



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 236
[2011 Senate Bill 417]

Unemployment Insurance

2011 Wisconsin Act 236 makes various changes in the unemployment insurance (UI) law, including changes relating to concealment of benefit claim information, availability for work, interest on delinquent payments, and the composition and authority of appeal tribunals under the UI law. The Act contains recommendations of changes to the UI law that were submitted by the UI Advisory Council.

Concealment of Material Facts or Wages

Under 2011 Wisconsin Act 198, which generally takes effect on April 22, 2012, if a claimant, in filing his or her application for benefits or claim for any week, conceals any material fact relating to his or her eligibility for benefits or any of his or her wages earned in or paid or payable for that week, the claimant is ineligible for a specified amount of benefits.

Act 236 provides that the Department of Workforce Development (DWD) must also assess a penalty against a claimant in an amount equal to 15% of the benefit payments erroneously paid to the claimant as a result of one or more acts of concealment. To recover a penalty assessed as a result of concealment, DWD may recoup the amount of the penalty by filing a warrant against the claimant or may levy upon property belonging to the claimant.

In addition, *Act 236* provides that, with respect to overpayments established by DWD after October 21, 2013, the penalty, described above, is deposited in the unemployment reserve fund. For overpayments established by DWD prior to October 21, 2013, the penalty is deposited in the Unemployment Program Integrity Fund, created by 2011 Wisconsin Act 198.

Availability for Work

Under current law, a claimant generally must be available for work in order to be eligible for UI benefits.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

Act 236 provides that a claimant is not available for work in any week in which the claimant is located in a country other than the United States or Canada for more than 48 hours, unless the claimant has authorization to work in that other country and there is a reciprocal agreement concerning the payment of UI benefits between that other country and the United States.

Interest on Delinquent Payments

Under current law, if an employer is delinquent in making any payment to DWD required under the UI law by the assigned due date, the employer must pay interest on the delinquent payment at the rate of one percent per month.

Act 236 changes the interest rate to the monthly rate that annualized is equal to 9% or to 2% more than the prime rate as published in the *Wall Street Journal* as of September 30 of the preceding year, whichever is greater.

Appeal Tribunals

Under current law, DWD may appoint an individual who is not a permanent employee of DWD to serve as a temporary reserve appeal tribunal if the individual formerly served as an appeal tribunal while employed by DWD and retired from state service as a permanent employee. In addition, current law provides that an appeal tribunal may affirm, reverse, or modify DWD's initial determination or set aside the determination and remand the matter to DWD for further proceedings, or may remand to DWD for consideration of any issue not previously investigated by DWD.

For an individual who is not a permanent employee of DWD and who is appointed to serve as an appeal tribunal, *Act 236* removes the requirement that the individual must have formerly served as an appeal tribunal while employed by DWD and retired from state service as a permanent employee. In addition, the Act specifies that an appeal tribunal's actions must be consistent with applicable state and federal law.

Effective date: The Act takes effect on April 22, 2012, but various provisions of the Act first apply on other dates.

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