

1977 Assembly Bill 938

Date published: October 31, 1977

CHAPTER 133, Laws of 1977

AN ACT to repeal 108.02 (4) (ag) and (ar), 108.141 (9) (b) and 108.15 (1) (b); to renumber 108.141 (7); to renumber and amend 108.02 (4) (c) to (g), 108.141 (9) (a) and 108.15 (1) (a); to amend 108.02 (4) (a) and (b), (5) (dm) (intro.) and 1, (dn) (intro.) and (do) 2, (8) (a) (intro.) and (27) to (29), 108.04 (17), 108.14 (13), 108.141 (1) (b), (c) and (j) 3, (7) (a) (intro.) and 1, as renumbered, 108.15 (title), (4) (title) and (a) to (f), (5) (title), (a), (b) and (d), (6) (a) to (c) and (7) (b) and (c), 108.16 (6m) (a) and 108.18 (9) (a) and (c); to repeal and recreate 108.02 (5) (f) to (i), 108.04 (18) and (19) and 108.15 (2), (3), (7) (a) and (9); and to create 108.02 (4) (c) and (d) and (5) (j) to (n), 108.04 (17) (b) and (c), 108.14 (8r) and 108.141 (7) (b) 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 every government unit and any person, partnership, association, corporation, whether domestic or foreign, or legal representative, trustee in bankruptcy or receiver or trustee of a person, partnership, association or corporation, or legal representative of a deceased person, ~~including 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. 614.01 (1), who is subject to this chapter under the statutes of 1974 1975, or who has had employment in this state and becomes subject to this chapter under this subsection and, notwithstanding any other provisions of this section, any service insurance corporation organized or operating under ch. 613. This paragraph is subject to the effective dates provided under pars. (ag) and (ar).~~

NOTE: Changes definition of employer to include municipalities under 5,000 population to meet conformity requirements of P.L. 94-566 subject to the effective date in SECTION 35 of this bill.

SECTION 2. 108.02 (4) (ag) and (ar) of the statutes are repealed.

NOTE: Obsolete because of other changes.

SECTION 3. 108.02 (4) (b) of the statutes is amended to read:

108.02 (4) (b) Any ~~other~~ employer which is a nonprofit organization shall become an "employer" subject ~~hereto to this chapter~~ as of the beginning of 1972 or any later calendar year if it: ~~1. Is a nonprofit organization; and 2. Employed~~ employed as many as 4 individuals in employment for some portion of a day ~~(whether or not at the same moment of time)~~ on at least 20 days, each day being in a different calendar week ~~(whether or not such weeks were consecutive), ending either in that year or in either that year or the preceding calendar year.~~

NOTE: Clarifies in line with other changes in this bill.

SECTION 4. 108.02 (4) (c) of the statutes is renumbered 108.02 (4) (e) and amended to read:

108.02 (4) (e) Any other employer, except a government unit, shall become an "employer" subject ~~hereto to this chapter~~ as of the beginning of ~~1972~~ or any later calendar year if ~~he~~ such employer:

1. Paid wages for employment which totaled \$1,500 or more during any calendar quarter in either that year or the preceding calendar year; or

2. Employed at least one individual in some employment in each of 20 or more calendar weeks ending in either that year or in each of 20 or more calendar weeks ending in the preceding calendar year, whether or not the same individual was in employment in each such week and whether or not such weeks were consecutive; except that

3. Wages and employment for agricultural labor which meets the conditions of par. (c) shall be counted under this paragraph, but wages and employment for domestic service shall not be so counted except as par. (i) applies.

NOTE: Specifies how agricultural labor and domestic service relate to conditions for coverage of other services.

SECTION 5. 108.02 (4) (c) of the statutes is created to read:

108.02 (4) (c) 1. Any employer of an individual or individuals in agricultural labor shall become an "employer" subject to this chapter as of the beginning of any calendar year if such employer paid cash wages for agricultural labor which totaled \$20,000 or more during any calendar quarter in either the current or preceding calendar year, or if such employer employed as many as 10 individuals in some agricultural labor for some portion of a day on at least 20 days, each day being in a different calendar week, whether or not such weeks were consecutive, in either the current or preceding calendar year.

2. For the purpose of this paragraph any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be an employe of such crew leader if:

a. Such crew leader holds a valid certificate of registration under the federal farm labor contractor registration act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment which is provided by such crew leader; and

b. If such crew leader is not an employe of such other person under sub. (3).

3. For the purposes of this paragraph if any individual who is furnished by a crew leader to perform service in agricultural labor is not an employe of the crew leader under subd. 2, such other person, and not the crew leader, is the employer of such individual and the other person shall be considered to have paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on behalf of the crew leader or such other person, for the service in agricultural labor performed for such other person.

4. For the purpose of this paragraph, "crew leader" means an individual who furnishes individuals to perform service in agricultural labor for any other person, pays on behalf of himself or herself or on behalf of such other person the individuals so furnished to perform such labor, and has not entered into a written agreement with such other person under which he or she is designated as an employe of such other person.

NOTE: Covers certain employers of agricultural labor in line with new coverage provisions of P.L. 94-566, subject to the effective date in SECTION 34 of this bill.

SECTION 6. 108.02 (4) (d) of the statutes is renumbered 108.02 (4) (f) and amended to read:

108.02 (4) (f) Any other employer who is subject to the federal unemployment tax act for any calendar year, or who, as a condition for approval of this chapter for full tax credit against the tax imposed by the federal unemployment tax act, is required, pursuant to such act, the social security act, or any other federal law, to be an "employer" under this chapter, shall be an "employer" subject ~~hereto~~ to this chapter as of the beginning of such calendar year.

NOTE: Assures maintenance of required coverage for continued conformity.

SECTION 7. 108.02 (4) (d) of the statutes is created to read:

108.02 (4) (d) Any employer of an individual or individuals in domestic service shall become an "employer" subject to this chapter as of the beginning of any calendar year if such employer paid cash wages of \$1,000 or more during any calendar quarter in either the current or preceding calendar year for such domestic service.

NOTE: Covers certain employers of domestic services in line with new coverage provisions of P.L. 94-566, subject to the effective date in SECTION 34 of this bill.

SECTION 8. 108.02 (4) (e) to (g) of the statutes are renumbered 108.02 (4) (g) to (i) and amended to read:

108.02 (4) (g) Any other employer, who succeeds to the business of any "employer" ~~hereunder~~ under this chapter, shall thereby become an "employer" subject to this chapter, as provided in ~~subsection (8) of section s.~~ 108.16 (8).

(h) Any employer, ~~including any government unit~~, not otherwise subject to this chapter, who files with the department ~~his a~~ written election to become an "employer" subject 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. 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 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 under this chapter if the election of reimbursement financing is terminated ~~pursuant to~~ under s. 108.151 (3). Any election approved by the department shall be void, in case the electing party was himself or herself "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 government unit~~ in the interests of proper administration of this chapter.

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

(i) An "employer" shall cease to be subject to this chapter only upon department action terminating ~~his~~ coverage of such employer. The department may terminate an "employer's" coverage, on its own motion or on application by the "employer", y mailing a notice of termination to the "employer's" last-known address. An employer's coverage may be terminated whenever the employer ceased to exist, transferred ~~his its~~ entire business ~~to another individual or individuals~~, or would not otherwise be subject under any one or more of pars. (b) to (d) (g). If any employer of agricultural labor or domestic service work becomes subject to this chapter under

par. (c) or (d), with respect to such employment, and such employer is otherwise subject to this chapter with respect to other employment, the employer shall continue to be covered with respect to agricultural labor or domestic service or both while the employer is otherwise subject to this chapter, without regard to the employment or wage requirements under par. (c) or (d). If a termination of coverage is based on an employer's application, it shall be effective as of the close of the calendar quarter in which the application was filed. Otherwise, it shall be effective as of the date specified in the notice of termination.

NOTE: Clarifies and assures that any employer required to be covered under applicable federal laws is also covered under ch. 108, and that coverage for agricultural labor and domestic service work continues if other employment for the same employer is also covered under ch. 108.

SECTION 9. 108.02 (5) (dm) (intro.) and 1, (dn) (intro.) and (do) 2 of the statutes are amended to read:

108.02 (5) (dm) (intro.) ~~The term "employment" shall include "Employment"~~ includes an individual's service, wherever performed within the United States, ~~the Virgin Islands~~ or Canada, if:

1. Such service is not covered under the unemployment compensation law of any other state, ~~the Virgin Islands~~ or Canada; and

(dn) (intro.) ~~The term "employment" shall include "Employment"~~ includes the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada ~~or the Virgin Islands~~), in the employ of an American employer ~~}, other than service which is deemed "employment" under par. (b), (c) or (d) or the parallel provisions of another state's law}, if:~~

(do) 2. For the purposes of ~~par. (dn) pars. (dm) to (do)~~, the term "United States" includes the states, the District of Columbia, ~~and the~~ commonwealth of Puerto Rico, and the Virgin Islands.

NOTE: Takes into account the addition of the Virgin Islands to the federal state unemployment compensation system, subject to the effective date in SECTION 38 of this bill.

SECTION 10. 108.02 (5) (f) to (i) of the statutes are repealed and recreated to read:

108.02 (5) (f) "Employment" as applied to work for a government unit, except as such unit duly elects otherwise with the department's approval, does not include service:

1. As an official elected by vote of the public;
2. As an official appointed to fill part or all of the unexpired term of a vacant position normally otherwise filled by vote of the public;
3. As a member of a legislative body or the judiciary of a state or political subdivision;
4. As a member of the Wisconsin national guard in a military capacity;
5. As an employe serving solely on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; or
6. In a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position, or is designated as a policymaking or advisory position the performance of the duties of which does not ordinarily require more than 8 hours per week.

(g) "Employment" as applied to work for a government unit or a nonprofit organization, except as such unit or organization duly elects otherwise with the department's approval, does not include service:

1. By an individual receiving work relief or work training as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, unless otherwise required as a condition for participation by the unit or organization in such program;

2. In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

3. By an inmate of a custodial or penal institution.

(h) "Employment" as applied to work for a nonprofit organization, except as such organization duly elects otherwise with the department's approval, does not include service:

1. In the employ of a church or convention or association of churches;

2. In the employ of an organization operated primarily for religious purposes and operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

3. By a duly ordained, commissioned or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

(i) "Employment" as applied to work for an educational institution, except as such institution duly elects otherwise with the department's approval, does not include service:

1. By a student who is enrolled and is regularly attending classes at such institution; or

2. By the spouse of such a student, if given written notice at the start of such service, that the work is under a program to provide financial assistance to the student and that the work will not be covered by any program of unemployment compensation.

NOTE: Changes the employment exclusions applicable to services for government units to exclude all such employment that can be so excluded under provisions of P.L. 94-566, subject to the effective date in SECTION 35 of this bill. Clarifies applicability of permitted exclusions based on nature of employing entity for educational institutions and nonprofit organizations.

SECTION 11. 108.02 (5) (j) to (n) of the statutes are created to read:

108.02 (5) (j) "Employment" as applied to work for a given employer, except as such employer duly elects otherwise with the department's approval, does not include service:

1. By an individual under the age of 22 who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program and such institution has so certified to the employer, except as to a program established by or on behalf of an employer or group of employers;

2. As a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school;

3. As an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school;

4. In the employ of a hospital by a patient of such hospital; or

5. In any calendar quarter in the employ of any organization exempt from federal income tax under section 501 (a) of the internal revenue code, other than an organization described in section 401 (a) or 501 (c) (3) of such code, or under section 521 of the internal revenue code, if the remuneration for such service is less than \$50.

(k) "Employment" as applied to work for a given employer other than a government unit, except as such employer duly elects otherwise with the department's approval, does not include service:

1. In agricultural labor unless performed for an employer subject to this chapter under sub. (4) (c) or (i);

2. As a domestic in the employ of an individual in such individual's private home, or as a domestic in the employ of a local college club or of a local chapter of a college fraternity or sorority, unless performed for an individual, club or chapter which is an employer subject to this chapter under sub. (4) (d) or (i);

3. As a caddy on a golf course;

4. As an individual selling or distributing newspapers or magazines on the street or from house to house;

5. With respect to which unemployment compensation is payable under the federal railroad unemployment insurance act (52 Stat. 1094);

6. By an individual for a person as an insurance agent or an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commissions;

7. By an individual for a person as a real estate agent or as a real estate salesperson, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

8. As an unpaid officer of a corporation or association;

9. Covered by any other unemployment compensation law pursuant to a reciprocal arrangement made by the department under s. 108.14 (8m);

10. For an employer who would otherwise be subject to this chapter solely because of sub. (4) (f), if and while the employer, with written notice to and approval by the department, duly covers under the unemployment compensation law of another jurisdiction all services for such employer which would otherwise be covered under this chapter;

11. By an individual in the employ of the individual's son, daughter or spouse, and by an individual under the age of 18 for his or her parent; or

12. In any type of maritime service specifically excluded from coverage under the federal unemployment tax act.

(L) "Employment" as applied to work for a given employer other than a nonprofit organization or a government unit, except as such employer duly elects otherwise with the department's approval, does not include:

1. Service performed by an individual:

a. While regularly attending an educational institution and carrying at least a half-time schedule, in any week in which such individual worked for the given employer not more than 24 hours; or

b. Solely within the customary vacation days or periods of the educational institution last attended unless the individual has graduated from that institution and does not enter any educational institution in the next succeeding school term after the expiration of such vacation days or period.

2. 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 the number of weeks of employment specified in s. 108.04 (4) (a) and solely within the active canning season or seasons, as determined by the department, of the establishment in which the employe has been employed by such employer, unless the employe 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 the employe's first week of employment by the canning employer ending within that year.

(m) If the remuneration for any employment excluded under other paragraphs of this subsection is subject to, or at any time after the effective date of this act (1977) is made subject to the federal unemployment tax act, such exclusion under this chapter shall not apply to that remuneration during any period that such remuneration is subject to the federal unemployment tax act, except as provided in s. 108.14 (8m) (b).

(n) If any employment excluded under other paragraphs of this subsection are required by the federal unemployment tax act, the social security act, or any other federal law, to be employment covered by this chapter as a condition for approval of this chapter for full tax credit against the tax imposed by the federal unemployment tax act, such exclusion shall not apply under this chapter.

NOTE: Clarifies applicability of employment exclusions based on nature of employing entity, adds permitted exclusions formerly incorporated by reference to federal law, changes exclusions of agricultural labor and domestic services in line with new coverage requirements, clarifies treatment of wages paid for excluded employment which are subject to the federal unemployment tax act (F.U.T.A.) and provides that exclusions which would result in nonconformity with applicable federal law requirements for full F.U.T.A. offset credit do not apply.

SECTION 12. 108.02 (8) (a) (intro.) of the statutes is amended to read:

108.02 (8) (a) (intro.) An employer's "payroll" for a period shall include all wages paid within that period to the employer's employes for their "employment" by him or her. It shall also include all wages for employment which is excluded under sub. (5) ~~(g)~~ (L) if such wages:

NOTE: Changes a cross-reference made necessary by other changes in this bill.

SECTION 13. 108.02 (27) to (29) of the statutes are amended to read:

108.02 (27) INSTITUTION OF HIGHER EDUCATION. "Institution of higher education" means ~~an a nonprofit or public educational institution which: (a) Is a public institution or nonprofit organization; and (b) Is generally recognized as a college or university; or (c) Provides~~ provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, ~~a program of post graduate or post doctoral studies~~, or a program of training to prepare students for gainful employment in a recognized occupation, and admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate.

(28) GOVERNMENT UNIT. "Government unit" means ~~this~~:

(a) 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 including all of its constitutional offices, branches of government, agencies, departments, boards, commissions, councils, committees and all other parts and subdivisions of state government, and all public bodies or instrumentalities of this state and one or more other states; and

(b) Any school district, county, city, village, town and any other public corporation or entity, any combination thereof and any agency of any of the foregoing, and any

public body or instrumentality of any political subdivision of this state and one or more other states or one or more political subdivisions of one or more other states.

(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 agency operating one or more public schools, other than institutions of higher education. “Public school” means any a school, other than an institution of higher education, which is supported wholly or substantially from public funds.

NOTE: Clarifies by adopting new federal definition of higher education institution and other definition changes to meet new coverage requirements for various government unit workers under P.L. 94-566.

SECTION 14. 108.04 (17) of the statutes is amended to read:

108.04 (17) (title) EMPLOYES OF EDUCATIONAL INSTITUTIONS. ~~(a) An employe who has a contract or contracts to perform~~ performs ~~services in any for a nonprofit or public educational institution of higher education in an instructional, research, or principal administrative capacity for each of 2 successive academic years or for 2 regular terms, whether or not successive, shall not be eligible to receive~~ is ineligible for ~~benefits based on such services for any week of unemployment which begins~~ occurs ~~during a period between such periods or during a period of leave between such periods which is provided for in his contract~~ 2 successive academic years or 2 regular terms, whether or not successive, if such employe performed such services in the first such academic year or term and if there is a contract or a reasonable assurance that such employe will perform services in any such capacity for a nonprofit or public educational institution in the 2nd such academic year or term.

NOTE: To conform with between terms denial of eligibility required under P.L. 94-566 for institutions of higher education.

SECTION 15. 108.04 (17) (b) and (c) of the statutes are created to read:

108.04 (17) (b) An employe who performs services in a nonprofit or public educational institution, other than an institution of higher education and other than in an instructional, research or principal administrative capacity, is ineligible for benefits based on such services for any week of unemployment which occurs during a period between 2 successive academic years or terms if such employe performed such services in the first such academic year or term and there is a reasonable assurance that such employe will perform such services in the 2nd such academic year or term.

(c) An employe who performs services as described in par. (a) or (b) is ineligible for benefits based on such services for any week of unemployment which occurs during an established and customary vacation period or holiday recess if such employe performed such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such employe will perform such services in the period immediately following such vacation period or holiday recess.

NOTE: Changes the “between-terms” denial for teachers to meet federal requirements. Adopts the “between-terms” denial for school workers other than teachers, and benefit denial during school year recesses and holiday vacations, as permitted under federal law, subject to the effective date in SECTION 36 of this bill.

SECTION 16. 108.04 (18) and (19) of the statutes are repealed and recreated to read:

108.04 (18) ILLEGAL ALIENS. (a) An employe who performed services while such employe was an alien shall be ineligible for benefits based on such services unless such employe is an alien who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the

time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 203 (a) (7) or 212 (d) (5) of the federal immigration and nationality act. All claimants shall be uniformly required to provide information as to whether they are citizens and, if they are not, any determination denying benefits under this subsection shall not be made except upon a preponderance of the evidence.

(b) Any amendment of s. 3304 (a) (14) of the federal unemployment tax act specifying conditions other than as stated in par. (a) for denial of benefits based on services performed by aliens, or changing the effective date for required implementation of par. (a) or such other conditions, which is a condition of approval of this chapter for full tax credit against the tax imposed by the federal unemployment tax act, shall be applicable to this subsection.

(19) PROFESSIONAL ATHLETES. An employe who performs services substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, shall be ineligible for benefits for any week of unemployment which occurs during the period between 2 successive sport seasons or similar periods if the employe performed such services in the first such year or period and there is a reasonable assurance that such employe will perform such services in the 2nd such year or period.

NOTE: Adds benefit denials for illegal aliens and professional athletes in specific language necessary to conform with requirements of P.L. 94-566, subject to the effective date in SECTION 36 of this bill.

SECTION 17. 108.14 (8r) of the statutes is created to read:

108.14 (8r) Section 108.07 does not apply if any part of potential benefits in a benefit year can be charged to the federal government or qualify for federal reimbursement.

(a) The department may combine employment within the applicable period to compute benefits as if such employment had been from a single employer and allocate the resulting benefit charges to the accounts of affected employers by methods it deems fair and reasonable.

(b) The department may temporarily charge benefit payments to the fund's balancing account, pending their pro rata allocation to the accounts of employers under par. (a).

(c) In making allocations, if the department determines that s. 108.04 (5) or (7) (a) applies to employment by 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 on employment with that employer shall be charged to the fund's balancing account.

(d) An employer shall be treated as a party for purposes of s. 108.09, other than s. 108.09 (2) (a), only with respect to those eligibility issues reported by such employer in accordance with s. 108.04 (13).

NOTE: To conform with conditions of P.L. 94-566 and 94-444 which provide federal reimbursement for benefits which are charged on a pro rata basis, rather than inverse sequential basis that otherwise applies under ch. 108 of the statutes, subject to the effective date in SECTION 39 of this bill.

SECTION 18. 108.14 (13) of the statutes is amended to read:

108.14 (13) The department may, with the advice of the council on unemployment compensation, by general rule modify or suspend any provision of this chapter if and to the extent necessary to permit continued certification of this chapter for grants to this state under Title III of the federal social security act and for maximum credit allowances to employers under ~~ss. 3303 and 3304~~ of the federal unemployment tax act.

NOTE: Clarifies for continuing emergency authority of the department of industry, labor and human relations and the council on unemployment compensation to assure continued conformity of ch. 108 with federal law requirements for full F.U.T.A. tax credits and federal administrative fund grants.

SECTION 19. 108.141 (1) (b), (c) and (j) 3 of the statutes are amended to read:

108.141 (1) (b) There is a national "on" indicator for a week if the U.S. secretary of labor determines that, for ~~each of the 3 most recent completed calendar months ending before such week~~ the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5%.

(c) There is a national "off" indicator for a week if the U.S. secretary of labor determines that, for ~~each of the 3 most recent completed calendar months ending before such week~~ the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5%.

(j) 3. Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, ~~the trade expansion act of 1962, the automotive products trade act of 1965 and~~ or such other federal laws as are specified in regulations issued by the U.S. secretary of labor, and has not received and is not seeking unemployment benefits under the unemployment compensation law of ~~the Virgin Islands or of Canada~~, but if ~~he~~ the individual is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is ~~considered~~ an exhaustee.

SECTION 20. 108.141 (7) of the statutes is renumbered 108.141 (7) (a), and 108.141 (7) (a) (intro.) and 1, as renumbered, are amended to read:

108.141 (7) (a) (intro.) The fund's treasurer shall maintain an "extended benefits account" as a subaccount of the fund's balancing account. One-half of extended benefits based on employment covered by this chapter, other than employment for a government unit, shall be charged ~~thereto~~ to such account. The remaining one-half of such benefits shall be charged as follows:

1. Benefits based on employment to which s. ~~108.15 or 108.151 (5)~~ apply applies shall be charged to the reimbursement account of the employer on whose employment such benefits were based.

SECTION 21. 108.141 (7) (b) of the statutes is created to read:

108.141 (7) (b) The full amount of extended benefits based on employment for a government unit shall be charged to the account of such government unit.

SECTION 22. 108.141 (9) (a) of the statutes is renumbered 108.141 (9) and amended to read:

108.141 (9) INDICATOR MODIFICATIONS. A Wisconsin "on" or "off" indicator shall be determined without regard to sub. (1) (d) 1 or (e) 1 ~~if for any period that waiver of such provisions is authorized under s. 203 (e) of Title II of P.L. 91-373 and any amendments thereto on January 26, 1975 or thereafter specified under sub. (1) (d) or (e)~~ the Wisconsin rate of insured unemployment equaled or exceeded 5%.

NOTE: SECTIONS 19 to 22 change extended benefit provisions to account for addition of Virgin Islands to federal-state U.C. system, conform to new "trigger" provisions of P.L. 94-566, and elimination by P.L. 94-566 of federal reimbursement for such benefits based on work for state or local government unit, subject to effective dates in SECTIONS 35, 37 and 38 of this bill.

SECTION 23. 108.141 (9) (b) of the statutes is repealed.

NOTE: Made obsolete by other changes.

SECTION 24. 108.15 (title) of the statutes is amended to read:

108.15 (title) Benefits for public employees.

SECTION 25. 108.15 (1) (a) of the statutes is renumbered 108.15 (1) and amended to read:

108.15 (1) **BENEFIT PAYMENTS.** Benefits shall be payable from the fund to any public employe, if unemployed and otherwise eligible, based on his "employment" by any government unit which is an "employer" covered by this chapter. ~~Section 108.03 (2) shall not apply.~~

NOTE: Clarifies that newly covered government workers will begin earning credits as of January 1, 1978, for potential benefits.

SECTION 26. 108.15 (1) (b) of the statutes is repealed.

NOTE: Unnecessary because of other changes.

SECTION 27. 108.15 (2) and (3) of the statutes are repealed and recreated to read:

108.15 (2) **REIMBURSEMENT FINANCING.** The state and every other government unit which is an employer subject to this chapter shall be subject to all its provisions except that, in lieu of contributions under ss. 108.17 and 108.18, it shall reimburse the fund for benefits charged to its account.

(3) **ELECTION OF CONTRIBUTION FINANCING.** Any government unit other than the state may, in lieu of the reimbursement requirement of sub. (2), elect contribution financing under ss. 108.17 and 108.18 as of the beginning of any calendar year, subject to the following requirements:

(a) It shall file a written notice to that effect with the department before the beginning of such year except that if the government unit became newly subject to this chapter as of the beginning of such year, it shall file the notice within 30 days after the date of mailing to it a written notification by the department that it is subject to this chapter. Such election shall remain in effect for not less than 3 calendar years.

(b) A government unit may thereafter terminate its election of contribution financing effective at the end of any calendar year by filing a written notice to that effect with the department before the close of such year.

(c) No election or termination of election of contribution financing is effective if the government unit, at the time of filing notice of such election or termination of election, is delinquent under s. 108.22.

(d) If a government unit elects contribution financing for any calendar year after the first calendar year it becomes newly subject to this chapter, it shall be liable to reimburse the fund for any benefits based on prior employment. If a government unit terminates its election of contribution financing, ss. 108.17 and 108.18 shall apply to employment in the prior calendar year, but after all benefits based on such prior employment have been charged to its contribution account any balance remaining in such account shall be transferred to the balancing account.

(e) Each time a government unit elects or reelects contribution financing its initial contribution rate shall be 2.7% on its payroll for each of the first 3 calendar years in which such election or reelection is in effect, and s. 108.18 (2) (b) shall apply. If a government unit terminates its election of contribution financing it may not reelect contribution financing within a period of 3 calendar years thereafter.

NOTE: Specifies that the reimbursement method will be used for financing benefit costs for state workers, and that such method will be used for local governments unless they individually elect to use the contribution method of financing their costs, subject to the effective date in SECTION 35 of this bill. Local governments must be given this choice to conform with requirements of P.L. 94-566.

SECTION 28. 108.15 (4) (title) and (a) to (f), (5) (title), (a), (b) and (d) and (6) (a) to (c) of the statutes are amended to read:

108.15 (4) (title) REIMBURSEMENT ACCOUNTS FOR GOVERNMENT UNITS. (a) For each government unit covered by this chapter which is liable for reimbursement to the fund, the fund's treasurer shall maintain ~~an~~ a reimbursement "employer account", as a subaccount of the fund's balancing account.

(b) Each government unit's reimbursement account shall be duly charged with any benefits based on work for such unit, and shall be duly credited with any reimbursement paid by or for it to the fund, and with any benefit overpayment from the account recovered by the department. Whenever the account of a government unit is credited with an overpayment under this paragraph, the department shall, at the close of any month, refund that amount to the government unit upon request, after deducting the amount of any reimbursements to the account of such government unit which have been billed but not paid.

(c) Any government unit ~~other than a state agency~~ may at any time make payments into its reimbursement account in the fund ~~pursuant to~~ under s. 108.18 (7).

(d) Whenever a government unit's reimbursement account has a positive net balance, no reimbursement of the benefits charged ~~thereto shall be~~ to that account is required hereunder under this section.

(e) Whenever a government unit's reimbursement account has a negative balance, any benefits chargeable to such account shall be duly paid and charged thereto; and reimbursements covering the total negative balance thus resulting shall become due pursuant to this section.

(f) The write-off provisions of s. 108.16 (7) (c) ~~shall do~~ do not apply to the reimbursement account of any government unit.

(5) (title) REIMBURSEMENTS AND CONTRIBUTIONS. (a) Each government unit which is an "employer" shall include in its budget for each budgetary period an estimated amount for payment of the contributions required by ss. 108.17 and 108.18 or reimbursements required by this section, including in each case any contribution or reimbursement remaining unpaid for the current or any prior period.

(b) ~~The fund's treasurer department shall, pursuant to department rules, monthly bill each such government unit for the any reimbursements required under this section, and any reimbursement thus billed shall be promptly due and shall be paid by such government unit within 30 days after the date such bill is mailed to it by the department.~~

(d) Reimbursements due ~~hereunder~~ under this section or contributions due ~~under ss. 108.17 and 108.18~~ from ~~other~~ government units shall, if they remain unpaid after their due date, be collected ~~pursuant to~~ under sub. (6) or ~~pursuant to~~ under any other applicable provision of law.

(6) (a) Any reimbursement, duly billed ~~hereunder~~ under this section, or contribution payable ~~under s. 108.17 or 108.18~~, which remains unpaid after its applicable due date is a "delinquent payment" under s. 108.22 (1).

(b) Whenever a government unit's "delinquent payments" ~~including interest and penalties thereon~~, total more than the benefits duly charged to such unit's reimbursement account for the 6 most recent months, or contributions, including interest and penalties thereon, are delinquent for at least 2 calendar quarters, a department deputy shall so determine under s. 108.10.

(c) If such delinquency is finally established ~~pursuant to~~ under s. 108.10, the fund's treasurer shall ~~promptly notify such government unit accordingly, and shall also, in case such unit receives a share of any state tax or any type of state aid, certify to the state treasurer the existence and amount of such delinquency.~~

NOTE: Adopts changes needed to implement related required changes to allow contribution or reimbursement financing of benefit costs of government units and to allow refunds to government units under certain conditions.

SECTION 29. 108.15 (7) (a) of the statutes is repealed and recreated to read:

108.15 (7) (a) "State", as used in this section, includes all state constitutional offices, all branches of state government, all agencies, departments, boards, commissions, councils, committees, and all other parts or subdivisions of state government however organized or designated.

SECTION 30. 108.15 (7) (b) and (c) of the statutes are amended to read:

108.15 (7) (b) Each ~~such subdivision's reimbursements~~ reimbursement payable under this section shall be duly paid to the fund, upon filing by the fund's treasurer, ~~through such subdivision,~~ of a certificate to the department of administration specifying the amount of reimbursement due and the appropriation apparently chargeable.

(c) Each ~~such subdivision of the state's budget subdivisions~~ shall have each such reimbursement amount charged to and deducted from its proper fund or appropriation, unless the secretary of administration certifies that a stated amount thereof cannot be thus charged, in which event that amount shall be charged to the general fund under such certification.

SECTION 31. 108.15 (9) of the statutes is repealed and recreated to read:

108.15 (9) GROUP REIMBURSEMENT ACCOUNTS. If any group of government units which have not elected contribution financing file a joint request, they shall be treated as one employer for the purposes of this chapter under the conditions of this subsection.

(a) The group will be treated as one employer for at least 3 calendar years and the group may be discontinued or dissolved at the beginning of any subsequent calendar year by filing advance written notice thereof with the department before the beginning of such subsequent calendar year.

(b) The members of the group are jointly and severally liable for any required reimbursements together with any interest thereon and any tardy filing fees.

(c) The group shall be dissolved at the beginning of any calendar year after the required 3 calendar years of participation if any member of the group files written notice with the department in advance of such calendar year of its intended withdrawal from the group.

NOTE: SECTIONS 29 to 31 adopt changes needed to implement other related changes to treat all employment units of state government as a single employer, and to permit government units to establish group reimbursement accounts under certain conditions, subject to the effective date under SECTION 36 of this bill.

SECTION 32. 108.16 (6m) (a) of the statutes is amended to read:

108.16 (6m) (a) The benefits thus chargeable under (and pursuant to) ss. 108.07 (2); 108.14 (8n) (e) or (8r) (c); 108.141; ~~108.15 (1) (b)~~; 108.151; or subs. (2m), (6) (e), (7) (a) and (b).

NOTE: Adds a new reference and deletes another as necessary because of other changes.

SECTION 32m. 108.18 (9) (a) and (c) of the statutes are amended to read:

108.18 (9) (a) The solvency rate for ~~1976 shall be 0.8% and for 1977 shall be 0.7%~~ 1978 and 1979 shall be as follows:

1. 1.0% if an employer's reserve percentage is zero or more;
2. 1.5% if an employer's reserve percentage is less than zero.

(c) The adequacy level required for the fund's balancing account at the close of July ~~1977~~ 1979, and each subsequent July, shall be the amount which equals 0.4% of the gross wages paid by all employers in the immediately preceding calendar year, as determined pursuant to under par. (h).

SECTION 33. Effective date; application. This act shall take effect on the day after publication, except as provided in SECTIONS 34 to 39.

SECTION 34. Agricultural labor and domestic services. Coverage of agricultural labor and domestic services as provided in SECTIONS 5 and 7 of this act, except as otherwise specified in those SECTIONS of this act, are effective with respect to employment after December 31, 1977.

SECTION 35. Government units. New coverage of service for government units as provided in SECTIONS 1, 2 and 10 of this act and authority to elect contribution financing as provided in SECTION 27 of this act, except as otherwise specified in those SECTIONS of this act, are effective with respect to employment after December 31, 1977. Authority to form group reimbursement accounts as provided in SECTION 31 of this act is effective after December 31, 1977.

SECTION 36. Educational employes; illegal aliens; athletes. The changes effected by this act in section 108.04 (17), (18) and (19) of the statutes are effective with respect to weeks of unemployment after December 31, 1977.

SECTION 37. Extended benefit charges. The changes effected by this act in section 108.141 of the statutes as to the charging of extended benefits based on work for a government unit are effective with respect to extended benefits paid for weeks of unemployment beginning on or after January 1, 1979.

SECTION 38. Application to Virgin Islands. The treatment of section 108.02 (5) (dm) (intro.) and 1, (dn) (intro.) and (do) 2 of the statutes by this act shall apply with respect to employment beginning January 1 of the year following the year in which the U.S. secretary of labor approves the unemployment compensation law of the Virgin Islands under section 3304 (a) of the internal revenue code of 1954. The treatment of section 108.141 (1) (j) 3 of the statutes by this act shall take effect on the day after the day on which the U.S. secretary of labor approves the unemployment compensation law of the Virgin Islands under section 3304 (a) of the internal revenue code of 1954.

SECTION 39. Special claims that include partial federal reimbursement. The provisions of SECTION 17 of this act shall apply to benefit years that begin at least 4 weeks after the publication of this act, except that if any wages in the applicable base period are based on federal civilian or military service the provisions of SECTION 17 shall apply to benefit years that begin after July 1, 1977.
