

No. 409, S.

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CHAPTER 145

AN ACT to repeal 108.06 (3) (f), 108.161 (11) and (12) and 108.18 (8); to amend 108.02 (8) (d), (11), (11m) and (12m), 108.04 (1) (d) and (e), (4) (a) and (a1), (7) (c), (11) (a), (13) (c) (intro. par.) and (15) (c), 108.05 (4) (b) and (5), 108.06 (3) (a) and (c), 108.07 (1) (a), 108.141 (1), 108.16 (6) (j) and (7) (c) and 108.18 (2), (3) (a), (4) (a) and (5); to repeal and recreate 108.04 (3), 108.06 (1) (a) 2 and 108.141 (2); and to create 108.02 (4) (h), (24) and (25), 108.04 (1) (g), (2) (c), (10m) and (12) (f), 108.05 (2) (g), 108.06 (2m), 108.061, 108.09 (6m), 108.14 (9r), 108.141 (5), 108.15 (4) (fr) and 108.20 (9) of the statutes, constituting recommendations made to the 1963 legislature pursuant to 108.14 (5m) by the statutory advisory committee, relating to unemployment compensation, granting rule making authority, and 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) (h) of the statutes is created to read:

108.02 (4) (h) The commission shall not terminate any employer's coverage under par. (g) 3, if during any calendar year (or year ending on

a computation date) of his coverage his payroll for such year was \$20,000 or more or if on any computation date his employer's account was overdrawn, until 6 years have elapsed since the close of the last such year or since the most recent such computation date (next following a calendar year of some payroll).

SECTION 2. 108.02 (8) (d), (11), (11m) and (12m) of the statutes are amended to read:

108.02 (8) (d) If a higher amount is applied pursuant to par. (c), the employer contribution rates (on payroll) determined under s. 108.18 for the * * * *first* calendar year to which that higher amount applies shall be modified as follows: As to each employer to whom an experience rate then applies under s. 108.18, the contribution rate determined for him under s. 108.18 for that * * * *first* calendar year shall be reduced by one-tenth of one per cent (on his payroll for that year), except where said rate is zero per cent.

(11) "Reserve percentage" shall for contribution purposes refer to the status of an employer's account, as determined by the commission as of the applicable "computation date". In calculating an employer's net reserve as of any computation date, his account shall be charged with benefits * * * *paid* on or before said date, * * * and shall be credited with contributions, on his payroll through said date, if paid by the close of * * * *the month which follows said date* or if paid pursuant to s. 108.18 (7) and within the period therein specified. The employer's "reserve percentage" means his account's net reserve as of the computation date, stated as a percentage of his "payroll" in the year ending on such date or in the year applicable under s. 108.18 (6).

(11m) "Computation date" means that date as of the close of which the commission computes reserve percentages and determines contribution rates for the next calendar year. The computation date shall be June 30, starting in * * * 1963 * * *.

(12m) "52 weeks" means 52 consecutive weeks, or 53 consecutive weeks if they include the fifty-third week ending in a calendar year, for the purposes of any * * * determination issued under this chapter as to an employe's base period or benefit year.

SECTION 3. 108.02 (24) and (25) of the statutes are created to read:

108.02 (24) An employe's "benefit year" means the period for which his benefit rights are determined under ss. 108.06 and 108.061.

(25) An employe's "base period" means the period, immediately preceding his benefit year, which is used to determine his benefit rights for that year pursuant to ss. 108.06 and 108.061.

SECTION 4. 108.04 (1) (d) and (e) of the statutes are amended to read:

108.04 (1) (d) 1. A woman whose eligibility is suspended under par. (c) shall continue to be ineligible, after the 4 weeks specified in par. (c), until the week in which she has notified her most recent employer that she is physically able to work and available for work.

2. *Thereafter, until she has had 30 hours of employment in a week, she shall not be eligible for benefits for any week unless she establishes to the satisfaction of the commission that during such week she has made an active and bona-fide search for employment.*

(e) An individual who is self-employed shall not be eligible for benefits for any week in which he has worked * * * at his self-employment, unless he establishes to the satisfaction of the commission that during such week he made an active and bona-fide search for employment.

SECTION 5. 108.04 (1) (g) and (2) (c) of the statutes are created to read:

108.04 (1) (g) In case an individual claims benefits based on his employment by a corporation, if he and the members of his immediate family together own 51 per cent or more of its voting stock, or if he and his spouse together own 20 per cent or more of its voting stock and one of them was during such employment an officer or director of the corporation, then:

1. The corporate employer shall so inform the commission on its reports (as to such individual) for benefit purposes; and
2. The individual shall so report, when claiming benefits; and
3. The individual shall not be eligible for benefits based on such employment for any week of his unemployment, unless he establishes to the satisfaction of the commission that during such week he made an active and bona-fide search for employment.

(2) (c) A claimant who earns or receives wages for one or more weeks of unemployment may be required, pursuant to commission rules, to register and be available for work in order to be or remain eligible for benefits for any such week.

SECTION 6. 108.04 (3) of the statutes is repealed and recreated to read:

108.04 (3) WAITING PERIOD. The first week of an employe's benefit year shall be his "waiting period" for that year.

SECTION 7. 108.04 (4) (a) and (a1) and (7) (c) of the statutes are amended to read:

108.04 (4) (a) An employe shall not be eligible to * * * *start a benefit year with any given week of unemployment unless he has had a total of 18 or more "weeks of employment" from one or more employers within the 52 weeks preceding * * * that week * * * or within those 52 weeks plus the number of any weeks over 7 (occurring within those 52 weeks) for which he received dismissal or termination pay, or temporary total disability payments under ch. 102.*

(a1) Paragraph (a) shall not disqualify an employe who has had 14 or more but less than 18 weeks of employment, within the 52 weeks specified by par. (a), if he has totaled 55 or more weeks of employment, including weeks under par. (af), within * * * *those 52 weeks * * * plus any base period which ended not more than 10 weeks before the start of those 52 weeks.*

(7) (c) Paragraph (a) shall not apply if the commission determines that the employe terminated his employment for compelling personal reasons; provided that * * * :

1. If the commission determines that he is physically unable to work or substantially unavailable for work, he shall be ineligible while such inability or unavailability continues.

2. *An employe who terminates his employment to accompany his spouse to, or to join his spouse at, a different location shall be ineligible until he has again been employed within at least 4 weeks and has earned wages of at least \$200.*

SECTION 8. 108.04 (10m) of the statutes is created to read:

108.04 (10m) If the active progress of such a strike or other bona-fide labor dispute ends on a Sunday, it shall not be deemed under sub. (10) to be in active progress in the calendar week beginning on that Sunday as to any employe who did not normally work on Sundays in such establishment.

SECTION 9. 108.04 (11) (a) of the statutes is amended to read:

108.04 (11) (a) If a claimant, in filing his claim for any week, conceals any part of his wages earned in or paid or payable for that week, or conceals his refusal (within that week) of a job offer, so much of any benefit payment as was paid because of such concealment shall be recovered as an overpayment.

SECTION 10. 108.04 (12) (f) of the statutes is created to read:

108.04 (12) (f) The provisions of this subsection, denying an individual's eligibility for benefits under this chapter as to any week for which he receives any type of benefit or allowance (or supplementary payment) for unemployment under any federal law, shall not prevent benefits under this chapter from being paid to an otherwise eligible individual who may later be (but has not yet been) held to have been "adversely affected" and therefore eligible for a "trade readjustment allowance" under the federal Trade Expansion Act of 1962 (P.L. 87-794). As to any such individual, and any week for which such benefits have been paid to him and for which such a federal allowance later becomes payable to him, those benefits, if federally reimbursed to the commission and the fund, shall be treated as a (partial) federal allowance payment to him for such week, and the commission may, pursuant to an agreement under said act, pay him any additional federal allowance due him for such week. In any such case, the individual's benefit credits under this chapter shall be restored accordingly, and the relevant amount of federal reimbursement shall be credited by the commission to the proper employer's account in the fund.

SECTION 11. 108.04 (13) (c) (intro. par.) and (15) (c) of the statutes are amended to read:

108.04 (13) (c) (intro. par.) In case an employer, after a request therefor has been duly mailed to him, fails to file the required report on the eligibility, weekly benefit rate and credit weeks of an employe who has claimed benefits from the employer's account, or if such report is received more than 7 days after such mailing * * *:

(15) (c) Shall, if payable, be determined for any such week by treating as if it were wages:

1. *That amount of the employe's weekly rate of retirement payments which has been financed by his employer or others (and not by the employe's own contributions), under any retirement system where such amount is separately calculated or can be estimated with reasonable accuracy, provided acceptable evidence as to such amount is furnished the commission.*

2. All but \$5 of the employe's weekly rate of * * * retirement payments * * * under one or more other retirement systems.

SECTION 12. 108.05 (2) (g) of the statutes is created to read:

108.05 (2) (g) Whenever the result obtained under par. (c) is \$1 or more higher (or lower) than the current half year's maximum weekly benefit rate, then the weekly benefit rate of any outstanding benefit determination whose weekly benefit rate in the current half year is at the maximum of that current half year shall be increased (or lowered) by \$1 as to any checks issued thereunder after that current half year.

SECTION 13. 108.05 (4) (b) and (5) of the statutes are amended to read:

108.05 (4) (b) An employe's vacation pay shall, for benefit purposes, be treated as wages for a given week only if it has by the close of that week become definitely allocated and payable to the employe for that week

and he has had due notice * * * thereof, and only if such pay (until fully assigned) is allocated:

1. At not less than the employee's approximate full weekly wage rate; or

2. Pursuant to any other reasonable basis of allocation, including any basis commonly used in computing the vacation rights of employees.

(5) An employee's dismissal or termination pay shall, for benefit purposes, be treated as wages for a given week only if it has by the close of that week become definitely allocated and payable to the employee for that week, and he has had due notice thereof, and only if such pay (until fully assigned) is allocated:

(a) At not less than the employee's approximate full weekly wage rate; or

(b) Pursuant to any other reasonable basis of allocation, including any basis commonly used in computing the termination pay of employees.

SECTION 14. 108.06 (1) (a) 2. of the statutes is repealed and recreated to read:

108.06 (1) (a) 2. Within the employee's base period, for the benefit year in question, determined pursuant to s. 108.061.

SECTION 15. 108.06 (2m) of the statutes is created to read:

108.06 (2m) MAXIMUM DURATION OF BENEFITS. If the credit weeks available in an employee's base period would permit two or more benefit determinations allowing him a total of more than 34 weeks of benefits for total unemployment in his benefit year, such total shall be reduced to 34 weeks of such benefits by eliminating the last benefit credits available to be charged.

SECTION 16. 108.06 (3) (a) and (c) of the statutes are amended to read:

108.06 (3) (a) In no case shall the fund remain or be liable to pay benefits to an employee, based on * * * credit weeks in his base period, for any week of unemployment occurring * * * after the close of the employee's * * * ensuing benefit year, determined pursuant to s. 108.061.

(c) A given determination shall cease to apply only when all benefit credits available thereunder have been charged or canceled, or as to unemployment occurring * * * after the close of the * * * benefit year to which such determination applies.

SECTION 17. 108.06 (3) (f) of the statutes is repealed.

SECTION 18. 108.061 of the statutes is created to read:

108.061 BASE PERIOD AND BENEFIT YEAR. (1) There shall be payable to an employee, for weeks ending within his benefit year, only those benefits determined for that benefit year based on his credit weeks in his immediately preceding base period.

(2) Except as this section provides otherwise, an employee's "base period" shall be the 52 weeks which immediately precede a "valid new claim week", and his "benefit year" shall be the 52 weeks which begin with a "valid new claim week".

(3) An employee shall have a "valid new claim week" (starting a new benefit year) if all the following conditions are met:

(a) The week is not within an unexpired benefit year.

(b) He is totally or partially unemployed in that week, and has claimed as to that week pursuant to s. 108.08 (1).

(c) He has registered for work pursuant to s. 108.04 (2), if it applies to that week.

(d) As of the start of that week, he has qualifying employment pursuant to s. 108.04 (4) (a), (af), (a1) and (b).

(e) As of the start of that week, he has some uncanceled and uncharged credit weeks in the preceding 52 weeks, or in any longer base period which would apply under sub. (4).

(f) He is otherwise eligible as to that week.

(g) As of the start of that week, he has no benefit credits still available, under any outstanding benefit determination.

(4) If an employe receives dismissal or termination pay, or temporary total disability payments under ch. 102:

(a) For more than 7 of the 52 weeks preceding a valid new claim week, his base period shall be lengthened by the number of weeks over 7 (occurring within those 52 weeks) for which he received such payments.

(b) For more than 17 of the 52 weeks of a benefit year, that benefit year shall be lengthened by the number of weeks over 17 (occurring within those 52 weeks) for which he received such payments.

(5) An employe's first benefit year shall begin under this section only when he has a "valid new claim week" under sub. (3).

(6) If a claimant has already had a waiting period week in 1963, no additional waiting period week shall be required of him at the start of any "benefit year" which begins in 1963.

(7) As to any claimant whose first benefit year begins in 1963, its length shall depend on how many uncanceled and uncharged credit weeks remain in his base period, as of the start of said benefit year, as follows:

(a) If less than 10 such credit weeks remain, his first benefit year shall last 20 weeks.

(b) If 10 or more but less than 20 such credit weeks remain, his first benefit year shall last 30 weeks.

(c) If 20 or more but less than 30 such credit weeks remain, his first benefit year shall last 40 weeks.

(d) If 30 or more such credit weeks remain, his first benefit year shall last 52 weeks.

SECTION 19. 108.07 (1) (a) of the statutes is amended to read:

108.07 (1) (a) In case an employe is unemployed and eligible as to 2 or more employers in the same week, and has claimed benefits, he shall, for the purposes of this subsection and s. 108.04 (13), be deemed to have claimed benefits from the account of each such employer; but his benefits for such unemployment in such week shall be paid only from the account of that one of such employers by whom he was most recently employed *within his base period*, except as provided in this section.

SECTION 20. 108.09 (6m) of the statutes is created to read:

108.09 (6m) MAILED APPEALS. If an appeal under sub. (2) or (2m) or (2r) or (6) (b) is received after the 10 days time limit therein specified, the commission shall nevertheless, if such appeal is mailed and postmarked within that time limit, accept it as timely as to any benefit checks not yet issued on the day when such appeal is received.

SECTION 21. 108.14 (9r) of the statutes is created to read:

108.14 (9r) The commission may continue to pay training allowances and related payments to trainees pursuant to an agreement under the federal Manpower Development and Training Act of 1962 (P. L. 87-415) from federal moneys made available to the commission for that purpose; and may also use pursuant to such an agreement any state matching money made available to the commission for that purpose, but only if and when such matching is required by said act, including any amendment thereof.

SECTION 22. 108.141 (1) of the statutes is amended to read:

108.141 (1) If a * * * federal enactment provides for complete federal financing of added weeks of benefits to be paid (*after regular benefits*) by the commission, for weeks within a period (of heavier unemployment) specified by or to be determined pursuant to such enactment, to unemployed individuals qualifying and eligible * * * for such extended benefits, subject to an agreement between the commission and the secretary of labor as to such benefits, the commission shall execute such an agreement and shall pay such benefits accordingly.

SECTION 23. 108.141 (2) of the statutes is repealed and recreated to read:

108.141 (2) If a federal enactment provides for joint federal-state financing of such a program of extended benefits, with at least half the cost to be federally financed, in any state which accepts the program and finances its share of the cost, the commission shall execute an agreement to pay such benefits, from the fund's balancing account, and shall charge to said account the state's share of said cost.

SECTION 24. 108.141 (5) of the statutes is created to read:

108.141 (5) No agreement executed by the commission under sub. (2) shall pay extended benefits for any week ending after July 3, 1965.

SECTION 25. 108.15 (4) (fr) of the statutes is created to read:

108.15 (4) (fr) As to the account of any state government unit, a 4 per cent limit shall apply in lieu of the "2 per cent" limit of par. (f).

SECTION 26. 108.16 (6) (j) and (7) (c) of the statutes are amended to read:

108.16 (6) (j) Any federal reimbursement of benefits paid under this chapter, *except as this chapter or a federal agreement requires otherwise.*

(7) (c) Whenever, as of any computation date, the net overdrafts then charged against an employer's account would, even if reduced by any contributions known or subsequently discovered to be then payable but unpaid to such account, exceed * * * 10 per cent of his annual payroll (namely, the payroll amount used in determining his reserve percentage as of that computation date), the fund's treasurer shall, solely for the purpose of computing future reserve percentages, write off (by charging directly to the fund's balancing account) the amount by which such overdrafts would (if thus reduced) exceed * * * 10 per cent of said payroll * * *.

SECTION 27. 108.161 (11) and (12) of the statutes are repealed.

SECTION 28. 108.18 (2), (3) (a), (4) (a) and (5) of the statutes are amended to read:

108.18 (2) (a) An employer's contribution rate shall be 2.7 per cent on his payroll for each of the first 3 calendar years with respect to which contributions are credited to his account * * * , *except as an additional contribution applies under par. (b).*

(b) *As to each of those first 3 calendar years, if the employer's payroll for any such year was \$20,000 or more, he shall be required to pay an additional contribution at the rate of 1.3 per cent on that calendar year's payroll, within 60 days after notice from the commission that such additional contribution is payable, if his account:*

1. *At the close of that calendar year was overdrawn (on a cash basis, with the benefits paid and charged to the account exceeding the contributions paid and credited thereto, through said close of year); or*

2. *As of the next June 30 computation date was overdrawn (with a negative reserve percentage).*

(3) (a) Benefits have been chargeable to the employer's account during the * * * 18 months preceding such date; and

(4) (a) If such reserve percentage is less than zero (because his account is overdrawn), such rate shall be:

1. 4 per cent, *unless a higher rate applies under this paragraph.*

2. *For 1965 or any subsequent calendar year, 4.2 per cent, if such reserve percentage is minus 2 per cent or lower, unless a higher rate applies under this paragraph.*

3. *For 1966 or any subsequent calendar year, 4.4 per cent, if such reserve percentage is minus 4 per cent or lower, unless a higher rate applies under this paragraph.*

(5) To prevent unduly sharp increases in contribution rates during bad years, an employer's contribution rate for any calendar year shall in no case exceed by more than one per cent (on payroll) the rate which applied to him at the close of the preceding calendar year, *except under sub. (2).* * * *

SECTION 29. 108.18 (8) of the statutes is repealed.

SECTION 30. 108.20 (9) of the statutes is created to read:

108.20 (9) As to the employment security portion of said capital costs, determined pursuant to sub. (8), there shall be charged to the moneys available under s. 108.161, in lieu of the higher amount specified by sub. (8), only \$1,800,000, with any balance of said portion charged, pursuant to sub. (5), to the employment security moneys available under s. 20.440 (74). There shall also be charged to the moneys available under s. 108.161, until such moneys are fully obligated, any amounts spent or firmly obligated by March 24, 1963, for employment security local office building projects, with any remaining cost of such projects charged to the employment security moneys available under s. 20.440 (74), pursuant to sub. (5).

SECTION 31. Section 108.14 (13) of the statutes shall apply to all changes in ch. 108 of the statutes effected by this act.

SECTION 32. The changes effected by this act in ss. 108.02 (11) and (11m), 108.16 (7) (c) and 108.18 (2), (3) and (5) of the statutes shall take effect as of the June 30, 1963 "computation date" (as defined in ch. 108 of the statutes), without thereby affecting any employer's experience rate (under said chapter) as to wages paid before 1964.

SECTION 33. The changes effected by this act in s. 108.04 (1) (d) of the statutes shall apply only where the date of childbirth, under s. 108.04 (1) (c) of the statutes, occurs after the official publication date of this act.

SECTION 34. The changes effected by this act in s. 108.04 (1) (e) and (g), (10m) and (11) of the statutes shall apply only to calendar weeks which begin after the official publication date of this act.

SECTION 35. The changes effected by this act in ss. 108.04 (4) (a), (7), (13) and (15), 108.05 (4) and (5), 108.06, 108.061 and 108.07 of the statutes shall apply only to benefit determinations (under ch. 108 of the statutes) issued after the official publication date of this act as to weeks of unemployment beginning after said publication date.

SECTION 36. The changes effected by this act in s. 108.04 (4) (a1) of the statutes shall apply only to benefit determinations (under ch. 108 of the statutes) issued after June 1964.

SECTION 37. The changes effected by this act in s. 108.05 (2) of the statutes shall apply to benefit checks issued (under ch. 108 of the statutes) after 1963, except where s. 108.09 (6) (e) of the statutes applies.

SECTION 38. The changes effected by this act in s. 108.15 (4) of the statutes shall apply only to benefits (under ch. 108 of the statutes) paid after 1963.

SECTION 39. This bill is declared to be an emergency bill, in accordance with section 16.47 (2) of the statutes.

Approved June 27, 1963.
