 concealment occurring before the date of ~~the~~ ^{the} first determination of concealment
16 under par. (a) or (b). *"first" stays - do not delete*

17 2. A claimant shall forfeit 3 times the claimant's benefit rate under s. 108.05
18 (1) for the week in which the claim is made for each single act of concealment
19 occurring after the date of ~~the~~ ^{the} first determination of concealment but on or before the ^{subd. 1}
20 date of ~~the~~ ^{the} 2nd determination of concealment ^{in which a penalty is applied under this subdivision} under par. (a) or (b).

21 3. A claimant shall forfeit 5 times the claimant's benefit rate under s. 108.05
22 (1) for the week in which the claim is made for each single act of concealment
23 occurring after the date of ~~the~~ ^{the} 2nd determination of concealment ^{in which a penalty is applied under subd. 2, but only before} under par. (a) or (b).
24 ^{the date of the first determination of concealment in which a}

SECTION 23. 108.04 (11) (bm) of the statutes is amended to read:

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

12 **SECTION 24.** 108.04 (11) (c) of the statutes is renumbered 108.04 ⁽¹¹⁾(4) (c) (intro.) ✓
13 and amended to read:

14 108.04 ⁽¹¹⁾(4) (c) (intro.) Any employing unit that aids and abets a claimant in ✓
15 committing or attempts to aid and abet a claimant in committing an act of
16 concealment described in par. (a) or (b) may, by a determination issued under s.
17 108.10, be required, as to each act of concealment the employing unit aids and abets
18 or attempts to aid an abet, to forfeit an amount equal to the amount of the benefits
19 the claimant improperly received as a result of the concealment. ~~The amount~~
20 ~~forfeited shall be credited to the administrative account.~~ In addition, the employing
21 unit shall be penalized as follows:

22 **SECTION 25.** 108.04 (11) (c) 1. to 3. of the statutes are created to read:

23 108.04 (11) (c) 1. The employing unit shall forfeit \$500 for each single act of
24 concealment that the employing unit aids and abets or attempts to aid and abet a

1 claimant to commit occurring before the date of first determination that the
2 employing unit has so acted.

3 2. The employing unit shall forfeit \$1,000 for each single act of concealment
4 that the employing unit aids and abets or attempts to aid and abet a claimant to
5 commit occurring after the date of the first determination that the employing unit
6 has so acted but on or before the date of the 2nd determination that the employing
7 unit has so acted.

8 3. The employing unit shall forfeit \$1,500 for each single act of concealment
9 that the employing unit aids and abets or attempts to aid and abet a claimant to
10 commit occurring after the date of the 2nd determination that the employing unit has
11 so acted.

12 SECTION 26. 108.04 (11) (cm) of the statutes is amended to read:

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

19 SECTION 27. 108.04 (11) (f) and (g) of the statutes are created to read:

20 108.04 (11) (f) All amounts forfeited under ~~par.~~ (c) and ~~(cm)~~ shall be credited
21 to the administrative account.

22 (g) For purposes of this subsection, "conceal" means to intentionally mislead
23 or defraud the department by withholding or hiding information or making a false
24 statement or misrepresentation.

25 SECTION 28. 108.04 (13) (c) of the statutes is amended to read:

active

in which a penalty is applied under subd. 1
in which a penalty is applied under this subdivision

in which a penalty is applied under subd. 2

par. 2
all collections from
administrative assessments under par.

1 108.04 (13) (c) If an employer, after notice of a benefit claim, fails to file an
2 objection to the claim under s. 108.09 (1), any benefits allowable under any resulting
3 benefit computation shall, unless the department applies a provision of this chapter
4 to disqualify the claimant, be promptly paid. Except as otherwise provided in this
5 paragraph, any eligibility question in objection to the claim raised by the employer
6 after benefit payments to the claimant are commenced does not affect benefits paid
7 prior to the end of the week in which a determination is issued as to the eligibility
8 question unless the benefits are erroneously paid without fault on the part of the
9 employer. ~~If, during the period beginning on January 1, 2006, and ending on June~~
10 ~~28, 2008, Except as otherwise provided in this paragraph, if an employer fails to~~
11 ~~provide correct and complete information requested by the department during a~~
12 ~~fact-finding investigation, but later provides the requested information, charges to~~
13 ~~the employer's account for benefits paid prior to the end of the week in which a~~
14 ~~redetermination is issued regarding the matter or, if no redetermination is issued,~~
15 ~~prior to the end of the week in which an appeal tribunal decision is issued regarding~~
16 ~~the matter, are not affected by the redetermination or decision, except unless the~~
17 ~~benefits are erroneously paid without fault on the part of the employer as provided~~
18 ~~in par. (g) (f). If benefits are erroneously paid because the employer and the employee~~
19 ~~are at fault, the department shall charge the employer for the benefits and proceed~~
20 ~~to create an overpayment under s. 108.22 (8) (a). If benefits are erroneously paid~~
21 ~~without fault on the part of the employer, regardless of whether the employee is at~~
22 ~~fault, the department shall charge the benefits as provided in par. (d), unless par. (e)~~
23 ~~applies, and proceed to create an overpayment under s. 108.22 (8) (a). If benefits are~~
24 ~~erroneously paid because an employer is at fault and the department recovers the~~

1 benefits erroneously paid under s. 108.22 (8), the recovery does not affect benefit
2 charges made under this paragraph.

3 **SECTION 29.** 108.04 (13) (e) of the statutes is amended to read:

4 108.04 (13) (e) If the department erroneously pays benefits from one
5 employer's account and a 2nd employer is at fault, the department shall credit the
6 benefits paid to the first employer's account and charge the benefits paid to the 2nd
7 employer's account. Filing of a tardy or corrected report or objection does not affect
8 the 2nd employer's liability for benefits paid prior to the end of the week in which the
9 department makes a recomputation of the benefits allowable or prior to the end of
10 the week in which the department issues a determination concerning any eligibility
11 question raised by the report or by the 2nd employer. ~~If, during the period beginning~~
12 ~~on January 1, 2006, and ending on June 29, 2008,~~ the 2nd employer fails to provide
13 correct and complete information requested by the department during a fact-finding
14 investigation, but later provides the requested information, the department shall
15 charge to the account of the 2nd employer the cost of benefits paid prior to the end
16 of the week in which a redetermination is issued regarding the matter or, if no
17 redetermination is issued, prior to the end of the week in which an appeal tribunal
18 decision is issued regarding the matter, except unless the benefits erroneously are
19 paid without fault on the part of the employer as provided in par. ~~(g)~~ (f). If the
20 department recovers the benefits erroneously paid under s. 108.22 (8), the recovery
21 does not affect benefit charges made under this paragraph.

22 **SECTION 30.** 108.04 (13) (f) of the statutes is amended to read:

23 108.04 (13) (f) If benefits are erroneously paid because the employer fails to file
24 a report required by this chapter, the employer fails to provide correct and complete
25 information on the report, the employer fails to object to the benefit claim under s.

1 108.09 (1), the employer fails to provide correct and complete information requested
 2 by the department during a fact-finding investigation, unless an appeal tribunal,
 3 the commission, or a court of competent jurisdiction finds that the employer had good
 4 cause for the failure to provide the information, or the employer aids and abets the
 5 claimant in an act of concealment as provided in sub. (11), the employer is at fault.
 6 If benefits are erroneously paid because an employee commits an act of concealment
 7 as provided in sub. (11) or fails to provide correct and complete information to the
 8 department, the employee is at fault.

9 **SECTION 31.** 108.04 (13) (g) of the statutes is repealed.

10 **SECTION 32.** 108.04 (16) (a) (intro.) of the statutes is amended to read:

11 108.04 **(16)** (a) (intro.) The department shall not reduce benefits under sub. (1)
 12 (a) ~~(b)~~, or deny benefits under sub. ^{(1)(a) 2.} (2) (a) or (d) or (8) or s. 108.141 (3g) to any
 13 otherwise eligible individual for any week as a result of the individual's enrollment
 14 in a course of vocational training or basic education which is a prerequisite to such
 15 training, provided the department determines that:

16 **SECTION 33.** 108.04 (16) (b) and (c) 2. of the statutes ^{is} are amended to read:

17 108.04 **(16)** (b) The department shall not apply any benefit ^{reduction or} disqualification
 18 under sub. (1) ~~(a)~~ or (b) ^{1.}, (7) (c), or (8) (e) or s. 108.141 (3g) that is not the result of
 19 training or basic education under par. (a) while an individual is enrolled in a course
 20 of training or education that meets the standards specified in par. (a).

21 **SECTION 34.** 108.04 (16) (c) 1. of the statutes is amended to read:

22 108.04 **(16)** (c) 1. The department shall not reduce benefits under sub. (1) (a)
 23 ~~(b)~~ or deny benefits under sub. ^{(1)(a) 2.} (2) (a) or (d) or (8) or s. 108.141 (3g) to an otherwise
 24 eligible individual as a result of the individual's enrollment in such training; and

25 **SECTION 35.** 108.04 (16) (c) 2. of the statutes is amended to read:

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108.04 (16) (c) 2. The department shall not apply ^{any} benefit [↓]disqualifications [↓]
reduction or disqualification under sub. (1) (a) or (b) 1., (7) (c), or (8) (e) or s. 108.141 (3g) that ^{are} not the result ^{score}
of the training while the individual is enrolled in the training. ^{strike} ^{PLAN}

SECTION 36. 108.05 (3) (a) of the statutes is amended to read:

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

SECTION 37. 108.05 (3) (b) 1. a. to c. of the statutes are amended to read:

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

24

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

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)~~ (bm), by
7 itself or in combination with the wages earned for work performed in that week for
8 that employer and the pay received under subd. 1. b., is at least equivalent to pay for
9 ~~at least 35 hours of~~ full-time work at that same or a greater rate of pay.

10 SECTION 38. 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 39. 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 40. 108.067 (1) of the statutes is amended to read:

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

24 SECTION 41. 108.09 (4o) of the statutes is created to read:

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1 108.09 (4o) DEPARTMENTAL RECORDS RELATING TO BENEFIT CLAIMS. In any hearing
2 before an appeal tribunal under this section, a departmental record relating to a
3 claim for benefits, other than a report specified in sub. (4m), constitutes prima facie
4 evidence, and shall be admissible to prove, that an employer provided or failed to
5 provide to the department complete and correct information in a fact-finding
6 investigation of the claim, notwithstanding that the record or a statement contained
7 in the record may be uncorroborated hearsay and may constitute the sole basis upon
8 which issue of the employer's failure is decided, if the parties appearing at the
9 hearing have been given an opportunity to review the record at or before the hearing
10 and to rebut the information contained in the record. A record of the department that
11 is admissible under this subsection shall be regarded as self authenticating and shall
12 require no foundational or other testimony for its admissibility, unless the
13 circumstances affirmatively indicate a lack of trustworthiness in the record. If such
14 a record is admitted and made the basis of a decision, the record may constitute
15 substantial evidence under s. 102.23 (6). For purposes of this subsection,
16 "departmental record" means a memorandum, report, record, document, or data
17 compilation that has been made or maintained by employees of the department in
18 the regular course of the department's fact-finding investigation of a benefit claim,
19 is contained in the department's paper or electronic files of the benefit claim, and
20 relates to the department's investigative inquiries to an employer or statements or
21 other documents submitted by the employer or its agent in connection with the
22 fact-finding investigation of a benefit claim. "Departmental record" does not include
23 any statement or other document submitted by or obtained from a claimant.

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SECTION 42. 108.151 (7) (e) of the statutes is amended to read:

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

7 SECTION 43. 108.151 (7) (h) of the statutes is amended to read:

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

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13 SECTION 44. 108.16 (6) (f) of the statutes is amended to read:

14 108.16 (6) (f) Any amount available for such crediting under s. 108.04 (11) (b)
 15 (be), 108.14 (8n) (e) or 108.141.

16 SECTION 45. 108.16 (6m) (a) of the statutes is amended to read:

17 108.16 (6m) (a) The benefits thus chargeable under s. 108.04 (1) (f), (4g), (5),
 18 (5g), (7) (h), (8) (a), (13) (c) or (d) or (16) (e), 108.07 (3), (3r), (5) (b), (5m), (6), or (8),
 19 108.14 (8n) (e), 108.141, 108.151, or 108.152 or sub. (6) (e) or (7) (a) and (b).

20 SECTION 46. 108.16 (8) (b) 4. of the statutes is amended to read:

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

1 SECTION 47. 108.17 (2) of the statutes is renumbered 108.17 (2) (a) and
2 amended to read:

3 108.17 (2) (a) ~~Every~~ Except as provided in par. (b), every employer that is
4 subject to a contribution requirement shall file quarterly reports of contributions
5 required under this chapter with the department, and pay contributions to the
6 department, in such manner as the department prescribes. Each contribution report
7 and payment is due at the close of the month next following the end of the applicable
8 calendar quarter, except as authorized in sub. (2c) or as the department may assign
9 a later due date pursuant to sub. (1m) or general department rules.

10 SECTION 48. 108.17 (2) (b) of the statutes is created to read:

11 108.17 (2) (b) If an employer that is subject to a contribution requirement files
12 its ~~quarterly~~ ^{and employment} wage reports under s. 108.205 (1) ~~using an electronic medium approved~~ ^{electronically in the manner and}
13 ~~by the department, the employer may elect, in lieu of filing reports under par. (a), to~~ ^{form prescribed}
14 request the department to provide electronic notice to the employer of the amount
15 of contributions due for payment under s. 108.18. ^{Following the end of each quarter} In such case, the department shall
16 ~~provide the notice no later than the 15th day following the end of each calendar~~ ^{compute the amount due from the employer's wage and employment}
17 ~~quarter.~~ ^{report for each quarter and shall promptly provide notice to the employer} The employer shall then pay the contributions due for the quarter by the
18 due date specified in par. (a) in the manner provided in sub. (7). ^{of the amount due for payment}

19 SECTION 49. 108.17 (2b) of the statutes is amended to read:

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

1 department. Each employer that becomes subject to the reporting requirements
 2 under sub. (2) after June 30, 2008, and that does not use an employer agent to file
 3 its contribution reports shall file its contribution reports electronically using the
 4 Internet on a form prescribed by the department. *in the manner and* Once an employer becomes subject
 5 to the a reporting requirements requirement under this subsection, it shall continue
 6 to file its reports under this subsection unless that requirement is waived by the
 7 department.

8 SECTION 50. 108.17 (2g) of the statutes is amended to read:

9 108.17 (2g) *Except as authorized in sub. (2), an* An employer agent that prepares reports pays contributions under
 10 sub. (2) on behalf of less than 25 ¹⁰ employers shall file those contribution reports
 11 electronically using the Internet on the form prescribed by the department under
 12 sub. (2b). *strike period* ~~An employer agent that prepares reports pays contributions under sub. (2)~~
 13 ~~on behalf of 25 ¹⁰ or more employers shall file those reports using an electronic~~ *strike*
 14 ~~medium and format approved by the department. An Except as authorized in sub.~~
 15 ~~(2). an employer agent that becomes subject to the a reporting requirement under~~
 16 ~~this subsection shall file its initial reports under this subsection for the 4th quarter~~
 17 ~~beginning after the quarter in which the employer agent becomes subject to the~~
 18 ~~reporting requirement. Once Except as authorized in sub. (2), once an employer~~
 19 ~~agent becomes subject to the a reporting requirement under this subsection, the~~
 20 ~~employer agent shall continue to file its reports under this subsection unless that~~
 21 ~~requirement is waived by the department.~~ ✓

22 SECTION 51. 108.17 (2g) of the statutes, as affected by 2007 Wisconsin Act
 23(this act), section 50, is amended to read:

24 108.17 (2g) An employer agent that pays contributions under sub. (2) on behalf
 25 of less than 10 4 employers shall file contribution reports electronically using the

1 Internet on the form prescribed by the department under sub. (2b). An employer
 2 agent that pays contributions under sub. (2) on behalf of 10 4 or more employers shall
 3 file those reports using an electronic medium and format approved by the
 4 department. Except as authorized in sub. (2), an employer agent that becomes
 5 subject to a reporting requirement under this subsection shall file its initial reports
 6 under this subsection for the 4th quarter beginning after the quarter in which the
 7 employer agent becomes subject to the reporting requirement. Except as authorized
 8 in sub. (2), once an employer agent becomes subject to a reporting requirement under
 9 this subsection, the employer agent shall continue to file its reports under this
 10 subsection unless that requirement is waived by the department. ✓

11 SECTION 52. 108.17 (7) of the statutes is created to read:

12 108.17 (7) (a) In this subsection, "electronic funds transfer" means any transfer
 13 of moneys initiated through a telephone, terminal, or computer that authorizes a
 14 financial institution to debit an account and transfer the moneys debited to another
 15 account.

12-month period ending on the preceding June 30

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

Once an employer becomes subject to an electronic payment requirement under this paragraph, the employer shall continue to make payment

19 (c) Each employer agent shall pay all contributions under this section on behalf
 20 of each employer that is represented by the agent by means of electronic funds
 21 transfer.

of all contributions by means of electronic funds transfer unless that requirement is waived by the department.

22 SECTION 53. 108.18 (8) of the statutes is amended to read:

23 108.18 (8) SOLVENCY CONTRIBUTIONS. Each employer's solvency contribution for
 24 each period of a calendar year quarter of any year shall be figured by applying the
 25 solvency rate determined for that year under sub. (9) to the employer's payroll for

1 that period ~~quarter~~, and shall be payable to the fund's balancing account by the
2 ~~due date of its contribution report~~ due date for payment of contributions by the
3 employer for that quarter.

4 SECTION 54. 108.19 (1e) (a) of the statutes is amended to read:

5 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an
6 employer that finances benefits by reimbursement in lieu of contributions under s.
7 108.15, 108.151, or 108.152 shall, in addition to other contributions payable under
8 s. 108.18 and this section, pay an assessment to the administrative account for each
9 year prior to the year 2008 ~~2012~~ ²⁰¹⁰ equal to the lesser of 0.01% of its payroll for that year
10 or the solvency contribution that would otherwise be payable by the employer under
11 s. 108.18 (9) for that year.

12 SECTION 55. 108.19 (1m) of the statutes is amended to read:

13 108.19 (1m) Each employer subject to this chapter as of the date a rate is
14 established under this subsection shall pay an assessment to the administrative
15 account at a rate established by the department sufficient to pay interest due on
16 advances from the federal unemployment account under title XII of the social
17 security act (42 USC 1321 to 1324). The rate established by the department for
18 employers who finance benefits under s. 108.15 (2), 108.151 (2), or 108.152 (1) shall
19 be 75% of the rate established for other employers. The amount of any employer's
20 assessment shall be the product of the rate established for that employer multiplied
21 by the employer's payroll of the previous calendar year as taken from quarterly
22 ~~contribution wage and employment~~ reports filed by the employer under s. 108.205
23 (1) or, in the absence of the filing of such reports, estimates made by the department.
24 Each assessment made under this subsection is due on the 30th day commencing
25 after the date on which notice of the assessment is mailed by the department. If the

1 amounts collected under this subsection are in excess of the amounts needed to pay
2 interest due, the amounts shall be retained in the administrative account and
3 utilized for the purposes specified in s. 108.20 (2m).

4 SECTION 56. 108.20 (3) of the statutes is amended to read:

5 108.20 (3) There shall be included in the moneys governed by sub. (2m) any
6 amounts collected by the department under ss. 108.04 (11) (c) and (cm) and 108.22
7 (1) (a), (ac), ~~and (ad)~~, and (af) as tardy filing fees, forfeitures, interest on delinquent
8 payments, or other penalties and any excess moneys collected under s. 108.19 (1m).

9 SECTION 57. 108.205 (2) of the statutes is amended to read:

10 108.205 (2) ^{Each employer} All employers of 50 ²⁵ or more employees, as determined under s.
11 108.22 (1) (ae), that ^{does} ~~do~~ not use an employer agent to file ^{its} ~~their~~ reports under this
12 section and that become ^s subject to the reporting requirement under this section
13 before July 1, 2008, shall file the quarterly report under sub. (1) using an electronic
14 ~~medium approved~~ ^{electronically in the manner and form prescribed} by the department for such employers. ~~(Each employer that~~
15 ~~becomes subject to the reporting requirement under this section after June 30, 2008,~~
16 ~~shall file the quarterly report under sub. (1) using an electronic medium approved~~
17 ~~by the department. An employer that becomes subject to the reporting requirement~~
18 ~~under this subsection shall file its initial report under this subsection for the 4th~~
19 ~~quarter beginning after the quarter in which the employer becomes subject to the~~
20 ~~reporting requirement. Once an employer becomes subject to the reporting~~
21 ~~requirement under this subsection, the employer shall continue to file its quarterly~~
22 ~~reports under this subsection unless that requirement is waived by the department.~~

23 SECTION 58. 108.22 (1) (a) (intro.) of the statutes is renumbered 108.22 (1) (a)

24 and amended to read:

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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 (1)
 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 59. 108.22 (1) (a) 1. and 2. of the statutes are repealed.

12 SECTION 60. 108.22 (1) (ac) of the statutes is renumbered 108.22 (1) (ac) 1. and
 13 amended to read:

14 108.22 (1) (ac) ~~(1)~~ In ~~Except as provided in subd. 2,~~ in addition to any fee
 15 assessed under par. (a), the department may assess an employer or employer agent
 16 that is subject to the reporting requirement under s. 108.205 (2) and that fails to file
 17 its report in ~~a format~~ the manner and form prescribed under that subsection a penalty of ~~\$10~~ \$15 for each
 18 employee whose information is not reported in ~~a format~~ the manner and form prescribed under s. 108.205
 19 (1m) (b) or (2).

20 SECTION 61. 108.22 (1) (ac) 2. of the statutes is created to read:

21 108.22 (1) (ac) 2. In addition to any fee assessed under par. (a), the department
 22 may assess any employer of 25 or more employees, any employer that becomes
 23 subject to a reporting requirement under s. 108.17 (2) or 108.205 (2) after June 30,
 24 2008, or any employer agent that fails to file its report in a format prescribed under
 25 s. 108.17 (2b) or (2g) or 108.205 (1m) (b) or (2) a penalty of \$15 for each employee

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1 whose information is not reported in a format prescribed under s. 108.17 (2b) or (2g)
2 or 108.205 (1m) (b) or (2).

3 **SECTION 62.** 108.22 (1) (ac) 2. of the statutes, as created by 2007 Wisconsin Act
4 (this act), is amended to read:

5 108.22 (1) (ac) 2. In addition to any fee assessed under par. (a), the department
6 may assess any employer of 25 or more employees, any employer that becomes
7 subject to a reporting requirement under s. 108.17 (2) or 108.205 (2) after June 30,
8 2008, or any employer agent that fails to file its report in a format prescribed under
9 s. 108.17 (2b) or (2g) or 108.205 (1m) (b) or (2) a penalty of \$15 \$20 for each employee
10 whose information is not reported in a format prescribed under s. 108.17 (2b) or (2g)
11 or 108.205 (1m) (b) or (2).

12 **SECTION 63.** 108.22 (1) (ae) of the statutes is amended to read:

13 108.22 (1) (ae) For purposes of par. (a) (ac), the number of employees employed
14 by an employer is the total number of employees employed by the employer at any
15 time during the reporting period.

16 **SECTION 64.** 108.22 (1) (af) of the statutes is created to read:

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

23 **SECTION 65.** 108.22 (1) (am) of the statutes is amended to read:

1 ~~contribution~~ wage and employment reports filed by the employer under s. 108.205
 2 (1) or, in the absence of the filing of such reports, estimates made by the department.
 3 Each assessment made under this subsection is due on the 30th day commencing
 4 after the date on which notice of the assessment is mailed by the department. If the
 5 amounts collected under this subsection are in excess of the amounts needed to pay
 6 interest due, the amounts shall be retained in the administrative account and
 7 utilized for the purposes specified in s. 108.20 (2m).

8 **SECTION 62.** 108.20 (3) of the statutes is amended to read:

9 108.20 (3) There shall be included in the moneys governed by sub. (2m) any
 10 amounts collected by the department under ss. 108.04 (11) (c) and (cm) and 108.22
 11 (1) (a), (ac), ~~and (ad)~~, and (af) as tardy filing fees, forfeitures, interest on delinquent
 12 payments, or other penalties and any excess moneys collected under s. 108.19 (1m).

13 **SECTION 63.** 108.205 (1m) of the statutes is amended to read:

14 108.205 (1m) (a) The department shall prescribe a the manner and form and
 15 methodology for filing reports under sub. (1) electronically using the Internet.

16 (b) Each employer agent shall file its reports electronically in the manner and
 17 form prescribed by the department.

18 **SECTION 64.** 108.205 (2) of the statutes is amended to read:

19 108.205 (2) ~~All employers~~ Each employer of 50 ~~25~~ or more employees, as
 20 determined under s. 108.22 (1) (ae), that does not use an employer agent to file its
 21 reports under this section and that becomes subject to the reporting requirement
 22 under this section before July 1, 2008, shall file the quarterly report under sub. (1)
 23 ~~using an electronic medium approved~~ electronically in the manner and form
 24 prescribed by the department ~~for such employers.~~ An employer that becomes subject
 25 ~~to the reporting requirement under this subsection shall file its initial report under~~

Handwritten notes:
 - "keep struck period" with an arrow pointing to the underlined text in line 24.
 - "keep struck" and "struck period" with arrows pointing to the underlined text in line 25.

1 this subsection for the 4th quarter beginning after the quarter in which the employer
2 becomes subject to the reporting requirement. ^e Each employer that becomes subject
3 to the reporting requirement under this section after June 30, 2008, shall file the
4 quarterly report under sub. (1) electronically in the manner and form prescribed by
5 the department. ^{plain} Once an employer becomes subject to the reporting requirement
6 under this subsection, the employer shall continue to file its quarterly reports under
7 this subsection unless that requirement is waived by the department.

8 SECTION 65. 108.22 (1) (a) (intro.) of the statutes is renumbered 108.22 (1) (a)
9 and amended to read:

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

20 SECTION 66. 108.22 (1) (a) 1. and 2. of the statutes are repealed.

21 SECTION 67. 108.22 (1) (ac) of the statutes is amended to read:

22 108.22 (1) (ac) In addition to any fee assessed under par. (a), the department
23 may assess an employer or employer agent that is subject to the reporting
24 requirement under s. 108.205 (2) and that fails to file its report in ~~a format~~ the
25 manner and form prescribed under that subsection a penalty of ~~\$10~~ \$15 for each

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

4 **SECTION 66.** 108.22 (1) (c) of the statutes is amended to read:

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

14 **SECTION 67.** 108.22 (9) of the statutes is amended to read:

15 108.22 (9) An individual who is an officer, employee, member or manager
16 holding at least 20% of the ownership interest of a corporation or of a limited liability
17 company subject to this chapter, and who has control or supervision of or
18 responsibility for ~~filing contribution reports or making payment of contributions,~~
19 and who willfully fails to ~~file such reports or to make such payments to the~~
20 ~~department, or to ensure that such reports are filed or that such payments are made,~~
21 may be found personally liable for such amounts, including interest, tardy payment
22 or filing fees, costs and other fees, in the event that after proper proceedings for the
23 collection of such amounts, as provided in this chapter, the corporation or limited
24 liability company is unable to pay such amounts to the department. Ownership
25 interest of a corporation or limited liability company includes ownership or control,

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

11 **SECTION 68. Initial applicability.**

12 (1) The treatment of section 108.02 (12) (bm) (intro.) and 1. of the statutes first
13 applies with respect to employment after December 31, 2007.

14 (2) The treatment of sections 108.02 (15s) and (20m), 108.04 (7) (k) and (o), and
15 108.05 (3) (b) 1. a. and b. and (c) of the statutes, as they pertain to payment of benefit
16 claims, and the treatment of section 108.05 (3) (b) 1. c. of the statutes, as it pertains
17 to the treatment of wages and pay, first apply with respect to weeks of unemployment
18 beginning on the effective date of this subsection.

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

1 (4) The treatment of sections 108.067 (1), 108.151 (7) (e) and (h), 108.16 (8) (b)
2 4., 108.18 (8), 108.19 (1m), and 108.22 (9) of the statutes, the renumbering and
3 amendment of section 108.17 (2) of the statutes, and the creation of section 108.17
4 (2) (b) of the statutes first apply with respect to contributions payable for the 3rd
5 quarter of 2008.

6 (5) The treatment of section 108.04 (16) (a) (intro.) and (c) 1. of the statutes, the
7 renumbering and amendment of section 108.04 (1) (a) of the statutes, and the
8 creation of section 108.04 (1) (a) 1. and 2. of the statutes and, with respect to the
9 reference to section 108.04 (1) (a) of the statutes, as affected by this act, the treatment
10 of section 108.04 (16) (b) and (c) 2. of the statutes and, with respect to the reference
11 to section 108.04 (1) (bm) of the statutes, as affected by this act, the treatment of
12 section 108.05 (3) (a) and (b) 1. c. of the statutes first apply with respect to weeks of
13 unemployment beginning on the effective date of this subsection.

14 (6) The treatment of sections 108.04 (1) (b) and (c) of the statutes and, with
15 respect to the reference to section 108.04 (1) (b) of the statutes, as affected by this act,
16 the treatment of section 108.04 (16) (b) and (c) 2. of the statutes first apply with
17 respect to terminations of employment occurring and suspensions of employment
18 and leaves of absence beginning on the effective date of this subsection.

19 (7) The treatment of sections 108.02 (15m) (a) and 108.04 (1) (g) 1. and 2. and
20 (gm) 4. c. of the statutes first applies with respect to benefit years that begin on the
21 effective date of this subsection.

22 (8) The treatment of sections 108.04 (11) (a), (b), (be), (bm), (cm), (f), and (g),
23 108.05 (3) (d), and 108.16 (6) (f) of the statutes, the renumbering and amendment of
24 section 108.04 (11) (c) of the statutes, the creation of section 108.04 (11) (c) 1. to 3. of
25 the statutes, and, with respect to the reference to section 108.05 (3) (d) of the statutes,

1 as created by this act, the treatment of section 108.05 (3) (a) of the statutes first apply
2 with respect to determinations issued under section 108.09 of the statutes on the
3 effective date of this subsection or, with respect to determinations that are appealed,
4 to decisions issued under section 108.09 of the statutes on the effective date of this
5 subsection.

6 (9) The treatment of section 108.04 (13) (c) of the statutes first applies with
7 respect to redeterminations issued under section 108.09 of the statutes on the
8 effective date of this subsection or, with respect to matters in which no
9 redetermination is issued, with respect to decisions issued under section 108.09 of
10 the statutes on the effective date of this subsection.

11 (10) The treatment of section 108.09 (4o) of the statutes first applies with
12 respect to appeals filed on the effective date of this subsection.

13 (11) The treatment of sections 108.17 (2b) and (2g) ~~(by SECTION 50)~~ 108.205 (2)
14 ~~(by SECTION 57)~~, and 108.22 (1) ~~(ae)~~ ^{(ad) 1 and} of the statutes first applies with respect to reports
15 required to be filed for the 3rd quarter of 2008. ^{Comma stays}

16 (12) The treatment of section 108.17 (2g) (by SECTION 51) of the statutes first
17 applies with respect to reports required to be filed for the 3rd quarter of 2009.

18 (13) The treatment of sections 108.17 (7), 108.20 (3), and 108.22 (1) (af) and
19 (am) of the statutes first applies with respect to contributions payable ~~during the~~
20 ~~first quarter of 2009.~~ ^{after December 31, 2008}

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

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28

treatment

(by SECTION 68) *

1 (15) The ~~renumbering and amendment~~ of section 108.22 (1) (ac) of the statutes
2 ~~and the creation of section 108.22 (1) (ac) 22 of the statutes~~ first applies with respect
3 to reports required to be filed for the 3rd quarter of 2008.

applies

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INS
28-19

4 (16) The ~~amendment~~ of section 108.22 (1) (ac) ~~2~~ of the statutes first applies
5 with respect to reports required to be filed for the 3rd quarter of 2009.

(by SECTION 68) *

6 **SECTION 69. Effective dates.** This act takes effect on the first Sunday after

7 publication, except as follows:

→ (1) The treatment of section 20.445 (1) (ng) of the statutes takes

8 (1) The treatment of section 108.17 (2g) (by SECTION 51) of the statutes takes
9 effect on July 1, 2009.

effect on January 1, 2008, or on the first Sunday after publication, whichever is later.

10 (2) The amendment of section 108.22 (1) (ac) ~~2~~ of the statutes takes effect on
11 July 1, 2009.

2

12 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3070/P5ins
JTK.....

SA✓

INS 7-6:

SECTION 1. 20.445 (1) (n) of the statutes is amended to read:

20.445 (1) (n) *Employment assistance and unemployment insurance administration; federal moneys.* All federal moneys received, as authorized by the governor under s. 16.54, for the administration of employment assistance and unemployment insurance programs of the department, for the performance of the department's other functions under subch. I of ch. 106 and ch. 108, except moneys appropriated under ~~par. (ne)~~ pars. (nf) and (ng), and to pay the compensation and expenses of appeal tribunals and of employment councils appointed under s. 108.14, to be used for such purposes, except as provided in s. 108.161 (3e), and, from the moneys received by this state under section 903 (d) of the federal Social Security Act, as amended, to transfer to the appropriation account under par. (nb) an amount determined by the treasurer of the unemployment reserve fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the amounts in the schedule under par. (nb), to transfer to the appropriation account under par. (nd) an amount determined by the treasurer of the unemployment reserve fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the amounts in the schedule under par. (nd), and to transfer to the appropriation account under par. (ne) an amount determined by the treasurer of the unemployment reserve fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the amount required to pay for the cost of banking services incurred by the unemployment reserve fund.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85,

89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 265.

INS 7-7:

[^]
SECTION 2. 20.445 (1) (nf) of the statutes is created to read:

20.445 (1) (nf) *Unemployment insurance administration.* From the moneys received from the federal government under section 903 of the federal Social Security Act, as amended, for federal fiscal year 2002, as a continuing appropriation, the amounts in the schedule, as authorized by the governor under s. 16.54, to be used for the administration of unemployment insurance. No moneys appropriated under this paragraph for the 2008-09 fiscal year may be encumbered or expended prior to October 1, 2008. No moneys may be encumbered or expended from this appropriation after September 30, 2009.

[^]
SECTION 3. 20.445 (1) (ng) of the statutes is created to read:

20.445 (1) (ng) *Unemployment administration; employment services.* From the moneys received from the federal government under section 903 (d) of the federal Social Security Act, as amended, as a continuing appropriation, the amounts in the schedule, as authorized by the governor under s. 16.54, to be used for delivery of reemployment assistance services to unemployment insurance claimants. No moneys may be expended from this paragraph unless the treasurer of the unemployment insurance fund determines that the expenditure is currently needed for the purpose specified in this paragraph. No moneys may be encumbered or expended from this appropriation after December 31, 2009.

e appropriation

INS 8-9:

SECTION 4. 108.02 (12) (a) of the statutes is amended to read:

108.02 (12) (a) "Employee" means any individual who is or has been performing services for pay for an employing unit, whether or not the individual is paid directly by the employing unit, except as provided in par. (b), (bm), (c), (d), (dm) or (dn). ✓

History: 1971 c. 53; 1971 c. 213 s. 5; 1973 c. 247; 1975 c. 223, 343; 1975 c. 373 s. 40; 1977 c. 29, 133; 1979 c. 52, 221; 1981 c. 36, 353; 1983 a. 8 ss. 4 to 12, 54; 1983 a. 168; 1983 a. 189 ss. 158 to 161, 329 (25), (28); 1983 a. 384, 477, 538; 1985 a. 17, 29, 332; 1987 a. 38 ss. 6 to 22, 134; 1987 a. 255; 1989 a. 31; 1989 a. 56 ss. 151, 259; 1989 a. 77, 303; 1991 a. 89; 1993 a. 112, 213, 373, 492; 1995 a. 27 ss. 3777, 9130 (4); 1995 a. 118, 225; 1997 a. 3, 27, 39; 1999 a. 15, 82, 83; 2001 a. 35, 103, 105; 2003 a. 197; 2005 a. 25, 86, 149, 441.

SECTION 5. 108.02 (12) (b) of the statutes is repealed. ✓

INS 8-18:

SECTION 6. 108.02 (15m) (intro.) of the statutes is amended to read:

108.02 (15m) FAMILY CORPORATION. (intro.) ~~Except as provided in s. 108.04 (7)~~

(r), "family Family corporation" means: ✓

History: 1971 c. 53; 1971 c. 213 s. 5; 1973 c. 247; 1975 c. 223, 343; 1975 c. 373 s. 40; 1977 c. 29, 133; 1979 c. 52, 221; 1981 c. 36, 353; 1983 a. 8 ss. 4 to 12, 54; 1983 a. 168; 1983 a. 189 ss. 158 to 161, 329 (25), (28); 1983 a. 384, 477, 538; 1985 a. 17, 29, 332; 1987 a. 38 ss. 6 to 22, 134; 1987 a. 255; 1989 a. 31; 1989 a. 56 ss. 151, 259; 1989 a. 77, 303; 1991 a. 89; 1993 a. 112, 213, 373, 492; 1995 a. 27 ss. 3777, 9130 (4); 1995 a. 118, 225; 1997 a. 3, 27, 39; 1999 a. 15, 82, 83; 2001 a. 35, 103, 105; 2003 a. 197; 2005 a. 25, 86, 149, 441.

INS 12-22:

renumbered 108.04 (7) (r) (intro.) and

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

fix component

108.04 (7) (r) ^(intro.) Paragraph (a) does not apply if the department determines that

the employee owns or controls, directly or indirectly, an ownership interest, however designated or evidenced, in a family corporation business and the employee's employment was terminated by the employer because of an involuntary cessation of the business of the corporation ^{business} under one or more of the conditions specified in sub.

(1) (gm). In this paragraph, "family corporation" has the meaning given in s. 108.02 (15m) and also includes a business" means:

- 1. A corporation or a limited liability company that is treated as a corporation under this chapter in which 50% or more of the ownership interest, however

designated or evidenced, is or during an employee's employment was owned or controlled, directly or indirectly, by the employee or by the employee's spouse or child, or by the employee's parent if the employee is under the age of 18, or by one or more brothers or sisters of a claimant the employee, or by a combination of one or more brothers or sisters and one or more of the persons specified in s. 108.02 (15m)

(a) 2 or more of them; or

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86.

SECTION 8. 108.04 (7) (r) 2. of the statutes is created to read:

108.04 (7) (r) 2. Except where subd. 1. applies, a corporation or limited liability company that is treated as a corporation under this chapter in which 25 percent or more of the ownership interest, however designated or evidenced, is or during an employee's employment was owned or controlled, directly or indirectly, by the employee.

INS 20-23:

SECTION 9. 108.09 (2) (bm) of the statutes is amended to read:

108.09 (2) (bm) In determining whether an individual meets the conditions specified in s. 108.02 (12) ~~(b) 2. a. or b.,~~ (bm) 3. or 4.,^{strike comma} or (c) 1., the department shall not consider documents granting operating authority or licenses, or any state or federal laws or federal regulations granting such authority or licenses.

History: 1971 c. 147; 1973 c. 247; 1975 c. 343; 1977 c. 29, 418; 1979 c. 52, 221; 1981 c. 36; 1985 a. 17, 29; 1987 a. 38 ss. 81 to 86, 136; 1989 a. 56 s. 259; 1989 a. 77; 1991 a. 89, 269; 1993 a. 373; 1995 a. 118; 1997 a. 35, 39; 1999 a. 15; 2001 a. 35; 2003 a. 197; 2005 a. 86, 253.

INS 21-23:

SECTION 10. 108.09 (4s) of the statutes is amended to read:

108.09 (4s) EMPLOYEE STATUS. In determining whether an individual meets the conditions specified in s. 108.02 (12) (b) ~~2. a. or b.~~, (bm) 3. or 4., or (c) 1., the appeal tribunal shall not take administrative notice of or admit into evidence documents granting operating authority or licenses, or any state or federal laws or federal regulations granting such authority or licenses.

strike comma

History: 1971 c. 147; 1973 c. 247; 1975 c. 343; 1977 c. 29, 418; 1979 c. 52, 221; 1981 c. 36; 1985 a. 17, 29; 1987 a. 38 ss. 81 to 86, 136; 1989 a. 56 s. 259; 1989 a. 77; 1991 a. 89, 269; 1993 a. 373; 1995 a. 118; 1997 a. 35, 39; 1999 a. 15; 2001 a. 35; 2003 a. 197; 2005 a. 86, 253.

INS 27-8:

SECTION 11. 108.205 (1m) of the statutes is amended to read:

108.205 (1m) (a) The department shall prescribe a the manner and form and methodology for filing reports under sub. (1) electronically ~~using the Internet~~.

(b) Each employer agent shall file its reports electronically in the manner and form prescribed by the department.

History: 1987 a. 38; 1991 a. 89; 1997 a. 39; 1999 a. 15; 2005 a. 86.

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INS 28-19:

sect 69

SECTION 12. 108.22 (1) (ac) of the statutes, as affected by 2007 Wisconsin Act ... (this act), SECTION [Y], is amended to read:

108.22 (1) (ac) In addition to any fee assessed under par. (a), the department may assess an employer or employer agent that is subject to the reporting requirement under s. 108.205 (2) and that fails to file its report in the manner and form prescribed under that subsection a penalty of \$15 \$20 for each employee whose information is not reported in the manner and form prescribed under s. 108.205 (1m) (b) or (2).

SECTION 13. 108.22 (1) (ad) 1. of the statutes is amended to read:

108.22 (1) (ad) 1. An employer agent that is subject to the reporting requirements under s. 108.17 (2g) and that fails to file a contribution report in accordance with s. 108.17 (2g) may be assessed a penalty by the department in the amount of \$25 for each employer whose report is not filed ~~using an electronic format and medium approved~~ electronically in the manner and form prescribed by the department.

History: 1973 c. 247; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 343; 1979 c. 52; 1981 c. 36; 1985 a. 17, 29; 1987 a. 38; 1989 a. 77; 1991 a. 89; 1993 a. 112, 373; 1995 a. 224; 1997 a. 39; 1999 a. 15; 2001 a. 35; 2003 a. 197; 2005 a. 86.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3070/P5dn

JTK:js

Dan LaRocque:

1. Concerning the interplay of s. 108.04 (5) and (5g), stats., relating to misconduct, my notes reflect that you will check with the council to ensure that this draft accords with the council's intent. It is understood that while some of the department's staff believes that this draft creates a more sophisticated and logical way to treat the interplay between the two provisions, the draft does go beyond a mere clarification of the current law.
2. Since we did not review the initial applicability provisions, I have deferred most of these items. I should note that some statutory provisions have bifurcated initial applicabilities ("...as they pertain to..."). That is why they appear more than once. If we remove a statutory treatment from an initial applicability provision but retain it in the draft, I want to address what the initial applicability for that treatment should be. As I mentioned, I would like to defer potential consolidation of initial applicability subsections until the council affirms that all of the consolidated subsections will remain in the draft.

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

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quotation
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3070/P5dn
JTK:cjs:jf

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