

1973 Assembly Bill 934

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CHAPTER 247, Laws of 1973

AN ACT to repeal 108.02 (5) (f) 4, 7 and 9, 108.04 (1) (c) and (d) and (4) (b) and (c), 108.09 (6m), 108.14 (10) and 108.15 (4) (fm) and (fr); to amend 108.02 (4) (a) and (f) (intro.) and 1, (5) (f) (intro.) and 6 and (g) 21. c and (13), 108.04 (4) (a), (aL), (ar), (7) (h) 1, (9) (b), (13) (b) and (16) (a) (intro.) and 2, 108.05 (2) (c) and (g) and (2m) (b), 108.061 (3) (d) and (4) (intro.), 108.09 (2), (2m), (2r), (3), (6) (b) and (c) and (7) (a) and (b), 108.10 (2), 108.11 (1), 108.14 (8n) (e) and (9m), 108.141 (1) (g) and (j) 1, 108.15 (4) (f), 108.151 (2) (a), (4) (a) 1 and (5) (f), 108.16 (6m) (c), (8) (a) (intro.) and (b) to (f), (10) and (10m), 108.17 (4), 108.18 (9) (d), 108.22 (8) (a) and 108.24 (3); and to create 108.02 (4) (ag) and (ar), (5) (g) 22, (28) and (29), 108.04 (18) and 108.09 (6) (d) of the statutes, relating to unemployment compensation, and 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) (a) of the statutes is amended to read:

108.02 (4) (a) "Employer", except where the term by its context may apply to any unit employing one or more individuals, means any person, partnership, association, corporation, whether domestic or foreign (or legal representative or trustee in bankruptcy or receiver or trustee of a person, partnership, association or corporation, or legal representative of a deceased person), including ~~this state and any city of the 1st class (but excluding any other political subdivision)~~ every school district, every other government unit other than a county, city, village or town whose population, according to the latest available federal decennial census figures, does not exceed 5,000 and any fraternal benefit society as defined in s. 208.01, who is subject to this chapter under the statutes of ~~1969~~ 1971, or who has had employment in ~~Wisconsin~~ this state and becomes subject to this chapter under this subsection. This paragraph is subject to the effective dates provided under pars. (ag) and (ar).

SECTION 2. 108.02 (4) (ag) and (ar) of the statutes are created to read:

108.02 (4) (ag) Any government unit other than a county, city, village or town whose population, according to the latest available federal decennial census figures, does not exceed 5,000 and which was not subject to this chapter under the statutes of 1971 shall become an "employer" subject to this chapter as of the beginning of 1974, except that any such government unit which comes into existence after 1973 shall become an "employer" subject to this chapter as of the beginning of the year in which it comes into existence.

(ar) Any county, city, village or town whose population according to the latest available decennial census figures does not exceed 5,000 shall become an "employer" subject to this chapter as of the beginning of the year following the year of the federal decennial census which shows that its population exceeds 5,000.

SECTION 3. 108.02 (4) (f) (intro.) and 1 and (5) (f) (intro.) of the statutes are amended to read:

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

1. The department may refuse to approve any such election by an employer other than a ~~political subdivision~~ government unit, in the interests of the proper administration of this chapter. The department shall not approve any such election by a nonprofit organization unless the employer also elects reimbursement financing in accordance with s. 108.151 (2), and shall terminate such election ~~hereunder~~ under this chapter if the election of reimbursement financing is terminated pursuant to s. 108.151 (3). Any election approved by the department shall be void, in case the electing party was himself "employed" in the same enterprise as the individuals to whom such election applied. The department may at any time by written notice to the employer terminate any election other than one by a ~~political subdivision~~ government unit in the interests of proper administration of this chapter.

(5) (f) (intro.) The term "employment", as applied to work for a governmental government unit, except as such unit duly elects otherwise with the department's approval, ~~shall~~ does not include:

SECTION 4. 108.02 (5) (f) 4, 7 and 9 of the statutes are repealed.

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SECTION 5. 108.02 (5) (f) 6 and (g) 21. c of the statutes are amended to read:

108.02 (5) (f) 6. Employment by a ~~governmental~~ government unit other than in a hospital or institution of higher education in a given week, for the removal of snow or ice or for work connected with floods, of an individual who has worked for such ~~governmental~~ government unit in 6 or less of the 52 weeks preceding the given week;

(g) 21. c. Solely within the customary vacation days or periods of his school ~~which occur before~~ unless he has graduated from his school and he does not reenter school in the next succeeding school term after the expiration of the vacation period.

SECTION 6. 108.02 (5) (g) 22 of the statutes is created to read:

108.02 (5) (g) 22. Employment by an employer who is engaged in the canning of fresh perishable fruits or vegetables within a given calendar year of an employe who has been employed by such employer within fewer than 17 weeks and solely within the active canning season or seasons, as determined by the department, of the establishment in which he has been employed by such employer, unless he had earned wages for services performed for one or more other covered employers, and submits adequate evidence of such wages, of \$200 or more during the 52 weeks preceding his first week of employment by the canning employer ending within that year.

SECTION 7. 108.02 (13) of the statutes is amended to read:

108.02 (13) WEEKS OF EMPLOYMENT. An employe's "weeks of employment" by an employer means all those weeks ~~within each of in~~ which the employe has performed any wage-earning services for the employer in employment subject to this chapter and, when requested by the employe, all those weeks for which the employe's vacation pay or dismissal or termination pay was allocable as wages for benefit purposes and for which benefits were not paid.

SECTION 8. 108.02 (28) and (29) of the statutes are created to read:

108.02 (28) GOVERNMENT UNIT. "Government unit" means this state, any school district, county, city, village, town or other public corporation or entity, or any combination thereof and any agency of any of the foregoing.

(29) SCHOOL DISTRICT. "School district" means any common school district, union high school district, unified school district, city school district, and any school system organized pursuant to ch. 119, which operates one or more public schools. "Public school" means any school, other than an institution of higher education, supported wholly or substantially from public funds.

SECTION 9. 108.04 (1) (c) and (d) and (4) (b) and (c) of the statutes are repealed.

SECTION 10. 108.04 (4) (a), (aL) and (ar), (7) (h) 1, (9) (b), (13) (b) and (16) (a) (intro.) and 2 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~~ 17 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, or back pay within the meaning and limits of s. 108.05 (6).

(aL) Paragraph (a) shall not disqualify an employe who has had 14 or more but less than ~~18~~ 17 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.

(ar) Paragraph (a) shall not disqualify an employe who has had 10 or more but less than ~~48~~ 17 weeks of covered employment, within the 52 weeks specified by par. (a), if he has within those 52 weeks earned \$1,000 or more in gross wages for noncovered work performed in ~~Wisconsin~~ this state.

(7) (h) 1. ~~The first 4 weeks of~~ Any benefits paid based on the employment terminated to which par. (a) is applied shall be charged against ~~the employer's account. Any further such benefits shall be charged against~~ the fund's balancing account; but the employer shall ~~continue to~~ be recognized as an interested party.

(9) (b) If the wages, hours (including arrangement and number) or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(13) (b) Unless an employer has duly notified the department (in such manner and within such time limit as the department's rules and regulations may prescribe) that he believes a designated provision of this section or of the "employment" definition of s. 108.02 should operate to deny benefits from his account to the given employe for the week or weeks in question, or unless the department applies par. (a) of this subsection, no provision of this section or of such definition shall operate to deny such benefits to such employe; provided, however, that this subsection shall not affect the application of subs. (2), (3), (4) (a) ~~and (b)~~, (8) and (11), even though the department has not been thus notified; and provided, further, that said sub. (2) shall not apply to a case for which the employer in question expressly waives its application by written notice to and with the approval of the department.

(16) (a) (intro.) Benefits shall not be denied, nor shall sub. (1) ~~(d) 2~~, (e), or (g) 3, (2) or (8) operate to deny benefits to any otherwise eligible individual for any week because he is enrolled in a full-time course of vocational training or basic education which is a prerequisite to such training, provided it is determined that:

2. ~~The individual is enrolled in a full-time course of basic education or occupational training which~~ course is expected to increase his opportunities to obtain employment, is of not more than 10 months duration, does not grant substantial credit leading to a bachelor's or higher degree, and is given by a school established under s. 38.02 or other training institution approved by the department; and

SECTION 11. 108.04 (18) of the statutes is created to read:

108.04 (18) SERVICE IN A SCHOOL YEAR POSITION. An individual whose service for a government unit other than a hospital or institution of higher education, in a regular annual school-year position is terminated or suspended at the start of or during a customary vacation period of the individual or of the school or schools in relation to which the services were performed shall not be eligible for benefits based on such service for any week which begins or ends during that vacation period. An individual employed as a substitute teacher shall also be ineligible for benefits based on such work during any vacation period.

SECTION 12. 108.05 (2) (c) and (g) and (2m) (b) of the statutes are amended to read:

108.05 (2) (c) Based on the amount of "average wages per average week" thus determined, this chapter's maximum weekly benefit rate, as to benefit determinations

issued in the ensuing half year (starting January 1 or July 1), shall equal the result obtained by rounding ~~60%~~ 63% beginning on the 1st Monday in July, 1974 and 66-2/3% beginning the first Monday in 1975 of said "average wages per average week" to the nearest multiple of one dollar.

(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 adjusted, if necessary, to conform to the newly established schedule~~ as to any checks issued ~~thereunder~~ under that determination after that current half year.

(2m) (b) The department shall determine, when it makes the determination under sub. (2), an amount which is ~~one-fourth~~ 19% of the applicable maximum weekly benefit rate.

SECTION 13. 108.061 (3) (d) and (4) (intro.) of the statutes are amended to read:

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

(4) (intro.) If an employe receives ~~dismissal or termination pay, or~~ temporary total disability payments under ch. 102, or back pay within the meaning and limits of s. 108.05 (6):

SECTION 14. 108.09 (2), (2m), (2r), (3) and (6) (b) and (c) of the statutes are amended to read:

108.09 (2) INITIAL DETERMINATION. A deputy designated by the department shall promptly determine whether or not the claim is valid and the amount of benefits apparently payable ~~thereunder~~ under the claim, and shall also determine whenever necessary whether or not the employe's eligibility for benefits has been suspended or terminated; ~~provided, however, that the~~ The deputy may set aside or amend a 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~~ last-known address of each of the parties. Either party to the determination may request a hearing as to any matter therein, by filing such request within ~~10~~ 14 days after such mailing and in accordance with procedure prescribed by the department; except that the employer may not request a hearing with respect to benefits already paid in accordance with his concession of liability.

(2m) DETERMINATION ON EMPLOYEE'S STATEMENT. In any case in which an employe has filed a claim for benefits from an employer's account, the employe's statement may be taken as to his eligibility, weekly benefit rate, and credit weeks. In any such case a department deputy may issue a determination as to the employe's benefit rights, based on the employe's statement and on any other information then available. In accordance with sub. (2), such determination shall be mailed to the ~~last known~~ last-known address of each of the parties, and either party to the determination may request a hearing as to any matter therein, by filing such request within ~~10~~ 14 days after such mailing and in accordance with procedure prescribed by the department; ~~but the~~ The employer's request shall be valid only if his report (as to the eligibility, weekly benefit rate, and credit weeks of the employe) is included in (or, if filed earlier, incorporated by specific reference in) such request.

(2r) HEARING REQUEST. The employe's copy of any benefit determination may be given to him, instead of being mailed to him; ~~and he.~~ He may in that event request a hearing as to any matter ~~therein in the determination~~ by duly filing such request within ~~10~~ 14 days after such delivery.

(3) APPEALS. (a) Unless ~~such the~~ request for a hearing is withdrawn, each of the parties shall be afforded reasonable opportunity to be heard, and the claim thus disputed shall be promptly decided by such appeal tribunal as the department designates or establishes for this purpose, or by the commission as provided in sub. (6).

(b) At the discretion of the department or the appeal tribunal the hearing may be held in more than one location and may be continued, adjourned or postponed from time to time.

(c) If the party requesting a hearing fails to appear at the hearing, the appeal tribunal or an examiner designated for this purpose may dismiss issue its decision dismissing the appeal, provided that due notice of the hearing was mailed to the party's last known last-known address and good cause for his failure to appear has not been shown said examiner within 10 days after the hearing date.

(d) If the other party fails to appear at the hearing, the appeal tribunal shall proceed with the hearing, provided that due notice of the hearing was mailed to said party's last known last-known address, and may issue its decision without further hearing, provided that good cause for his failure to appear has not been shown said examiner within 10 days after the hearing date.

(e) If a party, having failed to appear at a hearing, shows probable good cause for such failure to the appeal tribunal within 10 days after the hearing date or within 5 days after the decision was mailed to his last-known address, whichever last occurs, the appeal tribunal may set aside its decision and afford further opportunity to be heard, either before the same or another appeal tribunal.

(6) (b) Either party may petition the commission for review of an appeal tribunal decision, pursuant to general department rules, within ~~10~~ 14 days after it was mailed to his ~~last known last-known~~ address. Promptly after the filing of such a petition, the commission ~~may either shall~~ dismiss it as not timely at any level or may affirm, reverse, change, or set aside such decision, on the basis of the evidence previously submitted in such case, or direct the taking of additional testimony.

(c) Within ~~10~~ 14 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.

SECTION 15. 108.09 (6) (d) of the statutes is created to read:

108.09 (6) (d) The commission may on its own motion, for reasons it deems sufficient, set aside any final deputy's determination or appeal tribunal or commission decision within one year from the date thereof upon grounds of mistake or newly discovered evidence, and may make new findings and a decision, after affording reasonable opportunity for hearing, or it may reinstate the previous findings and decision.

SECTION 2. 108.09 (6m) of the statutes is repealed.

SECTION 17. 108.09 (7) (a) and (b) of the statutes are amended to read:

108.09 (7) (a) Either party may commence judicial action for the review of a decision of the commission ~~hereunder, provided said~~ under this chapter if the party (after exhausting the remedies provided hereunder) under this section has commenced such judicial action in accordance with s. 102.23, 1971 stats., within 30 days after a decision of the commission was mailed to his ~~last-known~~ last-known address.

(b) Any judicial review ~~hereunder~~ under this chapter shall be confined to questions of law, and the ~~other~~ provisions of ch. ~~102, 1959 statutes,~~ 1971 stats., 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 department and has been designated by it for this purpose, or at the commission's request by the department of justice.

SECTION 18. 108.10 (2) of the statutes is amended to read:

108.10 (2) Any hearing duly requested shall be held before an appeal tribunal established as provided by s. 108.09 (4), and s. 108.09 (3) and (5) shall be applicable to the proceedings before such tribunal. Within 20 days after the appeal tribunal's decision has been mailed to the employer's ~~last-known~~ last-known address, he may petition the commission for review thereof pursuant to general department rules, or the commission on recommendation of counsel may on its own motion transfer the proceedings to itself and reverse, change, or set aside the decision of the appeal tribunal on the basis of evidence previously submitted in such case, or direct the taking of additional testimony.

SECTION 19. 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 or payments in lieu of 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 20. 108.14 (8n) (e) and (9m) of the statutes are amended to read:

108.14 (8n) (e) ~~Wisconsin's~~ This state's share of any benefits paid ~~hereunder~~ under this subsection shall be charged to the account of each employer by whom the employe was employed in his base period, in proportion to the total amount of wages he earned from each employer in his base period, except that if s. 108.04 (5) or (7) (a) applies to employment by such an employer, who is not exempt from the contribution requirements of ss. 108.17 and 108.18 under s. 108.15 or 108.151, the share of benefits based ~~thereon~~ on employment with that employer shall be charged to the fund's balancing account. ~~Such~~ The balancing account shall be charged with any other state's share of such benefits pending reimbursement by ~~such~~ that state.

(9m) The department may afford reasonable cooperation with any government agency charged with war-effort or post-war planning responsibilities or with the administration of any system of unemployment allowances or unemployment assistance

or of any other program designed to prevent or relieve unemployment. All moneys payable to or received by this state for any program of allowances pursuant to an agreement with any government or nonprofit agency, whereby moneys are made available to the state solely for that purpose, shall be paid to the state and shall promptly be deposited by the department to the credit of a separate account therefor, with such custodians as the state may from time to time select, who shall hold, release and transfer the cash in any such account in a manner approved by the department of administration. Payments from any such account shall be made upon vouchers or drafts authorized by the department, in such manner as the department of administration may from time to time approve or prescribe. The treasurer of the unemployment reserve fund shall serve as treasurer of any account under this subsection. The bond of the treasurer, as required under ss. 19.01 (2) and 108.16 (4), shall likewise be conditioned upon the faithful performance of the duties under this subsection by the treasurer and his subordinates, in such additional amount as may be fixed by the department. The treasurer shall report annually to the department of administration regarding receipts and disbursements under this subsection.

SECTION 21. 108.14 (10) of the statutes is repealed.

SECTION 22. 108.141 (1) (g) and (j) 1 of the statutes are amended to read:

108.141 (1) (g) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law ~~☞~~, including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. ch. 85), other than extended benefits and additional benefits as defined in P.L. 91-373.

(j) 1. Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law ~~☞~~, including dependents' allowances and benefits payable to federal civilian employes and ex-servicemen under 5 U.S.C. ch. 85), in his current benefit year that includes such week or is precluded from receiving regular benefits by reason of the law of another state which meets the requirement of sec. 3304 (a) (7) of the internal revenue code of 1954 or is precluded from receiving regular benefits by reason of a seasonal limitation in the law of another state. An individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal under s. 108.09 or 108.10 he may subsequently be determined to be entitled to added regular benefits; or

SECTION 23. 108.15 (4) (f) of the statutes is amended to read:

108.15 (4) (f) The write-off provisions of s. 108.16 (7) (c) shall not apply to the account of any government unit. ~~In lieu thereof, any such unit may, if the benefits charged to its account hereunder in any calendar year exceed 2 per cent of its "payroll" for that year, request the write off of such excess at any time within the following calendar year. The fund's treasurer shall in that event determine and write off the amount of such excess, and no reimbursement thereof shall be required hereunder.~~

SECTION 24. 108.15 (4) (fm) and (fr) of the statutes are repealed.

SECTION 25. 108.151 (2) (a), (4) (a) 1 and (5) (f) of the statutes are amended to read:

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108.151 (2) (a) It shall file a written notice to that effect with the department before the beginning of such year; ~~provided, however, except~~ that if the employer became newly subject ~~hereto to this section~~ as of the beginning of such year, it ~~may~~ shall file the notice ~~by April 30 of such year~~ within 30 days after the date of the determination that it is subject to this chapter.

(4) (a) 1. The amount of the bond shall be equal to ~~at least~~ 4% of the employer's payroll for the calendar year immediately preceding the effective date of the election, or the employer's anticipated payroll for the current year, whichever is greater as determined by the department, but no such bond shall may be less than \$1,000 in a greater amount at the option of the employer. The amount of the bond shall be similarly redetermined at the close of each of the succeeding 3 years and at the close of each 3 years thereafter.

(5) (f) Whenever an employer's reimbursement account has a negative balance as of the close of any calendar ~~quarter~~ month, the fund's treasurer shall promptly bill such employer, at its last-known address, for that portion of its negative balance which has resulted from the net benefits charged to such account within such ~~quarter~~ month. Reimbursement payment shall be due within 30 days thereafter. Any required payment which remains unpaid after its applicable due date is a delinquent payment. Section 108.22 shall apply for collecting delinquent payments.

SECTION 26. 108.16 (6m) (c), (8) (a) (intro.) and (b) to (f), (10) and (10m) of the statutes are amended to read:

108.16 (6m) (c) The overdraft write-offs thus chargeable under ~~(and pursuant to) s. 108.15 (4) (f) or sub. (7) (c).~~

(8) (a) (intro.) If the business of any "employer" is transferred in whole or in part, the transferee shall be deemed a successor for the purposes of this chapter. As used in this subsection "business" includes any activity of an employer, whether organized or carried on for profit, nonprofit or governmental purposes. The transfer of any of the assets of a covered ~~employer's business~~ employer by any means ~~whatever, otherwise, other~~ than in the ordinary course of trade or other operation of the employer, shall also be deemed a transfer of business and shall constitute the transferee a successor ~~hereunder under this subsection~~. The transferee shall not be a successor ~~hereunder under this subsection~~ if the department, on its own motion or on application of an interested party, finds that both the following conditions exist:

(b) The ~~successor transferee~~, if not already subject to this chapter, shall become an "employer" subject ~~hereto to this chapter~~ on the date of such transfer, and shall accordingly become liable for contributions ~~hereunder or payments in lieu of contributions, whichever is applicable, under this chapter~~ from and after said date.

(c) The ~~successor transferee~~ shall take over and continue the ~~employer's transferor's~~ account, including its plus or minus balance and all other aspects of its experience under this chapter, in proportion to the ~~pay-roll payroll~~ or employees assignable to the transferred business as determined for the purposes of this chapter by the department. The ~~successor transferee~~ shall be secondarily liable for any amounts owed by the ~~employer transferor~~ to the fund (and to the administration fund) at the time of such transfer, ~~but such~~. Such liability shall be proportioned to the extent of the transfer of business and shall not exceed the value of the assets transferred, unless the transferor is a nonprofit organization.

(e) The account taken over by the ~~successor-employer transferee~~ shall remain liable with respect to accrued benefit and related rights based on employment in the transferred business, and all such employment shall be deemed employment performed for ~~such employer~~ the transferee.

(f) The contribution rates applicable with respect to the accounts of the ~~successor employer transferee~~ and the ~~transferring employer transferor~~ shall be respectively determined or redetermined as of the applicable computation date, to apply from the date of transfer of business until the close of the current calendar year, and shall thereafter be redetermined whenever required by s. 108.18, as follows: For the purposes of s. 108.18, the department shall determine the "experience under this chapter" of the ~~successor employer's transferee's~~ account and of the ~~transferring employer's transferor's~~ account by allocating to the ~~successor employer's transferee's~~ account for each period in question the respective proportions of the ~~transferring employer's pay roll transferor's payroll~~ and benefits which the department determines to be properly assignable to the business transferred.

(10) All money withdrawn from the fund shall be used solely in the payment of benefits, exclusive of expenses of administration, and for refunds of sums erroneously paid into the fund ~~and for refunds payable under sub. (9), for refund of a positive net balance in an employer's reimbursement account under ss. 108.15 (4) and 108.151 (5) on request by the employer,~~ and for expenditures made pursuant to s. 108.161 and consistently with the federal limitations applicable ~~thereto~~ to s. 108.161.

(10m) The department shall not pay any interest on any benefit payment or any refund, or collect any interest on any benefit overpayment.

SECTION 27. 108.17 (4) of the statutes is amended to read:

108.17 (4) However, in case an employer's contribution rate for any year has been incorrectly determined, it shall be corrected ~~(and contributions shall be adjusted or become payable accordingly)~~ only if due notice of such error is given during, or within 6 months after the close of, the calendar year to which such rate applies, or within one year after his account is credited with the amount of an erroneous payment pursuant to s. 108.16 (2m).

SECTION 28. 108.18 (9) (d) of the statutes is amended to read:

108.18 (9) (d) The fund's treasurer shall determine the net balance of the fund's balancing account, at the close of each July, after deducting the debit balances of any employer accounts then overdrawn and any positive balance of any government unit, and after crediting any benefit payments reimbursable by any government unit or any covered employer with a valid election of reimbursement financing under s. 108.151, and any sharable compensation payable to this state under the federal-state extended unemployment compensation act of 1970 (title II of P.L. 91-373).

SECTION 29. 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 may be set forth in a determination or decision issued under s. 108.09. ~~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 30. 108.24 (3) of the statutes is amended to read:

108.24 (3) Any person who makes ~~any a~~ deduction from the wages of ~~any an~~ employe because of liability for contributions ~~hereunder~~ or payments in lieu of contributions under this chapter or because of the employe's potential right to benefits, or who knowingly refuses or fails to furnish to an employe any notice, report or information duly required ~~hereunder~~ under this chapter by the department to be furnished to such employe, or who, directly or indirectly by promise of reemployment or by threat not to employ or not to reemploy or by any other means, attempts to induce ~~any an~~ employe to refrain from claiming or accepting benefits or to waive any other right ~~hereunder~~ under this chapter, or whose rehiring policy has discriminated against former employes by reason of their having claimed benefits, shall upon conviction be ~~deemed~~ guilty of a misdemeanor and be fined not less than \$25 nor more than \$100, or imprisoned ~~in the county jail~~ not longer than 30 days, or both; and each such deduction from wages, ~~and~~ every day of such refusal or failure, and each such attempt to induce shall constitute a separate ~~and distinct~~ offense.

SECTION 31. APPLICATION. (1) The changes effected by this act in section 108.02 (4) (a) of the statutes shall apply as of January 1, 1974.

(2) Section 108.04 (18) of the statutes as created by this act, and the changes effected by this act in section 108.02 (5) (f) 4, 7 and 9 of the statutes, shall apply to employment after December 31, 1973.

(3) The changes effected by this act in section 108.09 of the statutes shall apply to determinations and decisions issued after the 2nd Saturday which follows the official publication date of this act.

(4) The changes effected by this act in sections 108.15 (4) (f), (fm), (fr) and 108.16 (6m) (c) of the statutes shall apply to benefit charges to the account of a government unit after December 31, 1973.

(5) The changes effected by this act in section 108.151 (4) (a) 1 of the statutes shall apply to elections under that section which take effect after December 31, 1973.

(6) The change effected by this act in section 108.16 (10) of the statutes shall not apply to refund of any amount transferred to an employer's reimbursement account from an employer account he had before January 1, 1972.
