



2021 ASSEMBLY BILL 394

June 10, 2021 - Introduced by Representatives DOYLE, B. MEYERS, ANDRACA, SHANKLAND, SINICKI, EMERSON, CONLEY, SNODGRASS, VRUWINK, SUBECK, CABRERA, SPREITZER, HONG, S. RODRIGUEZ, DRAKE, BALDEH, RIEMER and STUBBS, cosponsored by Senators PFAFF, RINGHAND, SMITH, ROYS, LARSON and CARPENTER. Referred to Committee on Workforce Development.

1 **AN ACT** *to create* 108.22 (8) (c) 3. of the statutes; **relating to:** recovery of
2 unemployment insurance benefit overpayments.

Analysis by the Legislative Reference Bureau

Under current law, if unemployment insurance benefits are erroneously paid to an individual, that payment constitutes a benefit overpayment. The Department of Workforce Development may recover benefit overpayments by various means, but is required to waive recovery of a benefit overpayment if 1) the overpayment was the result of a departmental error; and 2) the overpayment did not result from the fault of the claimant, or because of a claimant's false statement or misrepresentation.

This bill requires DWD, in addition to and notwithstanding the standard described above, to waive recovery of a benefit overpayment made to an individual without fault on the part of that individual if such recovery would be against equity and good conscience, as further specified in the bill.

For further information see the state and local 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:

3 **SECTION 1.** 108.22 (8) (c) 3. of the statutes is created to read:
4 108.22 (8) (c) 3. Notwithstanding subd. 1., the department shall waive recovery
5 of benefits that were paid to an individual without fault on the part of that individual

ASSEMBLY BILL 394**SECTION 1**

1 if recovery would be against equity and good conscience. For purposes of this
2 subdivision, recovery of the overpayment shall be considered to be against equity and
3 good conscience if any of the following applies:

4 a. Recovery would cause financial hardship to the individual from whom it is
5 sought.

6 b. Regardless of the individual's financial circumstances, the individual can
7 show that, based on the overpayment or notice that a benefit payment would be
8 made, the individual has relinquished a valuable right or changed positions for the
9 worse.

10 c. Recovery could be unconscionable under the circumstances.

11 **SECTION 2. Initial applicability.**

12 (1) This act first applies to determinations issued under s. 108.09 on the
13 effective date of this subsection.

14 (END)