

1981 Senate Bill 5

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CHAPTER 28 , Laws of 1981

AN ACT to repeal 108.04 (15) and 108.05 (3) (c); to repeal and recreate 108.04 (13) (e); and to create 108.04 (7) (j) and 108.05 (7) of the statutes, relating to offset of retirement system benefits for unemployment compensation purposes.

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

NOTE: This bill is proposed unanimously by the statutory advisory council on unemployment compensation. The bill changes the provisions of the statutes regarding the treatment of retirement payments for the purposes of eligibility for unemployment compensation benefits. Currently, state law requires a dollar-for-dollar reduction in unemployment compensation benefits if a claimant receives a pension or other retirement income. Under the bill, an employee's contribution to a retirement payment is not applied against his or her weekly benefit amount; where the retirement system from which the employee receives benefits cannot determine that portion, it is calculated at one-half the retirement amount. Only retirement payments arising from the claimant's 52-week base period (recent work experience) are considered in determining the offset. The provisions are effective retroactively to weeks of unemployment after November 1, 1980. The proposal takes advantage of the options afforded as the result of amendments made in a related federal statute by a recent federal law, P.L. 96-364.

SECTION 1. 108.04 (7) (j) of the statutes is created to read:

108.04 (7) (j) Paragraph (a) does not apply if the department determines that the employee left or lost the employment because of reaching the compulsory retirement age used by the employing firm.

SECTION 2. 108.04 (13) (e) of the statutes is repealed and recreated to read:

108.04 (13) (e) Whenever an individual claims benefits and is receiving, is entitled to receive, or has applied for a payment or payments from any government or other retirement system the individual shall promptly notify the department and furnish all relevant information relating thereto as the department may request. The government or other retirement system shall, on request from the department, report to it the relevant information as to the individual's eligibility for and receipt of payments under that system.

SECTION 3. 108.04 (15) of the statutes is repealed.

SECTION 4. 108.05 (3) (c) of the statutes is repealed.

SECTION 5. 108.05 (7) of the statutes is created to read:

108.05 (7) PENSION PAYMENTS. (a) Benefits otherwise payable to a claimant for a week of partial or total unemployment, in a period of time with respect to which the claimant actually or constructively receives a pension payment, shall be reduced, but not below zero, by an amount equal to the proportion of the pension payment reasonably attributable to that week.

(b) In this subsection, "pension payment" means a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment, based on the previous work of a claimant, from a governmental or other retirement system maintained or contributed to by one or more employing units.

(c) This subsection applies only to the portion of a pension payment financed by other than the claimant's own contributions to the retirement system calculated as follows:

1. One-half of any pension payment under the social security act or railroad retirement act of 1974; and

2. One-half, or a separately calculated fraction if acceptable evidence thereof is furnished to the department, of any pension payment under any other retirement system, but only if the retirement system was contributed to by an employing unit for which the claimant has worked since the start of the claimant's applicable base period and that such work or the remuneration for that work affirmatively affected the claimant's eligibility for or increased the amount of the pension payment.

(d) A claimant constructively receives a pension payment under par. (a) only as to weeks occurring after the effective date of the commencement of eligibility for such payments and after the claimant has had due notice from the retirement system of his or her eligibility.

SECTION 6. Application. The changes effected by this act apply with respect to weeks of unemployment after November 1, 1980.
