

State of Wisconsin



2001 Assembly Bill 742

Date of enactment: **February 12, 2002**
Date of publication*: **February 15, 2002**

2001 WISCONSIN ACT 43

AN ACT *to repeal* 108.142 (1e), 108.143 and 108.18 (3s); *to amend* 20.445 (1) (nc), 108.05 (7) (a) 1., 108.06 (1), 108.06 (1), 108.06 (2) (c), 108.06 (2) (c), 108.06 (2) (cm), 108.06 (2) (cm), 108.06 (6) (intro.), 108.06 (6) (intro.) and 108.161 (3e); *to create* 108.142 (1e), 108.143 and 108.18 (3s) of the statutes; and *to affect* [2001 Wisconsin Act 35](#), section [72 \(1\) \(b\)](#); **relating to**: temporary supplemental unemployment insurance benefits and certain other changes to the unemployment insurance law.

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

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

20.445 (1) (nc) *Unemployment insurance administration; special federal moneys.* All moneys received from the federal government under section 903 of the federal Social Security Act, as amended, ~~as authorized by the governor under s. 16.54, for federal fiscal years 2000, and 2001 and the first \$2,389,107 of the moneys received from the federal government under that act for federal fiscal year 2002, as authorized by the governor under s. 16.54,~~ to be used for administration of unemployment insurance.

SECTION 2. 108.05 (7) (a) 1. of the statutes, as affected by [2001 Wisconsin Act 35](#), is amended to read:

108.05 (7) (a) 1. "Pension payment" means a pension, retirement, annuity, or other similar payment made to a claimant, based on the previous work of that claimant, whether or not payable on a periodic basis, from a governmental or other retirement system maintained or contributed to by an employer from which that claimant has base period wages, other than a payment received

under the federal Social Security Act ([42 USC 301](#) et seq.) that is based in whole or in part upon taxes paid by the claimant.

SECTION 3. 108.06 (1) of the statutes is amended to read:

108.06 (1) Except as provided in sub. (6) and ss. 108.141 ~~and~~, 108.142, ~~and~~ 108.143, no claimant may receive total benefits based on employment in a base period greater than 26 times the claimant's weekly benefit rate under s. 108.05 (1) or 40% of the claimant's base period wages, whichever is lower. Except as provided in sub. (6) and ss. 108.141 ~~and~~, 108.142, ~~and~~ 108.143, if a claimant's base period wages are reduced or canceled under s. 108.04 (5), ~~(7)~~, ~~(8)~~ (a) or (18), or suspended under s. 108.04 (1) (f), (10) (a), or (17), the claimant may not receive total benefits based on employment in a base period greater than 26 times the claimant's weekly benefit rate under s. 108.05 (1) or 40% of the base period wages not reduced, canceled or suspended which were paid or payable to the claimant, whichever is lower.

SECTION 4. 108.06 (1) of the statutes, as affected by [2001 Wisconsin Act ...](#) (this act), is amended to read:

108.06 (1) Except as provided in sub. (6) and ss. 108.141, ~~and~~ 108.142, ~~and~~ 108.143, no claimant may receive total benefits based on employment in a base

* Section 991.11, WISCONSIN STATUTES 1999-00: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

period greater than 26 times the claimant's weekly benefit rate under s. 108.05 (1) or 40% of the claimant's base period wages, whichever is lower. Except as provided in sub. (6) and ss. 108.141, and 108.142, ~~and 108.143~~, if a claimant's base period wages are reduced or canceled under s. 108.04 (5) or (18), or suspended under s. 108.04 (1) (f), (10) (a), or (17), the claimant may not receive total benefits based on employment in a base period greater than 26 times the claimant's weekly benefit rate under s. 108.05 (1) or 40% of the base period wages not reduced, canceled or suspended which were paid or payable to the claimant, whichever is lower.

SECTION 5. 108.06 (2) (c) of the statutes is amended to read:

108.06 (2) (c) No benefits are payable to a claimant for any week of unemployment not occurring during the claimant's benefit year except under ss. 108.141 and, 108.142, and 108.143.

SECTION 6. 108.06 (2) (c) of the statutes, as affected by 2001 Wisconsin Act (this act), is amended to read:

108.06 (2) (c) No benefits are payable to a claimant for any week of unemployment not occurring during the claimant's benefit year except under ss. 108.141, and 108.142, and 108.143.

SECTION 7. 108.06 (2) (cm) of the statutes is amended to read:

108.06 (2) (cm) If an employee qualifies to receive benefits using the base period described in s. 108.02 (4) (b), the wages used to compute the employee's benefit entitlement are not available for use in any subsequent benefit computation for the same employee, except under s. 108.141 ~~or~~, 108.142, or 108.143.

SECTION 8. 108.06 (2) (cm) of the statutes, as affected by 2001 Wisconsin Act (this act), is amended to read:

108.06 (2) (cm) If an employee qualifies to receive benefits using the base period described in s. 108.02 (4) (b), the wages used to compute the employee's benefit entitlement are not available for use in any subsequent benefit computation for the same employee, except under s. 108.141, or 108.142, ~~or~~ 108.143.

SECTION 9. 108.06 (6) (intro.) of the statutes is amended to read:

108.06 (6) (intro.) If a claimant has established a benefit year prior to the effective date of any increase in the maximum weekly benefit rate provided under s. 108.05 (1), the claimant has not exhausted his or her total benefit entitlement under sub. (1) for that benefit year on that effective date, and the claimant was entitled to receive the maximum weekly benefit rate under s. 108.05 (1) that was in effect prior to that effective date, the limitation on the total benefits authorized to be paid to a claimant under sub. (1) does not apply to that claimant in that benefit year. Unless s. 108.141 ~~or~~, 108.142, or 108.143 applies, the claimant's remaining benefit entitle-

ment in that benefit year for the period beginning on that effective date shall be computed by:

SECTION 10. 108.06 (6) (intro.) of the statutes, as affected by 2001 Wisconsin Act (this act), is amended to read:

108.06 (6) (intro.) If a claimant has established a benefit year prior to the effective date of any increase in the maximum weekly benefit rate provided under s. 108.05 (1), the claimant has not exhausted his or her total benefit entitlement under sub. (1) for that benefit year on that effective date, and the claimant was entitled to receive the maximum weekly benefit rate under s. 108.05 (1) that was in effect prior to that effective date, the limitation on the total benefits authorized to be paid to a claimant under sub. (1) does not apply to that claimant in that benefit year. Unless s. 108.141, or 108.142, ~~or~~ 108.143 applies, the claimant's remaining benefit entitlement in that benefit year for the period beginning on that effective date shall be computed by:

SECTION 11. 108.142 (1e) of the statutes is created to read:

108.142 (1e) SUSPENSION. No Wisconsin supplemental benefits may be paid for any week of unemployment beginning earlier than January 26, 2003.

SECTION 12. 108.142 (1e) of the statutes, as created by 2001 Wisconsin Act (this act), is repealed.

SECTION 13. 108.143 of the statutes is created to read:

108.143 Temporary supplemental benefits. (1)

DEFINITIONS. In this section:

(a) "Eligibility period" means the period consisting of the weeks in an individual's benefit year that begin in a temporary supplemental benefit period and, if an individual's benefit year ends within a temporary supplemental benefit period, any week thereafter that begins in a temporary supplemental benefit period in which an individual would have remaining benefit entitlement under this section if the week had begun in the individual's benefit year.

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

1. Has received, prior to that week, in his or her benefit year which includes that week, all of the regular benefits that were potentially payable to that individual under state or federal law, including dependents' allowances, or is precluded from receiving regular benefits by reason of the law of another state which meets the requirement of [26 USC 3304](#) (a) (7);

2. Lacks sufficient base period wages under s. 108.04 (4) (a) or employment or other work under s. 108.04 (4) (c) to establish a benefit year under s. 108.06 subsequent to a benefit year which expired prior to that week, and in the temporary supplemental benefit period which includes that week;

3. Has no right to unemployment assistance under the Railroad Unemployment Insurance Act or other federal laws as are specified in regulations of the federal department of labor, and has not received and is not applying for unemployment insurance under the laws of Canada, unless the individual is applying for that insurance and the appropriate Canadian agency finally determines that he or she is not entitled to that insurance; and

4. Is not eligible to receive for that week and was not eligible to receive for any earlier week in his or her eligibility period extended benefits under s. 108.141 or other supplemental unemployment assistance funded in whole or in part by the federal government that is determined by the secretary of workforce development to serve as an unemployment insurance benefit program.

(c) "Regular benefits" means unemployment insurance benefits payable to an individual under state law or federal law, including benefits payable to federal civilian employees and to ex-servicemen under 5 USC ch. 85, other than extended benefits under s. 108.141, federal supplemental compensation, and Wisconsin supplemental benefits under s. 108.142.

(d) "State law" means the unemployment insurance law of any state, approved by the federal secretary of labor under 26 USC 3304.

(e) "Temporary supplemental benefit period" means the period beginning on March 3, 2002, and ending on December 28, 2002.

(f) "Temporary supplemental benefits" means benefits payable to an individual under this section for weeks of unemployment in his or her eligibility period.

(2) ELIGIBILITY REQUIREMENTS FOR TEMPORARY SUPPLEMENTAL BENEFITS. An individual is eligible to receive temporary supplemental benefits for any week of unemployment beginning on or after March 3, 2002, and ending on or before December 28, 2002, if:

(a) That week is in the individual's eligibility period;

(b) The individual established a benefit year which began on or after March 11, 2001;

(c) The individual is an exhaustee; and

(d) The individual is not disqualified and has satisfied the other requirements of this chapter for the payment of regular benefits.

(3) RECEIPT OF REGULAR BENEFITS. For purposes of this section, an individual is considered to have received all regular benefits that were available to the individual in his or her benefit year which includes any week of unemployment in his or her eligibility period notwithstanding that:

(a) The individual may subsequently be determined to be entitled to additional regular benefits as a result of a pending appeal under s. 108.09 or 108.10 which were not included in the determination or decision under appeal; or

(b) The individual is precluded from receiving regular benefits by reason of a seasonal limitation in the law of another state.

(4) WEEKLY TEMPORARY SUPPLEMENTAL BENEFIT RATE. The weekly temporary supplemental benefit rate payable to a claimant for a week of total unemployment is the same as the rate payable to the claimant for regular benefits during his or her most recent benefit year as determined under s. 108.05 (1). No subsequent adjustment of the benefit rates in the schedules under s. 108.05 (1) applies to benefits payable under this section.

(5) MAXIMUM TEMPORARY SUPPLEMENTAL BENEFIT ENTITLEMENT. No claimant may receive total temporary supplemental benefits greater than the lesser of:

(a) Fifty percent of the amount of regular benefits that were payable to the claimant in the claimant's most recent benefit year, rounded down to the nearest dollar; or

(b) Eight times the claimant's weekly temporary supplemental benefit rate.

(6) EFFECT OF OTHER PROVISIONS OF THIS CHAPTER. The provisions of this chapter which apply to claims for, or the payment of, regular benefits apply to claims for, and the payment of, temporary supplemental benefits, except when the result would be inconsistent with other provisions of this chapter.

(7) CHARGES OF BENEFITS. The department shall charge to the fund's balancing account the cost of temporary supplemental benefits paid to a claimant that are otherwise chargeable to the account of an employer that is subject to the contribution requirements of ss. 108.17 and 108.18. The department shall charge the cost of temporary supplemental benefits based upon employment by an employer that is not subject to the contribution requirements of ss. 108.17 and 108.18 in accordance with s. 108.07 (5).

SECTION 14. 108.143 of the statutes, as created by 2001 Wisconsin Act ... (this act), is repealed.

SECTION 15. 108.161 (3e) of the statutes is amended to read:

108.161 (3e) Notwithstanding sub. (3), any moneys allocated under section 903 of the federal Social Security Act, as amended, for federal fiscal years 2000, and 2001 and the first \$2,389,107 of any distribution received by this state under section 903 of that act in federal fiscal year 2002 shall be used solely for unemployment insurance administration.

SECTION 16. 108.18 (3s) of the statutes is created to read:

108.18 (3s) SUSPENSION OF SCHEDULE CHANGES. Notwithstanding sub. (3m), the schedule in effect under sub. (3m) for the 2003 calendar year is the same schedule that was in effect under sub. (3m) for the 2002 calendar year.

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SECTION 17. 108.18 (3s) of the statutes, as created by 2001 Wisconsin Act (this act), is repealed.

SECTION 18. 2001 Wisconsin Act 35, section 72 (1) (b) is amended to read:

[2001 Wisconsin Act 35] Section 72 (1) (b) Notwithstanding section ~~108.04~~ 108.05 (7), 1999 stats., for each week of unemployment beginning in 2002, if a claimant receives a payment under the federal Social Security Act (42 USC 301, et seq.) that is contributed to by an employer from which the claimant has base period wages, the reduction that applies to the benefits payable to the claimant for that week is 50% of the amount that would otherwise apply for that week under section ~~108.04~~ 108.05 (7), 1999 stats.

SECTION 19. Nonstatutory provisions.

(1) USE OF CERTAIN FEDERAL REED ACT DISTRIBUTIONS IN THE 2002 CALENDAR YEAR. The council on unemployment insurance and the department of workforce development may not include in any recommendations to the legislature during the 2002 calendar year the appropriation, other than the first \$2,389,107, of any distributions received by this state under section 903 of the federal Social Security Act, as amended, in the 2002 calendar year.

SECTION 20. Effective dates. This act takes effect on the first Sunday after publication, except as follows:

(1) The treatment of sections 108.06 (1) (by SECTION 4), (2) (c) (by SECTION 6) and (cm) (by SECTION 8), and (6) (intro.) (by SECTION 10), 108.142 (1e) (by SECTION 12), 108.143 (by SECTION 14), and 108.18 (3s) (by SECTION 17) of the statutes takes effect on January 1, 2004.