

2019 DRAFTING REQUEST**Bill**

For: **Legislative Fiscal Bureau** Drafter: **mduchek**
 By: **Ryan** Secondary Drafters:
 Date: **4/1/2020** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **ryan.horton@legis.wisconsin.gov**
 Carbon copy (CC) to: **Becky.hannah@legis.wisconsin.gov**
paul.ferguson@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Work-share agreements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 4/1/2020				
/P1		ccarmich 4/1/2020			State S&L
/1			wjackson 4/1/2020		State S&L
/2	mduchek 4/2/2020	csicilia 4/2/2020	wjackson 4/2/2020		State S&L
/3	mduchek	swinder	wjackson		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	4/10/2020	4/2/2020	4/2/2020		S&L
/4		anienaja 4/10/2020	lparisi 4/10/2020		State S&L
/5	mduchek 4/11/2020	aernstr 4/11/2020	wjackson 4/11/2020		State S&L

FE Sent For:

<END>

Barman, Mike

From: Horton, Ryan
Sent: Thursday, April 02, 2020 9:12 AM
To: Duchek, Michael
Cc: Ferguson, Paul
Subject: RE: Draft Request

Thanks Mike.

From: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Sent: Thursday, April 02, 2020 9:12 AM
To: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>
Subject: RE: Draft Request

I am re-sending the draft to you to correct minor errors in the analysis, FYI.

From: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Sent: Wednesday, April 01, 2020 4:13 PM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>
Subject: Draft Request

Could you draft the following for the vos/fitz bill:

- Waive the "20 workers or 10% of employees in a unit" requirement through 12/31/2020.
- Changed current law to reflect the federal maximum of 60% reduction in hours (basically, just cross out 50% and replace with 60%)
- Require DWD to modernize the application process to an online form and required the Department to provide assistance to employers filling out this form and setting up their work share plan.
- Waive the requirement that hours must be evenly reduced for each affected employee in a work unit through 12/31/2020

Thank you,

Ryan
608-334-1230 (cell)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6092(1)
MED:cdc

12

see
changes

2019 BILL

1 **AN ACT to amend** 108.062 (1) (b), 108.062 (2) (intro.), 108.062 (3) and 108.062
2 (15); and **to create** 108.062 (2m) and 108.062 (20) of the statutes; **relating to:**
3 payment of unemployment insurance benefits under a work-share program.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Unemployment insurance; work-share programs

Current law allows an employer to create a work-share program within a work unit of the employer. Under a work-share program, the working hours of all of the full-time employees in the program are reduced in an equitable manner in lieu of a layoff of some of the employees and a continuation of full-time employment by the other employees. A claimant for unemployment insurance benefits who is included in a work-share program may receive UI benefits during his or her continued employment with the work-share employer in an amount equal to the claimant's benefit for total unemployment multiplied by the same percentage reduction in normal working hours that the claimant incurs under the program.

This bill suspends all of the following for work-share plans submitted until December 31, 2020:

1. The requirement that a work-share plan be limited to a particular work unit of the employer. The bill instead, during the declared emergency, allows a work-share plan to cover any employees of the employer.

2. The requirement that the reduction in working hours under a work-share program must be at least 10 percent but not more than 50 percent of the normal hours

BILL

per week of the employees included under the plan. The bill instead, during the declared emergency, increases the permissible reduction in working hours under a work-share program to be not more than 60 percent of the normal hours per week of the employees included under the plan.

3. The requirements that at least 10 percent of the employees in a work unit be included in a work-share plan and that the employer provide for initial coverage under the plan of at least 20 positions that are filled on the effective date of the work-share program. The bill instead, during the declared emergency, requires only that the work-share plan cover at least two positions that are filled on the effective date of the work-share program.

4. The requirement that reduced working hours be apportioned equitably among employees in the work-share program.

The bill also requires the Department of Workforce Development to allow employers to submit work-share plan applications using an online form and to provide assistance to employers with submitting applications and developing work-share plans.

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.** 108.062 (1) (b) of the statutes is amended to read:

2 108.062 (1) (b) "Work-share program" means a program approved by the
3 department under which the hours of work of employees ~~in a work unit~~ are reduced
4 in lieu of the layoffs of 2 or more employees ~~in the work unit~~.

5 **SECTION 2.** 108.062 (2) (intro.) of the statutes is amended to read:

6 108.062 (2) **ELEMENTS OF PLAN.** (intro.) Any employer may create a work-share
7 program. Prior to implementing a work-share program, an employer shall submit
8 a work-share plan for the approval of the department. In its submittal, the employer
9 shall certify that its plan is in compliance with all applicable requirements under this
10 section. Each plan shall:

11 **SECTION 3.** 108.062 (2m) of the statutes is created to read:

BILL

1 108.062 **(2m)** APPLICATIONS; DEPARTMENT ASSISTANCE. The department shall
2 allow employers to submit applications under this section using an online form. The
3 department shall provide assistance to employers with submitting applications and
4 developing work-share plans.

5 **SECTION 4.** 108.062 (3) of the statutes is amended to read:

6 108.062 **(3)** APPROVAL OF PLANS. The department shall approve a plan if the plan
7 includes all of the elements specified in sub. (2) or (20), whichever is applicable. The
8 approval is effective for the effective period of the plan unless modified under sub.
9 (3m).

10 **SECTION 5.** 108.062 (15) of the statutes is amended to read:

11 108.062 **(15)** INVOLUNTARY TERMINATION. If in any week there are fewer than 20
12 employees who are included in a work-share program of any employer, the program
13 terminates on the 2nd Sunday following the end of that week. This subsection does
14 not apply to a work-share program to which sub. (20) applies.

15 **SECTION 6.** 108.062 (20) of the statutes is created to read:

16 108.062 **(20)** SUSPENSIONS OF CERTAIN PROVISIONS. Notwithstanding sub. (2),
17 this subsection, and not sub. (2), applies to work-share plans submitted on or after
18 the effective date of this subsection [LRB inserts date] and before December 31,
19 2020. During that period, prior to implementing a work-share program, an
20 employer shall submit a work-share plan for the approval of the department. In its
21 submittal, the employer shall certify that its plan is in compliance with all applicable
22 requirements under this section. Each plan shall:

23 (a) Specify the affected positions, and the names of the employees filling those
24 positions on the date of submittal. The plan need not be limited to a particular work
25 unit.

BILL**SECTION 6**

1 (b) Provide for initial coverage under the plan of at least 2 positions that are
2 filled on the effective date of the work-share program.

3 (c) Specify the period or periods when the plan will be in effect, which may not
4 exceed a total of 6 months in any 5-year period within the same work unit.

5 (d) Exclude participation by employees who are employed on a seasonal,
6 temporary, or intermittent basis.

7 (e) Apply only to employees who have been engaged in employment with the
8 employer for a period of at least 3 months on the effective date of the work-share
9 program and who are regularly employed by the employer in that employment.

10 (f) Specify the normal average hours per week worked by each employee
11 covered by the plan and the percentage reduction in the average hours of work per
12 week worked by that employee, exclusive of overtime hours. The reduction need not
13 be applied in a uniform manner, but the reduction for each employee shall be at least
14 10 percent but not more than 60 percent of the normal hours per week of that
15 employee.

16 (g) Describe the manner in which requirements for maximum federal financial
17 participation in the plan will be implemented, including a plan for giving notice,
18 where feasible, to participating employees of changes in work schedules.

19 (h) Provide an estimate of the number of layoffs that would occur without
20 implementation of the plan.

21 (i) Specify the effect on any fringe benefits provided by the employer to the
22 employees who are included in the work-share program other than fringe benefits
23 required by law.

24 (j) Include a statement affirming that the plan is in compliance with all
25 employer obligations under applicable federal and state laws.

Parisi, Lori

From: Horton, Ryan
Sent: Wednesday, April 01, 2020 4:13 PM
To: Duchek, Michael
Cc: Ferguson, Paul
Subject: Draft Request

Could you draft the following for the vos/fitz bill:

- Waive the "20 workers or 10% of employees in a unit" requirement through 12/31/2020.
- Changed current law to reflect the federal maximum of 60% reduction in hours (basically, just cross out 50% and replace with 60%)
- Require DWD to modernize the application process to an online form and required the Department to provide assistance to employers filling out this form and setting up their work share plan.
- Waive the requirement that hours must be evenly reduced for each affected employee in a work unit through 12/31/2020

Thank you,

Ryan
608-334-1230 (cell)



2019 BILL

1 AN ACT *to amend* 108.062 (1) (b), 108.062 (2) (intro.), 108.062 (3) and 108.062
2 (15); and *to create* 108.062 (2m) and 108.062 (20) of the statutes; **relating to:**
3 payment of unemployment insurance benefits under a work-share program.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Unemployment insurance; work-share programs

Current law allows an employer to create a work-share program within a work unit of the employer. Under a work-share program, the working hours of all of the full-time employees in the program are reduced in an equitable manner in lieu of a layoff of some of the employees and a continuation of full-time employment by the other employees. A claimant for unemployment insurance benefits who is included in a work-share program may receive UI benefits during his or her continued employment with the work-share employer in an amount equal to the claimant's benefit for total unemployment multiplied by the same percentage reduction in normal working hours that the claimant incurs under the program.

This bill suspends all of the following for work-share plans submitted until December 31, 2020:

1. The requirement that a work-share plan be limited to a particular work unit of the employer. The bill instead, during the suspension period, allows a work-share plan to cover any employees of the employer.

2. The requirement that the reduction in working hours under a work-share program must be at least 10 percent but not more than 50 percent of the normal hours

BILL

per week of the employees included under the plan. The bill instead, during the suspension period, increases the permissible reduction in working hours under a work-share program to be not more than 60 percent of the normal hours per week of the employees included under the plan.

3. The requirements that at least 10 percent of the employees in a work unit be included in a work-share plan and that the employer provide for initial coverage under the plan of at least 20 positions that are filled on the effective date of the work-share program. The bill instead, during the suspension period, requires only that the work-share plan cover at least two positions that are filled on the effective date of the work-share program.

4. The requirement that reduced working hours be apportioned equitably among employees in the work-share program.

The bill also requires the Department of Workforce Development to allow employers to submit work-share plan applications using an online form and to provide assistance to employers with submitting applications and developing work-share plans.

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.** 108.062 (1) (b) of the statutes is amended to read:

2 108.062 (1) (b) "Work-share program" means a program approved by the
3 department under which the hours of work of employees ~~in a work unit~~ are reduced
4 in lieu of the layoffs of 2 or more employees ~~in the work unit~~.

5 **SECTION 2.** 108.062 (2) (intro.) of the statutes is amended to read:

6 108.062 (2) **ELEMENTS OF PLAN.** (intro.) Any employer may create a work-share
7 program. Prior to implementing a work-share program, an employer shall submit
8 a work-share plan for the approval of the department. In its submittal, the employer
9 shall certify that its plan is in compliance with all applicable requirements under this
10 section. Each plan shall:

11 **SECTION 3.** 108.062 (2m) of the statutes is created to read:

BILL

1 108.062 **(2m)** APPLICATIONS; DEPARTMENT ASSISTANCE. The department shall
2 allow employers to submit applications under this section using an online form. The
3 department shall provide assistance to employers with submitting applications and
4 developing work-share plans.

5 **SECTION 4.** 108.062 (3) of the statutes is amended to read:

6 108.062 **(3)** APPROVAL OF PLANS. The department shall approve a plan if the plan
7 includes all of the elements specified in sub. (2) or (20), whichever is applicable. The
8 approval is effective for the effective period of the plan unless modified under sub.
9 (3m).

10 **SECTION 5.** 108.062 (15) of the statutes is amended to read:

11 108.062 **(15)** INVOLUNTARY TERMINATION. If in any week there are fewer than 20
12 employees who are included in a work-share program of any employer, the program
13 terminates on the 2nd Sunday following the end of that week. This subsection does
14 not apply to a work-share program to which sub. (20) applies.

15 **SECTION 6.** 108.062 (20) of the statutes is created to read:

16 108.062 **(20)** SUSPENSIONS OF CERTAIN PROVISIONS. Notwithstanding sub. (2),
17 this subsection, and not sub. (2), applies to work-share plans submitted on or after
18 the effective date of this subsection [LRB inserts date] and before December 31,
19 2020. During that period, prior to implementing a work-share program, an
20 employer shall submit a work-share plan for the approval of the department. In its
21 submittal, the employer shall certify that its plan is in compliance with all applicable
22 requirements under this section. Each plan shall:

23 (a) Specify the affected positions, and the names of the employees filling those
24 positions on the date of submittal. The plan need not be limited to a particular work
25 unit.

BILL**SECTION 6**

1 (b) Provide for initial coverage under the plan of at least 2 positions that are
2 filled on the effective date of the work-share program.

3 (c) Specify the period or periods when the plan will be in effect, which may not
4 exceed a total of 6 months in any 5-year period within the same work unit.

5 (d) Exclude participation by employees who are employed on a seasonal,
6 temporary, or intermittent basis.

7 (e) Apply only to employees who have been engaged in employment with the
8 employer for a period of at least 3 months on the effective date of the work-share
9 program and who are regularly employed by the employer in that employment.

10 (f) Specify the normal average hours per week worked by each employee
11 covered by the plan and the percentage reduction in the average hours of work per
12 week worked by that employee, exclusive of overtime hours. The reduction need not
13 be applied in a uniform manner, but the reduction for each employee shall be at least
14 10 percent but not more than 60 percent of the normal hours per week of that
15 employee.

16 (g) Describe the manner in which requirements for maximum federal financial
17 participation in the plan will be implemented, including a plan for giving notice,
18 where feasible, to participating employees of changes in work schedules.

19 (h) Provide an estimate of the number of layoffs that would occur without
20 implementation of the plan.

21 (i) Specify the effect on any fringe benefits provided by the employer to the
22 employees who are included in the work-share program other than fringe benefits
23 required by law.

24 (j) Include a statement affirming that the plan is in compliance with all
25 employer obligations under applicable federal and state laws.

Parisi, Lori

From: Horton, Ryan
Sent: Thursday, April 02, 2020 12:46 PM
To: Duchek, Michael
Cc: Ferguson, Paul
Subject: RE: Workshare

That's good. Thanks Mike.

From: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Sent: Thursday, April 02, 2020 12:38 PM
To: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Subject: Workshare

I realized we already have a provision on this, sort of. How about this?

108.062 (19) SECRETARY MAY WAIVE COMPLIANCE. The secretary may waive compliance with any requirement under this section, or may waive the application of sub. (20), if the secretary determines that the waiver ~~of the requirement~~ is necessary to permit continued certification of this chapter for grants to this state under Title III of the federal Social Security Act, for maximum credit allowances to employers under the federal Unemployment Tax Act, or for this state to qualify for full federal financial participation in the cost of administration of this section and financing of benefits to employees participating in work-share programs under this section.



2019 BILL

1 AN ACT *to amend* 108.062 (1) (b), 108.062 (2) (intro.), 108.062 (3), 108.062 (15)
2 and 108.062 (19); and *to create* 108.062 (2m) and 108.062 (20) of the statutes;
3 **relating to:** payment of unemployment insurance benefits under a
4 work-share program.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Unemployment insurance; work-share programs

Current law allows an employer to create a work-share program within a work unit of the employer. Under a work-share program, the working hours of all of the full-time employees in the program are reduced in an equitable manner in lieu of a layoff of some of the employees and a continuation of full-time employment by the other employees. A claimant for unemployment insurance benefits who is included in a work-share program may receive UI benefits during his or her continued employment with the work-share employer in an amount equal to the claimant's benefit for total unemployment multiplied by the same percentage reduction in normal working hours that the claimant incurs under the program.

This bill suspends all of the following for work-share plans submitted until December 31, 2020:

1. The requirement that a work-share plan be limited to a particular work unit of the employer. The bill instead, during the suspension period, allows a work-share plan to cover any employees of the employer.

BILL

2. The requirement that the reduction in working hours under a work-share program must be at least 10 percent but not more than 50 percent of the normal hours per week of the employees included under the plan. The bill instead, during the suspension period, increases the permissible reduction in working hours under a work-share program to be not more than 60 percent of the normal hours per week of the employees included under the plan.

3. The requirements that at least 10 percent of the employees in a work unit be included in a work-share plan and that the employer provide for initial coverage under the plan of at least 20 positions that are filled on the effective date of the work-share program. The bill instead, during the suspension period, requires only that the work-share plan cover at least two positions that are filled on the effective date of the work-share program.

4. The requirement that reduced working hours be apportioned equitably among employees in the work-share program.

The bill, however, allows the Secretary to waive the application of the changes described above if doing so is necessary to comply with federal requirements or for this state to qualify for full federal financial participation in the cost of administration of the work-share program and financing of work-share benefits.

The bill also requires the Department of Workforce Development to allow employers to submit work-share plan applications using an online form and to provide assistance to employers with submitting applications and developing work-share plans.

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.** 108.062 (1) (b) of the statutes is amended to read:

2 108.062 (1) (b) "Work-share program" means a program approved by the
3 department under which the hours of work of employees ~~in a work unit~~ are reduced
4 in lieu of the layoffs of 2 or more employees ~~in the work unit~~.

5 **SECTION 2.** 108.062 (2) (intro.) of the statutes is amended to read:

6 108.062 (2) **ELEMENTS OF PLAN.** (intro.) Any employer may create a work-share
7 program. Prior to implementing a work-share program, an employer shall submit
8 a work-share plan for the approval of the department. In its submittal, the employer

BILL

1 shall certify that its plan is in compliance with all applicable requirements under this
2 section. Each plan shall:

3 **SECTION 3.** 108.062 (2m) of the statutes is created to read:

4 108.062 **(2m)** APPLICATIONS; DEPARTMENT ASSISTANCE. The department shall
5 allow employers to submit applications under this section using an online form. The
6 department shall provide assistance to employers with submitting applications and
7 developing work-share plans.

8 **SECTION 4.** 108.062 (3) of the statutes is amended to read:

9 108.062 **(3)** APPROVAL OF PLANS. The department shall approve a plan if the plan
10 includes all of the elements specified in sub. (2) or (20), whichever is applicable. The
11 approval is effective for the effective period of the plan unless modified under sub.
12 (3m).

13 **SECTION 5.** 108.062 (15) of the statutes is amended to read:

14 108.062 **(15)** INVOLUNTARY TERMINATION. If in any week there are fewer than 20
15 employees who are included in a work-share program of any employer, the program
16 terminates on the 2nd Sunday following the end of that week. This subsection does
17 not apply to a work-share program to which sub. (20) applies.

18 **SECTION 6.** 108.062 (19) of the statutes is amended to read:

19 108.062 **(19)** SECRETARY MAY WAIVE COMPLIANCE. The secretary may waive
20 compliance with any requirement under this section, or may waive the application
21 of sub. (20), if the secretary determines that the waiver of the requirement is
22 necessary to permit continued certification of this chapter for grants to this state
23 under Title III of the federal Social Security Act, for maximum credit allowances to
24 employers under the federal Unemployment Tax Act, or for this state to qualify for
25 full federal financial participation in the cost of administration of this section and

BILL**SECTION 6**

1 financing of benefits to employees participating in work-share programs under this
2 section.

3 **SECTION 7.** 108.062 (20) of the statutes is created to read:

4 108.062 (20) SUSPENSIONS OF CERTAIN PROVISIONS. Notwithstanding sub. (2),
5 this subsection, and not sub. (2), applies to work-share plans submitted on or after
6 the effective date of this subsection ... [LRB inserts date] and before December 31,
7 2020, subject to sub. (19). During that period, prior to implementing a work-share
8 program, an employer shall submit a work-share plan for the approval of the
9 department. In its submittal, the employer shall certify that its plan is in compliance
10 with all applicable requirements under this section. Each plan shall:

11 (a) Specify the affected positions, and the names of the employees filling those
12 positions on the date of submittal. The plan need not be limited to a particular work
13 unit.

14 (b) Provide for initial coverage under the plan of at least 2 positions that are
15 filled on the effective date of the work-share program.

16 (c) Specify the period or periods when the plan will be in effect, which may not
17 exceed a total of 6 months in any 5-year period within the same work unit.

18 (d) Exclude participation by employees who are employed on a seasonal,
19 temporary, or intermittent basis.

20 (e) Apply only to employees who have been engaged in employment with the
21 employer for a period of at least 3 months on the effective date of the work-share
22 program and who are regularly employed by the employer in that employment.

23 (f) Specify the normal average hours per week worked by each employee
24 covered by the plan and the percentage reduction in the average hours of work per
25 week worked by that employee, exclusive of overtime hours. The reduction need not

BILL

1 be applied in a uniform manner, but the reduction for each employee shall be at least
2 10 percent but not more than 60 percent of the normal hours per week of that
3 employee.

4 (g) Describe the manner in which requirements for maximum federal financial
5 participation in the plan will be implemented, including a plan for giving notice,
6 where feasible, to participating employees of changes in work schedules.

7 (h) Provide an estimate of the number of layoffs that would occur without
8 implementation of the plan.

9 (i) Specify the effect on any fringe benefits provided by the employer to the
10 employees who are included in the work-share program other than fringe benefits
11 required by law.

12 (j) Include a statement affirming that the plan is in compliance with all
13 employer obligations under applicable federal and state laws.

14 (k) Indicate whether the plan includes employer-sponsored training to
15 enhance job skills and acknowledge that the employees may participate in training
16 funded under the federal Workforce Innovation and Opportunity Act, 29 USC 3101
17 to 3361, or another federal law that enhances job skills without affecting availability
18 for work, subject to department approval.

19 (END)

Instructions from Ryan at LFB 4/10/20 – make approval occur immediately (Sunday of, or after, approval) instead of 2nd Sunday after approval.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6092/4
MED:cdc/skw/amn

2019 BILL

1 **AN ACT** *to renumber and amend* 108.062 (4); *to amend* 108.062 (1) (b), 108.062
2 (3), 108.062 (15) and 108.062 (19); and *to create* 108.062 (2m), 108.062 (4) (a)
3 2. and 108.062 (20) of the statutes; **relating to:** payment of unemployment
4 insurance benefits under a work-share program.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Unemployment insurance; work-share programs

Current law allows an employer to create a work-share program within a work unit of the employer. Under a work-share program, the working hours of all of the full-time employees in the program are reduced in an equitable manner in lieu of a layoff of some of the employees and a continuation of full-time employment by the other employees. A claimant for unemployment insurance benefits who is included in a work-share program may receive UI benefits during his or her continued employment with the work-share employer in an amount equal to the claimant's benefit for total unemployment multiplied by the same percentage reduction in normal working hours that the claimant incurs under the program.

This bill suspends all of the following for work-share plans submitted until December 31, 2020:

1. The requirement that a work-share plan be limited to a particular work unit of the employer. The bill instead, during the suspension period, allows a work-share plan to cover any employees of the employer.

BILL

2. The requirement that the reduction in working hours under a work-share program must be at least 10 percent but not more than 50 percent of the normal hours per week of the employees included under the plan. The bill instead, during the suspension period, increases the permissible reduction in working hours under a work-share program to be not more than 60 percent of the normal hours per week of the employees included under the plan.

3. The requirements that at least 10 percent of the employees in a work unit be included in a work-share plan and that the employer provide for initial coverage under the plan of at least 20 positions that are filled on the effective date of the work-share program. The bill instead, during the suspension period, requires only that the work-share plan cover at least two positions that are filled on the effective date of the work-share program.

4. The requirement that reduced working hours be apportioned equitably among employees in the work-share program.

The bill also provides that, during the period specified above, a work-share program becomes effective on the later of the Sunday of or after approval of the work-share plan, instead of the second Sunday after approval of the plan, unless a later Sunday is specified.

The bill, however, allows the secretary to waive the application of the changes described above if doing so is necessary to comply with federal requirements or for this state to qualify for full federal financial participation in the cost of administration of the work-share program and financing of work-share benefits.

The bill also requires the Department of Workforce Development to allow employers to submit work-share plan applications using an online form and to provide assistance to employers with submitting applications and developing work-share plans.

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.** 108.062 (1) (b) of the statutes is amended to read:

2 108.062 (1) (b) "Work-share program" means a program approved by the
3 department under which the hours of work of employees ~~in a work unit~~ are reduced
4 in lieu of the layoffs of 2 or more employees ~~in the work unit~~.

5 **SECTION 2.** 108.062 (2m) of the statutes is created to read:

6 108.062 (2m) APPLICATIONS; DEPARTMENT ASSISTANCE. The department shall
7 allow employers to submit applications under this section using an online form. The

BILL

1 department shall provide assistance to employers with submitting applications and
2 developing work-share plans.

3 **SECTION 3.** 108.062 (3) of the statutes is amended to read:

4 108.062 (3) APPROVAL OF PLANS. The department shall approve a plan if the plan
5 includes all of the elements specified in sub. (2) or (20), whichever is applicable. The
6 approval is effective for the effective period of the plan unless modified under sub.
7 (3m).

8 **SECTION 4.** 108.062 (4) of the statutes is renumbered 108.062 (4) (a) 1. and
9 amended to read:

10 108.062 (4) (a) 1. ~~A~~ Except as provided in subd. 2., a work-share program
11 becomes effective on the later of the Sunday of the 2nd week beginning after approval
12 of a work-share plan under sub. (3) or any Sunday after that day specified in the
13 plan.

14 (b) A work-share program ends on the earlier of the last Sunday that precedes
15 the end of the 6-month period beginning on the effective date of the program or any
16 Sunday before that day specified in the plan unless the program terminates on an
17 earlier date under sub. (5), (14), or (15).

18 **SECTION 5.** 108.062 (4) (a) 2. of the statutes is created to read:

19 108.062 (4) (a) 2. With respect to a work-share plan approved during a period
20 described under sub. (20), the work-share program becomes effective on the later of
21 the Sunday of or after approval of a work-share plan under sub. (3) or any Sunday
22 after that day specified in the plan.

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

24 108.062 (15) INVOLUNTARY TERMINATION. If in any week there are fewer than 20
25 employees who are included in a work-share program of any employer, the program

BILL**SECTION 6**

1 terminates on the 2nd Sunday following the end of that week. This subsection does
2 not apply to a work-share program to which sub. (20) applies.

3 **SECTION 7.** 108.062 (19) of the statutes is amended to read:

4 108.062 (19) SECRETARY MAY WAIVE COMPLIANCE. The secretary may waive
5 compliance with any requirement under this section, or may waive the application
6 of sub. (20), if the secretary determines that the waiver ~~of the requirement~~ is
7 necessary to permit continued certification of this chapter for grants to this state
8 under Title III of the federal Social Security Act, for maximum credit allowances to
9 employers under the federal Unemployment Tax Act, or for this state to qualify for
10 full federal financial participation in the cost of administration of this section and
11 financing of benefits to employees participating in work-share programs under this
12 section.

13 **SECTION 8.** 108.062 (20) of the statutes is created to read:

14 108.062 (20) SUSPENSIONS OF CERTAIN PROVISIONS. Notwithstanding sub. (2),
15 this subsection, and not sub. (2), applies to work-share plans submitted on or after
16 the effective date of this subsection [LRB inserts date], and before December 31,
17 2020, subject to sub. (19). During that period, prior to implementing a work-share
18 program, an employer shall submit a work-share plan for the approval of the
19 department. In its submittal, the employer shall certify that its plan is in compliance
20 with all requirements under this section. Each plan shall:

21 (a) Specify the affected positions, and the names of the employees filling those
22 positions on the date of submittal. The plan need not be limited to a particular work
23 unit.

24 (b) Provide for initial coverage under the plan of at least 2 positions that are
25 filled on the effective date of the work-share program.

BILL

1 (c) Specify the period or periods when the plan will be in effect, which may not
2 exceed a total of 6 months in any 5-year period within the same work unit.

3 (d) Exclude participation by employees who are employed on a seasonal,
4 temporary, or intermittent basis.

5 (e) Apply only to employees who have been engaged in employment with the
6 employer for a period of at least 3 months on the effective date of the work-share
7 program and who are regularly employed by the employer in that employment.

8 (f) Specify the normal average hours per week worked by each employee
9 covered by the plan and the percentage reduction in the average hours of work per
10 week worked by that employee, exclusive of overtime hours. The reduction need not
11 be applied in a uniform manner, but the reduction for each employee shall be at least
12 10 percent but not more than 60 percent of the normal hours per week of that
13 employee.

14 (g) Describe the manner in which requirements for maximum federal financial
15 participation in the plan will be implemented, including a plan for giving notice,
16 where feasible, to participating employees of changes in work schedules.

17 (h) Provide an estimate of the number of layoffs that would occur without
18 implementation of the plan.

19 (i) Specify the effect on any fringe benefits provided by the employer to the
20 employees who are included in the work-share program other than fringe benefits
21 required by law.

22 (j) Include a statement affirming that the plan is in compliance with all
23 employer obligations under applicable federal and state laws.

24 (k) Indicate whether the plan includes employer-sponsored training to
25 enhance job skills and acknowledge that the employees may participate in training

BILL

SECTION 8

1 funded under the federal Workforce Innovation and Opportunity Act, 29 USC 3101
2 to 3361, or another federal law that enhances job skills without affecting availability
3 for work, subject to department approval.

4 (END)

Barman, Mike

From: Horton, Ryan
Sent: Saturday, April 11, 2020 11:59 AM
To: Duchek, Michael
Cc: Ferguson, Paul
Subject: FW: Workshare

I like it. Hold on to this work-share draft for now because we might have one more change.

From: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Sent: Saturday, April 11, 2020 11:24 AM
To: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Subject: Workshare

Here is what I came up with. Let me know what you think.

SECTION 1. 108.062 (19) of the statutes is renumbered 108.062 (19) (intro.) and amended to read:

108.062 (19) SECRETARY MAY WAIVE COMPLIANCE. The secretary may ~~waive compliance with any requirement under this section~~ do any of the following if the secretary determines that ~~waiver of the requirement~~ doing so is necessary to permit continued certification of this chapter for grants to this state under Title III of the federal Social Security Act, for maximum credit allowances to employers under the federal Unemployment Tax Act, or for this state to qualify for full federal financial participation in the cost of administration of this section and financing of benefits to employees participating in work-share programs under this section.;

SECTION 2. 108.062 (19) (a) of the statutes is created to read:

108.062 (19) (a) Waive compliance with any requirement under this section.

SECTION 3. 108.062 (19) (b) of the statutes is created to read:

108.062 (19) (b) Waive the application of sub. (20), in whole or in part, to the extent necessary for any of the purposes specified in this subsection or, to the extent necessary for any of those purposes, require the continued application of any requirement under sub. (2).

Barman, Mike

From: Horton, Ryan
Sent: Saturday, April 11, 2020 12:50 PM
To: Duchek, Michael
Cc: Ferguson, Paul
Subject: RE: Possible work-share change

Yes.

From: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Sent: Saturday, April 11, 2020 12:37 PM
To: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>
Subject: RE: Possible work-share change

Would you want to add this too from DWD's language?

A work-share program shall be governed by the law that was in effect when the plan or modification was last approved under sub. (3) or (3m), until the program ends as provided in sub. (4).

From: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Sent: Saturday, April 11, 2020 12:28 PM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>
Subject: RE: Possible work-share change

Temporary.

From: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Sent: Saturday, April 11, 2020 12:28 PM
To: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>
Subject: Re: Possible work-share change

Do you want this change permanently or just in the temporary provision?

Get [Outlook for Android](#)

From: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Sent: Saturday, April 11, 2020 12:26:14 PM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>
Subject: FW: Possible work-share change

Mike, can you make the below changes to the work-share draft per Tads criteria.

Also, I'll have a change to the non-charging draft. I just need to think it through....

From: Ottman, Tad <Tad.Ottman@legis.wisconsin.gov>
Sent: Saturday, April 11, 2020 11:45 AM
To: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>; Smith, Heather <Heather.Smith@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>; Lang, Bob <Bob.Lang@legis.wisconsin.gov>
Subject: RE: Possible work-share change

I'm fine with that if we allow the hours to be increased to the extent allowed by federal law and for the duration of the federal law change.

From: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Sent: Saturday, April 11, 2020 11:40 AM
To: Ottman, Tad <Tad.Ottman@legis.wisconsin.gov>; Smith, Heather <Heather.Smith@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>; Lang, Bob <Bob.Lang@legis.wisconsin.gov>
Subject: Possible work-share change

Tad and Heather,

Rep. Pocan is pushing for further modifications/flexibility to the federal work-share law which may be included in any possible "CARES II" Act. One of the changes is to increase the maximum allowable workforce reduction under federal law from 60% to 80%.

In our draft we increase the states max from 50% to 60% to match the max allowable reduction under current fed law.

Question: Would you like to provide an option for the state to go up to the max allowable percentage, should the fed law change?

This change was part of the GOV's work-share proposal and was as follows:

- 4 [REDACTED] which shall be at least 10 percent of the normal hours per
5 of that employee but not more than whichever of the following is greater:
- 6 1. Sixty percent of the normal hours per week of that employee.
 - 7 2. The maximum percent reduction of the normal hours per week of
8 employee that is permissible under federal law.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6092/5
MED:all

2019 BILL

1 **AN ACT** *to renumber and amend* 108.062 (4) and 108.062 (19); *to amend*
2 108.062 (1) (b), 108.062 (3) and 108.062 (15); and *to create* 108.062 (2m),
3 108.062 (3r), 108.062 (4) (a) 2., 108.062 (19) (a), 108.062 (19) (b) and 108.062 (20)
4 of the statutes; **relating to:** payment of unemployment insurance benefits
5 under a work-share program.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Unemployment insurance; work-share programs

Current law allows an employer to create a work-share program within a work unit of the employer. Under a work-share program, the working hours of all of the full-time employees in the program are reduced in an equitable manner in lieu of a layoff of some of the employees and a continuation of full-time employment by the other employees. A claimant for unemployment insurance benefits who is included in a work-share program may receive UI benefits during his or her continued employment with the work-share employer in an amount equal to the claimant's benefit for total unemployment multiplied by the same percentage reduction in normal working hours that the claimant incurs under the program.

This bill suspends all of the following for work-share plans submitted until December 31, 2020:

BILL

1. The requirement that a work-share plan be limited to a particular work unit of the employer. The bill instead, during the suspension period, allows a work-share plan to cover any employees of the employer.

2. The requirement that the reduction in working hours under a work-share program must be at least 10 percent but not more than 50 percent of the normal hours per week of the employees included under the plan. The bill instead, during the suspension period, increases the permissible reduction in working hours under a work-share program to be not more than 60 percent of the normal hours per week of the employees included under the plan or the highest permissible reduction allowed under federal law, whichever is greater.

3. The requirements that at least 10 percent of the employees in a work unit be included in a work-share plan and that the employer provide for initial coverage under the plan of at least 20 positions that are filled on the effective date of the work-share program. The bill instead, during the suspension period, requires only that the work-share plan cover at least two positions that are filled on the effective date of the work-share program.

4. The requirement that reduced working hours be apportioned equitably among employees in the work-share program.

The bill also provides that, during the period specified above, a work-share program becomes effective on the later of the Sunday of or after approval of the work-share plan, instead of the second Sunday after approval of the plan, unless a later Sunday is specified.

The bill, however, allows the secretary to waive the application of the changes described above if doing so is necessary to comply with federal requirements or for this state to qualify for full federal financial participation in the cost of administration of the work-share program and financing of work-share benefits.

The bill also requires the Department of Workforce Development to allow employers to submit work-share plan applications using an online form and to provide assistance to employers with submitting applications and developing work-share plans.

The bill also specifies that a work-share program shall be governed by the law that was in effect when the plan was approved, until the program ends as provided under current law.

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. 108.062 (1) (b) of the statutes is amended to read:

BILL

1 108.062 (1) (b) “Work-share program” means a program approved by the
2 department under which the hours of work of employees ~~in a work unit~~ are reduced
3 in lieu of the layoffs of 2 or more employees ~~in the work unit~~.

4 **SECTION 2.** 108.062 (2m) of the statutes is created to read:

5 108.062 (2m) APPLICATIONS; DEPARTMENT ASSISTANCE. The department shall
6 allow employers to submit applications under this section using an online form. The
7 department shall provide assistance to employers with submitting applications and
8 developing work-share plans.

9 **SECTION 3.** 108.062 (3) of the statutes is amended to read:

10 108.062 (3) APPROVAL OF PLANS. The department shall approve a plan if the plan
11 includes all of the elements specified in sub. (2) or (20), whichever is applicable. The
12 approval is effective for the effective period of the plan unless modified under sub.
13 (3m).

14 **SECTION 4.** 108.062 (3r) of the statutes is created to read:

15 108.062 (3r) APPLICABILITY OF LAWS. A work-share program shall be governed
16 by the law that was in effect when the plan or modification was last approved under
17 sub. (3) or (3m), until the program ends as provided in sub. (4).

18 **SECTION 5.** 108.062 (4) of the statutes is renumbered 108.062 (4) (a) 1. and
19 amended to read:

20 108.062 (4) (a) 1. ~~A~~ Except as provided in subd. 2., a work-share program
21 becomes effective on the later of the Sunday of the 2nd week beginning after approval
22 of a work-share plan under sub. (3) or any Sunday after that day specified in the
23 plan.

24 (b) A work-share program ends on the earlier of the last Sunday that precedes
25 the end of the 6-month period beginning on the effective date of the program or any

BILL**SECTION 5**

1 Sunday before that day specified in the plan unless the program terminates on an
2 earlier date under sub. (5), (14), or (15).

3 **SECTION 6.** 108.062 (4) (a) 2. of the statutes is created to read:

4 108.062 (4) (a) 2. With respect to a work-share plan approved during a period
5 described under sub. (20), the work-share program becomes effective on the later of
6 the Sunday of or after approval of a work-share plan under sub. (3) or any Sunday
7 after that day specified in the plan.

8 **SECTION 7.** 108.062 (15) of the statutes is amended to read:

9 108.062 (15) INVOLUNTARY TERMINATION. If in any week there are fewer than 20
10 employees who are included in a work-share program of any employer, the program
11 terminates on the 2nd Sunday following the end of that week. This subsection does
12 not apply to a work-share program to which sub. (20) applies.

13 **SECTION 8.** 108.062 (19) of the statutes is renumbered 108.062 (19) (intro.) and
14 amended to read:

15 108.062 (19) SECRETARY MAY WAIVE COMPLIANCE. (intro.) The secretary may
16 ~~waive compliance with any requirement under this section~~ do any of the following
17 if the secretary determines that ~~waiver of the requirement~~ doing so is necessary to
18 permit continued certification of this chapter for grants to this state under Title III
19 of the federal Social Security Act, for maximum credit allowances to employers under
20 the federal Unemployment Tax Act, or for this state to qualify for full federal
21 financial participation in the cost of administration of this section and financing of
22 benefits to employees participating in work-share programs under this section.;

23 **SECTION 9.** 108.062 (19) (a) of the statutes is created to read:

24 108.062 (19) (a) Waive compliance with any requirement under this section.

25 **SECTION 10.** 108.062 (19) (b) of the statutes is created to read:

BILL

1 108.062 (19) (b) Waive the application of sub. (20), in whole or in part, to the
2 extent necessary for any of the purposes specified in this subsection or, to the extent
3 necessary for any of those purposes, require the continued application of any
4 requirement under sub. (2).

5 **SECTION 11.** 108.062 (20) of the statutes is created to read:

6 108.062 (20) SUSPENSIONS OF CERTAIN PROVISIONS. Notwithstanding sub. (2),
7 this subsection, and not sub. (2), applies to work-share plans submitted on or after
8 the effective date of this subsection [LRB inserts date], and before December 31,
9 2020, subject to sub. (19). During that period, prior to implementing a work-share
10 program, an employer shall submit a work-share plan for the approval of the
11 department. In its submittal, the employer shall certify that its plan is in compliance
12 with all requirements under this section. Each plan shall:

13 (a) Specify the affected positions, and the names of the employees filling those
14 positions on the date of submittal. The plan need not be limited to a particular work
15 unit.

16 (b) Provide for initial coverage under the plan of at least 2 positions that are
17 filled on the effective date of the work-share program.

18 (c) Specify the period or periods when the plan will be in effect, which may not
19 exceed a total of 6 months in any 5-year period within the same work unit.

20 (d) Exclude participation by employees who are employed on a seasonal,
21 temporary, or intermittent basis.

22 (e) Apply only to employees who have been engaged in employment with the
23 employer for a period of at least 3 months on the effective date of the work-share
24 program and who are regularly employed by the employer in that employment.

BILL**SECTION 11**

1 (f) Specify the normal average hours per week worked by each employee in the
2 work unit and the percentage reduction in the average hours of work per week
3 worked by that employee, exclusive of overtime hours, which shall be applied in a
4 uniform manner and which shall be at least 10 percent of the normal hours per week
5 of that employee but not more than whichever of the following is greater:

6 1. Sixty percent of the normal hours per week of that employee.

7 2. The maximum percent reduction of the normal hours per week of that
8 employee that is permissible under federal law.

9 (g) Describe the manner in which requirements for maximum federal financial
10 participation in the plan will be implemented, including a plan for giving notice,
11 where feasible, to participating employees of changes in work schedules.

12 (h) Provide an estimate of the number of layoffs that would occur without
13 implementation of the plan.

14 (i) Specify the effect on any fringe benefits provided by the employer to the
15 employees who are included in the work-share program other than fringe benefits
16 required by law.

17 (j) Include a statement affirming that the plan is in compliance with all
18 employer obligations under applicable federal and state laws.

19 (k) Indicate whether the plan includes employer-sponsored training to
20 enhance job skills and acknowledge that the employees may participate in training
21 funded under the federal Workforce Innovation and Opportunity Act, 29 USC 3101
22 to 3361, or another federal law that enhances job skills without affecting availability
23 for work, subject to department approval.

24 (END)