

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3446/1dn
JTK:eev:rs

October 16, 2013

Senator Grothman:

This draft adjusts the proposed rewording of s. 108.02 (15) (k) 16., stats., so that it is substantively different than the corresponding provision in the Federal Unemployment Tax Act (FUTA), 26 USC 3508 (b) (2).

Normally, unless a state is subject to additional assessments resulting from federal loans, employment that is covered under FUTA (26 USC 3301) is subject to a federal tax of 6.0 percent on the first \$7,000 of annual taxable wages paid to an employee. FUTA (26 USC 3302) permits a credit of up to 5.4 percent against this tax for unemployment taxes that were paid, or but for an employer's favorable layoff experience, would be payable to this state on these same wages. As a result, if any employment excluded under s. 108.02 (15) (k) 16., stats., is not similarly excluded under FUTA, an employer affected by the exclusion could forfeit its federal tax credit on that employment, and if the employer has a favorable layoff experience, the employer could be required to pay increased federal taxes on the state-excluded employment as compared to the taxes that would be payable under current law.

Please let me know if you would like to discuss these issues further.

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