

1           **SECTION 126.** 102.195 of the statutes is amended to read:

2           **102.195 Employees confined in institutions; payment of benefits.** ~~In~~  
3           ~~case~~ If an employee is adjudged ~~insane~~ mentally ill or incompetent, or convicted of  
4           a felony, and is confined in a public institution and has wholly dependent upon the  
5           employee for support a person, whose dependency is determined as if the employee  
6           were deceased, compensation payable during the period of the employee's  
7           confinement may be paid to the employee and the employee's dependents, in such  
8           manner, for such time, and in such amount as the ~~department~~ office by order  
9           provides.

10          **SECTION 127.** 102.21 of the statutes is amended to read:

11          **102.21 Payment of awards by municipalities.** Whenever an award is made  
12          ~~by the department~~ under this chapter or s. 66.191, 1981 stats., against any  
13          municipality, the person in whose favor it ~~the award~~ is made shall file a certified copy  
14          ~~thereof~~ of the award with the municipal clerk. ~~Within 20 days thereafter, unless~~  
15          ~~Unless~~ an appeal is taken, ~~such~~ within 20 days after that filing, the municipal clerk  
16          shall draw an order on the municipal treasurer for the payment of the award. If upon  
17          ~~appeal~~ ~~such~~ the award is affirmed in whole or in part ~~the,~~ the municipal clerk shall  
18          draw an order for payment ~~shall be drawn~~ of the award within 10 days after a  
19          certified copy of ~~such~~ the judgment affirming the award is filed with ~~the proper~~ that  
20          ~~clerk.~~ ~~If the award or judgment provides for more than one payment is provided for~~  
21          ~~in the award or judgment, orders shall be drawn,~~ the municipal clerk shall draw  
22          orders for payment as the payments become due. No statute relating to the filing of  
23          claims against, ~~and~~ or the auditing, allowing, and payment of claims by  
24          ~~municipalities shall apply,~~ a municipality applies to the payment of an award or  
25          judgment under this section.

1           **SECTION 128.** 102.22 (1) of the statutes is amended to read:

2           102.22 (1) If the employer or his or her insurer inexcusably delays in making  
3 the first payment that is due an injured employee for more than 30 days after the day  
4 date on which the employee leaves work as a result of an injury and if the amount  
5 due is \$500 or more, the payments as to which the delay is found shall be increased  
6 by ~~10%~~ 10 percent. If the employer or his or her insurer inexcusably delays in making  
7 the first payment that is due an injured employee for more than 14 days after the day  
8 date on which the employee leaves work as a result of an injury, the payments as to  
9 which the delay is found may be increased by ~~10%~~ 10 percent. If the employer or his  
10 or her insurer inexcusably delays for any length of time in making any other payment  
11 that is due an injured employee, the payments as to which the delay is found may  
12 be increased by ~~10%~~ 10 percent. ~~Where~~ 10 percent. If the delay is chargeable to the employer  
13 and not to the insurer, s. 102.62 ~~shall apply~~ applies and the relative liability of the  
14 parties shall be fixed and discharged as ~~therein provided~~ in that section. The  
15 ~~department~~ division may also order the employer or insurance carrier to reimburse  
16 the employee for any finance charges, collection charges, or interest ~~which~~ that the  
17 employee paid as a result of the inexcusable delay by the employer or insurance  
18 carrier.

19           **SECTION 129.** 102.22 (2) of the statutes is amended to read:

20           102.22 (2) If ~~the sum ordered by the department~~ any sum that the division  
21 orders to be paid is not paid when due, that sum shall bear interest at the rate of ~~10%~~  
22 10 percent per year. The state is liable for ~~such~~ interest on awards issued against  
23 it under this chapter. The ~~department~~ division has jurisdiction to issue an award for  
24 payment of ~~such~~ interest under this subsection at any time within one year ~~of~~ after  
25 the date of its order, ~~or upon appeal, if the order is appealed,~~ within one year after

1 final court determination. ~~Such interest~~ Interest awarded under this subsection  
2 becomes due from the date the examiner's order becomes final or from the date of a  
3 decision by the ~~labor and industry review~~ commission, whichever is later.

4 **SECTION 130.** 102.23 (1) (a) of the statutes is amended to read:

5 102.23 (1) (a) The findings of fact made by the commission acting within its  
6 powers shall, in the absence of fraud, be conclusive. The order or award granting or  
7 denying compensation, either interlocutory or final, whether judgment has been  
8 rendered on it the order or award or not, is subject to review only as provided in this  
9 section and not under ch. 227 or s. 801.02. Within 30 days after the date of an order  
10 or award made by the commission either originally or after the filing of a petition for  
11 review with the ~~department~~ division under s. 102.18 any party aggrieved ~~thereby~~ by  
12 the order or award may by serving a complaint as provided in par. (b) and filing the  
13 summons and complaint with the clerk of the circuit court commence, in circuit court,  
14 an action against the commission for the review of the order or award, in which action  
15 the adverse party shall also be made a defendant. If the circuit court is satisfied that  
16 a party in interest has been prejudiced because of an exceptional delay in the receipt  
17 of a copy of any finding or order, it the circuit court may extend the time in which an  
18 action may be commenced by an additional 30 days. The proceedings shall be in the  
19 circuit court of the county where the plaintiff resides, except that if the plaintiff is  
20 a state agency, the proceedings shall be in the circuit court of the county where the  
21 defendant resides. The proceedings may be brought in any circuit court if all parties  
22 stipulate and that court agrees.

23 **SECTION 131.** 102.23 (1) (b) of the statutes is amended to read:

24 102.23 (1) (b) In ~~such~~ an action for review of an order or award a complaint shall  
25 be served with an authenticated copy of the summons. The complaint need not be

electronically deliver or ✓

1 verified, but shall state the grounds upon which a review is sought. Service upon a  
2 ~~commissioner or~~ member of the commission or an agent authorized by the  
3 commission to accept service constitutes complete service on all parties, but there  
4 shall be left with the person so served as many copies of the summons and complaint  
5 as there are defendants, and the commission shall mail one copy to each other  
6 defendant.

7 **SECTION 132.** 102.23 (2) of the statutes is amended to read:

8 102.23 (2) Upon the trial of ~~any such~~ an action for review of an order or award  
9 the court shall disregard any irregularity or error of the commission or the  
10 ~~department~~ division unless it is made to affirmatively appear that the plaintiff was  
11 damaged thereby by that irregularity or error.

12 **SECTION 133.** 102.23 (3) of the statutes is amended to read:

13 102.23 (3) The record in any case shall be transmitted to the department  
14 division within 5 days after expiration of the time for appeal from the order or  
15 judgment of the court, unless an appeal shall be is taken from ~~such~~ that order or  
16 judgment.

17 **SECTION 134.** 102.23 (5) of the statutes is amended to read:

18 102.23 (5) When an action for review involves only the question of liability as  
19 between the employer and one or more insurance companies or as between several  
20 insurance companies, a party that has been ordered by the ~~department~~ division, the  
21 commission, or a court to pay compensation is not relieved from paying compensation  
22 as ordered.

23 **SECTION 135.** 102.24 (2) of the statutes is amended to read:

24 102.24 (2) After the commencement of an action to review any order or award  
25 of the commission, the parties may have the record remanded by the court for such

1 time and under such condition as ~~they~~ the parties may provide, for the purpose of  
2 having the ~~department~~ division act upon the question of approving or disapproving  
3 any settlement or compromise that the parties may desire to have so approved. If  
4 approved, the action shall be at an end and judgment may be entered upon the  
5 approval as upon an award. If not approved, the division shall immediately return  
6 ~~the record shall forthwith be returned~~ to the circuit court and the action shall proceed  
7 as if no remand had been made.

8 **SECTION 136.** 102.25 (1) of the statutes is amended to read:

9 102.25 (1) Any party aggrieved by a judgment entered upon the review of any  
10 order or award may appeal ~~therefrom~~ the judgment within the time period specified  
11 in s. 808.04 (1). A trial court shall may not require the commission or any party to  
12 the action to execute, serve, or file an undertaking under s. 808.07 or to serve, or  
13 secure approval of, a transcript of the notes of the stenographic reporter or the tape  
14 of the recording machine. The state is a party aggrieved under this subsection if a  
15 judgment is entered upon the review confirming any order or award against it the  
16 state. At any time before the case is set down for hearing in the court of appeals or  
17 the supreme court, the parties may have the record remanded by the court to the  
18 ~~department~~ division in the same manner and for the same purposes as provided for  
19 remanding from the circuit court to the ~~department~~ division under s. 102.24 (2).

20 **SECTION 137.** 102.26 (2) of the statutes is amended to read:

21 102.26 (2) Unless previously authorized by the ~~department~~ division, no fee may  
22 be charged or received for the enforcement or collection of any claim for  
23 compensation, nor may any contract for that enforcement or collection be enforceable  
24 when that fee, inclusive of all taxable attorney fees paid or agreed to be paid for that  
25 enforcement or collection, exceeds 20 percent of the amount at which ~~that~~ the claim

1 is compromised or of the amount awarded, adjudged, or collected, except that in cases  
2 of admitted liability in which there is no dispute as to the amount of compensation  
3 due and in which no hearing or appeal is necessary, the fee charged may not exceed  
4 10 percent, but not to exceed \$250, of the amount at which that the claim is  
5 compromised or of the amount awarded, adjudged, or collected. The limitation as to  
6 fees shall apply to the combined charges of attorneys, solicitors, representatives, and  
7 adjusters who knowingly combine their efforts toward the enforcement or collection  
8 of any compensation claim.

9 **SECTION 138.** 102.26 (3) (b) 1. of the statutes is amended to read:

10 102.26 (3) (b) 1. ~~The department may~~ Subject to sub. (2), upon application of  
11 any interested party ~~and subject to sub. (2)~~, the division may fix the fee of the  
12 claimant's attorney or representative and provide in the award for that fee to be paid  
13 directly to the attorney or representative.

14 **SECTION 139.** 102.26 (3) (b) 3. of the statutes is amended to read:

15 102.26 (3) (b) 3. The claimant may request the insurer or self-insured employer  
16 to pay any compensation that is due the claimant by depositing the payment directly  
17 into an account maintained by the claimant at a financial institution. If the insurer  
18 or self-insured employer agrees to the request, the insurer or self-insured employer  
19 may deposit the payment by direct deposit, electronic funds transfer, or any other  
20 money transfer technique approved by the department division. The claimant may  
21 revoke a request under this subdivision at any time by providing appropriate written  
22 notice to the insurer or self-insured employer.

23 **SECTION 140.** 102.26 (4) of the statutes is amended to read:

24 102.26 (4) ~~The charging or receiving of~~ Any attorney or other person who  
25 charges or receives any fee in violation of this section ~~shall be unlawful, and the~~

1 ~~attorney or other person guilty thereof shall~~ may be required to forfeit double the  
2 amount retained by the attorney or other person, ~~the same to~~ which forfeiture shall  
3 be collected by the state in an action in debt, upon complaint of the ~~department~~  
4 division. Out of the sum recovered the court shall direct payment to the injured party  
5 of the amount of the overcharge.

6 **SECTION 141.** 102.27 (2) (b) of the statutes is amended to read:

7 102.27 (2) (b) If a governmental unit provides public assistance under ch. 49  
8 to pay medical costs or living expenses related to a claim under this chapter and if  
9 the governmental unit has given the parties to the claim written notice stating that  
10 the governmental unit provided the assistance and the cost of that assistance, the  
11 employer or insurance carrier owing compensation shall reimburse that  
12 governmental unit ~~any compensation awarded or paid if the governmental unit has~~  
13 ~~given the parties to the claim written notice stating that it provided the assistance~~  
14 ~~and the cost of the assistance provided. Reimbursement shall equal the lesser of~~  
15 ~~either~~ for the amount of assistance the governmental unit provided or two-thirds of  
16 the amount of the award or payment remaining after deduction of attorney fees and  
17 any other fees or costs chargeable under ch. 102, whichever is less. The ~~department~~  
18 office shall comply with this paragraph when making payments under s. 102.81.

19 **SECTION 142.** 102.28 (2) (a) of the statutes is amended to read:

20 102.28 (2) (a) *Duty to insure payment for compensation.* Unless exempted by  
21 the ~~department~~ office under par. (b) or sub. (3), every employer, as described in s.  
22 102.04 (1), shall insure payment for that compensation in an insurer authorized to  
23 do business in this state. A joint venture may elect to be an employer under this  
24 chapter and obtain insurance for payment of compensation. If a joint venture that  
25 is subject to this chapter only because the joint venture elected to be an employer

1 under this chapter is dissolved and cancels or terminates its contract for the  
2 insurance of compensation under this chapter, that joint venture is deemed  
3 considered to have effected withdrawal, which shall be effective on the day after the  
4 contract is canceled or terminated.

5 **SECTION 143.** 102.28 (2) (b) of the statutes is amended to read:

6 102.28 (2) (b) *Exemption from duty to insure.* The ~~department~~ office may grant  
7 a written order of exemption to an employer who shows its financial ability to pay  
8 the amount of compensation, agrees to report faithfully all compensable injuries, and  
9 agrees to comply with this chapter and the rules of the ~~department~~ office. The  
10 ~~department~~ office may condition the granting of an exemption upon the employer's  
11 furnishing of satisfactory security to guarantee payment of all claims ~~under~~ for  
12 compensation. The ~~department~~ office may require that bonds or other personal  
13 guarantees be enforceable against sureties in the same manner as an award may be  
14 enforced. The ~~department~~ office may from time to time require proof of financial  
15 ability of the employer to pay compensation. Any exemption shall be void if the  
16 application for it contains a financial statement ~~which~~ that is false in any material  
17 respect. An employer who files an application containing a false financial statement  
18 remains subject to par. (a). The ~~department~~ office may promulgate rules establishing  
19 an amount to be charged to an initial applicant for exemption under this paragraph  
20 and an annual amount to be charged to employers that have been exempted under  
21 this paragraph.

22 **SECTION 144.** 102.28 (2) (c) of the statutes is amended to read:

23 102.28 (2) (c) *Revocation of exemption.* ~~The department, after~~ After seeking the  
24 advice of the self-insurers council, the office may revoke an exemption granted to an  
25 employer under par. (b), upon giving the employer 10 days' written notice, if the



1 department office finds that the employer's financial condition is inadequate to pay  
2 its employees' claims for compensation, that the employer has received an excessive  
3 number of claims for compensation, or that the employer has failed to discharge  
4 faithfully its obligations according to the agreement contained in the application for  
5 exemption. ~~The employer may, within~~ Within 10 days after receipt of the notice of  
6 revocation, the employer may request in writing a review of the revocation by the  
7 secretary commissioner or the ~~secretary's~~ commissioner's designee and the ~~secretary~~  
8 commissioner or the ~~secretary's~~ designee shall review the revocation within 30 days  
9 after receipt of the request for review. If the employer is aggrieved by the  
10 determination of the secretary commissioner or the ~~secretary's~~ commissioner's  
11 designee, the employer may, within 10 days after receipt of notice of that  
12 determination, request a hearing under s. 102.17. If the ~~secretary commissioner~~ or  
13 the ~~secretary's~~ commissioner's designee determines that the employer's exemption  
14 should be revoked, the employer shall obtain insurance coverage as required under  
15 par. (a) immediately upon receipt of notice of that determination and,  
16 notwithstanding the pendency of proceedings under ss. 102.17 to 102.25, shall keep  
17 that coverage in force until another exemption under par. (b) is granted.

18 **SECTION 145.** 102.28 (2) (d) of the statutes is amended to read:

19 102.28 (2) (d) *Effect of insuring with unauthorized insurer.* An employer who  
20 ~~procures~~ after procuring an exemption under par. (b) ~~and thereafter~~ enters into any  
21 agreement for excess insurance coverage with an insurer not authorized to do  
22 business in this state shall report that agreement to the department office  
23 immediately. The placing of such that coverage shall not by itself be grounds for  
24 revocation of the exemption.

25 **SECTION 146.** 102.28 (3) (a) (intro.) of the statutes is amended to read:

1           102.28 (3) (a) (intro.) An employer may file with the ~~department~~ office an  
2 application for exemption from the duty to pay compensation under this chapter with  
3 respect to any employee who signs the waiver described in subd. 1. and the affidavit  
4 described in subd. 2. if an authorized representative of the religious sect to which the  
5 employee belongs signs the affidavit specified in subd. 3. and the agreement  
6 described in subd. 4. An application for exemption under this paragraph shall  
7 include all of the following:

8           **SECTION 147.** 102.28 (3) (b) (intro.) of the statutes is amended to read:

9           102.28 (3) (b) (intro.) The ~~department~~ office shall approve an application under  
10 par. (a) if the ~~department~~ office determines that all of the following conditions are  
11 satisfied:

12           **SECTION 148.** 102.28 (3) (b) 3. of the statutes is amended to read:

13           102.28 (3) (b) 3. The religious sect to which the employee belongs has a  
14 long-established history of providing its members who become dependent on the  
15 religious sect as a result of work-related injuries, and the dependents of those  
16 members, with a standard of living and medical treatment that are reasonable when  
17 compared to the general standard of living and medical treatment for members of the  
18 religious sect. In determining whether the religious sect has a long-standing history  
19 of providing the financial and medical assistance described in this subdivision, the  
20 ~~department~~ office shall presume that a 25-year history of providing that financial  
21 and medical assistance is long-standing for purposes of this subdivision.

22           **SECTION 149.** 102.28 (3) (c) of the statutes is amended to read:

23           102.28 (3) (c) An employee who has signed a waiver under par. (a) 1. and an  
24 affidavit under par. (a) 2., who sustains an injury that, but for that waiver, the  
25 employer would be liable for under s. 102.03, who at the time of the injury was a

1 member of a religious sect whose authorized representative has filed an affidavit  
2 under par. (a) 3. and an agreement under par. (a) 4., and who as a result of the injury  
3 becomes dependent on the religious sect for financial and medical assistance, or the  
4 employee's dependent, may request a hearing under s. 102.17 (1) to determine if the  
5 religious sect has provided the employee and his or her dependents with a standard  
6 of living and medical treatment that are reasonable when compared to the general  
7 standard of living and medical treatment for members of the religious sect. If, after  
8 hearing, the ~~department~~ division determines that the religious sect has not provided  
9 that standard of living or medical treatment, or both, the ~~department~~ division may  
10 order the religious sect to provide alternative benefits to that employee or his or her  
11 dependent, or both, in an amount that is reasonable under the circumstances, but  
12 not in excess of the benefits that the employee or dependent could have received  
13 under this chapter but for the waiver under par. (a) 1.

14 **SECTION 150.** 102.28 (3) (d) of the statutes is amended to read:

15 102.28 (3) (d) The ~~department~~ office shall provide a form for the application for  
16 exemption of an employer under par. (a) (intro.), the waiver and affidavit of an  
17 employee under par. (a) 1. and 2., the affidavit of a religious sect under par. (a) 3., and  
18 the agreement of a religious sect under par. (a) 4. A properly completed form is prima  
19 facie evidence of satisfaction of the conditions under par. (b) as to the matter  
20 contained in the form.

21 **SECTION 151.** 102.28 (4) (a) of the statutes is amended to read:

22 102.28 (4) (a) When the ~~department~~ office discovers an uninsured employer,  
23 the ~~department~~ office may order the employer to cease operations until the employer  
24 complies with sub. (2).

25 **SECTION 152.** 102.28 (4) (b) of the statutes is amended to read:

1           102.28 (4) (b) If the ~~department~~ office believes that an employer may be an  
2 uninsured employer, the ~~department~~ office shall notify the employer of the alleged  
3 violation of sub. (2) and the possibility of closure under this subsection. The employer  
4 may request and shall receive a hearing under s. 102.17 on the matter if the employer  
5 applies for a hearing within 10 days after the notice of the alleged violation is served.

6           **SECTION 153.** 102.28 (4) (c) of the statutes is amended to read:

7           102.28 (4) (c) After a hearing under par. (b), or without a hearing if one is not  
8 requested, the ~~department~~ division may issue an order to an employer to cease  
9 operations on a finding that the employer is an uninsured employer. If no hearing  
10 is requested, the office may issue such an order.

11           **SECTION 154.** 102.28 (4) (d) of the statutes is amended to read:

12           102.28 (4) (d) The department of justice may bring an action in any court of  
13 competent jurisdiction for an injunction or other remedy to enforce ~~the department's~~  
14 an order to cease operations under par. (c).

15           **SECTION 155.** 102.28 (6) of the statutes is amended to read:

16           102.28 (6) REPORTS BY EMPLOYER. ~~Every employer shall upon~~ Upon request of  
17 the ~~department~~ office, an employer shall report to ~~it~~ the office the number of  
18 employees ~~and employed by the employer~~, the nature of their work ~~and also~~, the  
19 name of the insurance company with ~~whom~~ which the employer has insured ~~its~~  
20 liability under this chapter, and the policy number and date of expiration of ~~such~~ the  
21 policy insuring that liability. Failure to furnish ~~such a report~~ requested under this  
22 subsection within 10 days ~~from the making of a request~~ after the request is sent to  
23 the employer by certified mail ~~shall constitute~~ constitutes presumptive evidence that  
24 the ~~delinquent~~ employer is ~~violating~~ in violation of sub. (2).

25           **SECTION 156.** 102.28 (7) (a) of the statutes is amended to read:

1           102.28 (7) (a) If an employer who is currently or was formerly exempted by  
2 ~~written order of the department~~ under sub. (2) is unable to pay an award, judgment  
3 is rendered in accordance with s. 102.20 against that employer, and execution is  
4 levied and returned unsatisfied in whole or in part, payments for the employer's  
5 liability shall be made from the fund established under sub. (8). If a currently or  
6 formerly exempted employer files for bankruptcy and if not less than 60 days after  
7 that filing the ~~department~~ office has reason to believe that compensation payments  
8 due are not being paid, the ~~department~~ office in its discretion may make payment for  
9 the employer's liability from the fund established under sub. (8). The secretary of  
10 administration shall proceed to recover ~~such~~ those payments from the employer or  
11 the employer's receiver or trustee in bankruptcy, and may commence an action or  
12 proceeding or file a claim ~~therefor~~ to recover those payments. The attorney general  
13 shall appear on behalf of the secretary of administration in any such action or  
14 proceeding. All moneys recovered in any such action or proceeding shall be paid into  
15 the fund established under sub. (8).

16           **SECTION 157.** 102.28 (7) (b) of the statutes is amended to read:

17           102.28 (7) (b) ~~Each~~ Upon the issuance of an initial order exempting an  
18 employer under sub. (2), the employer exempted by ~~written order of the department~~  
19 under sub. (2) shall pay into the fund established by under sub. (8) a sum equal to  
20 ~~that~~ the amount assessed against each of the other ~~such exempt employers upon the~~  
21 ~~issuance of an initial order~~ that are exempt under sub. (2). The order shall provide  
22 for a sum that is sufficient to secure estimated payments of the insolvent exempt  
23 employer due for the period up to the date of the order and for one year following the  
24 date of the order and to pay the estimated cost of insurance carrier or insurance  
25 service organization services under par. (c). Payments ordered to be made to the fund

1 shall be paid to the department office within 30 days after the date of the order. If  
2 additional moneys are required, further assessments shall be made based on orders  
3 of the department office with assessment those assessments to be prorated on the  
4 basis of the gross payroll for this state of the exempt employer, as reported to the  
5 department of workforce development for the previous calendar year for  
6 unemployment insurance purposes under ch. 108. If the exempt employer is not  
7 covered under ch. 108, ~~then~~ the department office shall determine the comparable  
8 gross payroll for the exempt employer. If payment of any assessment made under  
9 ~~this subsection~~ paragraph is not made within 30 days of after the date of the order  
10 of the department office, the attorney general may appear on behalf of the state to  
11 collect the assessment.

12 **SECTION 158.** 102.28 (7) (c) of the statutes is amended to read:

13 102.28 (7) (c) The department office may retain an insurance carrier or  
14 insurance service organization to process, investigate, and pay valid claims. The  
15 charge for ~~such service~~ those services shall be paid from the fund as provided under  
16 par. (b).

17 **SECTION 159.** 102.28 (8) of the statutes is amended to read:

18 102.28 (8) SELF-INSURED EMPLOYERS LIABILITY FUND. The moneys paid into the  
19 state treasury under sub. (7), together with all accrued interest, shall constitute a  
20 separate nonlapsible fund designated as the self-insured employers liability fund.  
21 Moneys in the fund may be expended only as provided in s. ~~20.445 (1)~~ 20.145 (6) (s)  
22 and may not be used for ~~an~~ any other purpose of the state.

23 **SECTION 160.** 102.29 (1) (a) of the statutes is amended to read:

24 102.29 (1) (a) The making of a claim for compensation against an employer or  
25 compensation insurer for the injury or death of an employee shall does not affect the

1 right of the employee, the employee's personal representative, or other person  
2 entitled to bring action to make a claim or maintain an action in tort against any  
3 other party for ~~such~~ that injury or death, hereinafter referred to as a 3rd party; nor  
4 shall ~~does~~ the making of a claim by any such person against a 3rd party for damages  
5 by reason of an injury to which ss. 102.03 to 102.66 are applicable, or the adjustment  
6 of any such claim, affect the right of the injured employee or the employee's  
7 dependents to recover compensation. An employer or compensation insurer that has  
8 paid or is obligated to pay a lawful claim under this chapter shall have the same right  
9 to make a claim or maintain an action in tort against any other party for ~~such~~ that  
10 injury or death. If the ~~department~~ office pays or is obligated to pay a claim under s.  
11 102.66 (1) or 102.81 (1), the ~~department~~ office shall also have the right to make a  
12 claim or maintain an action in tort against any other party for the employee's injury  
13 or death. However, each party shall give to the other parties reasonable notice and,  
14 the opportunity to join in the making of such a claim or the instituting of such an  
15 action, and the opportunity to be represented by counsel.

16 **SECTION 161.** 102.29 (1) (b) (intro.) of the statutes is amended to read:

17 102.29 (1) (b) (intro.) If a party entitled to notice cannot be found, the  
18 ~~department~~ office shall become the agent of that party for the giving of a notice as  
19 required in par. (a) and the notice, when given to the ~~department~~ office, shall include  
20 an affidavit setting forth the facts, including the steps taken to locate that party.  
21 Each party shall have an equal voice in the prosecution of the claim, and any disputes  
22 arising shall be passed upon by the court before whom the case is pending, and if no  
23 action is pending, then by a court of record or by the ~~department~~ division. If notice  
24 is given as provided in par. (a), the liability of the tort-feasor shall be determined as  
25 to all parties having a right to make claim and, irrespective of whether ~~or not~~ all

1 parties join in prosecuting the claim, the proceeds of the claim shall be divided as  
2 follows:

3 **SECTION 162.** 102.29 (1) (b) 2. of the statutes is amended to read:

4 102.29 (1) (b) 2. Out of the balance remaining after the deduction and payment  
5 specified in subd. 1., the employer, the insurance carrier, or, if applicable, the  
6 uninsured employers fund or the work injury supplemental benefit fund shall be  
7 reimbursed for all payments made by the employer, insurance carrier, or ~~department~~  
8 office, or ~~which that~~ the employer, insurance carrier, or ~~department~~ office may be  
9 obligated to make in the future, under this chapter, except that the employer,  
10 insurance carrier, or ~~department~~ office shall not be reimbursed for any payments  
11 made or to be made under s. 102.18 (1) (bp), 102.22, 102.35 (3), 102.57, or 102.60.

12 **SECTION 163.** 102.29 (1) (c) of the statutes is amended to read:

13 102.29 (1) (c) If both the employee or the employee's personal representative  
14 or other person entitled to bring action, and the employer, compensation insurer, or  
15 ~~department~~ office, join in the pressing of said claim and are represented by counsel,  
16 the attorney fees allowed as a part of the costs of collection shall be, unless otherwise  
17 agreed upon, divided between the attorneys for those parties as directed by the court  
18 or by the ~~department~~ division.

19 **SECTION 164.** 102.29 (1) (d) of the statutes is amended to read:

20 102.29 (1) (d) A settlement of a 3rd-party claim shall be void unless the  
21 settlement and the distribution of the proceeds of the settlement are approved by the  
22 court before whom the action is pending or, if no action is pending, then by a court  
23 of record or by the ~~department~~ division.

24 **SECTION 165.** 102.29 (4) of the statutes is amended to read:



1           102.29 (4) If the employer and the 3rd party are insured by the same insurer,  
2           or by the insurers who are under common control, the employer's insurer shall  
3           promptly notify the parties in interest and the ~~department~~ office. If the employer has  
4           assumed the liability of the 3rd party, ~~it~~ the employer shall give similar notice, in  
5           default of which any settlement with an injured employee or beneficiary is void. This  
6           subsection does not prevent the employer or compensation insurer from sharing in  
7           the proceeds of any 3rd-party claim or action, ~~as set forth~~ as provided in sub. (1).

8           **SECTION 166.** 102.30 (7) (a) of the statutes is amended to read:

9           102.30 (7) (a) The ~~department~~ office may order direct reimbursement out of the  
10          proceeds payable under this chapter for payments made under a nonindustrial  
11          insurance policy covering the same disability and expenses compensable under s.  
12          102.42 when the claimant consents or when it is established that the payments under  
13          the nonindustrial insurance policy were improper. No attorney fee is due with  
14          respect to that reimbursement.

15          **SECTION 167.** 102.31 (1) (b) of the statutes is amended to read:

16          102.31 (1) (b) Except as provided in par. (c), a contract under par. (a) shall be  
17          construed to grant full coverage of all liability of the assured under this chapter  
18          unless the ~~department~~ office specifically consents by written order to the issuance  
19          of a contract providing divided insurance or partial insurance.

20          **SECTION 168.** 102.31 (2) (a) of the statutes is amended to read:

21          102.31 (2) (a) No party to a contract of insurance may cancel the contract within  
22          the contract period or terminate or ~~not renew~~ nonrenew the contract upon the  
23          expiration date of the contract until a notice in writing is given to the other party  
24          fixing the proposed date of cancellation or declaring that the party intends to  
25          terminate or ~~does not intend to renew~~ nonrenew the ~~policy~~ contract upon expiration.

1 Except as provided in par. (b), when an insurance company ~~does not renew~~  
2 nonrenews a policy contract upon expiration, the nonrenewal is not effective until 60  
3 days after the insurance company has given written notice of the nonrenewal to the  
4 insured employer and the department office. Cancellation or termination of a policy  
5 contract by an insurance company for any reason other than nonrenewal is not  
6 effective until 30 days after the insurance company has given written notice of the  
7 cancellation or termination to the insured employer and the department office.  
8 Notice to the department office may be given by personal service of the notice upon  
9 the department office at its office in Madison or by sending the notice to the  
10 department office in a medium approved by the department office. The department  
11 office may provide by rule that ~~the a~~ notice of cancellation or termination be given  
12 to the Wisconsin compensation rating bureau rather than to the department office  
13 in a medium approved by the department office after consultation with the  
14 Wisconsin compensation rating bureau. Whenever the Wisconsin compensation  
15 rating bureau receives ~~such~~ a notice of cancellation or termination ~~it~~ that bureau  
16 shall immediately notify the department office of the notice of cancellation or  
17 termination.

18 **SECTION 169.** 102.31 (3) of the statutes is amended to read:

19 102.31 (3) The department office may examine from time to time the books and  
20 records of any insurer insuring the liability or for compensation for of an employer  
21 in this state. ~~The department office may require an insurer to designate one mailing~~  
22 ~~address for use by the department office in sending correspondence to the insurer~~  
23 ~~and to respond to correspondence from the department office within 30 days after the~~  
24 ~~date of the correspondence. Any insurer that refuses or fails to answer~~

1 ~~correspondence from the department office or to allow the department office to~~  
2 ~~examine its books and records is subject to enforcement proceedings under s. 601.64.~~

3 **SECTION 170.** 102.31 (4) of the statutes is amended to read:

4 102.31 (4) If any insurer authorized to transact worker's compensation  
5 insurance in this state fails to promptly pay claims for compensation for which it is  
6 liable or fails to make reports to the department office as required by under s. 102.38,  
7 the department office may recommend to the commissioner of insurance, with  
8 detailed reasons, that enforcement proceedings under s. 601.64 be invoked. The  
9 commissioner shall furnish a copy of the recommendation to the insurer and shall  
10 set a date for a hearing, at which both the insurer and the department office shall  
11 be afforded an opportunity to present evidence. If after the hearing the commissioner  
12 finds that the insurer has failed to carry out its obligations under this chapter, the  
13 commissioner shall institute enforcement proceedings under s. 601.64. If the  
14 commissioner does not so find, the commissioner shall dismiss the complaint.

Insert  
69-14

15 **SECTION 171.** 102.31 (5) of the statutes is amended to read:

16 102.31 (5) If any employer whom the department office has exempted from  
17 carrying the duty to carry compensation insurance arbitrarily or unreasonably  
18 refuses employment to or discharges employees an employee because of a  
19 nondisabling physical condition, the department office shall revoke the exemption  
20 of that employer.

21 **SECTION 172.** 102.31 (6) of the statutes is amended to read:

22 102.31 (6) ~~The department office has standing to appear as a complainant and~~  
23 ~~present evidence in any administrative hearing or court proceeding instituted for an~~  
24 ~~alleged violation of s. 628.34 (7).~~

25 **SECTION 173.** 102.31 (7) of the statutes is amended to read:

change  
component

Repealed

1           102.31 (7) If the ~~department~~ office by one or more written orders specifically  
2 consents to the issuance of one or more contracts covering only the liability incurred  
3 on a construction project and if the construction project owner designates the  
4 insurance carrier and pays for each such contract, the construction project owner  
5 shall reimburse the ~~department~~ office for all costs incurred by the ~~department~~ office  
6 in issuing the written orders and in ensuring minimum confusion and maximum  
7 safety on the construction project. All moneys received under this subsection shall  
8 be deposited in the worker's compensation operations fund and credited to the  
9 appropriation account under s. ~~20.445 (1)~~ 20.145 (6) (rb).

10           **SECTION 174.** 102.31 (8) of the statutes is amended to read:

11           102.31 (8) The Wisconsin compensation rating bureau shall provide the  
12 ~~department~~ office with any information that the ~~department~~ office may request  
13 relating to worker's compensation insurance coverage, including the names of  
14 employers insured and any insured employer's address, business status, type and  
15 date of coverage, manual premium code, and policy information including policy  
16 numbers, cancellations, terminations, endorsements, and reinstatement dates. The  
17 ~~department~~ office may enter into contracts with the Wisconsin compensation rating  
18 bureau to share the costs of data processing and other services. No information  
19 obtained by the ~~department~~ office under this subsection may be made public by the  
20 ~~department~~ office except as authorized by the Wisconsin compensation rating  
21 bureau.

22           **SECTION 175.** 102.315 (4) of the statutes is amended to read:

23           102.315 (4) **MASTER POLICY; APPROVAL REQUIRED.** An employee leasing company  
24 may insure its liability under sub. (2) by obtaining a master policy that has been  
25 approved by the commissioner of insurance as provided in this subsection. The

1 commissioner of insurance may approve the issuance of a master policy if the insurer  
2 proposing to issue the master policy submits a filing to the bureau showing that the  
3 insurer has the technological capacity and operation capability to provide to the  
4 bureau information, including unit statistical data, information concerning proof of  
5 coverage and cancellation, termination, and nonrenewal of coverage, and any other  
6 information that the bureau may require, at the client level and in a format required  
7 by the bureau and the bureau submits the filing to the commissioner of insurance for  
8 approval under s. 626.13. A master policy filing under this subsection shall also  
9 establish basic manual rules governing the issuance of an insurance policy covering  
10 the leased employees of a divided workforce that are consistent with sub. (6) and the  
11 cancellation, termination, and nonrenewal of policies that are consistent with sub.  
12 (10). On approval by the commissioner of insurance of a master policy filing, an  
13 insurer may issue a master policy to an employee leasing company insuring the  
14 liability of the employee leasing company under sub. (2).

15 **SECTION 176.** 102.315 (5) (b) (intro.) of the statutes is amended to read:

16 102.315 (5) (b) (intro.) Within 30 days after the effective date of an employee  
17 leasing agreement with a small client that is covered under a master policy under  
18 par. (a), the employee leasing company shall report to the ~~department~~ office all of the  
19 following information:

20 **SECTION 177.** 102.315 (5) (c) of the statutes is amended to read:

21 102.315 (5) (c) Within 30 days after the effective date of coverage of a small  
22 client under a master policy under par. (a), the insurer or, if authorized by the  
23 insurer, the employee leasing company shall file proof of that coverage with the  
24 ~~department~~ office. Coverage of a small client under a master policy becomes binding  
25 when the insurer or employee leasing company files proof of that coverage under this

1 paragraph or provides notice of coverage to the small client, whichever occurs first.  
2 Nothing in this paragraph requires an employee leasing company or an employee of  
3 an employee leasing company to be licensed as an insurance intermediary under ch.  
4 628.

5 **SECTION 178.** 102.315 (6) (a) of the statutes is amended to read:

6 102.315 (6) (a) If a client notifies the ~~department~~ office as provided under par.  
7 (b) of its intent to have a divided workforce, an insurer may issue a worker's  
8 compensation insurance policy covering only the leased employees of the client. An  
9 insurer that issues a policy covering only the leased employees of a client is not liable  
10 under s. 102.03 for any compensation payable under this chapter to an employee of  
11 the client who is not a leased employee unless the insurer also issues a policy covering  
12 that employee. A client that has a divided workforce shall insure its employees who  
13 are not leased employees in the voluntary market and may not insure those  
14 employees under the mandatory risk-sharing plan under s. 619.01 unless the leased  
15 employees of the client are covered under that plan.

16 **SECTION 179.** 102.315 (6) (b) (intro.) of the statutes is amended to read:

17 102.315 (6) (b) (intro.) A client that intends to have a divided workforce shall  
18 notify the ~~department~~ office of that intent on a form prescribed by the ~~department~~  
19 office that includes all of the following:

20 **SECTION 180.** 102.315 (6) (b) 1. of the statutes is amended to read:

21 102.315 (6) (b) 1. The names and mailing addresses of the client and the  
22 employee leasing company, the effective date of the employee leasing agreement, a  
23 description of the employees of the client who are not leased employees, and such  
24 other information as the ~~department~~ office may require.

25 **SECTION 181.** 102.315 (6) (b) 3. of the statutes is amended to read:

1           102.315 (6) (b) 3. An agreement by the client to assume full responsibility to  
2 immediately pay all compensation and other payments payable under this chapter  
3 as may be required by the ~~department~~ office should a dispute arise between 2 or more  
4 insurers as to liability under this chapter for an injury sustained while a divided  
5 workforce plan is in effect, pending final resolution of that dispute. This subdivision  
6 does not preclude a client from insuring that responsibility in an insurer authorized  
7 to do business in this state.

8           **SECTION 182.** 102.315 (6) (d) of the statutes is amended to read:

9           102.315 (6) (d) When the ~~department~~ office receives a notification under par.  
10 (b), the ~~department~~ office shall immediately provide a copy of the notification to the  
11 bureau.

12           **SECTION 183.** 102.315 (6) (e) 1. of the statutes is amended to read:

13           102.315 (6) (e) 1. If a client intends to terminate a divided workforce plan, the  
14 client shall notify the ~~department~~ office of that intent on a form prescribed by the  
15 ~~department~~ office. Termination of a divided workforce plan by a client is not effective  
16 until 10 days after notice of the termination is received by the ~~department~~ office.

17           **SECTION 184.** 102.315 (6) (e) 2. of the statutes is amended to read:

18           102.315 (6) (e) 2. If an insurer cancels, terminates, or ~~does not renew~~  
19 nonrenews a worker's compensation insurance policy issued under a divided  
20 workforce plan that covers in the voluntary market the employees of a client who are  
21 not leased employees, the divided workforce plan is terminated on the effective date  
22 of the cancellation, termination, or nonrenewal of the policy, unless the client  
23 submits evidence under par. (c) that both the leased employees of the client and the  
24 employees of the client who are not leased employees are covered under a mandatory  
25 risk-sharing plan.

1           **SECTION 185.** 102.315 (6) (e) 3. of the statutes is amended to read:

2           102.315 (6) (e) 3. If an insurer cancels, terminates, or ~~does not renew~~  
3           nonrenews a worker's compensation insurance policy issued under a divided  
4           workforce plan that covers under the mandatory risk-sharing plan under s. 619.01  
5           the employees of a client who are not leased employees, the divided workforce plan  
6           is terminated on the effective date of the cancellation, termination, or nonrenewal  
7           of the policy.

8           **SECTION 186.** 102.315 (9) (a) of the statutes is amended to read:

9           102.315 (9) (a) An insurer that issues a policy under sub. (3), (4), or (5) (a) may  
10          charge a premium for coverage under that policy that complies with the applicable  
11          classifications, rules, rates, and rating plans filed with and approved by the  
12          commissioner of insurance under s. 626.13.

13          **SECTION 187.** 102.315 (10) (a) 2. of the statutes is amended to read:

14          102.315 (10) (a) 2. The insureds under a policy described in subd. 1. may cancel  
15          the policy during the policy period if both the employee leasing company and the  
16          client agree to the cancellation, the cancellation is confirmed by the employee leasing  
17          company promptly providing written confirmation of the cancellation to the client or  
18          by the client agreeing to the cancellation in writing, and the insurer provides written  
19          notice of the cancellation to the ~~department~~ office as required under s. 102.31 (2) (a).

20          **SECTION 188.** 102.315 (10) (a) 3. of the statutes is amended to read:

21          102.315 (10) (a) 3. Subject to subd. 4., an insurer may cancel, terminate, or  
22          nonrenew a policy described in subd. 1. by providing written notice of the  
23          cancellation, termination, or nonrenewal to the insured employee leasing company  
24          and to the ~~department~~ office as required under s. 102.31 (2) (a) and by providing that  
25          notice to the insured client. The insurer is not required to state in the notice to the



1 insured client the facts on which the decision to cancel, terminate, or nonrenew the  
2 policy is based. Except as provided in s. 102.31 (2) (b), cancellation or termination  
3 of a policy under this subdivision for any reason other than nonrenewal is not  
4 effective until 30 days after the insurer has provided written notice of the  
5 cancellation or termination to the insured employee leasing company, the insured  
6 client, and the ~~department~~ office. Except as provided in s. 102.31 (2) (b), nonrenewal  
7 of a policy under this subdivision is not effective until 60 days after the insurer has  
8 provided written notice of the cancellation or termination to the insured employee  
9 leasing company, the insured client, and the ~~department~~ office.

10 **SECTION 189.** 102.315 (10) (a) 4. of the statutes is amended to read:

11 102.315 (10) (a) 4. If an employee leasing company terminates an employee  
12 leasing agreement with a client in its entirety, an insurer may cancel or terminate  
13 a policy described in subd. 1. covering that client during the policy period by  
14 providing written notice of the cancellation or termination to the insured employee  
15 leasing company and the ~~department~~ office as required under s. 102.31 (2) (a) and  
16 by providing that notice to the insured client. The insurer shall state in the notice  
17 to the insured client that the policy is being cancelled or terminated due to the  
18 termination of the employee leasing agreement. Except as provided in s. 102.31 (2)  
19 (b), cancellation or termination of a policy under this subdivision is not effective until  
20 30 days after the insurer has provided written notice of the cancellation or  
21 termination to the insured employee leasing company, the insured client, and the  
22 ~~department~~ office.

23 **SECTION 190.** 102.315 (10) (b) 2. of the statutes is amended to read:

24 102.315 (10) (b) 2. The insureds under a policy described in subd. 1. may cancel  
25 the policy during the policy period if both the employee leasing company and the

1 client agree to the cancellation, the cancellation is confirmed by the employee leasing  
2 company promptly providing written confirmation of the cancellation to the client or  
3 by the client agreeing to the cancellation in writing, and the insurer provides written  
4 notice of the cancellation to the ~~department~~ office as required under s. 102.31 (2) (a).

5 **SECTION 191.** 102.315 (10) (b) 3. of the statutes is amended to read:

6 102.315 (10) (b) 3. An insurer may cancel, terminate, or nonrenew a policy  
7 described in subd. 1., including cancellation or termination of a policy providing  
8 continued coverage under subd. 4., by providing written notice of the cancellation,  
9 termination, or nonrenewal to the insured employee leasing company and to the  
10 ~~department~~ office as required under s. 102.31 (2) (a) and by providing that notice to  
11 the insured client. Except as provided in s. 102.31 (2) (b), cancellation or termination  
12 of a policy under this subdivision for any reason other than nonrenewal is not  
13 effective until 30 days after the insurer has provided written notice of the  
14 cancellation or termination to the insured employee leasing company, the insured  
15 client, and the ~~department~~ office. Except as provided in s. 102.31 (2) (b), nonrenewal  
16 of a policy under this subdivision is not effective until 60 days after the insurer has  
17 provided written notice of the cancellation or termination to the insured employee  
18 leasing company, the insured client, and the ~~department~~ office.

19 **SECTION 192.** 102.32 (1m) (intro.) of the statutes is amended to read:

20 102.32 (1m) (intro.) In any case in which compensation payments for an injury  
21 have extended or will extend over 6 months or more after the date of the injury or in  
22 any case in which death benefits are payable, any party in interest may, in the  
23 discretion of the ~~department~~ office, be discharged from, or compelled to guarantee,  
24 future compensation payments by doing any of the following:

25 **SECTION 193.** 102.32 (1m) (a) of the statutes is amended to read:

1           102.32 (1m) (a) Depositing the present value of the total unpaid compensation  
2 upon a 5 percent interest discount basis with a credit union, savings bank, savings  
3 and loan association, bank, or trust company designated by the department office.

4           **SECTION 194.** 102.32 (1m) (c) of the statutes is amended to read:

5           102.32 (1m) (c) Making payment in gross upon a 5 percent interest discount  
6 basis to be approved by the department office.

7           **SECTION 195.** 102.32 (1m) (d) of the statutes is amended to read:

8           102.32 (1m) (d) In cases in which the time for making payments or the amounts  
9 of payments cannot be definitely determined, furnishing a bond, or other security,  
10 satisfactory to the department office for the payment of compensation as may be due  
11 or become due. The acceptance of the bond, or other security, and the form and  
12 sufficiency of the bond or other security, shall be subject to the approval of the  
13 department office. If the employer or insurer is unable or fails to immediately  
14 procure the bond, ~~then, the employer or insurer,~~ in lieu of procuring the bond, shall  
15 ~~deposit shall be made~~ with a credit union, savings bank, savings and loan  
16 association, bank, or trust company designated by the department, ~~of office~~ the  
17 maximum amount that may reasonably become payable in ~~these~~ those cases, to be  
18 determined by the department office at amounts consistent with the extent of the  
19 injuries and the law. The bonds and deposits ~~are to~~ may be reduced only to satisfy  
20 claims and may be withdrawn only after the claims which they are to guarantee are  
21 fully satisfied or liquidated under par. (a), (b), or (c).

22           **SECTION 196.** 102.32 (5) of the statutes is amended to read:

23           102.32 (5) Any insured employer may, ~~within~~ in the discretion of the  
24 department office, compel the insurer to discharge, or to guarantee payment of, the  
25 employer's liabilities in any case described in sub. (1m) and ~~thereby~~ by that discharge

1 ~~or guarantee~~ release the employer from ~~compensation~~ liability for compensation in  
2 that case, ~~but except that~~ if for any reason a bond furnished or deposit made under  
3 sub. (1m) (d) does not fully protect the beneficiary of the bond or deposit, the  
4 compensation insurer or insured employer, as the case may be, shall still be liable  
5 to the that beneficiary of the ~~bond or deposit~~.

6 **SECTION 197.** 102.32 (6) (b) of the statutes is amended to read:

7 102.32 (6) (b) Subject to par. (d), if the employer or the employer's insurer  
8 concedes liability for an injury that results in permanent disability and if the extent  
9 of the permanent disability can be determined based on a minimum permanent  
10 disability rating promulgated by the ~~department~~ office by rule, compensation for  
11 permanent disability shall begin within 30 days after the end of the employee's  
12 healing period or the date on which compensation for temporary disability ends due  
13 to the employee's return to work, whichever is earlier.

14 **SECTION 198.** 102.32 (6) (d) of the statutes is amended to read:

15 102.32 (6) (d) The ~~department~~ office shall promulgate rules for determining  
16 when compensation for permanent disability shall begin in cases in which the  
17 employer or the employer's insurer concedes liability, but disputes the extent of  
18 permanent disability.

19 **SECTION 199.** 102.32 (6) (e) of the statutes is amended to read:

20 102.32 (6) (e) Payments for permanent disability, including payments based on  
21 minimum permanent disability ratings promulgated by the ~~department~~ office by  
22 rule, shall continue on a monthly basis and shall accrue and be payable between  
23 intermittent periods of temporary disability so long as the employer or insurer knows  
24 the nature of the permanent disability.

25 **SECTION 200.** 102.32 (6m) of the statutes is amended to read:

1           102.32 (6m) The department office may direct an advance on a payment of  
2 unaccrued compensation for permanent disability or death benefits if the  
3 department office determines that the advance payment is in the best interest of the  
4 injured employee or the employee's dependents. In directing the advance, the  
5 department office shall give the employer or the employer's insurer an interest credit  
6 against its liability. The credit shall be computed at 5 percent. An injured employee  
7 or dependent may receive no more than 3 advance payments per calendar year.

8           **SECTION 201.** 102.32 (7) of the statutes is amended to read:

9           102.32 (7) No lump sum settlement shall be allowed in any case of permanent  
10 total disability upon an estimated life expectancy, except upon consent of all parties,  
11 after hearing and finding by the department division that the interests of the injured  
12 employee will be conserved ~~thereby~~ by the lump sum settlement.

13           **SECTION 202.** 102.33 (title) of the statutes is amended to read:

14           **102.33 (title) Department forms Forms and records; public access.**

15           **SECTION 203.** 102.33 (1) of the statutes is amended to read:

16           102.33 (1) The department office and the division shall print and furnish free  
17 to any employer or employee any blank forms that ~~the department considers~~ are  
18 necessary to facilitate efficient administration of this chapter. ~~The department office~~  
19 and the division shall keep any record books or records that ~~the department~~  
20 considers are necessary for the proper and efficient administration of this chapter.

21           **SECTION 204.** 102.33 (2) (a) of the statutes is amended to read:

22           102.33 (2) (a) Except as provided in pars. (b) and (c), ~~the records of the~~  
23 ~~department,~~ and the records of the commission, the office, and the division related  
24 to the administration of this chapter are subject to inspection and copying under s.  
25 19.35 (1).

1           **SECTION 205.** 102.33 (2) (b) (intro.) of the statutes is amended to read:

2           102.33 (2) (b) (intro.) Except as provided in this paragraph and par. (d), a record  
3 maintained ~~by the department or by the commission, by the office, or by the division~~  
4 that reveals the identity of an employee who claims worker's compensation benefits,  
5 the nature of the employee's claimed injury, the employee's past or present medical  
6 condition, the extent of the employee's disability, or the amount, type, or duration of  
7 benefits paid to the employee and a record maintained by the ~~department~~ office that  
8 reveals any financial information provided to the ~~department~~ office by a self-insured  
9 employer or by an applicant for exemption under s. 102.28 (2) (b) are confidential and  
10 not open to public inspection or copying under s. 19.35 (1). The ~~department or~~  
11 ~~commission, the office, or the division~~ may deny a request made under s. 19.35 (1)  
12 or, subject to s. 102.17 (2m) and (2s), refuse to honor a subpoena issued by an attorney  
13 of record in a civil or criminal action or special proceeding to inspect and copy a record  
14 that is confidential under this paragraph, unless ~~one~~ any of the following applies:

15           **SECTION 206.** 102.33 (2) (b) 1. of the statutes is amended to read:

16           102.33 (2) (b) 1. The requester is the employee who is the subject of the record  
17 or an attorney or authorized agent of that employee. An attorney or authorized agent  
18 of an employee who is the subject of a record shall provide a written authorization  
19 for inspection and copying from the employee if requested by the ~~department or the~~  
20 ~~commission, the office, or the division.~~

21           **SECTION 207.** 102.33 (2) (b) 2. of the statutes is amended to read:

22           102.33 (2) (b) 2. The record that is requested contains confidential information  
23 concerning a worker's compensation claim and the requester is an insurance carrier  
24 or employer that is a party to any worker's compensation claim involving the same  
25 employee or an attorney or authorized agent of that insurance carrier or employer,

1       except that the ~~department or the commission, the office, or the division~~ is not  
2       required to do a random search of its records and may require the requester to  
3       provide the approximate date of the injury and any other relevant information that  
4       would assist the ~~department or the commission, the office, or the division~~ in finding  
5       the record requested. An attorney or authorized agent of an insurance carrier or  
6       employer that is a party to an employee's worker's compensation claim shall provide  
7       a written authorization for inspection and copying from the insurance carrier or  
8       employer if requested by the ~~department or the commission, the office, or the~~  
9       division.

10       **SECTION 208.** 102.33 (2) (b) 3. of the statutes is amended to read:

11       102.33 (2) (b) 3. The record that is requested contains financial information  
12       provided by a self-insured employer or by an applicant for exemption under s. 102.28  
13       (2) (b) and the requester is the self-insured employer or applicant for exemption or  
14       an attorney or authorized agent of the self-insured employer or applicant for  
15       exemption. An attorney or authorized agent of the self-insured employer or of the  
16       applicant for exemption shall provide a written authorization for inspection and  
17       copying from the self-insured employer or applicant for exemption if requested by  
18       the ~~department~~ office.

19       **SECTION 209.** 102.33 (2) (b) 4. of the statutes is amended to read:

20       102.33 (2) (b) 4. A court of competent jurisdiction in this state orders the  
21       ~~department or the commission, the office, or the division~~ to release the record.

22       **SECTION 210.** 102.33 (2) (c) of the statutes is amended to read:

23       102.33 (2) (c) A record maintained by the ~~department or the commission, the~~  
24       office, or the division that contains employer or insurer information obtained from  
25       the Wisconsin compensation rating bureau under s. 102.31 (8) or 626.32 (1) (a) is

1 confidential and not open to public inspection or copying under s. 19.35 (1) unless the  
2 Wisconsin compensation rating bureau authorizes public inspection or copying of  
3 that information.

4 **SECTION 211.** 102.33 (2) (d) 2. of the statutes is amended to read:

5 102.33 (2) (d) 2. ~~The department or the commission, the office, or the division~~  
6 may release information that is confidential under par. (b) to a government unit, an  
7 institution of higher education, or a nonprofit research organization for purposes of  
8 research and may release information that is confidential under par. (c) to those  
9 persons for that purpose if the Wisconsin compensation rating bureau authorizes  
10 that release. A government unit, institution of higher education, or nonprofit  
11 research organization may not permit inspection or disclosure of any information  
12 released to it under this subdivision that is confidential under par. (b) unless the  
13 ~~department or commission, the office, or the division~~ authorizes that inspection or  
14 disclosure and may not permit inspection or disclosure of any information released  
15 to it under this subdivision that is confidential under par. (c) unless the ~~department~~  
16 ~~or commission, the office, or the division,~~ and the Wisconsin compensation rating  
17 bureau, authorize the inspection or disclosure. A government unit, institution of  
18 higher education, or nonprofit research organization that obtains any confidential  
19 information under this subdivision for purposes of research shall provide the results  
20 of that research free of charge to the person that released or authorized the release  
21 of that information.

22 **SECTION 212.** 102.35 (1) of the statutes is amended to read:

23 102.35 (1) Every employer and every insurance company that fails to keep the  
24 records or to make the reports required by this chapter or that knowingly falsifies  
25 ~~such those~~ records or makes false reports shall pay a work injury supplemental



1 benefit surcharge to the state of not less than \$10 nor more than \$100 for each  
 2 offense. The ~~department~~ office may waive or reduce a surcharge imposed under this  
 3 subsection if the employer or insurance company that violated this subsection  
 4 requests a waiver or reduction of the surcharge within 45 days after the date on  
 5 which notice of the surcharge is mailed to the employer or insurance company and  
 6 shows that the violation was due to mistake or an absence of information. A  
 7 surcharge imposed under this subsection is due within 30 days after the date on  
 8 which notice of the surcharge is mailed to the employer or insurance company.  
 9 Interest shall accrue on amounts that are not paid when due at the rate of 1 percent  
 10 per month. All surcharges and interest payments received under this subsection  
 11 shall be deposited in the fund established under s. 102.65.

12 **SECTION 213.** 102.35 (2) of the statutes is amended to read:

13 102.35 (2) Any employer, or duly authorized agent thereof of an employer, who,  
 14 without reasonable cause, refuses to rehire an employee injured in the course of  
 15 employment, or who, because of a claim or attempt to claim compensation benefits  
 16 from such that employer, discriminates or threatens to discriminate against an  
 17 employee as to the employee's employment, shall ~~forfeit to the state not less than \$50~~  
 18 ~~nor more than \$500,~~ for each offense. No action under this subsection may be  
 19 commenced except upon request of the ~~department~~ office.

20 **SECTION 214.** 102.35 (3) of the statutes is amended to read:

21 102.35 (3) Any employer who without reasonable cause refuses to rehire an  
 22 employee who is injured in the course of employment, where when suitable  
 23 employment is available within the employee's physical and mental limitations,  
 24 upon order of the ~~department and in addition to other benefits~~ division, has exclusive  
 25 liability to pay to the employee, in addition to other benefits, the wages lost during

be subject to a  
 forfeiture under  
 s. 601.64 (3)(c)

1 the period of such that refusal, not exceeding one year's wages. In determining the  
2 availability of suitable employment, the continuance in business of the employer  
3 shall be considered and any written rules promulgated by the employer with respect  
4 to seniority or the provisions of any collective bargaining agreement with respect to  
5 seniority shall govern.

6 **SECTION 215.** 102.37 of the statutes is amended to read:

7 **102.37 Employers' records.** Every employer of 3 or more persons and every  
8 employer who is subject to this chapter shall keep a record of all accidents causing  
9 death or disability of any employee while performing services growing out of and  
10 incidental to the employment. ~~This~~ That record shall give the name, address, age,  
11 and wages of the deceased or injured employee, the time and causes of the accident,  
12 the nature and extent of the injury, and any other information the ~~department~~ office  
13 may require by rule or general order. Reports based upon ~~this~~ that record shall be  
14 furnished to the ~~department~~ office at such times and in such manner as the  
15 ~~department~~ office may require by rule or general order, in a format approved by the  
16 ~~department~~ office.

17 **SECTION 216.** 102.38 of the statutes is amended to read:

18 **102.38 Records and reports of payments.** Every insurance company that  
19 transacts the business of compensation insurance, and every employer who is subject  
20 to this chapter, but whose liability is not insured, shall keep a record of all payments  
21 made under this chapter and of the time and manner of making the payments and  
22 shall furnish reports based upon these records and any other information to the  
23 ~~department~~ office as the ~~department~~ office may require by rule or general order, in  
24 a format approved by the ~~department~~ office.

25 **SECTION 217.** 102.39 of the statutes is amended to read:

1           **102.39 Rules and general orders; application of statutes.** The provisions  
2 of s. 103.005 relating to the adoption, publication, modification, and court review of  
3 rules or general orders of the department ~~shall of workforce development~~ apply to all  
4 rules promulgated or general orders adopted by the office under this chapter in the  
5 same manner as those provisions apply to rules promulgated or general orders  
6 adopted by the department of workforce development.

7           **SECTION 218.** 102.40 of the statutes is amended to read:

8           **102.40 Reports not evidence in actions.** Reports furnished to the  
9 department ~~pursuant to office under~~ ss. 102.37 and 102.38 ~~shall not be~~ are not  
10 admissible as evidence in any action or proceeding arising out of the death or accident  
11 reported.

12           **SECTION 219.** 102.42 (1m) of the statutes is amended to read:

13           **102.42 (1m) LIABILITY FOR UNNECESSARY TREATMENT.** If an employee who has  
14 sustained a compensable injury undertakes in good faith invasive treatment that is  
15 generally medically acceptable, but that is unnecessary, the employer shall pay  
16 disability indemnity for all disability incurred as a result of that treatment. An  
17 employer is not liable for disability indemnity for any disability incurred as a result  
18 of any unnecessary treatment undertaken in good faith that is noninvasive or not  
19 medically acceptable. This subsection applies to all findings that an employee has  
20 sustained a compensable injury, whether the finding results from a hearing, the  
21 default of a party, or a compromise or stipulation confirmed by the department  
22 division.

23           **SECTION 220.** 102.42 (6) of the statutes is amended to read:

24           **102.42 (6) TREATMENT REJECTED BY EMPLOYEE.** Unless the employee ~~shall have~~  
25 has elected Christian Science treatment in lieu of medical, surgical, dental, or

1 hospital treatment, no compensation shall be payable for the death or disability of  
2 an employee, if the death ~~be~~ is caused, or insofar as the disability may be aggravated,  
3 caused, or continued, by an unreasonable refusal or neglect to submit to or follow any  
4 competent and reasonable medical, surgical, or dental treatment or, in the case of  
5 tuberculosis, by refusal or neglect to submit to or follow hospital or medical  
6 treatment when found by the ~~department~~ division to be necessary. The right to  
7 compensation accruing during a period of refusal or neglect to submit to or follow  
8 hospital or medical treatment when found by the ~~department~~ division to be  
9 necessary in the case of tuberculosis shall be barred, irrespective of whether  
10 disability was aggravated, caused, or continued ~~thereby~~ by that refusal or neglect.

11 **SECTION 221.** 102.42 (8) of the statutes is amended to read:

12 102.42 (8) AWARD TO STATE EMPLOYEE. Whenever the division makes an award  
13 ~~is made by the department in~~ on behalf of a state employee, the ~~department of~~  
14 ~~workforce development~~ division shall file duplicate copies of the award with the  
15 subunit of the the department of administration responsible for risk management.  
16 Upon receipt of the copies of the award, the department of administration shall  
17 promptly issue a voucher in payment of the award from the proper appropriation  
18 under s. 20.865 (1) (fm), (kr), or (ur), and shall transmit one copy of the voucher and  
19 the award to the officer, department, or agency by whom the affected employee is  
20 employed.

21 **SECTION 222.** 102.42 (9) (a) of the statutes is amended to read:

22 102.42 (9) (a) One of the primary purposes of this chapter is restoration of an  
23 injured employee to gainful employment. To this end, the ~~department~~ office shall  
24 employ a specialist in physical, medical, and vocational rehabilitation.

25 **SECTION 223.** 102.42 (9) (b) of the statutes is amended to read:

1           102.42 (9) (b) ~~Such~~ The specialist employed under par. (a) shall study the  
2 problems of rehabilitation, both physical and vocational and shall refer suitable  
3 cases to the ~~department~~ office for vocational evaluation and training. The specialist  
4 shall investigate and maintain a directory of such rehabilitation facilities, private  
5 and public, as are capable of rendering competent rehabilitation service to seriously  
6 injured employees.

7           **SECTION 224.** 102.425 (4m) (a) of the statutes is amended to read:

8           102.425 (4m) (a) The department division has jurisdiction ~~under this~~  
9 ~~subsection and s. 102.16 (1m) (c) and s. 102.17~~ to resolve a dispute between a  
10 pharmacist or practitioner and an employer or insurer over the reasonableness of the  
11 amount charged for a prescription drug dispensed under sub. (2) for outpatient use  
12 by an injured employee who claims benefits under this chapter.

13           **SECTION 225.** 102.425 (4m) (b) of the statutes is amended to read:

14           102.425 (4m) (b) An employer or insurer that disputes the reasonableness of  
15 the amount charged for a prescription drug dispensed under sub. (2) for outpatient  
16 use by an injured employee or the department division under sub. (4) (b) or s. 102.16  
17 (1m) (c) or 102.18 (1) (bg) 3. shall provide, within 30 days after receiving a completed  
18 bill for the prescription drug, reasonable written notice to the pharmacist or  
19 practitioner that the charge is being disputed. After receiving reasonable written  
20 notice under this paragraph or under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1)  
21 (bg) 1. that a prescription drug charge is being disputed, a pharmacist or practitioner  
22 may not collect the disputed charge from, or bring an action for collection of the  
23 disputed charge against, the employee who received the prescription drug.

24           **SECTION 226.** 102.425 (4m) (c) of the statutes is amended to read:

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1           102.425 (4m) (c) A pharmacist or practitioner that receives notice under par.  
 2 (b) that the reasonableness of the amount charged for a prescription drug dispensed  
 3 under sub. (2) for outpatient use by an injured employee is in dispute shall file the  
 4 dispute with the department ~~division~~ within 6 months after receiving that notice.

5           **SECTION 227.** 102.425 (4m) (d) of the statutes is amended to read:

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6           102.425 (4m) (d) The department ~~division~~ shall deny payment of a prescription  
 7 drug charge that the department ~~division~~ determines under this subsection to be  
 8 unreasonable. A pharmacist or practitioner and an employer or insurer that are  
 9 parties to a dispute under this subsection over the reasonableness of a prescription  
 10 drug charge are bound by the department's ~~division's~~ determination under this  
 11 subsection on the reasonableness of the disputed charge, unless that determination  
 12 is set aside on judicial review as provided in par. (e).

13           **SECTION 228.** 102.425 (4m) (e) of the statutes is amended to read:

14           102.425 (4m) (e) Within 30 days after a determination under this subsection,  
 15 the department ~~division~~ may set aside, reverse, or modify the determination for any  
 16 reason that the department ~~division~~ considers sufficient. Within 60 days after a  
 17 determination under this subsection, the department ~~division~~ may set aside,  
 18 reverse, or modify the determination on grounds of mistake. A pharmacist,  
 19 practitioner, employer, or insurer that is aggrieved by a determination of the  
 20 department ~~division~~ under this subsection may seek judicial review of that  
 21 determination in the same manner that compensation claims are reviewed under s.  
 22 102.23.

23           **SECTION 229.** 102.43 (5) (b) of the statutes is amended to read:

24           102.43 (5) (b) Except as provided in s. 102.61 (1g), temporary disability shall  
 25 also include such period as the employee may be receiving instruction under s. 102.61

1 (1) or (1m). Temporary disability on account of receiving instruction under s. 102.61  
2 (1) or (1m), and not otherwise resulting from the injury, shall not be in excess of 80  
3 weeks. ~~Such~~ That 80-week limitation does not apply to temporary disability benefits  
4 under this section, the cost of tuition, fees, books, travel, or maintenance under s.  
5 102.61 (1), or the cost of private rehabilitation counseling or rehabilitative training  
6 under s. 102.61 (1m) if the ~~department~~ office determines that additional training is  
7 warranted. The necessity for additional training as authorized by the ~~department~~  
8 office for any employee shall be subject to periodic review and reevaluation.

9 **SECTION 230.** 102.44 (1) (ag) of the statutes is amended to read:

10 102.44 (1) (ag) Notwithstanding any other provision of this chapter, every an  
11 employee who is receiving compensation under this chapter for permanent total  
12 disability or continuous temporary total disability more than 24 months after the  
13 date of injury resulting from an injury that occurred prior to January 1, 2001, shall  
14 receive supplemental benefits that shall be payable in the first instance by the  
15 employer or the employer's insurance carrier, or in the case of benefits payable to an  
16 employee under s. 102.66, shall be paid by the ~~department~~ office out of the fund  
17 created under s. 102.65. Those supplemental benefits shall be paid only for weeks  
18 of total disability occurring after January 1, 2003, and shall continue during the  
19 period of ~~such~~ total disability subsequent to that date.

20 **SECTION 231.** 102.44 (1) (c) of the statutes is amended to read:

21 102.44 (1) (c) Subject to any certificate filed under s. 102.65 (4), an employer  
22 or insurance carrier paying the supplemental benefits required under this  
23 subsection shall be entitled to reimbursement for each such case from the fund  
24 established by s. 102.65, commencing one year after the date of the first payment of  
25 those benefits and annually thereafter while those payments continue. To receive

1 reimbursement under this paragraph, an employer or insurance carrier must file a  
2 claim for that reimbursement with the ~~department~~ office by no later than 12 months  
3 after the end of the year in which the supplemental benefits were paid and the claim  
4 must be approved by the ~~department~~ office.

5 **SECTION 232.** 102.44 (2) of the statutes is amended to read:

6 102.44 (2) In case of permanent total disability, aggregate indemnity shall be  
7 weekly indemnity for the period that the employee may live. Total impairment for  
8 industrial use of both eyes, ~~or~~ the loss of both arms at or near the shoulder, ~~or~~ the loss  
9 of both legs at or near the hip, or the loss of one arm at the shoulder and one leg at  
10 the hip, constitutes permanent total disability. This enumeration is not exclusive,  
11 but in other cases the ~~department~~ division shall find the facts.

12 **SECTION 233.** 102.44 (5) (d) of the statutes is amended to read:

13 102.44 (5) (d) The employer or insurance carrier making such a reduction  
14 under this subsection shall report to the ~~department~~ office the reduction and, as  
15 requested by the ~~department~~ office, furnish to the ~~department~~ office satisfactory  
16 proof of the basis for the reduction.

17 **SECTION 234.** 102.44 (6) (b) of the statutes is amended to read:

18 102.44 (6) (b) If, during the period set forth in s. 102.17 (4) the employment  
19 relationship is terminated by the employer at the time of the injury, or by the  
20 employee because his or her physical or mental limitations prevent his or her  
21 continuing in such employment, or if during such that period a wage loss of ~~15%~~ 15  
22 percent or more occurs, the ~~department~~ division may reopen any award and make  
23 a redetermination taking into account loss of earning capacity.

24 **SECTION 235.** 102.45 of the statutes is amended to read:



1           **102.45 Benefits payable to minors; how paid.** ~~Compensation and death~~  
2 ~~benefit~~ In the discretion of the office, compensation or death benefits payable to an  
3 employee or dependent who was a minor when the ~~employee's or dependent's right~~  
4 of the employee or dependent to compensation or death benefits began to accrue, may,  
5 ~~in the discretion of the department,~~ be ordered paid to a bank, trust company, trustee,  
6 parent, or guardian, for the use of ~~such~~ the employee or dependent as may be found  
7 best calculated to conserve the ~~employee's or dependent's interests.~~ Such of the  
8 employee or dependent. The employee or dependent shall be entitled to receive  
9 payments, in the aggregate, at a rate that is not less than ~~that~~ the rate applicable  
10 to payments of primary compensation for total disability or death benefit as accruing  
11 from the ~~employee's or dependent's 18th birthday~~ of the employee or dependent.

12           **SECTION 236.** 102.475 (1) of the statutes is amended to read:

13           102.475 (1) SPECIAL BENEFIT. If the deceased employee is a law enforcement  
14 officer, correctional officer, fire fighter, rescue squad member, diving team member,  
15 national guard member, or state defense force member on state active duty as  
16 described in s. 102.07 (9) or if a deceased person is an employee or volunteer  
17 performing emergency management activities under ch. 323 during a state of  
18 emergency or a circumstance described in s. 323.12 (2) (c), who sustained an  
19 accidental injury while performing services growing out of and incidental to that  
20 employment or volunteer activity so that benefits are payable under s. 102.46 or  
21 102.47 (1), ~~the department~~ office shall voucher and pay from the appropriation under  
22 s. ~~20.445 (1)~~ 20.145 (6) (aa) a sum equal to ~~75%~~ 75 percent of the primary death  
23 benefit as of the date of death, but not less than \$50,000 to the persons wholly  
24 dependent upon the deceased. For purposes of this subsection, dependency shall be  
25 determined under ss. 102.49 and 102.51.

1           **SECTION 237.** 102.475 (6) of the statutes is amended to read:

2           102.475 (6) **PROOF.** In administering this section the department office may  
3 require reasonable proof of birth, marriage, domestic partnership under ch. 770,  
4 relationship, or dependency.

5           **SECTION 238.** 102.48 (1) of the statutes is amended to read:

6           102.48 (1) An unestranged surviving parent or parents to whose support the  
7 deceased has contributed less than \$500 in the 52 weeks next preceding the injury  
8 causing death shall receive a death benefit of \$6,500. If the parents are not living  
9 together, the department office shall divide this sum in such proportion as it deems  
10 the office considers to be just, considering their ages and other facts bearing on  
11 dependency.

12           **SECTION 239.** 102.48 (2) of the statutes is amended to read:

13           102.48 (2) In all other cases the death benefit shall be such sum as the  
14 ~~department shall determine~~ office determines to represent fairly and justly the aid  
15 to support which the dependent might reasonably have anticipated from the  
16 deceased employee but for the injury. To establish anticipation of support and  
17 dependency, it shall not be essential that the deceased employee made any  
18 contribution to support. The aggregate benefits in ~~such~~ that case shall not exceed  
19 twice the average annual earnings of the deceased; or 4 times the contributions of the  
20 deceased to the support of ~~such~~ his or her dependents during the year immediately  
21 preceding the deceased employee's death, whichever amount is the greater. In no  
22 event shall the aggregate benefits in ~~such~~ that case exceed the amount ~~which~~ that  
23 would accrue to a person who is solely and wholly dependent. ~~Where~~ When there is  
24 more than one partial dependent the weekly benefit shall be apportioned according  
25 to their relative dependency. The term "support" as used in ss. 102.42 to 102.63 shall

1 include contributions to the capital fund of the dependents, for their necessary  
2 comfort.

3 **SECTION 240.** 102.48 (3) of the statutes is amended to read:

4 102.48 (3) ~~A- Except as otherwise provided, a death benefit, other than burial~~  
5 ~~expenses, except as otherwise provided~~, shall be paid in weekly installments  
6 corresponding in amount to two-thirds of the weekly earnings of the employee, until  
7 otherwise ordered by the ~~department~~ office.

8 **SECTION 241.** 102.49 (3) of the statutes is amended to read:

9 102.49 (3) If the employee leaves a spouse or domestic partner under ch. 770  
10 wholly dependent and also a child by a former marriage, domestic partnership under  
11 ch. 770, or adoption, likewise wholly dependent, aggregate benefits shall be the same  
12 in amount as if the child were the child of the surviving spouse or partner, and the  
13 entire benefit shall be apportioned to the dependents in the amounts that the  
14 ~~department~~ office determines to be just, considering the ages of the dependents and  
15 other factors bearing on dependency. The benefit awarded to the surviving spouse  
16 or partner shall not exceed 4 times the average annual earnings of the deceased  
17 employee.

18 **SECTION 242.** 102.49 (5) (d) of the statutes is amended to read:

19 102.49 (5) (d) The payment into the state treasury shall be made in all such  
20 cases regardless of whether the dependents or personal representatives of the  
21 deceased employee commence action against a 3rd party under s. 102.29. If the  
22 payment is not made within 20 days after the ~~department makes request therefor~~  
23 office requests the payment to be made, any sum payable shall bear interest at the  
24 rate of ~~7%~~ 7 percent per year.

25 **SECTION 243.** 102.49 (6) of the statutes is amended to read:

1           102.49 (6) The ~~department~~ office may award the additional benefits payable  
2 under this section to the surviving parent of the child, to the child's guardian, or to  
3 such other person, bank, or trust company for the child's use as may be found best  
4 calculated to conserve the ~~interest~~ interests of the child. ~~In the case of death of a child~~  
5 If the child dies while benefits are still payable, there shall be paid the reasonable  
6 expense for burial, not exceeding \$1,500.

7           **SECTION 244.** 102.51 (3) of the statutes is amended to read:

8           102.51 (3) DIVISION AMONG DEPENDENTS. If there is more than one person wholly  
9 or partially dependent on a deceased employee, the death benefit shall be divided  
10 between ~~such~~ those dependents in such proportion as the ~~department shall~~  
11 determine ~~office determines~~ to be just, considering their ages and other facts bearing  
12 on ~~such~~ their dependency.

13           **SECTION 245.** 102.51 (4) of the statutes is amended to read:

14           102.51 (4) DEPENDENCY AS OF THE DATE OF DEATH. Questions as to who is a  
15 dependent and the extent of his or her dependency shall be determined as of the date  
16 of the death of the employee, and the dependent's right to any death benefit becomes  
17 fixed at that time, regardless of any subsequent change in conditions. The death  
18 benefit shall be directly recoverable by and payable to the dependents entitled  
19 ~~thereto~~ to the death benefit or their legal guardians or trustees. In case of the death  
20 of a dependent whose right to a death benefit has thus become fixed, so much of the  
21 benefit as is ~~then~~ unpaid is payable to the dependent's personal representatives in  
22 gross, unless the ~~department~~ office determines that the unpaid benefit shall be  
23 reassigned, under sub. (6), and paid to any other dependent who is physically or  
24 mentally incapacitated or a minor. ~~A posthumous child is for the purpose~~ For

1 purposes of this subsection, a child of the employee who is born after the death of the  
2 employee is considered to be a dependent as of the date of death.

3 **SECTION 246.** 102.51 (6) of the statutes is amended to read:

4 102.51 (6) DIVISION AMONG DEPENDENTS. Benefits accruing to a minor dependent  
5 child may be awarded to either parent in the discretion of the department office.  
6 Notwithstanding sub. (1), the department office may reassign the death benefit, ~~in~~  
7 ~~accordance with their respective needs for the death benefit~~ as between a surviving  
8 spouse or a domestic partner under ch. 770 and any children designated specified in  
9 sub. (1) and s. 102.49 in accordance with their respective needs for the death benefit.

10 **SECTION 247.** 102.55 (3) of the statutes is amended to read:

11 102.55 (3) For all other injuries to the members of the body or its faculties  
12 ~~which~~ that are specified in ~~this~~ the schedule under s. 102.52 resulting in permanent  
13 disability, though the member ~~be~~ is not actually severed or the faculty is not totally  
14 lost, compensation shall bear such relation to ~~that~~ the compensation named in ~~this~~  
15 the schedule as ~~disabilities bear~~ the disability bears to the ~~disabilities~~ disability  
16 named in ~~this~~ the schedule. Indemnity in ~~such~~ those cases shall be determined by  
17 allowing weekly indemnity during the healing period resulting from the injury and  
18 the percentage of permanent disability resulting ~~thereafter~~ after the healing period  
19 as found by the department division.

20 **SECTION 248.** 102.555 (12) (a) of the statutes is amended to read:

21 102.555 (12) (a) An employer, the office, or the ~~department~~ division is not liable  
22 for the expense of any examination or test for hearing loss, any evaluation of such  
23 an exam or test, any medical treatment for improving or restoring hearing, or any  
24 hearing aid to relieve the effect of hearing loss unless it is determined that  
25 compensation for occupational deafness is payable under sub. (3), (4), or (11).

1           **SECTION 249.** 102.56 (1) of the statutes is amended to read:

2           102.56 (1) Subject to sub. (2), if an employee is so permanently disfigured as  
3 to occasion potential wage loss due to the disfigurement, the department division  
4 may allow such sum as the department division considers just as compensation for  
5 the disfigurement, not exceeding the employee's average annual earnings. In  
6 determining the potential for wage loss due to the disfigurement and the sum  
7 awarded, the department division shall take into account the age, education,  
8 training, and previous experience and earnings of the employee, the employee's  
9 present occupation and earnings, and likelihood of future suitable occupational  
10 change. Consideration for disfigurement allowance is confined to those areas of the  
11 body that are exposed in the normal course of employment. ~~The department~~ division  
12 shall also take into account the appearance of the disfigurement, its location, and the  
13 likelihood of its exposure in occupations for which the employee is suited.

14           **SECTION 250.** 102.56 (2) of the statutes is amended to read:

15           102.56 (2) If an employee who claims compensation under sub. (1) returns to  
16 work for the employer who employed the employee at the time of the injury, or is  
17 offered employment with that employer, at the same or a higher wage, the  
18 ~~department~~ division may not allow that compensation unless the employee suffers  
19 an actual wage loss due to the disfigurement.

20           **SECTION 251.** 102.565 (1) of the statutes is amended to read:

21           102.565 (1) ~~When an employee working subject to this chapter, as a result of~~  
22 exposure in the course of ~~his or her~~ employment over a period of time to toxic or  
23 hazardous substances or conditions, an employee performing work that is subject to  
24 this chapter develops any clinically observable abnormality or condition ~~which that,~~  
25 on competent medical opinion, predisposes or renders the ~~employ~~ employee in any

1 manner differentially susceptible to disability to such an extent that it is inadvisable  
2 for the employee to continue employment involving ~~such that exposure and the~~  
3 ~~employee,~~ is discharged from or ceases to continue the employment, and suffers wage  
4 loss by reason of ~~such that discharge from,~~ or ~~such cessation of, employment,~~ the  
5 ~~department~~ division may allow such sum as ~~it deems~~ the division considers just as  
6 compensation ~~therefor for that wage loss,~~ not exceeding \$13,000. ~~In the event~~ If a  
7 nondisabling condition may also be caused by toxic or hazardous exposure not  
8 related to employment, and if the employee has a history of ~~such that~~ exposure,  
9 compensation as provided by under this section or any other remedy for loss of  
10 earning capacity shall not be allowed ~~nor shall any other remedy for loss of earning~~  
11 ~~capacity. In case of such discharge. If the employee is discharged from employment~~  
12 prior to a finding by the ~~department~~ division that it is inadvisable for the employee  
13 to continue in ~~such that~~ employment and if it is reasonably probable that continued  
14 exposure would result in disability, the liability of the employer who so discharges  
15 the employee is primary, and the liability of the employer's insurer is secondary,  
16 under the same procedure and to the same effect as provided by s. 102.62.

17 **SECTION 252.** 102.565 (2) of the statutes is amended to read:

18 102.565 (2) Upon application of any employer or employee the ~~department~~  
19 division may direct any employee of the employer or an employee who, in the course  
20 of his or her employment, has been exposed to toxic or hazardous substances or  
21 conditions, to submit to examination by ~~a physician or~~ one or more physicians ~~to be~~  
22 appointed by the ~~department~~ division to determine whether the employee has  
23 developed any abnormality or condition under sub. (1), and the degree ~~thereof of that~~  
24 abnormality or condition. The cost of the medical examination shall be borne by the  
25 person making application. The physician conducting the examination shall submit

1 ~~the results of the examination shall be submitted by the physician to the department~~  
2 ~~division~~, which shall submit copies of the reports to the employer and employee, who  
3 shall have an opportunity to rebut the reports ~~provided request therefor~~ if a request  
4 to submit a rebuttal is made to the department division within 10 days from ~~the~~  
5 ~~mailing of~~ after the division mails the report to the parties. The ~~department~~ division  
6 shall make its findings as to whether ~~or not~~ it is inadvisable for the employee to  
7 continue in his or her employment.

8 **SECTION 253.** 102.565 (3) of the statutes is amended to read:

9 102.565 (3) ~~If an employee refuses to submit to the examination after direction~~  
10 ~~by the commission, or any member thereof or the department or any member of the~~  
11 ~~commission, the division, or an examiner thereof,~~ an employee refuses to submit to  
12 an examination or in any way obstructs the same examination, the employee's right  
13 to compensation under this section shall be barred.

14 **SECTION 254.** 102.57 of the statutes is amended to read:

15 **102.57 Violations of safety provisions, penalty.** If injury is caused by the  
16 failure of the employer to comply with any statute, rule, or order of the department  
17 of safety and professional services, compensation and death benefits provided in this  
18 chapter shall be increased ~~15%~~ by 15 percent but the total increase may not exceed  
19 \$15,000. Failure of an employer reasonably to enforce compliance by employees with  
20 any statute, rule, or order of the department of safety and professional services  
21 constitutes failure by the employer to comply with that statute, rule, or order.

22 **SECTION 255.** 102.58 of the statutes is amended to read:

23 **102.58 Decreased compensation.** If injury is caused by the failure of the  
24 employee to use safety devices that are provided in accordance with any statute, rule,  
25 or order of the department of safety and professional services and that are



1 adequately maintained, and the use of which is reasonably enforced by the employer,  
2 if injury results from the employee's failure to obey any reasonable rule adopted and  
3 reasonably enforced by the employer for the safety of the employee and of which the  
4 employee has notice, or if injury results from the intoxication of the employee by  
5 alcohol beverages, as defined in s. 125.02 (1), or use of a controlled substance, as  
6 defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m),  
7 the compensation and death benefit provided in this chapter shall be reduced ~~15%~~  
8 by 15 percent but the total reduction may not exceed \$15,000.

9 **SECTION 256.** 102.60 (1m) (b) of the statutes is amended to read:

10 102.60 (1m) (b) An amount equal to double the amount recoverable by the  
11 injured employee, but not to exceed \$15,000, if the injured employee is a minor of  
12 permit age and if at the time of the injury the minor is employed, required, suffered,  
13 or permitted to work without a permit in any place of employment or at any  
14 employment in or for which the department of workforce development, acting under  
15 ch. 103, has adopted a written resolution providing that permits shall not be issued.

16 **SECTION 257.** 102.61 (1g) (b) of the statutes is amended to read:

17 102.61 (1g) (b) If an employer offers an employee suitable employment as  
18 provided in par. (c), the employer or the employer's insurance carrier is not liable for  
19 temporary disability benefits under s. 102.43 (5) (b) or for the cost of tuition, fees,  
20 books, travel, and maintenance under sub. (1). Ineligibility for compensation under  
21 this paragraph does not preclude an employee from receiving vocational  
22 rehabilitation services under 29 USC 701 to 797b if the department of work force  
23 development determines that the employee is eligible to receive those services.

24 **SECTION 258.** 102.61 (1g) (c) of the statutes is amended to read:

1           102.61 (1g) (c) On receiving notice that he or she is eligible to receive vocational  
2 rehabilitation services under 29 USC 701 to 797a, an employee shall provide the  
3 employer with a written report from a physician, chiropractor, psychologist, or  
4 podiatrist stating the employee's permanent work restrictions. Within 60 days after  
5 receiving that report, the employer shall provide to the employee in writing an offer  
6 of suitable employment, a statement that the employer has no suitable employment  
7 for the employee, or a report from a physician, chiropractor, psychologist, or  
8 podiatrist showing that the permanent work restrictions provided by the employee's  
9 practitioner are in dispute and documentation showing that the difference in work  
10 restrictions would materially affect either the employer's ability to provide suitable  
11 employment or a vocational rehabilitation counselor's ability to recommend a  
12 rehabilitative training program. If the employer and employee cannot resolve the  
13 dispute within 30 days after the employee receives the employer's report and  
14 documentation, the employer or employee may request a hearing before the  
15 ~~department~~ division to determine the employee's work restrictions. Within 30 days  
16 after the ~~department~~ division determines the employee's work restrictions, the  
17 employer shall provide to the employee in writing an offer of suitable employment  
18 or a statement that the employer has no suitable employment for the employee.

19           **SECTION 259.** 102.61 (1m) (a) of the statutes is amended to read:

20           102.61 (1m) (a) If the department of workforce development has determined  
21 under sub. (1) that an employee is eligible for vocational rehabilitation services  
22 under 29 USC 701 to 797b, but that the department of workforce development cannot  
23 provide those services for the employee, the employee may select a private  
24 rehabilitation counselor certified by the ~~department~~ office to determine whether the  
25 employee can return to suitable employment without rehabilitative training and, if