



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2020/P3
MED:cjs:cs

In 5-27
Out 6-2, if poss

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Inserts

D-note

which is administered by
the Department of Workforce
Development (DWD)

Ins Analysis

Gen Cat

SAW

1 **AN ACT to repeal** 108.04 (8) (e) and 108.062 (7); **to renumber and amend**
2 108.04 (12) (f) 1. and 108.04 (12) (f) 2.; **to amend** 108.04 (1) (bm), 108.04 (2) (h),
3 108.04 (7) (c), 108.04 (7) (h), 108.04 (16) (b), 108.062 (6) (a), 108.14 (8n) (e),
4 108.141 (7) (a), 108.16 (6) (L), 108.16 (6m) (g), 108.16 (10), 108.22 (8) (b) 1. d.
5 and 108.22 (9); **to repeal and recreate** 108.04 (1) (b); and **to create** 108.04 (7)
6 (cg), 108.04 (12) (f) 1m., 108.04 (12) (f) 2m., 108.04 (12) (f) 3. b. to d., 108.04 (13)
7 (g) and 108.22 (1r) of the statutes; **relating to:** various changes to the
8 unemployment insurance law.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law. Significant changes include:

Concurrent receipt of UI and SSDI

Current law provides that any individual who actually receives social security disability insurance (SSDI) benefits in a given week is ineligible for UI benefits paid or payable in that same week.

This bill modifies current law with respect to the concurrent receipt of UI and SSDI benefits. Specifically, the bill provides that an individual is ineligible for UI benefits for each week in a month in which an SSDI payment is issued to the

individual, but subject to the following: 1) in the first month an SSDI payment is first issued to an individual, the individual is ineligible for UI benefits for each week beginning with the week the SSDI payment is issued to the individual and for all subsequent weeks in that month; 2) following a cessation of SSDI payments to an individual and upon the individual again being issued an SSDI payment, the individual is ineligible for UI benefits for each week beginning with the week the SSDI payment is issued to the individual and all subsequent weeks in that month; and 3) following cessation of SSDI payments, the individual may be eligible for UI benefits, if otherwise qualified, beginning with the week following the last Saturday of the month in which the individual is issued his or her final SSDI payment.

The bill provides that the modifications take effect retroactively to January 5, 2014.

Personal liability of partners in LLCs and others for UI contributions

Current law allows DWD, in certain circumstances, to hold an individual who is an officer, employee, member, or manager holding at least 20 percent of the ownership interest of a corporation or of a limited liability company (LLC) personally liable for UI contributions and certain other amounts. This bill adds partners and other responsible persons to the list of persons who may be held personally liable, and allows such a person to be held liable if the person has a 20 percent ownership interest in other forms of business associations, as well as corporations and LLCs.

Revisions to provisions concerning ability to work and availability for work

As a general qualifying requirement to receive UI benefits, current law provides that, subject to certain exceptions, a claimant is eligible for UI benefits as to any given week only if the claimant is able to work and available for work during that week. The bill eliminates other, duplicative language in the UI law that similarly provides that a claimant is ineligible for UI benefits while unable to work or unavailable for work.

Also under current law, unless an exemption applies, if a claimant voluntarily terminates his or her work with an employer, the claimant is generally ineligible to receive benefits until certain requalification requirements are satisfied. One such exemption applies if the claimant terminated his or her work but had no reasonable alternative because he or she was unable to do his or her work, or if the claimant terminated his or her work because of the verified illness or disability of an immediate family member that reasonably necessitates the care of the family member for a period of time that is longer than the employer is willing to grant leave. The exemption further provides that if the claimant is unable to work or unavailable for work, he or she is ineligible to receive benefits while such inability or unavailability continues. The bill: 1) eliminates the duplicative language providing that the claimant is ineligible for UI benefits while unable to work or unavailable for work; and 2) divides the exemption into two separate exemptions, one of which applies if the claimant terminated his or her work but had no reasonable alternative because of the verified illness or disability of the employee, and another which applies if the claimant terminated his or her work because of the verified illness or disability of an immediate family member and the verified illness or disability

reasonably necessitates the care of the family member for a period of time that is longer than the employer is willing to grant leave.

Recovery of employer UI debts under Treasury Offset Program

Current state law allows DWD to recoup certain UI benefit overpayments made to claimants by offsetting the amount of an overpayment against a federal tax refund through the federal Treasury Offset Program (TOP), but does not permit DWD to similarly recoup UI debts owed by employers. Under current federal law, however, a state *must* act to recover through the TOP certain UI-related debts that remain uncollected for one year or more, including those of both employers and claimants. This bill allows DWD to offset a UI debt found to be due to DWD by an employer against a federal tax refund through the TOP.

Work-share programs

Under current law, any employer may create a work-share program, defined as a program approved by the Department of Workforce Development under which the hours of work of employees in a work unit are reduced in lieu of the layoffs of two or more employees in the work unit. An employee included under a work-share program who otherwise qualifies to receive regular UI benefits must receive a UI benefit payment for each week that the employee is included under the program. The amount of the benefit payment is the employee's regular UI benefit amount multiplied by the employee's proportionate reduction in hours for that week under the work-share program (work-share benefits). Current law also provides, however, that an employee included under a work-share program who would otherwise be paid benefits for any week under the UI law's partial benefits formula (partial benefits) must instead receive a benefit payment for that week in the amount payable to the employee under that formula, if that amount is higher than the work-share benefits amount.

Under this bill, employees included under a work-share program may only be paid work-share benefits, and not partial benefits.

Determinations in combined-wage claims

Under federal law, a state must, as a condition of approval of its UI law by the U.S. Secretary of Labor, participate in arrangements for the payment of UI benefits on the basis of combining an individual's wages and employment covered under that state's UI law with wages and employment covered under another state's UI law (combined-wage claim). Also under federal law, as a condition of employers being able to receive certain tax credits under the Federal Unemployment Tax Act, a state may not relieve an employer's account of certain erroneous charges in certain cases where the employer was at fault.

Under current state law, DWD may, in connection with any issue arising under the UI law as to the status or liability of an employer in this state, issue an appealable determination as to that issue. This bill allows DWD to similarly issue an appealable determination that an out-of-state employer in a combined-wage claim is at fault for the erroneous payment of benefits under a combined-wage claim.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 108.04 (1) (b) Except as provided in s. 108.062 (10), if an employee is absent
3 from work for 16 hours or less in the first week of his or her leave of absence or in the
4 week in which his or her employment is suspended or terminated due to the
5 employee's unavailability for work with the employer or inability to perform suitable
6 work otherwise available with the employer, the employee's eligibility for benefits for
7 that week shall be determined under par. (bm).

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

9 108.04 (1) (bm) For purposes of ~~par. pars.~~ (a) 1. and (b) 2., the department shall
10 treat the amount that the employee would have earned as wages for a given week in
11 available work as wages earned by the employee and shall apply the method
12 specified in s. 108.05 (3) (a) to compute the benefits payable to the employee. The
13 department shall estimate wages that an employee would have earned if it is not
14 possible to compute the exact amount of wages that would have been earned by the
15 employee.

16 **SECTION 3.** 108.04 (2) (h) of the statutes is amended to read:

17 108.04 (2) (h) A claimant shall, when the claimant first files a claim for benefits
18 under this chapter and during each subsequent week the claimant files for benefits
19 under this chapter, inform the department whether he or she is receiving social
20 security disability insurance ~~benefits under 42 USC ch. 7 subch. II payments, as~~
21 defined in sub. (12) (f) 2m.

1 **SECTION 4.** 108.04 (7) (c) of the statutes is amended to read:

2 108.04 (7) (c) Paragraph (a) does not apply if the department determines that
3 the employee terminated his or her work but had no reasonable alternative because
4 ~~the employee was unable to do his or her work, or that the employee terminated his~~
5 ~~or her work~~ because of the verified illness or disability of a member of his or her
6 ~~immediate family and the verified illness or disability reasonably necessitates the~~
7 ~~care of the family member for a period of time that is longer than the employer is~~
8 ~~willing to grant leave; but if the department determines that the employee is unable~~
9 ~~to work or unavailable for work, the employee is ineligible to receive benefits while~~
10 ~~such inability or unavailability continues~~ the employee.

11 **SECTION 5.** 108.04 (7) (cg) of the statutes is created to read:

12 108.04 (7) (cg) Paragraph (a) does not apply if the department determines that
13 the employee terminated his or her work because of the verified illness or disability
14 of a member of his or her immediate family and the verified illness or disability
15 reasonably necessitates the care of the family member for a period of time that is
16 longer than the employer is willing to grant leave.

17 **SECTION 6.** 108.04 (7) (h) of the statutes is amended to read:

18 108.04 (7) (h) The department shall charge to the fund's balancing account
19 benefits paid to an employee that are otherwise chargeable to the account of an
20 employer that is subject to the contribution requirements of ss. 108.17 and 108.18
21 if the employee voluntarily terminates employment with that employer and par. (a),
22 (c), (cg), (e), (L), (q), (s), or (t) applies.

23 **SECTION 7.** 108.04 (8) (e) of the statutes is repealed.

24 **SECTION 8.** 108.04 (12) (f) 1. of the statutes is renumbered 108.04 (12) (f) 3. a.
25 and amended to read:

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1 108.04 (12) (f) 3. a. ~~Any~~ Except as provided in subd. 3. b. to d., an individual
2 ~~who actually receives social security disability insurance benefits under 42 USC ch.~~
3 ~~7 subch. II in a given week is ineligible for benefits paid or payable in that same week~~
4 ~~under this chapter~~ for each week in the entire month in which a social security
5 disability insurance payment is issued to the individual.

6 **SECTION 9.** 108.04 (12) (f) 1m. of the statutes is created to read:

7 108.04 (12) (f) 1m. The intent of the legislature in enacting this paragraph is
8 to prevent the payment of duplicative government benefits for the replacement of lost
9 earnings or income, regardless of an individual's ability to work.

10 **SECTION 10.** 108.04 (12) (f) 2. of the statutes is renumbered 108.04 (12) (f) 4.
11 and amended to read:

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

17 **SECTION 11.** 108.04 (12) (f) 2m. of the statutes is created to read:

18 108.04 (12) (f) 2m. In this paragraph, “social security disability insurance
19 payment” means a payment of social security disability insurance benefits under 42
20 USC ch. 7 subch. II.

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

22 108.04 (12) (f) 3. b. In the first month a social security disability insurance
23 payment is first issued to an individual, the individual is ineligible for benefits under
24 this chapter for each week beginning with the week the social security disability

1 insurance payment is issued to the individual and all subsequent weeks in that
2 month.

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

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

12 **SECTION 13.** 108.04 (13) (g) of the statutes is created to read:

13 108.04 (13) (g) 1. In this paragraph:

14 a. “Combined–wage claim” means a claim for benefits under this chapter that
15 is filed pursuant to a reciprocal arrangement entered into under s. 108.14 (8n).

16 b. “Out–of–state employer” means a person that employs an individual who
17 files a combined–wage claim in which the wages and employment from that person
18 are covered under the unemployment compensation law of another state.

19 2. The department may issue a determination that an out–of–state employer
20 is at fault for the erroneous payment of benefits under a combined–wage claim in the
21 same manner as the department issues determinations under s. 108.10, if the
22 unemployment insurance account of the out–of–state employer is potentially
23 chargeable.

24 3. A determination issued under subd. 2. is subject to s. 108.10 and may be
25 appealed in the same manner as a determination issued under s. 108.10.

1 **SECTION 14.** 108.04 (16) (b) of the statutes is amended to read:

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

6 **SECTION 15.** 108.062 (6) (a) of the statutes is amended to read:

7 108.062 **(6)** (a) Except as provided in par. (b) ~~and sub. (7)~~, an employee who is
8 included under a work-share program and who qualifies to receive regular benefits
9 for any week during the effective period of the program shall receive a benefit
10 payment for each week that the employee is included under the program in an
11 amount equal to the employee's regular benefit amount under s. 108.05 (1)
12 multiplied by the employee's proportionate reduction in hours worked for that week
13 as a result of the work-share program. Such an employee shall receive benefits as
14 calculated under this paragraph and not as provided under s. 108.05 (3).

15 **SECTION 16.** 108.062 (7) of the statutes is repealed.

16 **SECTION 17.** 108.14 (8n) (e) of the statutes is amended to read:

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

1 to an employer that is not subject to the contribution requirements of ss. 108.17 and
2 108.18, the department shall charge the share of benefits based on that employment
3 in accordance with s. 108.07 (5) (a) and (b). The department shall also charge the
4 fund's balancing account with any other state's share of such benefits pending
5 reimbursement by that state.

6 **SECTION 18.** 108.141 (7) (a) of the statutes is amended to read:

7 108.141 (7) (a) The department shall charge the state's share of each week of
8 extended benefits to each employer's account in proportion to the employer's share
9 of the total wages of the employee receiving the benefits in the employee's base
10 period, except that if the employer is subject to the contribution requirements of ss.
11 108.17 and 108.18 the department shall charge the share of extended benefits to
12 which s. 108.04 (1) (f), (5), (7) (a), (c), ~~(cg)~~, (e), (L), (q), (s), or (t), (7m) or (8) (a) or 108.07
13 (3), (3r), or (5) (b) applies to the fund's balancing account.

14 **SECTION 19.** 108.16 (6) (L) of the statutes is amended to read:

15 108.16 (6) (L) The amount of any overpayments that are recovered by the
16 department by setoff pursuant to s. 71.93 or the amount of any overpayments
17 resulting from fraud or failure to report earnings that are recovered by the
18 department by offset pursuant to ~~section 26 USC 6402 (f) of the federal Internal~~
19 ~~Revenue Code in effect on June 1, 2009.~~

20 **SECTION 20.** 108.16 (6m) (g) of the statutes is amended to read:

21 108.16 (6m) (g) Any payments of fees or expenses assessed by the U.S.
22 secretary of the treasury and charged to the department under section 26 USC 6402
23 ~~(f) of the federal Internal Revenue Code in effect on June 1, 2009.~~

24 **SECTION 21.** 108.16 (10) of the statutes is amended to read:

1 108.16 (10) All money withdrawn from the fund shall be used solely in the
2 payment of benefits, exclusive of expenses of administration, and for refunds of sums
3 erroneously paid into the fund, for refund of a positive net balance in an employer's
4 reimbursement account under ss. 108.15 (4) and 108.151 (5) on request by the
5 employer, for expenditures made pursuant to s. 108.161 and consistently with the
6 federal limitations applicable to s. 108.161, and for payment of fees and expenses for
7 collection of overpayments resulting from fraud or failure to report earnings that are
8 assessed by the U.S. secretary of the treasury and charged to the department under
9 section 26 USC 6402 (f) of the federal Internal Revenue Code in effect on June 1,
10 2009.

11 **SECTION 22.** 108.22 (1r) of the statutes is created to read:

12 108.22 (1r) If any employing unit or any individual who is found personally
13 liable under sub. (9) fails to pay to the department any amount found to be due it in
14 proceedings pursuant to s. 108.10, provided that no appeal or review permitted
15 under s. 108.10 is pending and that the time for taking an appeal or review has
16 expired, the department or any authorized representative may offset the amount
17 against a federal tax refund as provided in 26 USC 6402 (f).

18 **SECTION 23.** 108.22 (8) (b) 1. d. of the statutes is amended to read:

19 108.22 (8) (b) 1. d. If the overpayment results from fraud or failure to report
20 earnings, offsetting the amount of the overpayment against a federal tax refund as
21 provided in section 26 USC 6402 (f) of the federal Internal Revenue Code in effect on
22 June 1, 2009.

23 **SECTION 24.** 108.22 (9) of the statutes is amended to read:

24 108.22 (9) An individual who is an officer, employee, member or, manager,
25 partner, or other responsible person holding at least 20% 20 percent of the ownership

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

24 **SECTION 25. Initial applicability.**

Ins 12-1

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

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

9

(3) PERSONAL LIABILITY OF ^{LLP} LLC PARTNERS. The treatment of section 108.22 (9)
10 of the statutes first applies to determinations issued under section 108.10 of the
11 statutes on the effective date of this subsection.

12 (4) WORK-SHARE BENEFITS. The treatment of section 108.062 (6) (a) and (7) of
13 the statutes first applies to work-share plans submitted for approval on the effective
14 date of this subsection.

15 **SECTION 26. Effective dates.** This act takes effect on the first Sunday after
16 publication, except as follows:

17 (1) CONCURRENT RECEIPT OF SSDI AND UI BENEFITS. The treatment of section
18 108.04 (2) (h) and (12) (f) 1., 1m., 2., 2m., and 3. b. to d. of the statutes and SECTION
19 25 (1) of this act take effect retroactively to January 5, 2014.

20 (END)

D-note

INSERT ANALYSIS

Concealment by claimants

Under current law, if a claimant for UI benefits conceals any material fact relating to his or her eligibility for UI benefits or conceals any of his or her wages or hours worked (act of concealment), the claimant is ineligible for benefits in an amount ranging from two to eight times the claimant's weekly benefit rate, depending on the number of acts of concealment committed, for each single act of concealment, and is also liable for an additional administrative penalty. For purposes of these provisions, current law defines "conceal" as intentionally misleading or defrauding DWD by withholding or hiding information or making a false statement or misrepresentation. This bill does the following with respect to acts of concealment by claimants:

1. Deletes the reference to defrauding the department from the definition of "conceal," so that "conceal" is defined as intentionally misleading DWD by withholding or hiding information or making a false statement or misrepresentation.

2. Provides that a claimant has a duty of care to provide an accurate and complete response to each inquiry made by DWD in connection with his or her receipt of UI benefits. The bill provides for a rebuttable presumption that a claimant has committed an act of concealment if the claimant, in response to such an inquiry, makes a false statement or representation regarding a material fact relating to his or her eligibility for benefits or regarding his or her wages earned or hours worked in a given week, which the claimant may rebut with competent evidence that the claimant did not intentionally mislead DWD. The bill, however, provides for limitations on what may be considered competent evidence to rebut the presumption.

3. Specifically provides that it is not a prerequisite to a finding that a claimant committed an act of concealment that the claimant had an intent or design to receive UI benefits to which the claimant knows he or she was not entitled.

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

3 108.04 (11) (g) 1. ~~For purposes of In~~ this subsection, "conceal" means to
4 intentionally mislead ~~or defraud~~ the department by withholding or hiding
5 information or making a false statement or misrepresentation.

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236; 2013 a. 11, 20, 36; 2013 a. 173 ss. 13, 33; 2013 a. 276; s. 13.92 (2) (i); s. 35.17 correction in (2) (g) 2., (13) (d) 3. a.

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

1 108.04 (11) (g) 2. A claimant has a duty of care to provide an accurate and
2 complete response to each inquiry made by the department in connection with his
3 or her receipt of benefits. If a claimant, in response to such an inquiry, makes a false
4 statement or representation regarding a material fact relating to his or her eligibility
5 for benefits or regarding his or her wages earned or paid or payable or hours worked
6 in a given week, there is a rebuttable presumption that the claimant has violated par.
7 (a) or (b), whichever is applicable. A claimant may rebut that presumption with
8 competent evidence that the claimant did not intentionally mislead the department,
9 but competent evidence does not include evidence that a claimant provided false or
10 misleading answers due to any of the following:

****NOTE: I tried to tie the rebuttable presumption in with pars. (a) and (b), which
are the actual provisions that lead to ineligibility, penalties, etc.

11 a. The claimant's failure to read or follow instructions or other communications
12 of the department related to a claim for benefits.

13 b. The claimant's reliance on the statements or representations of persons
14 other than an employee of the department who is authorized to provide advice
15 regarding the claimant's claim for benefits.

****NOTE: I just said "advice regarding the claimant's claim for benefits" here. Is
that OK or was something more intended here?

16 c. The claimant's limitation or disability, if the claimant did not, prior to the
17 issuance of the initial determination under s. 108.09, bring that limitation or
18 disability to the attention of an employee of the department who is authorized to
19 provide service to claimants and provide competent evidence to the department of
20 that disability or limitation.

****NOTE: I rearranged this slightly based on what I think was the intended
meaning. If you think not, let me know.

1 3. It is not a prerequisite to a finding that a claimant concealed a material fact
 2 relating to his or her eligibility for benefits as provided in par. (a) or concealed wages
 3 or hours as provided in par. (b) that the claimant had an intent or design to receive
 4 benefits to which the claimant knows he or she was not entitled.

****NOTE: I put this in a separate provision because this material wasn't strictly
 definitional and again so I could tie it to pars. (a) and (b). ✓

INSERT 12-1

of the
Statutes

5 #
 (0) CONCEALMENT BY CLAIMANTS. The renumbering and amendment of section
 6 108.04 (11) (g) of the statutes and the creation of section 108.04 (11) (g) 2. and 3. first
 7 apply to determinations issued under section 108.09 of the statutes on the effective
 8 date of this subsection.

****NOTE: Let me know if you want a different initial applicability provision here,
 or a different effective date. ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2020/P4dn
MED:cjs&an

June 1, 2015

Besides what is noted in the draft, I mainly tried to adhere to the supplied phrasing. Let me know if you want to attempt to make the phrasing more internally consistent between the provisions on concealment.

Here is a list of the proposals in this draft:

D15-01 (SSDI and UI)

D15-02 (combined-wage claims)

D15-03 (Treasury Offset Program)

D15-05 (LLP partners' liability)

D15-07 (work-share benefits)

D15-08 (concealment)

D15-09 (A&A determinations)

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From: Rubsam, Andrew J - DWD <Andrew.Rubsam@dwd.wisconsin.gov>
Sent: Monday, June 15, 2015 11:03 AM
To: Duchek, Michael
Cc: Knutson, Janell - DWD; Sussman, Scott - DWD
Subject: FW: Draft review: LRB -2020/P4 Topic: Various changes to UI law

Mr. Duchek:

Please prepare a "clean" version of this version of the UI omnibus bill, deleting the notes on pages 7 and 14 (and any other pages). Please do not include the reimbursable ER ID theft part (LRB 2541) at this time. We'll need to get US-DOL approval first and then add it to the omnibus bill later.

Please send the clean version to Janell, Scott Sussman and me.

Thanks,
Andy Rubsam

From: LRB.Legal [mailto:lrblegal@legis.wisconsin.gov]
Sent: Monday, June 01, 2015 9:55 AM
To: Rubsam, Andrew J - DWD
Subject: Draft review: LRB -2020/P4 Topic: Various changes to UI law

Draft Requester: Workforce Development

Following is the PDF version of draft LRB -2020/P4 and drafter's note.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2020/P4
MED:cjs&an

TODAY if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV

Co Cat

1 AN ACT *to repeal* 108.04 (8) (e) and 108.062 (7); *to renumber and amend*
2 108.04 (11) (g), 108.04 (12) (f) 1. and 108.04 (12) (f) 2.; *to amend* 108.04 (1) (bm),
3 108.04 (2) (h), 108.04 (7) (c), 108.04 (7) (h), 108.04 (16) (b), 108.062 (6) (a), 108.14
4 (8n) (e), 108.141 (7) (a), 108.16 (6) (L), 108.16 (6m) (g), 108.16 (10), 108.22 (8)
5 (b) 1. d. and 108.22 (9); *to repeal and recreate* 108.04 (1) (b); and *to create*
6 108.04 (7) (cg), 108.04 (11) (g) 2. and 3., 108.04 (12) (f) 1m., 108.04 (12) (f) 2m.,
7 108.04 (12) (f) 3. b. to d., 108.04 (13) (g) and 108.22 (1r) of the statutes; **relating**
8 **to:** various changes to the unemployment insurance law.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development (DWD). Significant changes include:

Concealment by claimants

Under current law, if a claimant for UI benefits conceals any material fact relating to his or her eligibility for UI benefits or conceals any of his or her wages or hours worked (act of concealment), the claimant is ineligible for benefits in an amount ranging from two to eight times the claimant's weekly benefit rate, depending on the number of acts of concealment committed, for each single act of

concealment, and is also liable for an additional administrative penalty. For purposes of these provisions, current law defines “conceal” to mean intentionally misleading or defrauding DWD by withholding or hiding information or making a false statement or misrepresentation. This bill does the following with respect to acts of concealment by claimants:

1. Deletes the reference to defrauding DWD from the definition of “conceal,” so that “conceal” is defined as intentionally misleading DWD by withholding or hiding information or making a false statement or misrepresentation.

2. Provides that a claimant has a duty of care to provide an accurate and complete response to each inquiry made by DWD in connection with his or her receipt of UI benefits. The bill provides for a rebuttable presumption that a claimant has committed an act of concealment if the claimant, in response to such an inquiry, makes a false statement or representation regarding a material fact relating to his or her eligibility for benefits or regarding his or her wages earned or hours worked in a given week, which the claimant may rebut with competent evidence that the claimant did not intentionally mislead DWD. The bill, however, provides for limitations on what may be considered competent evidence to rebut the presumption.

3. Specifically provides that it is not a prerequisite to a finding that a claimant committed an act of concealment that the claimant had an intent or design to receive UI benefits to which the claimant knows he or she was not entitled.

Concurrent receipt of UI and SSDI

Current law provides that any individual who actually receives social security disability insurance (SSDI) benefits in a given week is ineligible for UI benefits paid or payable in that same week.

This bill modifies current law with respect to the concurrent receipt of UI and SSDI benefits. Specifically, the bill provides that an individual is ineligible for UI benefits for each week in a month in which an SSDI payment is issued to the individual, but subject to the following: 1) in the first month an SSDI payment is first issued to an individual, the individual is ineligible for UI benefits for each week beginning with the week the SSDI payment is issued to the individual and for all subsequent weeks in that month; 2) following a cessation of SSDI payments to an individual and upon the individual again being issued an SSDI payment, the individual is ineligible for UI benefits for each week beginning with the week the SSDI payment is issued to the individual and all subsequent weeks in that month; and 3) following cessation of SSDI payments, the individual may be eligible for UI benefits, if otherwise qualified, beginning with the week following the last Saturday of the month in which the individual is issued his or her final SSDI payment.

The bill provides that the modifications take effect retroactively to January 5, 2014.

Personal liability of partners in LLCs and others for UI contributions

Current law allows DWD, in certain circumstances, to hold an individual who is an officer, employee, member, or manager holding at least 20 percent of the ownership interest of a corporation or of a limited liability company (LLC) personally liable for UI contributions and certain other amounts. This bill adds partners and other responsible persons to the list of persons who may be held personally liable, and

allows such a person to be held liable if the person has a 20 percent ownership interest in other forms of business associations, as well as corporations and LLCs.

Revisions to provisions concerning ability to work and availability for work

As a general qualifying requirement to receive UI benefits, current law provides that, subject to certain exceptions, a claimant is eligible for UI benefits as to any given week only if the claimant is able to work and available for work during that week. The bill eliminates other, duplicative language in the UI law that similarly provides that a claimant is ineligible for UI benefits while unable to work or unavailable for work.

Also under current law, unless an exemption applies, if a claimant voluntarily terminates his or her work with an employer, the claimant is generally ineligible to receive benefits until certain requalification requirements are satisfied. One such exemption applies if the claimant terminated his or her work but had no reasonable alternative because he or she was unable to do his or her work, or if the claimant terminated his or her work because of the verified illness or disability of an immediate family member that reasonably necessitates the care of the family member for a period of time that is longer than the employer is willing to grant leave. The exemption further provides that if the claimant is unable to work or unavailable for work, he or she is ineligible to receive benefits while such inability or unavailability continues. The bill: 1) eliminates the duplicative language providing that the claimant is ineligible for UI benefits while unable to work or unavailable for work; and 2) divides the exemption into two separate exemptions, one of which applies if the claimant terminated his or her work but had no reasonable alternative because of the verified illness or disability of the employee, and another which applies if the claimant terminated his or her work because of the verified illness or disability of an immediate family member and the verified illness or disability reasonably necessitates the care of the family member for a period of time that is longer than the employer is willing to grant leave.

Recovery of employer UI debts under Treasury Offset Program

Current state law allows DWD to recoup certain UI benefit overpayments made to claimants by offsetting the amount of an overpayment against a federal tax refund through the federal Treasury Offset Program (TOP), but does not permit DWD to similarly recoup UI debts owed by employers. Under current federal law, however, a state *must* act to recover through the TOP certain UI-related debts that remain uncollected for one year or more, including those of both employers and claimants. This bill allows DWD to offset a UI debt found to be due to DWD by an employer against a federal tax refund through the TOP.

Work-share programs

Under current law, any employer may create a work-share program, defined as a program approved by the Department of Workforce Development under which the hours of work of employees in a work unit are reduced in lieu of the layoffs of two or more employees in the work unit. An employee included under a work-share program who otherwise qualifies to receive regular UI benefits must receive a UI benefit payment for each week that the employee is included under the program. The amount of the benefit payment is the employee's regular UI benefit amount

multiplied by the employee's proportionate reduction in hours for that week under the work-share program (work-share benefits). Current law also provides, however, that an employee included under a work-share program who would otherwise be paid benefits for any week under the UI law's partial benefits formula (partial benefits) must instead receive a benefit payment for that week in the amount payable to the employee under that formula, if that amount is higher than the work-share benefits amount.

Under this bill, employees included under a work-share program may only be paid work-share benefits, and not partial benefits.

Determinations in combined-wage claims

Under federal law, a state must, as a condition of approval of its UI law by the U.S. Secretary of Labor, participate in arrangements for the payment of UI benefits on the basis of combining an individual's wages and employment covered under that state's UI law with wages and employment covered under another state's UI law (combined-wage claim). Also under federal law, as a condition of employers being able to receive certain tax credits under the Federal Unemployment Tax Act, a state may not relieve an employer's account of certain erroneous charges in certain cases where the employer was at fault.

Under current state law, DWD may, in connection with any issue arising under the UI law as to the status or liability of an employer in this state, issue an appealable determination as to that issue. This bill allows DWD to similarly issue an appealable determination that an out-of-state employer in a combined-wage claim is at fault for the erroneous payment of benefits under a combined-wage claim.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 108.04 (1) (b) of the statutes is repealed and recreated to read:
2 108.04 (1) (b) Except as provided in s. 108.062 (10), if an employee is absent
3 from work for 16 hours or less in the first week of his or her leave of absence or in the
4 week in which his or her employment is suspended or terminated due to the
5 employee's unavailability for work with the employer or inability to perform suitable
6 work otherwise available with the employer, the employee's eligibility for benefits for
7 that week shall be determined under par. (bm).

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

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

8 **SECTION 3.** 108.04 (2) (h) of the statutes is amended to read:

9 108.04 (2) (h) A claimant shall, when the claimant first files a claim for benefits
10 under this chapter and during each subsequent week the claimant files for benefits
11 under this chapter, inform the department whether he or she is receiving social
12 security disability insurance ~~benefits under 42 USC ch. 7 subch. II~~ payments, as
13 defined in sub. (12) (f) 2m.

14 **SECTION 4.** 108.04 (7) (c) of the statutes is amended to read:

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

24 **SECTION 5.** 108.04 (7) (cg) of the statutes is created to read:

1 108.04 (7) (cg) Paragraph (a) does not apply if the department determines that
2 the employee terminated his or her work because of the verified illness or disability
3 of a member of his or her immediate family and the verified illness or disability
4 reasonably necessitates the care of the family member for a period of time that is
5 longer than the employer is willing to grant leave.

6 **SECTION 6.** 108.04 (7) (h) of the statutes is amended to read:

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

12 **SECTION 7.** 108.04 (8) (e) of the statutes is repealed.

13 **SECTION 8.** 108.04 (11) (g) of the statutes is renumbered 108.04 (11) (g) 1. and
14 amended to read:

15 108.04 (11) (g) 1. ~~For purposes of~~ In this subsection, "conceal" means to
16 intentionally mislead ~~or defraud~~ the department by withholding or hiding
17 information or making a false statement or misrepresentation.

18 **SECTION 9.** 108.04 (11) (g) 2. and 3. of the statutes are created to read:

19 108.04 (11) (g) 2. A claimant has a duty of care to provide an accurate and
20 complete response to each inquiry made by the department in connection with his
21 or her receipt of benefits. If a claimant, in response to such an inquiry, makes a false
22 statement or representation regarding a material fact relating to his or her eligibility
23 for benefits or regarding his or her wages earned or paid or payable or hours worked
24 in a given week, there is a rebuttable presumption that the claimant has violated par.
25 (a) or (b), whichever is applicable. A claimant may rebut that presumption with

1 competent evidence that the claimant did not intentionally mislead the department,
2 but competent evidence does not include evidence that a claimant provided false or
3 misleading answers due to any of the following:

****NOTE: I tried to tie the rebuttable presumption in with pars. (a) and (b), which are the actual provisions that lead to ineligibility, penalties, etc.

4 a. The claimant's failure to read or follow instructions or other communications
5 of the department related to a claim for benefits.

6 b. The claimant's reliance on the statements or representations of persons
7 other than an employee of the department who is authorized to provide advice
8 regarding the claimant's claim for benefits.

****NOTE: I just said "advice regarding the claimant's claim for benefits" here. Is that OK or was something more intended here?

9 c. The claimant's limitation or disability, if the claimant did not, prior to the
10 issuance of the initial determination under s. 108.09, bring that limitation or
11 disability to the attention of an employee of the department who is authorized to
12 provide service to claimants and provide competent evidence to the department of
13 that disability or limitation.

****NOTE: I rearranged this slightly based on what I think was the intended meaning. If you think not, let me know.

14 3. It is not a prerequisite to a finding that a claimant concealed a material fact
15 relating to his or her eligibility for benefits as provided in par. (a) or concealed wages
16 or hours as provided in par. (b) that the claimant had an intent or design to receive
17 benefits to which the claimant knows he or she was not entitled.

****NOTE: I put this in a separate provision because this material wasn't strictly definitional and again so I could tie it to pars. (a) and (b).

18 **SECTION 10.** 108.04 (12) (f) 1. of the statutes is renumbered 108.04 (12) (f) 3.

19 a. and amended to read:

1 108.04 (12) (f) 3. a. ~~Any~~ Except as provided in subd. 3. b. to d., an individual
2 ~~who actually receives social security disability insurance benefits under 42 USC ch.~~
3 ~~7 subch. II in a given week~~ is ineligible for benefits paid or payable in that same week
4 under this chapter for each week in the entire month in which a social security
5 disability insurance payment is issued to the individual.

6 **SECTION 11.** 108.04 (12) (f) 1m. of the statutes is created to read:

7 108.04 (12) (f) 1m. The intent of the legislature in enacting this paragraph is
8 to prevent the payment of duplicative government benefits for the replacement of lost
9 earnings or income, regardless of an individual's ability to work.

10 **SECTION 12.** 108.04 (12) (f) 2. of the statutes is renumbered 108.04 (12) (f) 4.
11 and amended to read:

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

17 **SECTION 13.** 108.04 (12) (f) 2m. of the statutes is created to read:

18 108.04 (12) (f) 2m. In this paragraph, “social security disability insurance
19 payment” means a payment of social security disability insurance benefits under 42
20 USC ch. 7 subch. II.

21 **SECTION 14.** 108.04 (12) (f) 3. b. to d. of the statutes are created to read:

22 108.04 (12) (f) 3. b. In the first month a social security disability insurance
23 payment is first issued to an individual, the individual is ineligible for benefits under
24 this chapter for each week beginning with the week the social security disability

1 insurance payment is issued to the individual and all subsequent weeks in that
2 month.

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

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

12 **SECTION 15.** 108.04 (13) (g) of the statutes is created to read:

13 108.04 (13) (g) 1. In this paragraph:

14 a. “Combined–wage claim” means a claim for benefits under this chapter that
15 is filed pursuant to a reciprocal arrangement entered into under s. 108.14 (8n).

16 b. “Out–of–state employer” means a person that employs an individual who
17 files a combined–wage claim in which the wages and employment from that person
18 are covered under the unemployment compensation law of another state.

19 2. The department may issue a determination that an out–of–state employer
20 is at fault for the erroneous payment of benefits under a combined–wage claim in the
21 same manner as the department issues determinations under s. 108.10, if the
22 unemployment insurance account of the out–of–state employer is potentially
23 chargeable.

24 3. A determination issued under subd. 2. is subject to s. 108.10 and may be
25 appealed in the same manner as a determination issued under s. 108.10.

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

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

6 **SECTION 17.** 108.062 (6) (a) of the statutes is amended to read:

7 108.062 (6) (a) Except as provided in par. (b) ~~and sub. (7)~~, an employee who is
8 included under a work-share program and who qualifies to receive regular benefits
9 for any week during the effective period of the program shall receive a benefit
10 payment for each week that the employee is included under the program in an
11 amount equal to the employee's regular benefit amount under s. 108.05 (1)
12 multiplied by the employee's proportionate reduction in hours worked for that week
13 as a result of the work-share program. Such an employee shall receive benefits as
14 calculated under this paragraph and not as provided under s. 108.05 (3).

15 **SECTION 18.** 108.062 (7) of the statutes is repealed.

16 **SECTION 19.** 108.14 (8n) (e) of the statutes is amended to read:

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

1 to an employer that is not subject to the contribution requirements of ss. 108.17 and
2 108.18, the department shall charge the share of benefits based on that employment
3 in accordance with s. 108.07 (5) (a) and (b). The department shall also charge the
4 fund's balancing account with any other state's share of such benefits pending
5 reimbursement by that state.

6 **SECTION 20.** 108.141 (7) (a) of the statutes is amended to read:

7 108.141 (7) (a) The department shall charge the state's share of each week of
8 extended benefits to each employer's account in proportion to the employer's share
9 of the total wages of the employee receiving the benefits in the employee's base
10 period, except that if the employer is subject to the contribution requirements of ss.
11 108.17 and 108.18 the department shall charge the share of extended benefits to
12 which s. 108.04 (1) (f), (5), (7) (a), (c), ~~(cg)~~, (e), (L), (q), (s), or (t), (7m) or (8) (a) or 108.07
13 (3), (3r), or (5) (b) applies to the fund's balancing account.

14 **SECTION 21.** 108.16 (6) (L) of the statutes is amended to read:

15 108.16 (6) (L) The amount of any overpayments that are recovered by the
16 department by setoff pursuant to s. 71.93 or the amount of any overpayments
17 resulting from fraud or failure to report earnings that are recovered by the
18 department by offset pursuant to ~~section 26 USC 6402 (f) of the federal Internal~~
19 ~~Revenue Code in effect on June 1, 2009.~~

20 **SECTION 22.** 108.16 (6m) (g) of the statutes is amended to read:

21 108.16 (6m) (g) Any payments of fees or expenses assessed by the U.S.
22 secretary of the treasury and charged to the department under section 26 USC 6402
23 ~~(f) of the federal Internal Revenue Code in effect on June 1, 2009.~~

24 **SECTION 23.** 108.16 (10) of the statutes is amended to read:

1 108.16 (10) All money withdrawn from the fund shall be used solely in the
2 payment of benefits, exclusive of expenses of administration, and for refunds of sums
3 erroneously paid into the fund, for refund of a positive net balance in an employer's
4 reimbursement account under ss. 108.15 (4) and 108.151 (5) on request by the
5 employer, for expenditures made pursuant to s. 108.161 and consistently with the
6 federal limitations applicable to s. 108.161, and for payment of fees and expenses for
7 collection of overpayments resulting from fraud or failure to report earnings that are
8 assessed by the U.S. secretary of the treasury and charged to the department under
9 ~~section 26 USC 6402 (f) of the federal Internal Revenue Code in effect on June 1,~~
10 ~~2009.~~

11 **SECTION 24.** 108.22 (1r) of the statutes is created to read:

12 108.22 (1r) If any employing unit or any individual who is found personally
13 liable under sub. (9) fails to pay to the department any amount found to be due it in
14 proceedings pursuant to s. 108.10, provided that no appeal or review permitted
15 under s. 108.10 is pending and that the time for taking an appeal or review has
16 expired, the department or any authorized representative may offset the amount
17 against a federal tax refund as provided in 26 USC 6402 (f).

18 **SECTION 25.** 108.22 (8) (b) 1. d. of the statutes is amended to read:

19 108.22 (8) (b) 1. d. If the overpayment results from fraud or failure to report
20 earnings, offsetting the amount of the overpayment against a federal tax refund as
21 provided in ~~section 26 USC 6402 (f) of the federal Internal Revenue Code in effect on~~
22 ~~June 1, 2009.~~

23 **SECTION 26.** 108.22 (9) of the statutes is amended to read:

24 108.22 (9) An individual who is an officer, employee, member or, manager,
25 partner, or other responsible person holding at least 20% 20 percent of the ownership

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

24 **SECTION 27. Initial applicability.**

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

****NOTE: Let me know if you want a different initial applicability provision here,
or a different effective date.

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

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

13 (4) PERSONAL LIABILITY OF LLP PARTNERS. The treatment of section 108.22 (9)
14 of the statutes first applies to determinations issued under section 108.10 of the
15 statutes on the effective date of this subsection.

16 (5) WORK-SHARE BENEFITS. The treatment of section 108.062 (6) (a) and (7) of
17 the statutes first applies to work-share plans submitted for approval on the effective
18 date of this subsection.

19 **SECTION 28. Effective dates.** This act takes effect on the first Sunday after
20 publication, except as follows:

1 (1) CONCURRENT RECEIPT OF SSDI AND UI BENEFITS. The treatment of section
2 108.04 (2) (h) and (12) (f) 1., 1m., 2., 2m., and 3. b. to d. of the statutes and SECTION
3 27 (2) of this act take effect retroactively to January 5, 2014.

4

(END)

Duchek, Michael

From: Rubsam, Andrew J - DWD <Andrew.Rubsam@dwd.wisconsin.gov>
Sent: Monday, August 10, 2015 9:18 AM
To: Duchek, Michael
Subject: UIAC bill

Mike-

Would you please prepare a new version of the UIAC omnibus bill to include the reimbursable ER ID theft proposal? We'll give them that as well as the standalone version at the meeting.

Thanks,

Andy Rubsam, Esq.
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