

"RESEARCH APPENDIX"

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(Request Made By: MEI) (Date: 12/18/2015)

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(exception: companion bills)



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(For: Rep. / Sen. _____)

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-4037
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State of Wisconsin
2015 - 2016 LEGISLATURE

In 12-18
Out 12-23

LRB-2020/18
MED/all
P9
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Inserts
Rest of file with PAS
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1 **AN ACT to repeal** 108.04 (8) (e), 108.05 (1) (q), 108.05 (1) (r) (figure), 108.05 (2)
2 and 108.05 (2m); **to renumber and amend** 108.04 (11) (g), 108.04 (12) (f) 1.,
3 108.04 (12) (f) 2., 108.09 (7) (d) and 108.151 (3) (b); **to amend** 108.02 (13) (k),
4 108.02 (21) (b), 108.04 (1) (bm), 108.04 (2) (h), 108.04 (7) (c), 108.04 (7) (h),
5 108.04 (13) (d) 3. (intro.) and a., 108.04 (13) (d) 4. (intro.) and a., 108.04 (16) (b),
6 108.05 (1) (r), 108.09 (4o), 108.09 (7) (a) and (b), 108.10 (4), 108.14 (8n) (e),
7 108.141 (4), 108.141 (7) (a), 108.151 (4) (b), 108.152 (6) (a) (intro.), 108.16 (6) (g),
8 108.16 (7m), 108.16 (10), 108.22 (1) (b), 108.22 (1) (c), 108.22 (1m), 108.22 (9)
9 and 108.225 (1) (a); **to repeal and recreate** 108.04 (1) (b); **to create** 108.04 (7)
10 (cg), 108.04 (11) (g) 2. and 3., 108.04 (12) (f) 1m., 108.04 (12) (f) 2m., 108.04 (12)
11 (f) 3. b. to d., 108.04 (13) (d) 4. c., 108.09 (7) (c) to (h), 108.151 (3) (b) 2., 108.155
12 and 108.16 (6m) (i) of the statutes; and **to affect** 2011 Wisconsin Act 198,
13 section 4m, 2011 Wisconsin Act 198, section 6m, 2011 Wisconsin Act 198,
14 section 37m, 2011 Wisconsin Act 198, section 47m (1) and 2013 Wisconsin Act

1 36, section 236m; **relating to:** various changes to the unemployment insurance
2 law.

Analysis by the Legislative Reference Bureau

[Handwritten initials]

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 for UI benefits:

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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. In addition, the bill requires DWD, in determining whether a claimant intended to mislead DWD, to consider various factors specified in the bill as well as any other factor that may provide evidence of the claimant's intent.
3. Specifically provides that, when making a finding of concealment, DWD is not required to determine or prove that a claimant had an intent or design to receive UI benefits to which the claimant knows he or she was not entitled.

Charging of benefits financed by reimbursable employers in cases of identity theft

Under current law, UI benefits are financed by employers in one of two ways:

1. Through contribution financing, under which an account in the state's Unemployment Reserve Fund (fund) is maintained for an employer; the employer pays contributions, which are deposited into that account in the fund; and benefits for employees of the employer who file claims for UI benefits are generally financed by that employer's account in the fund. Such employers must additionally pay solvency contributions, which are credited to another, pooled account in the fund known as the balancing account.
2. Through reimbursement financing, under which an employer reimburses the fund directly for benefits for employees of the employer who file claims for UI benefits. Reimbursable financing is available only to public employers, nonprofit organizations, and Indian tribes. In the case of reimbursement financing, DWD

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maintains a reimbursement “employer account” for each employer as a “subaccount” of the fund’s balancing account.

Current law provides that if benefits charged to the account of an employer subject to contribution financing have been erroneously paid to an employee without fault by the employer, DWD must, to correct the payment if not otherwise adjusted, restore the proper amount to the employer’s account in the fund and charge that amount to the fund’s balancing account. With respect to employers subject to reimbursement financing, however, current law does provide for restoring the proper amount to the employer’s account and charging that amount to the fund’s balancing account. These provisions in current law do not distinguish between instances in which benefit payments are erroneously paid to an employee who received the payments and instances in which the erroneous payment resulted from a false statement or representation about an individual’s identity (i.e., cases of identity theft in which a third party, and not the employee, receives the benefit payments).

This bill provides that, with respect to UI benefits financed by an employer subject to reimbursement financing, if an erroneous payment of UI benefits results from a false statement or representation about an individual’s identity and the employer was not at fault for the erroneous payment, DWD must restore the proper amount to the employer’s account in the balancing account.

In addition, the bill requires DWD to do all of the following:

1. Set aside \$2,000,000 in the fund’s balancing account for accounting purposes and, on an ongoing basis, tally the amounts restored to reimbursable employers’ accounts as provided under the bill and deduct those amounts from the amount set aside plus any interest calculated thereon.

2. Annually determine the amount remaining of the amount set aside plus interest and the amount restored to reimbursable employers’ accounts as provided under the bill in the preceding calendar year.

3. Once there is less than \$100,000 remaining of the amount set aside plus interest, begin proportionally assessing reimbursable employers for the total amount restored to reimbursable employers’ accounts as provided under the bill in the preceding calendar year, subject to certain exceptions as specified in the bill. DWD may pursue recovery of unpaid assessments as with other amounts.

The bill requires DWD to annually report to the Council on Unemployment Insurance the amount remaining of the amount set aside and the amount restored to reimbursable employers’ accounts as provided under the bill in the preceding calendar year.

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

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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.

Judicial review of UI decisions made by LIRC

Under current law, initial determinations regarding UI matters are made by DWD. Those determinations may be appealed to appeal tribunals (ALJs), and an ALJ's decision may be appealed to the Labor and Industry Review Commission (LIRC). A decision of LIRC may then be appealed to circuit court. Under current law, judicial review of UI decisions is largely governed by the judicial review provisions in the worker's compensation law.

The bill establishes similar but distinct provisions for the judicial review of UI decisions, which include: 1) that DWD or any party may commence an action for the judicial review of an LIRC UI decision, but that DWD is not required to exhaust its available remedies in order to commence an action; 2) expressly providing that DWD must be a party in all actions for judicial review of UI decisions, including benefit cases; 3) that, unless the parties agree otherwise, proceedings for the judicial review of an LIRC UI decision must be brought in the circuit court of the county where the plaintiff resides, except that if the plaintiff is DWD, the proceedings must be brought in the circuit court of the county where a defendant that is not LIRC resides; and 4) requiring LIRC to transmit the record of proceedings to the circuit court within 60 days after making an appearance.

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

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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.

Repeal of program integrity fund sunset

Under current law, there is created a separate, nonlapsible trust fund designated as the program integrity fund. Moneys from the program integrity fund are appropriated to DWD for the payment of costs associated with program integrity activities. Also under current law, DWD must assess a penalty against a claimant for unemployment insurance benefits in an amount equal to 40 percent of the benefit payments erroneously paid to the claimant as a result of one or more acts of concealment performed by the claimant. Current law directs 62.5 percent of those penalties to the program integrity fund. 2013 Wisconsin Act 36 provides for the sunset (repeal) of the establishment of the program integrity fund and related provisions, effective January 1, 2034.

This bill repeals the sunset of the program integrity fund and related provisions so that the program integrity fund and related provisions will continue to exist beyond January 1, 2034.

Fiscal agent for child not an employer

Under current law, a person receiving certain long-term support services through a county department or aging unit may be provided the services of a fiscal agent, either from the county department or aging unit or through a fiscal intermediary with which the county department or aging unit contracts. The fiscal agent is responsible for complying with the person's duties as an employer under the UI law. However, current law specifies that, for the purposes of the UI law, a county department or aging unit that serves as a fiscal agent or contracts with a fiscal intermediary is not considered an employer as to an individual performing services for the person receiving those long-term support services. 2015 Act 55 also provides for such fiscal agent services for a child or a child's parent if the child receives community support services through a county department under the children's community options program. This bill also excludes from the definition of employer under the UI law such a county department that serves as a fiscal agent or that

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contracts with a fiscal intermediary under the children's community options program.

Elimination of statutory benefit rate tables and adjustment language

Under current law, UI weekly benefit rate schedules are published in the statutes. The schedules illustrate the results of the formula for calculating weekly benefit amounts and establish minimum and maximum weekly benefit rates. Current law requires DWD to adjust the minimum and maximum weekly benefit rates, but a separate provision indefinitely suspends this adjustment requirement.

This bill repeals the UI benefit rate schedules contained in the statutes showing the results of the formula for calculating weekly benefit amounts and instead requires DWD to publish and maintain such schedules on its Internet site. The bill maintains the minimum and maximum weekly benefit rate amounts as currently established in the schedules. The bill repeals the provisions requiring adjustment of benefit amounts and the provision suspending those provisions.

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

2 108.02 (13) (k) "Employer" does not include a county department, an aging
3 unit, or, under s. 46.2785, a private agency that serves as a fiscal agent or contracts
4 with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i), 46.272 (7)
5 (e), or 47.035 as to any individual performing services for a person receiving
6 long-term support services under s. 46.27 (5) (b), 46.272 (7) (b), 46.275, 46.277,
7 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance services
8 under s. 47.02 (6) (c).

9 **SECTION 2.** 108.02 (21) (b) of the statutes is amended to read:

10 108.02 (21) (b) Notwithstanding par. (a), except as provided in s. ss. 108.151
11 (7) (a) and 108.155 (1) (a), an employer's payroll for calendar years prior to 2009
12 includes only the first \$10,500 of wages paid by an employer to an individual during
13 each calendar year, for calendar years 2009 and 2010 includes only the first \$12,000

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1 of such wages, for calendar years 2011 and 2012 includes only the first \$13,000 of
2 such wages, and for calendar years after 2012 includes only the first \$14,000 of such
3 wages, including any wages paid for any work covered by the unemployment
4 insurance law of any other state, except as authorized in s. 108.17 (5).

5 **SECTION 3.** 108.04 (1) (b) of the statutes is repealed and recreated to read:

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

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

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

20 **SECTION 5.** 108.04 (2) (h) of the statutes is amended to read:

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

1 **SECTION 6.** 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 7.** 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 8.** 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 9.** 108.04 (8) (e) of the statutes is repealed.

24 **SECTION 10.** 108.04 (11) (g) of the statutes is renumbered 108.04 (11) (g) 1. and
25 amended to read:

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

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

5 108.04 (11) (g) 2. A claimant has a duty of care to provide an accurate and
6 complete response to each inquiry made by the department in connection with his
7 or her receipt of benefits. The department shall consider the following factors in
8 determining whether a claimant intended to mislead the department as described
9 in subd. 1.:

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

12 b. Whether the claimant relied on the statements or representations of persons
13 other than an employee of the department who is authorized to provide advice
14 regarding the claimant’s claim for benefits.

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

17 d. The claimant’s unemployment insurance claims filing experience.

18 e. Any instructions or previous determinations of concealment issued or
19 provided to the claimant.

20 f. Any other factor that may provide evidence of the claimant’s intent.

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

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

25 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 13.** 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 14.** 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 15.** 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 16.** 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 17.** 108.04 (13) (d) 3. (intro.) and a. of the statutes are amended to read:

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

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

21 **SECTION 18.** 108.04 (13) (d) 4. (intro.) and a. of the statutes are amended to read:

22 108.04 (13) (d) 4. (intro.) To correct any erroneous payment not so adjusted from
23 the account of an employer ~~which is a government unit, an Indian tribe, or a nonprofit~~
24 ~~organization and which has elected~~ that is subject to reimbursement financing, the
25 department shall do one of the following:

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

4 **SECTION 19.** 108.04 (13) (d) 4. c. of the statutes is created to read:

5 108.04 (13) (d) 4. c. If the erroneous payment resulted from a false statement
6 or representation about an individual's identity and the employer was not at fault
7 for the erroneous payment, restore the proper amount to the employer's account and
8 reimburse the balancing account by crediting to it benefits that would otherwise be
9 payable to, or cash recovered from, the individual who caused the erroneous
10 payment.

11 **SECTION 20.** 108.04 (16) (b) of the statutes is amended to read:

12 108.04 (16) (b) The department shall not apply any benefit reduction or
13 disqualification under sub. (1) (b), (2) (a), or (7) (c), or ~~(8) (e) (cg)~~ or s. 108.141 (3g) (d)
14 that is not the result of approved training while an individual is enrolled in approved
15 training.

16 **SECTION 21.** 108.05 (1) (q) of the statutes is repealed.

17 **SECTION 22.** 108.05 (1) (r) of the statutes is amended to read:

18 108.05 (1) (r) Except as provided in s. 108.062 (6) (a), each eligible employee
19 shall be paid benefits for each week of total unemployment that commences on or
20 after January 5, 2014, at the weekly benefit rate specified in this paragraph. Unless
21 sub. (1m) applies, the weekly benefit rate shall equal 4 percent of the employee's base
22 period wages that were paid during that quarter of the employee's base period in
23 which the employee was paid the highest total wages, rounded down to the nearest
24 whole dollar, except that, if that amount is less than ~~the minimum amount shown~~
25 ~~in the following schedule \$54~~, no benefits are payable to the employee and, if that

1 amount is more than ~~the maximum amount shown in the following schedule \$370,~~
2 the employee's weekly benefit rate shall be ~~the maximum amount shown in the~~
3 ~~following schedule \$370~~ and except that, if the employee's benefits are exhausted
4 during any week under s. 108.06 (1), the employee shall be paid the remaining
5 amount of benefits payable to the employee ~~in lieu of the amount shown in the~~
6 ~~following schedule: [See Figure 108.05 (1) (r) following]~~ under s. 108.06 (1). The
7 department shall publish on its Internet site a weekly benefit rate schedule of
8 quarterly wages and the corresponding weekly benefit rates as calculated in
9 accordance with this paragraph.

10 **SECTION 23.** 108.05 (1) (r) (figure) of the statutes is repealed.

11 **SECTION 24.** 108.05 (2) of the statutes is repealed.

12 **SECTION 25.** 108.05 (2m) of the statutes is repealed.

13 **SECTION 26.** 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

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 27.** 108.09 (7) (a) and (b) of the statutes are amended to read:

16 108.09 (7) (a) ~~The department or either~~ Any party that is not the department
17 may commence an action for the judicial review of a decision of the commission under
18 this chapter after exhausting the remedies provided under this section ~~if the party~~
19 ~~or the department has commenced such action in accordance with s. 102.23 within~~
20 ~~30 days after a decision of the commission is mailed to a party’s last–known address.~~
21 The department may commence an action for the judicial review of a commission
22 decision under this section, but the department is not required to have been a party
23 to the proceedings before the commission or to have exhausted the remedies provided
24 under this section. In an action commenced under this section by a party that is not
25 the department, the department shall be a defendant and shall be named as a party

1 in the complaint commencing the action. If a plaintiff fails to name either the
2 department or the commission as defendants and serve the commission as required
3 by this subsection, the court shall dismiss the action.

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

13 **SECTION 28.** 108.09 (7) (c) to (h) of the statutes are created to read:

14 108.09 (7) (c) 1. The findings of fact made by the commission acting within its
15 powers shall, in the absence of fraud, be conclusive. The order of the commission is
16 subject to review only as provided in this subsection and not under ch. 227 or s.
17 801.02. Within 30 days after the date of an order made by the commission, any party
18 or the department may, by serving a complaint as provided in subd. 3. and filing the
19 summons and complaint with the clerk of the circuit court, commence an action
20 against the commission for judicial review of the order. In an action for judicial
21 review of a commission order, every other party to the proceedings before the
22 commission shall be made a defendant. The department shall also be made a
23 defendant if the department is not the plaintiff. If the circuit court is satisfied that
24 a party in interest has been prejudiced because of an exceptional delay in the receipt

1 of a copy of any order, the circuit court may extend the time in which an action may
2 be commenced by an additional 30 days.

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

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

18 4. Each defendant shall serve its answer within 20 days after the service upon
19 the commission under subd. 3., which answer may, by way of counterclaim or cross
20 complaint, ask for the review of the order referred to in the complaint, with the same
21 effect as if the defendant had commenced a separate action for the review of the order.

22 5. Within 60 days after appearing in an action for judicial review, the
23 commission shall make return to the court of all documents and materials on file in
24 the matter, all testimony that has been taken, and the commission's order and
25 findings. Such return of the commission, when filed in the office of the clerk of the

1 circuit court, shall constitute a judgment roll in the action, and it shall not be
2 necessary to have a transcript approved. After the commission makes return of the
3 judgment roll to the court, the court shall schedule briefing by the parties. Any party
4 may request oral argument before the court, subject to the provisions of law for a
5 change of the place of trial or the calling in of another judge.

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

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

9 b. That the order was procured by fraud.

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

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

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

17 (f) If the commission's order depends on any fact found by the commission, the
18 court shall not substitute its judgment for that of the commission as to the weight
19 or credibility of the evidence on any finding of fact. The court may, however, set aside
20 the commission's order and remand the case to the commission if the commission's
21 order depends on any material and controverted finding of fact that is not supported
22 by credible and substantial evidence.

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

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

3 **SECTION 29.** 108.09 (7) (d) of the statutes is renumbered 108.09 (7) (i) and
4 amended to read:

5 108.09 (7) (i) ~~Notwithstanding ss. 102.26 (1) and 814.245, upon review of a~~
6 ~~decision of the commission under this chapter~~ No fees may be charged by the clerk
7 of any circuit court for the performance of any service required by this chapter, except
8 for the entry of judgments and for certified transcripts of judgments. In proceedings
9 to review an order under this section, costs as between the parties shall be in the
10 discretion of the court, but. Notwithstanding s. 814.245, no costs may be taxed
11 against the commission or the department.

12 **SECTION 30.** 108.10 (4) of the statutes is amended to read:

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

1 manner thereof insofar as applicable, shall be the same as that provided in s. 108.09
2 (7). ~~In an action commenced by an employing unit under this section, the department~~
3 ~~shall be an adverse party under s. 102.23 (1) (a) and shall be named as a party in the~~
4 ~~complaint commencing the action.~~

5 **SECTION 31.** 108.14 (8n) (e) of the statutes, as affected by 2015 Wisconsin Act
6 55, is amended to read:

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

21 **SECTION 32.** 108.141 (4) of the statutes is amended to read:

22 108.141 (4) WEEKLY EXTENDED BENEFIT RATE. The weekly extended benefit rate
23 payable to an individual for a week of total unemployment is the same as the rate
24 payable to the individual for regular benefits during his or her most recent benefit

1 year as determined under s. 108.05 (1). ~~No adjustment of rates under s. 108.05 (2)~~
2 ~~applies to benefits payable under this section.~~

3 **SECTION 33.** 108.141 (7) (a) of the statutes, as affected by 2015 Wisconsin Act
4 55, is amended to read:

5 108.141 (7) (a) The department shall charge the state's share of each week of
6 extended benefits to each employer's account in proportion to the employer's share
7 of the total wages of the employee receiving the benefits in the employee's base
8 period, except that if the employer is subject to the contribution requirements of ss.
9 108.17 and 108.18 the department shall charge the share of extended benefits to
10 which s. 108.04 (1) (f), (5), (7) (a), (c), ~~(cg)~~, (e), (L), (q), (s), or (t), (7m) or (8) (a) or (b),
11 108.07 (3), (3r), or (5) (b), or 108.133 (3) (f) applies to the fund's balancing account.

12 **SECTION 34.** 108.151 (3) (b) of the statutes is renumbered 108.151 (3) (b) (intro.)
13 and amended to read:

14 108.151 (3) (b) (intro.) The department may terminate any election as of the
15 close of any calendar year if the department determines that ~~the~~ any of the following
16 applies:

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

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

19 s.

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

21 **SECTION 35.** 108.151 (3) (b) 2. of the statutes is created to read:

22 108.151 (3) (b) 2. The employer has failed to pay the required assessments
23 authorized by sub. (7) or s. 108.155.

24 **SECTION 36.** 108.151 (4) (b) of the statutes is amended to read:

1 108.151 (4) (b) The fund’s treasurer shall issue a receipt to the employer for its
2 deposit of assurance. Any assurances shall be retained by the fund’s treasurer in
3 escrow, for the fund, until the employer’s liability under its election is terminated,
4 at which time they shall be returned to the employer, less any deductions made under
5 this paragraph. The employer may at any time substitute assurances of equal or
6 greater value. The treasurer may, with 10 days’ notice to the employer, liquidate the
7 assurances deposited to the extent necessary to satisfy any delinquent
8 reimbursements or assessments due under this section or s. 108.155 together with
9 any interest and any tardy filing fees due. The treasurer shall hold in escrow any
10 cash remaining from the sale of the assurances, without interest. The fund’s
11 treasurer shall require the employer within 30 days following any liquidation of
12 deposited assurances to deposit sufficient additional assurances to make whole the
13 employer’s deposit at the prior level. Any income from assurances held in escrow
14 shall inure to and be the property of the employer.

15 **SECTION 37.** 108.152 (6) (a) (intro.) of the statutes is amended to read:

16 108.152 (6) (a) (intro.) If an Indian tribe or tribal unit fails to pay required
17 contributions, reimbursements in lieu of contributions, penalties, interest, ~~or~~ fees,
18 or assessments within 90 days of the time that the department transmits to the tribe
19 a final notice of delinquency:

20 **SECTION 38.** 108.155 of the statutes is created to read:

21 **108.155 Liability of reimbursable employers for identity theft.** (1) In
22 this section:

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

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

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

6 (b) On each June 30, beginning with June 30, 2016, the fund's treasurer shall
7 do all of the following:

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

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

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

13 1. If the sum of the amount determined under par. (b) 2. in the current year and
14 any amount carried over under subd. 2. or 3. from the preceding year is \$20,000 or
15 more, the department shall, subject to subd. 3., assess reimbursable employers for
16 that sum.

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

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

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

5 (d) If the department assesses reimbursable employers under par. (c), the
6 department shall determine the amount of assessments to be levied as provided in
7 sub. (3), and the fund's treasurer shall notify reimbursable employers that the
8 assessment will be imposed. Except as provided in sub. (3) (c), the assessment shall
9 be payable by each reimbursable employer that is subject to this chapter as of the
10 date the assessment is imposed. Assessments imposed under this section shall be
11 credited to the balancing account.

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

16 (b) Except as provided in par. (c), the amount of a reimbursable employer's
17 assessment imposed under sub. (2) (c) for a given calendar year is the product of the
18 rate determined under par. (a) and the reimbursable employer's payroll for the
19 preceding calendar year, as reported by the reimbursable employer under s. 108.15
20 (8), 108.151 (8), 108.152 (7), or 108.205 (1), or, in the absence of reports, as estimated
21 by the department.

22 (c) If a reimbursable employer would otherwise be assessed an amount less
23 than \$10 for a calendar year, the department shall, in lieu of requiring that
24 reimbursable employer to pay an assessment for that calendar year, apply the

1 amount that the reimbursable employer would have been required to pay to the other
2 reimbursable employers subject to an assessment on a pro rata basis.

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

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

12 (b) Terminate the reimbursable employer's election of reimbursement
13 financing under s. 108.151 (3) (b) or liquidate the employer's assurance under s.
14 108.151 (4) (b), if the reimbursable employer elected reimbursement financing under
15 s. 108.151 (2).

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

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

23 (6) The department shall annually report to the council on unemployment
24 insurance the balance remaining of the amount set aside under sub. (2) (a) and the

1 amount of charges restored to reimbursable employers' accounts under s. 108.04 (13)
2 (d) 4. c.

3 SECTION 39. 108.16 (6) (g) of the statutes is amended to read:

4 108.16 (6) (g) Any payment or other amount received for the balancing account
5 under s. 108.15 ~~or~~, 108.151, 108.152, or 108.155.

6 SECTION 40. 108.16 (6m) (i) of the statutes is created to read:

7 108.16 (6m) (i) Any amount restored to the account of an employer subject to
8 reimbursement financing under s. 108.04 (13) (d) 4.

9 SECTION 41. 108.16 (7m) of the statutes is amended to read:

10 108.16 (7m) The fund's treasurer may write off, by charging to the fund's
11 balancing account, any delinquent contribution, reimbursement in lieu of
12 contribution, assessment, tardy payment or filing fee, or interest for which the
13 employer's liability to the fund was established under s. 108.10, upon receipt of
14 certification by the department that reasonable efforts have been made to recover the
15 delinquency and that the delinquency is uncollectible.

16 SECTION 42. 108.16 (10) of the statutes ^{as affected by 2015 Wisconsin Act 86} is amended to read:

17 108.16 (10) All money withdrawn from the fund shall be used solely in the
18 payment of benefits, exclusive of expenses of administration, and for refunds of sums
19 erroneously paid into the fund, for refund of a positive net balance in an employer's
20 reimbursement account under ss. 108.15 (4) and, 108.151 (5), and 108.152 (4) on
21 request by the employer, for expenditures made pursuant to s. 108.161 and
22 consistently with the federal limitations applicable to s. 108.161, and for payment
23 of fees and expenses for collection of overpayments resulting from fraud or failure to
24 report earnings that are assessed by the U.S. secretary of the treasury ^{and charged to the department} under section
25 26 USC 6402 (f) of the federal Internal Revenue Code in effect on June 1, 2009.

Insert
LRB-
4037
4038
w/
indicated
changes

1 **SECTION 43.** 108.22 (1) (b) of the statutes is amended to read:

2 108.22 (1) (b) If the due date of a report or payment under s. 108.15 (5) (b),
3 108.151 (5) (f) or (7), 108.155, 108.16 (8), 108.17, or 108.205 would otherwise be a
4 Saturday, Sunday, or legal holiday under state or federal law, the due date is the next
5 following day which is not a Saturday, Sunday, or legal holiday under state or federal
6 law.

7 **SECTION 44.** 108.22 (1) (c) of the statutes is amended to read:

8 108.22 (1) (c) Any report or payment, except a payment required by s. 108.15
9 (5) (b) ~~or~~, 108.151 (5) (f) or (7), or 108.155, to which this subsection applies is
10 delinquent, within the meaning of par. (a), unless it is received by the department,
11 in the form prescribed by law or rule of the department, no later than its due date
12 as determined under par. (b). Any payment required by s. 108.15 (5) (b) ~~or~~, 108.151
13 (5) (f) or (7), or 108.155 is delinquent, within the meaning of par. (a), unless it is
14 received by the department, in the form prescribed by law, no later than the last day
15 of the month in which it is due.

16 **SECTION 45.** 108.22 (1m) of the statutes is amended to read:

17 108.22 (1m) If an employer owes any contributions, reimbursements, or
18 assessments under s. 108.15, 108.151, 108.155, or 108.19 (1m), interest, fees, or
19 payments for forfeitures or other penalties to the department under this chapter and
20 fails to pay the amount owed, the department has a perfected lien upon the
21 employer's right, title, and interest in all of its real and personal property located in
22 this state in the amount finally determined to be owed, plus costs. Except where
23 creation of a lien is barred or stayed by bankruptcy or other insolvency law, the lien
24 is effective when the department issues a determination of the amount owed under
25 s. 108.10 (1) and shall continue until the amount owed, plus costs and interest to the

1 date of payment, is paid. If a lien is initially barred or stayed by bankruptcy or other
2 insolvency law, it shall become effective immediately upon expiration or removal of
3 such bar or stay. The perfected lien does not give the department priority over
4 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges
5 whose interests have been recorded before the department's lien is recorded.

6 **SECTION 46.** 108.22 (9) of the statutes is amended to read:

7 108.22 (9) An individual who is an officer, employee, member ~~or~~, manager,
8 partner, or other responsible person holding at least ~~20%~~ 20 percent of the ownership
9 interest of a corporation ~~or of a~~, limited liability company, or other business
10 association subject to this chapter, and who has control or supervision of or
11 responsibility for filing any required contribution reports or making payment of
12 contributions, and who willfully fails to file such reports or to make such payments
13 to the department, or to ensure that such reports are filed or that such payments are
14 made, may be found personally liable for such amounts, including interest, tardy
15 payment or filing fees, costs and other fees, in the event that after proper proceedings
16 for the collection of such amounts, as provided in this chapter, the corporation ~~or~~,
17 limited liability company, or other business association is unable to pay such
18 amounts to the department. Ownership interest of a corporation ~~or~~, limited liability
19 company, or other business association includes ownership or control, directly or
20 indirectly, by legally enforceable means or otherwise, by the individual, by the
21 individual's spouse or child, by the individual's parent if the individual is under age
22 18, or by a combination of 2 or more of them, and such ownership interest of a parent
23 corporation ~~or~~, limited liability company, or other business association of which the
24 corporation ~~or~~, limited liability company, or other business association unable to pay
25 such amounts is a wholly owned subsidiary. The personal liability of such officer,

1 employee, member ~~or~~, manager, partner, or other responsible person as provided in
2 this subsection survives dissolution, reorganization, bankruptcy, receivership,
3 assignment for the benefit of creditors, judicially confirmed extension or
4 composition, or any analogous situation of the corporation ~~or~~, limited liability
5 company, or other business association and shall be set forth in a determination or
6 decision issued under s. 108.10.

7 **SECTION 47.** 108.225 (1) (a) of the statutes is amended to read:

8 108.225 (1) (a) “Contribution” includes a reimbursement or assessment under
9 s. 108.15, 108.151, ~~or~~ 108.152, or 108.155, interest for a nontimely payment, fees, and
10 any payment due for a forfeiture imposed upon an employing unit under s. 108.04
11 (11) (c) or other penalty assessed by the department under this chapter.

12 **SECTION 48.** 2011 Wisconsin Act 198, section 4m is repealed.

13 **SECTION 49.** 2011 Wisconsin Act 198, section 6m is repealed.

14 **SECTION 50.** 2011 Wisconsin Act 198, section 37m is repealed.

15 **SECTION 51.** 2011 Wisconsin Act 198, section 47m (1), as last affected by 2013
16 Wisconsin Act 36, is repealed.

17 **SECTION 52.** 2013 Wisconsin Act 36, section 236m is repealed.

18 **SECTION 53. Nonstatutory provisions.**

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

23 **SECTION 54. Initial applicability.**

24 (1) CONCEALMENT BY CLAIMANTS. The renumbering and amendment of section
25 108.04 (11) (g) of the statutes and the creation of section 108.04 (11) (g) 2. and 3. of

1 the statutes first apply to determinations issued under section 108.09 of the statutes
2 on the effective date of this subsection.

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

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

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

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

17 **SECTION 55. Effective dates.** This act takes effect on the first Sunday after
18 publication, except as follows:

19 (1) CONCURRENT RECEIPT OF SSDI AND UI BENEFITS. The treatment of section
20 108.04 (2) (h) and (12) (f) 1., 1m., 2., 2m., and 3. b. to d. of the statutes and SECTION
21 54 (2) of this act take effect retroactively to January 5, 2014.

22 (2) REIMBURSABLE EMPLOYER IDENTITY THEFT CHARGING. The treatment of
23 sections 108.02 (21) (b), 108.04 (13) (d) 3. (intro.) and a. and 4. (intro.), a., and c.,
24 108.151 (4) (b), 108.152 (6) (a) (intro.), 108.155, 108.16 (6) (g), (6m) (i), (7m), and (10),
25 108.22 (1) (b) and (c) and (1m), and 108.225 (1) (a) of the statutes, the renumbering

1 and amendment of section 108.151 (3) (b) of the statutes, and the creation of section
2 108.151 (3) (b) 2. of the statutes take effect on October 2, 2016.

3 (3) JUDICIAL REVIEW CHANGES. The treatment of sections 108.09 (4o), (7) (a), (b),
4 and (c) to (h) and 108.10 (4) of the statutes and SECTION 54 (3) of this act take effect
5 on the first day of the 5th month beginning after publication.

6 (END)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4027/P1
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Inserts

1 AN ACT to renumber and amend 108.19 (1s) (a); to amend 108.19 (1m); and
2 to create 108.19 (1s) (a) 2. of the statutes; relating to: transfer of excess
3 moneys in the unemployment interest payment fund.

Analysis by the Legislative Reference Bureau

Transfer of moneys from the unemployment interest payment fund

Under current law, an employer must pay an assessment to the state unemployment interest payment fund at a rate established by DWD that is sufficient to pay interest due on advances from the federal government from the Federal Unemployment Account (FUA) in the federal Unemployment Trust Fund. Such advances are made when the state's Unemployment Reserve Fund is depleted. If the assessments collected are in excess of the amounts needed to pay interest due, DWD must use any excess to pay interest owed in subsequent years on advances from the FUA. However, if DWD determines that additional interest obligations are unlikely, DWD must transfer the excess to the unemployment reserve fund's balancing account (pooled account financed by all employers who pay contributions that is used to pay benefits that are not chargeable to any employer's account).

This bill instead provides that DWD must transfer the excess in the state unemployment interest payment fund to the balancing account, the unemployment program integrity fund, or both in amounts determined by DWD.

Ins
A2
Federal
Unemployment
Account

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

1 **SECTION 1.** 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 2.** 108.19 (1s) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
24 is renumbered 108.19 (1s) (a) (intro.) and amended to read:

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 3. 108.19 (1s) (a) (2) ^{e 3,} of the statutes is created to read:

7 108.19 (1s) (a) (2) ^{e 3,} Amounts transferred under sub. (1m).

8 (END)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4028/P1
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Inserts

1 **AN ACT to renumber and amend** 108.19 (1s) (a); **to amend** 108.18 (7) (a) 1.,
2 108.18 (7) (h) and 108.18 (9c); **to repeal and recreate** 108.19 (title); and **to**
3 **create** 108.19 (1f) and 108.19 (1s) (a) 2. of the statutes; **relating to:** an
4 assessment against employers to fund unemployment insurance program
5 integrity costs.

Analysis by the Legislative Reference Bureau

Program integrity assessment

INS AI →
Currently, all employers that engage employees in work that is covered under the unemployment insurance (UI) law, other than governmental, nonprofit, and Indian tribal employers that elect to pay directly for the cost of benefits, must pay contributions (taxes) to finance UI benefits. An employer's contributions are assessed based on the employer's contribution rate and the employer's solvency rate, each of which varies with the employment stability of the employer and the solvency of the state's Unemployment Reserve Fund (fund). An employer's contributions payable as a result of the employer's contribution rate are credited to the employer's account in the fund, while an employer's contributions payable as a result of the employer's solvency rate are credited to the fund's balancing account, which is used to fund benefits not payable from any employer's account.

In addition to these contributions, this bill levies an annual assessment on each employer that is currently subject to a contribution requirement in the amount of

0.01 percent (or a lower rate if prescribed by DWD) of an employer's taxable payroll for each year, unless the employer is not required to pay a solvency contribution. An assessed employer's solvency rate is then reduced by the amount of the assessment rate. The levy is not effective for any year unless DWD, no later than the November 30 preceding that year, publishes a class 1 notice giving notice that the levy is in effect for the ensuing year. DWD must consider the balance of the fund before prescribing the levy, and the secretary of workforce development must consult with the Council on Unemployment Insurance before DWD prescribes a levy. Under the bill, assessments are deposited in the unemployment program integrity fund and must therefore, as provided under current law, be used for payment of costs associated with program integrity activities.

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

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

2 108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make
3 payments to the fund during the month of November in excess of those required by
4 this section and s. 108.19 (1) ~~and, (1e), and (1f)~~. Each payment shall be credited to
5 the employer's account for the purpose of computing the employer's reserve
6 percentage as of the immediately preceding computation date.

7 **SECTION 2.** 108.18 (7) (h) of the statutes is amended to read:

8 108.18 (7) (h) The department shall establish contributions other than those
9 required by this section and s. 108.19 (1) ~~and, (1e), and (1f)~~ and contributions other
10 than those submitted during the month of November or authorized under par. (f) or
11 (i) 2. as a credit, without interest, against future contributions payable by the
12 employer or shall refund the contributions at the employer's option.

13 **SECTION 3.** 108.18 (9c) of the statutes is amended to read:

14 108.18 (9c) **REDUCTION OF SOLVENCY RATE.** The department shall reduce the
15 solvency rate payable under sub. (9) by each employer for each year by the ~~rate~~ rates
16 payable by that employer under s. 108.19 (1e) (a) ~~and (1f) (a)~~ for that year.

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

2 **108.19** (title) **Contributions to administrative account and**
3 **unemployment interest payment and program integrity funds.**

4 **SECTION 5.** 108.19 (1f) of the statutes is created to read:

5 108.19 (1f) (a) Except as provided in par. (b), each employer, other than an
6 employer that finances benefits by reimbursement in lieu of contributions under s.
7 108.15, 108.151, or 108.152 shall, in addition to other contributions payable under
8 s. 108.18 and this section, pay an assessment for each year equal to the lesser of 0.01
9 percent of its payroll for that year or the solvency contribution that would otherwise
10 be payable by the employer under s. 108.18 (9) for that year. Assessments under this
11 paragraph shall be deposited in the unemployment program integrity fund.

12 (b) The levy prescribed under par. (a) is not effective for any year unless the
13 department, no later than the November 30 preceding that year, publishes a class
14 1 notice under ch. 985 giving notice that the levy is in effect for the ensuing year. The
15 department shall consider the balance of the unemployment reserve fund before
16 prescribing the levy under par. (a). The secretary of workforce development shall
17 consult with the council on unemployment insurance before the department
18 prescribes the levy under par. (a).

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

23 **SECTION 6.** 108.19 (1s) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
24 is renumbered 108.19 (1s) (a) (intro.) and amended to read:

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2020/P9ins
AJM&MED:...

**[Rearrange analysis as provided below. Keep introductory sentence on page
2]**

EMPLOYERS, CONTRIBUTIONS, AND FINANCE

- 1 INS A1
- 2 INS A2
- 3 INS A3
- 4 INS A4
- 5 INS A5
- 6 INS A6

BENEFITS AND BENEFIT CLAIMS

- 7 INS B1
- 8 INS B2

ADMINISTRATION, ADMINISTRATIVE REVIEW, AND OTHER CHANGES

- 9 INS C1
- 10 INS C2
- 11 INS C3

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2020/0700
MED:cjs
pgdm
Wlj

October 26, 2015

Date

^B
D15-08 (concealment)

Here is a list of the proposals in this draft:

D15-01 (SSDI and UI)

D15-04 (Reimbursable employer identity theft benefits charging)

D15-05 (LLP partners' liability)

D15-09 (A&A determinations)

D15-10 (Elimination of statutory benefit tables, etc.)

D15-11 (Judicial review)

D15-12 (Definition of employer re: fiscal agents)

D15-13 (Repeal of program integrity fund sunset)

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michael.duchek@legis.wisconsin.gov

^B
D15-14 (SAFI money to program integrity fund)
^B
D15-16 (program integrity assessment)

Duchek, Michael

From: Rubsam, Andrew J - DWD <Andrew.Rubsam@dwd.wisconsin.gov>
Sent: Thursday, December 17, 2015 3:25 PM
To: Duchek, Michael
Cc: Knutson, Janell - DWD
Subject: UIAC Agreed Bill

Mike-

UIAC approved D15-14 and D15-15 today. Please incorporate the language into the agreed bill. I think the agreed bill is LRB-2020.

Let me know if you have any questions.

Not sure of the next UIAC meeting date. Maybe January 5th. Can we get the updated agreed bill by then?

Thanks-

Andy Rubsam, Esq.
Bureau of Legal Affairs
Unemployment Insurance Division
Wisconsin Department of Workforce Development
PO Box 8942
Madison, WI 53708
Tel: 608-261-9440
Fax: 608-266-8221
E-mail: andrew.rubsam@dwd.wi.gov

D15-14

Transfer of Special Assessment for Interest Funds to Program Integrity Fund

Date: December 17, 2015

Proposed by: DWD

Prepared by: Andy Rubsam

ANALYSIS OF PROPOSED UI LAW CHANGE

Transfer of Special Assessment for Interest Funds to Program Integrity Fund

1. Description of Proposed Change

Employers paid special assessments for the interest due on loans from the federal government to Wisconsin's unemployment insurance trust fund when the fund was negative during the most recent recession. The assessments are known as special assessments for interest ("SAFIs"). Current law provides that, if the federal loans are repaid and future borrowing is unlikely, the department shall transfer any excess SAFI funds to the balancing account. The department proposes a law change that would also permit the department to transfer any excess SAFI funds to the unemployment program integrity fund.

2. Proposed Statutory Change

Please see attached.

3. Effects of Proposed Change

- a. Policy. This proposal provides the department with additional funding for program integrity activities, which should have a positive effect on the trust fund.
- b. Administrative. The department expects a minimal administrative effect for this proposal.
- c. Fiscal. A fiscal estimate is not yet available.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. The Department recommends that any changes to the unemployment insurance law be sent to the U.S. Department of Labor for conformity review.

D15-14

- **Transfer of Special Assessment for Interest Funds to Program Integrity Fund**

5. Proposed Effective/Applicability Date

This proposal would be effective with other changes made as part of the agreed bill cycle.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4027/P1
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 108.19 (1s) (a); *to amend* 108.19 (1m); and
2 *to create* 108.19 (1s) (a) 2. of the statutes; **relating to:** transfer of excess
3 moneys in the unemployment interest payment fund.

Analysis by the Legislative Reference Bureau

Transfer of moneys from the unemployment interest payment fund

Under current law, an employer must pay an assessment to the state unemployment interest payment fund at a rate established by DWD that is sufficient to pay interest due on advances from the federal government from the Federal Unemployment Account (FUA) in the federal Unemployment Trust Fund. Such advances are made when the state's Unemployment Reserve Fund is depleted. If the assessments collected are in excess of the amounts needed to pay interest due, DWD must use any excess to pay interest owed in subsequent years on advances from the FUA. However, if DWD determines that additional interest obligations are unlikely, DWD must transfer the excess to the unemployment reserve fund's balancing account (pooled account financed by all employers who pay contributions that is used to pay benefits that are not chargeable to any employer's account).

This bill instead provides that DWD must transfer the excess in the state unemployment interest payment fund to the balancing account, the unemployment program integrity fund, or both in amounts determined by DWD.

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

1 **SECTION 1.** 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 2.** 108.19 (1s) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
24 is renumbered 108.19 (1s) (a) (intro.) and amended to read:

D15-15
Program Integrity Assessment

Date: December 17, 2015
Proposed by: DWD
Prepared by: Andy Rubsam

ANALYSIS OF PROPOSED UI LAW CHANGE
Program Integrity Assessment

1. Description of Proposed Change

Employers previously paid an administrative assessment of the lesser of 0.01% of their yearly payroll or their solvency contribution in order to fund the renovation and modernization of the unemployment insurance division's information technology systems.¹ Employers' solvency rates are reduced by the amount of this assessment, resulting in no additional tax paid by employers.² This assessment ceased being assessed after the year 2009.

The department proposes to change the law in order to permit a new assessment on employers that pay contributions, similar to the technology assessment, in order to aid program integrity activities. The assessment would be the lesser of 0.01% of payroll or the solvency contribution of the employer. Employers' solvency rates would be reduced by the amount of the assessment. The department will consider the balance of the trust fund before issuing the assessment. The assessment would only be issued after the secretary of workforce development consults with the Council.

2. Proposed Statutory Change

Please see proposed statutory language attached.

3. Effects of Proposed Change

- a. Policy. This proposal provides the department with additional funding for program integrity activities, which include benefit fraud detection.
- b. Administrative. The department expects a minimal administrative effect for this proposal.

¹ Wis. Stat. § 108.19(1e).

² Wis. Stat. § 108.18(9c).

D15-15
Program Integrity Assessment

c. Fiscal. A fiscal estimate is not yet available.

4. State and Federal Issues

If the trust fund balance is insufficient to pay benefits, Wisconsin would be required to borrow funds from the federal government. During a period of borrowing, the federal government may reduce Wisconsin employers' Federal Unemployment Tax credits. Wisconsin employers can avoid increases in FUTA credit reductions during a period of borrowing if certain criteria are met. The criteria are:

1. No action was taken by the state in the prior 12-month period ending September 30 to decrease the state's unemployment tax effort.
2. No action was taken by the state in the prior 12-month period ending September 30 that has resulted, or will result, in a net decrease in solvency of the state's UC system.
3. The state's average tax rate on total wages exceeds the 5-year benefit cost rate on total wages.
4. The balance of outstanding loans as of September 30 is not greater than the balance 3 years earlier.

By implementing the assessment in this proposal while the trust fund has a negative balance, the federal government may determine that Wisconsin has taken action to decrease its tax effort and/or decrease the solvency of the UC system based on the resulting reduction in employers' solvency rate under s. 108.18(9c), resulting in increased FUTA credit reductions.

There are no known federal conformity issues with this proposal. The Department recommends that any changes to the unemployment insurance law be sent to the U.S. Department of Labor for conformity review.

D15-15
Program Integrity Assessment

5. Proposed Effective/Applicability Date

This proposal would be effective with other changes made as part of the agreed bill cycle.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4028/P1
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 108.19 (1s) (a); *to amend* 108.18 (7) (a) 1.,
2 108.18 (7) (h) and 108.18 (9c); *to repeal and recreate* 108.19 (title); and *to*
3 *create* 108.19 (1f) and 108.19 (1s) (a) 2. of the statutes; **relating to:** an
4 assessment against employers to fund unemployment insurance program
5 integrity costs.

Analysis by the Legislative Reference Bureau

Program integrity assessment

Currently, all employers that engage employees in work that is covered under the unemployment insurance (UI) law, other than governmental, nonprofit, and Indian tribal employers that elect to pay directly for the cost of benefits, must pay contributions (taxes) to finance UI benefits. An employer's contributions are assessed based on the employer's contribution rate and the employer's solvency rate, each of which varies with the employment stability of the employer and the solvency of the state's Unemployment Reserve Fund (fund). An employer's contributions payable as a result of the employer's contribution rate are credited to the employer's account in the fund, while an employer's contributions payable as a result of the employer's solvency rate are credited to the fund's balancing account, which is used to fund benefits not payable from any employer's account.

In addition to these contributions, this bill levies an annual assessment on each employer that is currently subject to a contribution requirement in the amount of

0.01 percent (or a lower rate if prescribed by DWD) of an employer's taxable payroll for each year, unless the employer is not required to pay a solvency contribution. An assessed employer's solvency rate is then reduced by the amount of the assessment rate. The levy is not effective for any year unless DWD, no later than the November 30 preceding that year, publishes a class 1 notice giving notice that the levy is in effect for the ensuing year. DWD must consider the balance of the fund before prescribing the levy, and the secretary of workforce development must consult with the Council on Unemployment Insurance before DWD prescribes a levy. Under the bill, assessments are deposited in the unemployment program integrity fund and must therefore, as provided under current law, be used for payment of costs associated with program integrity activities.

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

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

2 108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make
3 payments to the fund during the month of November in excess of those required by
4 this section and s. 108.19 (1) ~~and~~, (1e), and (1f). Each payment shall be credited to
5 the employer's account for the purpose of computing the employer's reserve
6 percentage as of the immediately preceding computation date.

7 **SECTION 2.** 108.18 (7) (h) of the statutes is amended to read:

8 108.18 (7) (h) The department shall establish contributions other than those
9 required by this section and s. 108.19 (1) ~~and~~, (1e), and (1f) and contributions other
10 than those submitted during the month of November or authorized under par. (f) or
11 (i) 2. as a credit, without interest, against future contributions payable by the
12 employer or shall refund the contributions at the employer's option.

13 **SECTION 3.** 108.18 (9c) of the statutes is amended to read:

14 108.18 (9c) **REDUCTION OF SOLVENCY RATE.** The department shall reduce the
15 solvency rate payable under sub. (9) by each employer for each year by the ~~rate~~ rates
16 payable by that employer under s. 108.19 (1e) (a) and (1f) (a) for that year.

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

2 **108.19** (title) **Contributions to administrative account and**
3 **unemployment interest payment and program integrity funds.**

4 **SECTION 5.** 108.19 (1f) of the statutes is created to read:

5 108.19 (1f) (a) Except as provided in par. (b), each employer, other than an
6 employer that finances benefits by reimbursement in lieu of contributions under s.
7 108.15, 108.151, or 108.152 shall, in addition to other contributions payable under
8 s. 108.18 and this section, pay an assessment for each year equal to the lesser of 0.01
9 percent of its payroll for that year or the solvency contribution that would otherwise
10 be payable by the employer under s. 108.18 (9) for that year. Assessments under this
11 paragraph shall be deposited in the unemployment program integrity fund.

12 (b) The levy prescribed under par. (a) is not effective for any year unless the
13 department, no later than the November 30 preceding that year, publishes a class
14 1 notice under ch. 985 giving notice that the levy is in effect for the ensuing year. The
15 department shall consider the balance of the unemployment reserve fund before
16 prescribing the levy under par. (a). The secretary of workforce development shall
17 consult with the council on unemployment insurance before the department
18 prescribes the levy under par. (a).

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

23 **SECTION 6.** 108.19 (1s) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
24 is renumbered 108.19 (1s) (a) (intro.) and amended to read:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2020/P9dn
MED:wlj

December 23, 2015

Here is a list of the proposals in this draft:

D15-01 (SSDI and UI)

D15-04 (Reimbursable employer identity theft benefits charging)

D15-05 (LLP partners' liability)

D15-08 (Concealment)

D15-09 (A&A determinations)

D15-10 (Elimination of statutory benefit tables, etc.)

D15-11 (Judicial review)

D15-12 (Definition of employer re: fiscal agents)

D15-13 (Repeal of program integrity fund sunset)

D15-14 (SAFI money to program integrity fund)

D15-16 (Program integrity assessment)

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michael.duchek@legis.wisconsin.gov

"RESEARCH APPENDIX"

... Drafting History Reproduction Request Form ...

DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN

(Request Made By: WED+AJM) (Date: 1 / 18 / 2016)

Note:

BOTH DRAFTS SHOULD HAVE THE SAME "REQUESTOR"

(exception: companion bills)

Please transfer the drafting file for
2013 LRB _____ (For: Rep. / Sen. _____)
to the drafting file for
2015 LRB _____ (For: Rep. / Sen. _____)

----- **OR** -----

Please copy the drafting file for
2015 LRB -4395 / P3 (include the version) (For: Rep. / Sen. DWD)
and place it in the drafting file for
2015 LRB -2020 (For: Rep. / Sen. DWD)

Are These "Companion Bills" ?? ... Yes No

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history ("guts") from the original file:

"RESEARCH APPENDIX"

... Drafting History Reproduction Request Form ...

DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN

(Request Made By: MED) (Date: 1 / 19 / 2016)

Note:

BOTH DRAFTS SHOULD HAVE THE SAME "REQUESTOR"

(exception: companion bills)



Please transfer the drafting file for 2013 LRB (For: Rep. / Sen. _____)

to the drafting file for 2015 LRB (For: Rep. / Sen. _____)

----- **OR** -----

Please copy the drafting file for 2015 LRB -4456 (G) / P3 -4479 (H) / P2 (include the version) (For: Rep. / Sen. Dud)

and place it in the drafting file for 2015 LRB -2020 (For: Rep. / Sen. Dud)

Are These "Companion Bills" ?? ... Yes No

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history

("guts") from the original file: _____

Rose, Stefanie

From: Knutson, Janell - DWD <Janell.Knutson@dwd.wisconsin.gov>
Sent: Tuesday, January 19, 2016 2:46 PM
To: LRB.Legal
Cc: Evenson, Andrew J - DWD; Tichenor, Tyler L - DWD
Subject: Draft Review: LRB -2020/1

Please call Andrew Evenson when it is ready for pickup 266-1756
Please Jacket LRB -2020/1 for the ASSEMBLY.