



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 01/06/2015 (Per: CMH & MPG)

☞ Compile Draft – Appendix E ... Part II

Appendix A ☞ The 2015 drafting file for LRB-0797

Appendix B ☞ The 2015 drafting file for LRB-0799

Appendix C ☞ The 2015 drafting file for LRB-0800

Appendix D ☞ The 2015 drafting file for LRB-0852

Appendix E ☞ The 2015 drafting file for LRB-0872

Appendix F ☞ The 2015 drafting file for LRB-0906

Appendix G ☞ The 2015 drafting file for LRB-0941

has been copied/added to the drafting file for

2015 LRB-0807

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~~ 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

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:~~ ✓

SECTION 152

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. department ←

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.

(plain)

~~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).

20,142(3)

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.

~~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 (A) 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.

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:

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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

Secretary

Secretary

1 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 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.

Secretary

12 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

SECTION 190

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~~ ^{plain} are
18 necessary to facilitate efficient administration of this chapter. The department office ^(plain)
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).

by department

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 (plain)

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.~~ department

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,

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department

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.

department

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) ~~department~~ 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~~ ^{department} 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,~~ ^{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

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:**

department of financial institutions, insurance, and
professional standards

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:

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:

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 ^{plan} 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.

20,142 (3)

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. *Comm 1531 RDR*

8 SECTION 253. 102.565 (3) of the statutes is amended to read: 2

9 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. *Workforce development (one hour) 3 hrs*

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~~ ^{plan} to determine whether the
25 employee can return to suitable employment without rehabilitative training and, if

of financial institutions, insurance, and
professional agencies