

2019 DRAFTING REQUEST

Bill

For: **Administration-Budget**

Drafter: **mduchek**

By: **Hynek**

Secondary Drafters:

Date: **2/4/2019**

May Contact:

Same as LRB:

Submit via email: **YES**

Requester's email:

Carbon copy (CC) to: **DOASBOSStatLanguage@wisconsin.gov**
MaryAlice.McGreevy@legis.wisconsin.gov

Pre Topic:

DOA:.....Hynek, BB0284 -

Topic:

UI Suitable Work

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 2/6/2019	kfollett 2/11/2019			
/P1			lparisi 2/11/2019		State S&L

FE Sent For:

<END>

Duchek, Michael

From: Hanaman, Cathlene
Sent: Monday, February 04, 2019 4:02 PM
To: Duchek, Michael; McGreevy, Mary Alice
Subject: FW: Statutory Language Drafting Request - 2019-21

From: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>
Sent: Monday, February 04, 2019 3:57 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>; Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>
Subject: Statutory Language Drafting Request - 2019-21

Biennial Budget: 2019-21

Topic: UI Suitable Work

Tracking Code: BB0284

SBO Team: EWD

SBO Analyst: Hynek, Sara - DOA
Phone: (608) 266-1037
E-mail: Sara.Hynek@Wisconsin.gov

Agency Acronym: 445

Agency Number: 445

Priority: Medium

Intent:

Repeal changes made in 2015 Act 334 related to the definition of suitable work, the standards for determining whether there is good cause for a claimant to refuse suitable work when offered. o Delete s. 108.04 (8)(d)2 and 108.04 (8) (dm) and renumber and amend 108.04(8)(d)(intro.) back to 108.04(8)(d) to read as follows: An employee shall have good cause under par. (a) or (c), regardless of the reason articulated by the employee for the failure, if the department determines that the failure involved work at a lower grade of skill or significantly lower rate of pay than applied to the employee on one or more recent jobs, and that the employee had not yet had a reasonable opportunity, in view of labor market conditions and the employee's degree of skill, but not to exceed 6 weeks after the employee became unemployed, to seek a new job substantially in line with the employee's prior job skill and rate of pay. o Further, require DWD to define by rule what constitutes suitable work for claimants, with the rule specifying different levels of suitable work based upon the number of weeks that a claimant has received benefits in a given benefit year.

Attachments: False

Please send completed drafts to SBOSlanguage@spmail.enterprise.wistate.us



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1780²

MED:...

DOA:.....Hynek, BB0284 - UI Suitable Work

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Under current law, if a claimant for unemployment insurance benefits fails, without good cause, to accept suitable work when offered, the claimant is ineligible to receive benefits until he or she earns wages after the week in which the failure occurs equal to at least six times the claimant's weekly UI benefit rate in covered employment. Current law specifies what is considered "suitable work" for purposes of these provisions, with different standards applying depending on how many weeks have elapsed since the claimant became unemployed. Current law also specifies circumstances in which a claimant has good cause for failing to accept what would otherwise be considered suitable work.

This bill repeals the provisions described above regarding what is considered suitable work and what is considered good cause for failing to accept suitable work and replaces them with a) a different provision regarding what constitutes good cause for a failure to accept suitable work, and b) a requirement for DWD to define what constitutes suitable work for claimants by rule, with the rule specifying different levels of suitable work based upon the number of weeks that a claimant has received benefits in a given benefit year.

For further information see the *state and local* 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 (24g) of the statutes is created to read:

2 108.02 (24g) SUITABLE WORK. "Suitable work" has the meaning specified by the
3 department by rule under s. 108.14 (27).

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

5 108.04 (7) (e) Paragraph (a) does not apply if the department determines that
6 the employee accepted work that the employee could have failed to accept under sub.
7 (8) and terminated the work on the same grounds and within the first 30 calendar
8 days after starting the work, or that the employee accepted work that the employee
9 could have refused under sub. (9) and terminated the work within the first 30
10 calendar days after starting the work. For purposes of this paragraph, an employee
11 has the same grounds for voluntarily terminating work if the employee could have
12 failed to accept the work under sub. (8) (d) ~~to~~ (em) when it was offered, regardless of
13 the reason articulated by the employee for the termination.

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; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366, 370; s. 13.92 (2) (i).

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

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

15 108.04 (8) (c) If an employee fails, without good cause, to return to work with
16 a former employer that recalls the employee within 52 weeks after the employee last
17 worked for that employer, the employee is ineligible to receive benefits until the
18 employee earns wages after the week in which the failure occurs equal to at least 6
19 times the employee's weekly benefit rate under s. 108.05 (1) in employment or other

1 work covered by the unemployment insurance law of any state or the federal
2 government. For purposes of requalification, the employee's weekly benefit rate
3 shall be that rate which would have been paid had the failure not occurred. This
4 paragraph does not preclude an employee from establishing a benefit year during a
5 period in which the employee is ineligible to receive benefits under this paragraph
6 if the employee qualifies to establish a benefit year under s. 108.06 (2) (a). The
7 department shall charge to the fund's balancing account any benefits otherwise
8 chargeable to the account of any employer that is subject to the contribution
9 requirements under ss. 108.17 and 108.18 whenever an employee of that employer
10 fails, without good cause, to return to work with that employer. This paragraph does
11 not apply to an employee who fails to return to work with a former employer if the
12 work offered would not be considered suitable work under par. (d) or (dm), whichever
13 is applicable. If an employee receives actual notice of a recall to work, par. (a) applies
14 in lieu of this paragraph.

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; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366, 370; s. 13.92 (2) (i).

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

15 **SECTION 4.** 108.04 (8) (d) of the statutes is repealed and recreated to read:
16 108.04 (8) (d) An employee shall have good cause under par. (a) or (c),
17 regardless of the reason articulated by the employee for the failure, if the department
18 determines that the failure involved work at a lower grade of skill or significantly
19 lower rate of pay than applied to the employee on one or more recent jobs, and that
20 the employee had not yet had a reasonable opportunity, in view of labor market
21 conditions and the employee's degree of skill, but not to exceed 6 weeks after the
22 employee became unemployed, to seek a new job substantially in line with the
23 employee's prior job skill and rate of pay.

1 SECTION 5. 108.04 (8) (dm) of the statutes is repealed.

2 SECTION 6. 108.04 (8) (em) of the statutes is repealed.

3 SECTION 7. 108.14 (27) of the statutes is created to read:

4 108.14 (27) The department shall promulgate a rule to define what constitutes
5 suitable work for claimants, which shall specify different levels of suitable work
6 based upon the number of weeks that a claimant has received benefits in a given
7 benefit year.

8 SECTION 8. 108.141 (3g) (a) 3. (intro.) of the statutes is amended to read:

9 108.141 (3g) (a) 3. (intro.) ~~Work~~ Notwithstanding s. 108.02 (24g), work is
10 suitable within the meaning of subd. 2. if:

History: 1971 c. 53; 1973 c. 247; 1975 c. 1, 343; 1977 c. 29, 133, 418; 1979 c. 52; 1981 c. 36 ss. 19 to 32, 45; 1981 c. 315, 390; 1983 a. 8 ss. 28 to 33, 53, 55 (3), (14) and (15) and 56; 1983 a. 27 ss. 1400g and 1807m; 1983 a. 189 ss. 162, 329 (28); 1985 a. 17; 1987 a. 38; 1991 a. 39, 89, 189, 269; 1993 a. 184, 373, 492; 1995 a. 27 ss. 3780, 9130 (4); 1995 a. 118, 225; 1997 a. 3, 35, 39; 2001 a. 35; 2009 a. 1, 11; 2011 a. 42; 2013 a. 20, 36, 173; 2015 a. 55, 334.

11 SECTION 9150. Nonstatutory provisions; Workforce Development.

12 (1) ^{a.f.} UNEMPLOYMENT INSURANCE; WORK SEARCH AND REGISTRATION WAIVERS. The
13 department of workforce development shall submit a notice to the legislative
14 reference bureau for publication in the Wisconsin Administrative Register when the
15 department determines that the department has rules in place under s. 108.14 (27)
16 to define suitable work.

17 SECTION 9350. Initial applicability; Workforce Development.

18 (1) ^{a.f.} UNEMPLOYMENT INSURANCE; SUITABLE WORK. The treatment of s. 108.04 (7)
19 (e) and (8) (c), (d), (dm), and (em) first applies to determinations issued under section
20 108.09 of the statutes on the effective date of this subsection.

21 SECTION 9450. Effective dates; Workforce Development.

22 (1) UNEMPLOYMENT INSURANCE; SUITABLE WORK. The treatment of s. 108.04 (7)
23 (e) and (8) (c), (d), (dm), and (em) and ^(cs) Section 9350 (1) of this act take effect on the ^{a.f.}

a.f.

- 1 date the notice under SECTION 9150 (1) is published in the Wisconsin Administrative
2 Register or on January 3, 2021, whichever occurs first.

****NOTE: The changes in this draft would restore the law to between the time that the 2015 budget act took effect and the time the 2015 Act 334 changes took effect. (Note that the provision requiring DWD to define suitable work by rule originated in the 2015 budget, but DWD never actually promulgated rules under that provision.) Note that this would make the changes effective on the date rules are in place, but included a "drop-dead" date of January 3, 2021 (a Sunday), as it is our practice not to have an effective date that is completely indefinite and that may never occur. Also note that I also repealed s. 108.04 (8) (em), as this came in via 2015 Act 334 as well, which was necessary given your request to restore the old language of s. 108.04 (8) (d). Let me know if I can explain further.

3

(END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1780/P1
MED:kjf

DOA:.....Hynek, BB0284 - UI Suitable Work

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

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15 (1) UNEMPLOYMENT INSURANCE; SUITABLE WORK. The treatment of s. 108.04 (7)
16 (e) and (8) (c), (d), (dm), and (em) first applies to determinations issued under s.
17 108.09 on the effective date of this subsection.

18 **SECTION 9450. Effective dates; Workforce Development.**

19 (1) UNEMPLOYMENT INSURANCE; SUITABLE WORK. The treatment of s. 108.04 (7)
20 (e) and (8) (c), (d), (dm), and (em) and SECTION 9350 (1) of this act take effect on the
21 date the notice under SECTION 9150 (1) is published in the Wisconsin Administrative
22 Register or on January 3, 2021, whichever occurs first.

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