

1971 Senate Bill 330

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CHAPTER 53. Laws of 1971

AN ACT to repeal 108.02 (8) (d), 108.03 (2) (b), 108.04 (4) (e) to (g) and (7) (d), 108.06 (1) (b), 108.15 (1) (ah), 108.16 (8) (d) and 108.18 (10); to renumber and amend 108.04 (7) (e); to amend 108.02 (4) (a), (f) 1 and (g), (5) (e), (f) 3, 4, 6 and 9 and (g) 14 and 15, (8) (a) to (c) and (23) (a), (c) and (d), 108.04 (4) (b), (7) (a) and (g) (intro.) and (15) (a), 108.05 (2) (c), 108.061 (3) (d), 108.07 (5), 108.14 (8n) (a) and 108.16 (3) (a), (6) (f), (6m) (a) and (8) (a) (intro.); to repeal and recreate 108.02 (4) (b) to (d) and (5) (g) 7, 108.14 (8n) (e), 108.141 and 108.18 (4); and to create 108.02 (5) (dm), (dn), (do), (g) 18 to 21 and (i), (26) and (27), 108.04 (16) and (17), 108.05 (2m) and 108.151 of the statutes, relating to unemployment compensation, and the unemployment reserve fund.

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

SECTION 1. 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

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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~~ 1st 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~~ 1969, or who has had employment in Wisconsin and becomes subject to this chapter under ~~the provisions of~~ this subsection.

SECTION 2. 108.02 (4) (b) to (d) of the statutes are repealed and recreated to read:

108.02 (4) (b) Any other employer shall become an "employer" subject hereto as of the beginning of 1972 or any later calendar year if it:

1. Is a nonprofit organization; and

2. Employed as many as 4 individuals in employment for some portion of a day (whether or not at the same moment of time) on at least 20 days, each day being in a different calendar week (whether or not such weeks were consecutive), ending either in that year or in the preceding calendar year.

(c) Any other employer shall become an "employer" subject hereto as of the beginning of 1972 or any later calendar year if he:

1. Paid wages for employment which totaled \$1,500 or more during any calendar quarter in either that year or the preceding calendar year; or

2. Employed at least one individual in some employment in each of 20 or more calendar weeks ending in that year or in each of 20 or more calendar weeks ending in the preceding calendar year, whether or not the same individual was in employment in each such week.

(d) Any other employer who is subject to the federal unemployment tax act for any calendar year, or who, as a condition for approval of this chapter for full tax credit against the tax imposed by the federal unemployment tax act, is required, pursuant to such act, to be an employer under this chapter, shall be an employer subject hereto as of the beginning of such calendar year. This paragraph also applies to any employer described in s. 182.032.

SECTION 3. 108.02 (4) (f) 1 and (g) of the statutes are amended to read:

108.02 (4) (f) 1. The department may refuse to approve any such election by an employer other than a political subdivision, in the interests of the proper administration of this chapter. ~~The department shall not approve any such election by a nonprofit organization unless the employer also elects reimbursement financing in accordance with s. 108.151 (2), and shall terminate such election hereunder if the election of reimbursement financing is terminated pursuant to s. 108.151 (3).~~ Any election approved by the department shall be void, in case the electing party was himself "employed" in the same enterprise as the individuals to whom such election applied. The department may at any time by written notice to the employer terminate any election other than one by a political subdivision in the interests of proper administration of this chapter.

(g) An employer shall cease to be subject to this chapter only upon department action terminating his coverage. The department may terminate an employer's coverage, on its own motion or on application by the employer, by mailing a notice of termination to the employer's ~~last known~~ last-known address. An employer's cover-

~~age may be terminated whenever the employer ceased to exist, transferred his entire business to another individual or individuals, or would not otherwise be subject under pars. (b) to (d). If a termination of coverage is based on an employer's application, it shall be effective as of the close of the calendar month quarter in which the application was filed. Otherwise, it shall be effective as of the close of the calendar month date specified in which the notice of termination is mailed, subject to appeal by the employer under s. 108.10 by the close of the following month. - The department shall terminate an employer's coverage only if the employer would not otherwise be subject under sub. (4) (b), and only if the employer: -~~

~~1. Has ceased to exist; or~~

~~2. - Has transferred his entire business to another person or persons; or~~

~~3. - Has been covered by this chapter throughout each of the 2 most recently completed calendar years, but has, in each such year, had less than 20 weeks (lying wholly within that year) within which he employed 3 or more employees.~~

SECTION 4. 108.02 (5) (dm), (dn) and (do) of the statutes are created to read:

108.02 (5) (dm) The term "employment" shall include an individual's service, wherever performed within the United States, the Virgin Islands or Canada, if:

1. Such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada; and

2. The place from which the service is directed or controlled is in Wisconsin.

(dn) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands), in the employ of an American employer (other than service which is deemed "employment" under par. (b), (c) or (d) or the parallel provisions of another state's law), if:

1. The employer's principal place of business in the United States is located in Wisconsin; or

2. The employer has no place of business in the United States, but:

a. The employer is an individual who is a resident of Wisconsin; or

b. The employer is a corporation which is organized under the laws of Wisconsin; or

c. The employer is a partnership or a trust and the number of the partners or trustees who are residents of Wisconsin is greater than the number who are residents of any one other state; or

3. None of the criteria of subs. 1 and 2 is met but the employer has elected coverage in Wisconsin or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under this chapter.

(do) 1. An "American employer", for purposes of par. (dn), means a person who is:

a. An individual who is a resident of the United States; or

b. A partnership if two-thirds or more of the partners are residents of the United States; or

c. A trust, if all the trustees are residents of the United States; or

d. A corporation organized under the laws of the United States or of any state.

2. For the purposes of par. (dn), the term "United States" includes the states, the District of Columbia, and the commonwealth of Puerto Rico.

SECTION 5. 108.02 (5) (e) and (f) 3, 4, 6 and 9 of the statutes are amended to read:

108.02 (5) (e) In determining whether an individual's entire services shall be deemed "employment" subject to this chapter, under pars. (b), (c) ~~and~~ (d), ~~(dm) and (dn)~~, the department may determine and redetermine the individual's status hereunder for such reasonable periods as it deems advisable, and may refund (as paid by mistake) any contributions which have been paid hereunder with respect to services duly covered under any other unemployment compensation law.

(f) 3. ~~Employment by a governmental unit on an unemployment work-relief project, recognized as such by the department of an individual receiving work relief or work training as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof;~~

4. ~~Employment, by an educational institution, other than an institution of higher education, supported wholly or substantially from public funds, of any student enrolled in such institution and carrying at least half its full-time schedule in the most recent school term, or of any person as a teacher in such institution;~~

6. ~~Employment by a governmental unit other than in a hospital or institution of higher education in a given week, for the removal of snow or ice or for work connected with floods, of an individual who has worked for such governmental unit in six 6 or less of the fifty-two 52 weeks preceding the given week;~~

9. ~~Past service in a regular annual school-year position except in a hospital or institution of higher education (other than teaching) by an individual who still (when claiming benefits) has status therein as a school-year employee;~~

SECTION 6. 108.02 (5) (g) 7 of the statutes is repealed and recreated to read:

108.02 (5) (g) 7. Service for a nonprofit organization:

a. In the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

b. By a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

c. In the employ of a school which is not an institution of higher education; or

d. In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

e. As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training;

SECTION 7. 108.02 (5) (g) 14 and 15 of the statutes are amended to read:

108.02 (5) (g) 14. Service for an employer who would otherwise be subject to this chapter solely because of sub. (4) ~~(b)~~ (d), if and while the employer, with written notice to and approval by the department, duly covers, under the unemployment compensation law of another jurisdiction, all services for him which would otherwise be covered under this chapter ~~;~~ ;

15. Service performed in any calendar quarter in the employ of any organization exempt from federal income tax under s. 501 (a) of the internal revenue code (other than an organization described in s. 401 (a) or 501 (c) (3) of said code) or under s. 521 of the internal revenue code, if the remuneration for such service is less than \$50 ~~;~~ ;

SECTION 8. 108.02 (5) (g) 18 to 21 and (i) of the statutes are created to read:

108.02 (5) (g) 18. Service in the employ of a hospital by a patient of such hospital ~~;~~ ;

19. Service as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school; and service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school ~~;~~ ;

20. Service in the employ of a school, college or university by:

a. A student who is regularly attending such institution and carrying at least a half-time schedule or a graduate student who is enrolled in an institution of higher education; or

b. A spouse of such a student, if given written notice, at the start of such service, that the employment is under a program to provide financial assistance to such student, and that such employment will not be covered by any program of unemployment compensation.

21. Employment of a student, while he is regularly attending an educational institution and carrying at least a half-time schedule, in any week in which he worked for the given employer:

a. Not more than 24 hours; or

b. As a formal and accredited part of the regular curriculum of his school; or

c. Solely within the customary vacation days or periods of his school which occur before he has graduated from his school.

(i) If employment or service excluded under par. (f) or (g) are required by s. 3304 (a) (6) (A) or (12) or 3309 (a) (1) of the federal unemployment tax act to be employment covered by this chapter when performed for a nonprofit organization or for a government hospital or institution of higher education, as a condition for approval of this chapter for full tax credit against the tax imposed thereby, such exclusion shall not apply to employment or service for such an employer.

SECTION 9. 108.02 (8) (a) to (c) of the statutes are amended to read:

108.02 (8) (a) An employer's "payroll" for a period shall include all wages paid within that period to the employer's employes for their "employment" by him. It shall also include all wages for employment which is excluded under sub. (5) (g) if such wages:

1. Are subject to a tax under the federal unemployment tax act; and

2. Are not subject to contributions under any other unemployment compensation law.

(b) But an employer's "payroll" for any calendar year after ~~1965~~ 1971 shall not include more than the first ~~\$3,600~~ \$4,200 of wages paid by him during such year to an individual with respect to "employment" (including any employment covered by the unemployment compensation law of any other state).

(c) If the federal unemployment tax is amended to apply to a higher amount ~~than the first \$3,600~~ of wages (paid to an individual during a calendar year) than the amount specified in par. (b), then such higher amount shall likewise apply under par. (b), as a substitute for the ~~\$3,600~~ amount there specified, starting with the same period to which such federal amendment first applies.

SECTION 10. 108.02 (8) (d) of the statutes is repealed.

SECTION 11. 108.02 (23) (a), (c) and (d) of the statutes are amended to read:

108.02 (23) (a) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(c) In connection with the production or harvesting of ~~maple sirup or maple sugar~~ or any commodity defined as an agricultural commodity in ~~section s. 15 (g)~~ of the federal agricultural marketing act, as amended, ~~or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, (46 Stat. 1550, s. 3; 12 U.S.C. 1141 j)~~ or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(d) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such

~~fruits or vegetables for market operator produced more than one-half of the commodity with respect to which such service is performed.~~

~~(dm) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in par. (d), but only if such operators produced more than one-half of the commodity with respect to which such service is performed.~~

~~(dn) The provisions of this paragraph pars. (d) and (dm) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.~~

SECTION 12. 108.02 (26) and (27) of the statutes are created to read:

108.02 (26) NONPROFIT ORGANIZATIONS. A "nonprofit organization" is an organization described in s. 501 (c) (3) of the internal revenue code which is exempt from federal income tax under s. 501 (a) of said code.

(27) INSTITUTION OF HIGHER EDUCATION. "Institution of higher education" means an educational institution which:

- (a) Is a public institution or nonprofit organization; and
- (b) Is generally recognized as a college or university; or

(c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post graduate or post doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation, and admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate.

SECTION 13. 108.03 (2) (b) of the statutes is repealed.

SECTION 14. 108.04 (4) (b) of the statutes is amended to read:

108.04 (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~~ the amount required for the minimum benefit rate, unless s. 108.07 (2) is applied to that employment.

SECTION 15. 108.04 (4) (e) to (g) of the statutes are repealed.

SECTION 16. 108.04 (7) (a) of the statutes is amended to read:

108.04 (7) (a) If an employe terminates his employment with an employing unit, he shall be ineligible for any benefits based on ~~such employment, and ineligible for benefits based on other previous employment~~ for the week of termination and the 4 next following weeks thereafter until he has again been employed within at least 4 weeks in each of which he worked at least 20 hours, except as hereinafter provided.

SECTION 17. 108.04 (7) (d) of the statutes is repealed.

SECTION 18. 108.04 (7) (e) of the statutes is renumbered 108.04 (7) (h) and amended to read:

108.04 (7) (h) 1. ~~As to~~ The first 4 weeks of benefits paid pursuant to ~~par. (d)~~, based on the employment terminated, ~~the first 4 weeks of such benefits to which par. (a) is applied~~ shall be charged against the employer's account. Any further such benefits shall be charged against the fund's balancing account; but the employer shall continue to be recognized as an interested party.

2. Subdivision 1 shall not apply if the employer is exempt from the contribution requirements of ss. 108.17 and 108.18 under s. 108.15 or 108.151.

SECTION 19. 108.04 (7) (g) (intro.) and (15) (a) of the statutes are amended to read:

108.04 (7) (g) (intro.) Paragraph (a) shall not suspend an employee's eligibility for benefits based on ~~other previous~~ employment for other previous employers if the ~~commission~~ department determines that the employee:

(15) (a) Shall be ~~denied for any such week, from the account of such employer determined pursuant to sub. (7)~~, if the employee left his employment with that employer to retire before he reached the compulsory retirement age used by that employer.

SECTION 20. 108.04 (16) and (17) of the statutes are created to read:

108.04 (16) APPROVED TRAINING. (a) Benefits shall not be denied, nor shall sub. (1) (d) 2, (e), (g) 3, (2) or (8) operate to deny benefits to any otherwise eligible individual for any week because he is in training, provided it is determined that:

1. The individual possesses aptitudes or skills which can be usefully supplemented by training; and

2. The individual is enrolled in a full-time course of basic education or occupational training which is expected to increase his opportunities to obtain employment, given by a school established under s. 38.15 or 38.155 or other training institution approved by the department; and

3. The individual can reasonably be expected to complete the training course successfully, and to find and accept work; and

4. The individual attended the training course full time during the given training week or had good cause for his failure to do so, and is making satisfactory progress in the course. The department may require the training institution to file a certification showing the individual's attendance and progress.

(b) If an individual receives or will receive any type of allowance under any state or federal law because he is in training, the weekly amount of such allowance (excluding allowances for needed transportation, equipment or supplies, or for added living costs because the training requires him to live away from his residence) shall be treated as if it were wages.

(17) SERVICE FOR AN INSTITUTION OF HIGHER EDUCATION. An employee who has a contract or contracts to perform services in any institution of higher education in an instructional, research, or principal administrative capacity for each of 2 successive academic years or for 2 regular terms, whether or not successive, shall not be eligible to receive benefits based on such services for any week of unemployment which begins between such



periods or during a period of leave between such periods which is provided for in his contract.

SECTION 21. 108.05 (2) (c) of the statutes is amended to read:

108.05 (2) (c) Based on the amount of "average wages per average week" thus determined, this chapter's maximum weekly benefit rate, as to benefit determinations ~~whose first benefit check is~~ issued in the ensuing half year (starting January 1 or July 1), shall equal the result obtained by rounding ~~52.5 per cent~~ 60% of said "average wages per average week" to the nearest multiple of one dollar.

SECTION 22. 108.05 (2m) of the statutes is created to read:

108.05 (2m) (a) This chapter's minimum weekly benefit rate, as to benefit determinations issued in each half year specified in sub. (2) shall be based on the maximum weekly benefit rate in the same half year pursuant to this subsection.

(b) The department shall determine, when it makes the determination under sub. (2), an amount which is one-fourth of the applicable maximum weekly benefit rate.

(c) The department shall adjust the amount determined under par. (b), if not a multiple of one dollar, to the next lower multiple of one dollar. This amount shall be the minimum benefit rate for such half year. An employe shall be ineligible for benefits based on wages which are insufficient for such minimum rate.

(d) Whenever the minimum benefit rate thus determined has changed, the commission shall record the change in its minutes and have it officially published within 10 days, and the department shall correspondingly change the starting lines and wage classes in the schedule in sub. (1) and shall certify the changes to the revisor of statutes, who shall when publishing the statutes include the latest such schedule then available.

SECTION 23. 108.06 (1) (b) of the statutes is repealed.

SECTION 24. 108.061 (3) (d) of the statutes is amended to read:

108.061 (3) (d) As of the start of that week, he has qualifying employment pursuant to s. 108.04 (4) (a), (af), (al) ~~(ar)~~ and (b).

SECTION 25. 108.07 (5) of the statutes is amended to read:

108.07 (5) If s. 108.04 (7) ~~(d)~~ (a) applies to an employe as to one or more employers, no benefits shall be paid to him from the account of any such employer, despite subs. (1) (b) and (3), until the employe has used any benefit credits available to him from other employers.

SECTION 26. 108.14 (8n) (a) of the statutes is amended to read:

108.14 (8n) (a) The department ~~may shall~~ enter into a reciprocal ~~arrangements, with any agency administering an unemployment compensation law arrangement which is approved by the U.S. secretary of labor pursuant to s. 3304 (a) (9) (B) of the federal internal revenue code,~~ to provide more equitable benefit coverage for individuals whose recent work has been covered by the unemployment compensation laws of 2 or more jurisdictions.

**SECTION 27.** 108.14 (8n) (e) of the statutes is repealed and recreated to read:

108.14 (8n) (e) Wisconsin's share of any benefits paid hereunder shall be charged to the account of each employer by whom the employe was employed in his base period, in proportion to the total amount of wages he earned from each employer in his base period, except that if s. 108.04 (7) (a) applies to employment by such an employer, the share of benefits based thereon shall be charged to the fund's balancing account. Such balancing account shall be charged with any other state's share of such benefits pending reimbursement by such state.

**SECTION 28.** 108.141 of the statutes is repealed and recreated to read:

**108.141 EXTENDED BENEFITS. (1) DEFINITIONS.** As used in this section, unless the context clearly requires otherwise:

(a) "Extended benefit period" means a period which:

1. Begins with the 3rd week after whichever of the following weeks occurs first:

a. A week for which there is a national "on" indicator; or

b. A week for which there is a Wisconsin "on" indicator, provided that no extended benefit period may begin by reason of a Wisconsin "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to Wisconsin; and

2. Ends with either of the following weeks, whichever occurs later:

a. The 3rd week after the first week for which there is both a national "off" indicator and a Wisconsin "off" indicator; or

b. The 13th consecutive week of such period.

(b) There is a national "on" indicator for a week if the U.S. secretary of labor determines that, for each of the 3 most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states equalled or exceeded 4.5%.

(c) There is a national "off" indicator for a week if the U.S. secretary of labor determines that, for each of the 3 most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5%.

(d) There is a Wisconsin "on" indicator for a week if the department determines, in accordance with the regulations of the U.S. secretary of labor, that, for the period consisting of such week and the immediately preceding 12 weeks, the Wisconsin rate of insured unemployment (not seasonally adjusted):

1. Equalled or exceeded 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; and

2. Equalled or exceeded 4%.

(e) There is a Wisconsin "off" indicator for a week if the department determines, in accordance with the regulations of the U.S. secretary of labor, that, for the period consisting of such

week and the immediately preceding 12 weeks, the Wisconsin rate of insured unemployment (not seasonally adjusted):

1. Was less than 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; or

2. Was less than 4%.

(f) "Wisconsin rate of insured unemployment" means the percentage derived by dividing:

1. The average weekly number of individuals filing claims in Wisconsin for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the department on the basis of its reports to the U.S. secretary of labor; by

2. The average monthly employment covered under this chapter for the first 4 of the most recent 6 completed calendar quarters ending before the end of such 13-week period.

(g) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. ch. 85) other than extended benefits.

(h) "Extended benefits" means benefits (including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. ch. 85) payable to an individual under this section for weeks of unemployment in his eligibility period.

(i) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(j) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

1. Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employes and ex-servicemen under 5 U.S.C. ch. 85) in his current benefit year that includes such week. An individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal under s. 108.09 or 108.10 he may subsequently be determined to be entitled to added regular benefits; or

2. His benefit year having expired in the extended benefit period and prior to such week, lacks qualifying employment on the basis of which he could establish a "valid new claim week", under s. 108.061; and

3. Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, the automotive products trade act of 1965 and such other federal laws as are specified in regulations issued by the U.S. secretary of labor, and has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada, but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

(k) "State law" means the unemployment compensation law of any state, approved by the U.S. secretary of labor under s. 3304 of the internal revenue code of 1954.

(2) EFFECT OF OTHER CHAPTER 108 PROVISIONS. Except when the result would be inconsistent with the other provisions of this section, the provisions of this chapter which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

(3) ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if:

(a) He is an "exhaustee"; and

(b) He has satisfied those requirements of this chapter for the payment of regular benefits that apply to individuals claiming extended benefits, including not being disqualified.

(4) WEEKLY EXTENDED BENEFIT RATE. The weekly extended benefit rate payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the total amount of regular benefits he was paid in his most recent benefit year divided by the number of weeks for which such benefits were paid, rounded to the nearest whole dollar. For this purpose, a payment under s. 108.05 (1m) shall be counted as a week and a half, and a payment under s. 108.05 (3) (a) shall be counted as one-half of a week. If no payment was made, it shall be the weekly benefit rate at which he would first have been paid in such benefit year. Section 108.05 (2) (g) shall not apply.

(5) DURATION OF EXTENDED BENEFITS. Extended benefits shall be payable to an individual for weeks of unemployment in his eligibility period for not more than the least of the amounts determined by multiplying the weekly extended benefit rate by the following number of weeks:

(a) One-half of the number of weeks of regular benefits which were payable (including benefits canceled pursuant to s. 108.04 (5)) to him under this chapter in his most recent benefit year, rounded to the next higher half week if not already a multiple of one-half a week; or

(b) Thirteen weeks; or

(c) Thirty-nine weeks reduced by the number of weeks of regular benefits which were paid or deemed paid to him under this chapter in his most recent benefit year. For this purpose, a week of benefits shall be deemed paid if it was withheld because of the application of s. 108.04 (11).

(6) (a) Whenever an extended benefit period is to become effective in Wisconsin as a result of a Wisconsin or a national "on" indicator, or an extended benefit period is to be terminated in Wisconsin as a result of Wisconsin and national "off" indicators, the commission shall record that fact in its minutes and shall have it officially published.

(b) Computations required by sub. (1) (f) shall be made in accordance with regulations prescribed by the U.S. secretary of labor.

(7) The fund's treasurer shall maintain an "extended benefits account" as a subaccount of the fund's balancing account. One-half of extended benefits based on employment covered by this chapter

shall be charged thereto. The remaining one-half of such benefits shall be charged as follows:

(a) Benefits based on employment to which s. 108.15 or 108.151 (5) apply shall be charged to the reimbursement account of the employer on whose employment such benefits were based.

(b) Benefits based on employment covered by the law of another state, under s. 108.14 (8n), shall be charged to such state.

(c) Benefits based on other employment shall be charged to the fund's balancing account.

(d) To the extent that 2 or more paragraphs may apply to such benefits, the department shall determine the proper amounts and the sequence in which they shall be charged.

(8) Any federal reimbursement of extended benefits shall be credited to the extended benefits account.

SECTION 29. 108.15 (1) (ah) of the statutes is repealed.

SECTION 30. 108.151 of the statutes is created to read:

**108.151 FINANCING BENEFITS FOR EMPLOYEES OF NON-PROFIT ORGANIZATIONS.** (1) Each nonprofit organization which is or becomes an employer subject to this chapter shall be subject to all its provisions except as it may elect reimbursement financing in accordance with sub. (2). If such an approved election is terminated, the employer's contribution rate shall be 2.7% on his payroll for each of the next 3 calendar years, and s. 108.18 (2) (b) shall apply.

(2) **ELECTION OF REIMBURSEMENT FINANCING.** Any nonprofit organization may, in lieu of the contribution requirements of ss. 108.17 and 108.18, elect reimbursement financing, as of the beginning of any calendar year, subject to the following requirements:

(a) It shall file a written notice to that effect with the department before the beginning of such year; provided, however, that if the employer became newly subject hereto as of the beginning of such year, it may file the notice by April 30 of such year.

(b) An employer whose prior election of reimbursement financing has been terminated pursuant to sub. (3) may not thereafter reelect reimbursement financing unless it has been subject to the contribution requirements of ss. 108.17 and 108.18 for at least 3 calendar years thereafter and is not, at the time of filing such reelection, delinquent under s. 108.22.

(c) No election of reimbursement financing shall be valid unless the employer has satisfied the requirements of sub. (4) within 60 days after it filed the notice of election.

(d) Sections 108.17 and 108.18 shall apply to all prior employment, but after all benefits based on prior employment have been charged to any account it has had under s. 108.16 (2) any balance remaining therein shall be transferred to the balancing account as if s. 108.16 (6) (c) or (6m) (d) applied.

(3) **TERMINATION OF ELECTION.** (a) An employer who elected reimbursement financing may terminate its election as of the close of the 3rd calendar year to which such election applies, or at the close of any subsequent calendar year, by filing a written notice to that effect with the department before the close of such calendar year;

(b) The department may terminate any election as of the close of any calendar year if the department determines that the employer has failed to make the required reimbursement payments or no longer satisfies the requirements of sub. (4), or whenever s. 108.16 (8) applies.

(4) ASSURANCE OF REIMBURSEMENT. (a) If an employer other than an institution of higher education elects reimbursement financing it shall file a surety bond with the fund's treasurer, payable to the unemployment reserve fund, to guarantee the payment of required reimbursements together with any interest thereon and any tardy filing fees.

1. The amount of the bond shall be equal to at least 4% of the employer's payroll for the calendar year immediately preceding the effective date of the election, but no such bond shall be less than \$1,000. The amount of the bond shall be similarly redetermined at the close of each 3 years thereafter.

2. Any such bond shall be in force for 3 calendar years, and shall remain in force thereafter until the liability thereunder is released by the fund's treasurer.

3. No bond shall be approved unless the fund's treasurer finds that it gives reasonable assurances that it guarantees such payment.

4. Failure of any employer covered by such bond to pay the full amount of its reimbursement payments when due together with any interest thereon and any tardy filing fees shall render the surety liable on said bond to the extent of the bond, as though the surety was the employer.

(b) Any employer required to file a surety bond under par. (a) may, in lieu of such requirement, deposit with the fund's treasurer securities which the treasurer finds are readily marketable and which have a value (annually redetermined) equal to at least the face value of the bond that would otherwise be required. The fund's treasurer shall issue a receipt to the employer for its deposit. Any such securities shall be retained by the fund's treasurer in escrow, for the fund, until the employer's liability under its election is terminated, at which time they shall be returned to the employer, less any deductions made pursuant to this paragraph. The employer may at any time substitute securities of equal or greater value. The treasurer may, with 10 days' notice to the employer, sell the securities deposited to the extent necessary to satisfy any delinquent reimbursements together with any interest and any tardy filing fees due thereon. The treasurer shall hold in escrow any cash remaining from the sale of such securities, without interest. The fund's treasurer shall require the employer within 30 days following any sale of deposited securities to deposit sufficient additional securities to make whole the employer's deposit at the prior level. Any income from securities held in escrow shall inure to and be the property of the employer.

(5) REIMBURSEMENT ACCOUNT. (a) For each nonprofit organization which has elected reimbursement financing, pursuant to sub. (2), the fund's treasurer shall maintain a reimbursement account, as a subaccount of the fund's balancing account.

(b) The employer's reimbursement account shall be charged with all regular benefits, and with one-half of any extended benefits under s. 108.141, based on weeks of employment ended while its election is in effect.

(c) The employer's reimbursement account shall be credited with any reimbursement paid by or for it to the fund, and with any benefit overpayment therefrom recovered by the department. Section 108.16 (2m) shall not apply.

(d) The employer may at any time make other payments to be credited into its reimbursement account, in anticipation of future benefit charges.

(e) Whenever the employer's reimbursement account has a positive net balance no reimbursement of the benefits charged thereto shall be required.

(f) Whenever an employer's reimbursement account has a negative balance as of the close of any calendar quarter, the fund's treasurer shall promptly bill such employer, at its last-known address, for that portion of its negative balance which has resulted from the net benefits charged to such account within such quarter. Reimbursement payment shall be due within 30 days thereafter. Any required payment which remains unpaid after its applicable due date is a delinquent payment. Section 108.22 shall apply for collecting delinquent payments.

(6) GROUP REIMBURSEMENT ACCOUNTS. If any group of non-profit organizations who have elected reimbursement financing file a joint request, they shall be treated as if they were one employer for the purposes of this chapter, provided that:

(a) They shall be so treated for at least the 3 calendar years following their request, unless their election of reimbursement financing is terminated under sub. (3), but they may discontinue their group arrangement as of the beginning of any subsequent calendar year by filing advance notice with the department. A member of such a group may discontinue its participation in the group and the group shall be dissolved at the beginning of any calendar year after the 3rd year.

(b) They shall be jointly and severally liable for any required reimbursements together with any interest thereon and any tardy filing fees.

(c) They shall designate one or more individuals as agent for all members of the group for all fiscal and reporting purposes under this chapter.

(d) If such a group is discontinued, par. (a) shall apply to each of its members.

SECTION 31. 108.16 (3) (a), (6) (f), (6m) (a) and (8) (a) (intro.) of the statutes are amended to read:

108.16 (3) (a) As to any benefit overpayment still outstanding more than 6 years after the claimant's liability to reimburse the fund was duly established under s. 108.22 (8), the fund's treasurer shall write off and waive recovery of such overpayment, upon receipt of a certification by a ~~department~~ commission deputy that reasonable efforts have been made to recover such overpayment. The fund's treasurer shall at any time similarly write off such overpayment to an individual who has died, upon receipt of a certification by a commission deputy that reasonable efforts have been made to recover it from his estate.

(6) (f) Any amount available for such crediting under s. 108.04 (11) ~~or~~; 108.07 (2) ~~or~~; 108.14 (8n) (e); or 108.141.

(6m) (a) The benefits thus chargeable under (and pursuant to) ss. 108.07 (2); 108.14 (8n) (e); ~~108.141~~; 108.15 (1) (b); ~~108.151~~; or subs. (2m), (6) (e), (7) (a) and (b).

(8) (a) (intro.) If the business of any "employer" is transferred in whole or in part, the transferee shall be deemed a successor for the purposes of this chapter. ~~An employing unit shall not be deemed a successor, however, if the department finds that there were less than 20 weeks lying wholly within the calendar year in which the transfer occurred (and also less than 20 weeks lying wholly within the preceding calendar year) within which the transferring "employer" employed as many as 3 persons in employment subject to this chapter in connection with the business or portion thereof transferred. In case of the~~ The transfer of any of the assets of a covered employer's business by any means whatever, otherwise than in the ordinary course of trade, ~~such transfer shall also be deemed a transfer of business and shall constitute the transferee a successor hereunder, unless . The transferee shall not be a successor hereunder if~~ the department, on its own motion or on application of an interested party, finds that ~~all~~ both the following conditions exist:

SECTION 32. 108.16 (8) (d) of the statutes is repealed.

SECTION 33. 108.18 (4) of the statutes is repealed and recreated to read:

108.18 (4) EXPERIENCE RATES. Except as otherwise specified in this section, an employer's contribution rate on his payroll for a given calendar year shall be based on the reserve percentage of his account as of the applicable computation date, as follows:

SCHEDULE		
Line	Reserve Percentage	Contribution Rate
1.	8.5% or more	0.0%
2.	8.0% but under 8.5%	0.5%
3.	7.0% but under 8.0%	1.0%
4.	6.0% but under 7.0%	1.5%
5.	5.0% but under 6.0%	2.0%
6.	3.5% but under 5.0%	2.5%
7.	2.0% but under 3.5%	3.0%
8.	0.0% but under 2.0%	3.5%
9.	Overdrawn by less than minus 2%	4.0%
10.	Overdrawn by minus 2.0% or more	4.4%

SECTION 34. 108.18 (10) of the statutes is repealed.

SECTION 35. Section 108.14 (13) of the statutes shall apply to all changes in chapter 108 of the statutes, as amended by this act.

SECTION 36. The changes effected by this act in sections 108.02, 108.03, 108.04 (17), 108.15 and 108.151 of the statutes shall take effect on January 1, 1972.

SECTION 37. The changes effected by this act in sections 108.04 (7), (15) and (16) and 108.07 of the statutes shall apply only to determinations (other than amended determinations) issued under section 108.09 (2) of the statutes after January 1, 1972.

SECTION 38. The changes effected by this act in section 108.05 of the statutes shall take effect:

(1) On July 4, 1971, if published before July 4, 1971.

(2) On the Sunday following publication, if published thereafter; and the commission shall thereupon comply with the require-



ments of section 108.05 (2) (d) to (g) of the statutes as of that date.

SECTION 39. The changes effected by this act in section 108.14 (8n) (e) of the statutes shall apply to new claims taken after January 1, 1972.

SECTION 40. Prior to the week beginning January 2, 1972, an extended benefit period under section 108.141 of the statutes shall begin or end in Wisconsin solely by reason of a Wisconsin "on" indicator and a Wisconsin "off" indicator respectively; but thereafter either a Wisconsin or a national "on" or "off" indicator shall be effective for the purposes of section 108.141 of the statutes. If this act is published before May 16, 1971, a Wisconsin "on" indicator shall be effective for the purposes of section 108.141 (1) (a) 1b of the statutes as to any week beginning after May 29, 1971; if this act is published after May 15, 1971, such an "on" indicator shall be effective as to any week beginning more than 10 days after publication.

SECTION 41. If, by January 31, 1972, any nonprofit organization which was subject to chapter 108 of the statutes before January 1, 1969, makes a valid election of reimbursement financing under section 108.151 of the statutes:

(1) It shall pay any contributions required by chapter 108 of the statutes on employment before 1972.

(2) The balance then in its account under section 108.16 of the statutes shall be transferred to its reimbursement account under section 108.151 (5) of the statutes.

(3) Any subsequent benefits based on earlier employment shall be charged to its reimbursement account.

SECTION 42. The changes effected by this act in section 108.16 (8) of the statutes shall apply only to determinations (other than amended determinations) issued under section 108.10 of the statutes after January 1, 1972.

SECTION 43. The changes effected by this act in section 108.18 (4) of the statutes shall apply to the contribution rates which apply to payroll after December 31, 1972.

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