



## 2009 ASSEMBLY BILL 266

1     **AN ACT** *to renumber and amend* 109.07 (1m); and *to amend* 106.11, 109.07 (1)  
2           (a), 109.07 (1) (h), 109.07 (3) (a) (intro.), 109.07 (3) (c), 109.07 (4) (a), 109.07 (4m)  
3           (a), 109.07 (5) (a) (intro.), 109.07 (5) (a) 1., 109.07 (5) (a) 2., 109.07 (6) (intro.),  
4           560.15 (1) (b) 1., 560.71 (1) (e) 4. e. and 560.797 (2) (a) 4. e. of the statutes;  
5           **relating to:** the provision of support services information to employees who are  
6           affected by a business closing or mass layoff.

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*Analysis by the Legislative Reference Bureau*

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

7           **SECTION 1d.** 106.11 of the statutes is amended to read:  
8           **106.11 Workforce investment programs.** The department shall cooperate  
9           with the federal government in carrying out the purposes of the federal Workforce  
10          Investment Act of 1998, 29 USC 2801 to 2945. In administering the programs

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1 authorized by that act the department shall, in cooperation with other state agencies  
2 and with local workforce development boards established under 29 USC 2832,  
3 establish a statewide workforce investment system to meet the employment,  
4 training, and educational needs of persons in this state. If a local workforce  
5 development board anticipates that there may be a business closing or mass layoff  
6 under s. 109.07 in the area served by that board, the board may prepare a list of  
7 resources available in that area that provide career planning, job search, job skills  
8 training, and other support services for affected employees, as defined in s. 109.07  
9 (1) (a), including contact information for those resources, for distribution to those  
10 employees under s. 109.07 (1m) (a).

11 **SECTION 1g.** 109.07 (1) (a) of the statutes is amended to read:

12 109.07 (1) (a) “Affected employee” means an employee who loses, or who may  
13 reasonably be expected to lose, his or her employment with an employer ~~who~~ that is  
14 required to give notice under sub. (1m) (a) because of the business closing or mass  
15 layoff.

16 **SECTION 2.** 109.07 (1) (h) of the statutes is amended to read:

17 109.07 (1) (h) “New or low-hour employee” means an employee who has been  
18 employed by an employer for fewer than 6 of the 12 months preceding the date on  
19 which a notice is required under sub. (1m) (a) or who averages fewer than 20 hours  
20 of work per week.

21 **SECTION 3.** 109.07 (1m) of the statutes is renumbered 109.07 (1m) (a) and  
22 amended to read:

23 109.07 (1m) (a) Subject to sub. (5) or (6), an employer ~~who~~ that has decided  
24 upon a business closing or mass layoff in this state shall promptly notify the subunit  
25 of the department that administers s. 106.15, any affected employee, any collective

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1 bargaining representative of any affected employee, and the highest official of any  
2 municipality in which the affected employment site is located, in writing of such  
3 action no later than 60 days prior to the date that on which the business closing or  
4 mass layoff takes place. The notice to an affected employee shall also include contact  
5 information for the local workforce development board under 29 USC 2832 serving  
6 the area in which the employment site is located and, if available, the list of resources  
7 prepared under s. 106.11. The employer shall provide in writing all information  
8 concerning its payroll, affected employees, and the wages and other remuneration  
9 owed to such those employees as the department may require. The department may  
10 in addition require the employer to submit a plan setting forth the manner in which  
11 final payment in full shall be made to affected employees.

12 (b) The department shall promptly provide a copy of the notice required under  
13 ~~this subsection~~ par. (a) to the department of commerce and to the office of the  
14 commissioner of insurance and shall cooperate with the department of commerce in  
15 the performance of its responsibilities under s. 560.15 and with the office of the  
16 commissioner of insurance in the performance of its responsibilities under s. 601.41  
17 (7).

18 (c) This subsection does not apply to a business closing or mass layoff that is  
19 caused by a strike or lockout.

20 **SECTION 5.** 109.07 (3) (a) (intro.) of the statutes is amended to read:

21 109.07 (3) (a) (intro.) If an employer fails to give timely notice to an affected  
22 employee as required under sub. (1m) (a), the affected employee may recover, as  
23 provided under sub. (4), all of the following:

24 **SECTION 6.** 109.07 (3) (c) of the statutes is amended to read:

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1           109.07 (3) (c) The recovery period under par. (a) begins on the day ~~that~~ on which  
2 the business closing or mass layoff occurs. The recovery period equals the number  
3 of days in the period beginning on the day on which an employer is required to give  
4 notice under sub. (1m) (a) and ending on whichever of the following occurs first:

5           1. The day ~~that~~ on which the employer actually gave the notice to the employee.

6           2. The day ~~that~~ on which the business closing or mass layoff occurred.

7           **SECTION 7.** 109.07 (4) (a) of the statutes is amended to read:

8           109.07 (4) (a) An employee whose employer fails to notify timely the employee  
9 under sub. (1m) (a) may file a claim with the department. If the employee files a claim  
10 with the department no later than 300 days after the day on which the business  
11 closing or mass layoff occurred, the department shall, in the manner provided in s.  
12 109.09, investigate the claim, determine the number of days that the employer was  
13 late in providing notice and, on behalf of the employee, attempt to recover from the  
14 employer the payment under sub. (3).

15           **SECTION 8.** 109.07 (4m) (a) of the statutes is amended to read:

16           109.07 (4m) (a) If an employer fails to give timely notice to the highest official  
17 of a municipality as required under sub. (1m) (a), the department shall assess a  
18 business closing surcharge against the employer of not more than \$500 for each day  
19 in the period beginning on the day ~~that~~ on which the employer was required to give  
20 notice to the highest official and ending on the earlier of the day ~~that~~ on which the  
21 employer actually gave notice to the highest official or the day ~~that~~ on which the  
22 business closing or mass layoff occurred.

23           **SECTION 9.** 109.07 (5) (a) (intro.) of the statutes is amended to read:

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1           109.07 (5) (a) (intro.) An employer is not liable under this section for a failure  
2           to give notice to any person under sub. (1m) (a), if the department determines all of  
3           the following:

4           **SECTION 10.** 109.07 (5) (a) 1. of the statutes is amended to read:

5           109.07 (5) (a) 1. When the notice under sub. (1m) (a) would have been timely  
6           given, that the employer was actively seeking capital or business to enable the  
7           employer to avoid or postpone indefinitely the business closing or mass layoff.

8           **SECTION 11.** 109.07 (5) (a) 2. of the statutes is amended to read:

9           109.07 (5) (a) 2. That the employer reasonably and in good faith believed that  
10          giving the notices to all parties required under sub. (1m) (a) would have prevented  
11          the employer from obtaining the capital or business.

12          **SECTION 12.** 109.07 (6) (intro.) of the statutes is amended to read:

13          109.07 (6) (intro.) An employer is not liable under this section for a failure to  
14          give notice to any person under sub. (1m) (a), if the department determines that the  
15          business closing or mass layoff is the result of any of the following:

16          **SECTION 13.** 560.15 (1) (b) 1. of the statutes is amended to read:

17          560.15 (1) (b) 1. The department of workforce development under s. 109.07 (1m)  
18          (a).

19          **SECTION 14.** 560.71 (1) (e) 4. e. of the statutes is amended to read:

20          560.71 (1) (e) 4. e. An employer in the vicinity of the area has given public notice  
21          under s. 109.07 (1m) (a) of either a business closing or a mass layoff of at least 25  
22          employees, or 25% of the employees, of a business, whichever is greater, that will  
23          result in a number of workers in the area being laid off permanently.

24          **SECTION 15.** 560.797 (2) (a) 4. e. of the statutes is amended to read:

