

No. 229, S.]

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CHAPTER 433

AN ACT to amend 108.02 (4) (f), 108.04 (4) (b), 108.05 (1) (schedule), 108.09 (5), (6) (c) and (d) and (7), 108.10 (2), (4) and (5), 108.11 (1), and 108.22 (8) (a); and to create 108.04 (4) (f) 5 and 108.17 (2m) of the statutes, constituting recommendations made to the 1953 legislature pursuant to 108.14 (5m) by the statutory advisory committee, relating to unemployment compensation and therefore affecting the unemployment reserve fund.

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

SECTION 1. 108.02 (4) (f) of the statutes is amended to read:

108.02 (4) (f) Any employer, including any political subdivision of the state, not otherwise subject to this chapter, who files with the commission * * * his written election to become an "employer" subject hereto for not less than 3 calendar years, shall, with the written approval of such election by the commission, become an "employer" fully subject to this chapter, as of the date and under the condition stated in such approved election. *Any political subdivision may limit its election to one or more of its operating units.*

1. The commission may refuse to approve any such election, in the interests of the proper administration of this chapter. Any election approved by the commission shall be void, in case the electing party was himself "employed" in the same enterprise as the individuals to whom such election applied. The commission may at any time by written notice to the employer terminate any election in the interests of * * * *proper administration of this chapter.*

2. An electing employer may, *after 3 such years*, terminate his election and thereby cease to be an "employer" subject hereto, despite * * * par. (g), at the close of * * * *any week which ends after the month in which he has filed a written notice to that effect with the commission * * *, provided he is not then subject to this chapter under par. (b), (c), (d), or (e).*

SECTION 2. 108.04 (4) (b) of the statutes, subject to the timing specified in section 11 of this act, is amended to read:

108.04 (4) (b) An employe shall be ineligible for benefits, based on his past employment by a given employer, while his applicable "average weekly wage" as to such employer is under * * * §13, *unless s. 108.07 (2) is applied to that employment.*

SECTION 3. 108.04 (4) (f) 5 of the statutes is created (to apply to the future weeks specified in section 12 of this act) to read:

108.04 (4) (f) 5. Outside of his school class hours for not more than 24 hours in the given week, if in such week he is carrying at least a halftime schedule of courses in such school.

SECTION 4. 108.05 (1) (schedule) of the statutes, subject to the timing specified in section 11 of this act, is amended to read:

108.05 (1)		SCHEDULE				Weekly
Line		Average Weekly Wage Class			Benefit Rate	
1.		Under	*	*	*	\$ None
* * *		* * *				* * *
* * *	2.	\$13.00	to	* * *	\$13.00	10
* * *	3.	16.01	to	* * *	19.00	11
* * *	4.	19.01	to	22.00		12
* * *	5.	22.01	to	24.50		13
* * *	6.	24.51	to	27.00		14
* * *	7.	27.01	to	29.50		15
* * *	8.	29.51	to	32.00		16
* * *	9.	32.01	to	34.00		17
* * *	10.	34.01	to	36.00		18
* * *	11.	36.01	to	38.00		19
* * *	12.	38.01	to	40.00		20
* * *	13.	40.01	to	42.00		21
* * *	14.	42.01	to	44.00		22
* * *	15.	44.01	to	46.00		23
* * *	16.	46.01	to	48.00		24
* * *	17.	48.01	to	50.00		25
* * *	18.	50.01	to	52.00		26
* * *	19.	52.01	to	54.00		27
* * *	20.	54.01	to	56.00		28
* * *	21.	56.01	to	58.00		29
* * *	22.	58.01	* * *	to	60.00	30
23.		60.01	to	62.00		31
24.		62.01	to	64.00		32
25.		64.01 or more				33

SECTION 5. 108.09 (5), (6) (c) and (d) and (7) of the statutes are amended to read:

108.09 (5) (a) The manner in which claims shall be presented, the reports thereon required from the employe and from employers, and the conduct of hearings and appeals shall be governed by general commission rules (whether or not they conform to common law or statutory rules of evidence and other technical rules of procedure) for determining the rights of the parties.

(b) All testimony at any hearing under this section shall be taken down by a stenographer, or by a recording machine, but need not be transcribed unless either of the parties requests a transcript prior to expiration of his right to further appeal hereunder and pays to the commission in advance a fee of \$5 therefor, plus * * * 25 cents for each page by which the transcript exceeds * * * 20 pages. When a transcript is thus furnished one of the parties at his request, a copy of the transcript shall be furnished the other party free of charge. The transcript fee thus collected shall be paid to the administration fund.

(6) (c) Within 10 days after expiration of the right of the parties to request a hearing by an appeal tribunal or to petition for review by the commission, or within * * * 30 days after a decision of the commission was mailed to the parties, the commission may on its own motion reverse, change, or set aside the determination or decision, on the basis of evidence previously submitted in such case, or direct the taking of additional testimony.

(d) After an employe's eligibility for benefits has been established by a commission decision or affirmance of the appeal tribunal decision, benefits then due the employe shall be payable to him on the eleventh day after such commission decision or affirmance, * * * unless the commission finds, by resolution duly entered in its minutes, that * * * the case involves an issue of precedencing importance or a labor dispute issue or the actual or potential eligibility of a substantial number or percentage of the employer's employes, in which event such benefits shall become payable only if judicial review has not been duly commenced under sub. (7) or has finally allowed benefits. In case final adjudication determines that benefits paid under this subsection were improperly charged against the employer's account, s. 108.16 (2m) shall apply to the charging and recovery of such payments.

(7) Either party may commence judicial action for the review of a decision of the commission hereunder, provided said party (after exhausting the remedies provided hereunder) has commenced such judicial action within * * * 30 days after a decision of the commission was mailed to his last known address (or within * * * 30 days after the appeal tribunal decision has been affirmed by the commission through its failure to act). Any judicial review hereunder shall be confined to questions of law, and the other pro-

visions of ch. 102 [Stats. 1935; see 1943 c. 181 s. 22] with respect to judicial review of orders and awards shall likewise apply to any decision of the commission reviewed under this section. Any such judicial action may be defended, in behalf of the commission, by any qualified attorney who is a regular salaried employe of the commission and has been designated by it for this purpose, or at the commission's request by the attorney-general.

SECTION 6. 108.10 (2), (4) and (5) of the statutes are amended to read:

108.10 (2) A deputy designated by the commission for the purpose shall investigate the existence and extent of any such liability, and may issue an initial determination accordingly; provided, however, that such a deputy may set aside or amend any such determination at any time on the basis of subsequent information or to correct a clerical mistake. A copy of each determination shall be mailed to the last known address of the employer affected thereby. The employer may request a hearing as to any matter therein, by filing such request with the deputy within * * * 20 days after such mailing and in accordance with such procedure as the commission may by rule prescribe.

(4) The commission's authority to take action as to any issue or proceeding under this section shall be the same as that specified in s. 108.09 (6) (a), (b), and (c) * * *.

(5) The employer may commence action for the judicial review of a commission decision hereunder, provided said employer, after exhausting the remedies provided hereunder, has commenced such action within * * * 30 days after such decision was mailed to his last known address or within * * * 30 days after the appeal tribunal decision has been affirmed by the commission through its failure to act. The scope of judicial review, and the manner thereof in so far as applicable, shall be the same as that provided in s. 108.09 (7).

SECTION 7. 108.11 (1) of the statutes is amended to read:

108.11 (1) No agreement by an employe or by employes to pay any portion of the contributions required under this chapter from employers shall be valid. No employer shall make a deduction for such purpose from wages. Any employe claiming a violation of this provision may, to recover wage deductions wrongfully made, have recourse to the method set up in s. * * * 108.09 for settling disputed *benefit* claims.

SECTION 8. 108.17 (2m) of the statutes is created to read:

108.17 (2m) When a written statement of account is issued to an employer by the commission's unemployment compensation department, showing as duly credited a specified amount received from him under this chapter, no other form of state receipt therefor shall be required.

SECTION 9. 108.22 (8) (a) of the statutes is amended to read:

108.22 (8) (a) In case benefits have been overpaid or improperly paid to an individual, an initial determination may be issued setting forth the individual's liability to reimburse the fund for such overpayment. In that event the individual may appeal therefrom, within * * * 10 days after a copy thereof was mailed to his last known address; and the procedures and limitations prescribed in s. * * * 108.09 shall apply to any such appeal.

SECTION 10. S. 108.14 (13) of the statutes shall apply to all changes, in ch. 108 of the statutes, effected by this act.

SECTION 11. The changes effected by this act in s. 108.04 (4) (b) and in s. 108.05 (1) of the statutes shall apply only to those benefit determinations, issued under ch. 108 of the statutes, which include one or more credit weeks (as defined in said chapter) ending after the calendar week in which this act is officially published.

SECTION 12. The other changes effected by this act in ch. 108 of the statutes shall apply to all actions taken by the industrial commission (and to all calendar weeks completed) under said chapter after the close of the calendar week in which this act is officially published.

SECTION 13. This act shall take effect upon passage and publication.

Approved July 2, 1953.