

No. 259, S.]

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CHAPTER 235

AN ACT to repeal 108.02 (7) (d), 108.14 (8r) and (16), 108.15 (3m) (a), 108.16 (4m), (5), (7) (b) (first sentence), (8) (a) 1 and 2 and (9) (b); to renumber 108.16 (8) (a) 3 and 4; to renumber and amend 108.16 (10), (11) and (12); to amend 108.02 (4) (a), 108.04 (1) (b) and (4) (b), 108.05 (1) (schedule), 108.09 (6) (b) and (8), 108.14 (8n) (e), 108.16 (6) (a) and (f), 108.20 (3), 108.22 (2) (last sentence) and 108.24 (1); to repeal and recreate 108.04 (13) (c); and to create 20.440 (75), 108.15 (1) (ah), 108.16 (6) (h) and (i) and (6m), 108.161 and 108.20 (4) of the statutes, constituting recommendations made to 1957 legislature pursuant to 108.14 (5m) by the statutory advisory committee, relating to unemployment compensation, providing penalties and affecting the unemployment reserve fund.

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

SECTION 1. 20.440 (75) of the statutes is created to read:

20.440 (75) Any amount appropriated for employment security administration pursuant to s. 108.161 shall be available for expenditure

accordingly, and shall not lapse; but any unexpended remainder thereof shall be restored pursuant to that section.

SECTION 2. 108.02 (4) (a) of the statutes is amended to read:

108.02 (4) (a) "Employer", except where the term by its context * * * *may apply to any unit employing one or more individuals* * * *, means any person, partnership, association, corporation, whether domestic or foreign, (or legal representative or trustee in bankruptcy or receiver or trustee of a person, partnership, association or corporation, or legal representative of a deceased person), including this state and any city of the first class (but excluding any other political subdivision) and any fraternal benefit society as defined in s. 208.01, who is subject to this chapter under the statutes of * * * 1955, or who *has had employment in Wisconsin and becomes subject* * * * *to this chapter* under the provisions of this * * * subsection.

SECTION 3. 108.02 (7) (d) of the statutes is repealed.

SECTION 4. 108.04 (1) (b) and (4) (b) of the statutes are amended to read:

108.04 (1) (b) An employe shall be ineligible for benefits from an employer's account for any given week if his employment with such employer was suspended *by the employe or by the employer or was terminated by such employer because the employe was unavailable for work, or on a voluntary leave of absence granted for a definite period, or physically unable to* * * * work, in case such unavailability or inability continues during the week in question, *or if such week occurs during the definite period of such leave and before the employe has returned to work.*

(4) (b) An employe shall be ineligible for benefits, based on his past employment by a given employer, while his applicable "average weekly wage" as to such employer is under * * * \$16, unless s. 108.07 (2) is applied to that employment.

SECTION 5. 108.04 (13) (c) of the statutes is repealed and recreated to read:

108.04 (13) (c) In case an employer, after a request therefor has been duly mailed to him, fails to file the required report on the eligibility, weekly benefit rate and credit weeks of an employe who has claimed benefits from the employer's account, or if such report is received more than 7 days after such mailing and also after the employe has completed claim as to a week for which benefits are apparently payable:

1. The commission may determine and proceed to pay the benefits thus claimed, based on the claimant's statements.

2. If benefits are thus determined, the employer shall be liable for a tardy filing fee of \$5, to be paid to the commission and credited to the administration fund, except where the employer later files the required report and satisfies the commission that it was tardy because of circumstances beyond his control.

SECTION 6. 108.05 (1) (SCHEDULE) of the statutes is amended to read:

108.05 (1)		SCHEDULE			Weekly
Line		Average Weekly Wage Class			Benefit Rate
1.		Under	* * *	\$16.00	\$None
* * *	* * *	* * *	* * *		* * *
* * *	2.	\$16.00	to	\$19.00	11
* * *	3.	\$19.01	to	22.00	12

* * *	4.	\$22.01	to	\$24.50	\$13
* * *	5.	24.51	to	27.00	14
* * *	6.	27.01	to	29.50	15
* * *	7.	29.51	to	32.00	16
* * *	8.	32.01	to	34.00	17
* * *	9.	34.01	to	36.00	18
* * *	10.	36.01	to	38.00	19
* * *	11.	38.01	to	40.00	20
* * *	12.	40.01	to	42.00	21
* * *	13.	42.01	to	44.00	22
* * *	14.	44.01	to	46.00	23
* * *	15.	46.01	to	48.00	24
* * *	16.	48.01	to	50.00	25
* * *	17.	50.01	to	52.00	26
* * *	18.	52.01	to	54.00	27
* * *	19.	54.01	to	56.00	28
* * *	20.	56.01	to	58.00	29
* * *	21.	58.01	to	60.00	30
* * *	22.	60.01	to	62.00	31
* * *	23.	62.01	to	64.00	32
* * *	24.	64.01	to	66.00	33
* * *	25.	66.01	to	68.00	34
* * *	26.	68.01	to	70.00	35
* * *	27.	70.01	or more		36

SECTION 7. 108.09 (6) (b) and (8) of the statutes are amended to read:

108.09 (6) (b) Either party may petition the commission for review of an appeal tribunal decision, pursuant to general commission rules, within 10 days after it was mailed to his last known address. Within 10 days after the filing of such a petition, the commission may *either dismiss it as not timely at any level or may affirm, reverse, change, or set aside such decision, on the basis of the evidence previously submitted in such case, or direct the taking of additional testimony.* The failure of the commission to act on such a petition within such 10 days shall constitute an affirmation of the appeal tribunal decision.

(8) No employe shall be charged fees of any kind by the commission or its representatives, in any proceeding under this chapter. Any employe claiming benefits in any *commission* proceeding * * * may be represented by counsel or other duly authorized agent; but no such counsel or agent shall together charge or receive from the employe for such services more than 10 per cent of the maximum benefits at issue in such proceedings * * * unless the commission has first approved a specified higher fee.

SECTION 8. 108.14 (8n) (e) of the statutes is amended to read:

108.14 (8n) (e) Any reimbursement under this subsection shall if paid from the fund be charged to its balancing account and if paid to the fund be credited to that account. *Benefits paid under this subsection directly from the fund shall also be charged to its balancing account, except that any benefits thus paid shall be charged to the proper employer account to the extent that they would be paid and thus charged if this subsection were not being applied.*

SECTION 9. 108.14 (8r) and (16) of the statutes are repealed.

SECTION 10. 108.15 (1) (ah) of the statutes is created to read:

108.15 (1) (ah) S. 108.02 (5) (g) 7 shall not apply to any government unit covered by this section.

SECTION 11. 108.15 (3m) (a) of the statutes is repealed.

SECTION 12. 108.16 (4m) and (5) of the statutes are repealed.

SECTION 13. 108.16 (6) (a) and (f) of the statutes are amended to read:

108.16 (6) (a) All * * * *interest* earnings, on moneys belonging to the fund, * * * received by (or duly apportioned to) the fund * * *, *as of the close of the calendar quarter in which such interest accrued.*

(f) Any amount available for such crediting under s. 108.04 (11) *or 108.07 (2) or 108.14 (8n) (e).*

SECTION 14. 108.16 (6) (h) and (i) and (6m) of the statutes are created to read:

108.16 (6) (h) Any amount transferred to the balancing account pursuant to s. 108.161.

(i) Any federal reimbursement of benefits paid under any federal unemployment benefit program administered by the commission.

(6m) There shall be charged against the fund's balancing account:

(a) The benefits thus chargeable under (and pursuant to) ss. 108.04 (7) (e); 108.07 (2); 108.14 (8n) (e); 108.15 (1) (b); or subs. (2m), (6) (e), (7) (a) and (b).

(b) Any benefits paid under any federal unemployment benefit program administered by the commission, pending their reimbursement.

(c) The overdraft write-offs thus chargeable under (and pursuant to) s. 108.15 (4) (f) or sub. (7) (c).

(d) Any negative balance of a closed employer account, except as provided in sub. (8).

SECTION 15. 108.16 (7) (b) (first sentence), (8) (a) 1 and 2 and (9) (b) of the statutes are repealed.

SECTION 16. 108.16 (8) (a) 3 and 4 of the statutes are renumbered 108.16 (8) (a) 1 and 2 respectively.

SECTION 17. 108.16 (10), (11) and (12) of the statutes are renumbered 108.16 (5), (10) and (11) respectively and amended to read:

108.16 (5) (a) All money received * * * *for* the fund shall promptly upon such receipt be deposited *to its credit* in * * * the "Unemployment Trust Fund" of the United States, in such manner as the secretary of the treasury of the United States (or other authorized custodian of said trust fund) may approve, so long as said trust fund exists and maintains for this state a separate book account (for * * * *the purposes of this chapter*) from which no other state or agency can make withdrawals, any other statutory provision to the contrary notwithstanding.

(b) The commission shall requisition from this state's account in the "Unemployment Trust Fund" necessary amounts from time to time, shall hold such amounts consistently with any applicable federal regulations, and shall make withdrawals therefrom solely for benefits and *for such other unemployment compensation payments * * * or employment security expenditures as are expressly authorized by this chapter and consistent with any relevant federal requirements.*

(c) While the state has an account in the "Unemployment Trust Fund," public deposit insurance charges on the fund's balances held in Wisconsin banks, the premiums on surety bonds required of the fund's treasurer under this section, and any other expense of administration otherwise payable from the fund's interest earnings, shall be paid from the administration fund.

(10) All money withdrawn from the fund shall be used solely in the payment of benefits, exclusive of expenses of administration, and for refunds of sums erroneously paid into the fund and for refunds payable under sub. (9) * * *, and for * * * *expenditures made pursuant to s. 108.161 and consistently with * * * the federal limitations applicable thereto.*

(11) If and when the fund's balancing account, as of the close of any month, has a net balance (after * * * *deducting the debit balances of any employer accounts then overdrawn and any positive balances of covered government units, and after crediting any benefit payments reimbursable by covered government units or by the federal government*) of less than * * * \$10,000,000, the fund's treasurer shall promptly make a finding to that effect, which shall be published forthwith in the official state paper. As of the start of the first business day (hereinafter called "transfer date") which follows the close-of-month to which such a finding applies, the fund's treasurer shall transfer from employer accounts to the fund's balancing account such amounts as he determines pursuant to this subsection. The fund's treasurer shall compute a "transfer percentage", namely the lowest multiple of *one-tenth* of one per cent which would, if applied to the fund's *entire* net balance as of the start of the transfer date, produce a result of at least * * * \$5,000,000, and shall apply such transfer percentage to the net balance (as of the start of the transfer date) of each employer's account (*other than government unit accounts*) whose net balance is then positive, and shall transfer the amount resulting in each such case from the given employer's account to the fund's balancing account, as of the start of the transfer date, and shall promptly notify each such employer accordingly.

SECTION 18. 108.161 of the statutes is created to read:

108.161 ADMINISTRATIVE FINANCING ACCOUNT. (1) The fund's treasurer shall maintain within the fund an employment security "administrative financing account", and shall credit thereto all amounts credited to the fund pursuant to the federal employment security administrative financing act (of 1954) and section 903 of the federal social security act, as amended.

(2) The requirements of said section 903 shall control any appropriation, withdrawal and use of any moneys in said account.

(3) Consistently with this chapter and said section 903, such moneys shall be used solely for benefits or employment security administration, including unemployment compensation, employment service and related statistical operations.

(4) Such moneys shall be encumbered and spent for employment security administrative purposes only pursuant to (and after the effective date of) a specific legislative appropriation enactment:

(a) Stating for which such purposes and in what amounts the appropriation is being made to the administration fund created by s. 108.20.

(b) Directing the fund's treasurer to transfer the appropriated amounts to the administration fund only as and to the extent that they are currently needed for such expenditures, and directing that there shall be restored to the account created by sub. (1) any amount thus transferred which has ceased to be needed or available for such expenditures.

(c) Specifying that the appropriated amounts are available for such use solely within the 2 years beginning on the appropriation law's date of enactment.

(d) Limiting the total amount which may be so used during any fiscal year to the aggregate of all amounts credited under sub. (1) within that year and the 4 preceding fiscal years, reduced by the sum of any

moneys used and charged against any of the amounts thus credited within those 5 years.

(5) The total of the amounts thus appropriated for use in any fiscal year shall in no event exceed the moneys available for such use hereunder, considering the timing of credits hereunder and the sums already spent or appropriated or transferred or otherwise encumbered hereunder.

(6) The fund's treasurer shall keep a record of all such times and amounts; shall charge each such sum against the earliest credits duly available therefor; shall include any sum thus appropriated but not yet spent hereunder in computing the fund's net balance as of the close of any month, in line with the federal requirement that any such sum shall (until spent) be deemed part of the fund; and shall certify the relevant facts whenever necessary hereunder.

(7) If any moneys appropriated hereunder are used to buy and hold suitable land, with a view to the future construction of an employment security building thereon, and if such land is later sold or transferred to other use, the proceeds of such sale (or the value of such land when transferred) shall be credited to the account created by sub. (1).

(8) If any sums are appropriated and spent hereunder to buy land and to build a suitable employment security building thereon, then any federal moneys thereafter credited to the fund or paid to the commission by way of gradual reimbursement of such employment security capital expenditures, or in lieu of the estimated periodic amounts which would otherwise (in the absence of such expenditures) be federally granted for the rental of substantially equivalent quarters, shall be credited to the account created by sub. (1), consistently with any federal requirements applicable to the handling and crediting of such moneys.

(9) Any land and building acquired hereunder shall continue to be used for employment security purposes. Such realty shall not be sold or transferred to other use without the governor's approval. If thus sold or transferred, the proceeds of such sale, or the value of such realty when transferred, shall be credited to the account created by sub. (1).

(10) Any realty acquired hereunder shall be excluded from the 2 per cent building fund computation specified in s. 13.351 (3).

(11) If any money in the account created by sub. (1) ceases, by lapse of time, to be available for appropriation and administrative use pursuant hereto, the fund's treasurer shall transfer the amount thus unavailable to the fund's balancing account.

(12) As of the close of any month when the fund's treasurer would otherwise be required to make the finding and the transfers from employer accounts specified in s. 108.16 (11), he shall first transfer to the fund's balancing account any moneys then in the account created by sub. (1) which are unencumbered by appropriations hereunder.

SECTION 19. 108.20 (3) of the statutes is amended to read:

108.20 (3) There shall be included in the moneys governed by s. 20.440 (74) any amounts collected by the commission under s. 108.19 (1) or (2), or under s. 108.04 (13) (c) or s. 108.22 (1) as tardy filing fees or as interest on delinquent payments.

SECTION 20. 108.20 (4) of the statutes is created to read:

108.20 (4) Any moneys transferred to the unemployment administration fund from the administrative financing account pursuant to s. 108.161 shall be expended (or restored to that account) in accordance with that section.

SECTION 21. 108.22 (2) (last sentence) of the statutes is amended to read:

108.22 (2) (last sentence) Thereupon the * * * warrant so docketed shall * * * *be considered in all respects as a final judgment creating a perfected lien upon the employer's right, title * * * and interest in all of his real and personal property * * * located in the county wherein the warrant is docketed * * **.

SECTION 22. 108.24 (1) of the statutes is amended to read:

108.24 (1) Any person who knowingly makes a false statement or representation to obtain any benefit payment under this chapter, either for himself or for any other person, shall upon conviction be deemed guilty of a misdemeanor and be punished by a fine of not less than * * * \$25 nor more than \$100, or by imprisonment in the county jail not longer than 30 days, or by both such fine and imprisonment; and each such false statement or representation shall constitute a separate and distinct offense. The commission may by civil action recover any benefits obtained by means of any statement or representation which is untrue.

SECTION 23. S. 108.14 (13) of the statutes shall apply to all changes, in ch. 108 of the statutes, effected by this act.

SECTION 24. In view of the renumbering effected by this act, the reference in s. 108.16 (4) of the statutes to "sub. (10)" is corrected to read "sub. (5)", and the reference in s. 108.16 (6) (d) of the statutes to "sub. (12)" is corrected to read "sub. (11)".

SECTION 25. In view of the changes effected by this act in s. 108.02 (4) (a) of the statutes, the term "employer" as used in s. 108.02 (3) and (6) and in s. 108.04 (1) (a), (4) (c), (5), (7) (a) and (b), (8) (d), (10), (13) (a) and (15) (intro. par.) and (b) of the statutes shall mean any "employing unit", except where the term by its context can only mean an employer covered by chapter 108 of the statutes.

SECTION 26. S. 108.04 (13) (c) 2 of the statutes, as created by this act, shall apply only to those benefit determinations, issued under ch. 108 of the statutes, which include one or more credit weeks (as defined in said chapter) ending after 1957.

SECTION 27. The changes effected by this act in ss. 108.04 (4) (b) and 108.05 (1) of the statutes shall apply only to those benefit determinations, issued under ch. 108 of the statutes, whose first benefit check is issued after that calendar month which follows the month in which this act is officially published.

Approved June 19, 1957.
