

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: **DOASBOStatLanguage@wisconsin.gov**
MaryAlice.McGreevy@legis.wisconsin.gov

Pre Topic:

DOA:.....Hynek, BB0285 -

Topic:

UI Work Search Waivers

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 2/5/2019	ccarmich 2/5/2019			
/P1	mduchek 2/6/2019	ccarmich 2/6/2019	dwalker 2/5/2019		State
/P2			lparisi 2/6/2019		State

FE Sent For: **<END>**

Duchek, Michael

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

From: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>
Sent: Monday, February 04, 2019 3:58 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 Work Search Waivers

Tracking Code: BB0285

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 the provisions in 2017 Act 370 that codified work search waiver provisions. Instead, return to prior law permitting DWD to determine waiver requirements by administrative rule.

Attachments: False

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

Duchek, Michael

From: Hynek, Sara - DOA
Sent: Wednesday, February 06, 2019 12:00 PM
To: Duchek, Michael
Subject: RE: LRB Draft Number 19-1781_P1

Thanks Mike! Yes, I think your idea on #3 sounds good.

From: Duchek, Mike - LEGIS <michael.duchek@legis.wisconsin.gov>
Sent: Wednesday, February 06, 2019 11:57 AM
To: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>
Subject: RE: LRB Draft Number 19-1781_P1

See below.

From: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>
Sent: Wednesday, February 06, 2019 11:39 AM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Subject: FW: LRB Draft Number 19-1781_P1

Hi Mike – I had a couple questions/comments on this draft.

1. Page 2, line 3 – the original statute had a clause to the effect of “unless the search requirement is waived”. Is this unnecessary to restore because of 108.04(2)(b)? Correct – s. 108.04 (2) (a) (intro.) says “except as provided in par. (b)” and, as you note, par. (b) allows DWD to waive 108.04 (2) (a) 3.
2. Do we need to repeal 108.04(2)(bd)? I saw it was added in Act 370, but was there anything in your drafting files that would indicate this is a generally needed provisions (without the reference to (bb) of course)? When drafting Act 370, the concern DWD had was that if DWD lost all of its authority to modify or create work search waivers by rule, it might tie their hands if the feds have something more to say on the subject that we have to comply with. But since the draft would just give DWD waiver authority back carte blanche, it’s unnecessary to have that saving language in (bd) since they’ll be able to do anything they need to on waivers by rule.
3. Can we make the changes effective upon the department promulgating a final rule on the waivers? The complication is that DWD actually already has pre-Act 370 waiver rules on the books, and so I am not sure whether they could just go back to using those rules, or whether those rules might be gone by the time the bill takes effect. My idea would be that I could include some language that tries to account for either situation by requiring DWD to publish a notice when they have any necessary rules in place and having it effective upon the date that notice is published. What do you think?

Thanks!!

Sara

From: christopher.connor@wisconsin.gov <christopher.connor@wisconsin.gov>
Sent: Tuesday, February 05, 2019 11:08 AM
To: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>
Cc: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>; Connor, Christopher B - DOA <Christopher.Connor@wisconsin.gov>; Connor, Christopher B - DOA <Christopher.Connor@wisconsin.gov>
Subject: LRB Draft Number 19-1781_P1

We have received an LRB draft for DOA Tracking Code BB0285

LRB Topic: UI Work Search Waivers

LRB Draft Number: 19-1781_P1

Drafter: MED

Drafting Attorney: Michael E. Duchek

Phone: (608) 266-0130

E-mail: Michael.Duchek@legis.wisconsin.gov

The document can be found in the Stat Language site on SharePoint:

https://doa.sbo.wisconsin.gov/statutes/Shared%20Documents/19-1781_P1.pdf

Please Note: All new drafts are marked "OUT" and Final = "No" by default. Please update these fields in this record and related drafts as soon as you know if they are "IN" or Final.

Thanks,

Chris



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1781/P1
MED:cdc

DOA:.....Hynek, BB0285 - UI Work Search Waivers

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, a claimant for unemployment insurance benefits is generally required to register for work and to conduct searches for work each week in order to remain eligible, but the DWD is required to waive these requirements under certain circumstances. This bill deletes the waiver provisions in current law and instead allows DWD to establish such waivers by rule.

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:

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

3 108.04 (2) (a) (intro.) Except as provided in pars. par. (b) to ~~(bd)~~, sub. (16) (am)

4 and (b), and s. 108.062 (10) and (10m) and as otherwise expressly provided, a

5 claimant is eligible for benefits as to any given week only if all of the following apply:

1 **SECTION 2.** 108.04 (2) (a) 3. of the statutes is repealed and recreated to read:

2 108.04 (2) (a) 3. The claimant conducts a reasonable search for suitable work
3 during that week and provides verification of that search to the department. The
4 search for suitable work must include at least 4 actions per week that constitute a
5 reasonable search as prescribed by rule of the department. In addition, the
6 department may, by rule, require a claimant to take more than 4 reasonable work
7 search actions in any week. The department shall require a uniform number of
8 reasonable work search actions for similar types of claimants. This subdivision does
9 not apply to a claimant if the department determines that the claimant is currently
10 laid off from employment with an employer but there is a reasonable expectation of
11 reemployment of the individual by that employer. In determining whether the
12 claimant has a reasonable expectation of reemployment by an employer, the
13 department shall request the employer to verify the claimant's employment status
14 and shall consider all of the following:

- 15 a. The history of layoffs and reemployments by the employer.
16 b. Any information that the employer furnished to the claimant or the
17 department concerning the claimant's anticipated reemployment date.
18 c. Whether the claimant has recall rights with the employer under the terms
19 of any applicable collective bargaining agreement.

20 **SECTION 3.** 108.04 (2) (b) of the statutes is repealed and recreated to read:

21 108.04 (2) (b) The department may, by rule, establish waivers from the
22 registration for work requirement under par. (a) 2. and the work search requirement
23 under par. (a) 3.

24 **SECTION 4.** 108.04 (2) (bb) of the statutes is repealed.

25 **SECTION 5.** 108.04 (2) (bd) of the statutes is repealed.

INSERT

1 The department of workforce development shall submit a notice to the
2 legislative reference bureau for publication in the Wisconsin administrative register
3 when the department determines that the department has any rules in place under
4 s. 108.04 (2) (b) that are necessary to provide waivers from the registration for work
5 requirement under s. 108.04 (2) (a) 2. and the work search requirement under s.
6 108.04 (2) (a) 3.

7 **SECTION 9350. Initial applicability; Workforce Development.**

8 (1) UNEMPLOYMENT INSURANCE; WORK SEARCH AND REGISTRATION WAIVERS. The
9 treatment of s. 108.04 (2) (a) (intro.) and 3., (b), (bb), (bd), and (bm) first applies to
10 initial claims for benefits filed on the effective date of this subsection.

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

12 AR (1) UNEMPLOYMENT INSURANCE; WORK SEARCH AND REGISTRATION WAIVERS. The
13 treatment of s. 108.04 (2) (a) (intro.) and 3., (b), (bb), (bd), and (bm) and SECTION 9350
14 of this act take effect on the date the notice under SECTION 9150 ^{AR} is published in
15 the Wisconsin administrative register or on January 3, 2021, whichever occurs first.

****NOTE: I drafted the effective date as discussed, 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.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1781/P2
MED:cdc

DOA:.....Hynek, BB0285 - UI Work Search Waivers

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, a claimant for unemployment insurance benefits is generally required to register for work and to conduct searches for work each week in order to remain eligible, but the DWD is required to waive these requirements under certain circumstances. This bill deletes the waiver provisions in current law and instead allows DWD to establish such waivers by rule.

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

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2 108.04 (2) (a) 3. The claimant conducts a reasonable search for suitable work
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7 search actions in any week. The department shall require a uniform number of
8 reasonable work search actions for similar types of claimants. This subdivision does
9 not apply to a claimant if the department determines that the claimant is currently
10 laid off from employment with an employer but there is a reasonable expectation of
11 reemployment of the individual by that employer. In determining whether the
12 claimant has a reasonable expectation of reemployment by an employer, the
13 department shall request the employer to verify the claimant's employment status
14 and shall consider all of the following:

15 a. The history of layoffs and reemployments by the employer.

16 b. Any information that the employer furnished to the claimant or the
17 department concerning the claimant's anticipated reemployment date.

18 c. Whether the claimant has recall rights with the employer under the terms
19 of any applicable collective bargaining agreement.

20 **SECTION 3.** 108.04 (2) (b) of the statutes is repealed and recreated to read:

21 108.04 (2) (b) The department may, by rule, establish waivers from the
22 registration for work requirement under par. (a) 2. and the work search requirement
23 under par. (a) 3.

24 **SECTION 4.** 108.04 (2) (bb) of the statutes is repealed.

25 **SECTION 5.** 108.04 (2) (bd) of the statutes is repealed.

1 **SECTION 6.** 108.04 (2) (bm) of the statutes is amended to read:

2 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
3 which there is a determination that the claimant failed to comply with the
4 registration for work and work search requirements under par. (a) 2. or 3. or failed
5 to provide verification to the department that the claimant complied with those
6 requirements, unless the department has waived those requirements under par. (b),
7 ~~(bb), or (bd)~~ or s. 108.062 (10m). If the department has paid benefits to a claimant
8 for any such week, the department may recover the overpayment under s. 108.22.

9 **SECTION 9150. Nonstatutory provisions; Workforce Development.**

10 (1) UNEMPLOYMENT INSURANCE; WORK SEARCH AND REGISTRATION WAIVERS. The
11 department of workforce development shall submit a notice to the legislative
12 reference bureau for publication in the Wisconsin Administrative Register when the
13 department determines that the department has any rules in place under s. 108.04
14 (2) (b) that are necessary to provide waivers from the registration for work
15 requirement under s. 108.04 (2) (a) 2. and the work search requirement under s.
16 108.04 (2) (a) 3.

17 **SECTION 9350. Initial applicability; Workforce Development.**

18 (1) UNEMPLOYMENT INSURANCE; WORK SEARCH AND REGISTRATION WAIVERS. The
19 treatment of s. 108.04 (2) (a) (intro.) and 3., (b), (bb), (bd), and (bm) first applies to
20 initial claims for benefits filed on the effective date of this subsection.

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

22 (1) UNEMPLOYMENT INSURANCE; WORK SEARCH AND REGISTRATION WAIVERS. The
23 treatment of s. 108.04 (2) (a) (intro.) and 3., (b), (bb), (bd), and (bm) and SECTION 9350
24 (1) of this act take effect on the date the notice under SECTION 9150 (1) is published

1 in the Wisconsin Administrative Register or on January 3, 2021, whichever occurs
2 first.

****NOTE: I drafted the effective date as discussed, 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.

3 (END)