



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0610/P3
GMM:kjf:jm

DOA:.....Kirschbaum, BB0209 - Transfer of Worker's Compensation
Division functions to OCI and DHA

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Under current law, DWD performs certain administrative functions relating to worker's compensation. Those administrative functions include enforcement of the requirement that employers are insured for their worker's compensation liability; granting exemptions from that duty to insure to self-insured employers; administering the self-insured employers fund, from which DWD pays benefits to the injured employees of insolvent self-insured employers; administering the uninsured employers fund, from which DWD pays benefits to the injured employees of uninsured employers; and administering the work injury supplemental benefits fund, from which DWD pays supplemental benefits to certain injured employees with permanent total disability. This bill transfers the administrative functions of DWD relating to worker's compensation to OCI.

Under current law, DWD performs certain adjudicatory functions relating to worker's compensation. Those adjudicatory functions include adjudicating disputed worker's compensation claims, adjudicating disputes over the reasonableness of fees charged for health services provided to an injured employee and of the amount charged for prescription drugs dispensed to an injured employee (reasonableness of fees), and adjudicating disputes over the necessity of treatment provided to an injured employee (necessity of treatment). This bill transfers the adjudicatory

functions of DWD relating to disputed worker's compensation claims to the Division of Hearings and Appeals in DOA (DHA) and the adjudicatory functions of DWD relating to the reasonableness of fees and the necessity of treatment to OCI. The bill also permits DHA to record testimony by electronic means rather than by a stenographer and to provide notices by electronic delivery in addition to providing notices by mail.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 15.227 (4) of the statutes is renumbered 15.737 (4) and amended to read:

15.737 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the ~~department of workforce development~~ office of the commissioner of insurance a council on worker's compensation appointed by the ~~secretary of workforce development~~ commissioner of insurance to consist of a designated employee of the ~~department of workforce development~~ office of the commissioner of insurance as chairperson, 5 representatives of employers, and 5 representatives of employees. The ~~secretary of workforce development~~ commissioner of insurance shall also appoint 3 representatives of insurers authorized to do worker's compensation insurance business in this state as nonvoting members of the council.

SECTION 2. 15.227 (11) of the statutes is renumbered 15.737 (11) and amended to read:

15.737 (11) SELF-INSURERS COUNCIL. There is created in the ~~department of workforce development~~ office of the commissioner of insurance a self-insurers council consisting of 5 members appointed by the ~~secretary of workforce development~~ commissioner of insurance for 3-year terms.

SECTION 3. 15.737 (title) of the statutes is created to read:

15.737 (title) **Same; councils.**

SECTION 4. 16.865 (4) of the statutes is amended to read:

16.865 (4) Manage the state employees' worker's compensation program and the statewide self-funded programs to protect the state from losses of and damage to state property and liability and, if retained by the ~~department of workforce development~~ office of the commissioner of insurance under s. 102.65 (3), process, investigate, and pay claims under ss. 102.44 (1), 102.49, 102.59, and 102.66 as provided in s. 102.65 (3).

SECTION 5. 20.145 (6) (title) of the statutes is created to read:

20.145 (6) (title) **WORKER'S COMPENSATION ADMINISTRATION.**

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 6. 20.145 (6) (ga) of the statutes is created to read:

20.145 (6) (ga) *Auxiliary services.* All moneys received from fees collected under s. 102.16 (2m) (d) for the delivery of services under s. 102.16 (2m) (f).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 7. 20.145 (6) (gb) of the statutes is created to read:

20.145 (6) (gb) *Local agreements.* All moneys received through contracts or financial agreements for provision of worker's compensation services to local units of government or local organizations, for the purpose of providing those services.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 8. 20.145 (6) (ka) of the statutes is created to read:

20.145 (6) (ka) *Interagency and intra-agency agreements.* All moneys received through contracts or financial agreements from other state agencies for the provision of worker's compensation services to those state agencies and all moneys received by

the office from the office for the provision of those services to the office, for the purpose of providing those services.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 9. 20.445 (1) (aa) of the statutes is renumbered 20.145 (6) (aa).

SECTION 10. 20.445 (1) (ga) of the statutes is amended to read:

20.445 (1) (ga) *Auxiliary services.* All moneys received from fees collected under ss. ~~102.16 (2m) (d)~~, 103.005 (15) and 106.09 (7) for the delivery of services under ss. ~~102.16 (2m) (f)~~, 103.005 (15) and 106.09 and ch. 108.

SECTION 11. 20.445 (1) (p) of the statutes is renumbered 20.145 (6) (p) and amended to read:

20.145 (6) (p) *Worker's compensation; federal moneys.* All federal moneys received for the worker's compensation activities of the department office, to be used for those purposes.

SECTION 12. 20.445 (1) (ra) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is renumbered 20.145 (6) (ra) and amended to read:

20.145 (6) (ra) *Worker's compensation operations fund; administration.* From the worker's compensation operations fund, the amounts in the schedule for the administration of the worker's compensation program by the department office, for transfer to the uninsured employers fund under s. 102.81 (1) (c), and for transfer to the appropriation accounts under par. (rp) and ~~sub. s. 20.445 (2) (ra)~~. All moneys received under ss. 102.28 (2) (b) and 102.75 shall be credited to this appropriation account. From this appropriation, an amount not to exceed \$5,000 may be expended each fiscal year for payment of expenses for travel and research by the council on worker's compensation, an amount not to exceed \$500,000 may be transferred in

each fiscal year to the uninsured employers fund under s. 102.81 (1) (c), the amount in the schedule under par. (rp) shall be transferred to the appropriation account under par. (rp), and the amount in the schedule under sub. (2) (ra) shall be transferred to the appropriation account under sub. (2) (ra).

****NOTE: This is reconciled s.20.445 (1) (ra). This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 13. 20.445 (1) (rb) of the statutes is renumbered 20.145 (6) (rb).

SECTION 14. 20.445 (1) (rp) of the statutes is renumbered 20.145 (6) (rp).

SECTION 15. 20.445 (1) (s) of the statutes is renumbered 20.145 (6) (s).

SECTION 16. 20.445 (1) (sm) of the statutes is renumbered 20.145 (6) (sm) and amended to read:

20.145 (6) (sm) *Uninsured employers fund; payments.* From the uninsured employers fund, a sum sufficient to make the payments under s. 102.81 (1) and to obtain reinsurance under s. 102.81 (2). No moneys may be expended or encumbered under this paragraph until the first day of the first July beginning after the day that the ~~secretary of workforce development~~ commissioner of insurance files the certificate under s. 102.80 (3) (a).

SECTION 17. 20.445 (1) (t) of the statutes is renumbered 20.145 (6) (t).

SECTION 18. 20.445 (2) (ra) of the statutes is amended to read:

20.445 (2) (ra) *Worker's compensation operations fund; worker's compensation activities.* From the worker's compensation operations fund, the amounts in the schedule for the worker's compensation activities of the labor and industry review commission. All moneys transferred from the appropriation account under ~~sub. (1)~~ s. 20.145 (6) (ra) shall be credited to this appropriation account.

SECTION 19. 40.63 (6) of the statutes is amended to read:

40.63 (6) Any person entitled to payments under this section who may otherwise be entitled to payments under s. 66.191, 1981 stats., may file with the department and the ~~department of workforce development~~ office of the commissioner of insurance a written election to waive payments due under this section and accept in lieu of the payments under this section payments as may be payable under s. 66.191, 1981 stats., but no person may receive payments under both s. 66.191, 1981 stats., and this section. However any person otherwise entitled to payments under this section may receive the payments, without waiver of any rights under s. 66.191, 1981 stats., during any period as may be required for a determination of the person's rights under s. 66.191, 1981 stats. Upon the final adjudication of the person's rights under s. 66.191, 1981 stats., if waiver is filed under this section, the person shall immediately cease to be entitled to payments under this section and the system shall be reimbursed from the award made under s. 66.191, 1981 stats., for all payments made under this section.

SECTION 20. 40.65 (2) (a) of the statutes is amended to read:

40.65 (2) (a) This paragraph applies to participants who first apply for benefits before May 3, 1988. Any person desiring a benefit under this section must apply to the ~~department of workforce development~~ office of the commissioner of insurance, which ~~department~~ office shall determine whether the applicant is eligible to receive the benefit and the participant's monthly salary. Appeals from the eligibility decision shall follow the procedures under ss. 102.16 to 102.26. If it is determined that an applicant is eligible, the ~~department of workforce development~~ office of the commissioner of insurance shall notify the department of employee trust funds and shall certify the applicant's monthly salary. If at the time of application for benefits an applicant is still employed in any capacity by the employer in whose employ the

disabling injury occurred or disease was contracted, that continued employment shall not affect that applicant's right to have his or her eligibility to receive those benefits determined in proceedings before the ~~department of workforce development~~ division of hearings and appeals in the department of administration or the labor and industry review commission or in proceedings in the courts. The ~~department of workforce development~~ office of the commissioner of insurance may promulgate rules needed to administer this paragraph.

SECTION 21. 40.65 (2) (b) 3. of the statutes is amended to read:

40.65 (2) (b) 3. The department shall determine whether or not the applicant is eligible for benefits under this section on the basis of the evidence in subd. 2. An applicant may appeal a determination under this subdivision to the ~~department of workforce development~~ division of hearings and appeals in the department of administration.

SECTION 22. 40.65 (2) (b) 4. of the statutes is amended to read:

40.65 (2) (b) 4. In hearing an appeal under subd. 3., the ~~department of workforce development~~ division of hearings and appeals in the department of administration shall follow the procedures under ss. 102.16 to 102.26.

SECTION 23. 49.857 (1) (d) 8. of the statutes is amended to read:

49.857 (1) (d) 8. A license issued under s. ~~102.17 (1) (e)~~, 104.07 or 105.05.

SECTION 24. 49.857 (1) (d) 20. of the statutes is amended to read:

49.857 (1) (d) 20. A license issued under s. ~~102.17 (1) (c)~~, 628.04, 628.92 (1), 632.69 (2), or 633.14 or a temporary license issued under s. 628.09.

SECTION 25. 73.0301 (1) (d) 3m. of the statutes is amended to read:

73.0301 (1) (d) 3m. A license or certificate issued by the department of workforce development under s. ~~102.17 (1) (e)~~, 103.275 (2) (b), 103.34 (3) (c), 103.91 (1), 103.92 (3), 104.07 (1) or (2), or 105.13 (1).

SECTION 26. 73.0301 (1) (d) 12. of the statutes is amended to read:

73.0301 (1) (d) 12. A license issued under s. ~~102.17 (1) (c)~~, 628.04, 628.92 (1), 632.69 (2), or 633.14, a registration under s. 628.92 (2), or a temporary license issued under s. 628.09.

SECTION 27. 102.01 (2) (a) of the statutes is renumbered 102.01 (2) (af).

SECTION 28. 102.01 (2) (ad) of the statutes is created to read:

102.01 (2) (ad) “Administrator” means the administrator of the division of hearings and appeals in the department of administration.

SECTION 29. 102.01 (2) (ag) of the statutes is amended to read:

102.01 (2) (ag) “Commissioner” means ~~a member of the commission~~ the commissioner of insurance.

SECTION 30. 102.01 (2) (ap) of the statutes is repealed.

SECTION 31. 102.01 (2) (ar) of the statutes is created to read:

102.01 (2) (ar) “Division” means the division of hearings and appeals in the department of administration.

SECTION 32. 102.01 (2) (bm) of the statutes is amended to read:

102.01 (2) (bm) “General order” means ~~such order as~~ an order that applies generally throughout the state to all persons, employments, places of employment, or public buildings, or to all persons, employments ~~or~~, places of employment, or public buildings of a class under the jurisdiction of the department office. All other orders of the department office shall be considered special orders.

SECTION 33. 102.01 (2) (dg) of the statutes is created to read:

102.01 (2) (dg) "Office" means the office of the commissioner.

SECTION 34. 102.01 (2) (dm) of the statutes is amended to read:

102.01 (2) (dm) "Order" means any decision, rule, regulation, direction, requirement, or standard of the department office, or any other determination arrived at or decision made by the department office.

SECTION 35. 102.01 (2) (em) of the statutes is repealed.

SECTION 36. 102.05 (1) of the statutes is amended to read:

102.05 (1) An employer who has had no employee at any time within a continuous period of 2 years shall be deemed considered to have effected withdrawal, which shall be effective on the last day of ~~such~~ that period. An employer who has not usually employed 3 employees and who has not paid wages of at least \$500 for employment in this state in every calendar quarter in a calendar year may file a withdrawal notice with the department office, which withdrawal shall take effect 30 days after the date of ~~such~~ that filing or at such later date as is specified in the notice. If an employer who is subject to this chapter only because the employer elected to become subject to this chapter under sub. (2) cancels or terminates his or her contract for the insurance of compensation under this chapter, that employer is deemed considered to have effected withdrawal, which shall be effective on the day after the contract is canceled or terminated.

SECTION 37. 102.05 (3) of the statutes is amended to read:

102.05 (3) ~~Any~~ If a person engaged in farming who has become subject to this chapter has not employed 6 or more employees, as defined in s. 102.07 (5), on 20 or more days during the current or previous calendar year, the person may withdraw by filing with the department office a notice of withdrawal, ~~if the person has not employed 6 or more employees as defined by s. 102.07 (5) on 20 or more days during~~

~~the current or previous calendar year. Such which withdrawal shall be effective take effect 30 days after the date of receipt of the notice by the department, office or at such later date as is specified in the notice. Such A person who withdraws under this subsection may again become subject to this chapter as provided by in s. 102.04 (1) (c) and (e).~~

SECTION 38. 102.06 of the statutes is amended to read:

102.06 Joint liability of employer and contractor. An employer shall be liable for compensation to an employee of a contractor or subcontractor under the employer who is not subject to this chapter, or who has not complied with the conditions of s. 102.28 (2) in any case ~~where such~~ in which the employer would have been liable for compensation if ~~such the~~ the employee had been working directly for the employer, including also work in the erection, alteration, repair, or demolition of improvements or of fixtures upon premises of ~~such the~~ the employer ~~which that~~ that are used or to be used in the operations of ~~such the~~ the employer. The contractor or subcontractor, if subject to this chapter, shall also be liable for ~~such that~~ that compensation, but the employee shall not recover compensation for the same injury from more than one party. ~~The~~ An employer who becomes liable for and who pays ~~such that~~ that compensation may recover the same amount of compensation paid from ~~such that~~ that contractor, or subcontractor, or from any other employer for whom the employee was working at the time of the injury, if ~~such that~~ that contractor, subcontractor, or other employer was an employer, as defined in s. 102.04. This section does not apply to injuries occurring on or after the first day of the first July beginning after the day ~~that~~ on which the secretary commissioner files the certificate under s. 102.80 (3) (a), except that if the secretary commissioner files the certificate under s. 102.80 (3) (ag) this section does apply to claims for compensation filed on or after the date specified in that certificate.

SECTION 39. 102.07 (1) (a) of the statutes is amended to read:

102.07 (1) (a) Every person, including all officials, in the service of the state, or of any municipality ~~therein~~ in this state, whether elected or under any appointment, or contract of hire, express or implied, and whether a resident of this state or employed or injured within or without the state. The state ~~and~~ or any municipality may require a bond from a contractor to protect the state or municipality against compensation to employees of ~~such~~ the contractor or employees of a subcontractor under the contractor. This paragraph does not apply beginning on the first day of the first July beginning after the day ~~that~~ on which the ~~secretary commissioner~~ secretary commissioner files the certificate under s. 102.80 (3) (a), except that if the ~~secretary commissioner~~ secretary commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply to claims for compensation filed on or after the date specified in that certificate.

SECTION 40. 102.07 (1) (b) of the statutes is amended to read:

102.07 (1) (b) Every person, including all officials, in the service of the state, or of any municipality ~~therein~~ in this state, whether elected or under any appointment, or contract of hire, express or implied, and whether a resident of this state or employed or injured within or without the state. This paragraph first applies on the first day of the first July beginning after the day ~~that~~ on which the ~~secretary commissioner~~ secretary commissioner files the certificate under s. 102.80 (3) (a), except that if the ~~secretary commissioner~~ secretary commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply to claims for compensation filed on or after the date specified in that certificate.

SECTION 41. 102.07 (7) (b) of the statutes is amended to read:

102.07 (7) (b) The ~~department~~ office may issue an order under s. 102.31 (1) (b) permitting the county within which a volunteer fire company or fire department organized under ch. 213, a legally organized rescue squad, an ambulance service

provider, as defined in s. 256.01 (3), or a legally organized diving team is organized to assume full liability for the compensation provided under this chapter of all volunteer members of that company, department, squad, provider or team.

SECTION 42. 102.07 (8) (c) of the statutes is amended to read:

102.07 (8) (c) The ~~department~~ office may not admit in evidence any state or federal laws, ~~regulations, documents~~ law, regulation, or document granting operating authority, or licenses license when determining whether an independent contractor meets the conditions specified in par. (b) 1. or 3.

SECTION 43. 102.07 (11) of the statutes is amended to read:

102.07 (11) The ~~department~~ office may by rule prescribe classes of volunteer workers who may, at the election of the person for whom the service is being performed, be deemed considered to be employees for the purposes of this chapter. Election shall be by endorsement upon ~~the~~ that person's worker's compensation insurance policy with written notice to the ~~department~~ office. In the case of an employer that is exempt from insuring liability, election shall be by written notice to the ~~department~~ office. The ~~department~~ office shall by rule prescribe the means and manner in which notice of election by the employer is to be provided to the volunteer workers.

SECTION 44. 102.076 (2) of the statutes is amended to read:

102.076 (2) If a corporation has not more than 10 stockholders, not more than 2 officers, and no other employees and is not otherwise required under this chapter to have a policy of worker's compensation insurance, an officer of that corporation who elects not to be subject to this chapter shall file a notice of that election with the ~~department~~ office on a form approved by the ~~department~~ office. The election is

effective until the officer rescinds it the election by notifying the department office in writing.

SECTION 45. 102.077 (1) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

102.077 (1) A school district, private school, or institution of higher education may elect to name as its employee for purposes of this chapter a student described in s. 102.07 (12m) (b) by an endorsement on its policy of worker's compensation insurance or, if the school district, private school, or institution of higher education is exempt from the duty to insure under s. 102.28 (2) (a), by filing a declaration with the department office in the manner provided in s. 102.31 (2) (a) naming the student as an employee of the school district, private school, or institution of higher education for purposes of this chapter. A declaration under this subsection shall list the name of the student to be covered under this chapter, the name and address of the employer that is providing the work training or work experience for that student, and the title, if any, of the work training, work experience, or work study program in which the student is participating.

***NOTE: This is reconciled s. 102.077 (1). This SECTION has been affected by drafts with the following LRB numbers: -0610/P2 and LRB-0921/P1.

SECTION 46. 102.077 (2) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

102.077 (2) A school district, private school, or institution of higher education may revoke a declaration under sub. (1) by providing written notice to the department office in the manner provided in s. 102.31 (2) (a), the student, and the employer who is providing the work training or work experience for that student.

A revocation under this subsection is effective 30 days after the department office receives notice of that revocation.

****NOTE: This is reconciled s.102.077 (2). This SECTION has been affected by drafts with the following LRB numbers: -0610/P2 and LRB-0921/P1.

SECTION 47. 102.08 of the statutes is amended to read:

102.08 Administration for state employees. The department of administration has responsibility for the timely delivery of benefits payable under this chapter to employees of the state and their dependents and other functions of the state as an employer under this chapter. The department of administration may delegate ~~this authority~~ that responsibility to employing departments and agencies and require such reports as it ~~deems~~ considers necessary to accomplish this purpose. The department of administration or its delegated authorities shall file with the ~~department of workforce development~~ office the reports that are required of all employers. The ~~department of workforce development~~ office shall monitor the delivery of benefits payable under this chapter to state employees and their dependents and shall consult with and advise the department of administration in the manner and at the times necessary to ensure prompt and proper delivery of those benefits.

SECTION 48. 102.11 (1) (am) 1. of the statutes is amended to read:

102.11 (1) (am) 1. The employee is a member of a class of employees that does the same type of work at the same location and, in the case of an employee in the service of the state, is employed in the same office, department, independent agency, authority, institution, association, society, or other body in state government or, if the ~~department~~ office determines appropriate, in the same subunit of an office,

department, independent agency, authority, institution, association, society, or other body in state government.

SECTION 49. 102.12 of the statutes is amended to read:

102.12 Notice of injury, exception, laches. No claim for compensation may be maintained unless, within 30 days after the occurrence of the injury or within 30 days after the employee knew or ought to have known the nature of his or her disability and its relation to the employment, actual notice was received by the employer or by an officer, manager, or designated representative of an employer. If no representative has been designated by posters placed in one or more conspicuous places where notices to employees are customarily posted, then notice received by any superior is sufficient. Absence of notice does not bar recovery if it is found that the employer was not misled ~~thereby~~ by that absence. Regardless of whether notice was received, if no payment of compensation, other than medical treatment or burial expense, is made, ~~and~~ and if no application is filed with the ~~department~~ office within 2 years ~~from~~ after the date of the injury or death, ~~or from~~ or the date the employee or his or her dependent knew or ought to have known the nature of the disability and its relation to the employment, the right to compensation ~~therefor~~ for the injury or death is barred, except that the right to compensation is not barred if the employer knew or should have known, within the 2-year period, that the employee had sustained the injury on which the claim is based. Issuance of notice of a hearing on the ~~department's~~ division's own motion has the same effect for the purposes of this section as the filing of an application. This section does not affect any claim barred under s. 102.17 (4).

SECTION 50. 102.125 of the statutes is amended to read:

102.125 Fraudulent claims reporting and investigation. If an insurer or self-insured employer has evidence that a claim is false or fraudulent in violation of s. 943.395 and if the insurer or self-insured employer is satisfied that reporting the claim to the ~~department~~ office will not impede its ability to defend the claim, the insurer or self-insured employer shall report the claim to the ~~department~~ office. The ~~department~~ office may require an insurer or self-insured employer to investigate an allegedly false or fraudulent claim and may provide the insurer or self-insured employer with any records of the ~~department~~ office relating to that claim. An insurer or self-insured employer that investigates a claim under this section shall report on the results of that investigation to the ~~department~~ office. If based on the investigation the ~~department~~ office has a reasonable basis to believe that a violation of s. 943.395 has occurred, the ~~department~~ office shall refer the results of the investigation to the district attorney of the county in which the alleged violation occurred for prosecution.

SECTION 51. 102.13 (1) (c) of the statutes is amended to read:

102.13 (1) (c) So long as the employee, after a written request of the employer or insurer ~~which~~ that complies with par. (b), refuses to submit to or in any way obstructs the examination, the employee's right to begin or maintain any proceeding for the collection of compensation is suspended, except as provided in sub. (4). If the employee refuses to submit to the examination after direction by the ~~department~~ division or an examiner, or in any way obstructs the examination, the employee's right to the weekly indemnity ~~which~~ that accrues and becomes payable during the period of that refusal or obstruction, is barred, except as provided in sub. (4).

SECTION 52. 102.13 (1) (d) 2. of the statutes is amended to read:

102.13 (1) (d) 2. Any physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist who attended a worker's compensation claimant for any condition or complaint reasonably related to the condition for which the claimant claims compensation may be required to testify before the ~~department~~ division when the ~~department~~ division so directs.

SECTION 53. 102.13 (1) (d) 3. of the statutes is amended to read:

102.13 (1) (d) 3. Notwithstanding any statutory provisions except par. (e), any physician, chiropractor, psychologist, dentist, physician assistant, advanced practice nurse prescriber, or podiatrist attending a worker's compensation claimant for any condition or complaint reasonably related to the condition for which the claimant claims compensation may furnish to the employee, employer, worker's compensation insurer, ~~or the department~~ the office, or the division information and reports relative to a compensation claim.

SECTION 54. 102.13 (1) (f) of the statutes is amended to read:

102.13 (1) (f) If an employee claims compensation under s. 102.81 (1), the ~~department~~ office may require the employee to submit to physical or vocational examinations under this subsection.

SECTION 55. 102.13 (2) (a) of the statutes is amended to read:

102.13 (2) (a) An employee who reports an injury alleged to be work-related or who files an application for hearing waives any physician-patient, psychologist-patient or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding ss. 51.30 and 146.82 and any other law, any physician, chiropractor, psychologist, dentist, podiatrist, physician assistant, advanced practice nurse prescriber, hospital, or health care provider shall, within a

reasonable time after written request by the employee, employer, worker's compensation insurer, ~~or department office, or division,~~ or its representative, provide that person with any information or written material reasonably related to any injury for which the employee claims compensation.

SECTION 56. 102.13 (2) (c) of the statutes is amended to read:

102.13 (2) (c) Except as provided in this paragraph, if an injured employee has a period of temporary disability that exceeds 3 weeks or a permanent disability, if the injured employee has undergone surgery to treat his or her injury, other than surgery to correct a hernia, or if the injured employee sustained an eye injury requiring medical treatment on 3 or more occasions off the employer's premises, the ~~department office~~ may by rule require the insurer or self-insured employer to submit to the ~~department office~~ a final report of the employee's treating practitioner. The ~~department office~~ may not require an insurer or self-insured employer to submit to the ~~department office~~ a final report of an employee's treating practitioner when the insurer or self-insured employer denies the employee's claim for compensation and the employee does not contest that denial. A treating practitioner may charge a reasonable fee for the completion of the final report, but may not require prepayment of that fee. An insurer or self-insured employer that disputes the reasonableness of a fee charged for the completion of a treatment practitioner's final report may submit that dispute to the ~~department office~~ for resolution under s. 102.16 (2).

SECTION 57. 102.13 (3) of the statutes is amended to read:

102.13 (3) If 2 or more physicians, chiropractors, psychologists, dentists or podiatrists disagree as to the extent of an injured employee's temporary disability, the end of an employee's healing period, an employee's ability to return to work at suitable available employment, or the necessity for further treatment or for a

particular type of treatment, the ~~department~~ division may appoint another physician, chiropractor, psychologist, dentist or podiatrist to examine the employee and render an opinion as soon as possible. The ~~department~~ division shall promptly notify the parties of this appointment. If the employee has not returned to work, payment for temporary disability shall continue until the ~~department~~ division receives the opinion. The employer or its insurance carrier or both shall pay for the examination and opinion. The employer or insurance carrier or both shall receive appropriate credit for any overpayment to the employee determined by the ~~department~~ division after receipt of the opinion.

SECTION 58. 102.13 (4) of the statutes is amended to read:

102.13 (4) ~~The rights of employees~~ right of an employee to begin or maintain proceedings for the collection of compensation and to receive weekly indemnities ~~which that~~ accrue and become payable shall not be suspended or barred under sub. (1) when ~~an~~ the employee refuses to submit to a physical examination, upon the request of the employer or worker's compensation insurer or at the direction of the ~~department~~ division or an examiner, ~~which that~~ would require the employee to travel a distance of 100 miles or more from his or her place of residence, unless the employee has claimed compensation for treatment from a practitioner whose office is located 100 miles or more from the employee's place of residence or the ~~department~~ division or examiner determines that any other circumstances warrant the examination. If the employee has claimed compensation for treatment from a practitioner whose office is located 100 miles or more from the employee's place of residence, the employer or insurer may request, or the ~~department~~ division or an examiner may direct, the employee to submit to a physical examination in the area where the employee's treatment practitioner is located.

SECTION 59. 102.13 (5) of the statutes is amended to read:

102.13 (5) The department division may refuse to receive testimony as to conditions determined from an autopsy if it appears that the party offering the testimony had procured the autopsy and had failed to make reasonable effort to notify at least one party in adverse interest or the department division at least 12 hours before the autopsy of the time and place ~~it~~ at which the autopsy would be performed, or that the autopsy was performed by or at the direction of the coroner or medical examiner or at the direction of the district attorney for purposes not authorized by under ch. 979. The department division may withhold findings until an autopsy is held in accordance with its directions.

SECTION 60. 102.14 (title) of the statutes is amended to read:

102.14 (title) Jurisdiction of department office; advisory committee.

SECTION 61. 102.14 (1) of the statutes is amended to read:

102.14 (1) This Except as otherwise provided, this chapter shall be administered by the department office.

SECTION 62. 102.14 (2) of the statutes is amended to read:

102.14 (2) The council on worker's compensation shall advise the department office in carrying out the purposes of this chapter.—~~Such council,~~ shall submit its recommendations with respect to amendments to this chapter to each regular session of the legislature, and shall report its views upon any pending bill relating to this chapter to the proper legislative committee. At the request of the chairpersons of the senate and assembly committees on labor, the department office shall schedule a meeting of the council with the members of the senate and assembly committees on labor to review and discuss matters of legislative concern arising under this chapter.

SECTION 63. 102.15 (1) of the statutes is amended to read:

102.15 (1) Subject to this chapter, the department division may adopt its own rules of procedure and may change the same from time to time.

SECTION 64. 102.15 (2) of the statutes is amended to read:

102.15 (2) The department division may provide by rule the conditions under which transcripts or electronic recordings of testimony and proceedings shall be furnished.

SECTION 65. 102.15 (3) of the statutes is amended to read:

102.15 (3) All testimony at any hearing held under this chapter shall be ~~taken down by a stenographic reporter, except that in case of an emergency, as determined by~~ recorded by electronic means. That testimony need not be transcribed, unless the examiner conducting the hearing, testimony may be recorded by a recording machine orders otherwise. The division shall furnish a copy of an electronic recording made under this subsection or a transcript ordered under this subsection to the parties upon payment of any fee required by the division by rule.

SECTION 66. 102.16 (1) of the statutes is amended to read:

102.16 (1) Any controversy concerning compensation or a violation of sub. (3), including ~~controversies~~ a controversy in which the state may be a party, shall be submitted to the department division in the manner and with the effect provided in this chapter. ~~Every compromise of any claim for compensation may be reviewed and set aside, modified or confirmed by the department within~~ Within one year ~~from~~ after the date ~~the~~ on which a compromise of any claim for compensation is filed with the department, ~~or from~~ division or the date ~~on which~~ an award has been entered, based thereon, or the department may take that action based on a compromise, the division, on its own motion or upon application made within one year that period,

~~may review and set aside, modify, or confirm the compromise.~~ Unless the word “compromise” appears in a stipulation of settlement, the settlement shall not be deemed considered a compromise, and further claim is not barred except as provided in s. 102.17 (4) regardless of whether an award is made. The employer, insurer, or dependent under s. 102.51 (5) shall have equal rights with the employee to have ~~review of~~ a compromise or any other stipulation of settlement reviewed under this subsection. Upon petition filed with the department division, the department division may set aside the award or otherwise determine the rights of the parties.

SECTION 67. 102.16 (1m) (a) of the statutes is amended to read:

102.16 **(1m)** (a) If an insurer or self-insured employer concedes by compromise under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured employer is liable under this chapter for any health services provided to an injured employee by a health service provider, but disputes the reasonableness of the fee charged by the health service provider, the department division may include in its order confirming the compromise or stipulation a determination made by the office under sub. (2) as to the reasonableness of the fee or ~~the department, if such a determination has not yet been made, the division~~ may notify, or direct the insurer or self-insured employer to notify, the health service provider under sub. (2) (b) that the reasonableness of the fee is in dispute. ~~The department shall deny payment of a health service fee that the department determines under this paragraph to be unreasonable. A health service provider and an insurer or self-insured employer that are parties to a fee dispute under this paragraph are bound by the department's determination under this paragraph on the reasonableness of the disputed fee, unless that determination is set aside, reversed, or modified by the department under sub. (2) (f) or is set aside on judicial review as provided in sub. (2) (f).~~

SECTION 68. 102.16 (1m) (b) of the statutes is amended to read:

102.16 **(1m)** (b) If an insurer or self-insured employer concedes by compromise under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured employer is liable under this chapter for any treatment provided to an injured employee by a health service provider, but disputes the necessity of the treatment, the ~~department~~ division may include in its order confirming the compromise or stipulation a determination made by the office under sub. (2m) as to the necessity of the treatment or ~~the department, if such a determination has not yet been made, the~~ division may notify, or direct the insurer or self-insured employer to notify, the health service provider under sub. (2m) (b) that the necessity of the treatment is in dispute. ~~Before determining under this paragraph the necessity of treatment provided to an injured employee, the department may, but is not required to, obtain the opinion of an expert selected by the department who is qualified as provided in sub. (2m) (e). The standards promulgated under sub. (2m) (g) shall be applied by an expert and by the department in rendering an opinion as to, and in determining, necessity of treatment under this paragraph. In cases in which no standards promulgated under sub. (2m) (g) apply, the department shall find the facts regarding necessity of treatment. The department shall deny payment for any treatment that the department determines under this paragraph to be unnecessary. A health service provider and an insurer or self-insured employer that are parties to a dispute under this paragraph over the necessity of treatment are bound by the department's determination under this paragraph on the necessity of the disputed treatment, unless that determination is set aside, reversed, or modified by the department under sub. (2m) (e) or is set aside on judicial review as provided in sub. (2m) (e).~~

SECTION 69. 102.16 (1m) (c) of the statutes is amended to read:

102.16 (1m) (c) If an insurer or self-insured employer concedes by compromise under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured employer is liable under this chapter for the cost of a prescription drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but disputes the reasonableness of the amount charged for the prescription drug, the department division may include in its order confirming the compromise or stipulation a determination made by the office under s. 102.425 (4m) as to the reasonableness of the prescription drug charge or the department, if such a determination has not yet been made, the division may notify, or direct the insurer or self-insured employer to notify, the pharmacist or practitioner dispensing the prescription drug under s. 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in dispute. ~~The department shall deny payment of a prescription drug charge that the department determines under this paragraph to be unreasonable. A pharmacist or practitioner and an insurer or self-insured employer that are parties to a dispute under this paragraph over the reasonableness of a prescription drug charge are bound by the department's determination under this paragraph on the reasonableness of the disputed prescription drug charge, unless that determination is set aside, reversed, or modified by the department under s. 102.425 (4m) (e) or is set aside on judicial review as provided in s. 102.425 (4m) (e).~~

SECTION 70. 102.16 (2) (a) of the statutes is amended to read:

102.16 (2) (a) Except as provided in this paragraph, the department office has jurisdiction ~~under this subsection, sub. (1m) (a), and s. 102.17~~ to resolve a dispute between a health service provider and an insurer or self-insured employer over the reasonableness of a fee charged by the health service provider for health services provided to an injured employee who claims benefits under this chapter. A health

service provider may not submit a fee dispute to the ~~department~~ office under this subsection before all treatment by the health service provider of the employee's injury has ended if the amount in controversy, whether based on a single charge or a combination of charges for one or more days of service, is less than \$25. After all treatment by a health service provider of an employee's injury has ended, the health service provider may submit any fee dispute to the ~~department~~ office, regardless of the amount in controversy. The ~~department~~ office shall deny payment of a health service fee that the ~~department~~ office determines under this subsection to be unreasonable.

SECTION 71. 102.16 (2) (am) of the statutes is amended to read:

102.16 (2) (am) A health service provider and an insurer or self-insured employer that are parties to a fee dispute under this subsection are bound by the ~~department's~~ office's determination under this subsection on the reasonableness of the disputed fee, unless that determination is set aside on judicial review as provided in par. (f).

SECTION 72. 102.16 (2) (b) of the statutes is amended to read:

102.16 (2) (b) An insurer or self-insured employer that disputes the reasonableness of a fee charged by a health service provider or the ~~department~~ office under sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable written notice to the health service provider that the fee is being disputed. After receiving reasonable written notice under this paragraph or under sub. (1m) (a) or s. 102.18 (1) (bg) 1. that a health service fee is being disputed, a health service provider may not collect the disputed fee from, or bring an action for collection of the disputed fee against, the employee who received the services for which the fee was charged.

SECTION 73. 102.16 (2) (c) of the statutes is amended to read:

102.16 (2) (c) After a fee dispute is submitted to the department office, the insurer or self-insured employer that is a party to the dispute shall provide to the department office information on that fee and information on fees charged by other health service providers for comparable services. The insurer or self-insured employer shall obtain the information on comparable fees from a database that is certified by the department office under par. (h). Except as provided in par. (e) 1., if the insurer or self-insured employer does not provide the information required under this paragraph, the department office shall determine that the disputed fee is reasonable and order that it be paid. If the insurer or self-insured employer provides the information required under this paragraph, the department office shall use that information to determine the reasonableness of the disputed fee.

SECTION 74. 102.16 (2) (d) of the statutes is amended to read:

102.16 (2) (d) The department office shall analyze the information provided to the department office under par. (c) according to the criteria provided in this paragraph to determine the reasonableness of the disputed fee. Except as provided in [2011 Wisconsin Act 183](#), section [30 \(2\) \(b\)](#), the department office shall determine that a disputed fee is reasonable and order that the disputed fee be paid if that fee is at or below the mean fee for the health service procedure for which the disputed fee was charged, plus 1.2 standard deviations from that mean, as shown by data from a database that is certified by the department office under par. (h). Except as provided in [2011 Wisconsin Act 183](#), section [30 \(2\) \(b\)](#), the department office shall determine that a disputed fee is unreasonable and order that a reasonable fee be paid if the disputed fee is above the mean fee for the health service procedure for which the disputed fee was charged, plus 1.2 standard deviations from that mean, as shown by data from a database that is certified by the department office under par. (h),

unless the health service provider proves to the satisfaction of the department office that a higher fee is justified because the service provided in the disputed case was more difficult or more complicated to provide than in the usual case.

SECTION 75. 102.16 (2) (e) 1. of the statutes is amended to read:

102.16 (2) (e) 1. Subject to subd. 2., if an insurer or self-insured employer that disputes the reasonableness of a fee charged by a health service provider cannot provide information on fees charged by other health service providers for comparable services because the database to which the insurer or self-insured employer subscribes is not able to provide accurate information for the health service procedure at issue, the department office may use any other information that the department office considers to be reliable and relevant to the disputed fee to determine the reasonableness of the disputed fee.

SECTION 76. 102.16 (2) (e) 2. of the statutes is amended to read:

102.16 (2) (e) 2. Notwithstanding subd. 1., the department office may use only a hospital radiology database that has been certified by the department office under par. (h) to determine the reasonableness of a hospital fee for radiology services.

SECTION 77. 102.16 (2) (f) of the statutes is amended to read:

102.16 (2) (f) Within 30 days after a determination under this subsection, the department office may set aside, reverse, or modify the determination for any reason that the department office considers sufficient. Within 60 days after a determination under this subsection, the department office may set aside, reverse, or modify the determination on grounds of mistake. A health service provider, insurer, or self-insured employer that is aggrieved by a determination of the department office under this subsection may seek judicial review of that determination in the same manner that compensation claims are reviewed under s. 102.23.

SECTION 78. 102.16 (2) (h) of the statutes is amended to read:

102.16 (2) (h) The department office shall promulgate rules establishing procedures and requirements for the fee dispute resolution process under this subsection, including rules specifying the standards that health service fee databases must meet for certification under this paragraph. Using those standards, the department office shall certify databases of the health service fees that various health service providers charge. In certifying databases under this paragraph, the department office shall certify at least one database of hospital fees for radiology services, including diagnostic and interventional radiology, diagnostic ultrasound, and nuclear medicine.

SECTION 79. 102.16 (2m) (a) of the statutes is amended to read:

102.16 (2m) (a) Except as provided in this paragraph, the department office has jurisdiction ~~under this subsection, sub. (1m) (b), and s. 102.17~~ to resolve a dispute between a health service provider and an insurer or self-insured employer over the necessity of treatment provided for an injured employee who claims benefits under this chapter. A health service provider may not submit a dispute over necessity of treatment to the department office under this subsection before all treatment by the health service provider of the employee's injury has ended if the amount in controversy, whether based on a single charge or a combination of charges for one or more days of service, is less than \$25. After all treatment by a health service provider of an employee's injury has ended, the health service provider may submit any dispute over necessity of treatment to the department office, regardless of the amount in controversy. The department office shall deny payment for any treatment that the department office determines under this subsection to be unnecessary.

SECTION 80. 102.16 (2m) (am) of the statutes is amended to read:

102.16 (2m) (am) A health service provider and an insurer or self-insured employer that are parties to a dispute under this subsection over the necessity of treatment are bound by the ~~department's~~ office's determination under this subsection on the necessity of the disputed treatment, unless that determination is set aside on judicial review as provided in par. (e).

SECTION 81. 102.16 (2m) (b) of the statutes is amended to read:

102.16 (2m) (b) An insurer or self-insured employer that disputes the necessity of treatment provided by a health service provider or the ~~department~~ division under sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable written notice to the health service provider that the necessity of that treatment is being disputed. After receiving reasonable written notice under this paragraph or under sub. (1m) (b) or s. 102.18 (1) (bg) 2. that the necessity of treatment is being disputed, a health service provider may not collect a fee for that disputed treatment from, or bring an action for collection of the fee for that disputed treatment against, the employee who received the treatment.

SECTION 82. 102.16 (2m) (c) of the statutes is amended to read:

102.16 (2m) (c) Before determining under this subsection the necessity of treatment provided for an injured employee who claims benefits under this chapter, the ~~department~~ office shall obtain a written opinion on the necessity of the treatment in dispute from an expert selected by the ~~department~~ office. To qualify as an expert, a person must be licensed to practice the same health care profession as the individual health service provider whose treatment is under review and must either be performing services for an impartial health care services review organization or be a member of an independent panel of experts established by the ~~department~~ office under par. (f). The standards promulgated under par. (g) shall be applied by an

expert and by the ~~department~~ office in rendering an opinion as to, and in determining, necessity of treatment under this paragraph. In cases in which no standards promulgated under sub. (2m) (g) apply, the ~~department~~ office shall find the facts regarding necessity of treatment. The ~~department~~ office shall adopt the written opinion of the expert as the ~~department's~~ office's determination on the issues covered in the written opinion, unless the health service provider or the insurer or self-insured employer present clear and convincing written evidence that the expert's opinion is in error.

SECTION 83. 102.16 (2m) (d) of the statutes is amended to read:

102.16 **(2m)** (d) The ~~department~~ office may charge a party to a dispute over the necessity of treatment provided for an injured employee who claims benefits under this chapter for the full cost of obtaining the written opinion of the expert under par. (c). The ~~department~~ office shall charge the insurer or self-insured employer for the full cost of obtaining the written opinion of the expert for the first dispute that a particular individual health service provider is involved in, unless the ~~department~~ office determines that the individual health service provider's position in the dispute is frivolous or based on fraudulent representations. In a subsequent dispute involving the same individual health service provider, the ~~department~~ office shall charge the losing party to the dispute for the full cost of obtaining the written opinion of the expert.

SECTION 84. 102.16 (2m) (e) of the statutes is amended to read:

102.16 **(2m)** (e) Within 30 days after a determination under this subsection, the ~~department~~ office may set aside, reverse, or modify the determination for any reason that the ~~department~~ office considers sufficient. Within 60 days after a determination under this subsection, the ~~department~~ office may set aside, reverse, or modify the

determination on grounds of mistake. A health service provider, insurer, or self-insured employer that is aggrieved by a determination of the department office under this subsection may seek judicial review of that determination in the same manner that compensation claims are reviewed under s. 102.23.

SECTION 85. 102.16 (2m) (f) of the statutes is amended to read:

102.16 (2m) (f) The department office may contract with an impartial health care services review organization to provide the expert opinions required under par. (c), or establish a panel of experts to provide those opinions, or both. If the department office establishes a panel of experts to provide the expert opinions required under par. (c), the department office may pay the members of that panel a reasonable fee, plus actual and necessary expenses, for their services.

SECTION 86. 102.16 (2m) (g) of the statutes is amended to read:

102.16 (2m) (g) The department office shall promulgate rules establishing procedures and requirements for the necessity of treatment dispute resolution process under this subsection, including rules setting the fees under par. (f) and rules establishing standards for determining the necessity of treatment provided to an injured employee. Before the department office may amend the rules establishing those standards, the department office shall establish an advisory committee under s. 227.13 composed of health care providers providing treatment under s. 102.42 to advise the department office and the council on worker's compensation on amending those rules.

SECTION 87. 102.16 (4) of the statutes is amended to read:

102.16 (4) The department division has jurisdiction to pass on any question arising out of sub. (3) and has jurisdiction to order the employer to reimburse an employee or other person for any sum deducted from wages or paid by him or her in

violation of that subsection. In addition to the penalty provided in s. 102.85 (1), any employer violating sub. (3) shall be liable to an injured employee for the reasonable value of the necessary services rendered to that employee pursuant to under any arrangement made in violation of sub. (3) without regard to that employee's actual disbursements for ~~the same~~ those services.

SECTION 88. 102.17 (1) (a) 1. of the statutes is amended to read:

102.17 (1) (a) 1. Upon the filing with the department division by any party in interest of any application in writing stating the general nature of any claim as to which any dispute or controversy may have arisen, the department division shall electronically deliver or mail a copy of the application to all other parties in interest, and the insurance carrier shall be considered a party in interest. The department division may bring in additional parties by service of a copy of the application.

SECTION 89. 102.17 (1) (a) 2. of the statutes is amended to read:

102.17 (1) (a) 2. Subject to subd. 3., the department division shall cause notice of hearing on the application to be given to each interested party, by service of that notice on the interested party personally, by electronically delivering a copy of that notice to the interested party, or by mailing a copy of that notice to the interested party's last-known address at least 10 days before the hearing. If a party in interest is located without this state, and has no post-office address within this state, the copy of the application and copies of all notices shall be filed with the department of financial institutions and professional standards and shall also be sent by registered or certified mail to the last-known post-office address of the party. Such filing and mailing shall constitute sufficient service, with the same effect as if served upon a party located within this state.

****NOTE: This is reconciled s.102.17 (1) (a) 2. This SECTION has been affected by drafts with the following LRB numbers: -0610/P2 and LRB-0807/P5.

SECTION 90. 102.17 (1) (a) 3. of the statutes is amended to read:

102.17 (1) (a) 3. If a party in interest claims that the employer or insurer has acted with malice or bad faith, as described in s. 102.18 (1) (b) or (bp), that party shall provide written notice stating with reasonable specificity the basis for the claim to the employer, the insurer, the office, and the department division before the department division schedules a hearing on the claim of malice or bad faith.

SECTION 91. 102.17 (1) (a) 4. of the statutes is amended to read:

102.17 (1) (a) 4. The hearing may be adjourned in the discretion of the department division, and hearings may be held at such places as the department division designates, within or without the state. The department division may also arrange to have hearings held by the commission, officer, or tribunal having authority to hear cases arising under the worker's compensation law of any other state, of the District of Columbia, or of any territory of the United States, with the testimony and proceedings at any such hearing to be reported to the department division and to be made part of the record in the case. Any evidence so taken shall be subject to rebuttal upon final hearing before the department division.

SECTION 92. 102.17 (1) (b) of the statutes is amended to read:

102.17 (1) (b) In any dispute or controversy pending before the department division, the department division may direct the parties to appear before an examiner for a conference to consider the clarification of issues, the joining of additional parties, the necessity or desirability of amendments to the pleadings, the obtaining of admissions of fact or of documents, records, reports, and bills ~~which~~ that may avoid unnecessary proof, and such other matters as may aid in disposition of the

dispute or controversy. After ~~this~~ that conference the ~~department~~ division may issue an order requiring disclosure or exchange of any information or written material ~~which it~~ that the division considers material to the timely and orderly disposition of the dispute or controversy. If a party fails to disclose or exchange that information within the time stated in the order, the ~~department~~ division may issue an order dismissing the claim without prejudice or excluding evidence or testimony relating to the information or written material. The ~~department~~ division shall provide each party with a copy of any order issued under this paragraph.

SECTION 93. 102.17 (1) (c) of the statutes is renumbered 102.17 (1) (c) 1. and amended to read:

102.17 (1) (c) 1. Any party shall have the right to be present at any hearing, in person or by attorney or any other agent, and to present such testimony as may be pertinent to the controversy before the ~~department~~ division. No person, firm, or corporation, other than an attorney at law who is licensed to practice law in the state, may appear on behalf of any party in interest before the ~~department~~ division or any member or employee of the ~~department~~ division assigned to conduct any hearing, investigation, or inquiry relative to a claim for compensation or benefits under this chapter, unless the person is 18 years of age or older, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, is otherwise qualified, and has obtained from the ~~department~~ office a license with authorization to appear in matters or proceedings before the ~~department~~ division. Except as provided under pars. (cm), (cr), and (ct), the license shall be issued by the ~~department~~ office under rules promulgated by the ~~department~~ office. The ~~department~~ office shall maintain in its office a current list of persons to whom licenses have been issued.

2. Any license issued under subd. 1. may be suspended or revoked by the department office for fraud or serious misconduct on the part of an agent, any license may be denied, suspended, nonrenewed, or otherwise withheld by the department office for failure to pay court-ordered payments as provided in par. (cm) on the part of an agent, and any license may be denied or revoked if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes or if the department of workforce development determines under ~~par. (et)~~ s. 108.227 that the applicant or licensee is liable for delinquent unemployment insurance contributions. Before suspending or revoking the license of the agent on the grounds of fraud or misconduct, the department office shall give notice in writing to the agent of the charges of fraud or misconduct and shall give the agent full opportunity to be heard in relation to those charges. In denying, suspending, restricting, refusing to renew, or otherwise withholding a license for failure to pay court-ordered payments as provided in par. (cm), the department office shall follow the procedure provided in a memorandum of understanding entered into under s. 49.857. ~~The license and certificate of authority shall, unless~~

3. Unless otherwise suspended or revoked, a license issued under subd. 1. shall be in force from the date of issuance until the June 30 following the date of issuance and may be renewed by the department office from time to time, but each renewed license shall expire on the June 30 following the issuance of the renewed license.

SECTION 94. 102.17 (1) (cg) 1. of the statutes is amended to read:

102.17 (1) (cg) 1. Except as provided in subd. 2m., the department office shall require each applicant for a license under par. (c) who is an individual to provide the department office with the applicant's social security number, and shall require each applicant for a license under par. (c) who is not an individual to provide the

department office with the applicant's federal employer identification number, when initially applying for or applying to renew the license.

SECTION 95. 102.17 (1) (cg) 2. of the statutes is amended to read:

102.17 (1) (cg) 2. If an applicant who is an individual fails to provide the applicant's social security number to the department office or if an applicant who is not an individual fails to provide the applicant's federal employer identification number to the department office, the department office may not issue or renew a license under par. (c) to or for the applicant unless the applicant is an individual who does not have a social security number and the applicant submits a statement made or subscribed under oath or affirmation as required under subd. 2m.

SECTION 96. 102.17 (1) (cg) 2m. of the statutes is amended to read:

102.17 (1) (cg) 2m. If an applicant who is an individual does not have a social security number, the applicant shall submit a statement made or subscribed under oath or affirmation to the department office that the applicant does not have a social security number. The form of the statement shall be prescribed by the department office. A license issued in reliance upon a false statement submitted under this subdivision is invalid.

SECTION 97. 102.17 (1) (cg) 3. of the statutes is amended to read:

102.17 (1) (cg) 3. The ~~department of workforce development~~ office may not disclose any information received under subd. 1. to any person except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301, the department of workforce development for the sole purpose of requesting certifications under s. 108.227, or the department of children and families for purposes of administering s. 49.22.

SECTION 98. 102.17 (1) (cm) of the statutes is amended to read:

102.17 (1) (cm) The ~~department of workforce development~~ office shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under par. (c) for failure of the applicant or agent to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure of the applicant or agent to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857. Notwithstanding par. (c), an action taken under this paragraph is subject to review only as provided in the memorandum of understanding entered into under s. 49.857 and not as provided in ch. 227.

SECTION 99. 102.17 (1) (cr) of the statutes is amended to read:

102.17 (1) (cr) The ~~department~~ office shall deny an application for the issuance or renewal of a license under par. (c), or revoke such a license already issued, if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes. Notwithstanding par. (c), an action taken under this paragraph is subject to review only as provided under s. 73.0301 (5) and not as provided in ch. 227.

SECTION 100. 102.17 (1) (ct) of the statutes is repealed and recreated to read:

102.17 (1) (ct) The office shall deny an application for the issuance or renewal of a license under par. (c), or revoke such a license already issued, if the department of workforce development certifies under s. 108.227 that the applicant or licensee is liable for delinquent unemployment insurance contributions. Notwithstanding par.

(c), an action taken under this paragraph is subject to review only as provided under s. 108.227 (5) and not as provided in ch. 227.

SECTION 101. 102.17 (1) (d) 1. of the statutes is amended to read:

102.17 (1) (d) 1. The contents of certified medical and surgical reports by physicians, podiatrists, surgeons, dentists, psychologists, physician assistants, advanced practice nurse prescribers, and chiropractors licensed in and practicing in this state, and of certified reports by experts concerning loss of earning capacity under s. 102.44 (2) and (3), presented by a party for compensation constitute prima facie evidence as to the matter contained in those reports, subject to any rules and limitations the ~~department~~ division prescribes. Certified reports of physicians, podiatrists, surgeons, dentists, psychologists, physician assistants, advanced practice nurse prescribers, and chiropractors, wherever licensed and practicing, who have examined or treated the claimant, and of experts, if the practitioner or expert consents to being subjected to cross-examination, also constitute prima facie evidence as to the matter contained in those reports. Certified reports of physicians, podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of the diagnosis, necessity of the treatment, and cause and extent of the disability. Certified reports by doctors of dentistry, physician assistants, and advanced practice nurse prescribers are admissible as evidence of the diagnosis and necessity of treatment but not of the cause and extent of disability. Any physician, podiatrist, surgeon, dentist, psychologist, chiropractor, physician assistant, advanced practice nurse prescriber, or expert who knowingly makes a false statement of fact or opinion in such a certified report may be fined or imprisoned, or both, under s. 943.395.

SECTION 102. 102.17 (1) (d) 2. of the statutes is amended to read:

102.17 (1) (d) 2. The record of a hospital or sanatorium in this state that is satisfactory to the department division, established by certificate, affidavit, or testimony of the supervising officer of the hospital or sanatorium, any other person having charge of the record, or a physician, podiatrist, surgeon, dentist, psychologist, physician assistant, advanced practice nurse prescriber, or chiropractor to be the record of the patient in question, and made in the regular course of examination or treatment of the patient, constitutes prima facie evidence as to the matter contained in the record, to the extent that the record is otherwise competent and relevant.

SECTION 103. 102.17 (1) (d) 3. of the statutes is amended to read:

102.17 (1) (d) 3. The department division may, by rule, establish the qualifications of and the form used for certified reports submitted by experts who provide information concerning loss of earning capacity under s. 102.44 (2) and (3). The department division may not admit into evidence a certified report of a practitioner or other expert or a record of a hospital or sanatorium that was not filed with the department division and all parties in interest at least 15 days before the date of the hearing, unless the department division is satisfied that there is good cause for the failure to file the report.

SECTION 104. 102.17 (1) (d) 4. of the statutes is amended to read:

102.17 (1) (d) 4. A report or record described in subd. 1., 2., or 3. that is admitted or received into evidence by the department division constitutes substantial evidence under s. 102.23 (6) as to the matter contained in the report or record.

SECTION 105. 102.17 (1) (e) of the statutes is amended to read:

102.17 (1) (e) The department division may, with or without notice to any party, cause testimony to be taken, an inspection of the premises where the injury occurred to be made, or the time books and payrolls of the employer to be examined by any

examiner, and may direct any employee claiming compensation to be examined by a physician, chiropractor, psychologist, dentist, or podiatrist. The testimony so taken, and the results of any such inspection or examination, shall be reported to the department division for its consideration upon final hearing. All ex parte testimony taken by the department division shall be reduced to writing, and any party shall have opportunity to rebut that testimony on final hearing.

SECTION 106. 102.17 (1) (f) of the statutes is amended to read:

102.17 (1) (f) Sections 804.05 and 804.07 shall not apply to proceedings under this chapter, except as to a witness who is any of the following:

1. ~~Who is beyond~~ Beyond reach of the subpoena of the department; or division.
2. ~~Who is about~~ About to go out of the state, not intending to return in time for the hearing; or hearing.
3. ~~Who is so~~ So sick, infirm, or aged as to make it probable that the witness will not be able to attend the hearing; or hearing.
4. ~~Who is a~~ A member of the legislature, if any committee of the same or legislature or of the house of which the witness is a member, is in session, ~~provided~~ and the witness waives his or her privilege.

SECTION 107. 102.17 (1) (g) of the statutes is amended to read:

102.17 (1) (g) Whenever the testimony presented at any hearing indicates a dispute or creates a doubt as to the extent or cause of disability or death, the department division may direct that the injured employee be examined, that an autopsy be performed, or that an opinion be obtained without examination or autopsy, by or from an impartial, competent physician, chiropractor, dentist, psychologist or podiatrist designated by the department division who is not under contract with or regularly employed by a compensation insurance carrier or

self-insured employer. The expense of the examination, autopsy, or opinion shall be paid by the employer or, if the employee claims compensation under s. 102.81, from the uninsured employers fund. The report of the examination, autopsy, or opinion shall be transmitted in writing to the department division and a copy of the report shall be furnished by the department division to each party, who shall have an opportunity to rebut ~~such~~ the report on further hearing.

SECTION 108. 102.17 (1) (h) of the statutes is amended to read:

102.17 (1) (h) The contents of certified reports of investigation, made by industrial safety specialists who are employed, contracted, or otherwise secured by the department division and who are available for cross-examination, if served upon the parties 15 days prior to hearing, shall constitute prima facie evidence as to matter contained in those reports. A report described in this paragraph that is admitted or received into evidence by the department division constitutes substantial evidence under s. 102.23 (6) as to the matter contained in the report.

SECTION 109. 102.17 (2) of the statutes is amended to read:

102.17 (2) ~~If the department shall have~~ division has reason to believe that the payment of compensation has not been made, ~~it~~ the division may on its own motion give notice to the parties, in the manner provided for the service of an application, of a time and place when a hearing will be held for the purpose of determining the facts. ~~Such~~ The notice shall contain a statement of the matter to be considered. ~~Thereafter all other~~ All provisions of this chapter governing proceedings on an application shall ~~attach~~ apply, insofar as ~~the same may be applicable, to a proceeding~~ under this subsection. When the department division schedules a hearing on its own motion, the department division does not become a party in interest and is not required to appear at the hearing.

SECTION 110. 102.17 (2m) of the statutes is amended to read:

102.17 (2m) Any The division or any party, including the department office, may require any person to produce books, papers, and records at the hearing by personal service of a subpoena upon the person along with a tender of witness fees as provided in ss. 814.67 and 885.06. Except as provided in sub. (2s), the subpoena shall be on a form provided by the ~~department~~ division and shall give the name and address of the party requesting the subpoena.

SECTION 111. 102.17 (2s) of the statutes is amended to read:

102.17 (2s) A party's attorney of record may issue a subpoena to compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney must be in substantially the same form as provided in s. 805.07 (4) and must be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of issuance, send a copy of the subpoena to the ~~appeal tribunal~~ hearing examiner or other representative of the ~~department~~ division responsible for conducting the proceeding.

SECTION 112. 102.17 (7) (b) of the statutes is amended to read:

102.17 (7) (b) Except as provided in par. (c), the ~~department~~ division shall exclude from evidence testimony or certified reports from expert witnesses under par. (a) offered by the party that raises the issue of loss of earning capacity if that party failed to notify the ~~department~~ division and the other parties of interest, at least 60 days before the date of the hearing, of the party's intent to provide the testimony or reports and of the names of the expert witnesses involved. Except as provided in par. (c), the ~~department~~ division shall exclude from evidence testimony or certified reports from expert witnesses under par. (a) offered by a party of interest in response to the party that raises the issue of loss of earning capacity if the

responding party failed to notify the ~~department~~ division and the other parties of interest, at least 45 days before the date of the hearing, of the party's intent to provide the testimony or reports and of the names of the expert witnesses involved.

SECTION 113. 102.17 (7) (c) of the statutes is amended to read:

102.17 (7) (c) Notwithstanding the notice deadlines provided in par. (b), the ~~department~~ division may receive in evidence testimony or certified reports from expert witnesses under par. (a) when the applicable notice deadline under par. (b) is not met if good cause is shown for the delay in providing the notice required under par. (b) and if no party is prejudiced by the delay.

SECTION 114. 102.17 (8) of the statutes is amended to read:

102.17 (8) Unless otherwise agreed to by all parties, an injured employee shall file with the ~~department~~ division and serve on all parties at least 15 days before the date of the hearing an itemized statement of all medical expenses and incidental compensation under s. 102.42 claimed by the injured employee. The itemized statement shall include, if applicable, information relating to any travel expenses incurred by the injured employee in obtaining treatment including the injured employee's destination, number of trips, round trip mileage, and meal and lodging expenses. The ~~department~~ division may not admit into evidence any information relating to medical expenses and incidental compensation under s. 102.42 claimed by an injured employee if the injured employee failed to file with the ~~department~~ division and serve on all parties at least 15 days before the date of the hearing an itemized statement of the medical expenses and incidental compensation under s. 102.42 claimed by the injured employee, unless the ~~department~~ division is satisfied that there is good cause for the failure to file and serve the itemized statement.

SECTION 115. 102.175 (2) of the statutes is amended to read:

102.175 (2) If after a hearing or a prehearing conference the department division determines that an injured employee is entitled to compensation but that there remains in dispute only the issue of which of 2 or more parties is liable for that compensation, the department division may order one or more parties to pay compensation in an amount, time, and manner as determined by the department division. If the department division later determines that another party is liable for compensation, the department division shall order that other party to reimburse any party that was ordered to pay compensation under this subsection.

SECTION 116. 102.18 (1) (b) of the statutes is amended to read:

102.18 (1) (b) Within 90 days after the final hearing and close of the record, the department division shall make and file its findings upon the ultimate facts involved in the controversy, and its order, which shall state its the division's determination as to the rights of the parties. Pending the final determination of any controversy before it, the ~~department may in its discretion~~ division, after any hearing, ~~may, in its discretion~~, make interlocutory findings, orders, and awards, which may be enforced in the same manner as final awards. The ~~department~~ division may include in any interlocutory or final award or order an order directing the employer or insurer to pay for any future treatment that may be necessary to cure and relieve the employee from the effects of the injury. If the ~~department~~ division finds that the employer or insurer has not paid any amount that the employer or insurer was directed to pay in any interlocutory order or award and that the nonpayment was not in good faith, the ~~department~~ division may include in its final award a penalty not exceeding ~~25%~~ 25 percent of each amount that was not paid as directed. When there is a finding that the employee is in fact suffering from an occupational disease caused by the employment of the employer against whom the application is filed, a final award

dismissing the application upon the ground that the applicant has suffered no disability from the disease shall not bar any claim the employee may thereafter have for disability sustained after the date of the award.

SECTION 117. 102.18 (1) (bg) 1. of the statutes is amended to read:

102.18 (1) (bg) 1. If the ~~department~~ division finds under par. (b) that an insurer or self-insured employer is liable under this chapter for any health services provided to an injured employee by a health service provider, but that the reasonableness of the fee charged by the health service provider is in dispute, the ~~department~~ division may include in its order under par. (b) a determination made by the office under s. 102.16 (2) as to the reasonableness of the fee or ~~the department, if such a determination has not yet been made, the division~~ may notify, or direct the insurer or self-insured employer to notify, the health service provider under s. 102.16 (2) (b) that the reasonableness of the fee is in dispute. ~~The department shall deny payment of a health service fee that the department determines under this subdivision to be unreasonable. An insurer or self-insured employer and a health service provider that are parties to a fee dispute under this subdivision are bound by the department's determination under this subdivision on the reasonableness of the disputed fee, unless that determination is set aside, reversed, or modified by the department under sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial review under s. 102.23.~~

SECTION 118. 102.18 (1) (bg) 2. of the statutes is amended to read:

102.18 (1) (bg) 2. If the ~~department~~ division finds under par. (b) that an employer or insurance carrier is liable under this chapter for any treatment provided to an injured employee by a health service provider, but that the necessity of the treatment is in dispute, the ~~department~~ division may include in its order under par.

~~(b) a determination made by the office under s. 102.16 (2m) as to the necessity of the treatment or the department, if such a determination has not yet been made, the division may notify, or direct the employer or insurance carrier to notify, the health service provider under s. 102.16 (2m) (b) that the necessity of the treatment is in dispute. ~~Before determining under this subdivision the necessity of treatment provided to an injured employee, the department may, but is not required to, obtain the opinion of an expert selected by the department who is qualified as provided in s. 102.16 (2m) (c). The standards promulgated under s. 102.16 (2m) (g) shall be applied by an expert in rendering an opinion as to, and in determining, necessity of treatment under this subdivision. In cases in which no standards promulgated under s. 102.16 (2m) (g) apply, the department shall find the facts regarding necessity of treatment. The department shall deny payment for any treatment that the department determines under this subdivision to be unnecessary. An insurer or self-insured employer and a health service provider that are parties to a dispute under this subdivision over the necessity of treatment are bound by the department's determination under this subdivision on the necessity of the disputed treatment, unless that determination is set aside, reversed, or modified by the department division under sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial review under s. 102.23.~~~~

SECTION 119. 102.18 (1) (bg) 3. of the statutes is amended to read:

102.18 (1) (bg) 3. If the department division finds under par. (b) that an insurer or self-insured employer is liable under this chapter for the cost of a prescription drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but that the reasonableness of the amount charged for that prescription drug is in dispute, the department division may include in its order under par. (b) a

determination made by the office under s. 102.425 (4m) as to the reasonableness of the prescription drug charge or ~~the department, if such a determination has not yet been made, the division~~ may notify, or direct the insurer or self-insured employer to notify, the pharmacist or practitioner dispensing the prescription drug under s. 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in dispute. ~~The department shall deny payment of a prescription drug charge that the department determines under this subdivision to be unreasonable. An insurer or self-insured employer and a pharmacist or practitioner that are parties to a dispute under this subdivision over the reasonableness of a prescription drug charge are bound by the department's determination under par. (b) on the reasonableness of the disputed prescription drug charge, unless that determination is set aside, reversed, or modified by the department under sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial review under s. 102.23.~~

SECTION 120. 102.18 (1) (bp) of the statutes is amended to read:

102.18 (1) (bp) If the department division determines that the employer or insurance carrier suspended, terminated, or failed to make payments or failed to report an injury as a result of malice or bad faith, the ~~department~~ division may include a penalty in an award to an employee for each event or occurrence of malice or bad faith. ~~This~~ That penalty is the exclusive remedy against an employer or insurance carrier for malice or bad faith. If ~~this~~ the penalty is imposed for an event or occurrence of malice or bad faith that causes a payment that is due an injured employee to be delayed in violation of s. 102.22 (1) or overdue in violation of s. 628.46 (1), the ~~department~~ division may not also order an increased payment under s. 102.22 (1) or the payment of interest under s. 628.46 (1). The ~~department~~ division may award an amount that ~~it~~ the division considers just, not to exceed the lesser of

200 percent of total compensation due or \$30,000 for each event or occurrence of malice or bad faith. The ~~department~~ division may assess the penalty against the employer, the insurance carrier, or both. Neither the employer nor the insurance carrier is liable to reimburse the other for the penalty amount. The ~~department~~ division may, by rule, define actions ~~which~~ that demonstrate malice or bad faith.

SECTION 121. 102.18 (1) (bw) of the statutes is amended to read:

102.18 (1) (bw) If an insurer, a self-insured employer, or, if applicable, the uninsured employers fund pays compensation to an employee in excess of its liability and another insurer is liable for all or part of the excess payment, the ~~department~~ division may order the insurer ~~or self-insured employer~~ that is liable for that excess payment to reimburse the insurer or self-insured employer that made the excess payment or, if applicable, the uninsured employers fund.

SECTION 122. 102.18 (1) (c) of the statutes is amended to read:

102.18 (1) (c) If 2 or more examiners have conducted a formal hearing on a claim and are unable to agree on the order or award to be issued, the decision shall be the decision of the majority. If the examiners are equally divided on the decision, the ~~department~~ division may appoint an additional examiner who shall review the record and consult with the other examiners concerning their ~~personal~~ impressions of the credibility of the evidence. Findings of fact and an order or award may then be issued by a majority of the examiners.

SECTION 123. 102.18 (1) (e) of the statutes is amended to read:

102.18 (1) (e) Except as provided in s. 102.21, if the ~~department~~ division orders a party to pay an award of compensation, the party shall pay the award no later than 21 days after the date on which the order is electronically delivered to the party or mailed to the last-known address of the party, unless the party files a petition for

review under sub. (3). This paragraph applies to all awards of compensation ordered by the department division, whether the award results from a hearing, the default of a party, or a compromise or stipulation confirmed by the department division.

SECTION 124. 102.18 (2) of the statutes is amended to read:

102.18 (2) The department division shall have and maintain on its staff such examiners as are necessary to hear and decide disputed claims and to assist in the effective ~~administration of~~ adjudication of disputes under this chapter. ~~These~~ Those examiners shall be attorneys and may be designated as administrative law judges. ~~These~~ Those examiners may make findings and orders, and may approve, review, set aside, modify, or confirm stipulations of settlement or compromises of claims for compensation.

SECTION 125. 102.18 (3) of the statutes is amended to read:

102.18 (3) A party in interest may petition the commission for review of an examiner's decision awarding or denying compensation if the department division or commission receives the petition within 21 days after the department division electronically delivered a copy of the examiner's findings and order to the parties in interest or mailed a copy of the examiner's findings and order to the party's last-known address addresses of the parties in interest. The commission shall dismiss a petition ~~which~~ that is not timely filed unless the petitioner shows probable good cause that the reason for failure to timely file was beyond the petitioner's control. If no petition is filed within 21 days ~~from~~ after the date ~~that~~ on which a copy of the findings or order of the examiner is electronically delivered to the parties in interest or mailed to the last-known address addresses of the parties in interest, the findings or order shall be considered final unless set aside, reversed, or modified by the examiner within that time. If the findings or order are set aside by the examiner,

the status shall be the same as prior to the setting aside of the findings or order set aside. If the findings or order are reversed or modified by the examiner, the time for filing a petition commences ~~with~~ on the date ~~that~~ on which notice of reversal or modification is electronically delivered to the parties in interest or mailed to the last-known ~~address~~ addresses of the parties in interest. The commission shall either affirm, reverse, set aside, or modify the findings or order, in whole or in part, or direct the taking of additional evidence. ~~This~~ The commission's action shall be based on a review of the evidence submitted.

SECTION 126. 102.18 (4) (b) of the statutes is amended to read:

102.18 (4) (b) Within 28 days after a decision of the commission is electronically delivered to each party in interest or mailed to the last-known address of each party in interest, the commission may, on its own motion, set aside the decision for further consideration.

SECTION 127. 102.18 (4) (c) 3. of the statutes is amended to read:

102.18 (4) (c) 3. Remand the case to the department division for further proceedings.

SECTION 128. 102.18 (4) (d) of the statutes is amended to read:

102.18 (4) (d) While a petition for review by the commission is pending or after entry of an order or award by the commission, but before commencement of an action for judicial review or expiration of the period in which to commence an action for judicial review, the commission shall remand any compromise presented to it to the department division for consideration and approval or rejection ~~pursuant to~~ under s. 102.16 (1). Presentation of a compromise does not affect the period in which to commence an action for judicial review.

SECTION 129. 102.18 (5) of the statutes is amended to read:

102.18 (5) If it ~~shall appear to the department~~ appears to the division that a mistake may have been made as to cause of injury in the findings, order, or award upon an alleged injury based on accident, when in fact the employee was suffering from an occupational disease, within 3 years after the date of the findings, order, or award the ~~department~~ division may, upon its own motion, with or without hearing, ~~within 3 years from the date of such findings, order or award,~~ set aside such ~~the~~ findings, order or award, or the ~~department~~ division may take ~~such~~ that action upon application made within such those 3 years. ~~Thereafter, and after~~ After an opportunity for hearing, the ~~department~~ division may, if in fact the employee is suffering from disease arising out of the employment, make new findings, and a new order or award, or ~~it~~ the division may reinstate the previous findings, order, or award.

SECTION 130. 102.18 (6) of the statutes is amended to read:

102.18 (6) In case of disease arising out of ~~the~~ employment, the ~~department~~ division may from time to time review its findings, order, or award, and make new findings, or a new order or award, based on the facts regarding disability or otherwise as ~~they~~ those facts may ~~then~~ appear at the time of the review. This subsection shall not affect the application of the limitation in s. 102.17 (4).

SECTION 131. 102.19 of the statutes is amended to read:

102.19 Alien dependents; payments through consular officers. ~~In case~~ If a deceased employee, for whose injury or death compensation is payable, leaves surviving alien dependents residing outside of the United States, the duly accredited consular officer of the country of which ~~such~~ those dependents are citizens or ~~such~~ that officer's designated representative residing within the state shall, except as otherwise determined by the ~~department~~ office, be the sole representative of the deceased employee and dependents in all matters pertaining to their claims for

compensation. The receipt by ~~such officer or agent~~ of compensation funds and the distribution thereof of those funds by a consular officer or representative shall be made only upon order of the ~~department~~ office, and payment to ~~such~~ the officer or agent pursuant to any ~~such~~ representative under that order shall be a full discharge of the benefits or compensation. ~~Such~~ due the deceased employee and his or her dependents. If required by the office, a consular officer or ~~such~~ officer's representative shall furnish, ~~if required by the department,~~ a bond to be approved by it the office, conditioned upon the proper application of all moneys received by ~~such person~~ the consular officer or representative. Before ~~such~~ that bond is discharged, ~~such~~ the consular officer or representative shall file with the ~~department~~ a office an itemized and verified account of the items of his or her receipts and disbursements receipt and disbursement of such that compensation. ~~Such~~ The consular officer or representative shall make interim reports to the ~~department~~ office as it the office may require.

SECTION 132. 102.195 of the statutes is amended to read:

102.195 Employees confined in institutions; payment of benefits. In case If an employee is adjudged ~~insane~~ mentally ill or incompetent, or convicted of a felony, and is confined in a public institution and has wholly dependent upon the employee for support a person, whose dependency is determined as if the employee were deceased, compensation payable during the period of the employee's confinement may be paid to the employee and the employee's dependents, in such manner, for such time, and in such amount as the ~~department~~ office by order provides.

SECTION 133. 102.21 of the statutes is amended to read:

102.21 Payment of awards by municipalities. Whenever an award is made by ~~the department~~ under this chapter or s. 66.191, 1981 stats., against any municipality, the person in whose favor ~~it~~ the award is made shall file a certified copy thereof of the award with the municipal clerk. ~~Within 20 days thereafter, unless~~ Unless an appeal is taken, such within 20 days after that filing, the municipal clerk shall draw an order on the municipal treasurer for the payment of the award. If upon appeal ~~such~~ the award is affirmed in whole or in part the, the municipal clerk shall draw an order for payment ~~shall be drawn~~ of the award within 10 days after a certified copy of ~~such~~ the judgment affirming the award is filed with the ~~proper~~ that clerk. If the award or judgment provides for more than one payment ~~is provided for in the award or judgment, orders shall be drawn, the municipal clerk shall draw orders for payment~~ as the payments become due. No statute relating to the filing of claims against, ~~and~~ or the auditing, allowing, and payment of claims by ~~municipalities shall apply, a municipality applies~~ to the payment of an award or judgment under this section.

SECTION 134. 102.22 (1) of the statutes is amended to read:

102.22 (1) If the employer or his or her insurer inexcusably delays in making the first payment that is due an injured employee for more than 30 days after the day date on which the employee leaves work as a result of an injury and if the amount due is \$500 or more, the payments as to which the delay is found shall be increased by ~~10%~~ 10 percent. If the employer or his or her insurer inexcusably delays in making the first payment that is due an injured employee for more than 14 days after the day date on which the employee leaves work as a result of an injury, the payments as to which the delay is found may be increased by ~~10%~~ 10 percent. If the employer or his or her insurer inexcusably delays for any length of time in making any other payment

that is due an injured employee, the payments as to which the delay is found may be increased by ~~10%~~. ~~Where 10 percent.~~ If the delay is chargeable to the employer and not to the insurer, s. 102.62 shall apply ~~applies~~ and the relative liability of the parties shall be fixed and discharged as ~~therein provided~~ in that section. The ~~department~~ division may also order the employer or insurance carrier to reimburse the employee for any finance charges, collection charges, or interest ~~which~~ that the employee paid as a result of the inexcusable delay by the employer or insurance carrier.

SECTION 135. 102.22 (2) of the statutes is amended to read:

102.22 (2) ~~If the sum ordered by the department~~ any sum that the division orders to be paid is not paid when due, that sum shall bear interest at the rate of ~~10%~~ 10 percent per year. The state is liable for ~~such~~ interest on awards issued against it under this chapter. The ~~department~~ division has jurisdiction to issue an award for payment of ~~such~~ interest under this subsection at any time within one year ~~of~~ after the date of its order, ~~or upon appeal, if the order is appealed, within one year~~ after final court determination. ~~Such interest~~ Interest awarded under this subsection becomes due from the date the examiner's order becomes final or from the date of a decision by the labor and industry review commission, whichever is later.

SECTION 136. 102.23 (1) (a) of the statutes is amended to read:

102.23 (1) (a) The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive. The order or award granting or denying compensation, either interlocutory or final, whether judgment has been rendered on it the order or award or not, is subject to review only as provided in this section and not under ch. 227 or s. 801.02. Within 30 days after the date of an order or award made by the commission either originally or after the filing of a petition for

review with the ~~department~~ division under s. 102.18 any party aggrieved ~~thereby~~ by the order or award may by serving a complaint as provided in par. (b) and filing the summons and complaint with the clerk of the circuit court commence, in circuit court, an action against the commission for the review of the order or award, in which action the adverse party shall also be made a defendant. If the circuit court is satisfied that a party in interest has been prejudiced because of an exceptional delay in the receipt of a copy of any finding or order, ~~it~~ the circuit court may extend the time in which an action may be commenced by an additional 30 days. The proceedings shall be in the circuit court of the county where the plaintiff resides, except that if the plaintiff is a state agency, the proceedings shall be in the circuit court of the county where the defendant resides. The proceedings may be brought in any circuit court if all parties stipulate and that court agrees.

SECTION 137. 102.23 (1) (b) of the statutes is amended to read:

102.23 (1) (b) In ~~such~~ an action for review of an order or award a complaint shall be served with an authenticated copy of the summons. The complaint need not be verified, but shall state the grounds upon which a review is sought. Service upon a ~~commissioner or~~ member of the commission or an agent authorized by the commission to accept service constitutes complete service on all parties, but there shall be left with the person so served as many copies of the summons and complaint as there are defendants, and the commission shall electronically deliver or mail one copy to each other defendant.

SECTION 138. 102.23 (2) of the statutes is amended to read:

102.23 (2) Upon the trial of ~~any such~~ an action for review of an order or award the court shall disregard any irregularity or error of the commission or the

~~department division unless it is made to affirmatively appear that the plaintiff was damaged thereby by that irregularity or error.~~

SECTION 139. 102.23 (3) of the statutes is amended to read:

102.23 (3) The record in any case shall be transmitted to the ~~department division~~ within 5 days after expiration of the time for appeal from the order or judgment of the court, unless ~~an~~ appeal shall be ~~is~~ taken from such ~~that~~ order or judgment.

SECTION 140. 102.23 (5) of the statutes is amended to read:

102.23 (5) When an action for review involves only the question of liability as between the employer and one or more insurance companies or as between several insurance companies, a party that has been ordered by the ~~department division~~, the commission, or a court to pay compensation is not relieved from paying compensation as ordered.

SECTION 141. 102.24 (2) of the statutes is amended to read:

102.24 (2) After the commencement of an action to review any order or award of the commission, the parties may have the record remanded by the court for such time and under such condition as ~~they~~ the parties may provide, for the purpose of having the ~~department division~~ act upon the question of approving or disapproving any settlement or compromise that the parties may desire to have so approved. If approved, the action shall be at an end and judgment may be entered upon the approval as upon an award. If not approved, the division shall immediately return the record ~~shall forthwith be returned~~ to the circuit court and the action shall proceed as if no remand had been made.

SECTION 142. 102.25 (1) of the statutes is amended to read:

102.25 (1) Any party aggrieved by a judgment entered upon the review of any order or award may appeal ~~therefrom~~ the judgment within the time period specified in s. 808.04 (1). A trial court ~~shall~~ may not require the commission or any party to the action to execute, serve, or file an undertaking under s. 808.07 or to serve, or secure approval of, a transcript of the notes of the stenographic reporter or the tape of the recording machine. The state is a party aggrieved under this subsection if a judgment is entered upon the review confirming any order or award against ~~it~~ the state. At any time before the case is set down for hearing in the court of appeals or the supreme court, the parties may have the record remanded by the court to the ~~department~~ division in the same manner and for the same purposes as provided for remanding from the circuit court to the ~~department~~ division under s. 102.24 (2).

SECTION 143. 102.26 (2) of the statutes is amended to read:

102.26 (2) Unless previously authorized by the ~~department~~ division, no fee may be charged or received for the enforcement or collection of any claim for compensation, nor may any contract for that enforcement or collection be enforceable when that fee, inclusive of all taxable attorney fees paid or agreed to be paid for that enforcement or collection, exceeds 20 percent of the amount at which ~~that~~ the claim is compromised or of the amount awarded, adjudged, or collected, except that in cases of admitted liability in which there is no dispute as to the amount of compensation due and in which no hearing or appeal is necessary, the fee charged may not exceed 10 percent, but not to exceed \$250, of the amount at which ~~that~~ the claim is compromised or of the amount awarded, adjudged, or collected. The limitation as to fees shall apply to the combined charges of attorneys, solicitors, representatives, and adjusters who knowingly combine their efforts toward the enforcement or collection of any compensation claim.

SECTION 144. 102.26 (3) (b) 1. of the statutes is amended to read:

102.26 (3) (b) 1. ~~The department may~~ Subject to sub. (2), upon application of any interested party ~~and subject to sub. (2), the division may~~ fix the fee of the claimant's attorney or representative and provide in the award for that fee to be paid directly to the attorney or representative.

SECTION 145. 102.26 (3) (b) 3. of the statutes is amended to read:

102.26 (3) (b) 3. The claimant may request the insurer or self-insured employer to pay any compensation that is due the claimant by depositing the payment directly into an account maintained by the claimant at a financial institution. If the insurer or self-insured employer agrees to the request, the insurer or self-insured employer may deposit the payment by direct deposit, electronic funds transfer, or any other money transfer technique approved by the ~~department~~ division. The claimant may revoke a request under this subdivision at any time by providing appropriate written notice to the insurer or self-insured employer.

SECTION 146. 102.26 (4) of the statutes is amended to read:

102.26 (4) ~~The charging or receiving of~~ Any attorney or other person who charges or receives any fee in violation of this section ~~shall be unlawful, and the attorney or other person guilty thereof shall~~ may be required to forfeit double the amount retained by the attorney or other person, ~~the same to~~ which forfeiture shall be collected by the state in an action in debt, upon complaint of the ~~department~~ division. Out of the sum recovered the court shall direct payment to the injured party of the amount of the overcharge.

SECTION 147. 102.27 (2) (b) of the statutes is amended to read:

102.27 (2) (b) If a governmental unit provides public assistance under ch. 49 to pay medical costs or living expenses related to a claim under this chapter and if

~~the governmental unit has given the parties to the claim written notice stating that the governmental unit provided the assistance and the cost of that assistance, the employer or insurance carrier owing compensation shall reimburse that governmental unit any compensation awarded or paid if the governmental unit has given the parties to the claim written notice stating that it provided the assistance and the cost of the assistance provided. Reimbursement shall equal the lesser of either for the amount of assistance the governmental unit provided or two-thirds of the amount of the award or payment remaining after deduction of attorney fees and any other fees or costs chargeable under ch. 102, whichever is less. The department office shall comply with this paragraph when making payments under s. 102.81.~~

SECTION 148. 102.28 (2) (a) of the statutes is amended to read:

102.28 (2) (a) *Duty to insure payment for compensation.* Unless exempted by the department office under par. (b) or sub. (3), every employer, as described in s. 102.04 (1), shall insure payment for ~~that~~ compensation in an insurer authorized to do business in this state. A joint venture may elect to be an employer under this chapter and obtain insurance for payment of compensation. If a joint venture that is subject to this chapter only because the joint venture elected to be an employer under this chapter is dissolved and cancels or terminates its contract for the insurance of compensation under this chapter, that joint venture is ~~deemed~~ considered to have effected withdrawal, which shall be effective on the day after the contract is canceled or terminated.

SECTION 149. 102.28 (2) (b) of the statutes is amended to read:

102.28 (2) (b) *Exemption from duty to insure.* The department office may grant a written order of exemption to an employer who shows its financial ability to pay the amount of compensation, agrees to report faithfully all compensable injuries, and

agrees to comply with this chapter and the rules of the department office. The department office may condition the granting of an exemption upon the employer's furnishing of satisfactory security to guarantee payment of all claims ~~under~~ for compensation. The department office may require that bonds or other personal guarantees be enforceable against sureties in the same manner as an award may be enforced. The department office may from time to time require proof of financial ability of the employer to pay compensation. Any exemption shall be void if the application for it contains a financial statement ~~which~~ that is false in any material respect. An employer who files an application containing a false financial statement remains subject to par. (a). ~~The department office~~ may promulgate rules establishing an amount to be charged to an initial applicant for exemption under this paragraph and an annual amount to be charged to employers that have been exempted under this paragraph.

SECTION 150. 102.28 (2) (c) of the statutes is amended to read:

102.28 (2) (c) *Revocation of exemption.* ~~The department, after~~ After seeking the advice of the self-insurers council, the office may revoke an exemption granted to an employer under par. (b), upon giving the employer 10 days' written notice, if the department office finds that the employer's financial condition is inadequate to pay its employees' claims for compensation, that the employer has received an excessive number of claims for compensation, or that the employer has failed to discharge faithfully its obligations according to the agreement contained in the application for exemption. ~~The employer may, within~~ Within 10 days after receipt of the notice of revocation, the employer may request in writing a review of the revocation by the secretary commissioner or the ~~secretary's~~ commissioner's designee and the ~~secretary~~ commissioner or the ~~secretary's~~ designee shall review the revocation within 30 days

after receipt of the request for review. If the employer is aggrieved by the determination of the secretary commissioner or the secretary's commissioner's designee, the employer may, within 10 days after receipt of notice of that determination, request a hearing under s. 102.17. If the secretary commissioner or the secretary's commissioner's designee determines that the employer's exemption should be revoked, the employer shall obtain insurance coverage as required under par. (a) immediately upon receipt of notice of that determination and, notwithstanding the pendency of proceedings under ss. 102.17 to 102.25, shall keep that coverage in force until another exemption under par. (b) is granted.

SECTION 151. 102.28 (2) (d) of the statutes is amended to read:

102.28 (2) (d) *Effect of insuring with unauthorized insurer.* An employer who procures after procuring an exemption under par. (b) and thereafter enters into any agreement for excess insurance coverage with an insurer not authorized to do business in this state shall report that agreement to the department office immediately. The placing of such that coverage shall not by itself be grounds for revocation of the exemption.

SECTION 152. 102.28 (3) (a) (intro.) of the statutes is amended to read:

102.28 (3) (a) (intro.) An employer may file with the department office an application for exemption from the duty to pay compensation under this chapter with respect to any employee who signs the waiver described in subd. 1. and the affidavit described in subd. 2. if an authorized representative of the religious sect to which the employee belongs signs the affidavit specified in subd. 3. and the agreement described in subd. 4. An application for exemption under this paragraph shall include all of the following:

SECTION 153. 102.28 (3) (b) (intro.) of the statutes is amended to read:

102.28 (3) (b) (intro.) The ~~department~~ office shall approve an application under par. (a) if the ~~department~~ office determines that all of the following conditions are satisfied:

SECTION 154. 102.28 (3) (b) 3. of the statutes is amended to read:

102.28 (3) (b) 3. The religious sect to which the employee belongs has a long-established history of providing its members who become dependent on the religious sect as a result of work-related injuries, and the dependents of those members, with a standard of living and medical treatment that are reasonable when compared to the general standard of living and medical treatment for members of the religious sect. In determining whether the religious sect has a long-standing history of providing the financial and medical assistance described in this subdivision, the ~~department~~ office shall presume that a 25-year history of providing that financial and medical assistance is long-standing for purposes of this subdivision.

SECTION 155. 102.28 (3) (c) of the statutes is amended to read:

102.28 (3) (c) An employee who has signed a waiver under par. (a) 1. and an affidavit under par. (a) 2., who sustains an injury that, but for that waiver, the employer would be liable for under s. 102.03, who at the time of the injury was a member of a religious sect whose authorized representative has filed an affidavit under par. (a) 3. and an agreement under par. (a) 4., and who as a result of the injury becomes dependent on the religious sect for financial and medical assistance, or the employee's dependent, may request a hearing under s. 102.17 (1) to determine if the religious sect has provided the employee and his or her dependents with a standard of living and medical treatment that are reasonable when compared to the general standard of living and medical treatment for members of the religious sect. If, after hearing, the ~~department~~ division determines that the religious sect has not provided

that standard of living or medical treatment, or both, the ~~department~~ division may order the religious sect to provide alternative benefits to that employee or his or her dependent, or both, in an amount that is reasonable under the circumstances, but not in excess of the benefits that the employee or dependent could have received under this chapter but for the waiver under par. (a) 1.

SECTION 156. 102.28 (3) (d) of the statutes is amended to read:

102.28 (3) (d) The ~~department~~ office shall provide a form for the application for exemption of an employer under par. (a) (intro.), the waiver and affidavit of an employee under par. (a) 1. and 2., the affidavit of a religious sect under par. (a) 3., and the agreement of a religious sect under par. (a) 4. A properly completed form is prima facie evidence of satisfaction of the conditions under par. (b) as to the matter contained in the form.

SECTION 157. 102.28 (4) (a) of the statutes is amended to read:

102.28 (4) (a) When the ~~department~~ office discovers an uninsured employer, the ~~department~~ office may order the employer to cease operations until the employer complies with sub. (2).

SECTION 158. 102.28 (4) (b) of the statutes is amended to read:

102.28 (4) (b) If the ~~department~~ office believes that an employer may be an uninsured employer, the ~~department~~ office shall notify the employer of the alleged violation of sub. (2) and the possibility of closure under this subsection. The employer may request and shall receive a hearing under s. 102.17 on the matter if the employer applies for a hearing within 10 days after the notice of the alleged violation is served.

SECTION 159. 102.28 (4) (c) of the statutes is amended to read:

102.28 (4) (c) After a hearing under par. (b), or without a hearing if one is not requested, the ~~department~~ division may issue an order to an employer to cease

operations on a finding that the employer is an uninsured employer. If no hearing is requested, the office may issue such an order.

SECTION 160. 102.28 (4) (d) of the statutes is amended to read:

102.28 (4) (d) The department of justice may bring an action in any court of competent jurisdiction for an injunction or other remedy to enforce ~~the department's~~ an order to cease operations under par. (c).

SECTION 161. 102.28 (6) of the statutes is amended to read:

102.28 (6) REPORTS BY EMPLOYER. ~~Every employer shall upon~~ Upon request of the department ~~office, an employer shall~~ report to ~~it~~ the office the number of employees and employed by the employer, the nature of their work and also, the name of the insurance company with ~~whom~~ which the employer has insured its liability under this chapter, and the policy number and date of expiration of ~~such~~ the policy insuring that liability. Failure to furnish ~~such a report~~ requested under this subsection within 10 days ~~from the making of a request~~ after the request is sent to the employer by certified mail shall ~~constitute~~ constitutes presumptive evidence that the ~~delinquent~~ employer is ~~violating~~ in violation of sub. (2).

SECTION 162. 102.28 (7) (a) of the statutes is amended to read:

102.28 (7) (a) If an employer who is currently or was formerly exempted by ~~written order of the department~~ under sub. (2) is unable to pay an award, judgment is rendered in accordance with s. 102.20 against that employer, and execution is levied and returned unsatisfied in whole or in part, payments for the employer's liability shall be made from the fund established under sub. (8). If a currently or formerly exempted employer files for bankruptcy and if not less than 60 days after that filing the department office has reason to believe that compensation payments due are not being paid, the ~~department~~ office in its discretion may make payment for

the employer's liability from the fund established under sub. (8). The secretary of administration shall proceed to recover such those payments from the employer or the employer's receiver or trustee in bankruptcy, and may commence an action or proceeding or file a claim ~~therefor~~ to recover those payments. The attorney general shall appear on behalf of the secretary of administration in any such action or proceeding. All moneys recovered in any such action or proceeding shall be paid into the fund established under sub. (8).

SECTION 163. 102.28 (7) (b) of the statutes is amended to read:

102.28 (7) (b) ~~Each~~ Upon the issuance of an initial order exempting an employer under sub. (2), the employer exempted by written order of the department under sub. (2) shall pay into the fund established by under sub. (8) a sum equal to ~~that~~ the amount assessed against each of the other such ~~exempt~~ employers ~~upon the issuance of an initial order~~ that are exempt under sub. (2). The order shall provide for a sum that is sufficient to secure estimated payments of the insolvent exempt employer due for the period up to the date of the order and for one year following the date of the order and to pay the estimated cost of insurance carrier or insurance service organization services under par. (c). Payments ordered to be made to the fund shall be paid to the department office within 30 days after the date of the order. If additional moneys are required, further assessments shall be made based on orders of the department office with ~~assessment~~ those assessments to be prorated on the basis of the gross payroll for this state of the exempt employer, as reported to the department of workforce development for the previous calendar year for unemployment insurance purposes under ch. 108. If the exempt employer is not covered under ch. 108, then the department office shall determine the comparable gross payroll for the exempt employer. If payment of any assessment made under

this subsection ~~paragraph~~ is not made within 30 days of after the date of the order of the department office, the attorney general may appear on behalf of the state to collect the assessment.

SECTION 164. 102.28 (7) (c) of the statutes is amended to read:

102.28 (7) (c) The department office may retain an insurance carrier or insurance service organization to process, investigate, and pay valid claims. The charge for ~~such service~~ those services shall be paid from the fund as provided under par. (b).

SECTION 165. 102.28 (8) of the statutes is amended to read:

102.28 (8) SELF-INSURED EMPLOYERS LIABILITY FUND. The moneys paid into the state treasury under sub. (7), together with all accrued interest, shall constitute a separate nonlapsible fund designated as the self-insured employers liability fund. Moneys in the fund may be expended only as provided in s. ~~20.445 (1)~~ 20.145 (6) (s) and may not be used for ~~an~~ any other purpose of the state.

SECTION 166. 102.29 (1) (a) of the statutes is amended to read:

102.29 (1) (a) The making of a claim for compensation against an employer or compensation insurer for the injury or death of an employee ~~shall~~ does not affect the right of the employee, the employee's personal representative, or other person entitled to bring action to make a claim or maintain an action in tort against any other party for ~~such~~ that injury or death, hereinafter referred to as a 3rd party; nor ~~shall~~ does the making of a claim by any such person against a 3rd party for damages by reason of an injury to which ss. 102.03 to 102.66 are applicable, or the adjustment of any such claim, affect the right of the injured employee or the employee's dependents to recover compensation. An employer or compensation insurer that has paid or is obligated to pay a lawful claim under this chapter shall have the same right

to make a claim or maintain an action in tort against any other party for such that injury or death. If the department office pays or is obligated to pay a claim under s. 102.66 (1) or 102.81 (1), the department office shall also have the right to make a claim or maintain an action in tort against any other party for the employee's injury or death. However, each party shall give to the other parties reasonable notice and, the opportunity to join in the making of such a claim or the instituting of such an action, and the opportunity to be represented by counsel.

SECTION 167. 102.29 (1) (b) (intro.) of the statutes is amended to read:

102.29 (1) (b) (intro.) If a party entitled to notice cannot be found, the department office shall become the agent of that party for the giving of a notice as required in par. (a) and the notice, when given to the department office, shall include an affidavit setting forth the facts, including the steps taken to locate that party. Each party shall have an equal voice in the prosecution of the claim, and any disputes arising shall be passed upon by the court before whom the case is pending, and if no action is pending, then by a court of record or by the department division. If notice is given as provided in par. (a), the liability of the tort-feasor shall be determined as to all parties having a right to make claim and, irrespective of whether ~~or not~~ all parties join in prosecuting the claim, the proceeds of the claim shall be divided as follows:

SECTION 168. 102.29 (1) (b) 2. of the statutes is amended to read:

102.29 (1) (b) 2. Out of the balance remaining after the deduction and payment specified in subd. 1., the employer, the insurance carrier, or, if applicable, the uninsured employers fund or the work injury supplemental benefit fund shall be reimbursed for all payments made by the employer, insurance carrier, or department office, or ~~which that~~ the employer, insurance carrier, or department office may be

obligated to make in the future, under this chapter, except that the employer, insurance carrier, or department office shall not be reimbursed for any payments made or to be made under s. 102.18 (1) (bp), 102.22, 102.35 (3), 102.57, or 102.60.

SECTION 169. 102.29 (1) (c) of the statutes is amended to read:

102.29 (1) (c) If both the employee or the employee's personal representative or other person entitled to bring action, and the employer, compensation insurer, or department office, join in the pressing of said claim and are represented by counsel, the attorney fees allowed as a part of the costs of collection shall be, unless otherwise agreed upon, divided between the attorneys for those parties as directed by the court or by the department division.

SECTION 170. 102.29 (1) (d) of the statutes is amended to read:

102.29 (1) (d) A settlement of a 3rd-party claim shall be void unless the settlement and the distribution of the proceeds of the settlement are approved by the court before whom the action is pending or, if no action is pending, then by a court of record or by the department division.

SECTION 171. 102.29 (4) of the statutes is amended to read:

102.29 (4) If the employer and the 3rd party are insured by the same insurer, or by the insurers who are under common control, the employer's insurer shall promptly notify the parties in interest and the department office. If the employer has assumed the liability of the 3rd party, ~~it~~ the employer shall give similar notice, in default of which any settlement with an injured employee or beneficiary is void. This subsection does not prevent the employer or compensation insurer from sharing in the proceeds of any 3rd-party claim or action, ~~as set forth~~ as provided in sub. (1).

SECTION 172. 102.30 (7) (a) of the statutes is amended to read:

102.30 (7) (a) The ~~department~~ office may order direct reimbursement out of the proceeds payable under this chapter for payments made under a nonindustrial insurance policy covering the same disability and expenses compensable under s. 102.42 when the claimant consents or when it is established that the payments under the nonindustrial insurance policy were improper. No attorney fee is due with respect to that reimbursement.

SECTION 173. 102.31 (1) (b) of the statutes is amended to read:

102.31 (1) (b) Except as provided in par. (c), a contract under par. (a) shall be construed to grant full coverage of all liability of the assured under this chapter unless the ~~department~~ office specifically consents by written order to the issuance of a contract providing divided insurance or partial insurance.

SECTION 174. 102.31 (2) (a) of the statutes is amended to read:

102.31 (2) (a) No party to a contract of insurance may cancel the contract within the contract period or terminate or ~~not renew~~ nonrenew the contract upon the expiration date of the contract until a notice in writing is given to the other party fixing the proposed date of cancellation or declaring that the party intends to terminate or ~~does not intend to renew~~ nonrenew the policy contract upon expiration. Except as provided in par. (b), when an insurance company ~~does not renew~~ nonrenews a policy contract upon expiration, the nonrenewal is not effective until 60 days after the insurance company has given written notice of the nonrenewal to the insured employer and the ~~department~~ office. Cancellation or termination of a policy contract by an insurance company for any reason other than nonrenewal is not effective until 30 days after the insurance company has given written notice of the cancellation or termination to the insured employer and the ~~department~~ office. Notice to the ~~department~~ office may be given by personal service of the notice upon

the department office at its office in Madison or by sending the notice to the department office in a medium approved by the department office. The department office may provide by rule that ~~the~~ a notice of cancellation or termination be given to the Wisconsin compensation rating bureau rather than to the department office in a medium approved by the department office after consultation with the Wisconsin compensation rating bureau. Whenever the Wisconsin compensation rating bureau receives such a notice of cancellation or termination it ~~that~~ bureau shall immediately notify the department office of the notice of cancellation or termination.

SECTION 175. 102.31 (3) of the statutes is amended to read:

102.31 (3) The department office may examine from time to time the books and records of any insurer insuring the liability ~~or~~ for compensation ~~for~~ of an employer in this state. ~~The department may require an insurer to designate one mailing address for use by the department and to respond to correspondence from the department within 30 days as provided in s. 601.42.~~ Any insurer that refuses or fails to answer correspondence from the department or to allow the department to examine its books and records as required under s. 601.42 is subject to enforcement proceedings under s. 601.64.

SECTION 176. 102.31 (4) of the statutes is amended to read:

102.31 (4) If any insurer authorized to transact worker's compensation insurance in this state fails to promptly pay claims for compensation for which it the insurer is liable or fails to make reports to the department office required by under s. 102.38, ~~the department may recommend to the commissioner of insurance, with detailed reasons, that enforcement proceedings under s. 601.64 be invoked. The commissioner shall furnish a copy of the recommendation to the insurer and shall~~

~~set a date for a hearing, at which both the insurer and the department shall be afforded an opportunity to present evidence. If after the hearing the commissioner finds that the insurer has failed to carry out its obligations under this chapter, the commissioner shall may institute enforcement proceedings under s. 601.64. If the commissioner does not so find, the commissioner shall dismiss the complaint.~~

SECTION 177. 102.31 (5) of the statutes is amended to read:

102.31 (5) If any employer whom the department office has exempted from carrying the duty to carry compensation insurance arbitrarily or unreasonably refuses employment to or discharges employees an employee because of a nondisabling physical condition, the department office shall revoke the exemption of that employer.

SECTION 178. 102.31 (6) of the statutes is repealed.

SECTION 179. 102.31 (7) of the statutes is amended to read:

102.31 (7) If the department office by one or more written orders specifically consents to the issuance of one or more contracts covering only the liability incurred on a construction project and if the construction project owner designates the insurance carrier and pays for each such contract, the construction project owner shall reimburse the department office for all costs incurred by the department office in issuing the written orders and in ensuring minimum confusion and maximum safety on the construction project. All moneys received under this subsection shall be deposited in the worker's compensation operations fund and credited to the appropriation account under s. ~~20.445 (1)~~ 20.145 (6) (rb).

SECTION 180. 102.31 (8) of the statutes is amended to read:

102.31 (8) The Wisconsin compensation rating bureau shall provide the department office with any information that the department office may request

relating to worker's compensation insurance coverage, including the names of employers insured and any insured employer's address, business status, type and date of coverage, manual premium code, and policy information including policy numbers, cancellations, terminations, endorsements, and reinstatement dates. The department office may enter into contracts with the Wisconsin compensation rating bureau to share the costs of data processing and other services. No information obtained by the department office under this subsection may be made public by the department office except as authorized by the Wisconsin compensation rating bureau.

SECTION 181. 102.315 (4) of the statutes is amended to read:

102.315 (4) MASTER POLICY; APPROVAL REQUIRED. An employee leasing company may insure its liability under sub. (2) by obtaining a master policy that has been approved by the commissioner of insurance as provided in this subsection. The commissioner of insurance may approve the issuance of a master policy if the insurer proposing to issue the master policy submits a filing to the bureau showing that the insurer has the technological capacity and operation capability to provide to the bureau information, including unit statistical data, information concerning proof of coverage and cancellation, termination, and nonrenewal of coverage, and any other information that the bureau may require, at the client level and in a format required by the bureau and the bureau submits the filing to the commissioner of insurance for approval under s. 626.13. A master policy filing under this subsection shall also establish basic manual rules governing the issuance of an insurance policy covering the leased employees of a divided workforce that are consistent with sub. (6) and the cancellation, termination, and nonrenewal of policies that are consistent with sub. (10). On approval by the commissioner of insurance of a master policy filing, an

insurer may issue a master policy to an employee leasing company insuring the liability of the employee leasing company under sub. (2).

SECTION 182. 102.315 (5) (b) (intro.) of the statutes is amended to read:

102.315 (5) (b) (intro.) Within 30 days after the effective date of an employee leasing agreement with a small client that is covered under a master policy under par. (a), the employee leasing company shall report to the ~~department~~ office all of the following information:

SECTION 183. 102.315 (5) (c) of the statutes is amended to read:

102.315 (5) (c) Within 30 days after the effective date of coverage of a small client under a master policy under par. (a), the insurer or, if authorized by the insurer, the employee leasing company shall file proof of that coverage with the ~~department~~ office. Coverage of a small client under a master policy becomes binding when the insurer or employee leasing company files proof of that coverage under this paragraph or provides notice of coverage to the small client, whichever occurs first. Nothing in this paragraph requires an employee leasing company or an employee of an employee leasing company to be licensed as an insurance intermediary under ch. 628.

SECTION 184. 102.315 (6) (a) of the statutes is amended to read:

102.315 (6) (a) If a client notifies the ~~department~~ office as provided under par. (b) of its intent to have a divided workforce, an insurer may issue a worker's compensation insurance policy covering only the leased employees of the client. An insurer that issues a policy covering only the leased employees of a client is not liable under s. 102.03 for any compensation payable under this chapter to an employee of the client who is not a leased employee unless the insurer also issues a policy covering that employee. A client that has a divided workforce shall insure its employees who

are not leased employees in the voluntary market and may not insure those employees under the mandatory risk-sharing plan under s. 619.01 unless the leased employees of the client are covered under that plan.

SECTION 185. 102.315 (6) (b) (intro.) of the statutes is amended to read:

102.315 (6) (b) (intro.) A client that intends to have a divided workforce shall notify the ~~department~~ office of that intent on a form prescribed by the ~~department~~ office that includes all of the following:

SECTION 186. 102.315 (6) (b) 1. of the statutes is amended to read:

102.315 (6) (b) 1. The names and mailing addresses of the client and the employee leasing company, the effective date of the employee leasing agreement, a description of the employees of the client who are not leased employees, and such other information as the ~~department~~ office may require.

SECTION 187. 102.315 (6) (b) 3. of the statutes is amended to read:

102.315 (6) (b) 3. An agreement by the client to assume full responsibility to immediately pay all compensation and other payments payable under this chapter as may be required by the ~~department~~ office should a dispute arise between 2 or more insurers as to liability under this chapter for an injury sustained while a divided workforce plan is in effect, pending final resolution of that dispute. This subdivision does not preclude a client from insuring that responsibility in an insurer authorized to do business in this state.

SECTION 188. 102.315 (6) (d) of the statutes is amended to read:

102.315 (6) (d) When the ~~department~~ office receives a notification under par. (b), the ~~department~~ office shall immediately provide a copy of the notification to the bureau.

SECTION 189. 102.315 (6) (e) 1. of the statutes is amended to read:

102.315 (6) (e) 1. If a client intends to terminate a divided workforce plan, the client shall notify the ~~department~~ office of that intent on a form prescribed by the ~~department~~ office. Termination of a divided workforce plan by a client is not effective until 10 days after notice of the termination is received by the ~~department~~ office.

SECTION 190. 102.315 (6) (e) 2. of the statutes is amended to read:

102.315 (6) (e) 2. If an insurer cancels, terminates, or ~~does not renew~~ nonrenews a worker's compensation insurance policy issued under a divided workforce plan that covers in the voluntary market the employees of a client who are not leased employees, the divided workforce plan is terminated on the effective date of the cancellation, termination, or nonrenewal of the policy, unless the client submits evidence under par. (c) that both the leased employees of the client and the employees of the client who are not leased employees are covered under a mandatory risk-sharing plan.

SECTION 191. 102.315 (6) (e) 3. of the statutes is amended to read:

102.315 (6) (e) 3. If an insurer cancels, terminates, or ~~does not renew~~ nonrenews a worker's compensation insurance policy issued under a divided workforce plan that covers under the mandatory risk-sharing plan under s. 619.01 the employees of a client who are not leased employees, the divided workforce plan is terminated on the effective date of the cancellation, termination, or nonrenewal of the policy.

SECTION 192. 102.315 (9) (a) of the statutes is amended to read:

102.315 (9) (a) An insurer that issues a policy under sub. (3), (4), or (5) (a) may charge a premium for coverage under that policy that complies with the applicable classifications, rules, rates, and rating plans filed with and approved by the commissioner ~~of insurance~~ under s. 626.13.

SECTION 193. 102.315 (10) (a) 2. of the statutes is amended to read:

102.315 (10) (a) 2. The insureds under a policy described in subd. 1. may cancel the policy during the policy period if both the employee leasing company and the client agree to the cancellation, the cancellation is confirmed by the employee leasing company promptly providing written confirmation of the cancellation to the client or by the client agreeing to the cancellation in writing, and the insurer provides written notice of the cancellation to the ~~department~~ office as required under s. 102.31 (2) (a).

SECTION 194. 102.315 (10) (a) 3. of the statutes is amended to read:

102.315 (10) (a) 3. Subject to subd. 4., an insurer may cancel, terminate, or nonrenew a policy described in subd. 1. by providing written notice of the cancellation, termination, or nonrenewal to the insured employee leasing company and to the ~~department~~ office as required under s. 102.31 (2) (a) and by providing that notice to the insured client. The insurer is not required to state in the notice to the insured client the facts on which the decision to cancel, terminate, or nonrenew the policy is based. Except as provided in s. 102.31 (2) (b), cancellation or termination of a policy under this subdivision for any reason other than nonrenewal is not effective until 30 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the ~~department~~ office. Except as provided in s. 102.31 (2) (b), nonrenewal of a policy under this subdivision is not effective until 60 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the ~~department~~ office.

SECTION 195. 102.315 (10) (a) 4. of the statutes is amended to read:

102.315 (10) (a) 4. If an employee leasing company terminates an employee leasing agreement with a client in its entirety, an insurer may cancel or terminate

a policy described in subd. 1. covering that client during the policy period by providing written notice of the cancellation or termination to the insured employee leasing company and the ~~department~~ office as required under s. 102.31 (2) (a) and by providing that notice to the insured client. The insurer shall state in the notice to the insured client that the policy is being cancelled or terminated due to the termination of the employee leasing agreement. Except as provided in s. 102.31 (2) (b), cancellation or termination of a policy under this subdivision is not effective until 30 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the department office.

SECTION 196. 102.315 (10) (b) 2. of the statutes is amended to read:

102.315 (10) (b) 2. The insureds under a policy described in subd. 1. may cancel the policy during the policy period if both the employee leasing company and the client agree to the cancellation, the cancellation is confirmed by the employee leasing company promptly providing written confirmation of the cancellation to the client or by the client agreeing to the cancellation in writing, and the insurer provides written notice of the cancellation to the ~~department~~ office as required under s. 102.31 (2) (a).

SECTION 197. 102.315 (10) (b) 3. of the statutes is amended to read:

102.315 (10) (b) 3. An insurer may cancel, terminate, or nonrenew a policy described in subd. 1., including cancellation or termination of a policy providing continued coverage under subd. 4., by providing written notice of the cancellation, termination, or nonrenewal to the insured employee leasing company and to the department office as required under s. 102.31 (2) (a) and by providing that notice to the insured client. Except as provided in s. 102.31 (2) (b), cancellation or termination of a policy under this subdivision for any reason other than nonrenewal is not

effective until 30 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the ~~department~~ office. Except as provided in s. 102.31 (2) (b), nonrenewal of a policy under this subdivision is not effective until 60 days after the insurer has provided written notice of the cancellation or termination to the insured employee leasing company, the insured client, and the ~~department~~ office.

SECTION 198. 102.32 (1m) (intro.) of the statutes is amended to read:

102.32 (1m) (intro.) In any case in which compensation payments for an injury have extended or will extend over 6 months or more after the date of the injury or in any case in which death benefits are payable, any party in interest may, in the discretion of the ~~department~~ office, be discharged from, or compelled to guarantee, future compensation payments by doing any of the following:

SECTION 199. 102.32 (1m) (a) of the statutes is amended to read:

102.32 (1m) (a) Depositing the present value of the total unpaid compensation upon a 5 percent interest discount basis with a credit union, savings bank, savings and loan association, bank, or trust company designated by the ~~department~~ office.

SECTION 200. 102.32 (1m) (c) of the statutes is amended to read:

102.32 (1m) (c) Making payment in gross upon a 5 percent interest discount basis to be approved by the ~~department~~ office.

SECTION 201. 102.32 (1m) (d) of the statutes is amended to read:

102.32 (1m) (d) In cases in which the time for making payments or the amounts of payments cannot be definitely determined, furnishing a bond, or other security, satisfactory to the ~~department~~ office for the payment of compensation as may be due or become due. The acceptance of the bond, or other security, and the form and sufficiency of the bond or other security, shall be subject to the approval of the

department office. If the employer or insurer is unable or fails to immediately procure the bond, then, the employer or insurer, in lieu of procuring the bond, shall deposit ~~shall be made~~ with a credit union, savings bank, savings and loan association, bank, or trust company designated by the department, ~~of office~~ the maximum amount that may reasonably become payable in ~~these~~ those cases, to be determined by the department office at amounts consistent with the extent of the injuries and the law. The bonds and deposits are to may be reduced only to satisfy claims and may be withdrawn only after the claims which they are to guarantee are fully satisfied or liquidated under par. (a), (b), or (c).

SECTION 202. 102.32 (5) of the statutes is amended to read:

102.32 (5) Any insured employer may, ~~within~~ in the discretion of the department office, compel the insurer to discharge, or to guarantee payment of, the employer's liabilities in any case described in sub. (1m) and ~~thereby~~ by that discharge or guarantee release the employer from ~~compensation liability~~ for compensation in that case, ~~but~~ except that if for any reason a bond furnished or deposit made under sub. (1m) (d) does not fully protect the beneficiary of the bond or deposit, the compensation insurer or insured employer, as the case may be, shall still be liable to the that beneficiary of the bond or deposit.

SECTION 203. 102.32 (6) (b) of the statutes is amended to read:

102.32 (6) (b) Subject to par. (d), if the employer or the employer's insurer concedes liability for an injury that results in permanent disability and if the extent of the permanent disability can be determined based on a minimum permanent disability rating promulgated by the department office by rule, compensation for permanent disability shall begin within 30 days after the end of the employee's

healing period or the date on which compensation for temporary disability ends due to the employee's return to work, whichever is earlier.

SECTION 204. 102.32 (6) (d) of the statutes is amended to read:

102.32 (6) (d) The ~~department~~ office shall promulgate rules for determining when compensation for permanent disability shall begin in cases in which the employer or the employer's insurer concedes liability, but disputes the extent of permanent disability.

SECTION 205. 102.32 (6) (e) of the statutes is amended to read:

102.32 (6) (e) Payments for permanent disability, including payments based on minimum permanent disability ratings promulgated by the ~~department~~ office by rule, shall continue on a monthly basis and shall accrue and be payable between intermittent periods of temporary disability so long as the employer or insurer knows the nature of the permanent disability.

SECTION 206. 102.32 (6m) of the statutes is amended to read:

102.32 (6m) The ~~department~~ office may direct an advance on a payment of unaccrued compensation for permanent disability or death benefits if the ~~department~~ office determines that the advance payment is in the best interest of the injured employee or the employee's dependents. In directing the advance, the ~~department~~ office shall give the employer or the employer's insurer an interest credit against its liability. The credit shall be computed at 5 percent. An injured employee or dependent may receive no more than 3 advance payments per calendar year.

SECTION 207. 102.32 (7) of the statutes is amended to read:

102.32 (7) No lump sum settlement shall be allowed in any case of permanent total disability upon an estimated life expectancy, except upon consent of all parties,

after hearing and finding by the ~~department~~ division that the interests of the injured employee will be conserved ~~thereby~~ by the lump sum settlement.

SECTION 208. 102.33 (title) of the statutes is amended to read:

102.33 (title) ~~Department forms~~ Forms and records; public access.

SECTION 209. 102.33 (1) of the statutes is amended to read:

102.33 (1) The ~~department~~ office and the division shall print and furnish free to any employer or employee any blank forms that ~~the department considers~~ are necessary to facilitate efficient administration of this chapter. The ~~department~~ office and the division shall keep any record books or records that ~~the department considers~~ are necessary for the proper and efficient administration of this chapter.

SECTION 210. 102.33 (2) (a) of the statutes is amended to read:

102.33 (2) (a) Except as provided in pars. (b) and (c), ~~the records of the department,~~ and the records of the commission, the office, and the division related to the administration of this chapter are subject to inspection and copying under s. 19.35 (1).

SECTION 211. 102.33 (2) (b) (intro.) of the statutes is amended to read:

102.33 (2) (b) (intro.) Except as provided in this paragraph and par. (d), a record maintained by ~~the department or~~ by the commission, by the office, or by the division that reveals the identity of an employee who claims worker's compensation benefits, the nature of the employee's claimed injury, the employee's past or present medical condition, the extent of the employee's disability, or the amount, type, or duration of benefits paid to the employee and a record maintained by the ~~department~~ office that reveals any financial information provided to the ~~department~~ office by a self-insured employer or by an applicant for exemption under s. 102.28 (2) (b) are confidential and not open to public inspection or copying under s. 19.35 (1). ~~The department or~~

commission, the office, or the division may deny a request made under s. 19.35 (1) or, subject to s. 102.17 (2m) and (2s), refuse to honor a subpoena issued by an attorney of record in a civil or criminal action or special proceeding to inspect and copy a record that is confidential under this paragraph, unless ~~one~~ any of the following applies:

SECTION 212. 102.33 (2) (b) 1. of the statutes is amended to read:

102.33 (2) (b) 1. The requester is the employee who is the subject of the record or an attorney or authorized agent of that employee. An attorney or authorized agent of an employee who is the subject of a record shall provide a written authorization for inspection and copying from the employee if requested by the ~~department or the~~ commission, the office, or the division.

SECTION 213. 102.33 (2) (b) 2. of the statutes is amended to read:

102.33 (2) (b) 2. The record that is requested contains confidential information concerning a worker's compensation claim and the requester is an insurance carrier or employer that is a party to any worker's compensation claim involving the same employee or an attorney or authorized agent of that insurance carrier or employer, except that the ~~department or the~~ commission, the office, or the division is not required to do a random search of its records and may require the requester to provide the approximate date of the injury and any other relevant information that would assist the ~~department or the~~ commission, the office, or the division in finding the record requested. An attorney or authorized agent of an insurance carrier or employer that is a party to an employee's worker's compensation claim shall provide a written authorization for inspection and copying from the insurance carrier or employer if requested by the ~~department or the~~ commission, the office, or the division.

SECTION 214. 102.33 (2) (b) 3. of the statutes is amended to read:

102.33 (2) (b) 3. The record that is requested contains financial information provided by a self-insured employer or by an applicant for exemption under s. 102.28 (2) (b) and the requester is the self-insured employer or applicant for exemption or an attorney or authorized agent of the self-insured employer or applicant for exemption. An attorney or authorized agent of the self-insured employer or of the applicant for exemption shall provide a written authorization for inspection and copying from the self-insured employer or applicant for exemption if requested by the ~~department~~ office.

SECTION 215. 102.33 (2) (b) 4. of the statutes is amended to read:

102.33 (2) (b) 4. A court of competent jurisdiction in this state orders the ~~department or the commission, the office, or the division~~ to release the record.

SECTION 216. 102.33 (2) (c) of the statutes is amended to read:

102.33 (2) (c) A record maintained by the ~~department or the commission, the office, or the division~~ that contains employer or insurer information obtained from the Wisconsin compensation rating bureau under s. 102.31 (8) or 626.32 (1) (a) is confidential and not open to public inspection or copying under s. 19.35 (1) unless the Wisconsin compensation rating bureau authorizes public inspection or copying of that information.

SECTION 217. 102.33 (2) (d) 2. of the statutes is amended to read:

102.33 (2) (d) 2. The ~~department or the commission, the office, or the division~~ may release information that is confidential under par. (b) to a government unit, an institution of higher education, or a nonprofit research organization for purposes of research and may release information that is confidential under par. (c) to those persons for that purpose if the Wisconsin compensation rating bureau authorizes that release. A government unit, institution of higher education, or nonprofit

research organization may not permit inspection or disclosure of any information released to it under this subdivision that is confidential under par. (b) unless the ~~department or commission,~~ the office, or the division authorizes that inspection or disclosure and may not permit inspection or disclosure of any information released to it under this subdivision that is confidential under par. (c) unless the ~~department or commission,~~ the office, or the division, and the Wisconsin compensation rating bureau, authorize the inspection or disclosure. A government unit, institution of higher education, or nonprofit research organization that obtains any confidential information under this subdivision for purposes of research shall provide the results of that research free of charge to the person that released or authorized the release of that information.

SECTION 218. 102.35 (1) of the statutes is amended to read:

102.35 (1) Every employer and every insurance company that fails to keep the records or to make the reports required by this chapter or that knowingly falsifies such those records or makes false reports shall pay a work injury supplemental benefit surcharge to the state of not less than \$10 nor more than \$100 for each offense. The ~~department~~ office may waive or reduce a surcharge imposed under this subsection if the employer or insurance company that violated this subsection requests a waiver or reduction of the surcharge within 45 days after the date on which notice of the surcharge is mailed to the employer or insurance company and shows that the violation was due to mistake or an absence of information. A surcharge imposed under this subsection is due within 30 days after the date on which notice of the surcharge is mailed to the employer or insurance company. Interest shall accrue on amounts that are not paid when due at the rate of 1 percent

per month. All surcharges and interest payments received under this subsection shall be deposited in the fund established under s. 102.65.

SECTION 219. 102.35 (2) of the statutes is amended to read:

102.35 (2) Any employer, or duly authorized agent thereof ~~thereof~~ of an employer, who, without reasonable cause, refuses to rehire an employee injured in the course of employment, or who, because of a claim or attempt to claim compensation benefits from such ~~that~~ employer, discriminates or threatens to discriminate against an employee as to the employee's employment, shall ~~forfeit to the state not less than \$50 nor more than \$500~~ be subject to a forfeiture under s. 601.64 (3) (c) for each offense. No action under this subsection may be commenced except upon request of the ~~department~~ office.

SECTION 220. 102.35 (3) of the statutes is amended to read:

102.35 (3) Any employer who without reasonable cause refuses to rehire an employee who is injured in the course of employment, ~~where~~ when suitable employment is available within the employee's physical and mental limitations, upon order of the ~~department and in addition to other benefits~~ division, has exclusive liability to pay to the employee, in addition to other benefits, the wages lost during the period of such ~~that~~ refusal, not exceeding one year's wages. In determining the availability of suitable employment, the continuance in business of the employer shall be considered and any written rules promulgated by the employer with respect to seniority or the provisions of any collective bargaining agreement with respect to seniority shall govern.

SECTION 221. 102.37 of the statutes is amended to read:

102.37 Employers' records. Every employer of 3 or more persons and every employer who is subject to this chapter shall keep a record of all accidents causing

death or disability of any employee while performing services growing out of and incidental to the employment. ~~This~~ That record shall give the name, address, age, and wages of the deceased or injured employee, the time and causes of the accident, the nature and extent of the injury, and any other information the department office may require by rule or general order. Reports based upon ~~this~~ that record shall be furnished to the department office at such times and in such manner as the department office may require by rule or general order, in a format approved by the department office.

SECTION 222. 102.38 of the statutes is amended to read:

102.38 Records and reports of payments. Every insurance company that transacts the business of compensation insurance, and every employer who is subject to this chapter, but whose liability is not insured, shall keep a record of all payments made under this chapter and of the time and manner of making the payments and shall furnish reports based upon these records and any other information to the department office as the department office may require by rule or general order, in a format approved by the department office.

SECTION 223. 102.39 of the statutes is amended to read:

102.39 Rules and general orders; application of statutes. The provisions of s. 103.005 relating to the adoption, publication, modification, and court review of rules or general orders of the department ~~shall~~ of workforce development apply to all rules promulgated or general orders adopted by the office under this chapter in the same manner as those provisions apply to rules promulgated or general orders adopted by the department of workforce development.

SECTION 224. 102.40 of the statutes is amended to read:

102.40 Reports not evidence in actions. Reports furnished to the department pursuant to office under ss. 102.37 and 102.38 shall ~~not be~~ are not admissible as evidence in any action or proceeding arising out of the death or accident reported.

SECTION 225. 102.42 (1m) of the statutes is amended to read:

102.42 **(1m)** LIABILITY FOR UNNECESSARY TREATMENT. If an employee who has sustained a compensable injury undertakes in good faith invasive treatment that is generally medically acceptable, but that is unnecessary, the employer shall pay disability indemnity for all disability incurred as a result of that treatment. An employer is not liable for disability indemnity for any disability incurred as a result of any unnecessary treatment undertaken in good faith that is noninvasive or not medically acceptable. This subsection applies to all findings that an employee has sustained a compensable injury, whether the finding results from a hearing, the default of a party, or a compromise or stipulation confirmed by the department division.

SECTION 226. 102.42 (6) of the statutes is amended to read:

102.42 **(6)** TREATMENT REJECTED BY EMPLOYEE. Unless the employee ~~shall have~~ has elected Christian Science treatment in lieu of medical, surgical, dental, or hospital treatment, no compensation shall be payable for the death or disability of an employee, if the death ~~be~~ is caused, or insofar as the disability may be aggravated, ~~caused,~~ or continued, by an unreasonable refusal or neglect to submit to or follow any competent and reasonable medical, surgical, or dental treatment or, in the case of tuberculosis, by refusal or neglect to submit to or follow hospital or medical treatment when found by the department division to be necessary. The right to compensation accruing during a period of refusal or neglect to submit to or follow

hospital or medical treatment when found by the ~~department~~ division to be necessary in the case of tuberculosis shall be barred, irrespective of whether disability was aggravated, caused, or continued ~~thereby~~ by that refusal or neglect.

SECTION 227. 102.42 (8) of the statutes is amended to read:

102.42 (8) AWARD TO STATE EMPLOYEE. Whenever the division makes an award ~~is made by the department in~~ on behalf of a state employee, the ~~department of workforce development~~ division shall file duplicate copies of the award with the subunit of the the department of administration responsible for risk management. Upon receipt of the copies of the award, the department of administration shall promptly issue a voucher in payment of the award from the proper appropriation under s. 20.865 (1) (fm), (kr), or (ur), and shall transmit one copy of the voucher and the award to the officer, department, or agency by whom the affected employee is employed.

SECTION 228. 102.42 (9) (a) of the statutes is amended to read:

102.42 (9) (a) One of the primary purposes of this chapter is restoration of an injured employee to gainful employment. To this end, the ~~department~~ office shall employ a specialist in physical, medical, and vocational rehabilitation.

SECTION 229. 102.42 (9) (b) of the statutes is amended to read:

102.42 (9) (b) ~~Such~~ The specialist employed under par. (a) shall study the problems of rehabilitation, both physical and vocational and shall refer suitable cases to the ~~department~~ office for vocational evaluation and training. The specialist shall investigate and maintain a directory of such rehabilitation facilities, private and public, as are capable of rendering competent rehabilitation service to seriously injured employees.

SECTION 230. 102.425 (4m) (a) of the statutes is amended to read:

102.425 (4m) (a) The department office has jurisdiction ~~under this subsection and s. 102.16 (1m) (e) and s. 102.17~~ to resolve a dispute between a pharmacist or practitioner and an employer or insurer over the reasonableness of the amount charged for a prescription drug dispensed under sub. (2) for outpatient use by an injured employee who claims benefits under this chapter.

SECTION 231. 102.425 (4m) (b) of the statutes is amended to read:

102.425 (4m) (b) An employer or insurer that disputes the reasonableness of the amount charged for a prescription drug dispensed under sub. (2) for outpatient use by an injured employee or the department division under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1) (bg) 3. shall provide, within 30 days after receiving a completed bill for the prescription drug, reasonable written notice to the pharmacist or practitioner that the charge is being disputed. After receiving reasonable written notice under this paragraph or under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1) (bg) 1. that a prescription drug charge is being disputed, a pharmacist or practitioner may not collect the disputed charge from, or bring an action for collection of the disputed charge against, the employee who received the prescription drug.

SECTION 232. 102.425 (4m) (c) of the statutes is amended to read:

102.425 (4m) (c) A pharmacist or practitioner that receives notice under par. (b) that the reasonableness of the amount charged for a prescription drug dispensed under sub. (2) for outpatient use by an injured employee is in dispute shall file the dispute with the department office within 6 months after receiving that notice.

SECTION 233. 102.425 (4m) (d) of the statutes is amended to read:

102.425 (4m) (d) The department office shall deny payment of a prescription drug charge that the department office determines under this subsection to be unreasonable. A pharmacist or practitioner and an employer or insurer that are

parties to a dispute under this subsection over the reasonableness of a prescription drug charge are bound by the department's office's determination under this subsection on the reasonableness of the disputed charge, unless that determination is set aside on judicial review as provided in par. (e).

SECTION 234. 102.425 (4m) (e) of the statutes is amended to read:

102.425 (4m) (e) Within 30 days after a determination under this subsection, the department office may set aside, reverse, or modify the determination for any reason that the department office considers sufficient. Within 60 days after a determination under this subsection, the department office may set aside, reverse, or modify the determination on grounds of mistake. A pharmacist, practitioner, employer, or insurer that is aggrieved by a determination of the department office under this subsection may seek judicial review of that determination in the same manner that compensation claims are reviewed under s. 102.23.

SECTION 235. 102.43 (5) (b) of the statutes is amended to read:

102.43 (5) (b) Except as provided in s. 102.61 (1g), temporary disability shall also include such period as the employee may be receiving instruction under s. 102.61 (1) or (1m). Temporary disability on account of receiving instruction under s. 102.61 (1) or (1m), and not otherwise resulting from the injury, shall not be in excess of 80 weeks. ~~Such~~ That 80-week limitation does not apply to temporary disability benefits under this section, the cost of tuition, fees, books, travel, or maintenance under s. 102.61 (1), or the cost of private rehabilitation counseling or rehabilitative training under s. 102.61 (1m) if the department office determines that additional training is warranted. The necessity for additional training as authorized by the department office for any employee shall be subject to periodic review and reevaluation.

SECTION 236. 102.44 (1) (c) 1. of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

102.44 (1) (c) 1. An insurance carrier paying the supplemental benefits required under this subsection shall be entitled to reimbursement for each such case from the worker's compensation operations fund, commencing one year after the date of the first payment of those benefits and annually thereafter while those payments continue. To receive reimbursement under this paragraph, an insurance carrier must file a claim for that reimbursement with the department office by no later than 12 months after the end of the year in which the supplemental benefits were paid and the claim must be approved by the department office.

***NOTE: This is reconciled s.102.44 (1) (c) 1. This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 237. 102.44 (1) (c) 2. of the statutes, as created by 2015 Wisconsin Act ... (this act), is amended to read:

102.44 (1) (c) 2. After the expiration of the deadline for filing a claim under subd. 1., the department office shall determine the total amount of all claims filed by that deadline and shall use that total to determine the amount to be collected under s. 102.75 (1g) from each licensed worker's compensation insurance carrier, deposited in the worker's compensation operations fund, and used to provide reimbursement to insurance carriers paying supplemental benefits under this subsection. Subject to subd. 3., the department office shall pay a claim for reimbursement approved by the department office by no later than 16 months after the end of the year in which the claim was received by the department office.

***NOTE: This is reconciled s.102.44 (1) (c) 2. This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 238. 102.44 (1) (c) 3. of the statutes, as created by 2015 Wisconsin Act ... (this act), is amended to read:

102.44 (1) (c) 3. The maximum amount that the department office may pay under subd. 2. in a calendar year is \$5,000,000. If the amount determined payable under subd. 2. in a calendar year is \$5,000,000 or less, the department office shall pay that amount. If the amount determined payable under subd. 2. in a calendar year exceeds \$5,000,000, the department office shall pay \$5,000,000 in the year in which the determination is made and, subject to the maximum amount payable of \$5,000,000 per calendar year, shall pay the excess in the next calendar year or in subsequent calendar years until that excess is paid in full. The department office shall pay claims for reimbursement under subd. 2. in the chronological order in which those claims are received.

****NOTE: This is reconciled s.102.44 (1) (c) 3. This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 239. 102.44 (2) of the statutes is amended to read:

102.44 (2) In case of permanent total disability, aggregate indemnity shall be weekly indemnity for the period that the employee may live. Total impairment for industrial use of both eyes, ~~or~~ the loss of both arms at or near the shoulder, ~~or~~ the loss of both legs at or near the hip, or the loss of one arm at the shoulder and one leg at the hip, constitutes permanent total disability. This enumeration is not exclusive, but in other cases the department division shall find the facts.

SECTION 240. 102.44 (5) (d) of the statutes is amended to read:

102.44 (5) (d) The employer or insurance carrier making such a reduction under this subsection shall report to the department office the reduction and, as

requested by the department office, furnish to the department office satisfactory proof of the basis for the reduction.

SECTION 241. 102.44 (6) (b) of the statutes is amended to read:

102.44 (6) (b) If, during the period set forth in s. 102.17 (4) the employment relationship is terminated by the employer at the time of the injury, or by the employee because his or her physical or mental limitations prevent his or her continuing in such employment, or if during such that period a wage loss of ~~15%~~ 15 percent or more occurs, the department division may reopen any award and make a redetermination taking into account loss of earning capacity.

SECTION 242. 102.45 of the statutes is amended to read:

102.45 Benefits payable to minors; how paid. ~~Compensation and death benefit~~ In the discretion of the office, compensation or death benefits payable to an employee or dependent who was a minor when the ~~employee's or dependent's right of the employee or dependent to compensation or death benefits~~ began to accrue, may, ~~in the discretion of the department,~~ be ordered paid to a bank, trust company, trustee, parent, or guardian, for the use of ~~such~~ the employee or dependent as may be found best calculated to conserve the ~~employee's or dependent's interests.~~ Such of the employee or dependent. The employee or dependent shall be entitled to receive payments, in the aggregate, at a rate that is not less than ~~that~~ the rate applicable to payments of primary compensation for total disability or death benefit as accruing from the ~~employee's or dependent's 18th birthday~~ of the employee or dependent.

SECTION 243. 102.475 (1) of the statutes is amended to read:

102.475 (1) SPECIAL BENEFIT. If the deceased employee is a law enforcement officer, correctional officer, fire fighter, rescue squad member, diving team member, national guard member, or state defense force member on state active duty as

described in s. 102.07 (9) or if a deceased person is an employee or volunteer performing emergency management activities under ch. 323 during a state of emergency or a circumstance described in s. 323.12 (2) (c), who sustained an accidental injury while performing services growing out of and incidental to that employment or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the ~~department~~ office shall voucher and pay from the appropriation under s. ~~20.445 (1)~~ 20.145 (6) (aa) a sum equal to ~~75%~~ 75 percent of the primary death benefit as of the date of death, but not less than \$50,000 to the persons wholly dependent upon the deceased. For purposes of this subsection, dependency shall be determined under ss. 102.49 and 102.51.

SECTION 244. 102.475 (6) of the statutes is amended to read:

102.475 (6) PROOF. In administering this section the ~~department~~ office may require reasonable proof of birth, marriage, domestic partnership under ch. 770, relationship, or dependency.

SECTION 245. 102.48 (1) of the statutes is amended to read:

102.48 (1) An unestranged surviving parent or parents to whose support the deceased has contributed less than \$500 in the 52 weeks next preceding the injury causing death shall receive a death benefit of \$6,500. If the parents are not living together, the ~~department~~ office shall divide this sum in such proportion as ~~it deems~~ the office considers to be just, considering their ages and other facts bearing on dependency.

SECTION 246. 102.48 (2) of the statutes is amended to read:

102.48 (2) In all other cases the death benefit shall be such sum as the ~~department shall determine~~ office determines to represent fairly and justly the aid to support which the dependent might reasonably have anticipated from the

deceased employee but for the injury. To establish anticipation of support and dependency, it shall not be essential that the deceased employee made any contribution to support. The aggregate benefits in ~~such~~ that case shall not exceed twice the average annual earnings of the deceased; or 4 times the contributions of the deceased to the support of ~~such~~ his or her dependents during the year immediately preceding the deceased employee's death, whichever amount is the greater. In no event shall the aggregate benefits in ~~such~~ that case exceed the amount ~~which~~ that would accrue to a person who is solely and wholly dependent. ~~Where~~ When there is more than one partial dependent the weekly benefit shall be apportioned according to their relative dependency. The term "support" as used in ss. 102.42 to 102.63 shall include contributions to the capital fund of the dependents, for their necessary comfort.

SECTION 247. 102.48 (3) of the statutes is amended to read:

102.48 (3) ~~A~~ Except as otherwise provided, a death benefit, other than burial expenses, except as otherwise provided, shall be paid in weekly installments corresponding in amount to two-thirds of the weekly earnings of the employee, until otherwise ordered by the department office.

SECTION 248. 102.49 (3) of the statutes is amended to read:

102.49 (3) If the employee leaves a spouse or domestic partner under ch. 770 wholly dependent and also a child by a former marriage, domestic partnership under ch. 770, or adoption, likewise wholly dependent, aggregate benefits shall be the same in amount as if the child were the child of the surviving spouse or partner, and the entire benefit shall be apportioned to the dependents in the amounts that the department office determines to be just, considering the ages of the dependents and other factors bearing on dependency. The benefit awarded to the surviving spouse

or partner shall not exceed 4 times the average annual earnings of the deceased employee.

SECTION 249. 102.49 (5) (d) of the statutes is amended to read:

102.49 (5) (d) The payment into the state treasury shall be made in all such cases regardless of whether the dependents or personal representatives of the deceased employee commence action against a 3rd party under s. 102.29. If the payment is not made within 20 days after the ~~department makes request therefor~~ office requests the payment to be made, any sum payable shall bear interest at the rate of ~~7%~~ 7 percent per year.

SECTION 250. 102.49 (6) of the statutes is amended to read:

102.49 (6) The ~~department~~ office may award the additional benefits payable under this section to the surviving parent of the child, to the child's guardian, or to such other person, bank, or trust company for the child's use as may be found best calculated to conserve the ~~interest~~ interests of the child. ~~In the case of death of a child~~ If the child dies while benefits are still payable, there shall be paid the reasonable expense for burial, not exceeding \$1,500.

SECTION 251. 102.51 (3) of the statutes is amended to read:

102.51 (3) DIVISION AMONG DEPENDENTS. If there is more than one person wholly or partially dependent on a deceased employee, the death benefit shall be divided between such those dependents in such proportion as the ~~department shall determine~~ office determines to be just, considering their ages and other facts bearing on such their dependency.

SECTION 252. 102.51 (4) of the statutes is amended to read:

102.51 (4) DEPENDENCY AS OF THE DATE OF DEATH. Questions as to who is a dependent and the extent of his or her dependency shall be determined as of the date

of the death of the employee, and the dependent's right to any death benefit becomes fixed at that time, regardless of any subsequent change in conditions. The death benefit shall be directly recoverable by and payable to the dependents entitled ~~thereto~~ to the death benefit or their legal guardians or trustees. In case of the death of a dependent whose right to a death benefit has ~~thus~~ become fixed, so much of the benefit as is ~~then~~ unpaid is payable to the dependent's personal representatives in gross, unless the ~~department~~ office determines that the unpaid benefit shall be reassigned, under sub. (6), and paid to any other dependent who is physically or mentally incapacitated or a minor. ~~A posthumous child is for the purpose~~ For purposes of this subsection, a child of the employee who is born after the death of the employee is considered to be a dependent as of the date of death.

SECTION 253. 102.51 (6) of the statutes is amended to read:

102.51 (6) DIVISION AMONG DEPENDENTS. Benefits accruing to a minor dependent child may be awarded to either parent in the discretion of the ~~department~~ office. Notwithstanding sub. (1), the ~~department~~ office may reassign the death benefit, ~~in accordance with their respective needs for the death benefit~~ as between a surviving spouse or a domestic partner under ch. 770 and any children designated specified in sub. (1) and s. 102.49 in accordance with their respective needs for the death benefit.

SECTION 254. 102.55 (3) of the statutes is amended to read:

102.55 (3) For all other injuries to the members of the body or its faculties ~~which~~ that are specified in ~~this~~ the schedule under s. 102.52 resulting in permanent disability, though the member ~~be~~ is not actually severed or the faculty ~~is not~~ is not totally lost, compensation shall bear such relation to ~~that~~ the compensation named in ~~this~~ the schedule as ~~disabilities bear~~ the disability bears to the disabilities ~~disability~~ named in ~~this~~ the schedule. Indemnity in ~~such~~ those cases shall be determined by

allowing weekly indemnity during the healing period resulting from the injury and the percentage of permanent disability resulting ~~thereafter~~ after the healing period as found by the ~~department~~ division.

SECTION 255. 102.555 (12) (a) of the statutes is amended to read:

102.555 (12) (a) An employer, ~~the office~~, or the ~~department~~ division is not liable for the expense of any examination or test for hearing loss, any evaluation of such an exam or test, any medical treatment for improving or restoring hearing, or any hearing aid to relieve the effect of hearing loss unless it is determined that compensation for occupational deafness is payable under sub. (3), (4), or (11).

SECTION 256. 102.56 (1) of the statutes is amended to read:

102.56 (1) Subject to sub. (2), if an employee is so permanently disfigured as to occasion potential wage loss due to the disfigurement, the ~~department~~ division may allow such sum as the ~~department~~ division considers just as compensation for the disfigurement, not exceeding the employee's average annual earnings. In determining the potential for wage loss due to the disfigurement and the sum awarded, the ~~department~~ division shall take into account the age, education, training, and previous experience and earnings of the employee, the employee's present occupation and earnings, and likelihood of future suitable occupational change. Consideration for disfigurement allowance is confined to those areas of the body that are exposed in the normal course of employment. The ~~department~~ division shall also take into account the appearance of the disfigurement, its location, and the likelihood of its exposure in occupations for which the employee is suited.

SECTION 257. 102.56 (2) of the statutes is amended to read:

102.56 (2) If an employee who claims compensation under sub. (1) returns to work for the employer who employed the employee at the time of the injury, or is

offered employment with that employer, at the same or a higher wage, the department division may not allow that compensation unless the employee suffers an actual wage loss due to the disfigurement.

SECTION 258. 102.565 (1) of the statutes is amended to read:

102.565 (1) ~~When an employee working subject to this chapter, as a result of exposure in the course of his or her employment over a period of time to toxic or hazardous substances or conditions, an employee performing work that is subject to this chapter develops any clinically observable abnormality or condition which that,~~ on competent medical opinion, predisposes or renders the employ employee in any manner differentially susceptible to disability to such an extent that it is inadvisable for the employee to continue employment involving such that exposure ~~and the employee, is discharged from or ceases to continue the employment, and suffers wage loss by reason of such that discharge from, or such cessation of, employment,~~ the department division may allow such sum as it deems the division considers just as compensation therefor for that wage loss, not exceeding \$13,000. In the event If a nondisabling condition may also be caused by toxic or hazardous exposure not related to employment, and if the employee has a history of such that exposure, compensation as provided by under this section or any other remedy for loss of earning capacity shall not be allowed ~~nor shall any other remedy for loss of earning capacity. In case of such discharge. If the employee is discharged from employment prior to a finding by the department division that it is inadvisable for the employee to continue in such that employment and if it is reasonably probable that continued exposure would result in disability, the liability of the employer who so discharges the employee is primary, and the liability of the employer's insurer is secondary, under the same procedure and to the same effect as provided by s. 102.62.~~

SECTION 259. 102.565 (2) of the statutes is amended to read:

102.565 (2) Upon application of any employer or employee the department division may direct any employee of the employer or an employee who, in the course of his or her employment, has been exposed to toxic or hazardous substances or conditions, to submit to examination by ~~a physician or~~ one or more physicians to be appointed by the department division to determine whether the employee has developed any abnormality or condition under sub. (1), and the degree thereof of that abnormality or condition. The cost of the medical examination shall be borne by the person making application. The physician conducting the examination shall submit the results of the examination shall be submitted by the physician to the department division, which shall submit copies of the reports to the employer and employee, who shall have an opportunity to rebut the reports provided ~~request therefor~~ if a request to submit a rebuttal is made to the department division within 10 days ~~from the mailing of~~ after the division mails the report to the parties. The department division shall make its findings as to whether ~~or not~~ it is inadvisable for the employee to continue in his or her employment.

SECTION 260. 102.565 (3) of the statutes is amended to read:

102.565 (3) ~~If an employee refuses to submit to the examination after direction by the commission, or any member thereof or the department or~~ any member of the commission, the division, or an examiner thereof, an employee refuses to submit to an examination or in any way obstructs the same examination, the employee's right to compensation under this section shall be barred.

SECTION 261. 102.57 of the statutes is amended to read:

102.57 Violations of safety provisions, penalty. If injury is caused by the failure of the employer to comply with any statute, rule, or order of the department

of safety and professional services, compensation and death benefits provided in this chapter shall be increased ~~15%~~ by 15 percent but the total increase may not exceed \$15,000. Failure of an employer reasonably to enforce compliance by employees with any statute, rule, or order of the department of safety and professional services constitutes failure by the employer to comply with that statute, rule, or order.

SECTION 262. 102.58 of the statutes is amended to read:

102.58 Decreased compensation. If injury is caused by the failure of the employee to use safety devices that are provided in accordance with any statute, rule, or order of the department of safety and professional services and that are adequately maintained, and the use of which is reasonably enforced by the employer, if injury results from the employee's failure to obey any reasonable rule adopted and reasonably enforced by the employer for the safety of the employee and of which the employee has notice, or if injury results from the intoxication of the employee by alcohol beverages, as defined in s. 125.02 (1), or use of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m), the compensation and death benefit provided in this chapter shall be reduced ~~15%~~ by 15 percent but the total reduction may not exceed \$15,000.

SECTION 263. 102.60 (1m) (b) of the statutes is amended to read:

102.60 **(1m)** (b) An amount equal to double the amount recoverable by the injured employee, but not to exceed \$15,000, if the injured employee is a minor of permit age and if at the time of the injury the minor is employed, required, suffered, or permitted to work without a permit in any place of employment or at any employment in or for which the department of workforce development, acting under ch. 103, has adopted a written resolution providing that permits shall not be issued.

SECTION 264. 102.61 (1g) (b) of the statutes is amended to read:

102.61 (1g) (b) If an employer offers an employee suitable employment as provided in par. (c), the employer or the employer's insurance carrier is not liable for temporary disability benefits under s. 102.43 (5) (b) or for the cost of tuition, fees, books, travel, and maintenance under sub. (1). Ineligibility for compensation under this paragraph does not preclude an employee from receiving vocational rehabilitation services under [29 USC 701 to 797b](#) if the department of work force development determines that the employee is eligible to receive those services.

SECTION 265. 102.61 (1g) (c) of the statutes is amended to read:

102.61 (1g) (c) On receiving notice that he or she is eligible to receive vocational rehabilitation services under [29 USC 701 to 797a](#), an employee shall provide the employer with a written report from a physician, chiropractor, psychologist, or podiatrist stating the employee's permanent work restrictions. Within 60 days after receiving that report, the employer shall provide to the employee in writing an offer of suitable employment, a statement that the employer has no suitable employment for the employee, or a report from a physician, chiropractor, psychologist, or podiatrist showing that the permanent work restrictions provided by the employee's practitioner are in dispute and documentation showing that the difference in work restrictions would materially affect either the employer's ability to provide suitable employment or a vocational rehabilitation counselor's ability to recommend a rehabilitative training program. If the employer and employee cannot resolve the dispute within 30 days after the employee receives the employer's report and documentation, the employer or employee may request a hearing before the department division to determine the employee's work restrictions. Within 30 days after the department division determines the employee's work restrictions, the

employer shall provide to the employee in writing an offer of suitable employment or a statement that the employer has no suitable employment for the employee.

SECTION 266. 102.61 (1m) (a) of the statutes is amended to read:

102.61 **(1m)** (a) If the department of workforce development has determined under sub. (1) that an employee is eligible for vocational rehabilitation services under [29 USC 701 to 797b](#), but that the department of workforce development cannot provide those services for the employee, the employee may select a private rehabilitation counselor certified by the department office to determine whether the employee can return to suitable employment without rehabilitative training and, if that counselor determines that rehabilitative training is necessary, to develop a rehabilitative training program to restore as nearly as possible the employee to his or her preinjury earning capacity and potential.

SECTION 267. 102.61 (1m) (c) of the statutes is amended to read:

102.61 **(1m)** (c) The employer or insurance carrier shall pay the reasonable cost of any services provided for an employee by a private rehabilitation counselor under par. (a) and, subject to the conditions and limitations specified in sub. (1r) (a) to (c) and by rule, if the private rehabilitation counselor determines that rehabilitative training is necessary, the reasonable cost of the rehabilitative training program recommended by that counselor, including the cost of tuition, fees, books, maintenance, and travel at the same rate as is provided for state officers and employees under s. 20.916 (8). Notwithstanding that the department office may authorize under s. 102.43 (5) (b) a rehabilitative training program that lasts longer than 80 weeks, a rehabilitative training program that lasts 80 weeks or less is presumed to be reasonable.

SECTION 268. 102.61 (1m) (d) of the statutes is amended to read:

102.61 (1m) (d) If an employee receives services from a private rehabilitation counselor under par. (a) and later receives similar services from the department of workforce development under sub. (1) without the prior approval of the employer or insurance carrier, the employer or insurance carrier is not liable for temporary disability benefits under s. 102.43 (5) (b) or for tuition, fee, book, travel, and maintenance costs under sub. (1) that exceed what the employer or insurance carrier would have been liable for under the rehabilitative training program developed by the private rehabilitation counselor.

SECTION 269. 102.61 (1m) (e) of the statutes is amended to read:

102.61 (1m) (e) Nothing in this subsection prevents an employer or insurance carrier from providing an employee with the services of a private rehabilitation counselor or with rehabilitative training under sub. (3) before the department of workforce development makes its determination under par. (a).

SECTION 270. 102.61 (1m) (f) of the statutes is amended to read:

102.61 (1m) (f) The department office shall promulgate rules establishing procedures and requirements for the private rehabilitation counseling and rehabilitative training process under this subsection. Those rules shall include rules specifying the procedure and requirements for certification of private rehabilitation counselors.

SECTION 271. 102.61 (2) of the statutes is amended to read:

102.61 (2) The department division, the commission, and the courts shall determine the rights and liabilities of the parties under this section in like manner and with like effect as the department division, the commission, and the courts determine other issues under this chapter. A determination under this subsection may include a determination based on the evidence regarding the cost or scope of the

services provided by a private rehabilitation counselor under sub. (1m) (a) or the cost or reasonableness of a rehabilitative training program developed under sub. (1m) (a).

SECTION 272. 102.62 of the statutes is amended to read:

102.62 Primary and secondary liability; unchangeable. In case of liability under s. 102.57 or 102.60, the liability of the employer shall be primary and the liability of the insurance carrier shall be secondary. If proceedings are had before the ~~department~~ division for the recovery of that liability, the ~~department~~ division shall set forth in its award the amount and order of liability as provided in this section. Execution shall not be issued against the insurance carrier to satisfy any judgment covering that liability until execution has first been issued against the employer and has been returned unsatisfied as to any part of that liability. Any provision in any insurance policy undertaking to guarantee primary liability or to avoid secondary liability for a liability under s. 102.57 or 102.60 is void. If the employer has been adjudged bankrupt or has made an assignment for the benefit of creditors, or if the employer, other than an individual, has gone out of business or has been dissolved, or if the employer is a corporation and its charter has been forfeited or revoked, the insurer shall be liable for the payment of that liability without judgment or execution against the employer, but without altering the primary liability of the employer.

SECTION 273. 102.63 of the statutes is amended to read:

102.63 Refunds by state. Whenever the ~~department shall certify~~ office certifies to the secretary of administration that excess payment has been made under s. 102.59 or under s. 102.49 (5) either because of mistake or otherwise, ~~the secretary of administration shall~~ within 5 days after receipt of such that certificate the secretary of administration shall draw an order against the fund in the state

treasury into which ~~such~~ that excess was paid, reimbursing ~~such~~ the payor of ~~such~~ the excess payment, ~~together with interest actually earned thereon if.~~ If the excess payment has been on deposit for at least 6 months, the payor of the excess payment shall also be paid interest actually earned on the excess payment.

SECTION 274. 102.64 (1) of the statutes is amended to read:

102.64 (1) Upon request of the department of administration, a representative of the department of justice shall represent the state in cases involving payment into or out of the state treasury under s. 20.865 (1) (fm), (kr), or (ur) or 102.29. The department of justice, after giving notice to the department of administration, may compromise the amount of those payments but such compromises shall be subject to review by the ~~department of workforce development~~ office. If the spouse or domestic partner under ch. 770 of the deceased employee compromises his or her claim for a primary death benefit, the claim of the children of the employee under s. 102.49 shall be compromised on the same proportional basis, subject to approval by the department office. If the persons entitled to compensation on the basis of total dependency under s. 102.51 (1) compromise their claim, payments under s. 102.49 (5) (a) shall be compromised on the same proportional basis.

SECTION 275. 102.64 (2) of the statutes is amended to read:

102.64 (2) Upon request of the department of administration, the attorney general shall appear on behalf of the state in proceedings upon claims for compensation against the state. Except as provided in s. 102.65 (3), the department of justice shall represent the interests of the state in proceedings under s. 102.44 (1), 102.49, 102.59, 102.60, or 102.66. The department of justice may compromise claims in those proceedings, but the compromises are subject to review by the ~~department of workforce development~~ office. Costs incurred by the department of justice in

prosecuting or defending any claim for payment into or out of the work injury supplemental benefit fund under s. 102.65, including expert witness and witness fees but not including attorney fees or attorney travel expenses for services performed under this subsection, shall be paid from the work injury supplemental benefit fund.

SECTION 276. 102.65 (1) of the statutes is amended to read:

102.65 (1) The moneys payable to the state treasury under ss. 102.35 (1), 102.47, 102.49, 102.59, and 102.60, together with all accrued interest on those moneys, and all interest payments received under s. 102.75 (2), shall constitute a separate nonlapsible fund designated as the work injury supplemental benefit fund. Moneys in the fund may be expended only as provided in s. ~~20.445 (1)~~ 20.145 (6) (t) and may not be used for any other purpose of the state.

SECTION 277. 102.65 (2) of the statutes is amended to read:

102.65 (2) For proper administration of the moneys available in the fund the department office shall by order, set aside in the state treasury suitable reserves to carry to maturity the liability for benefits under ss. 102.44, 102.49, 102.59, and 102.66. ~~Such~~ Those moneys shall be invested by the investment board in accordance with s. 25.14 (5).

SECTION 278. 102.65 (3) of the statutes is amended to read:

102.65 (3) ~~The department of workforce development~~ office may retain the department of administration to process, investigate, and pay claims under ss. 102.44 (1), 102.49, 102.59, and 102.66. If retained by the ~~department of workforce development~~ office, the department of administration may compromise a claim processed by that department, but a compromise made by that department is subject to review by the ~~department of workforce development~~ office. The department of

~~workforce development~~ office shall pay for the services retained under this subsection from the appropriation account under s. ~~20.445 (1)~~ 20.145 (6) (t).

SECTION 279. 102.65 (4) (intro.) of the statutes, as affected by 2015 Wisconsin Act (this act), is amended to read:

102.65 (4) (intro.) The ~~secretary~~ commissioner shall monitor the cash balance in, and incurred losses to, the work injury supplemental benefit fund using generally accepted actuarial principles. If the ~~secretary~~ commissioner determines that the expected ultimate losses to the work injury supplemental benefit fund on known claims exceed 85 percent of the cash balance in that fund, the ~~secretary~~ commissioner shall consult with the council on worker's compensation. If the ~~secretary~~, after consulting with the council on worker's compensation, the commissioner determines that there is a reasonable likelihood that the cash balance in the work injury supplemental benefit fund may become inadequate to fund all claims under ss. 102.49, 102.59, and 102.66, the ~~secretary~~ commissioner shall file with the secretary of administration a certificate attesting that the cash balance in that fund is likely to become inadequate to fund all claims under ss. 102.49, 102.59, and 102.66 and specifying one of the following:

****NOTE: This is reconciled s.102.65 (4) (intro.). This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 280. 102.65 (4) (a) of the statutes is amended to read:

102.65 (4) (a) That payment of those claims will be made as provided in a schedule that the ~~department~~ office shall promulgate by rule.

SECTION 281. 102.66 (1) of the statutes is amended to read:

102.66 (1) Subject to any certificate filed under s. 102.65 (4), if there is an otherwise meritorious claim for occupational disease, or for a traumatic injury

described in s. 102.17 (4) in which the date of injury or death or last payment of compensation, other than for treatment or burial expenses, is before April 1, 2006, and if the claim is barred solely by the statute of limitations under s. 102.17 (4), the department office may, in lieu of worker's compensation benefits, direct payment from the work injury supplemental benefit fund under s. 102.65 of such compensation and such medical expenses as would otherwise be due, based on the date of injury, to or on behalf of the injured employee. The benefits shall be supplemental, to the extent of compensation liability, to any disability or medical benefits payable from any group insurance policy whose premium is paid in whole or in part by any employer, or under any federal insurance or benefit program providing disability or medical benefits. Death benefits payable under any such group policy do not limit the benefits payable under this section.

SECTION 282. 102.75 (1) of the statutes is amended to read:

102.75 (1) The department office shall assess upon and collect from each licensed worker's compensation insurance carrier and from each employer exempted under s. 102.28 (2) by special order or by rule, the proportion of total costs and expenses incurred by the council on worker's compensation for travel and research and by the department office, the division, and the commission in the administration of this chapter for the current fiscal year plus any deficiencies in collections and anticipated costs from the previous fiscal year, that the total indemnity paid or payable under this chapter by each such carrier and exempt employer in worker's compensation cases initially closed during the preceding calendar year, other than for increased, double, or treble compensation bore to the total indemnity paid in cases closed the previous calendar year under this chapter by all carriers and exempt employers other than for increased, double, or treble compensation. The council on

worker's compensation, the division, and the commission shall annually certify any costs and expenses for worker's compensation activities to the department office at such time as the secretary commissioner requires.

SECTION 283. 102.75 (1g) (a) of the statutes, as created by 2015 Wisconsin Act (this act), is amended to read:

102.75 (1g) (a) Subject to par. (b), the department office shall collect from each licensed worker's compensation carrier the proportion of reimbursement approved by the department office under s. 102.44 (1) (c) 1. for supplemental benefits paid in the year before the previous year that the total indemnity paid or payable under this chapter by the carrier in worker's compensation cases initially closed during the preceding calendar year, other than for increased, double, or treble compensation, bore to the total indemnity paid in cases closed the previous calendar year under this chapter by all carriers, other than for increased, double, or treble compensation.

***NOTE: This is reconciled s.102.75 (1g) (a) This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 284. 102.75 (1g) (b) of the statutes, as created by 2015 Wisconsin Act (this act), is amended to read:

102.75 (1g) (b) The maximum amount that the department office may collect under par. (a) in a calendar year is \$5,000,000. If the amount determined collectible under par. (a) in a calendar year is \$5,000,000 or less, the department office shall collect that amount. If the amount determined collectible under par. (a) in a calendar year exceeds \$5,000,000, the department office shall collect \$5,000,000 in the year in which the determination is made and, subject to the maximum amount collectible of \$5,000,000 per calendar year, shall collect the excess in the next calendar year or in subsequent calendar years until that excess is collected in full.

***NOTE: This is reconciled s.102.75 (1g) (b). This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 285. 102.75 (1m) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

102.75 (1m) The moneys collected under subs. (1) and (1g) and under ss. 102.28 (2) and 102.31 (7), together with all accrued interest, shall constitute a separate nonlapsible fund designated as the worker's compensation operations fund. Moneys in the fund may be expended only as provided in s. ~~20.445 (1)~~ ss. 20.145 (6) (ra), (rb), and (rp) and 20.445 (2) (ra) and may not be used for any other purpose of the state.

***NOTE: This is reconciled s.102.75 (1m). This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 286. 102.75 (2) of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

102.75 (2) The department office shall require each licensed worker's compensation insurance carrier and employer exempted under s. 102.28 (2) (b) from the duty to insure under s. 102.28 (2) (a) to make the payments required under sub. (1) for each fiscal year on such dates as the department office prescribes. The department office shall also require each licensed worker's compensation insurance carrier to make the payments required under sub. (1g) for each fiscal year on those dates. Each such payment shall be a sum equal to a proportionate share of the annual costs and expenses assessed upon each carrier and employer as estimated by the department office. Interest shall accrue on amounts not paid within 30 days after the date prescribed by the department office under this subsection at the rate of 1 percent per month. All interest payments received under this subsection shall be deposited in the fund established under s. 102.65.

***NOTE: This is reconciled s.102.75 (2). This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 287. 102.75 (4) of the statutes is amended to read:

102.75 (4) From the appropriation under s. ~~20.445 (1)~~ 20.145 (6) (ra), the ~~department~~ office shall allocate the amounts that it collects in application fees from employers applying for exemption under s. 102.28 (2) and the annual amount that it collects from employers that have been exempted under s. 102.28 (2) to fund the activities of the ~~department~~ office under s. 102.28 (2) (b) and (c).

SECTION 288. 102.80 (1) (e) of the statutes is amended to read:

102.80 (1) (e) All moneys received by the ~~department~~ office for the uninsured employers fund from any other source.

SECTION 289. 102.80 (1) (f) of the statutes, as created by 2015 Wisconsin Act (this act), is amended to read:

102.80 (1) (f) Amounts transferred to the uninsured employers fund from the appropriation account under s. ~~20.445 (1)~~ 20.145 (6) (ra) as provided in s. 102.81 (1) (c).

****NOTE: This is reconciled s.102.80 (1) (f). This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 290. 102.80 (1m) of the statutes is amended to read:

102.80 (1m) The moneys collected or received under sub. (1), together with all accrued interest, shall constitute a separate nonlapsible fund designated as the uninsured employers fund. Moneys in the fund may be expended only as provided in s. ~~20.445 (1)~~ 20.145 (6) (sm) and may not be used for any other purpose of the state.

SECTION 291. 102.80 (3) (a) of the statutes is amended to read:

102.80 (3) (a) If the cash balance in the uninsured employers fund equals or exceeds \$4,000,000, the ~~secretary~~ commissioner shall consult the council on worker's compensation within 45 days after that cash balance equals or exceeds \$4,000,000.

~~The secretary may file with the secretary of administration, within~~ Within 15 days after consulting the council on worker's compensation, ~~the commissioner may file with the secretary of administration~~ a certificate attesting that the cash balance in the uninsured employers fund equals or exceeds \$4,000,000.

SECTION 292. 102.80 (3) (ag) of the statutes is amended to read:

102.80 (3) (ag) The ~~secretary~~ commissioner shall monitor the cash balance in, and incurred losses to, the uninsured employers fund using generally accepted actuarial principles. If the ~~secretary~~ commissioner determines that the expected ultimate losses to the uninsured employers fund on known claims exceed 85 percent of the cash balance in the uninsured employers fund, the ~~secretary~~ commissioner shall consult with the council on worker's compensation. If ~~the secretary~~, after consulting with the council on worker's compensation, the commissioner determines that there is a reasonable likelihood that the cash balance in the uninsured employers fund may become inadequate to fund all claims under s. 102.81 (1), the ~~secretary~~ commissioner shall file with the secretary of administration a certificate attesting that the cash balance in the uninsured employer's fund is likely to become inadequate to fund all claims under s. 102.81 (1) and specifying a date after which no new claims under s. 102.81 (1) will be paid.

SECTION 293. 102.80 (3) (am) of the statutes is amended to read:

102.80 (3) (am) If the ~~secretary~~ commissioner files the certificate under par. (a), the ~~department may expend the moneys in the uninsured employers fund~~ office may, beginning on the first day of the first July after the ~~secretary~~ commissioner files that certificate, expend the moneys in the uninsured employers fund to make payments under s. 102.81 (1) to employees of uninsured employers and to obtain reinsurance under s. 102.81 (2).

SECTION 294. 102.80 (3) (b) of the statutes is amended to read:

102.80 (3) (b) If the ~~secretary~~ commissioner does not file the certificate under par. (a), the ~~department~~ office may not expend the moneys in the uninsured employers fund.

SECTION 295. 102.80 (3) (c) of the statutes is amended to read:

102.80 (3) (c) If, after filing the certificate under par. (a), the ~~secretary~~ commissioner files the certificate under par. (ag), the ~~department~~ office may expend the moneys in the uninsured employers fund only to make payments under s. 102.81 (1) to employees of uninsured employers on claims made before the date specified in ~~that~~ the certificate under par. (ag) and to obtain reinsurance under s. 102.81 (2) for the payment of those claims.

SECTION 296. 102.80 (4) (a) (intro.) of the statutes is amended to read:

102.80 (4) (a) (intro.) If an uninsured employer who owes to the ~~department~~ office any amount under s. 102.82 or 102.85 (4) transfers his or her business assets or activities, the transferee is liable for the amounts owed by the uninsured employer under s. 102.82 or 102.85 (4) if the ~~department~~ office determines that all of the following conditions are satisfied:

SECTION 297. 102.80 (4) (b) of the statutes is amended to read:

102.80 (4) (b) The ~~department~~ office may collect from a transferee described in par. (a) an amount owed under s. 102.82 or 102.85 (4) using the procedures specified in ss. 102.83, 102.835, and 102.87 and the preference specified in s. 102.84 in the same manner as the ~~department~~ office may collect from an uninsured employer.

SECTION 298. 102.81 (1) (a) of the statutes is amended to read:

102.81 (1) (a) If an employee of an uninsured employer, other than an employee who is eligible to receive alternative benefits under s. 102.28 (3), suffers an injury for

which the uninsured employer is liable under s. 102.03, the ~~department~~ office or the ~~department's~~ office's reinsurer shall pay to or on behalf of the injured employee or to the employee's dependents an amount equal to the compensation owed them by the uninsured employer under this chapter except penalties and interest due under ss. 102.16 (3), 102.18 (1) (b) and (bp), 102.22 (1), 102.35 (3), 102.57, and 102.60.

SECTION 299. 102.81 (1) (b) of the statutes is amended to read:

102.81 (1) (b) The ~~department~~ office shall make the payments required under par. (a) from the uninsured employers fund, except that if the ~~department~~ office has obtained reinsurance under sub. (2) and is unable to make those payments from the uninsured employers fund, the ~~department's~~ office's reinsurer shall make those payments according to the terms of the contract of reinsurance.

SECTION 300. 102.81 (1) (c) 1. of the statutes, as created by 2015 Wisconsin Act (this act), is amended to read:

102.81 (1) (c) 1. The ~~department~~ office shall pay a claim under par. (a) in excess of \$1,000,000 from the uninsured employers fund in the first instance. If the claim is not covered by excess or stop-loss reinsurance under sub. (2), the secretary of administration shall transfer from the appropriation account under s. ~~20.445 (1)~~ 20.145 (6) (ra) to the uninsured employers fund as provided in subds. 2. and 3. an amount equal to the amount by which payments from the uninsured employers fund on the claim are in excess of \$1,000,000.

****NOTE: This is reconciled s. 102.81 (1) (c) 1. This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 301. 102.81 (1) (c) 2. of the statutes, as created by 2015 Wisconsin Act (this act), is amended to read:

102.81 (1) (c) 2. Each calendar year the ~~department~~ office shall file with the secretary of administration a certificate setting forth the number of claims in excess of \$1,000,000 in the preceding year paid from the uninsured employers fund, the payments made from the uninsured employers fund on each such claim in the preceding year, and the total payments made from the uninsured employers fund on all such claims and, based on that information, the secretary of administration shall determine the amount to be transferred under subd. 1. in that calendar year.

***NOTE: This is reconciled s. 102.81 (1) (c) 2. This SECTION has been affected by drafts with the following LRB numbers: -0452/1 and -0610/P2.

SECTION 302. 102.81 (2) of the statutes is amended to read:

102.81 (2) The ~~department~~ office may retain an insurance carrier or insurance service organization to process, investigate, and pay claims under this section and may obtain excess or stop-loss reinsurance with an insurance carrier authorized to do business in this state in an amount that the ~~secretary~~ commissioner determines is necessary for the sound operation of the uninsured employers fund. In cases involving disputed claims, the ~~department~~ office may retain an attorney to represent the interests of the uninsured employers fund and to make appearances on behalf of the uninsured employers fund in proceedings under ss. 102.16 to 102.29. Section 20.930 and all provisions of subch. IV of ch. 16, except s. 16.753, do not apply to an attorney hired under this subsection. The charges for the services retained under this subsection shall be paid from the appropriation under s. ~~20.445-(1)~~ 20.145 (6) (rp). The cost of any reinsurance obtained under this subsection shall be paid from the appropriation under s. ~~20.445-(1)~~ 20.145 (6) (sm).

SECTION 303. 102.81 (4) (a) of the statutes is amended to read:

102.81 (4) (a) If the employee or dependent begins an action to recover compensation from the employee's employer or a 3rd party liable under s. 102.29, provide to the ~~department~~ office a copy of all papers filed by any party in the action.

SECTION 304. 102.81 (4) (b) (intro.) of the statutes is amended to read:

102.81 (4) (b) (intro.) If the employee or dependent receives compensation from the employee's employer or a 3rd party liable under s. 102.29, pay to the ~~department~~ office the lesser of the following:

SECTION 305. 102.81 (6) (a) of the statutes is amended to read:

102.81 (6) (a) Subject to par. (b), an employee, a dependent of an employee, an uninsured employer, a 3rd party who is liable under s. 102.29, or the ~~department~~ office may enter into an agreement to settle liabilities under this chapter.

SECTION 306. 102.81 (6) (b) of the statutes is amended to read:

102.81 (6) (b) A settlement under par. (a) is void without the ~~department's~~ written approval of the office.

SECTION 307. 102.81 (7) of the statutes is amended to read:

102.81 (7) This section first applies to injuries occurring on the first day of the first July beginning after the day that the ~~secretary~~ commissioner files a certificate under s. 102.80 (3) (a), except that if the ~~secretary~~ commissioner files a certificate under s. 102.80 (3) (ag) this section does not apply to claims filed on or after the date specified in that certificate.

SECTION 308. 102.82 (1) of the statutes is amended to read:

102.82 (1) Except as provided in sub. (2) (ar), an uninsured employer shall reimburse the ~~department~~ office for any payment made under s. 102.81 (1) to or on behalf of an employee of the uninsured employer or to an employee's dependents and for any expenses paid by the ~~department~~ office in administering the claim of the

employee or dependents, less amounts repaid by the employee or dependents under s. 102.81 (4) (b). The reimbursement owed under this subsection is due within 30 days after the date on which the ~~department~~ office notifies the uninsured employer that the reimbursement is owed. Interest shall accrue on amounts not paid when due at the rate of ~~1%~~ 1 percent per month.

SECTION 309. 102.82 (2) (a) (intro.) of the statutes is amended to read:

102.82 (2) (a) (intro.) Except as provided in pars. (ag), (am), and (ar), all uninsured employers shall pay to the ~~department~~ office the greater of the following:

SECTION 310. 102.82 (2) (a) 1. of the statutes is amended to read:

102.82 (2) (a) 1. Twice the amount determined by the ~~department~~ office to equal what the uninsured employer would have paid during periods of illegal nonpayment for worker's compensation insurance in the preceding 3-year period based on the employer's payroll in the preceding 3 years.

SECTION 311. 102.82 (2) (ag) (intro.) of the statutes is amended to read:

102.82 (2) (ag) (intro.) An uninsured employer who is liable to the ~~department~~ office under par. (a) 2 shall pay to the ~~department~~ office, in lieu of the payment required under par. (a) 2., \$100 per day for each day that the employer is uninsured if all of the following apply:

SECTION 312. 102.82 (2) (am) of the statutes is amended to read:

102.82 (2) (am) The ~~department~~ office may waive any payment owed under par. (a) by an uninsured employer if the ~~department~~ office determines that the uninsured employer is subject to this chapter only because the uninsured employer has elected to become subject to this chapter under s. 102.05 (2) or 102.28 (2).

SECTION 313. 102.82 (2) (ar) of the statutes is amended to read:

102.82 (2) (ar) The ~~department~~ office may waive any payment owed under par. (a) or (ag) or sub. (1) if the ~~department~~ office determines that the sole reason for the uninsured employer's failure to comply with s. 102.28 (2) is that the uninsured employer was a victim of fraud, misrepresentation, or gross negligence by an insurance agent or insurance broker or by a person whom a reasonable person would believe is an insurance agent or insurance broker.

SECTION 314. 102.82 (2) (c) of the statutes is amended to read:

102.82 (2) (c) The department of justice or, if the department of justice consents, the ~~department of workforce development~~ office may bring an action in circuit court to recover payments and interest owed to the ~~department of workforce development~~ office under this section.

SECTION 315. 102.82 (3) (a) of the statutes is amended to read:

102.82 (3) (a) When an employee dies as a result of an injury for which an uninsured employer is liable under s. 102.03, the uninsured employer shall pay \$1,000 to the ~~department~~ office.

SECTION 316. 102.83 (1) (a) 1. of the statutes is amended to read:

102.83 (1) (a) 1. If an uninsured employer or any individual who is found personally liable under sub. (8) fails to pay to the ~~department~~ office any amount owed to the ~~department~~ office under s. 102.82 and no proceeding for review is pending, the ~~department~~ office or any authorized representative may issue a warrant directed to the clerk of circuit court for any county of the state.

SECTION 317. 102.83 (1) (a) 3. of the statutes is amended to read:

102.83 (1) (a) 3. A warrant entered under subd. 2. shall be considered in all respects as a final judgment constituting a perfected lien on the right, title, and interest of the uninsured employer or the individual in all of that person's real and

personal property located in the county where the warrant is entered. The lien is effective when the ~~department~~ office issues the warrant under subd. 1. and shall continue until the amount owed, including interest, costs, and other fees to the date of payment, is paid.

SECTION 318. 102.83 (1) (a) 4. of the statutes is amended to read:

102.83 (1) (a) 4. After the warrant is entered in the judgment and lien docket, the ~~department~~ office or any authorized representative may file an execution with the clerk of circuit court for filing by the clerk of circuit court with the sheriff of any county where real or personal property of the uninsured employer or the individual is found, commanding the sheriff to levy upon and sell sufficient real and personal property of the uninsured employer or the individual to pay the amount stated in the warrant in the same manner as upon an execution against property issued upon the judgment of a court of record, and to return the warrant to the ~~department~~ office and pay to it the money collected by virtue of the warrant within 60 days after receipt of the warrant.

SECTION 319. 102.83 (1) (b) of the statutes is amended to read:

102.83 (1) (b) The clerk of circuit court shall accept and enter the warrant in the judgment and lien docket without prepayment of any fee, but the clerk of circuit court shall submit a statement of the proper fee semiannually to the ~~department~~ office covering the periods from January 1 to June 30 and July 1 to December 31 unless a different billing period is agreed to between the clerk and the ~~department~~ office. The fees shall then be paid by the ~~department~~ office, but the fees provided by s. 814.61 (5) for entering the warrants shall be added to the amount of the warrant and collected from the uninsured employer or the individual when satisfaction or release is presented for entry.

SECTION 320. 102.83 (2) of the statutes is amended to read:

102.83 (2) The department office may issue a warrant of like terms, force, and effect to any employee or other agent of the department office, who may file a copy of the warrant with the clerk of circuit court of any county in the state, and thereupon the clerk of circuit court shall enter the warrant in the judgment and lien docket and the warrant shall become a lien in the same manner, and with the same force and effect, as provided in sub. (1). In the execution of the warrant, the employee or other agent shall have all the powers conferred by law upon a sheriff, but may not collect from the uninsured employer or the individual any fee or charge for the execution of the warrant in excess of the actual expenses paid in the performance of his or her duty.

SECTION 321. 102.83 (3) of the statutes is amended to read:

102.83 (3) If a warrant is returned not satisfied in full, the department office shall have the same remedies to enforce the amount due for payments, interest, costs, and other fees as if the department office had recovered judgment against the uninsured employer or the individual and an execution had been returned wholly or partially not satisfied.

SECTION 322. 102.83 (4) of the statutes is amended to read:

102.83 (4) When the payments, interest, costs, and other fees specified in a warrant have been paid to the department office, the department office shall issue a satisfaction of the warrant and file it with the clerk of circuit court. The clerk of circuit court shall immediately enter the satisfaction of the judgment in the judgment and lien docket. The department office shall send a copy of the satisfaction to the uninsured employer or the individual.

SECTION 323. 102.83 (5) of the statutes is amended to read:

102.83 (5) The ~~department~~ office, if it finds that the interests of the state will not be jeopardized, and upon such conditions as it may exact, may issue a release of any warrant with respect to any real or personal property upon which the warrant is a lien or cloud upon title. The clerk of circuit court shall enter the release upon presentation of the release to the clerk and payment of the fee for filing the release and the release shall be conclusive proof that the lien or cloud upon the title of the property covered by the release is extinguished.

SECTION 324. 102.83 (6) of the statutes is amended to read:

102.83 (6) At any time after the filing of a warrant, the ~~department~~ office may commence and maintain a garnishee action as provided by ch. 812 or may use the remedy of attachment as provided by ch. 811 for actions to enforce a judgment. The place of trial of an action under ch. 811 or 812 may be either in Dane County or the county where the debtor resides and may not be changed from the county in which the action is commenced, except upon consent of the parties.

SECTION 325. 102.83 (7) of the statutes is amended to read:

102.83 (7) If the ~~department~~ office issues an erroneous warrant, the ~~department~~ office shall issue a notice of withdrawal of the warrant to the clerk of circuit court for the county in which the warrant is filed. The clerk shall void the warrant and any liens attached by it.

SECTION 326. 102.83 (8) of the statutes is amended to read:

102.83 (8) Any officer or director of an uninsured employer that is a corporation and any member or manager of an uninsured employer that is a limited liability company may be found individually and jointly and severally liable for the payments, interest, costs and other fees specified in a warrant under this section if after proper proceedings for the collection of those amounts from the corporation or limited

liability company, as provided in this section, the corporation or limited liability company is unable to pay those amounts to the ~~department~~ office. The personal liability of the officers and directors of a corporation or of the members and managers of a limited liability company as provided in this subsection is an independent obligation, survives dissolution, reorganization, bankruptcy, receivership, assignment for the benefit of creditors, judicially confirmed extension or composition, or any analogous situation of the corporation or limited liability company, and shall be set forth in a determination or decision issued under s. 102.82.

SECTION 327. 102.835 (1) (ad) of the statutes is amended to read:

102.835 (1) (ad) “Debtor” means an uninsured employer or an individual found personally liable under s. 102.83 (8) who owes the ~~department~~ office a debt.

SECTION 328. 102.835 (1) (e) of the statutes is amended to read:

102.835 (1) (e) “Payment” means a payment owed to the ~~department~~ office under s. 102.82 and includes interest on that payment.

SECTION 329. 102.835 (2) of the statutes is amended to read:

102.835 (2) **POWERS OF LEVY AND DISTRAINT.** If any debtor who is liable for any debt fails to pay that debt after the ~~department~~ office has made demand for payment, the ~~department~~ office may collect that debt and the expenses of the levy by levy upon any property belonging to the debtor. If the value of any property that has been levied upon under this section is not sufficient to satisfy the claim of the ~~department~~ office, the ~~department~~ office may levy upon any additional property of the debtor until the debt and expenses of the levy are fully paid.

SECTION 330. 102.835 (3) of the statutes is amended to read:

102.835 (3) **DUTIES TO SURRENDER.** Any person in possession of or obligated with respect to property or rights to property that is subject to levy and upon which a levy

has been made shall, upon demand of the department office, surrender the property or rights or discharge the obligation to the department office, except that part of the property or rights which is, at the time of the demand, subject to any prior attachment or execution under any judicial process.

SECTION 331. 102.835 (4) (a) of the statutes is amended to read:

102.835 (4) (a) Any debtor who fails to surrender any property or rights to property that is subject to levy, upon demand by the department office, is subject to proceedings to enforce the amount of the levy.

SECTION 332. 102.835 (4) (b) of the statutes is amended to read:

102.835 (4) (b) Any 3rd party who fails to surrender any property or rights to property subject to levy, upon demand of the department office, is subject to proceedings to enforce the levy. The 3rd party is not liable to the department office under this paragraph for more than 25% of the debt. The department office shall serve a final demand as provided under sub. (13) on any 3rd party who fails to surrender property. Proceedings may not be initiated by the department office until 5 days after service of the final demand. The department office shall issue a determination under s. 102.82 to the 3rd party for the amount of the liability.

SECTION 333. 102.835 (4) (c) of the statutes is amended to read:

102.835 (4) (c) When a 3rd party surrenders the property or rights to the property on demand of the department office or discharges the obligation to the department office for which the levy is made, the 3rd party is discharged from any obligation or liability to the debtor with respect to the property or rights to the property arising from the surrender or payment to the department office.

SECTION 334. 102.835 (5) (a) of the statutes is amended to read:

102.835 (5) (a) If the ~~department~~ office has levied upon property, any person, other than the debtor who is liable to pay the debt out of which the levy arose, who claims an interest in or lien on that property, and who claims that that property was wrongfully levied upon may bring a civil action against the state in the circuit court for Dane County. That action may be brought whether or not that property has been surrendered to the ~~department~~ office. The court may grant only the relief under par. (b). No other action to question the validity of or to restrain or enjoin a levy by the ~~department~~ office may be maintained.

SECTION 335. 102.835 (5) (c) of the statutes is amended to read:

102.835 (5) (c) For purposes of an adjudication under this subsection, the determination of the debt upon which the interest or lien of the ~~department~~ office is based is conclusively presumed to be valid.

SECTION 336. 102.835 (6) of the statutes is amended to read:

102.835 (6) DETERMINATION OF EXPENSES. The ~~department~~ office shall determine its costs and expenses to be paid in all cases of levy.

SECTION 337. 102.835 (7) (a) of the statutes is amended to read:

102.835 (7) (a) The ~~department~~ office shall apply all money obtained under this section first against the expenses of the proceedings and then against the liability in respect to which the levy was made and any other liability owed to the ~~department~~ office by the debtor.

SECTION 338. 102.835 (7) (b) of the statutes is amended to read:

102.835 (7) (b) The ~~department~~ office may refund or credit any amount left after the applications under par. (a), upon submission of a claim for a refund or credit and satisfactory proof of the claim, to the person entitled to that amount.

SECTION 339. 102.835 (8) of the statutes is amended to read:

102.835 (8) RELEASE OF LEVY. The department office may release the levy upon all or part of property levied upon to facilitate the collection of the liability or to grant relief from a wrongful levy, but that release does not prevent any later levy.

SECTION 340. 102.835 (9) of the statutes is amended to read:

102.835 (9) WRONGFUL LEVY. If the department office determines that property has been wrongfully levied upon, the department office may return the property at any time, or may return an amount of money equal to the amount of money levied upon.

SECTION 341. 102.835 (10) of the statutes is amended to read:

102.835 (10) PRESERVATION OF REMEDIES. The availability of the remedy under this section does not abridge the right of the department office to pursue other remedies.

SECTION 342. 102.835 (12) of the statutes is amended to read:

102.835 (12) NOTICE BEFORE LEVY. If no proceeding for review permitted by law is pending, the department office shall make a demand to the debtor for payment of the debt ~~which that~~ is subject to levy and give notice that the department office may pursue legal action for collection of the debt against the debtor. The department office shall make the demand for payment and give the notice at least 10 days prior to the levy, personally or by any type of mail service ~~which that~~ requires a signature of acceptance, at the address of the debtor as it appears on the records of the department office. The demand for payment and notice shall include a statement of the amount of the debt, including costs and fees, and the name of the debtor who is liable for the debt. The debtor's failure to accept or receive the notice does not prevent the department office from making the levy. Notice prior to levy is not required for

a subsequent levy on any debt of the same debtor within one year after the date of service of the original levy.

SECTION 343. 102.835 (13) (a) of the statutes is amended to read:

102.835 (13) (a) The ~~department~~ office shall serve the levy upon the debtor and 3rd party by personal service or by any type of mail service ~~which~~ that requires a signature of acceptance.

SECTION 344. 102.835 (13) (c) of the statutes is amended to read:

102.835 (13) (c) The ~~department~~ representative of the office who serves the levy shall certify service of process on the notice of levy form and the person served shall acknowledge receipt of the certification by signing and dating it. If service is made by mail, the return receipt is the certificate of service of the levy.

SECTION 345. 102.835 (14) of the statutes is amended to read:

102.835 (14) ANSWER BY 3RD PARTY. Within 20 days after the service of the levy upon a 3rd party, the 3rd party shall file an answer with the ~~department~~ office stating whether the 3rd party is in possession of or obligated with respect to property or rights to property of the debtor, including a description of the property or the rights to property and the nature and dollar amount of any such obligation. If the 3rd party is an insurance company, the insurance company shall file an answer with the ~~department~~ office within 45 days after the service of the levy.

SECTION 346. 102.835 (19) of the statutes is amended to read:

102.835 (19) HEARING. Any debtor who is subject to a levy proceeding made by the ~~department~~ office may request a hearing under s. 102.17 to review the levy proceeding. The hearing is limited to questions of prior payment of the debt that the ~~department~~ office is proceeding against, and mistaken identity of the debtor. The

levy is not stayed pending the hearing in any case in which property is secured through the levy.

SECTION 347. 102.85 (2) (a) of the statutes is amended to read:

102.85 (2) (a) Gives false information about the coverage to his or her employees, the department office, or any other person who contracts with the employer and who requests evidence of worker's compensation coverage in relation to that contract.

SECTION 348. 102.85 (5) (a) of the statutes is amended to read:

102.85 (5) (a) The payment of any judgment under this section may be suspended or deferred for not more than 90 days in the discretion of the court. The court shall suspend a judgment under this section upon the motion of the ~~department office~~, if the ~~department office~~ office is satisfied that the employer's violation of s. 102.16 (3) or 102.28 (2) was beyond the employer's control and that the employer is no longer violates in violation of s. 102.16 (3) or 102.28 (2). ~~In cases where~~ If a deposit has been made, any forfeitures, surcharges, fees, and costs imposed under ch. 814 shall be taken out of the deposit and the balance, if any, returned to the employer.

SECTION 349. 102.87 (1) of the statutes is renumbered 102.87 (1m).

SECTION 350. 102.87 (1d) of the statutes is created to read:

102.87 (1d) In this section, "deputy" means any person employed by the office who is designated as a deputy, who possesses special, technical, scientific, managerial or personal abilities or qualities in matters within the jurisdiction of the office, and who may be engaged in the performance of duties under the direction of the commissioner, calling for the exercise of those abilities or qualities.

SECTION 351. 102.87 (2) (intro.) of the statutes is amended to read:

102.87 (2) (intro.) A citation under this section shall be signed by a ~~department~~ deputy, or by an officer who has authority to make arrests for the violation, and shall contain substantially the following information:

SECTION 352. 102.87 (2) (b) of the statutes is amended to read:

102.87 (2) (b) The name and office or department of the issuing ~~department~~ deputy or officer.

SECTION 353. 102.87 (3) of the statutes is amended to read:

102.87 (3) A defendant issued a citation under this section may deposit the amount of money that the issuing ~~department~~ deputy or officer directs by mailing or delivering the deposit and a copy of the citation before the court appearance date to the clerk of the circuit court in the county where the violation occurred, to the ~~department~~ office, or to the sheriff's office or police headquarters of the officer who issued the citation. The basic amount of the deposit shall be determined under a deposit schedule established by the judicial conference. The judicial conference shall annually review and revise the schedule. In addition to the basic amount determined by the schedule, the deposit shall include the costs, fees, and surcharges imposed under ch. 814.

SECTION 354. 102.87 (9) of the statutes is amended to read:

102.87 (9) A ~~department~~ deputy or an officer who collects under this section a forfeiture and costs, fees, and surcharges imposed under ch. 814 ~~under this section~~ shall pay the money to the county treasurer within 20 days after its receipt. If the ~~department~~ deputy or officer fails to make timely payment, the county treasurer may collect the payment from the ~~department~~ deputy or officer by an action in the treasurer's name of office and upon the official bond of the ~~department~~ deputy or

officer, with interest at the rate of ~~12%~~ 12 percent per year from the time when ~~it the~~ payment should have been paid made.

SECTION 355. 102.88 (1) of the statutes is amended to read:

102.88 (1) When a person is convicted of any violation of this chapter or of any department rule or order of the office, and it is alleged in the indictment, information, or complaint, and proved or admitted on trial or ascertained by the court after conviction that the person was previously subjected to a fine or forfeiture within a period of 5 years under s. 102.85, the person may be fined not more than \$2,000 or imprisoned for not more than 90 days or both.

SECTION 356. 102.89 (1) of the statutes is amended to read:

102.89 (1) Whoever is concerned in the commission of a violation of this chapter or of any department rule or order of the office under this chapter for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it the violation and although the person who directly committed it the violation has not been convicted of the violation.

SECTION 357. 108.10 (4) of the statutes is amended to read:

108.10 (4) The department or the employing unit may commence action for the judicial review of a commission decision under this section, provided the department, or the employing unit, after exhausting the remedies provided under this section, has commenced such action within 30 days after such decision was mailed to the employing unit's last-known address. The scope of judicial review, and the manner thereof insofar as applicable, shall be the same as that provided in s. 108.09 (7). In an action commenced by an employing unit under this section, the department shall be an adverse party ~~under s. 102.23 (1) (a)~~ and shall be named as a party in the complaint commencing the action.

SECTION 358. 108.227 (1) (e) 12. of the statutes is amended to read:

108.227 (1) (e) 12. A license issued under s. ~~102.17 (1) (c)~~, 628.04, 628.92 (1), 632.69 (2), or 633.14, a registration under s. 628.92 (2), or a temporary license issued under s. 628.09.

SECTION 359. 108.227 (1m) (intro.) of the statutes is amended to read:

108.227 (1m) GENERAL PROVISIONS. (intro.) The department shall promulgate rules specifying procedures to be used before taking action under sub. (3) (b) or s. ~~102.17 (1) (et)~~, 103.275 (2) (bt), 103.34 (10) (d), 103.91 (4) (d), 103.92 (8), 104.07 (7), or 105.13 (4) with respect to a person whose license or credential is to be denied, not renewed, discontinued, suspended, or revoked, including rules with respect to all of the following:

SECTION 360. 108.227 (3) (a) 3. of the statutes is amended to read:

108.227 (3) (a) 3. Upon the request of any person whose license or certificate has been previously revoked or denied under s. ~~102.17 (1) (et)~~, 103.275 (2) (bt), 103.34 (10) (d), 103.91 (4) (d), 103.92 (8), 104.07 (7), or 105.13 (4), reinstate the license or certificate if the applicant is not liable for delinquent contributions.

SECTION 361. 108.227 (5) (a) of the statutes is amended to read:

108.227 (5) (a) The department of workforce development shall conduct a hearing requested by a license holder or applicant for a license or license renewal or continuation under sub. (2) (b) 1. b., or as requested under s. ~~102.17 (1) (et)~~, 103.275 (2) (bt), 103.34 (10) (d), 103.91 (4) (d), 103.92 (8), 104.07 (7), or 105.13 (4), to review a certification or determination of contribution delinquency that is the basis of a denial, suspension, or revocation of a license or certificate in accordance with this section or an action taken under s. ~~102.17 (1) (et)~~, 103.275 (2) (bt), 103.34 (10) (d), 103.91 (4) (d), 103.92 (8), 104.07 (7), or 105.13 (4). A hearing under this paragraph

is limited to questions of mistaken identity of the license or certificate holder or applicant and of prior payment of the contributions that the department of workforce development certified or determined the license or certificate holder or applicant owes the department. At a hearing under this paragraph, any statement filed by the department of workforce development, the licensing department, or the supreme court, if the supreme court agrees, may be admitted into evidence and is prima facie evidence of the facts that it contains. Notwithstanding ch. 227, a person entitled to a hearing under this paragraph is not entitled to any other notice, hearing, or review, except as provided in sub. (6).

SECTION 362. 108.227 (5) (b) 1. of the statutes is amended to read:

108.227 (5) (b) 1. Issue a nondelinquency certificate to a license holder or an applicant for a license or license renewal or continuation if the department determines that the license holder or applicant is not liable for delinquent contributions. For a hearing requested in response to an action taken under s. ~~102.17 (1) (et)~~, 103.275 (2) (bt), 103.34 (10) (d), 103.91 (4) (d), 103.92 (8), 104.07 (7), or 105.13 (4), the department shall grant a license or certificate or reinstate a license or certificate if the department determines that the applicant for or the holder of the license or certificate is not liable for delinquent contributions, unless there are other grounds for denying the application or revoking the license or certificate.

SECTION 363. 108.227 (5) (b) 2. of the statutes is amended to read:

108.227 (5) (b) 2. Provide notice that the department of workforce development has affirmed its certification of contribution delinquency to a license holder; to an applicant for a license, a license renewal, or a license continuation; and to the licensing department or the supreme court, if the supreme court agrees. For a hearing requested in response to an action taken under s. ~~102.17 (1) (et)~~, 103.275 (2)

(bt), 103.34 (10) (d), 103.91 (4) (d), 103.92 (8), 104.07 (7), or 105.13 (4), the department of workforce development shall provide notice to the license or certificate holder or applicant that the department of workforce development has affirmed its determination of contribution delinquency.

SECTION 364. 227.43 (1) (bm) of the statutes is created to read:

227.43 (1) (bm) Assign a hearing examiner to preside over any hearing or review of a worker's compensation claim or other dispute under ch. 102.

SECTION 365. 227.43 (2) (am) of the statutes is created to read:

227.43 (2) (am) The office of the commissioner of insurance shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (bm) after the office of the commissioner of insurance is notified that a hearing on the matter is required.

SECTION 366. 227.43 (3) (bm) of the statutes is created to read:

227.43 (3) (bm) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the office of the commissioner of insurance by a hearing examiner under this section. The fee shall cover the total cost of the services.

****NOTE: This is reconciled s. 227.43 (3) (bm). This SECTION has been affected by drafts with the following LRB numbers: -0610/P2 and LRB-1045/P1.

SECTION 367. 227.43 (4) (bm) of the statutes is created to read:

227.43 (4) (bm) The office of the commissioner of insurance shall pay all costs of the services of a hearing examiner assigned under sub. (1) (bm), according to the fees set under sub. (3) (bm).

SECTION 368. 230.08 (2) (e) 6. of the statutes is amended to read:

230.08 (2) (e) 6. Workforce development — ~~9~~ 8.

SECTION 369. 303.07 (7) of the statutes is amended to read:

303.07 (7) If any inmate of a reforestation camp, in the performance of work in connection with the maintenance of the camp, is injured so as to be permanently incapacitated, or to have materially reduced earning power, the inmate may upon discharge be allowed and paid such compensation as the ~~department of workforce development~~ office of the commissioner of insurance finds the inmate entitled to. The inmate shall be compensated on the same basis as if the injury had been covered by ch. 102, except that the total paid to ~~any such~~ the inmate shall not exceed \$1,000 and may be paid in installments. If the inmate is from an adjoining county ~~such that~~ that county shall pay ~~such~~ the compensation. In case of dispute the procedure for hearing, award, and appeal shall be as set forth in ss. 102.16 to 102.26.

SECTION 370. 303.21 (1) (a) of the statutes is amended to read:

303.21 (1) (a) If an inmate of a state institution, in the performance of assigned work is injured so as to be permanently incapacitated or to have materially reduced earning power, the inmate may, upon being released from such institution, either upon release on parole or extended supervision or upon final discharge, be allowed and paid such compensation as the ~~department of workforce development~~ office of the commissioner of insurance finds the inmate entitled to. The inmate shall be compensated on the same basis as if the injury had been covered by ch. 102, except that the total paid to any inmate may not exceed \$10,000 and may be paid in installments. If the injury results from employment in a prison industry, the payment shall be made from the revolving appropriation for its operation. If there is no revolving appropriation, payment shall be made from the general fund. In case

of dispute, the procedure for hearing, award, and appeal shall be as set forth in ss. 102.16 to 102.26.

SECTION 371. 321.60 (1) (a) 8. of the statutes is amended to read:

321.60 (1) (a) 8. A license issued under s. ~~102.17 (1) (e)~~, 104.07, or 105.05.

SECTION 372. 321.60 (1) (a) 20. of the statutes is amended to read:

321.60 (1) (a) 20. A license issued under s. ~~102.17 (1) (c)~~, 628.04, 632.69 (2), or 633.14 or a temporary license issued under s. 628.09.

SECTION 373. 601.41 (1) of the statutes is amended to read:

601.41 (1) DUTIES. The commissioner shall administer and enforce chs. 102 and 600 to 655 and ss. 59.52 (11) (c), 66.0137 (4) and (4m), 100.203, and 120.13 (2) (b) to (g) and shall act as promptly as possible under the circumstances on all matters placed before the commissioner.

SECTION 374. 601.42 (1g) (intro.) of the statutes is amended to read:

601.42 (1g) REPORTS. (intro.) The commissioner may require any of the following from any person subject to regulation under chs. 102 and 600 to 655:

SECTION 375. 601.64 (3) (c) of the statutes is amended to read:

601.64 (3) (c) *Forfeiture for violation of statute or rule.* Whoever violates an insurance statute or rule, ~~s. 102.35 (2)~~, or s. 149.13, 2011 stats., intentionally aids a person in violating an insurance statute or rule, ~~s. 102.35 (2)~~, or s. 149.13, 2011 stats., or knowingly permits a person over whom he or she has authority to violate an insurance statute or rule, ~~s. 102.35 (2)~~, or s. 149.13, 2011 stats., shall forfeit to the state not more than \$1,000 for each violation. If the statute or rule imposes a duty to make a report to the commissioner, each week of delay in complying with the duty is a new violation.

SECTION 376. 626.12 (3) of the statutes is amended to read:

626.12 (3) PHYSICAL IMPAIRMENT. Rates or rating plans may not take into account the physical impairment of employees. Any employer who applies or promotes any oppressive plan of physical examination and rejection of employees or applicants for employment shall forfeit the right to experience rating. If the ~~department of workforce development~~ office determines that grounds exist for such forfeiture ~~it shall file with the commissioner~~ the office shall provide the employer with a certified copy of its findings, which shall automatically suspend any experience rating credit for the employer. The ~~department~~ office shall make the determination as ~~prescribed in~~ the same manner as the department of workforce development makes determinations under ss. 103.005 (5) (b) to (f), (6) to (11), (13) (b) to (d), and (16), so far as ~~such subsections~~ those provisions are applicable, subject to review under ch. 227. Restoration of an employer to the advantages of experience rating shall be by the same procedure.

SECTION 377. 626.32 (1) (a) of the statutes is amended to read:

626.32 (1) (a) *General.* Every insurer writing any insurance specified under s. 626.03 shall report its insurance in this state to the bureau at least annually, on forms and under rules prescribed by the bureau. The bureau shall file, under rules promulgated by the ~~department of workforce development~~ office, a record of such reports with ~~that department~~ the office. No ~~such~~ information contained in those reports may be made public by the bureau or any of its employees except as required by law and in accordance with its rules. No ~~such~~ information contained in those reports may be made public by the ~~department of workforce development~~ office or any of its employees except as authorized by the bureau.

SECTION 378. 645.47 (1) (a) of the statutes is amended to read:

645.47 (1) (a) *General requirements.* The liquidator shall give notice of the liquidation order as soon as possible by first class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is licensed to do business, ~~by first class mail and by telephone to the department of workforce development of this state if the insurer is or has been an insurer of worker's compensation,~~ by first class mail to all insurance agents having a duty under s. 645.48, by first class mail to the director of state courts under s. 601.53 (1), if the insurer does a surety business, and by first class mail at the last-known address to all persons known or reasonably expected from the insurer's records to have claims against the insurer, including all policyholders. The liquidator also shall publish a class 3 notice, under ch. 985, in a newspaper of general circulation in the county in which the liquidation is pending or in Dane County, the last publication to be not less than 3 months before the earliest deadline specified in the notice under sub. (2).

SECTION 9151. Nonstatutory provisions; Workforce Development.

(1) TRANSFER OF WORKER'S COMPENSATION ADMINISTRATIVE FUNCTIONS.

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of workforce development that are primarily related to the administrative functions of the division of worker's compensation in that department, as determined by the secretary of administration, shall become the assets and liabilities of the office of the commissioner of insurance.

(b) *Positions and employees.* On the effective date of this paragraph, all positions and all incumbent employees holding those positions in the department of workforce development performing duties that are primarily related to the administrative functions of the division of worker's compensation in that

department, as determined by the secretary of administration, are transferred to the office of the commissioner of insurance.

(c) *Employee status.* Employees transferred under paragraph (b) have all the rights and the same status under subchapter V of chapter 111 and chapter 230 of the statutes in the office of the commissioner of insurance that they enjoyed in the department of workforce development immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who has attained permanent status in class is required to serve a probationary period.

(d) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department of workforce development that is primarily related to the administrative functions of the division of worker's compensation in that department, as determined by the secretary of administration, is transferred to the office of the commissioner of insurance.

(e) *Pending matters.* Any matter pending with the department of workforce development on the effective date of this paragraph that is primarily related to the administrative functions of the division of worker's compensation in that department, as determined by the secretary of administration, is transferred to the office of the commissioner of insurance. All materials submitted to or actions taken by the department of workforce development with respect to the pending matter are considered as having been submitted to or taken by the office of the commissioner of insurance.

(f) *Contracts.* All contracts entered into by the department of workforce development in effect on the effective date of this paragraph that are primarily related to the administrative functions of the division of worker's compensation in that department, as determined by the secretary of administration, remain in effect

and are transferred to the office of the commissioner of insurance. The office of the commissioner of insurance shall carry out any obligations under those contracts unless modified or rescinded by the office of the commissioner of insurance to the extent allowed under the contract.

(g) *Rules and orders.* All rules promulgated by the department of workforce development in effect on the effective date of this paragraph that are primarily related to the administrative functions of the division of worker's compensation in that department, as determined by the secretary of administration, remain in effect until their specified expiration dates or until amended or repealed by the office of the commissioner of insurance. All orders issued by the department of workforce development in effect on the effective date of this paragraph that are primarily related to the administrative functions of the division of worker's compensation in that department, as determined by the secretary of administration, remain in effect until their specified expiration dates or until modified or rescinded by the office of the commissioner of insurance.

(2) TRANSFER OF WORKER'S COMPENSATION ADJUDICATORY FUNCTIONS.

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of workforce development that are primarily related to the adjudicatory functions of the division of worker's compensation in that department, as determined by the secretary of administration, shall become the assets and liabilities of the division of hearings and appeals in the department of administration.

(b) *Positions and employees.* On the effective date of this paragraph, all positions and all incumbent employees holding those positions in the department of workforce development performing duties that are primarily related to the

adjudicatory functions of the division of worker's compensation in that department, as determined by the secretary of administration, are transferred to the division of hearings and appeals in the department of administration.

(c) *Employee status.* Employees transferred under paragraph (b) have all the rights and the same status under subchapter V of chapter 111 and chapter 230 of the statutes in the division of hearings and appeals in the department of administration that they enjoyed in the department of workforce development immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who has attained permanent status in class is required to serve a probationary period.

(d) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department of workforce development that is primarily related to the adjudicatory functions of the division of worker's compensation in that department, as determined by the secretary of administration, is transferred to the division of hearings and appeals in the department of administration.

(e) *Pending matters.* Any matter pending with the department of workforce development on the effective date of this paragraph that is primarily related to the adjudicatory functions of the division of worker's compensation in that department, as determined by the secretary of administration, is transferred to the division of hearings and appeals in the department of administration. All materials submitted to or actions taken by the department of workforce development with respect to the pending matter are considered as having been submitted to or taken by the division of hearings and appeals in the department of administration.

(f) *Contracts.* All contracts entered into by the department of workforce development in effect on the effective date of this paragraph that are primarily related to the adjudicatory functions of the division of worker's compensation in that department, as determined by the secretary of administration, remain in effect and are transferred to the division of hearings and appeals in the department of administration. The division of hearings and appeals in the department of administration shall carry out any obligations under those contracts unless modified or rescinded by the division of hearings and appeals in the department of administration to the extent allowed under the contract.

(g) *Rules and orders.* All rules promulgated by the department of workforce development in effect on the effective date of this paragraph that are primarily related to the adjudicatory functions of the division of worker's compensation in that department, as determined by the secretary of administration, remain in effect until their specified expiration dates or until amended or repealed by the administrator of the division of hearings and appeals in the department of administration. All orders issued by the department of workforce development in effect on the effective date of this paragraph that are primarily related to the adjudicatory functions of the division of worker's compensation in that department, as determined by the secretary of administration, remain in effect until their specified expiration dates or until modified or rescinded by the administrator of the division of hearings and appeals in the department of administration.

(3) TRANSFER OF COUNCIL ON WORKER'S COMPENSATION.

(a) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department of workforce development that is primarily related to the functions of the council on worker's

compensation, as determined by the secretary of administration, is transferred to the office of the commissioner of insurance.

(b) *Contracts.* All contracts entered into by the department of workforce development in effect on the effective date of this paragraph that are primarily related to the functions of the council on worker's compensation, as determined by the secretary of administration, remain in effect and are transferred to the office of the commissioner of insurance. The office of the commissioner of insurance shall carry out any obligations under those contracts unless modified or rescinded by the office of the commissioner of insurance to the extent allowed under the contract.

(4) TRANSFER OF SELF-INSURERS COUNCIL.

(a) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department of workforce development that is primarily related to the functions of the self-insurers council, as determined by the secretary of administration, is transferred to the office of the commissioner of insurance.

(b) *Contracts.* All contracts entered into by the department of workforce development in effect on the effective date of this paragraph that are primarily related to the functions of the self-insurers council, as determined by the secretary of administration, remain in effect and are transferred to the office of the commissioner of insurance. The office of the commissioner of insurance shall carry out any obligations under those contracts unless modified or rescinded by the office of the commissioner of insurance to the extent allowed under the contract.

SECTION 9451. Effective dates; Workforce Development.

(1) TRANSFER OF WORKER'S COMPENSATION FUNCTIONS. The treatment of sections 15.227 (4) and (11), 15.737 (title), 16.865 (4), 20.145 (6) (title), (ga), (gb), and (ka),

20.445 (1) (aa), (ga), (p), (rb), (rp), (s), (sm), and (t) and (2) (ra), 40.63 (6), 40.65 (2) (a) and (b) 3. and 4., 49.857 (1) (d) 8. and 20., 73.0301 (1) (d) 3m. and 12., 102.01 (2) (a), (ad), (ag), (ap), (ar), (bm), (dg), (dm), and (em), 102.05 (1) and (3), 102.06, 102.07 (1) (a) and (b), (7) (b), (8) (c), and (11), 102.076 (2), 102.077 (1) (by SECTION 45), and (2) (by SECTION 46), 102.08, 102.11 (1) (am) 1., 102.12, 102.125, 102.13 (1) (c), (d) 2., and 3., and (f), (2) (a) and (c), (3), (4), and (5), 102.14 (title), (1), and (2), 102.15 (1), (2), and (3), 102.16 (1), (1m) (a), (b), and (c), (2) (a), (am), (b), (c), (d), (e) 1. and 2., (f), and (h), (2m) (a), (am), (b), (c), (d), (e), (f), and (g), and (4), 102.17 (1) (a) 1., 2., 3., and 4., (b), (c), (cg) 1., 2., 2m., and 3., (cm), (cr), (ct), (d) 1., 2., 3., and 4., (e), (f), (g), and (h), (2), (2m), (2s), (7) (b) and (c), and (8), 102.175 (2), 102.18 (1) (b), (bg) 1., 2., and 3., (bp), (bw), (c), and (e), (2), (3), (4) (b), (c) 3., and (d), (5), and (6), 102.19, 102.195, 102.21, 102.22 (1) and (2), 102.23 (1) (a) and (b), (2), (3), and (5), 102.24 (2), 102.25 (1), 102.26 (2), (3) (b) 1. and 3., and (4), 102.27 (2) (b), 102.28 (2) (a), (b), (c), and (d), (3) (a) (intro.), (b) (intro.) and 3., (c), and (d), (4) (a), (b), (c), and (d), (6), (7) (a), (b), and (c), and (8), 102.29 (1) (a), (b) (intro.) and 2., (c), and (d) and (4), 102.30 (7) (a), 102.31 (1) (b), (2) (a), (3), (4), (5), (6), (7), and (8), 102.315 (4), (5) (b) (intro.) and (c), (6) (a), (b) (intro.), 1., and 3., (d), (e) 1., 2., and 3., (9) (a), and (10) (a) 2., 3., and 4. and (b) 2. and 3., 102.32 (1m) (intro.), (a), (c), and (d), (5), (6) (b), (d), and (e), (6m), and (7), 102.33 (title), (1), (2) (a), (b) (intro.), 1., 2., 3., and 4., (c), and (d) 2., 102.35 (1), (2), and (3), 102.37, 102.38, 102.39, 102.40, 102.42 (1m), (6), (8), and (9) (a) and (b), 102.425 (4m) (a), (b), (c), (d), and (e), 102.43 (5) (b), (2), (5) (d), and (6) (b), 102.45, 102.475 (1) and (6), 102.48 (1), (2), and (3), 102.49 (3), (5) (d), and (6), 102.51 (3), (4), and (6), 102.55 (3), 102.555 (12) (a), 102.56 (1) and (2), 102.565 (1), (2), and (3), 102.57, 102.58, 102.60 (1m) (b), 102.61 (1g) (b) and (c), (1m) (a), (c), (d), (e), and (f) and (2), 102.62, 102.63, 102.64 (1) and (2), 102.65 (1), (2), (3), and (4) (intro.) (by SECTION 279) and (a), 102.66 (1), 102.75

(1), (1m) (by SECTION 285), (2) (by SECTION 286), and (4), 102.80 (1) (e), (1m), (3) (a), (ag), (am), (b), and (c), and (4) (a) (intro.) and (b), 102.81 (1) (a) and (b), (2), (4) (a) and (b) (intro.), (6) (a) and (b), and (7), 102.82 (1), (2) (a) (intro.) and 1., (ag) (intro.), (am), (ar), and (c), and (3) (a), 102.83 (1) (a) 1., 3., and 4. and (b), (2), (3), (4), (5), (6), (7), and (8), 102.835 (1) (ad) and (e), (2), (3), (4) (a), (b), and (c), (5) (a) and (c), (6), (7) (a) and (b), (8), (9), (10), (12), (13) (a) and (c), (14), and (19), 102.85 (2) (a) and (5) (a), 102.87 (1) and (1d), (2) (intro.) and (b), (3), and (9), 102.88 (1), 102.89 (1), 108.10 (4), 108.227 (1) (e) 12., (1m) (intro.), (3) (a) 3., (5) (a) and (b) 1. and 2., 227.43 (1) (bm), (2) (am), (3) (bm), and (4) (bm), 230.08 (2) (e) 6., 303.07 (7), 303.21 (1) (a), 321.60 (1) (a) 8. and 20., 601.41 (1), 601.42 (1g) (intro.), 601.64 (3) (c), 626.12 (3), 626.32 (1) (a), and 645.47 (1) (a) of the statutes, the renumbering and amendment of section 20.445 (1) (ra) of the statutes, the amendment of sections 102.44 (1) (c) 1., 2., and 3., 102.75 (1g) (a) and (b), 102.80 (1) (f), and 102.81 (1) (c) 1. and 2. of the statutes, and SECTION 9151 (1), (2), (3), and (4) of this act take effect on January 1, 2016.

(END)