



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-2020/en  
CMH:amn

## 2015 ASSEMBLY BILL 819

1       **AN ACT** *to repeal* 102.07 (8) (d), 108.02 (24g), 108.04 (8) (e), 108.05 (1) (q), 108.05  
2       (1) (r) (figure), 108.05 (2), 108.05 (2m), 108.09 (2) (cm), 108.14 (27) and 111.327;  
3       **to renumber and amend** 108.04 (8) (d), 108.04 (11) (g), 108.04 (12) (f) 1.,  
4       108.04 (12) (f) 2., 108.09 (7) (d), 108.151 (3) (b) and 108.19 (1s) (a); **to amend**  
5       108.02 (13) (k), 108.02 (21) (b), 108.04 (1) (bm), 108.04 (2) (h), 108.04 (7) (c),  
6       108.04 (7) (e), 108.04 (7) (h), 108.04 (8) (c), 108.04 (12) (e), 108.04 (13) (d) 3.  
7       (intro.) and a., 108.04 (13) (d) 4. (intro.) and a., 108.04 (16) (b), 108.05 (1) (r),  
8       108.09 (2) (a), 108.09 (2) (d), 108.09 (2r), 108.09 (4) (c), 108.09 (4) (d) 1. and 2.,  
9       108.09 (4) (e), 108.09 (4) (f) 1., 108.09 (4) (f) 2. (intro.), 108.09 (4) (f) 3., 108.09  
10       (4o), 108.09 (5) (b), 108.09 (5) (d), 108.09 (6) (a), 108.09 (6) (b), 108.09 (6) (c),  
11       108.09 (6) (d), 108.09 (7) (a) and (b), 108.095 (2), 108.095 (3), 108.095 (7), 108.10  
12       (1), 108.10 (2), 108.10 (4), 108.10 (6), 108.14 (8n) (e), 108.141 (3g) (a) 3. (intro.),  
13       108.141 (4), 108.141 (7) (a), 108.151 (4) (b), 108.152 (6) (a) (intro.), 108.16 (6) (g),  
14       108.16 (7m), 108.16 (10), 108.18 (7) (a) 1., 108.18 (7) (h), 108.18 (9c), 108.19

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1 (1m), 108.22 (1) (b), 108.22 (1) (c), 108.22 (1m), 108.22 (9), 108.225 (1) (a) and  
2 108.24 (2m); **to repeal and recreate** 108.04 (1) (b), 108.09 (4) (d) 3., 108.09 (5)  
3 (c) and 108.19 (title); **to create** 108.04 (7) (cg), 108.04 (8) (d) 2., 108.04 (8) (dm),  
4 108.04 (8) (em), 108.04 (11) (g) 2. and 3., 108.04 (12) (f) 1m., 108.04 (12) (f) 2m.,  
5 108.04 (12) (f) 3. b. to d., 108.04 (13) (d) 4. c., 108.09 (7) (c) to (h), 108.151 (3) (b)  
6 2., 108.155, 108.16 (6m) (i), 108.19 (1f), 108.19 (1s) (a) 2., 108.19 (1s) (a) 3.,  
7 108.19 (1s) (a) 4. and 108.221 of the statutes; and **to affect** 2011 Wisconsin Act  
8 198, section 4m, 2011 Wisconsin Act 198, section 6m, 2011 Wisconsin Act 198,  
9 section 37m, 2011 Wisconsin Act 198, section 47m (1) and 2013 Wisconsin Act  
10 36, section 236m; **relating to:** various changes to the unemployment insurance  
11 law.

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***Analysis by the Legislative Reference Bureau***

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

12 **SECTION 1.** 102.07 (8) (d) of the statutes is repealed.

13 **SECTION 2.** 108.02 (13) (k) of the statutes is amended to read:

14 108.02 (13) (k) “Employer” does not include a county department, an aging  
15 unit, or, under s. 46.2785, a private agency that serves as a fiscal agent or contracts  
16 with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i), 46.272 (7)  
17 (e), or 47.035 as to any individual performing services for a person receiving  
18 long-term support services under s. 46.27 (5) (b), 46.272 (7) (b), 46.275, 46.277,  
19 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance services  
20 under s. 47.02 (6) (c).

21 **SECTION 3.** 108.02 (21) (b) of the statutes is amended to read:

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1           108.02 (21) (b) Notwithstanding par. (a), except as provided in s. ss. 108.151  
2           (7) (a) and 108.155 (1) (a), an employer's payroll for calendar years prior to 2009  
3           includes only the first \$10,500 of wages paid by an employer to an individual during  
4           each calendar year, for calendar years 2009 and 2010 includes only the first \$12,000  
5           of such wages, for calendar years 2011 and 2012 includes only the first \$13,000 of  
6           such wages, and for calendar years after 2012 includes only the first \$14,000 of such  
7           wages, including any wages paid for any work covered by the unemployment  
8           insurance law of any other state, except as authorized in s. 108.17 (5).

9           **SECTION 4.** 108.02 (24g) of the statutes, as created by 2015 Wisconsin Act 55,  
10          is repealed.

11          **SECTION 5.** 108.04 (1) (b) of the statutes is repealed and recreated to read:

12          108.04 (1) (b) Except as provided in s. 108.062 (10), if an employee is absent  
13          from work for 16 hours or less in the first week of his or her leave of absence or in the  
14          week in which his or her employment is suspended or terminated due to the  
15          employee's unavailability for work with the employer or inability to perform suitable  
16          work otherwise available with the employer, the employee's eligibility for benefits for  
17          that week shall be determined under par. (bm).

18          **SECTION 6.** 108.04 (1) (bm) of the statutes is amended to read:

19          108.04 (1) (bm) For purposes of ~~par.~~ pars. (a) 1. and (b) ~~2.~~, the department shall  
20          treat the amount that the employee would have earned as wages for a given week in  
21          available work as wages earned by the employee and shall apply the method  
22          specified in s. 108.05 (3) (a) to compute the benefits payable to the employee. The  
23          department shall estimate wages that an employee would have earned if it is not  
24          possible to compute the exact amount of wages that would have been earned by the  
25          employee.

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1           **SECTION 7.** 108.04 (2) (h) of the statutes is amended to read:

2           108.04 (2) (h) A claimant shall, when the claimant first files a claim for benefits  
3 under this chapter and during each subsequent week the claimant files for benefits  
4 under this chapter, inform the department whether he or she is receiving social  
5 security disability insurance ~~benefits under 42 USC ch. 7 subch. II payments, as~~  
6 defined in sub. (12) (f) 2m.

7           **SECTION 8.** 108.04 (7) (c) of the statutes is amended to read:

8           108.04 (7) (c) Paragraph (a) does not apply if the department determines that  
9 the employee terminated his or her work but had no reasonable alternative ~~because~~  
10 ~~the employee was unable to do his or her work, or that the employee terminated his~~  
11 ~~or her work because of the verified illness or disability of a member of his or her~~  
12 ~~immediate family and the verified illness or disability reasonably necessitates the~~  
13 ~~care of the family member for a period of time that is longer than the employer is~~  
14 ~~willing to grant leave; but if the department determines that the employee is unable~~  
15 ~~to work or unavailable for work, the employee is ineligible to receive benefits while~~  
16 ~~such inability or unavailability continues~~ the employee.

17           **SECTION 9.** 108.04 (7) (cg) of the statutes is created to read:

18           108.04 (7) (cg) Paragraph (a) does not apply if the department determines that  
19 the employee terminated his or her work because of the verified illness or disability  
20 of a member of his or her immediate family and the verified illness or disability  
21 reasonably necessitates the care of the family member for a period of time that is  
22 longer than the employer is willing to grant leave.

23           **SECTION 10.** 108.04 (7) (e) of the statutes is amended to read:

24           108.04 (7) (e) Paragraph (a) does not apply if the department determines that  
25 the employee accepted work which the employee could have failed to accept ~~with good~~

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1        cause under sub. (8) and terminated such work ~~with the same good cause~~ on the same  
2        grounds and within the first 30 calendar days after starting the work, or that the  
3        employee accepted work which the employee could have refused under sub. (9) and  
4        terminated such work within the first 30 calendar days after starting the work. For  
5        purposes of this paragraph, an employee has the same ~~good cause~~ grounds for  
6        voluntarily terminating work if the employee could have failed to accept the work  
7        under sub. (8) (d) when it was offered, regardless of the reason articulated by the  
8        employee for the termination.

9                **SECTION 11.** 108.04 (7) (h) of the statutes is amended to read:

10              108.04 (7) (h) The department shall charge to the fund's balancing account  
11              benefits paid to an employee that are otherwise chargeable to the account of an  
12              employer that is subject to the contribution requirements of ss. 108.17 and 108.18  
13              if the employee voluntarily terminates employment with that employer and par. (a),  
14              (c), (cg), (e), (L), (q), (s), or (t) applies.

15              **SECTION 12.** 108.04 (8) (c) of the statutes is amended to read:

16              108.04 (8) (c) If an employee fails, without good cause, to return to work with  
17              a former employer that recalls the employee within 52 weeks after the employee last  
18              worked for that employer, the employee is ineligible to receive benefits until the  
19              employee earns wages after the week in which the failure occurs equal to at least 6  
20              times the employee's weekly benefit rate under s. 108.05 (1) in employment or other  
21              work covered by the unemployment insurance law of any state or the federal  
22              government. For purposes of requalification, the employee's weekly benefit rate  
23              shall be that rate which would have been paid had the failure not occurred. This  
24              paragraph does not preclude an employee from establishing a benefit year during a  
25              period in which the employee is ineligible to receive benefits under this paragraph

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1 if the employee qualifies to establish a benefit year under s. 108.06 (2) (a). The  
2 department shall charge to the fund's balancing account any benefits otherwise  
3 chargeable to the account of any employer that is subject to the contribution  
4 requirements under ss. 108.17 and 108.18 whenever an employee of that employer  
5 fails, without good cause, to return to work with that employer. This paragraph does  
6 not apply to an employee who fails to return to work with a former employer if the  
7 work offered would not be considered suitable work under par. (d) or (dm), whichever  
8 is applicable. If an employee receives actual notice of a recall to work, par. (a) applies  
9 in lieu of this paragraph.

10 **SECTION 13.** 108.04 (8) (d) of the statutes is renumbered 108.04 (8) (d) (intro.)  
11 and amended to read:

12 108.04 (8) (d) (intro.) ~~An employee shall have good cause under par. (a) or (c),~~  
13 ~~regardless of the reason articulated by the employee for the failure, if the department~~  
14 ~~determines that the failure involved work at~~ With respect to the first 6 weeks after  
15 the employee became unemployed, "suitable work," for purposes of par. (a), means  
16 work to which all of the following apply:

17 1. The work does not involve a lower grade of skill or significantly lower rate  
18 of pay than that which applied to the employee on one or more of his or her most  
19 recent jobs, and that the employee had not yet had a reasonable opportunity, in view  
20 of labor market conditions and the employee's degree of skill, but not to exceed 6  
21 weeks after the employee became unemployed, to seek a new job substantially in line  
22 with the employee's prior job skill and rate of pay.

23 **SECTION 14.** 108.04 (8) (d) 2. of the statutes is created to read:

24 108.04 (8) (d) 2. The hourly wage for the work is 75 percent or more of what the  
25 employee earned on the highest paying of his or her most recent jobs.

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1           **SECTION 15.** 108.04 (8) (dm) of the statutes is created to read:

2           108.04 (8) (dm) With respect to the 7th week after the employee became  
3 unemployed and any week thereafter, “suitable work,” for purposes of par. (a), means  
4 any work that the employee is capable of performing, regardless of whether the  
5 employee has any relevant experience or training, that pays wages that are above  
6 the lowest quartile of wages for similar work in the labor market area in which the  
7 work is located, as determined by the department.

8           **SECTION 16.** 108.04 (8) (e) of the statutes is repealed.

9           **SECTION 17.** 108.04 (8) (em) of the statutes is created to read:

10          108.04 (8) (em) An employee shall have good cause under this subsection only  
11 if the department determines that the failure related to the employee’s personal  
12 safety, the employee’s sincerely held religious beliefs, or an unreasonable commuting  
13 distance, or if the employee had another compelling reason that would have made  
14 accepting the offer unreasonable.

15          **SECTION 18.** 108.04 (11) (g) of the statutes is renumbered 108.04 (11) (g) 1. and  
16 amended to read:

17          108.04 (11) (g) 1. ~~For purposes of~~ In this subsection, “conceal” means to  
18 intentionally mislead ~~or defraud~~ the department by withholding or hiding  
19 information or making a false statement or misrepresentation.

20          **SECTION 19.** 108.04 (11) (g) 2. and 3. of the statutes are created to read:

21          108.04 (11) (g) 2. A claimant has a duty of care to provide an accurate and  
22 complete response to each inquiry made by the department in connection with his  
23 or her receipt of benefits. The department shall consider the following factors in  
24 determining whether a claimant intended to mislead the department as described  
25 in subd. 1.:

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1 a. Whether the claimant failed to read or follow instructions or other  
2 communications of the department related to a claim for benefits.

3 b. Whether the claimant relied on the statements or representations of persons  
4 other than an employee of the department who is authorized to provide advice  
5 regarding the claimant's claim for benefits.

6 c. Whether the claimant has a limitation or disability and, if so, whether the  
7 claimant provided evidence to the department of that limitation or disability.

8 d. The claimant's unemployment insurance claims filing experience.

9 e. Any instructions or previous determinations of concealment issued or  
10 provided to the claimant.

11 f. Any other factor that may provide evidence of the claimant's intent.

12 3. Nothing in this subsection requires the department, when making a finding  
13 of concealment, to determine or prove that a claimant had an intent or design to  
14 receive benefits to which the claimant knows he or she was not entitled.

15 **SECTION 20.** 108.04 (12) (e) of the statutes is amended to read:

16 108.04 (12) (e) Any individual who receives a temporary total disability  
17 payment or a permanent total disability payment for a whole week under ch. 102 or  
18 under any federal law which provides for payments on account of a work-related  
19 injury or illness analogous to those provided under ch. 102 shall be ineligible for  
20 benefits paid or payable for that same week under this chapter unless otherwise  
21 provided by federal law. A temporary total disability payment ~~or~~, a temporary partial  
22 disability payment, or a permanent total disability payment under those provisions  
23 received by an individual for part of a week shall be treated as wages for purposes  
24 of eligibility for benefits for partial unemployment under s. 108.05 (3).



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1           **SECTION 21.** 108.04 (12) (f) 1. of the statutes is renumbered 108.04 (12) (f) 3.

2           a. and amended to read:

3           108.04 (12) (f) 3. a. ~~Any~~ Except as provided in subd. 3. b. to d., an individual  
4 ~~who actually receives social security disability insurance benefits under 42 USC ch.~~  
5 ~~7 subch. II in a given week is ineligible for benefits paid or payable in that same week~~  
6 ~~under this chapter~~ for each week in the entire month in which a social security  
7 disability insurance payment is issued to the individual.

8           **SECTION 22.** 108.04 (12) (f) 1m. of the statutes is created to read:

9           108.04 (12) (f) 1m. The intent of the legislature in enacting this paragraph is  
10 to prevent the payment of duplicative government benefits for the replacement of lost  
11 earnings or income, regardless of an individual’s ability to work.

12           **SECTION 23.** 108.04 (12) (f) 2. of the statutes is renumbered 108.04 (12) (f) 4.

13           and amended to read:

14           108.04 (12) (f) 4. Information that the department receives or acquires from the  
15 federal social security administration that an individual is receiving regarding the  
16 issuance of social security disability insurance benefits under 42 USC ch. 7 subch.  
17 II in a given week payments is considered conclusive, absent clear and convincing  
18 evidence that the information was erroneous.

19           **SECTION 24.** 108.04 (12) (f) 2m. of the statutes is created to read:

20           108.04 (12) (f) 2m. In this paragraph, “social security disability insurance  
21 payment” means a payment of social security disability insurance benefits under 42  
22 USC ch. 7 subch. II.

23           **SECTION 25.** 108.04 (12) (f) 3. b. to d. of the statutes are created to read:

24           108.04 (12) (f) 3. b. In the first month a social security disability insurance  
25 payment is first issued to an individual, the individual is ineligible for benefits under

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1 this chapter for each week beginning with the week the social security disability  
2 insurance payment is issued to the individual and all subsequent weeks in that  
3 month.

4 c. Following a cessation of social security disability insurance payments to an  
5 individual and upon the individual again being issued a social security disability  
6 insurance payment, the individual is ineligible for benefits under this chapter for  
7 each week beginning with the week the social security disability insurance payment  
8 is issued to the individual and all subsequent weeks in that month.

9 d. Following cessation of social security disability insurance payments, an  
10 individual may be eligible for benefits under this chapter, if otherwise qualified,  
11 beginning with the week following the last Saturday of the month in which the  
12 individual is issued his or her final social security disability insurance payment.

13 **SECTION 26.** 108.04 (13) (d) 3. (intro.) and a. of the statutes are amended to read:

14 108.04 (13) (d) 3. (intro.) To correct any erroneous payment not so adjusted that  
15 was charged to the account of an employer that is subject to the contribution  
16 requirements of ss. 108.17 and 108.18, the department shall do one of the following:

17 a. If recovery of an overpayment is permitted under s. 108.22 (8) (c), restore the  
18 proper amount to the employer's account and charge that amount to the fund's  
19 balancing account, and shall thereafter reimburse the balancing account by  
20 crediting to it benefits which would otherwise be payable to, or cash recovered from,  
21 the employee; ~~or,~~

22 **SECTION 27.** 108.04 (13) (d) 4. (intro.) and a. of the statutes are amended to read:

23 108.04 (13) (d) 4. (intro.) To correct any erroneous payment not so adjusted from  
24 the account of an employer ~~which is a government unit, an Indian tribe, or a nonprofit~~

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1     ~~organization and which has elected~~ that is subject to reimbursement financing, the  
2     department shall do one of the following:

3             a. If recovery of an overpayment is permitted under s. 108.22 (8) (c), credit to  
4     the account benefits which would otherwise be payable to, or cash received from, the  
5     employee; ~~or, unless subd. 4. c. applies.~~

6             **SECTION 28.** 108.04 (13) (d) 4. c. of the statutes is created to read:

7             108.04 (13) (d) 4. c. If the erroneous payment resulted from a false statement  
8     or representation about an individual's identity and the employer was not at fault  
9     for the erroneous payment, restore the proper amount to the employer's account and  
10    reimburse the balancing account by crediting to it benefits that would otherwise be  
11    payable to, or cash recovered from, the individual who caused the erroneous  
12    payment.

13            **SECTION 29.** 108.04 (16) (b) of the statutes is amended to read:

14            108.04 (16) (b) The department shall not apply any benefit reduction or  
15    disqualification under sub. (1) (b), (2) (a), or (7) (c), or ~~(8)-(e)~~ (cg) or s. 108.141 (3g) (d)  
16    that is not the result of approved training while an individual is enrolled in approved  
17    training.

18            **SECTION 30.** 108.05 (1) (q) of the statutes is repealed.

19            **SECTION 31.** 108.05 (1) (r) of the statutes is amended to read:

20            108.05 (1) (r) Except as provided in s. 108.062 (6) (a), each eligible employee  
21    shall be paid benefits for each week of total unemployment that commences on or  
22    after January 5, 2014, at the weekly benefit rate specified in this paragraph. Unless  
23    sub. (1m) applies, the weekly benefit rate shall equal 4 percent of the employee's base  
24    period wages that were paid during that quarter of the employee's base period in  
25    which the employee was paid the highest total wages, rounded down to the nearest

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1 whole dollar, except that, if that amount is less than the ~~minimum amount shown~~  
2 ~~in the following schedule §54~~, no benefits are payable to the employee and, if that  
3 amount is more than the ~~maximum amount shown in the following schedule §370~~,  
4 the employee's weekly benefit rate shall be the ~~maximum amount shown in the~~  
5 ~~following schedule §370~~ and except that, if the employee's benefits are exhausted  
6 during any week under s. 108.06 (1), the employee shall be paid the remaining  
7 amount of benefits payable to the employee ~~in lieu of the amount shown in the~~  
8 ~~following schedule: [See Figure 108.05 (1) (r) following]~~ under s. 108.06 (1). The  
9 department shall publish on its Internet site a weekly benefit rate schedule of  
10 quarterly wages and the corresponding weekly benefit rates as calculated in  
11 accordance with this paragraph.

12 **SECTION 32.** 108.05 (1) (r) (figure) of the statutes is repealed.

13 **SECTION 33.** 108.05 (2) of the statutes is repealed.

14 **SECTION 34.** 108.05 (2m) of the statutes is repealed.

15 **SECTION 35.** 108.09 (2) (a) of the statutes is amended to read:

16 108.09 (2) (a) The department shall promptly issue a computation setting forth  
17 the employee's potential benefit rights based on reports filed by an employer or  
18 employers under s. 108.205, or on the employee's statement and any other  
19 information then available. The results of the computation, a recomputation, or  
20 pertinent portion of either, shall be delivered electronically to, or mailed to the  
21 last-known address of, each party. The department may recompute an employee's  
22 potential benefit rights at any time on the basis of subsequent information or to  
23 correct a mistake, including an error of law, except that a party's failure to make  
24 specific written objection, received by the department within 14 days after the above  
25 electronic delivery or mailing, as to a computation or recomputation is a waiver by

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1 such party of any objection thereto. Any objections to a computation ~~which~~ that are  
2 not satisfactorily resolved by recomputation shall be resolved by a determination  
3 under par. (b).

4 **SECTION 36.** 108.09 (2) (cm) of the statutes is repealed.

5 **SECTION 37.** 108.09 (2) (d) of the statutes is amended to read:

6 108.09 (2) (d) A copy of each determination shall be delivered electronically to,  
7 or mailed to the last-known address of, ~~each of the parties~~ party, except that a party's  
8 copy of any determination may be given to such party instead of being electronically  
9 delivered or mailed.

10 **SECTION 38.** 108.09 (2r) of the statutes is amended to read:

11 108.09 (2r) HEARING REQUEST. Any party to a determination may request a  
12 hearing as to any matter in that determination if ~~such~~ the request is made in  
13 accordance with the procedure prescribed by the department and is received by ~~the~~  
14 ~~department~~ an appeal tribunal or postmarked within 14 days after a copy of the  
15 determination was delivered electronically, mailed, or given to ~~such~~ the party,  
16 whichever first occurs.

17 **SECTION 39.** 108.09 (4) (c) of the statutes is amended to read:

18 108.09 (4) (c) *Late appeal.* If a party files an appeal ~~which~~ that is not timely,  
19 an appeal tribunal shall review the appellant's written reasons for filing the late  
20 appeal. If those reasons, when taken as true and construed most favorably to the  
21 appellant, do not constitute a reason beyond the appellant's control, the appeal  
22 tribunal may dismiss the appeal without a hearing and issue a decision accordingly.  
23 Otherwise, the department may schedule a hearing concerning the question of  
24 whether the appeal was filed late for a reason that was beyond the appellant's  
25 control. The department may also provisionally schedule a hearing concerning any

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1 matter in the determination being appealed. After hearing testimony on the late  
2 appeal question, the appeal tribunal shall issue a decision ~~which~~ that makes  
3 ultimate findings of fact and conclusions of law concerning whether the appellant's  
4 appeal was filed late for a reason that was beyond the appellant's control and ~~which~~  
5 that, in accordance with those findings and conclusions, either dismisses the appeal  
6 or determines that the appeal was filed late for a reason that was beyond the  
7 appellant's control. If the appeal is not dismissed, the same or another appeal  
8 tribunal established by the department for this purpose, after conducting a hearing,  
9 shall then issue a decision under sub. (3) (b) concerning any matter in the  
10 determination.

11 **SECTION 40.** 108.09 (4) (d) 1. and 2. of the statutes are amended to read:

12 108.09 (4) (d) 1. If the appellant fails to appear at a hearing held under this  
13 section and due notice of the hearing was electronically delivered to the appellant or  
14 mailed to the appellant's last-known address, the appeal tribunal shall issue a  
15 decision dismissing the request for hearing unless subd. 2. applies.

16 2. If the appellant ~~delivers or transmits~~ submits to the appeal tribunal a  
17 written explanation for ~~nonappearance to the department which~~ failing to appear at  
18 the hearing that is received before a decision under ~~subd. 1.~~ is electronically  
19 delivered or mailed, ~~the department may so notify each party and schedule a hearing~~  
20 ~~concerning whether there was good cause for~~ under subd. 1., an appeal tribunal shall  
21 review the appellant's nonappearance. ~~The department may also provisionally~~  
22 ~~schedule a hearing concerning any matter in the determination. If, after hearing~~  
23 ~~testimony,~~ explanation. The appeal tribunal shall electronically deliver or mail to  
24 the respondent a copy of the appellant's explanation. The respondent may, within  
25 7 days after the appeal tribunal electronically delivers or mails the appellant's

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1 explanation to the respondent, submit to the appeal tribunal a written response to  
2 the appellant's explanation. If the appeal tribunal finds that the appellant's  
3 explanation does not establish good cause for nonappearance failing to appear, the  
4 appeal tribunal shall issue a decision containing this finding and dismissing the  
5 appeal such a decision may be issued without a hearing. If, after hearing testimony,  
6 the appeal tribunal finds that the appellant's explanation establishes good cause for  
7 nonappearance failing to appear, the appeal tribunal shall issue a decision  
8 containing this finding, and such a decision may be issued without a hearing. The  
9 same or another appeal tribunal established by the department for this purpose shall  
10 then issue a decision under sub. (3) (b) after conducting a hearing concerning any  
11 matter in the determination. If such a hearing is held concerning any matter in the  
12 determination, the appeal tribunal shall only consider testimony and other evidence  
13 admitted at that hearing in making a decision.

14 **SECTION 41.** 108.09 (4) (d) 3. of the statutes is repealed and recreated to read:

15 108.09 (4) (d) 3. If the appellant submits to the appeal tribunal a written  
16 explanation for failing to appear at the hearing that is received within 21 days after  
17 a decision is electronically delivered or mailed under subd. 1., an appeal tribunal  
18 shall review the appellant's explanation. The appeal tribunal shall electronically  
19 deliver or mail to the respondent a copy of the appellant's explanation. The  
20 respondent may, within 7 days after the appeal tribunal electronically delivers or  
21 mails the appellant's explanation to the respondent, submit to the appeal tribunal  
22 a written response to the appellant's explanation. If the appeal tribunal finds that  
23 the appellant's explanation does not establish good cause for failing to appear, the  
24 appeal tribunal shall issue a decision containing this finding, and such a decision  
25 may be issued without a hearing. If the appeal tribunal finds that the appellant's

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1 explanation establishes good cause for failing to appear, the appeal tribunal shall  
2 issue a decision containing this finding, and the decision may be issued without a  
3 hearing. The appeal tribunal shall then set aside the original decision and schedule  
4 a hearing concerning any matter in the determination. The same or another appeal  
5 tribunal established by the department for this purpose shall then issue a decision  
6 under sub. (3) (b) after conducting a hearing concerning any matter in the  
7 determination. If such a hearing is held concerning any matter in the determination,  
8 the appeal tribunal shall only consider the testimony and other evidence admitted  
9 at that hearing in making a decision.

10 **SECTION 42.** 108.09 (4) (e) of the statutes is amended to read:

11 108.09 (4) (e) *Respondent's failure to appear.* 1. If the respondent fails to appear  
12 at a hearing held under this section but the appellant is present, and due notice of  
13 the hearing was electronically delivered to the respondent or mailed to the  
14 respondent's last-known address, the appeal tribunal shall hold the hearing. The  
15 appeal tribunal shall consider records and information already submitted to the  
16 department by the appellant and the respondent regarding the determination or the  
17 appeal, take the testimony of the appellant and any witnesses, and shall issue a  
18 decision under sub. (3) (b) unless subd. 2. applies.

19 2. If the respondent ~~delivers or transmits~~ submits to the appeal tribunal a  
20 written explanation for ~~nonappearance to the department which~~ failing to appear at  
21 the hearing that is received before a decision favorable to the respondent is  
22 electronically delivered or mailed under subd. 1., the appeal tribunal shall  
23 acknowledge receipt of the explanation in its decision but shall take no further action  
24 concerning the explanation at that time. If the respondent ~~delivers or transmits~~  
25 submits to the appeal tribunal a written explanation for ~~nonappearance to the~~



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1     ~~department which~~ failing to appear that is received before a decision unfavorable to  
2     the respondent is electronically delivered or mailed under subd. 1., the department  
3     ~~may so notify each party and may schedule a hearing concerning whether there was~~  
4     ~~good cause for the respondent's nonappearance. The department may also~~  
5     ~~provisionally schedule a hearing for further testimony concerning any matter in the~~  
6     ~~determination. If, after hearing testimony, the appeal tribunal finds that the~~  
7     ~~respondent's explanation does not establish good cause for nonappearance, the~~  
8     ~~appeal tribunal shall issue a decision containing this finding. The same or another~~  
9     ~~appeal tribunal established by the department for this purpose shall also issue a~~  
10    ~~decision based on the testimony and other evidence presented at the hearing at~~  
11    ~~which the respondent failed to appear. If, after hearing testimony, the appeal~~  
12    ~~tribunal finds that the respondent's explanation~~ an appeal tribunal shall review the  
13    respondent's explanation. The appeal tribunal shall electronically deliver or mail to  
14    the appellant a copy of the respondent's explanation. The appellant may, within 7  
15    days after the appeal tribunal electronically delivers or mails the respondent's  
16    explanation to the appellant, submit to the appeal tribunal a written response to the  
17    respondent's explanation. If the appeal tribunal finds that the respondent's  
18    explanation does not establish good cause for failing to appear, the appeal tribunal  
19    shall issue a decision containing this finding, and such a decision may be issued  
20    without a hearing. If the appeal tribunal finds that the respondent's explanation  
21    ~~establishes good cause for nonappearance~~ failing to appear, the appeal tribunal shall  
22    ~~issue a decision containing this finding, and such a decision may be issued without~~  
23    ~~a hearing.~~ The same or another appeal tribunal established by the department for  
24    this purpose shall then issue a decision under sub. (3) (b) after conducting a hearing  
25    concerning any matter in the determination. If such a 2<sup>nd</sup> hearing is held concerning

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1 any matter in the determination, the appeal tribunal shall only consider testimony  
2 and other evidence admitted at that hearing in making a decision.

3 3. If the respondent ~~delivers or transmits~~ submits to the appeal tribunal a  
4 written explanation for ~~nonappearance to the department which~~ failing to appear at  
5 the hearing that is received within 21 days after a decision favorable to the  
6 respondent is electronically delivered or mailed under subd. 1., the department  
7 appeal tribunal shall notify the respondent of receipt of the explanation and that  
8 since the decision was favorable to the respondent no further action concerning the  
9 explanation will be taken at that time. If the respondent ~~delivers or transmits~~  
10 submits to the appeal tribunal a written explanation for ~~nonappearance to the~~  
11 ~~department which~~ failing to appear that is received within 21 days after a decision  
12 unfavorable to the respondent is electronically delivered or mailed under subd. 1.,  
13 the an appeal tribunal shall review the respondent's explanation. The appeal  
14 tribunal shall electronically deliver or mail to the appellant a copy of the respondent's  
15 explanation. The appellant may, within 7 days after the appeal tribunal  
16 electronically delivers or mails the respondent's explanation to the appellant, submit  
17 to the appeal tribunal a written response to the respondent's explanation. If the  
18 appeal tribunal finds that the respondent's explanation does not establish good cause  
19 for failing to appear, the appeal tribunal shall issue a decision containing this  
20 finding, and such a decision may be issued without a hearing. If the appeal tribunal  
21 finds that the respondent's explanation establishes good cause for failing to appear,  
22 the appeal tribunal shall issue a decision containing this finding, and such a decision  
23 may be issued without a hearing. The appeal tribunal may shall then set aside the  
24 original decision and the department may schedule a hearing concerning whether  
25 there was good cause for the respondent's nonappearance. The department may also

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1 provisionally schedule a hearing concerning any matter in the determination. If the  
2 original decision is not set aside, the appeal tribunal may, on its own motion amend  
3 or set aside that decision within 21 days after the decision concerning whether there  
4 was good cause for the respondent's nonappearance is mailed under subd. 1. If, after  
5 hearing testimony, the appeal tribunal finds that the respondent's explanation does  
6 not establish good cause for nonappearance, the appeal tribunal shall issue a  
7 decision containing this finding and, if necessary, reinstating the decision which was  
8 set aside. If, after hearing testimony, the appeal tribunal finds that the respondent's  
9 explanation establishes good cause for nonappearance, the same or another appeal  
10 tribunal established by the department for this purpose shall issue a decision  
11 containing this finding. The same or another appeal tribunal established by the  
12 department for this purpose shall then issue a decision under sub. (3) (b) after  
13 conducting a hearing concerning any matter in the determination. If such a 2<sup>nd</sup>  
14 hearing is held concerning any matter in the determination, the appeal tribunal  
15 shall only consider the testimony and other evidence admitted at that hearing in  
16 making a decision.

17 **SECTION 43.** 108.09 (4) (f) 1. of the statutes is amended to read:

18 108.09 (4) (f) 1. ~~Except as provided in par. (e) 3., within~~ Within 21 days after  
19 its decision was electronically delivered or mailed to the parties, the appeal tribunal  
20 may, on its own motion, amend or set aside its decision and may thereafter make new  
21 findings and issue a decision on the basis of evidence previously submitted in such  
22 case, or the same or another appeal tribunal may make new findings and issue a  
23 decision after taking additional testimony.

24 **SECTION 44.** 108.09 (4) (f) 2. (intro.) of the statutes is amended to read:

**ASSEMBLY BILL 819****SECTION 44**

1           108.09 (4) (f) 2. (intro.) Unless a party or the department has filed a timely  
2 petition for review of the appeal tribunal decision by the commission, the appeal  
3 tribunal may set aside or amend an appeal tribunal decision, or portion thereof, at  
4 any time if the appeal tribunal finds that:

5           **SECTION 45.** 108.09 (4) (f) 3. of the statutes is amended to read:

6           108.09 (4) (f) 3. Unless a party or the department has filed a timely petition for  
7 review of the appeal tribunal decision by the commission, the appeal tribunal may,  
8 within 2 years after the date of the decision, reopen its decision if it has reason to  
9 believe that a party offered false evidence or a witness gave false testimony on an  
10 issue material to its decision. Thereafter, and after receiving additional evidence or  
11 taking additional testimony, the same or another appeal tribunal may set aside its  
12 original decision, make new findings, and issue a decision.

13           **SECTION 46.** 108.09 (4o) of the statutes is amended to read:

14           108.09 (4o) DEPARTMENTAL RECORDS RELATING TO BENEFIT CLAIMS. In any hearing  
15 before an appeal tribunal under this section, a departmental record relating to a  
16 claim for benefits, other than a report specified in sub. (4m), constitutes prima facie  
17 evidence, and shall be admissible to prove, that an employer provided or failed to  
18 provide to the department complete and correct information in a fact-finding  
19 investigation of the claim, notwithstanding that the record or a statement contained  
20 in the record may be uncorroborated hearsay and may constitute the sole basis upon  
21 which issue of the employer's failure is decided, if the parties appearing at the  
22 hearing have been given an opportunity to review the record at or before the hearing  
23 and to rebut the information contained in the record. A record of the department that  
24 is admissible under this subsection shall be regarded as self authenticating and shall  
25 require no foundational or other testimony for its admissibility, unless the

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1 circumstances affirmatively indicate a lack of trustworthiness in the record. If such  
2 a record is admitted and made the basis of a decision, the record may constitute  
3 substantial evidence under ~~s. 102.23 (6)~~ sub. (7) (f). For purposes of this subsection,  
4 “departmental record” means a memorandum, report, record, document, or data  
5 compilation that has been made or maintained by employees of the department in  
6 the regular course of the department’s fact-finding investigation of a benefit claim,  
7 is contained in the department’s paper or electronic files of the benefit claim, and  
8 relates to the department’s investigative inquiries to an employer or statements or  
9 other matters submitted by the employer or its agent in connection with the  
10 fact-finding investigation of a benefit claim. A departmental record may not be  
11 admitted into evidence under this subsection or otherwise used under this  
12 subsection for any purpose other than to prove whether an employer provided or  
13 failed to provide to the department complete and correct information in a  
14 fact-finding investigation of a claim.

15 **SECTION 47.** 108.09 (5) (b) of the statutes is amended to read:

16 108.09 (5) (b) All testimony at any hearing under this section shall be ~~taken~~  
17 ~~down by a stenographer, or recorded by a recording machine~~ electronic means, but  
18 need not be transcribed unless either of the parties requests a transcript ~~prior to~~  
19 before expiration of that party’s right to further appeal under this section and pays  
20 a fee to the commission in advance, the amount of which shall be established by rule  
21 of the commission. When the commission provides a transcript is ~~thus furnished to~~  
22 one of the parties upon request, the commission shall also provide a copy of the  
23 transcript ~~shall be furnished the to all other party parties~~ free of charge. The  
24 transcript fee ~~thus~~ collected shall be paid to the administrative account.

25 **SECTION 48.** 108.09 (5) (c) of the statutes is repealed and recreated to read:

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1           108.09 (5) (c) The department shall furnish a copy of the electronic recording  
2 to the parties upon payment of any fee required by the department by rule.

3           **SECTION 49.** 108.09 (5) (d) of the statutes is amended to read:

4           108.09 (5) (d) In its review of the decision of an appeal tribunal, the commission  
5 shall use the electronic recording of the hearing or a written synopsis of the  
6 testimony ~~and other evidence taken at a hearing or shall use~~ a transcript of the  
7 hearing prepared, under the direction of the department or commission, ~~by an~~  
8 ~~employee of the department, an employee of the commission or a contractor.~~ If a  
9 party shows to the commission that a synopsis is not sufficiently complete and  
10 accurate to fairly reflect the relevant and material testimony and other evidence  
11 taken, the commission shall direct the preparation of a transcript. If a transcript is  
12 prepared, the transcript shall indicate the transcriber's name and whether the  
13 transcriber is an employee of the department, an employee of the commission, or a  
14 contractor and shall also use any other evidence taken at the hearing.

15           **SECTION 50.** 108.09 (6) (a) of the statutes is amended to read:

16           108.09 (6) (a) The department or any party may petition the commission for  
17 review of an appeal tribunal decision, pursuant to ~~commission rules promulgated by~~  
18 the commission, if such the petition is received by the department or commission or  
19 postmarked within 21 days after the appeal tribunal decision was electronically  
20 delivered to the party or mailed to the party's last-known address. The commission  
21 shall dismiss any petition if not timely filed unless the petitioner shows probable  
22 good cause that the reason for having failed to file the petition timely was beyond the  
23 control of the petitioner. If the petition is not dismissed, the commission may take  
24 action under par. (d).

25           **SECTION 51.** 108.09 (6) (b) of the statutes is amended to read:

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1           108.09 (6) (b) Within 28 days after a decision of the commission is electronically  
2           delivered or mailed to the parties, the commission may, on its own motion, set aside  
3           the decision for further consideration and take action under par. (d).

4           **SECTION 52.** 108.09 (6) (c) of the statutes is amended to read:

5           108.09 (6) (c) On its own motion, for reasons it deems sufficient, the commission  
6           may set aside any final determination of the department or appeal tribunal or  
7           commission decision within 2 years ~~from~~ after the date thereof upon grounds of  
8           mistake or newly discovered evidence, and take action under par. (d). The  
9           commission may set aside any final determination of the department or any decision  
10          of an appeal tribunal or of the commission at any time, and take action under par.  
11          (d), if the benefits paid or payable to a claimant have been affected by wages earned  
12          by the claimant ~~which~~ that have not been paid, and the commission is provided with  
13          notice from the appropriate state or federal court or agency that a wage claim for  
14          those wages will not be paid in whole or in part.

15          **SECTION 53.** 108.09 (6) (d) of the statutes is amended to read:

16          108.09 (6) (d) In any case before the commission for action under this  
17          subsection, the commission may affirm, reverse, modify, or set aside the decision on  
18          the basis of the evidence previously submitted, ~~may;~~ order the taking of additional  
19          evidence as to such matters as it may direct, ~~or it may;~~ or remand the matter to the  
20          department for further proceedings.

21          **SECTION 54.** 108.09 (7) (a) and (b) of the statutes are amended to read:

22          108.09 (7) (a) ~~The department or either~~ Any party that is not the department  
23          may commence an action for the judicial review of a decision of the commission under  
24          this chapter after exhausting the remedies provided under this section ~~if the party~~  
25          ~~or the department has commenced such action in accordance with s. 102.23 within~~

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1 ~~30 days after a decision of the commission is mailed to a party's last-known address.~~  
2 The department may commence an action for the judicial review of a commission  
3 decision under this section, but the department is not required to have been a party  
4 to the proceedings before the commission or to have exhausted the remedies provided  
5 under this section. In an action commenced under this section by a party that is not  
6 the department, the department shall be a defendant and shall be named as a party  
7 in the complaint commencing the action. If a plaintiff fails to name either the  
8 department or the commission as defendants and serve the commission as required  
9 by this subsection, the court shall dismiss the action.

10 (b) Any judicial review under this chapter shall be confined to questions of law,  
11 and the provisions of ch. 102 with respect to judicial review of orders and awards  
12 shall likewise apply to any decision of the commission reviewed under this section  
13 and shall be in accordance with this subsection. In any such judicial action, the  
14 commission may appear by any licensed attorney who is a salaried employee of the  
15 commission and has been designated by it for this that purpose, or, at the  
16 commission's request, by the department of justice. In any such judicial action, the  
17 department may appear by any licensed attorney who is a salaried employee of the  
18 department and has been designated by it for that purpose.

19 **SECTION 55.** 108.09 (7) (c) to (h) of the statutes are created to read:

20 108.09 (7) (c) 1. The findings of fact made by the commission acting within its  
21 powers shall, in the absence of fraud, be conclusive. The order of the commission is  
22 subject to review only as provided in this subsection and not under ch. 227 or s.  
23 801.02. Within 30 days after the date of an order made by the commission, any party  
24 or the department may, by serving a complaint as provided in subd. 3. and filing the  
25 summons and complaint with the clerk of the circuit court, commence an action



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1 against the commission for judicial review of the order. In an action for judicial  
2 review of a commission order, every other party to the proceedings before the  
3 commission shall be made a defendant. The department shall also be made a  
4 defendant if the department is not the plaintiff. If the circuit court is satisfied that  
5 a party in interest has been prejudiced because of an exceptional delay in the receipt  
6 of a copy of any order, the circuit court may extend the time in which an action may  
7 be commenced by an additional 30 days.

8 2. Except as provided in this subdivision, the proceedings shall be in the circuit  
9 court of the county where the plaintiff resides, except that if the plaintiff is the  
10 department, the proceedings shall be in the circuit court of the county where a  
11 defendant other than the commission resides. The proceedings may be brought in  
12 any circuit court if all parties appearing in the case agree or if the court, after notice  
13 and a hearing, so orders. Commencing an action in a county in which no defendant  
14 resides does not deprive the court of competency to proceed to judgment on the merits  
15 of the case.

16 3. In such an action, a complaint shall be served with an authenticated copy  
17 of the summons. The complaint need not be verified, but shall state the grounds upon  
18 which a review is sought. Service upon the commission or an agent authorized by  
19 the commission to accept service constitutes complete service on all parties, but there  
20 shall be left with the person so served as many copies of the summons and complaint  
21 as there are defendants, and the commission shall mail one copy to each other  
22 defendant.

23 4. Each defendant shall serve its answer within 20 days after the service upon  
24 the commission under subd. 3., which answer may, by way of counterclaim or cross

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1 complaint, ask for the review of the order referred to in the complaint, with the same  
2 effect as if the defendant had commenced a separate action for the review of the order.

3 5. Within 60 days after appearing in an action for judicial review, the  
4 commission shall make return to the court of all documents and materials on file in  
5 the matter, all testimony that has been taken, and the commission's order and  
6 findings. Such return of the commission, when filed in the office of the clerk of the  
7 circuit court, shall constitute a judgment roll in the action, and it shall not be  
8 necessary to have a transcript approved. After the commission makes return of the  
9 judgment roll to the court, the court shall schedule briefing by the parties. Any party  
10 may request oral argument before the court, subject to the provisions of law for a  
11 change of the place of trial or the calling in of another judge.

12 6. The court may confirm or set aside the commission's order, but may set aside  
13 the order only upon one or more of the following grounds:

14 a. That the commission acted without or in excess of its powers.

15 b. That the order was procured by fraud.

16 c. That the findings of fact by the commission do not support the order.

17 (dm) The court shall disregard any irregularity or error of the commission or  
18 the department unless it is made to affirmatively appear that a party was damaged  
19 by that irregularity or error.

20 (e) The record in any case shall be transmitted to the commission within 5 days  
21 after expiration of the time for appeal from the order or judgment of the court, unless  
22 an appeal is taken from the order or judgment.

23 (f) If the commission's order depends on any fact found by the commission, the  
24 court shall not substitute its judgment for that of the commission as to the weight  
25 or credibility of the evidence on any finding of fact. The court may, however, set aside

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1 the commission's order and remand the case to the commission if the commission's  
2 order depends on any material and controverted finding of fact that is not supported  
3 by credible and substantial evidence.

4 (g) Any party aggrieved by a judgment entered upon the review of any circuit  
5 court order under this subsection may appeal as provided in ch. 808.

6 (h) The clerk of any court rendering a decision affecting a decision of the  
7 commission shall promptly furnish all parties a copy of the decision without charge.

8 **SECTION 56.** 108.09 (7) (d) of the statutes is renumbered 108.09 (7) (i) and  
9 amended to read:

10 108.09 (7) (i) ~~Notwithstanding ss. 102.26 (1) and 814.245, upon review of a~~  
11 ~~decision of the commission under this chapter~~ No fees may be charged by the clerk  
12 of any circuit court for the performance of any service required by this chapter, except  
13 for the entry of judgments and for certified transcripts of judgments. In proceedings  
14 to review an order under this section, costs as between the parties shall be in the  
15 discretion of the court, but. ~~Notwithstanding s. 814.245, no costs may be taxed~~  
16 against the commission or the department.

17 **SECTION 57.** 108.095 (2) of the statutes is amended to read:

18 108.095 (2) The department shall investigate whether any person has obtained  
19 benefits that were payable to another person by means of any false statement or  
20 representation, and may issue an initial determination concerning its findings. The  
21 department shall electronically deliver a copy of the determination to, or mail a copy  
22 of the determination to the last-known address of, each party affected thereby.  
23 Unless designated by a determination under this section, an employing unit is not  
24 a party to the determination. The department may set aside or amend the  
25 determination at any time prior to a hearing concerning the determination under

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1 sub. (5) on the basis of subsequent information or to correct a mistake, including an  
2 error of law.

3 **SECTION 58.** 108.095 (3) of the statutes is amended to read:

4 108.095 (3) Any party to a determination may appeal that determination by  
5 requesting a hearing concerning any matter in that determination if the request is  
6 received by the department or postmarked within 14 days after the electronic  
7 delivery or mailing.

8 **SECTION 59.** 108.095 (7) of the statutes is amended to read:

9 108.095 (7) Any party may commence an action for judicial review of a decision  
10 of the commission under this section, after exhausting the remedies provided under  
11 this section, by commencing the action within 30 days after the decision of the  
12 commission is delivered electronically or mailed to the department and is delivered  
13 electronically to, or mailed to the last-known address of, each other party. The scope  
14 and manner of judicial review is the same as that provided in s. 108.09 (7).

15 **SECTION 60.** 108.10 (1) of the statutes is amended to read:

16 108.10 (1) The department shall investigate the status, and the existence and  
17 extent of liability of an employing unit, and may issue an initial determination  
18 accordingly. The department may set aside or amend the determination at any time  
19 prior to a hearing on the determination on the basis of subsequent information or to  
20 correct a mistake, including an error of law. The department shall electronically  
21 deliver a copy of each determination to, or mail a copy of each determination to the  
22 last-known address of, the employing unit affected thereby. The employing unit may  
23 request a hearing as to any matter in that determination if the request is received  
24 by the department or postmarked within 21 days after the mailing and in accordance  
25 with such procedure as the department prescribes by rule.

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1           **SECTION 61.** 108.10 (2) of the statutes is amended to read:

2           108.10 (2) Any hearing duly requested shall be held before an appeal tribunal  
3 established as provided by s. 108.09 (3), and s. 108.09 (4) and (5) shall be applicable  
4 to the proceedings before such tribunal. The department may be a party in any  
5 proceedings before an appeal tribunal. The employing unit or the department may  
6 petition the commission for review of the appeal tribunal's decision under s. 108.09  
7 (6).

8           **SECTION 62.** 108.10 (4) of the statutes is amended to read:

9           108.10 (4) ~~The department or the employing unit may commence an action for~~  
10 ~~the judicial review of a commission decision under this section, provided the~~  
11 ~~department, or the employing unit, after exhausting~~ has exhausted ~~the remedies~~  
12 ~~provided under this section, has commenced such action within 30 days after such~~  
13 ~~decision was mailed to the employing unit's last-known address.~~ The department  
14 may commence an action for the judicial review of a commission decision under this  
15 section, but the department is not required to have been a party to the proceedings  
16 before the commission or to have exhausted the remedies provided under this  
17 section. In an action commenced under this section by a party that is not the  
18 department, the department shall be a defendant and shall be named as a party in  
19 the complaint commencing the action. If a plaintiff fails to name either the  
20 department or the commission as defendants and serve them as required under s.  
21 108.09 (7), the court shall dismiss the action. The scope of judicial review, and the  
22 manner thereof insofar as applicable, shall be the same as that provided in s. 108.09  
23 (7). ~~In an action commenced by an employing unit under this section, the department~~  
24 ~~shall be an adverse party under s. 102.23 (1) (a) and shall be named as a party in the~~  
25 ~~complaint commencing the action.~~

**ASSEMBLY BILL 819****SECTION 63**

1           **SECTION 63.** 108.10 (6) of the statutes is amended to read:

2           108.10 (6) Any determination by the department or any decision by an appeal  
3 tribunal or by the commission is conclusive with respect to an employing unit unless  
4 ~~it~~ the department or the employing unit files a timely request for a hearing or petition  
5 for review as provided in this section. A determination or decision is binding upon  
6 the department only insofar as the relevant facts were included in the record ~~which~~  
7 that was before the department at the time the determination was issued, or before  
8 the appeal tribunal or commission at the time the decision was issued.

9           **SECTION 64.** 108.14 (8n) (e) of the statutes, as affected by 2015 Wisconsin Act  
10 55, is amended to read:

11           108.14 (8n) (e) The department shall charge this state's share of any benefits  
12 paid under this subsection to the account of each employer by which the employee  
13 claiming benefits was employed in the applicable base period, in proportion to the  
14 total amount of wages he or she earned from each employer in the base period, except  
15 that if s. 108.04 (1) (f), (5), (7) (a), (c), ~~(cg)~~, (e), (L), (q), (s), or (t), (7m) or (8) (a) or (b),  
16 108.07 (3), (3r), or (5) (b), or 108.133 (3) (f) would have applied to employment by such  
17 an employer who is subject to the contribution requirements of ss. 108.17 and 108.18,  
18 the department shall charge the share of benefits based on employment with that  
19 employer to the fund's balancing account, or, if s. 108.04 (1) (f) or (5) or 108.07 (3)  
20 would have applied to an employer that is not subject to the contribution  
21 requirements of ss. 108.17 and 108.18, the department shall charge the share of  
22 benefits based on that employment in accordance with s. 108.07 (5) (a) and (b). The  
23 department shall also charge the fund's balancing account with any other state's  
24 share of such benefits pending reimbursement by that state.

**ASSEMBLY BILL 819**

1           **SECTION 65.** 108.14 (27) of the statutes, as created by 2015 Wisconsin Act 55,  
2 is repealed.

3           **SECTION 66.** 108.141 (3g) (a) 3. (intro.) of the statutes, as affected by 2015  
4 Wisconsin Act 55, is amended to read:

5           108.141 **(3g)** (a) 3. (intro.) ~~Notwithstanding s. 108.02 (24g), work~~ Work is  
6 suitable within the meaning of subd. 2. if:

7           **SECTION 67.** 108.141 (4) of the statutes is amended to read:

8           108.141 **(4)** WEEKLY EXTENDED BENEFIT RATE. The weekly extended benefit rate  
9 payable to an individual for a week of total unemployment is the same as the rate  
10 payable to the individual for regular benefits during his or her most recent benefit  
11 year as determined under s. 108.05 (1). ~~No adjustment of rates under s. 108.05 (2)~~  
12 ~~applies to benefits payable under this section.~~

13           **SECTION 68.** 108.141 (7) (a) of the statutes, as affected by 2015 Wisconsin Act  
14 55, is amended to read:

15           108.141 **(7)** (a) The department shall charge the state's share of each week of  
16 extended benefits to each employer's account in proportion to the employer's share  
17 of the total wages of the employee receiving the benefits in the employee's base  
18 period, except that if the employer is subject to the contribution requirements of ss.  
19 108.17 and 108.18 the department shall charge the share of extended benefits to  
20 which s. 108.04 (1) (f), (5), (7) (a), (c), ~~(cg)~~, (e), (L), (q), (s), or (t), (7m) or (8) (a) or (b),  
21 108.07 (3), (3r), or (5) (b), or 108.133 (3) (f) applies to the fund's balancing account.

22           **SECTION 69.** 108.151 (3) (b) of the statutes is renumbered 108.151 (3) (b) (intro.)  
23 and amended to read:

**ASSEMBLY BILL 819****SECTION 69**

1           108.151 (3) (b) (intro.) The department may terminate any election as of the  
2 close of any calendar year if the department determines that ~~the~~ any of the following  
3 applies:

4           1. The employer has failed to make the required reimbursement payments or,

5           3. The employer no longer satisfies the requirements of sub. (4), or whenever

6 s.

7           4. Section 108.16 (8) applies with respect to the employer.

8           **SECTION 70.** 108.151 (3) (b) 2. of the statutes is created to read:

9           108.151 (3) (b) 2. The employer has failed to pay the required assessments  
10 authorized by sub. (7) or s. 108.155.

11           **SECTION 71.** 108.151 (4) (b) of the statutes is amended to read:

12           108.151 (4) (b) The fund's treasurer shall issue a receipt to the employer for its  
13 deposit of assurance. Any assurances shall be retained by the fund's treasurer in  
14 escrow, for the fund, until the employer's liability under its election is terminated,  
15 at which time they shall be returned to the employer, less any deductions made under  
16 this paragraph. The employer may at any time substitute assurances of equal or  
17 greater value. The treasurer may, with 10 days' notice to the employer, liquidate the  
18 assurances deposited to the extent necessary to satisfy any delinquent  
19 reimbursements or assessments due under this section or s. 108.155 together with  
20 any interest and any tardy filing fees due. The treasurer shall hold in escrow any  
21 cash remaining from the sale of the assurances, without interest. The fund's  
22 treasurer shall require the employer within 30 days following any liquidation of  
23 deposited assurances to deposit sufficient additional assurances to make whole the  
24 employer's deposit at the prior level. Any income from assurances held in escrow  
25 shall inure to and be the property of the employer.



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1           **SECTION 72.** 108.152 (6) (a) (intro.) of the statutes is amended to read:

2           108.152 (6) (a) (intro.) If an Indian tribe or tribal unit fails to pay required  
3 contributions, reimbursements in lieu of contributions, penalties, interest, ~~or fees,~~  
4 or assessments within 90 days of the time that the department transmits to the tribe  
5 a final notice of delinquency:

6           **SECTION 73.** 108.155 of the statutes is created to read:

7           **108.155 Liability of reimbursable employers for identity theft.** (1) In  
8 this section:

9           (a) “Payroll” has the meaning given in s. 108.02 (21) (a).

10           (b) “Reimbursable employer” means an employer under s. 108.02 (13) (a) that  
11 is subject to reimbursement financing under s. 108.15, 108.151, or 108.152.

12           (2) (a) On the effective date of this paragraph .... [LRB inserts date], the fund’s  
13 treasurer shall set aside \$2,000,000 in the balancing account for accounting  
14 purposes. On an ongoing basis, the fund’s treasurer shall tally the amounts allocated  
15 to reimbursable employers’ accounts under s. 108.04 (13) (d) 4. c. and deduct those  
16 amounts from the amount set aside plus any interest calculated thereon.

17           (b) On each June 30, beginning with June 30, 2016, the fund’s treasurer shall  
18 do all of the following:

19           1. Determine the current result of the calculations described in par. (a).

20           2. Determine the amount that was allocated to reimbursable employers’  
21 accounts under s. 108.04 (13) (d) 4. c. in the preceding calendar year.

22           (c) Annually, beginning with the first year in which the amount determined  
23 under par. (b) 1. is less than \$100,000, the department shall proceed as follows:

24           1. If the sum of the amount determined under par. (b) 2. in the current year and  
25 any amount carried over under subd. 2. or 3. from the preceding year is \$20,000 or

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1 more, the department shall, subject to subd. 3., assess reimbursable employers for  
2 that sum.

3 2. If the sum of the amount determined under par. (b) 2. in the current year and  
4 any amount carried over under this subdivision or subd. 3. from the preceding year  
5 is less than \$20,000 the department shall, subject to subd. 4., postpone the current  
6 year's assessment by carrying that sum over to the following year.

7 3. If the sum of the amount determined under par. (b) 2. in the current year and  
8 any amount carried over under this subdivision or subd. 2. from the preceding year  
9 is more than \$200,000, the department shall postpone the amount of the assessment  
10 that exceeds \$200,000 by carrying that amount over to the following year.

11 4. If the department postponed assessments under subd. 2. in each of the 4  
12 previous years, the department shall, subject to subd. 3., assess reimbursable  
13 employers for the sum of the amount determined under par. (b) 2. in the current year  
14 and the amount carried over under subd. 2. from the preceding year.

15 (d) If the department assesses reimbursable employers under par. (c), the  
16 department shall determine the amount of assessments to be levied as provided in  
17 sub. (3), and the fund's treasurer shall notify reimbursable employers that the  
18 assessment will be imposed. Except as provided in sub. (3) (c), the assessment shall  
19 be payable by each reimbursable employer that is subject to this chapter as of the  
20 date the assessment is imposed. Assessments imposed under this section shall be  
21 credited to the balancing account.

22 (3) (a) The rate of an assessment imposed under sub. (2) (c) for a given calendar  
23 year shall be a rate that, when applied to the payrolls of all reimbursable employers  
24 for the preceding calendar year, will generate an amount equal to the total amount  
25 to be assessed in that year as determined under sub. (2) (c).

**ASSEMBLY BILL 819**

1 (b) Except as provided in par. (c), the amount of a reimbursable employer's  
2 assessment imposed under sub. (2) (c) for a given calendar year is the product of the  
3 rate determined under par. (a) and the reimbursable employer's payroll for the  
4 preceding calendar year, as reported by the reimbursable employer under s. 108.15  
5 (8), 108.151 (8), 108.152 (7), or 108.205 (1), or, in the absence of reports, as estimated  
6 by the department.

7 (c) If a reimbursable employer would otherwise be assessed an amount less  
8 than \$10 for a calendar year, the department shall, in lieu of requiring that  
9 reimbursable employer to pay an assessment for that calendar year, apply the  
10 amount that the reimbursable employer would have been required to pay to the other  
11 reimbursable employers subject to an assessment on a pro rata basis.

12 (4) The department shall bill assessments under this section to a reimbursable  
13 employer at its last known address in the month of September of each year and the  
14 assessment shall be due to the department within 20 days after the date such bill is  
15 mailed by the department. Any assessment that remains unpaid after its applicable  
16 due date is a delinquent payment. If a reimbursable employer is delinquent in  
17 paying an assessment under this section, in addition to pursuing action under the  
18 provisions of ss. 108.22 and 108.225, the department may do any of the following:

19 (a) Pursue action authorized under s. 108.15 (6), if the reimbursable employer  
20 is subject to reimbursement financing under s. 108.15.

21 (b) Terminate the reimbursable employer's election of reimbursement  
22 financing under s. 108.151 (3) (b) or liquidate the employer's assurance under s.  
23 108.151 (4) (b), if the reimbursable employer elected reimbursement financing under  
24 s. 108.151 (2).

**ASSEMBLY BILL 819****SECTION 73**

1 (c) Pursue action authorized under s. 108.152 (6), if the reimbursable employer  
2 elected reimbursement financing under s. 108.152 (1).

3 (5) If the payroll of a reimbursable employer for any quarter is adjusted to  
4 decrease the amount of the payroll after an employment and wage report for the  
5 reimbursable employer is filed under s. 108.205 (1), the department shall refund the  
6 amount of any assessment that was overpaid by the reimbursable employer under  
7 this section as a result of the adjustment.

8 (6) The department shall annually report to the council on unemployment  
9 insurance the balance remaining of the amount set aside under sub. (2) (a) and the  
10 amount of charges restored to reimbursable employers' accounts under s. 108.04 (13)  
11 (d) 4. c.

12 **SECTION 74.** 108.16 (6) (g) of the statutes is amended to read:

13 108.16 (6) (g) Any payment or other amount received for the balancing account  
14 under s. 108.15 ~~or~~, 108.151, 108.152, or 108.155.

15 **SECTION 75.** 108.16 (6m) (i) of the statutes is created to read:

16 108.16 (6m) (i) Any amount restored to the account of an employer subject to  
17 reimbursement financing under s. 108.04 (13) (d) 4.

18 **SECTION 76.** 108.16 (7m) of the statutes is amended to read:

19 108.16 (7m) The fund's treasurer may write off, by charging to the fund's  
20 balancing account, any delinquent contribution, reimbursement in lieu of  
21 contribution, assessment, tardy payment or filing fee, or interest for which the  
22 employer's liability to the fund was established under s. 108.10, upon receipt of  
23 certification by the department that reasonable efforts have been made to recover the  
24 delinquency and that the delinquency is uncollectible.

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1           **SECTION 77.** 108.16 (10) of the statutes, as affected by 2015 Wisconsin Act 86,  
2 is amended to read:

3           108.16 (10) All money withdrawn from the fund shall be used solely in the  
4 payment of benefits, exclusive of expenses of administration, and for refunds of sums  
5 erroneously paid into the fund, for refund of a positive net balance in an employer's  
6 reimbursement account under ss. 108.15 (4) ~~and~~, 108.151 (5), and 108.152 (4) on  
7 request by the employer, for expenditures made pursuant to s. 108.161 and  
8 consistently with the federal limitations applicable to s. 108.161, and for payment  
9 of fees and expenses for collection of overpayments resulting from fraud or failure to  
10 report earnings that are assessed by the U.S. secretary of the treasury and charged  
11 to the department under 26 USC 6402 (f).

12           **SECTION 78.** 108.18 (7) (a) 1. of the statutes is amended to read:

13           108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make  
14 payments to the fund during the month of November in excess of those required by  
15 this section and s. 108.19 (1) ~~and~~, (1e), and (1f). Each payment shall be credited to  
16 the employer's account for the purpose of computing the employer's reserve  
17 percentage as of the immediately preceding computation date.

18           **SECTION 79.** 108.18 (7) (h) of the statutes is amended to read:

19           108.18 (7) (h) The department shall establish contributions other than those  
20 required by this section and s. 108.19 (1) ~~and~~, (1e), and (1f) and contributions other  
21 than those submitted during the month of November or authorized under par. (f) or  
22 (i) 2. as a credit, without interest, against future contributions payable by the  
23 employer or shall refund the contributions at the employer's option.

24           **SECTION 80.** 108.18 (9c) of the statutes is amended to read:

**ASSEMBLY BILL 819****SECTION 80**

1           108.18 **(9c)** REDUCTION OF SOLVENCY RATE. The department shall reduce the  
2 solvency rate payable under sub. (9) by each employer for each year by the ~~rate~~ rates  
3 payable by that employer under s. 108.19 (1e) (a) and (1f) (a) for that year.

4           **SECTION 81.** 108.19 (title) of the statutes is repealed and recreated to read:

5           **108.19** (title) **Contributions to administrative account and**  
6 **unemployment interest payment and program integrity funds.**

7           **SECTION 82.** 108.19 (1f) of the statutes is created to read:

8           108.19 **(1f)** (a) Except as provided in par. (b), each employer, other than an  
9 employer that finances benefits by reimbursement in lieu of contributions under s.  
10 108.15, 108.151, or 108.152 shall, in addition to other contributions payable under  
11 s. 108.18 and this section, pay an assessment for each year equal to the lesser of 0.01  
12 percent of its payroll for that year or the solvency contribution that would otherwise  
13 be payable by the employer under s. 108.18 (9) for that year. Assessments under this  
14 paragraph shall be deposited in the unemployment program integrity fund.

15           (b) The levy prescribed under par. (a) is not effective for any year unless the  
16 department, no later than the November 30 preceding that year, publishes a class  
17 1 notice under ch. 985 giving notice that the levy is in effect for the ensuing year. The  
18 department shall consider the balance of the unemployment reserve fund before  
19 prescribing the levy under par. (a). The secretary of workforce development shall  
20 consult with the council on unemployment insurance before the department  
21 prescribes the levy under par. (a).

22           (c) Notwithstanding par. (a), the department may, if it finds that the full  
23 amount of the levy is not required to effect the purposes specified in sub. (1s) (b) for  
24 any year, prescribe a reduced levy for that year and in such case shall publish in the  
25 notice under par. (b) the rate of the reduced levy.

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1           **SECTION 83.** 108.19 (1m) of the statutes, as affected by 2013 Wisconsin Act 20,  
2 section 1720q, is amended to read:

3           108.19 (1m) Each employer subject to this chapter as of the date a rate is  
4 established under this subsection shall pay an assessment to the unemployment  
5 interest payment fund at a rate established by the department sufficient to pay  
6 interest due on advances from the federal unemployment account under Title XII of  
7 the social security act (42 USC 1321 to 1324). The rate established by the department  
8 for employers who finance benefits under s. 108.15 (2), 108.151 (2), or 108.152 (1)  
9 shall be ~~75%~~ 75 percent of the rate established for other employers. The amount of  
10 any employer's assessment shall be the product of the rate established for that  
11 employer multiplied by the employer's payroll of the previous calendar year as taken  
12 from quarterly employment and wage reports filed by the employer under s. 108.205  
13 (1) or, in the absence of the filing of such reports, estimates made by the department.  
14 Each assessment made under this subsection is due on the 30th day commencing  
15 after the date on which notice of the assessment is mailed by the department. If the  
16 amounts collected from employers under this subsection are in excess of the amounts  
17 needed to pay interest due, the department shall use any excess to pay interest owed  
18 in subsequent years on advances from the federal unemployment account. If the  
19 department determines that additional interest obligations are unlikely, the  
20 department shall transfer the excess to the balancing account of the fund, the  
21 unemployment program integrity fund, or both in amounts determined by the  
22 department.

23           **SECTION 84.** 108.19 (1s) (a) of the statutes, as affected by 2015 Wisconsin Act  
24 55, is renumbered 108.19 (1s) (a) (intro.) and amended to read:

**ASSEMBLY BILL 819****SECTION 84**

1           108.19 (1s) (a) (intro.) There is created a separate, nonlapsible trust fund  
2 designated as the unemployment program integrity fund consisting of all of the  
3 following:

4           1. All amounts collected under s. 108.04 (11) (bh) other than the amounts  
5 required to be deposited in the fund under s. 108.16 (6) (n).

6           **SECTION 85.** 108.19 (1s) (a) 2. of the statutes is created to read:

7           108.19 (1s) (a) 2. Assessments levied and deposited into the unemployment  
8 program integrity fund under sub. (1f).

9           **SECTION 86.** 108.19 (1s) (a) 3. of the statutes is created to read:

10           108.19 (1s) (a) 3. Amounts transferred under sub. (1m).

11           **SECTION 87.** 108.19 (1s) (a) 4. of the statutes is created to read:

12           108.19 (1s) (a) 4. Assessments under s. 108.221 (1) and (2).

13           **SECTION 88.** 108.22 (1) (b) of the statutes is amended to read:

14           108.22 (1) (b) If the due date of a report or payment under s. 108.15 (5) (b),  
15 108.151 (5) (f) or (7), 108.155, 108.16 (8), 108.17, or 108.205 would otherwise be a  
16 Saturday, Sunday, or legal holiday under state or federal law, the due date is the next  
17 following day which is not a Saturday, Sunday, or legal holiday under state or federal  
18 law.

19           **SECTION 89.** 108.22 (1) (c) of the statutes is amended to read:

20           108.22 (1) (c) Any report or payment, except a payment required by s. 108.15  
21 (5) (b) ~~or~~, 108.151 (5) (f) or (7), or 108.155, to which this subsection applies is  
22 delinquent, within the meaning of par. (a), unless it is received by the department,  
23 in the form prescribed by law or rule of the department, no later than its due date  
24 as determined under par. (b). Any payment required by s. 108.15 (5) (b) ~~or~~, 108.151  
25 (5) (f) or (7), or 108.155 is delinquent, within the meaning of par. (a), unless it is



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1 received by the department, in the form prescribed by law, no later than the last day  
2 of the month in which it is due.

3 **SECTION 90.** 108.22 (1m) of the statutes is amended to read:

4 108.22 (1m) If an employer owes any contributions, reimbursements, or  
5 assessments under s. 108.15, 108.151, 108.155, or 108.19 (1m), interest, fees, or  
6 payments for forfeitures or other penalties to the department under this chapter and  
7 fails to pay the amount owed, the department has a perfected lien upon the  
8 employer's right, title, and interest in all of its real and personal property located in  
9 this state in the amount finally determined to be owed, plus costs. Except where  
10 creation of a lien is barred or stayed by bankruptcy or other insolvency law, the lien  
11 is effective when the department issues a determination of the amount owed under  
12 s. 108.10 (1) and shall continue until the amount owed, plus costs and interest to the  
13 date of payment, is paid. If a lien is initially barred or stayed by bankruptcy or other  
14 insolvency law, it shall become effective immediately upon expiration or removal of  
15 such bar or stay. The perfected lien does not give the department priority over  
16 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges  
17 whose interests have been recorded before the department's lien is recorded.

18 **SECTION 91.** 108.22 (9) of the statutes is amended to read:

19 108.22 (9) An individual who is an officer, employee, member ~~or~~, manager,  
20 partner, or other responsible person holding at least ~~20%~~ 20 percent of the ownership  
21 interest of a corporation ~~or of a~~, limited liability company, or other business  
22 association subject to this chapter, and who has control or supervision of or  
23 responsibility for filing any required contribution reports or making payment of  
24 contributions, and who willfully fails to file such reports or to make such payments  
25 to the department, or to ensure that such reports are filed or that such payments are

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1 made, may be found personally liable for such amounts, including interest, tardy  
2 payment or filing fees, costs and other fees, in the event that after proper proceedings  
3 for the collection of such amounts, as provided in this chapter, the corporation ~~or~~,  
4 limited liability company, or other business association is unable to pay such  
5 amounts to the department. Ownership interest of a corporation ~~or~~, limited liability  
6 company, or other business association includes ownership or control, directly or  
7 indirectly, by legally enforceable means or otherwise, by the individual, by the  
8 individual's spouse or child, by the individual's parent if the individual is under age  
9 18, or by a combination of 2 or more of them, and such ownership interest of a parent  
10 corporation ~~or~~, limited liability company, or other business association of which the  
11 corporation ~~or~~, limited liability company, or other business association unable to pay  
12 such amounts is a wholly owned subsidiary. The personal liability of such officer,  
13 employee, member ~~or~~, manager, partner, or other responsible person as provided in  
14 this subsection survives dissolution, reorganization, bankruptcy, receivership,  
15 assignment for the benefit of creditors, judicially confirmed extension or  
16 composition, or any analogous situation of the corporation ~~or~~, limited liability  
17 company, or other business association and shall be set forth in a determination or  
18 decision issued under s. 108.10.

19 **SECTION 92.** 108.221 of the statutes is created to read:

20 **108.221 Misclassification; administrative assessments.** (1) (a) Any  
21 employer described in s. 108.18 (2) (c) or engaged in the painting or drywall finishing  
22 of buildings or other structures who knowingly and intentionally provides false  
23 information to the department for the purpose of misclassifying or attempting to  
24 misclassify an individual who is an employee of the employer as a nonemployee shall,

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1 for each incident, be assessed a penalty by the department in the amount of \$500 for  
2 each employee who is misclassified, but not to exceed \$7,500 per incident.

3 (b) The department shall consider the following nonexclusive factors in  
4 determining whether an employer described under par. (a) knowingly and  
5 intentionally provided false information to the department for the purpose of  
6 misclassifying or attempting to misclassify an individual who is an employee of the  
7 employer as a nonemployee:

8 1. Whether the employer was previously found to have misclassified an  
9 employee in the same or a substantially similar position.

10 2. Whether the employer was the subject of litigation or a governmental  
11 investigation relating to worker misclassification and the employer, as a result of  
12 that litigation or investigation, received an opinion or decision from a federal or state  
13 court or agency that the subject position or a substantially similar position should  
14 be classified as an employee.

15 (2) Any employer described in s. 108.18 (2) (c) or engaged in the painting or  
16 drywall finishing of buildings or other structures who, through coercion, requires an  
17 individual to adopt the status of a nonemployee shall be assessed a penalty by the  
18 department in the amount of \$1,000 for each individual so coerced, but not to exceed  
19 \$10,000 per calendar year.

20 (3) Assessments under subs. (1) and (2) shall be deposited in the  
21 unemployment program integrity fund.

22 **SECTION 93.** 108.225 (1) (a) of the statutes is amended to read:

23 108.225 (1) (a) “Contribution” includes a reimbursement or assessment under  
24 s. 108.15, 108.151, ~~or 108.152~~, or 108.155, interest for a nontimely payment, fees, and

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1 any payment due for a forfeiture imposed upon an employing unit under s. 108.04  
2 (11) (c) or other penalty assessed by the department under this chapter.

3 **SECTION 94.** 108.24 (2m) of the statutes is amended to read:

4 108.24 (2m) Any employer described in s. 108.18 (2) (c) or engaged in the  
5 painting or drywall finishing of buildings or other structures who willfully, after  
6 having previously been assessed an administrative penalty by the department under  
7 s. 108.221 (1), knowingly and intentionally provides false information to the  
8 department for the purpose of misclassifying or attempting to misclassify an  
9 individual who is an employee of the employer as a nonemployee shall be fined \$1,000  
10 for each employee who is misclassified, subject to a maximum fine of \$25,000 for each  
11 violation. The department may refer violations of this subsection for prosecution by  
12 the department of justice or the district attorney for the county in which the violation  
13 occurred.

14 **SECTION 95.** 111.327 of the statutes is repealed.

15 **SECTION 96.** 2011 Wisconsin Act 198, section 4m is repealed.

16 **SECTION 97.** 2011 Wisconsin Act 198, section 6m is repealed.

17 **SECTION 98.** 2011 Wisconsin Act 198, section 37m is repealed.

18 **SECTION 99.** 2011 Wisconsin Act 198, section 47m (1), as last affected by 2013  
19 Wisconsin Act 36, is repealed.

20 **SECTION 100.** 2013 Wisconsin Act 36, section 236m is repealed.

21 **SECTION 101. Nonstatutory provisions.**

22 (1) UNEMPLOYMENT INSURANCE; REPEAL OF PROGRAM INTEGRITY FUND SUNSET. The  
23 repeal of 2011 Wisconsin Act 198, sections 4m, 6m, 37m, and 47m (1) and 2013  
24 Wisconsin Act 36, section 236m applies notwithstanding section 990.03 of the  
25 statutes.

**ASSEMBLY BILL 819****1 SECTION 102. Initial applicability.**

2 (1) CONCEALMENT BY CLAIMANTS. The renumbering and amendment of section  
3 108.04 (11) (g) of the statutes and the creation of section 108.04 (11) (g) 2. and 3. of  
4 the statutes first apply to determinations issued under section 108.09 of the statutes  
5 on the effective date of this subsection.

6 (2) CONCURRENT RECEIPT OF SSDI AND UI BENEFITS. The treatment of section  
7 108.04 (2) (h) and (12) (f) 1., 1m., 2., 2m., and 3. b. to d. of the statutes first applies  
8 retroactively to determinations issued under section 108.09 of the statutes on the  
9 effective date of this subsection.

10 (3) JUDICIAL REVIEW CHANGES. The treatment of sections 108.09 (4o), (7) (a), (b),  
11 and (c) to (h) and 108.10 (4) of the statutes first applies to actions filed on the effective  
12 date of this subsection.

13 (4) ABLE AND AVAILABLE DETERMINATIONS. The treatment of sections 108.04 (1)  
14 (b) and (bm), (7) (c), (cg), and (h), (8) (e), and (16) (b), 108.14 (8n) (e), and 108.141 (7)  
15 (a) of the statutes first applies to determinations issued under section 108.09 of the  
16 statutes on the effective date of this subsection.

17 (5) PERSONAL LIABILITY OF LLP PARTNERS. The treatment of section 108.22 (9)  
18 of the statutes first applies to determinations issued under section 108.10 of the  
19 statutes on the effective date of this subsection.

20 (6) SUITABLE WORK. The treatment of section 108.04 (7) (e) and (8) (c), (dm), and  
21 (em) of the statutes, the renumbering and amendment of section 108.04 (8) (d) of the  
22 statutes, and the creation of section 108.04 (8) (d) 2. of the statutes first apply to  
23 determinations issued under section 108.09 of the statutes on the effective date of  
24 this subsection.

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1 (7) RECEIPT OF WORKER'S COMPENSATION. The treatment of section 108.04 (12) (e)  
2 of the statutes first applies to determinations issued under section 108.09 of the  
3 statutes on the effective date of this subsection.

4 (8) MISCLASSIFICATION; ASSESSMENTS AND PENALTIES. The treatment of sections  
5 102.07 (8) (d), 108.221, 108.24 (2m), and 111.327 of the statutes first applies to  
6 violations committed on the effective date of this subsection.

7 **SECTION 103. Effective dates.** This act takes effect on the first Sunday after  
8 publication, except as follows:

9 (1) CONCURRENT RECEIPT OF SSDI AND UI BENEFITS. The treatment of section  
10 108.04 (2) (h) and (12) (f) 1., 1m., 2., 2m., and 3. b. to d. of the statutes and SECTION  
11 102 (2) of this act take effect retroactively to January 5, 2014.

12 (2) REIMBURSABLE EMPLOYER IDENTITY THEFT CHARGING. The treatment of  
13 sections 108.02 (21) (b), 108.04 (13) (d) 3. (intro.) and a. and 4. (intro.), a., and c.,  
14 108.151 (4) (b), 108.152 (6) (a) (intro.), 108.155, 108.16 (6) (g), (6m) (i), (7m), and (10),  
15 108.22 (1) (b) and (c) and (1m), and 108.225 (1) (a) of the statutes, the renumbering  
16 and amendment of section 108.151 (3) (b) of the statutes, and the creation of section  
17 108.151 (3) (b) 2. of the statutes take effect on October 2, 2016.

18 (3) JUDICIAL REVIEW CHANGES. The treatment of sections 108.09 (4o), (7) (a), (b),  
19 and (c) to (h) and 108.10 (4) of the statutes and SECTION 102 (3) of this act take effect  
20 on the first day of the 5th month beginning after publication.

21 (4) SUITABLE WORK. The treatment of section 108.04 (7) (e) and (8) (c), (dm), and  
22 (em) of the statutes, the renumbering and amendment of section 108.04 (8) (d) of the  
23 statutes, and the creation of section 108.04 (8) (d) 2. of the statutes and SECTION 102  
24 (6) of this act take effect on the 5th Sunday beginning after publication.

