



Department of Workforce Development

UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Council Members: Please bring your calendars to schedule future meetings.

Council Website: <http://dwd.wisconsin.gov/uibola/uiac/>

MEETING

Date: June 28, 2017

Time: 9:30 a.m. – 4:00 p.m.

Place: Department of Workforce Development
201 E. Washington Avenue
Madison, Wisconsin
GEF-1, Room **H306**

AGENDA ITEMS AND TENTATIVE SCHEDULE:

1. Call to Order and Introductions
2. Approval of Minutes of the June 12, 2017 Council Meeting
3. Department Update
4. Update on Court Cases
 - *DWD v. LIRC, Valarie Beres & Mequon Jewish Campus, Inc.*
5. Update on Legislation
 - Budget Bill (SB30 / AB64)
 - Mobility Grant Study (AB243)
 - Work Search Waiver (SB83 / AB131)
6. Correspondence – League of Wisconsin Municipalities
7. Department Proposals For Agreed Bill Pending Action
 - D17-03 – Assessment for Failure to Produce Records
 - D17-06 – Standard of Proof in Unemployment Insurance Law Cases
8. LRB Draft of Agreed Upon Proposals
9. Labor and Management Proposals For Agreed Bill Pending Action

10. Timeline of Agreed Bill/Future Meeting Dates

11. Adjourn

Notice:

- ❖ The Council may not address all agenda items or follow the agenda order.
- ❖ The Council may take up action items at a time other than that listed.
- ❖ The Council may discuss other items, including those on any attached lists.
- ❖ Some or all of the Council members may attend the meeting by telephone.
- ❖ The employee members and/or the employer members of the Council may convene in closed session at any time during the meeting to deliberate any matter for potential action and/or items posted in this agenda, pursuant to sec. 19.85(1)(ee), Stats. The employee members and/or the employer members of the Council may thereafter reconvene again in open session after completion of the closed session.
- ❖ This location is handicap accessible.
- ❖ If you have a disability and need assistance (such as an interpreter or information in an alternate format), please contact Robin Gallagher, Unemployment Insurance Division, at 608-267-1405 or dial 7-1-1 for Wisconsin Relay Service.

UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Meeting Minutes

Offices of the State of Wisconsin Department of Workforce Development
201 E. Washington Avenue, GEF 1, Room F305
Madison, WI

June 12, 2017

The meeting was preceded by public notice as required under Wis. Stat. § 19.84.

Members Present: Janell Knutson (Chair), Scott Manley, Ed Lump, Mike Gotzler, John Mielke, Earl Gustafson, Michael Crivello, Sally Feistel, Terry Hayden, and Mark Reihl.

Department Staff Present: Joe Handrick, Ben Peirce, Andy Rubsam, Lili Crane, Andrew Evenson, Patrick Lonergan, Tom McHugh, Mary Jan Rosenak, Pam James, Janet Sausen, Robert Usarek, Jill Moksouphanh, Amy Banicki, Emily Savard, Karen Schultz, and Robin Gallagher

Members of the Public Present: Maria Gonzalez Knavel (Labor Industry Review Commission (LIRC), General Counsel) Mike Duchek (Legislative Reference Bureau), Victor Forberger (Wisconsin UI Clinic), Chris Reader (Wisconsin Manufacturers & Commerce), and Bryan Kirschbaum (Department of Administration (DOA), State Budget Office)

1. Call to Order and Introductions

Ms. Knutson called the Unemployment Insurance Advisory Council (Council) meeting to order at 9:35 a.m. under Wisconsin's Open Meeting law. Council members introduced themselves and Ms. Knutson recognized Mike Duchek of the Legislative Reference Bureau, Bryan Kirschbaum of DOA and Maria Gonzalez of LIRC.

2. Approval of Minutes of the May 23, 2017 Council Meeting

Motion by Mr. Manley, second by Mr. Gotzler to approve the May 23, 2017 meeting minutes with a minor typographical correction. The motion carried unanimously and the minutes were approved as corrected.

3. Report on the Unemployment Insurance Reserve Fund

Ms. Knutson provided an update on the unemployment insurance (UI) reserve fund. During the last Agreed Bill cycle, the department set aside \$2 million in the balancing account for accounting purposes in order to credit reimbursable employer charges due to identity theft. By statute, the department is required to report the total charges for identity theft to reimbursable accounts and the amount remaining to the Council on an annual basis. The department is pleased to report there have been no charges to date and interest earned on the funds set aside totaled

approximately \$22,000. The interest rate on the Trust Fund for the first quarter of 2017 was 2.26%.

Year-to-date regular UI payments through June 3, 2017 decreased 8.9% (approximately \$23.6 million) compared to the same period in 2016.

Year-to-date tax receipts through June 3, 2017 totaled \$412.5 million, a decrease of 17.8% (\$89.5 million) when compared to the same period in 2016. The decline is attributed to the lower tax rate schedule and the movement of employers to lower tax rates due to their improved experience rating.

Ms. Knutson stated unless a significant event occurs before June 30 that would impact the Trust Fund, the balance of the Trust Fund will trigger a change from Tax Schedule C to Tax Schedule D for 2018.

Mr. Handrick indicated the Bureau of Benefits and Bureau of Management and Information Services work hard to apply data analytics to stop identity thieves before they are able to collect benefits. The result of zero charges to the account is a real compliment to the team.

4. Department Update

Ms. Knutson stated there is no department update to provide at today's meeting.

5. Update on Court Cases

Ms. Knutson stated the department has not yet received a response from the Supreme Court to the department's petition for review in the *DWD v. LIRC, Valarie Beres & Mequon Jewish Campus, Inc.* case.

6. Update on Legislation

Budget Bill (SB30/AB64)

Ms. Knutson reported there are no updates to report at this time on the budget bill.

Mobility Grant Study (AB243)

Ms. Knutson stated the Senate has taken no action on the mobility grant study.

Work Search Waiver (SB83/AB131)

Ms. Knutson stated the Legislature has taken no action on the work search waiver bills.

7. Department Proposals for Agreed Bill Pending Action

Ms. Knutson requested the Council consider and approve the remaining two department proposals:

- D17-03 - Assessment for Failure to Produce Records; and,
- D17-06 - Standard of Proof in Unemployment Insurance Law Cases.

8. Labor and Management Proposals for Agreed Bill Pending Action

Mr. Rubsam reported that the Trust Fund impact under proposal L17-03 (increase the taxable wage base to \$16,500 in 2019 and index in future years) would result in an average increase of \$120 million annually in additional tax revenue assuming current economic growth with low benefit charges. The average increase during a mild recession is anticipated to be \$115 million annually.

It is anticipated that the Trust Fund impact under proposal M17-03 (reduce maximum number of benefit weeks based on the unemployment rate) would result in an annual savings of \$26.7 million. The calculated savings assumes current economic growth and low benefit charges. Additional assumptions are that a reduction in benefit weeks to 22 weeks when the unemployment rate is below 7% and 18 weeks when the benefit rate is below 5%. The department has not yet completed the fiscal impact during a mild recession.

Mr. Rubsam stated for proposal M17-04 (amend definitions of misconduct and substantial fault) it may be difficult to estimate the fiscal impact due to the results being based on factually specific scenarios. Ms. Knutson added that it is the department's understanding that M17-04 is a reaction to the recent court cases (*Beres and Operton*) and to determine the impact the department would need to perform a case sampling to analyze if the outcome of the case would be different.

Mr. Gotzler questioned how the department determined the estimated impact to the Trust Fund under L17-03. Mr. Usarek responded the department used the economic impacts of wage and employment growth from the Congressional Budget Office (CBO) for the U.S., which shows fairly slow growth for both wage and employment. The department applied that information to Wisconsin and assumed the same benefit payment path the state has experienced the last few years with low benefit charges moving forward. The annual impact is greater the first few years, and then the difference is reduced over time. The \$120 million estimate is based on the average increase between 2019 and 2025.

Mr. Manley asked what indexing factor was used for the proposal. Mr. Usarek responded that in 2019 it is expected to be 36% of the average annual covered wage of \$16,500, so it was indexed at 36% going forward.

Mr. Gustafson recalled in previous agreed bill analysis packages when looking at the taxable wage base, there was an estimate for a generic employer if their conditions stayed the same. Mr.

Gustafson asked, how long it would take to adjust to the higher wage base and have the employer rates return to current rate level?

Mr. Usarek stated that this impact did not look at that information; however, under Schedule D, there is not as great of an increase in some brackets as seen in higher schedules. Employers are paying less in taxes, which results in a longer length of time for the reserve ratio to improve. Because the proposal would not be implemented until 2019, there is a lot forecasting that makes it difficult to break down into individual employer groups.

9. Timeline of Agreed Bill/Future Meeting Dates

Ms. Knutson stated the next Council meeting is scheduled June 28 to continue deliberations on the proposals. It is anticipated that LRB will have a draft of the agreed upon proposals ready for Council review. The department recommends that the Agreed Bill be introduced by the Legislature by mid-August to move the bill through the standing committees in August. The bill could then be scheduled for committee hearings and possible vote during the September floor session. If the Agreed Bill is passed during the fall session, the effective date for most provisions would ideally be January 1, 2018 or the first Sunday in January 2018.

10. Motion to Caucus

Motion by Mr. Gotzler, second by Mr. Reihl, to recess and go into closed session under Wis. Stat. § 19.85(1)(ee), to deliberate agenda items at 9:53 a.m. All Council members voted "Aye" and the motion carried unanimously.

11. Report out of Caucus

The Council reconvened at 3:45 p.m. Mr. Reihl reported that the Council is continuing to discuss proposals and there is no new action at this time.

12. Adjourn

The Council adjourned at 3:46 p.m.

To: Unemployment Insurance Advisory Council

From: Andy Rubsam

CC: Janell Knutson, Chair

Date: June 28, 2017

Re: Proposal to exclude services by firefighters and EMTs or temporary municipal employees

The Village of Weston proposes two alternative changes to the unemployment insurance law. First, to exclude the services of “volunteer” or paid on-call firefighters and emergency medical technicians (“EMTs”) who work for municipalities. Second, to exclude the services of temporary or seasonal employees who work fewer than 90 days annually for municipalities. For the reasons in this memo, the Department’s opinion is that each of these proposed exclusions would cause Wisconsin’s law to fail to conform to federal unemployment law requirements.

Federal unemployment law (“FUTA”) requires state law to cover the services performed for employees of local government units unless federal law specifically excludes the services.¹ But, the Department is unaware of a FUTA exclusion for municipal firefighters, EMTs, or temporary workers.² So, excluding such services for government units would cause Wisconsin’s law to fail to conform to federal requirements.

If Wisconsin's law fails to conform to federal requirements, the federal government will withhold payment of the administrative grant that funds Wisconsin's unemployment program.³ And, Wisconsin employers will no longer receive federal unemployment tax credits, which will result in Wisconsin employers paying the full federal unemployment tax.⁴

The Department recommends that the proposed exclusions not be added to Wisconsin’s law. The Department recommends that any changes to the unemployment insurance law be sent to the US Department of Labor for conformity review.

¹ 26 USC §§ 3304(a)(6)(A) and 3309(a)(1).

² The permitted federal exclusions for government units are found in 26 USC § 3306(c)(7) and (8).

³ 20 CFR § 604.6.

⁴ 26 USC §§ 3302(b) and 3303(b).

September 28, 2015

Assemblyman John Spiros

Senator Jerry Petrowski

Re: Request for Legislation Eliminating Unemployment Compensation Liability for Volunteer or Paid on Call Firefighters and EMTs.

Dear Mr. Spiros and Mr. Petrowski:

The Village is interested in changing Wisconsin Law to eliminate unemployment compensation liability for fire departments who employ volunteer or paid on call firefighters and EMTs. Currently, income paid to a volunteer paid on call firefighter/EMT, creates an unemployment compensation liability on the part of the fire department because of "proportional charging." The Village believes it is better public policy for the full time employer of the volunteer or paid on call firefighter/EMT to be responsible for this unemployment compensation liability.

PROPORTIONAL CHARGING

When a paid on call or volunteer firefighter/EMT loses his regular employment, he/she becomes eligible for unemployment compensation. The Department of Workforce Development calculates liability for benefits based on base period wages. The base period wages are the wages earned during the previous 18 months. If there is more than one employer who paid the claimant wages during the 18 month base period, liability for unemployment compensation benefits is proportional based on each employer's percentage of the total base period wages. For example, if the employee was employed by SAFER as a paid on call firefighter during the 18 month base period, and was employed by Greenheck Fan Corporation before being laid off, the department of workforce development calculates the wages paid by SAFER and the wages paid by Greenheck Fan Corp. during the base period and each former employer is responsible for its proportionate share of the unemployment compensation benefits payable to the claimant. If SAFER paid base period wages of \$5,000 and Greenheck Fan Corp. paid base period wages of \$20,000, SAFER is responsible for 20% and Greenheck Fan Corp. is responsible for 80% of the benefit payment.

Even if the paid on call firefighter continues to work for SAFER after being laid off by his/her full time employer, SAFER is still liable under proportional charging unless each week the paid on call firefighter receives remuneration from SAFER equal to at least 6.4% of the wages paid by SAFER during the same quarter of the prior calendar year.

Since volunteer and paid on call firefighter/EMT positions are not intended to provide full time employment, the Village believes it is better public policy to exclude unemployment compensation liability for such positions. Rather, the full time employer who laid them off should be responsible.

CURRENT LAW

Wis. Stat. § 108.02(15)(f) states as follows:

(f) "Employment" as applied to work for a government unit or Indian tribe, except as such unit or tribe duly elects or otherwise with the Department's approval, does not include service:

1. As an official elected by vote of the public;
2. As an official appointed to full part or all of the unexpired term of a vacant position normally otherwise filled by vote of the public;
3. As a member of a legislative body or the judiciary of a state or political subdivision, or as a member of an elective legislative body or the judiciary of an Indian tribe;
4. As a member of the Wisconsin national guard in a military capacity;
5. As an employee serving solely on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; or
6. In a position which, under or pursuant to the laws of this state, or of an Indian tribe, is designated as a major nontenured policymaking or advisory position, or is designated as a policymaking or advisory position the performance of the duties of which does not ordinarily require more than 8 hours per week

PROPOSED LEGISLATION

Amend Wis. Stat. § 108.02(15)(f) as follows:

(f) "Employment" as applied to work for a government unit or Indian tribe, except as such unit or tribe duly elects otherwise with the Department's approval, does not include service:

7. As a volunteer or paid on call firefighter or EMT.

Very truly,

Matthew E. Yde
Strasser & Yde, S.C.

MEY:jmz

Strasser & Yde, S.C.
(E-mail & Facsimile letterhead)

CONFIDENTIAL
ATTORNEY CLIENT PRIVILEGE

February 5, 2015

Daniel Guild, Administrator
Village of Weston
Via e-mail only (dguild@westonwi.gov)

Re: Unemployment Compensation Legislation

Dear Daniel:

You asked me to address potential legislative changes to ease the burden on municipalities when it comes to paying unemployment compensation benefits to former temporary and seasonal employees. You also asked me to analyze the paid on call firefighter model as it relates to unemployment compensation. You indicated that the paid on call model was intended for new firefighters to gain experience until they find full-time employment as a firefighter. Paid on call firefighters are eligible for unemployment compensation when they are laid off from their full time non-firefighting job. Current law provides that any money received for volunteering as a paid on call firefighter does not reduce the amount of unemployment compensation benefits. As a result, some paid on call firefighters are comfortable taking full advantage of the system by accepting unemployment compensation for one year while continuing to receive money as a paid on call firefighter.

PROPORTIONAL CHARGING

In order to understand employer responsibility for unemployment compensation benefits, we must begin with discussing "proportional charging." When a former employee becomes eligible for unemployment compensation, the Department of Workforce Development calculates the former employee's wages during the employee's base period. The base period wages are the wages earned by the former employee during the previous 18 months. If there is more than one employer who paid the claimant wages during the 18 month base period, liability for unemployment compensation benefits is proportional based on each former employer's percentage of the total base period wages. For example, if the employee was employed by the Village of Weston as a temporary or seasonal employee during the 18 month base period, and was employed by Greenheck Fan Corporation before being laid off, the Department of Workforce Development calculates the wages paid by the Village and the wages paid by Greenheck Fan Corp. during the base period and each former employer is responsible for its proportionate share of the unemployment compensation benefits payable to the claimant. If Weston paid base period wages of \$5,000 and Greenheck Fan Corp. paid base period wages of \$20,000, the Village is responsible for 20% and Greenheck Fan Corp. is responsible for 80% of the benefit payment.

Because all employers who pay wages during the base period pay a portion of the claimant's unemployment benefit, the Village could be responsible for payment of unemployment compensation benefits even if the claimant voluntarily quits his position with the Village for

Daniel Guild
February 5, 2015
Page 2 of 3

another position and then is either laid off or terminated by his next employer.

There are several situations where employers are relieved of charges against their unemployment compensation fund balance. If the Village paid less than 5% of the covered base period wages for a claim, the Village would usually not be liable for any portion of the benefits paid. However, if the liable base period employers include either an out-of-state employer, federal civilian employer, or federal military service, this provision is not applicable. There are other special provisions and eligibility issues that may relieve the Village of charges, such as if the claimant quits and refuses work or if you re-employ the claimant.

Currently, there are many positions in public employment that are not covered by unemployment compensation. These positions include elected officials, officials appointed to fill part or all of the unexpired term of a vacant position normally filled by election, employees serving solely on a temporary basis to handle emergencies and natural disasters, service by a full-time student in a work-experience program in conjunction with coursework, and service by an individual participating in the AmeriCorps program.

On the private employment side (not available for public employment), there is an exception for seasonal employers. Unemployment compensation benefits do not apply to a seasonal employer in a seasonal tourism, agricultural, or commercial fishing or hunting industry provided the employer satisfies certain requirements. Wis. Stat. § 108.02 (15)(k)19 provides as follows:

(k) "Employment" as applied to work for a given employer other than a government unit or non-profit organization, except as the employer elects otherwise with the department's approval, does not include service:

19. Performed by an individual for a seasonal employer if the individual received written notice from the seasonal employer prior to performing any service for the employer that the service is potentially excludable under this subdivision unless:

- a. The individual is employed by the seasonal employer for a period of 90 days or more, whether or not service is actually performed on each such day, during any season, as determined under s. 108.066, that includes any portion of the individual's base period; or
- b. The individual has been paid or is treated as having been paid wages or other remuneration of \$500 or more during his base period for services performed for at least one employer other than the seasonal employer that is subject to the unemployment insurance law of any state or the federal government.

PROPOSED LEGISLATION

The legislators could introduce an amendment to Wis. Stat. § 108.02(15)(f) as follows:

Daniel Guild
February 5, 2015
Page 3 of 3

(f) "Employment" as applied to work for a government unit or Indian tribe, except as such unit or tribe duly elects otherwise with the department's approval, does not include service:

7. In a temporary or seasonal position if the employee receives written notice that the position is ineligible for unemployment compensation benefits and the temporary or seasonal employee does not work for the employer for longer than a 90 day period in a calendar year.

Very truly,

Matthew E. Yde
Strasser & Yde, S.C.

MEY:jmz

Gallagher, Robin - DWD

From: Knutson, Janell - DWD
Sent: Tuesday, June 27, 2017 2:22 PM
To: Witynski, Curt
Cc: Rubsam, Andrew J - DWD; Gallagher, Robin - DWD
Subject: FW: Village of Weston's Proposed Changes to Unemployment Compensation Law

Mr. Witynski,

Thank you for your correspondence regarding the proposed exclusion for certain firefighter and EMT employees of municipalities. Your correspondence has been added to the UIAC's June 28, 2017 meeting agenda. The department typically analyzes law change proposals and provides its analysis to the Council at the meetings. The analysis will include an explanation of the proposal and any state or federal law issues with the proposal.

State unemployment insurance laws must comply with certain federal requirements (i.e., conform to federal law) in order for states to receive federal funding to administer their UI programs and for the state's employers to receive federal tax credits for state UI taxes paid. In our opinion, the addition of either of the exclusions that you propose would likely cause Wisconsin's law to fail to conform to federal unemployment law requirements.

The Council's meetings are open to the public and you are welcome to attend.

Sincerely,

Janell Knutson
Chair of the Unemployment Insurance Advisory Council
Director, Bureau of Legal Affairs
DWD Unemployment Insurance Division

From: Curt Witynski [<mailto:witynski@lwm-info.org>]
Sent: Friday, June 23, 2017 9:47 AM
To: Rubsam, Andrew J - DWD
Subject: Village of Weston's Proposed Changes to Unemployment Compensation Law

Andrew: Thanks for talking with me this morning and explaining the role and function of the Council on Unemployment Insurance. I've attached two changes to state law that the Village of Weston is recommending. The first would exempt volunteer or paid on call fire fighters and EMTs from the definition of "employment" under sec. 108.02(15)(f). The second would similarly exempt from the definition of "employment" temporary or seasonal employees that work no longer than a 90 day period annually for municipal governments.

Please let me know if these ideas as presented in the attached memos can be presented to the Council for its consideration as part of the agreed upon legislative package being considered next week. Thanks.

Best Regards,

Curt

Curt Witynski, J.D.
Assistant Director
League of Wisconsin Municipalities
(608) 267-3294
www.Lwm-info.org

From: copier@lwm-info.org [<mailto:copier@lwm-info.org>]

Sent: Friday, June 23, 2017 9:29 AM

To: Curt Witynski <witynski@lwm-info.org>

Subject: Attached Image

UIAC Proposal Tracking - 2017

No.	Department Proposal Title/Description	Presented to UIAC	Action
D17-01	Assessment for Employers that Fail to Comply with Adjudication Request	1-19-17 2-16-17 Revised	Dept. Withdrawal 5-11-17
D17-02	Fiscal Agent Joint and Several Liability	1-19-17	Approved 4-20-17
D17-03	Assessment for Failure to Produce Records	1-19-17	
D17-04	Ineligibility for Concealment of Holiday, Vacation, Termination, or Sick Pay	1-19-17	Approved 4-20-17
D17-05	Ineligibility for Failure to Provide Information	1-19-17	Approved 4-20-17
D17-06	Standard of Proof in Unemployment Insurance Law Cases	1-19-17 2-16-17 Fiscal	
D17-07	Revision of Collections Statutes	1-19-17 5-23-17 Revised	Approved 5-23-17 with chg. 10 day to 15 day
D17-08	Various Minor and Technical Changes	1-19-17 2-16-17 Fiscal 3-16-17 Revised	Approved 5-23-17
D17-09	Various Administrative Rule Changes	1-19-17	Approved 3-16-17
D17-10	Amendments to Drug Testing Statutes	3-16-17 4-20-17 Revised	Approved 4-20-17

No.	Management Proposal Title/Description	Presented to UIAC	Action
M17-01	Repeal the Quit Exception in Wis. Stat. § 108.04(17)(e)	5-11-17	
M17-02	State and Federal Holidays are not Working Days for Partial Benefits if the Employer is Closed	5-11-17	
M17-03	Reduce the Maximum Number of Benefit Weeks Based on the Unemployment Rate: 22 Weeks when the Unemployment Rate is below 7%; 18 Weeks when the Unemployment Rate is below 5%	5-11-17	
M17-04	Amend Definitions of Misconduct and Substantial Fault	5-11-17	

No.	Labor Proposal Title/Description	Presented to UIAC	Action
L17-01	Increase the Maximum Weekly Benefit by \$10 in 2018 and by \$10 in 2019	5-11-17	
L17-02	Adjust the Trigger to Schedule D to \$1.8 Billion	5-11-17	
L17-03	Increase the Taxable Wage Base to \$16,500 in 2019 and Index in Future	5-11-17	



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3233/P2
MED:ahe

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 108.22 (8) (b) 1. b. to d., 108.22 (8) (b) 2., 108.22 (8) (b) 3. and
2 108.22 (8) (bh); *to renumber* 108.133 (1) (a); *to renumber and amend* 108.22
3 (3); *to consolidate, renumber and amend* 108.22 (8) (b) 1. (intro.) and a.; *to*
4 **amend** 20.445 (1) (aL), 20.445 (1) (u), 20.445 (1) (v), 108.02 (13) (i), 108.04 (1)
5 (hm), 108.04 (2) (bm), 108.04 (2) (g) 2., 108.04 (7) (e), 108.04 (13) (c), 108.04 (13)
6 (e), 108.04 (16) (a) 4., 108.04 (17) (e), 108.05 (3) (d), 108.05 (10) (b), 108.062 (2)
7 (m), 108.062 (6) (a), 108.062 (10), 108.09 (4) (d) 2., 108.09 (4) (e) 2., 108.09 (9)
8 (c), 108.095 (8), 108.10 (1), 108.10 (5), 108.133 (2) (intro.), 108.133 (2) (a) 1.,
9 108.133 (2) (a) 2., 108.133 (2) (a) 3., 108.133 (2) (a) 4., 108.133 (2) (a) 5., 108.133
10 (2) (b), 108.133 (3) (a) to (e), 108.15 (3) (a), 108.15 (5) (b), 108.151 (5) (f), 108.155
11 (4) (intro.), 108.16 (2) (e), 108.16 (2) (em), 108.19 (1m), 108.21 (2), 108.22 (1m),
12 108.22 (1r), 108.22 (2), 108.22 (4), 108.22 (5), 108.22 (9), 108.223 (1) (br),
13 108.225 (1) (b), 108.225 (4) (b) and 815.29 (1); and *to create* 108.04 (1) (hr),
14 108.133 (1) (ag), 108.133 (4) (c), 108.16 (6) (p), 108.19 (1s) (a) 5., 108.19 (1s) (a)
15 6., 108.22 (1t), 108.22 (2) (c), 108.22 (3) (b), 108.22 (8) (d), 108.22 (10) and 108.22

- 1 (11) of the statutes; **relating to:** various changes to the unemployment
2 insurance law and making an appropriation.
-

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance law, which is administered by the Department of Workforce Development. Significant changes include all of the following:

Revisions to collections provisions

Current law provides for a number of methods that DWD may use to collect UI-related debt, such as delinquent contributions and benefit overpayments. The particular methods that are available depend on the type of debt that is owed. The bill makes a number of changes to a number of these provisions regarding the collection of UI-related debt, including all of the following:

1. The bill provides for an unrecorded lien against any person who owes DWD a debt under the UI law. Currently, such liens are only imposed against employers. The bill provides that such a lien is effective upon the earlier of the date on which the amount is first due or the date on which DWD issues a determination of the amount owed. The bill provides that any such lien is recorded when DWD issues a warrant for the debt.

2. Current law allows DWD, in certain circumstances, to hold an individual who is an officer, employee, member, manager, partner, or other responsible person holding at least 20 percent of the ownership interest of a corporation, limited liability company, or other business association personally liable for UI contributions and certain other amounts. This bill deletes the 20 percent ownership requirement.

3. The bill allows DWD to set off any amounts against state tax refund overpayments. Currently, DWD may only set claimants' benefit overpayments off against state tax refund overpayments.

4. The bill allows DWD to assess a third party who fails to surrender property that DWD attempts to collect through levy a penalty in the amount of 50 percent of the debt owed by the debtor. The bill provides for such assessments to be deposited in the unemployment program integrity fund. Current law instead provides that the third party is subject to proceedings to enforce the levy and is liable to the department for up to 25 percent of the debt.

5. Under current law, DWD may issue a warrant directed to an employee or other agent of DWD. In the execution of such a warrant, the employee or agent has all the powers conferred by law upon a sheriff. The bill allows DWD, when executing such a warrant, to conduct an execution sale of property in any county of this state and to sell the property in any manner that will bring the highest net bid or price, including an Internet-based auction or sale.

Fiscal agents; joint and several liability

Under current law, a person receiving certain support services may be provided the services of a fiscal agent. The fiscal agent is responsible for complying with the person's duties as an employer under the UI law. This bill provides that a private

agency that serves as a fiscal agent or that contracts with a fiscal intermediary to serve as a fiscal agent may be found jointly and severally liable for amounts owed by the person receiving the support services if certain conditions are met.

Requests for information regarding benefit eligibility

Under current law, DWD may require any claimant to answer questions relating to the claimant's eligibility for benefits. A claimant is ineligible to receive benefits for any week in which the claimant fails to comply with a request by DWD to provide the information until the claimant complies with the request. If a claimant later complies with such a request, the claimant is eligible to receive benefits as of the week in which the failure to provide information occurred, if otherwise qualified.

The bill modifies this provision so that a claimant who fails to comply with such a request is ineligible beginning with the week with respect to which the department questions the claimant's eligibility, instead of the week in which the failure occurs. If a claimant later complies with such a request, the claimant is eligible to receive benefits as of the week with respect to which the department questions the claimant's eligibility, if otherwise qualified.

Ineligibility for benefits for concealment of certain payments

Current law provides that a claimant is totally ineligible for benefits, including any partial benefits for which the claimant would otherwise be eligible, for each week the claimant conceals wages or hours worked. This bill similarly provides that a claimant is totally ineligible for benefits for each week the claimant conceals various other types of payments, including holiday pay, vacation pay, termination pay, or sick pay.

Revisions to drug testing statutes

The bill includes a number of changes concerning the testing of UI claimants for the presence of controlled substances, including all of the following:

1. Providing employers who submit information to DWD about individuals who fail or refuse to take drug tests civil immunity for acts or omissions with respect to such submissions.
2. Allowing money appropriated for drug testing and related expenses to be transferred to the unemployment program integrity fund to be used for DWD program integrity activities.
3. Additional changes and clarifications regarding confidentiality of claimants' information related to drug testing.

Minor and technical changes

The bill includes a number of minor and technical changes to the UI law, including all of the following:

1. Correcting cross-references, including updating references to federal law.
2. Certain changes regarding eligibility for benefits under the work-share benefits statute.
3. Updating references to benefit checks to account for electronic payments and updating references to mailing to account for electronic delivery.
4. Clarifications to the UI appeals process.

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:

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

2 20.445 (1) (aL) *Unemployment insurance administration; controlled*
3 *substances testing and substance abuse treatment.* Biennially, the amounts in the
4 schedule to ~~conduct~~ for conducting screenings of applicants, testing applicants for
5 controlled substances, ~~for~~ the provision of substance abuse treatment to applicants
6 and claimants, and ~~for~~ related expenses under s. 108.133. Notwithstanding s. 20.001
7 (3) (b), the unencumbered balance on June 30 of each odd-numbered year shall be
8 transferred to the unemployment program integrity fund.

9 **SECTION 2.** 20.445 (1) (u) of the statutes is amended to read:

10 20.445 (1) (u) *Unemployment interest payments and transfers.* From the
11 unemployment interest payment fund, ~~a sum sufficient to make~~ all moneys received
12 from assessments under s. 108.19 (1m) for the purpose of making the payments and
13 transfers authorized under s. 108.19 (1m).

14 **SECTION 3.** 20.445 (1) (v) of the statutes is amended to read:

15 20.445 (1) (v) *Unemployment program integrity.* From the unemployment
16 program integrity fund, ~~a sum sufficient to make~~ all moneys received from sources
17 identified under s. 108.19 (1s) (a) for the purpose of making the payments authorized
18 under s. 108.19 (1s) (b).

19 **SECTION 4.** 108.02 (13) (i) of the statutes is amended to read:

20 108.02 (13) (i) An “~~employer~~” employer shall cease to be subject to this chapter
21 only upon department action terminating coverage of such employer. The

1 department may terminate an “employer’s” employer’s coverage, on its own motion
2 or on application by the “employer” employer, by ~~mailing~~ issuing a notice of
3 termination to the “employer’s” ~~last-known address~~ employer. An employer’s
4 coverage may be terminated whenever the employer ceased to exist, transferred its
5 entire business, or would not otherwise be subject under any one or more of pars. (b)
6 to (g). If any employer of agricultural labor or domestic service work becomes subject
7 to this chapter under par. (c) or (d), with respect to such employment, and ~~such~~ the
8 employer is otherwise subject to this chapter with respect to other employment, the
9 employer shall continue to be covered with respect to agricultural labor or domestic
10 service, or both, while the employer is otherwise subject to this chapter, without
11 regard to the employment or wage requirements under par. (c) or (d). If a termination
12 of coverage is based on an employer’s application, it shall be effective as of the close
13 of the quarter in which the application was filed. Otherwise, it shall be effective as
14 of the date specified in the notice of termination.

****NOTE: I made some additional minor changes here. It didn’t seem necessary for certain uses of “employer” to be in quotes and others not, so I took out the quotes. (This is a provision that we would now typically place outside of a definition.)

15 **SECTION 5.** 108.04 (1) (hm) of the statutes is amended to read:

16 108.04 (1) (hm) The department may require any claimant to appear before it
17 and to answer truthfully, orally or in writing, any questions relating to the claimant’s
18 eligibility for benefits ~~or to provide such demographic information as may be~~
19 ~~necessary to permit the department to conduct a statistically valid sample audit of~~
20 ~~compliance with this chapter.~~ A claimant is ~~not eligible~~ ineligible to receive benefits
21 for any week ~~in~~ about which the claimant fails to comply with a request by the
22 department to provide the information required under this paragraph, ~~or any~~
23 ~~subsequent week,~~ and remains ineligible until the claimant complies with the

1 request. Except as provided in sub. (2) (e) and (f), if a claimant later complies with
2 a request by the department within the period specified in s. 108.09 (2) (c), the
3 claimant is eligible to receive benefits as of the week in which the failure occurred
4 about which the department questions the claimant's eligibility, if otherwise
5 qualified.

6 **SECTION 6.** 108.04 (1) (hr) of the statutes is created to read:

7 108.04 (1) (hr) The department may require any claimant to appear before it
8 and to provide, orally or in writing, demographic information that is necessary to
9 permit the department to conduct a statistically valid sample audit of compliance
10 with this chapter. A claimant is ineligible to receive benefits for any week in which
11 the claimant fails to comply with a request by the department to provide the
12 information required under this paragraph and remains ineligible until the claimant
13 complies with the request. If a claimant later complies with a request by the
14 department within the period specified in s. 108.09 (2) (c), the claimant is eligible to
15 receive benefits as of the week in which the failure occurred, if otherwise qualified.

****NOTE: I created this as a separate provision because the changes in par. (hm)
didn't seem to fit with respect to requests for demographic information.

16 **SECTION 7.** 108.04 (2) (bm) of the statutes is amended to read:

17 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
18 which there is a determination that the claimant failed to conduct a reasonable
19 search for suitable work and the department has not waived the search requirement
20 under par. (b) or s. 108.062 (10m). If the department has paid benefits to a claimant
21 for any such week, the department may recover the overpayment under s. 108.22 (8).

****NOTE: I added this because recovery of overpayments will now be dealt with
under s. 108.22 generally, and not specifically under s. 108.22 (8).

22 **SECTION 8.** 108.04 (2) (g) 2. of the statutes is amended to read:

1 108.04 (2) (g) 2. If a claimant's security credentials are used in the filing of an
2 initial or continued claim for benefits or any other transaction, the individual using
3 the security credentials is presumed to have been the claimant or the claimant's
4 authorized agent. This presumption may be rebutted by a preponderance of evidence
5 showing that the claimant who created the security credentials or the claimant's
6 authorized agent was not the person who used the credentials in a given transaction.
7 If a claimant uses an agent to engage in any transaction with the department using
8 the claimant's security credentials, the claimant is responsible for the actions of the
9 agent. If a claimant who created security credentials or the claimant's authorized
10 agent divulges the credentials to another person, or fails to take adequate measures
11 to protect the credentials from being divulged to an unauthorized person, and the
12 department pays benefits to an unauthorized person because of the claimant's action
13 or inaction, the department may recover from the claimant the benefits that were
14 paid to the unauthorized person in the same manner as provided for overpayments
15 to claimants under s. 108.22 (8) or under s. 108.245. If a claimant who created
16 security credentials or the claimant's authorized agent divulges the credentials to
17 another person, or fails to take adequate measures to protect the credentials from
18 being divulged to an unauthorized person, the department is not obligated to pursue
19 recovery of, or to reimburse the claimant for, benefits payable to the claimant that
20 were erroneously paid to another person.

****NOTE: I added this because recovery of overpayments will now be dealt with
under s. 108.22 generally, and not specifically under s. 108.22 (8).

21 **SECTION 9.** 108.04 (7) (e) of the statutes is amended to read:

22 108.04 (7) (e) Paragraph (a) does not apply if the department determines that
23 the employee accepted work which the employee could have failed to accept under

1 sub. (8) and terminated such work on the same grounds and within the first 30
2 calendar days after starting the work, or that the employee accepted work which the
3 employee could have refused under sub. (9) and terminated such work within the
4 first 30 calendar days after starting the work. For purposes of this paragraph, an
5 employee has the same grounds for voluntarily terminating work if the employee
6 could have failed to accept the work under sub. (8) (d) to (em) when it was offered,
7 regardless of the reason articulated by the employee for the termination.

8 **SECTION 10.** 108.04 (13) (c) of the statutes is amended to read:

9 108.04 (13) (c) If an employer, after notice of a benefit claim, fails to file an
10 objection to the claim under s. 108.09 (1), any benefits allowable under any resulting
11 benefit computation shall, unless the department applies a provision of this chapter
12 to disqualify the claimant, be promptly paid. Except as otherwise provided in this
13 paragraph, any eligibility question in objection to the claim raised by the employer
14 after benefit payments to the claimant are commenced does not affect benefits paid
15 ~~prior to~~ before the end of the week in which a determination is issued as to the
16 eligibility question unless the benefits are erroneously paid without fault on the part
17 of the employer. Except as otherwise provided in this paragraph, if an employer fails
18 to provide correct and complete information requested by the department during a
19 fact-finding investigation, but later provides the requested information, benefits
20 ~~paid prior to~~ before the end of the week in which a redetermination is issued
21 regarding the matter or, if no redetermination is issued, ~~prior to~~ before the end of the
22 week in which an appeal tribunal decision is issued regarding the matter, are not
23 affected by the redetermination or decision, unless the benefits are erroneously paid
24 without fault on the part of the employer as provided in par. (f). If benefits are
25 erroneously paid because the employer and the employee are at fault, the

1 department shall charge the employer for the benefits and proceed to create an
2 overpayment under s. 108.22 (8) (a). If benefits are erroneously paid without fault
3 on the part of the employer, regardless of whether the employee is at fault, the
4 department shall charge the benefits as provided in par. (d), unless par. (e) applies,
5 and proceed to create an overpayment under s. 108.22 (8) (a). If benefits are
6 erroneously paid because an employer is at fault and the department recovers the
7 benefits erroneously paid under s. 108.22 (8), the recovery does not affect benefit
8 charges made under this paragraph.

****NOTE: I added this because recovery of overpayments will now be dealt with
under s. 108.22 generally, and not specifically under s. 108.22 (8).

9 **SECTION 11.** 108.04 (13) (e) of the statutes is amended to read:

10 108.04 (13) (e) If the department erroneously pays benefits from one
11 employer's account and a 2nd employer is at fault, the department shall credit the
12 benefits paid to the first employer's account and charge the benefits paid to the 2nd
13 employer's account. Filing of a tardy or corrected report or objection does not affect
14 the 2nd employer's liability for benefits paid ~~prior to~~ before the end of the week in
15 which the department makes a recomputation of the benefits allowable or ~~prior to~~
16 before the end of the week in which the department issues a determination
17 concerning any eligibility question raised by the report or by the 2nd employer. If
18 the 2nd employer fails to provide correct and complete information requested by the
19 department during a fact-finding investigation, but later provides the requested
20 information, the department shall charge to the account of the 2nd employer the cost
21 of benefits paid ~~prior to~~ before the end of the week in which a redetermination is issued
22 regarding the matter or, if no redetermination is issued, ~~prior to~~ before the end of the
23 week in which an appeal tribunal decision is issued regarding the matter, unless the

1 benefits erroneously are paid without fault on the part of the employer as provided
2 in par. (f). If the department recovers the benefits erroneously paid under s. 108.22
3 (~~8~~), the recovery does not affect benefit charges made under this paragraph.

****NOTE: I added this because recovery of overpayments will now be dealt with
under s. 108.22 generally, and not specifically under s. 108.22 (8).

4 **SECTION 12.** 108.04 (16) (a) 4. of the statutes is amended to read:

5 108.04 (16) (a) 4. A plan for training approved under the federal ~~workforce~~
6 ~~investment act~~ Workforce Innovation and Opportunity Act, 29 USC 2822 3101 to
7 3361, or another federal law that enhances job skills.

8 **SECTION 13.** 108.04 (17) (e) of the statutes is amended to read:

9 108.04 (17) (e) A school year employee of a government unit, Indian tribe, or
10 nonprofit organization ~~which~~ that provides services to or on behalf of any educational
11 institution who performs services other than in an instructional, research, or
12 principal administrative capacity is ineligible for benefits based on such services for
13 any week of unemployment which occurs during a period between 2 successive
14 academic years or terms if the school year employee performed such services for any
15 such government unit, Indian tribe, or nonprofit organization in the first such year
16 or term and there is reasonable assurance that he or she will perform such services
17 for any such government unit, Indian tribe, or nonprofit organization in the 2nd such
18 year or term.

19 **SECTION 14.** 108.05 (3) (d) of the statutes is amended to read:

20 108.05 (3) (d) A claimant is ineligible to receive benefits for any week in which
21 the claimant conceals holiday pay, vacation pay, termination pay, or sick pay as
22 provided in s. 108.04 (11) (a) or wages or hours worked as provided in s. 108.04 (11)
23 (b).

1 **SECTION 15.** 108.05 (10) (b) of the statutes is amended to read:

2 108.05 **(10)** (b) Second, to recover overpayments under s. 108.22 (8) (b) 1.

3 **SECTION 16.** 108.062 (2) (m) of the statutes is amended to read:

4 108.062 **(2)** (m) Indicate whether the plan ~~will include~~ includes
5 employer-sponsored training to enhance job skills ~~sponsored by the employer~~ and
6 acknowledge that, ~~pursuant to federal law,~~ the employees in the work unit may
7 participate in training funded under the federal Workforce Investment Act of 1998
8 Innovation and Opportunity Act, 29 USC 3101 to 3361, or another federal law that
9 enhances job skills without affecting availability for work, subject to ~~the~~ department
10 approval ~~of the department.~~

11 **SECTION 17.** 108.062 (6) (a) of the statutes is amended to read:

12 108.062 **(6)** (a) Except as provided in par. (b), an employee who is included
13 under a work-share program and who qualifies to receive regular benefits for any
14 week during the effective period of the program shall receive a benefit payment for
15 each week that the employee is included under the program in an amount equal to
16 the employee's regular benefit amount under s. 108.05 (1) multiplied by the
17 employee's proportionate reduction in hours worked for that week as a result of the
18 work-share program. Such an employee shall receive benefits as calculated under
19 this paragraph and not as provided under s. 108.05 (3). For purposes of this
20 paragraph, the department shall treat amounts paid by the employer that sponsors
21 the plan for holiday pay, vacation pay, termination pay, and sick pay as hours worked.
22 In applying this paragraph, the department shall disregard discrepancies of less
23 than 15 minutes between hours reported by employees and employers.

24 **SECTION 18.** 108.062 (10) of the statutes is amended to read:

1 108.062 (10) AVAILABILITY FOR WORK. An employee who is ~~receiving~~ receives
2 benefits under sub. (6) (a) for any week need not be available for work in that week
3 other than for the normal hours of work that the employee worked for the employer
4 that creates the work-share program immediately before the week in which the
5 work-share program began and any additional hours in which the employee is
6 engaged in training to enhance job skills sponsored by the employer that creates the
7 plan or department-approved training funded under the federal Workforce
8 ~~Investment Act of 1998 that is approved by the department~~ Innovation and
9 Opportunity Act, 29 USC 3101 to 3361, or another federal law that enhances job
10 skills. Unless an employee receives holiday pay, vacation pay, termination pay, or
11 sick pay for missed work available under a work-share program, the department
12 shall treat the missed work that an employee would have worked in a given week as
13 hours actually worked by the employee for the purpose of calculating benefits under
14 sub. (6).

15 **SECTION 19.** 108.09 (4) (d) 2. of the statutes is amended to read:

16 108.09 (4) (d) 2. If the appellant submits to the appeal tribunal a written
17 explanation for failing to appear at the hearing that is received before a decision is
18 electronically delivered or mailed under subd. 1., an appeal tribunal shall review the
19 appellant's explanation. The appeal tribunal shall electronically deliver or mail to
20 the respondent a copy of the appellant's explanation. The respondent may, within
21 7 days after the appeal tribunal electronically delivers or mails the appellant's
22 explanation to the respondent, submit to the appeal tribunal a written response to
23 the appellant's explanation. If the appeal tribunal finds that the appellant's
24 explanation does not establish good cause for failing to appear, the appeal tribunal
25 shall issue a decision containing this finding and such dismissing the appeal. Such

1 a decision may be issued without a hearing. If the appeal tribunal finds that the
2 appellant's explanation establishes good cause for failing to appear, the appeal
3 tribunal shall issue a decision containing this finding, and such a decision may be
4 issued without a hearing. The same or another appeal tribunal established by the
5 department for this purpose shall then issue a decision under sub. (3) (b) after
6 conducting a hearing concerning any matter in the determination. If such a hearing
7 is held concerning any matter in the determination, the appeal tribunal shall only
8 consider testimony and other evidence admitted at that hearing in making a
9 decision.

10 **SECTION 20.** 108.09 (4) (e) 2. of the statutes is amended to read:

11 108.09 (4) (e) 2. If the respondent submits to the appeal tribunal a written
12 explanation for failing to appear at the hearing that is received before a decision
13 favorable to the respondent is electronically delivered or mailed under subd. 1., the
14 appeal tribunal shall acknowledge receipt of the explanation in its decision but shall
15 take no further action concerning the explanation at that time. If the respondent
16 submits to the appeal tribunal a written explanation for failing to appear that is
17 received before a decision unfavorable to the respondent is electronically delivered
18 or mailed under subd. 1., an appeal tribunal shall review the respondent's
19 explanation. The appeal tribunal shall electronically deliver or mail to the appellant
20 a copy of the respondent's explanation. The appellant may, within 7 days after the
21 appeal tribunal electronically delivers or mails the respondent's explanation to the
22 appellant, submit to the appeal tribunal a written response to the respondent's
23 explanation. If the appeal tribunal finds that the respondent's explanation does not
24 establish good cause for failing to appear, the appeal tribunal shall issue a decision
25 containing this finding, and such a decision may be issued without a hearing. The

1 same or another appeal tribunal established by the department for this purpose shall
2 also issue a decision based on the testimony and other evidence presented at the
3 hearing at which the respondent failed to appear. If the appeal tribunal finds that
4 the respondent's explanation establishes good cause for failing to appear, the appeal
5 tribunal shall issue a decision containing this finding, and such a decision may be
6 issued without a hearing. The same or another appeal tribunal established by the
7 department for this purpose shall then issue a decision under sub. (3) (b) after
8 conducting a hearing concerning any matter in the determination. If such a hearing
9 is held concerning any matter in the determination, the appeal tribunal shall only
10 consider testimony and other evidence admitted at that hearing in making a
11 decision.

12 **SECTION 21.** 108.09 (9) (c) of the statutes is amended to read:

13 108.09 (9) (c) If any determination or decision awarding benefits is finally
14 amended, modified, or reversed, any benefits paid to the claimant which would not
15 have been paid under such final determination or decision shall be deemed an
16 erroneous payment. Sections 108.04 (13) (c) and (d), 108.16 (3), and 108.22 (8) shall
17 apply to the charging and recovery of such erroneous payment.

****NOTE: I added this because recovery of overpayments will now be dealt with
under s. 108.22 generally, and not specifically under s. 108.22 (8).

18 **SECTION 22.** 108.095 (8) of the statutes is amended to read:

19 108.095 (8) The ~~mailing~~ issuance of determinations and decisions under this
20 section shall be first by electronic delivery or 1st class mail and may include the use
21 of services performed by the U.S. postal service requiring the payment of extra fees.

22 **SECTION 23.** 108.10 (1) of the statutes is amended to read:

1 108.10 (1) The department shall investigate the status, and the existence and
2 extent of liability of an employing unit, and may issue an initial determination
3 accordingly. The department may set aside or amend the determination at any time
4 ~~prior to~~ before a hearing on the determination on the basis of subsequent information
5 or to correct a mistake, including an error of law. The department shall electronically
6 deliver a copy of each determination to, or mail a copy of each determination to the
7 last-known address of, the employing unit affected thereby. The employing unit may
8 request a hearing as to any matter in that determination if the request is received
9 by the department or postmarked within 21 days after the mailing department
10 issues the initial determination and in accordance with ~~such procedure as~~
11 procedures prescribed by the department ~~prescribes~~ by rule.

 ***NOTE: I added changes to this provision to be consistent with other changes
regarding mailing.

12 **SECTION 24.** 108.10 (5) of the statutes is amended to read:

13 108.10 (5) The mailing issuance of determinations and decisions provided in
14 subs. (1) to (4) shall be ~~first~~ by electronic delivery or 1st class, mail and may include
15 the use of services performed by the U.S. postal department service requiring the
16 payment of extra fees.

17 **SECTION 25.** 108.133 (1) (a) of the statutes is renumbered 108.133 (1) (ar).

18 **SECTION 26.** 108.133 (1) (ag) of the statutes is created to read:

19 108.133 (1) (ag) “Applicant” means an individual who files an initial claim in
20 order to establish a benefit year under this chapter.

 ***NOTE: I changed the language here to clarify.

21 **SECTION 27.** 108.133 (2) (intro.) of the statutes is amended to read:

22 108.133 (2) DRUG TESTING PROGRAM. (intro.) The department shall establish a
23 program to test ~~claimants who apply for regular benefits under this chapter~~

1 applicants for the ~~presence~~ unlawful use of controlled substances in accordance with
2 this section and shall, under the program, do all of the following:

****NOTE: I changed other references to “test for the presence of controlled substances” to “test for the unlawful use of controlled substances” for consistency. OK?

3 **SECTION 28.** 108.133 (2) (a) 1. of the statutes is amended to read:

4 108.133 (2) (a) 1. Identify a process for testing ~~claimants~~ applicants for the
5 ~~presence~~ unlawful use of controlled substances. The department shall ensure that
6 the process adheres to any applicable federal requirements regarding drug testing.
7 The department shall pay the reasonable costs of controlled substances testing.

8 **SECTION 29.** 108.133 (2) (a) 2. of the statutes is amended to read:

9 108.133 (2) (a) 2. Identify the parameters for a substance abuse treatment
10 program for ~~claimants~~ applicants who engage in the unlawful use of controlled
11 substances and specify criteria that ~~a claimant~~ an applicant must satisfy in order
12 to be considered in full compliance with requirements of the substance abuse
13 treatment program. If the rules require that ~~a claimant~~ an applicant enrolled in the
14 substance abuse treatment program submit to additional tests for the ~~presence~~
15 unlawful use of controlled substances following the initial test conducted under sub.
16 (3) (c), the rules shall allow the ~~claimant~~ applicant to have at least one more positive
17 test result following the initial test without, on that basis, being considered not to be
18 in full compliance with the requirements of the substance abuse treatment program.

****NOTE: I changed “claimant” to “applicant” everywhere in this section, as I thought it would be confusing to switch back and forth.

19 **SECTION 30.** 108.133 (2) (a) 3. of the statutes is amended to read:

20 108.133 (2) (a) 3. Create a screening process for determining whether there is
21 a reasonable suspicion that ~~a claimant~~ an applicant has engaged in the unlawful use
22 of controlled substances.

1 **SECTION 31.** 108.133 (2) (a) 4. of the statutes is amended to read:

2 108.133 (2) (a) 4. Identify the parameters for a job skills assessment for
3 ~~claimants~~ applicants who engage in the unlawful use of controlled substances and
4 specify criteria that ~~a claimant~~ an applicant must satisfy in order to be considered
5 in full compliance with the requirements of the job skills assessment.

6 **SECTION 32.** 108.133 (2) (a) 5. of the statutes is amended to read:

7 108.133 (2) (a) 5. Identify a period of ineligibility that must elapse or a
8 requalification requirement that must be satisfied, or both, in order for ~~a claimant~~
9 an applicant to again qualify for benefits after becoming ineligible for benefits under
10 sub. (3) (a) or (c).

11 **SECTION 33.** 108.133 (2) (b) of the statutes is amended to read:

12 108.133 (2) (b) When ~~a claimant~~ an applicant applies for regular benefits under
13 this chapter, do all of the following:

14 1. Determine whether the ~~claimant~~ applicant is an individual for whom
15 suitable work is only available in an occupation that regularly conducts drug testing.

16 2. Determine whether the ~~claimant~~ applicant is an individual for whom
17 suitable work is only available in an occupation identified in the rules promulgated
18 under par. (am), unless the department has already determined that the applicant
19 is an individual for whom suitable work is only available in an occupation that
20 regularly conducts drug testing under subd. 1.

21 3. If the ~~claimant is determined by the department~~ determines under subd. 1.
22 ~~to be~~ that the applicant is an individual for whom suitable work is only available in
23 an occupation that regularly conducts drug testing, conduct a screening on the
24 ~~claimant~~ applicant.

1 4. If the ~~claimant is determined by the department~~ determines under subd. 2.
2 ~~to be~~ that the applicant is an individual for whom suitable work is only available in
3 an occupation identified in the rules promulgated under par. (am), conduct a
4 screening on the ~~claimant if a screening is not already required under subd. 3.~~
5 applicant.

 ***NOTE: I struck out the last part here, because subd. 3. would only have been triggered if subd. 1. was triggered, and if subd. 1. was triggered, subd. 2. would not be triggered due to the changes there. Another alternative would be to combine subds. 3. and 4.

6 5. If a screening conducted as required under subd. 3. or 4. indicates a
7 reasonable suspicion that the ~~claimant~~ applicant has engaged in the unlawful use
8 of controlled substances, require that the ~~claimant~~ applicant submit to a test for the
9 ~~presence~~ unlawful use of controlled substances.

10 **SECTION 34.** 108.133 (3) (a) to (e) of the statutes are amended to read:

11 108.133 (3) (a) If ~~a claimant~~ an applicant is required under sub. (2) (b) 5. to
12 submit to a test for the ~~presence~~ unlawful use of controlled substances and the
13 ~~claimant~~ applicant declines to submit to such a test, the ~~claimant~~ applicant is
14 ineligible for benefits under this chapter until the ~~claimant~~ applicant is again eligible
15 for benefits as provided in the rules promulgated under sub. (2) (a) 5.

16 (b) If ~~a claimant~~ an applicant who is required under sub. (2) (b) 5. to submit
17 to a test for the ~~presence~~ unlawful use of controlled substances submits to the test
18 and does not test positive for any controlled substance or the ~~claimant~~ applicant
19 presents evidence satisfactory to the department that the ~~claimant~~ applicant
20 possesses a valid prescription for each controlled substance for which the ~~claimant~~
21 applicant tests positive, the ~~claimant~~ applicant may receive benefits under this
22 chapter if otherwise eligible and may not be required to submit to any further test

1 for the presence unlawful use of controlled substances until a subsequent benefit
2 year.

3 (c) If ~~a claimant~~ an applicant who is required under sub. (2) (b) 5. to submit
4 to a test for the presence unlawful use of controlled substances submits to the test
5 and tests positive for one or more controlled substances without presenting evidence
6 satisfactory to the department that the ~~claimant~~ applicant possesses a valid
7 prescription for each controlled substance for which the ~~claimant~~ applicant tested
8 positive, the ~~claimant~~ applicant is ineligible for benefits under this chapter until the
9 ~~claimant~~ applicant is again eligible for benefits as provided in the rules promulgated
10 under sub. (2) (a) 5., except as provided in par. (d).

11 (d) ~~A claimant~~ An applicant who tests positive for one or more controlled
12 substances without presenting evidence of a valid prescription as described in par.
13 (c) may maintain his or her eligibility for benefits under this chapter by enrolling in
14 the substance abuse treatment program and undergoing a job skills assessment.
15 Such ~~a claimant~~ an applicant remains eligible for benefits under this chapter, if
16 otherwise eligible, for each week the ~~claimant is in full compliance~~ applicant fully
17 complies with any requirements of the substance abuse treatment program and job
18 skills assessment, as determined by the department in accordance with the rules
19 promulgated under sub. (2) (a) 2. and 4.

20 (e) All information relating to ~~a claimant's~~ an individual's declining to take a
21 test for the unlawful use of controlled substances, testing positive for the unlawful
22 use of controlled substances, prescription medications, medical records, and
23 enrollment and participation in the substance abuse treatment program under this
24 chapter shall, subject to and in accordance with any rules promulgated by the

1 department, be confidential and not subject to the right of inspection or copying
2 under s. 19.35 (1).

3 **SECTION 35.** 108.133 (4) (c) of the statutes is created to read:

4 108.133 (4) (c) Any employing unit that, in good faith, submits the results of
5 a positive test or notifies the department that an individual declined to submit to a
6 test under par. (a) is immune from civil liability for its acts or omissions with respect
7 to the submission of the positive test results or the notification to the department
8 that the individual declined to submit to the test.

9 **SECTION 36.** 108.15 (3) (a) of the statutes is amended to read:

10 108.15 (3) (a) ~~It The government unit shall file a written notice to that effect~~
11 ~~of election~~ with the department before the beginning of such ~~that~~ year ~~except that~~
12 ~~if the government unit became newly subject to this chapter as of the beginning of~~
13 ~~such year, it shall file the notice or~~ within 30 days after the date of mailing to it a
14 ~~written notification by the department that it~~ issues a determination that the
15 government unit is subject to this chapter. ~~Such, whichever is later. An election~~
16 under this subsection shall remain in effect for not less than 3 calendar years.

17 **SECTION 37.** 108.15 (5) (b) of the statutes is amended to read:

18 108.15 (5) (b) The department shall monthly bill each government unit for any
19 reimbursements required under this section, ~~and any reimbursement thus billed~~
20 ~~shall be due and shall be paid by such government unit within 20 days after the date~~
21 ~~such bill is mailed to it by the department, which shall be due within 20 days after~~
22 the date the department issues the bill.

***NOTE: I worded this slightly differently. OK?

23 **SECTION 38.** 108.151 (5) (f) of the statutes is amended to read:

1 108.151 (5) (f) Whenever an employer's reimbursement account has a negative
2 balance as of the close of any calendar month, the fund's treasurer shall promptly
3 issue a bill such to the employer, ~~at its last known address,~~ for that portion of its
4 negative balance which has resulted from the net benefits charged to ~~such the~~
5 account within ~~such that~~ month. Reimbursement payment shall be due within 20
6 days ~~thereafter~~ after the date the department issues the bill. Any required payment
7 ~~which that~~ remains unpaid after its applicable due date is a delinquent payment.
8 Section 108.22 shall apply for collecting delinquent payments.

 ***NOTE: I added these changes to be consistent with other changes regarding mailing.

9 **SECTION 39.** 108.155 (4) (intro.) of the statutes is amended to read:

10 108.155 (4) (intro.) The department shall bill assessments under this section
11 to a reimbursable employer ~~at its last known address~~ in the month of September of
12 each year, and the assessment shall be due to the department within 20 days after
13 ~~the date such bill is mailed by~~ the date the department issues the assessment. Any
14 assessment that remains unpaid after its applicable due date is a delinquent
15 payment. If a reimbursable employer is delinquent in paying an assessment under
16 this section, in addition to pursuing action under the provisions of ss. 108.22 and
17 108.225, the department may do any of the following:

 ***NOTE: I also struck out "at its last known address" as being inconsistent with mailing.

18 **SECTION 40.** 108.16 (2) (e) of the statutes is amended to read:

19 108.16 (2) (e) Except as provided in par. (em), benefits ~~to~~ shall be charged
20 against a given employer's account ~~shall be so charged~~ as of the date ~~shown by the~~
21 check that the department issues the payment covering such benefits. Each ~~such~~
22 ~~check~~ benefit payment shall be promptly mailed issued and shall, in determining the

1 experience or status of such ~~the~~ the account for contribution purposes, be deemed paid
2 on the date ~~shown on the check~~ the payment is issued.

3 **SECTION 41.** 108.16 (2) (em) of the statutes is amended to read:

4 108.16 (2) (em) Benefits improperly charged or credited to an employer's
5 account for any reason other than adjustment of payroll amounts between 2 or more
6 employers' accounts shall, when so identified, be credited to or debited from that
7 employer's account and, where appropriate, recharged to the correct employer's
8 account as of the date of correction. Benefits improperly charged or credited to an
9 employer's account as a result of adjustment of payroll amounts between 2 or more
10 employers' accounts shall be so charged or credited and, where appropriate,
11 recharged as of the date ~~shown by the check covering such benefits~~ on which the
12 department issues the benefit payment. This paragraph shall be used solely in
13 determining the experience or status of accounts for contribution purposes.

14 **SECTION 42.** 108.16 (6) (p) of the statutes is created to read:

15 108.16 (6) (p) Any amount transferred from the federal employment security
16 administration account under 42 USC 1101 (d) (1) (B).

****NOTE: To match the federal provision more closely, I said "transferred" here.

17 **SECTION 43.** 108.19 (1m) of the statutes is amended to read:

18 108.19 (1m) Each employer subject to this chapter as of the date a rate is
19 established under this subsection shall pay an assessment to the unemployment
20 interest payment fund at a rate established by the department sufficient to pay
21 interest due on advances from the federal unemployment account under Title XII of
22 the federal social security act (42 USC 1321 to 1324). The rate established by the
23 department for employers who finance benefits under s. 108.15 (2), 108.151 (2), or
24 108.152 (1) shall be 75 percent of the rate established for other employers. The

1 amount of any employer's assessment shall be the product of the rate established for
2 that employer multiplied by the employer's payroll of the previous calendar year as
3 taken from quarterly employment and wage reports filed by the employer under s.
4 108.205 (1) or, in the absence of the filing of such reports, estimates made by the
5 department. Each assessment made under this subsection is due ~~on the 30th day~~
6 ~~commencing~~ within 30 days after the date ~~on which notice of the assessment is~~
7 ~~mailed by the department~~ issues the assessment. If the amounts collected from
8 employers under this subsection ~~are in excess of~~ exceed the amounts needed to pay
9 interest due, the department shall use any excess to pay interest owed in subsequent
10 years on advances from the federal unemployment account. If the department
11 determines that additional interest obligations are unlikely, the department shall
12 transfer the excess to the balancing account of the fund, the unemployment program
13 integrity fund, or both in amounts determined by the department.

***NOTE: See my slight changes here. OK?

14 **SECTION 44.** 108.19 (1s) (a) 5. of the statutes is created to read:

15 108.19 (1s) (a) 5. Amounts transferred from the appropriation account under
16 s. 20.445 (1) (aL).

17 **SECTION 45.** 108.19 (1s) (a) 6. of the statutes is created to read:

18 108.19 (1s) (a) 6. Assessments under s. 108.225 (4) (b).

19 **SECTION 46.** 108.21 (2) of the statutes is amended to read:

20 108.21 (2) The findings of ~~any such~~ an authorized representative of the
21 department under sub. (1), based on examination of the records of any such
22 employing unit and embodied in an audit report ~~mailed~~ issued to the employing unit,
23 ~~shall constitute~~ are a determination ~~within the meaning of~~ under s. 108.10.

24 **SECTION 47.** 108.22 (1m) of the statutes is amended to read:

1 108.22 (1m) If an ~~employer~~ any person owes any contributions,
2 reimbursements, or assessments under s. 108.15, 108.151, 108.155, or 108.19 (1m),
3 benefit overpayments, interest, fees, ~~or~~ payments for forfeitures ~~or~~, other penalties,
4 or any other amount to the department under this chapter and fails to pay the
5 amount owed, the department has a perfected lien upon the ~~employer's~~ right, title,
6 and interest in all of its the person's real and personal property located in this state
7 in the amount finally determined to be owed, plus costs. Except where creation of
8 a lien is barred or stayed by bankruptcy or other insolvency law, the lien is effective
9 when upon the earlier of the date on which the amount is first due or the date on
10 which the department issues a determination of the amount owed under ~~s. 108.10~~
11 ~~(1) this chapter~~ and shall continue until the amount owed, plus costs and interest to
12 the date of payment, is paid, except as provided in sub. (8) (d). If a lien is initially
13 barred or stayed by bankruptcy or other insolvency law, it shall become effective
14 immediately upon expiration or removal of such bar or stay. The perfected lien does
15 not give the department priority over lienholders, mortgagees, purchasers for value,
16 judgment creditors, and pledges whose interests have been recorded before the
17 department's lien is recorded.

***NOTE: See the note under SECTION 61.

18 **SECTION 48.** 108.22 (1r) of the statutes is amended to read:

19 108.22 (1r) If any ~~employing unit or any individual who is found personally~~
20 ~~liable under sub. (9) person~~ fails to pay to the department any amount found to be
21 ~~due it in proceedings pursuant to s. 108.10~~ a covered unemployment compensation
22 debt, as defined in 26 USC 6402 (f) (4), provided that no appeal or review permitted
23 under ~~s. 108.10~~ this chapter is pending and that the time for taking an appeal or
24 review has expired, the department or any authorized representative of the

1 ~~department may offset set off~~ the amount against a federal tax refund as provided
2 ~~in overpayment under~~ 26 USC 6402 (f).

3 **SECTION 49.** 108.22 (1t) of the statutes is created to read:

4 108.22 (1t) If any person fails to pay to the department any amount under this
5 chapter, provided that no appeal or review permitted under this chapter is pending
6 and that the time for taking an appeal or review has expired, the department or any
7 authorized representative of the department may set off the amount against a
8 refund, overpayment, or disbursement under s. 71.93.

9 **SECTION 50.** 108.22 (2) of the statutes is amended to read:

10 108.22 (2) (a) 1. ~~If any employing unit or any individual who is found personally~~
11 ~~liable under sub. (9)~~ person fails to pay to the department any amount found to be
12 due ~~it in proceedings pursuant to s. 108.10, provided that no appeal or review~~
13 ~~permitted under s. 108.10 is pending and that the time for taking an appeal or review~~
14 ~~has expired~~ or determined to be owed under this chapter, the department or any
15 authorized representative of the department may issue record the lien created under
16 sub. (1m) by issuing a warrant directed to the clerk of circuit court for any county of
17 the state.

18 2. The clerk of circuit court shall enter in the judgment and lien docket the
19 name of the ~~employing unit or individual~~ person mentioned in the warrant ~~and, the~~
20 amount of the contributions, interest, costs and other fees for which the warrant is
21 issued owed, and the date when such copy on which the warrant is entered.

22 3. A warrant entered under subd. 2. shall be considered in all respects as a final
23 judgment ~~constituting a perfected lien upon the employing unit's or individual's~~
24 ~~right, title and interest in all real and personal property located in the county where~~
25 ~~the warrant is entered.~~

1 4. The department or any authorized representative of the department may
2 thereafter file an execution with the clerk of circuit court for filing by the clerk of
3 circuit court with the sheriff of any county where real or personal property of the
4 ~~employing unit or individual is found~~ person is located, commanding the sheriff to
5 levy upon and sell sufficient real and personal property of the ~~employing unit or~~
6 ~~individual~~ person located in that county to pay the amount stated in the warrant in
7 the same manner as upon an execution against property issued upon the judgment
8 of a court of record, and to return the warrant to the department and pay to it the
9 money collected by virtue thereof within 60 days after receipt of the warrant.

 ****NOTE: I also changed "found" to "located" to match other references in this section. OK?

 ****NOTE: I added "of the department" here and elsewhere for additional clarity. OK?

10 (b) The clerk of circuit court shall accept, file and enter each warrant under par.
11 (a) and each satisfaction, release, or withdrawal under subs. (5), (6), and (8m) in the
12 judgment and lien docket without prepayment of any fee, but the clerk of circuit court
13 shall submit a statement of the proper fee semiannually to the department covering
14 the periods from January 1 to June 30 and July 1 to December 31 unless a different
15 billing period is agreed to between the clerk of circuit court and the department. The
16 fees shall then be paid by the department, but the fees provided by s. 814.61 (5) for
17 entering the warrants shall be added to the amount of the warrant and collected from
18 the ~~employing unit or individual~~ person when satisfaction or release is presented for
19 entry.

20 **SECTION 51.** 108.22 (2) (c) of the statutes is created to read:

21 108.22 (2) (c) At least 15 days before first issuing any warrant to a person under
22 par. (a), the department shall issue a demand to the person for payment of the

1 amounts owed and give written or electronic notice that the department may issue
2 a warrant. The refusal or failure of the person to receive the notice does not prevent
3 the department from issuing the warrant.

****NOTE: I put this here instead. OK?

4 **SECTION 52.** 108.22 (3) of the statutes is renumbered 108.22 (3) (a) and
5 amended to read:

6 108.22 (3) (a) The department may issue a warrant of like terms, force, and effect
7 to any employee or other agent of the department, who may file a copy of such warrant
8 with the clerk of circuit court of any county in the state, and thereupon ~~such~~ the clerk
9 shall enter the warrant in the judgment and lien docket and the warrant shall ~~become~~
10 ~~a lien in the same manner, and with~~ have the same force and effect, as is provided in
11 sub. (2). In the execution of the warrant, the employee or other agent shall have all
12 the powers conferred by law upon a sheriff, but shall not be entitled to collect from the
13 ~~employer~~ person any fee or charge for the execution of the warrant in excess of the
14 actual expenses paid in the performance of his or her duty.

****NOTE: See my additional changes here. OK?

15 **SECTION 53.** 108.22 (3) (b) of the statutes is created to read:

16 108.22 (3) (b) In executing a warrant under par. (a), the employee or agent may
17 conduct, or may engage a 3rd party to conduct, an execution sale of property in any
18 county of this state and may sell, or may engage a 3rd party to sell, the property in
19 any manner that, in the discretion of the department, will bring the highest net bid
20 or price, including an Internet-based auction or sale. The cost of conducting each
21 auction or sale shall be reimbursed to the department out of the proceeds of the
22 auction or sale.

23 **SECTION 54.** 108.22 (4) of the statutes is amended to read:

1 108.22 (4) If a warrant ~~be~~ is returned not satisfied in full, the department shall
2 have the same remedies to enforce the amount due ~~for contributions, interest, and~~
3 ~~costs and other fees~~ as if the department had recovered judgment against the
4 ~~employing unit~~ person for the same and an execution is returned wholly or partially
5 not satisfied.

6 **SECTION 55.** 108.22 (5) of the statutes is amended to read:

7 108.22 (5) When the ~~contributions~~ amounts set forth in a warrant together
8 with interest and other fees to the date of payment and all costs due the department
9 have been paid ~~to it~~, the department shall issue a satisfaction of the warrant and file
10 it with the clerk of circuit court. The clerk of circuit court shall immediately enter
11 a satisfaction of the judgment on the judgment and lien docket. The department
12 shall send a copy of the satisfaction to the ~~employer~~ person.

13 **SECTION 56.** 108.22 (8) (b) 1. (intro.) and a. of the statutes are consolidated,
14 renumbered 108.22 (8) (b) and amended to read:

15 108.22 (8) (b) To recover any overpayment to an individual ~~which~~ that is not
16 otherwise repaid or recovery of which has not been waived, the department may
17 recoup the amount of the overpayment by: ~~a. Deducting, in addition to its other~~
18 ~~remedies in this chapter, deducting~~ the amount of the overpayment from benefits the
19 individual would otherwise be eligible to receive;.

20 **SECTION 57.** 108.22 (8) (b) 1. b. to d. of the statutes are repealed.

21 **SECTION 58.** 108.22 (8) (b) 2. of the statutes is repealed.

22 **SECTION 59.** 108.22 (8) (b) 3. of the statutes is repealed.

23 **SECTION 60.** 108.22 (8) (bh) of the statutes is repealed.

24 **SECTION 61.** 108.22 (8) (d) of the statutes is created to read:

1 108.22 (8) (d) The department may not collect any interest on any benefit
2 overpayment.

 ***NOTE: I put this language here and cross-referenced it in sub. (1m) above. OK?

3 **SECTION 62.** 108.22 (9) of the statutes is amended to read:

4 108.22 (9) ~~An individual~~ Any person who is an officer, employee, member,
5 manager, partner, or other responsible person ~~holding at least 20 percent of the~~
6 ~~ownership interest of a corporation, limited liability company, or other business~~
7 ~~association subject to this chapter~~ of an employer, and who has control or supervision
8 of or responsibility for filing any required contribution reports or making payment
9 of ~~contributions~~ amounts due under this chapter, and who willfully fails to file such
10 reports or to make such payments to the department, or to ensure that such reports
11 are filed or that such payments are made, may be found personally liable for ~~such~~
12 ~~those amounts, including interest, tardy payment or filing fees, costs and other fees,~~
13 in the event that after proper proceedings for the collection of ~~such~~ those amounts,
14 as provided in this chapter, the ~~corporation, limited liability company, or other~~
15 ~~business association~~ employer is unable to pay such those amounts to the
16 department. ~~Ownership interest of a corporation, limited liability company, or other~~
17 ~~business association includes ownership or control, directly or indirectly, by legally~~
18 ~~enforceable means or otherwise, by the individual, by the individual's spouse or~~
19 ~~child, by the individual's parent if the individual is under age 18, or by a combination~~
20 ~~of 2 or more of them, and such ownership interest of a parent corporation, limited~~
21 ~~liability company, or other business association of which the corporation, limited~~
22 ~~liability company, or other business association unable to pay such amounts is a~~
23 ~~wholly owned subsidiary. The personal~~ Personal liability of such officer, employee,
24 ~~member, manager, partner, or other responsible person as provided in this~~

1 subsection survives dissolution, reorganization, bankruptcy, receivership,
2 assignment for the benefit of creditors, judicially confirmed extension or
3 composition, or any analogous situation of the ~~corporation, limited liability company,~~
4 ~~or other business association~~ employer and shall be set forth in a determination or
5 decision issued under s. 108.10. An appeal or review of a determination under this
6 subsection shall not include an appeal or review of determinations of amounts owed
7 by the employer.

8 **SECTION 63.** 108.22 (10) of the statutes is created to read:

9 108.22 (10) A private agency that serves as a fiscal agent under s. 46.2785 or
10 contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i),
11 46.272 (7) (e), or 47.035 as to any individual performing services for a person
12 receiving long-term support services under s. 46.27 (5) (b), 46.272 (7) (b), 46.275,
13 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance
14 services under s. 47.02 (6) (c) may be found jointly and severally liable for the
15 amounts owed by the person under this chapter, if, at the time the person's quarterly
16 report is due under this chapter, the private agency served as a fiscal agent for the
17 person. The liability of the agency as provided in this subsection survives
18 dissolution, reorganization, bankruptcy, receivership, assignment for the benefit of
19 creditors, judicially confirmed extension or composition, or any analogous situation
20 of the person and shall be set forth in a determination or decision issued under s.
21 108.10.

****NOTE: I said "person" here instead of "employer" because the word "employer"
was not previously referenced. OK?

22 **SECTION 64.** 108.22 (11) of the statutes is created to read:

1 108.22 (11) (a) The department may recover its actual costs, disbursements,
2 expenses, and fees incurred in recovering any amount due under this chapter.

3 (b) The department may charge and recover the costs related to payments made
4 to the department by debit card, credit card, or another payment method.

5 **SECTION 65.** 108.223 (1) (br) of the statutes is amended to read:

6 108.223 (1) (br) “Debtor” means a debtor, as defined in s. 108.225 (1) (c), whose
7 debt has been finally determined under this chapter and is not subject to further
8 appeal and for whom, with respect to a debt, a warrant has been issued under s.
9 108.22 (2), or (3) or (8).

10 **SECTION 66.** 108.225 (1) (b) of the statutes is amended to read:

11 108.225 (1) (b) “Debt” means ~~a delinquent contribution or repayment of a~~
12 ~~benefit overpayment, a delinquent assessment under s. 108.04 (11) (em) or 108.19~~
13 ~~(1m), a liability incurred under s. 108.04 (11) (bh), an erroneous payment from the~~
14 ~~fund recovered under s. 108.245, or any liability of a 3rd party for failure to surrender~~
15 ~~to the department property or rights to property subject to levy after proceedings~~
16 ~~under sub. (4) (b) and s. 108.10 to determine that liability~~ any amount due under this
17 chapter.

18 **SECTION 67.** 108.225 (4) (b) of the statutes is amended to read:

19 108.225 (4) (b) ~~Any 3rd party~~ The department may assess a person who fails
20 ~~to surrender any property or rights to property subject to levy, upon demand of the~~
21 ~~department, is subject to proceedings to enforce the levy. The 3rd party is not liable~~
22 ~~to the department under this paragraph for more than 25 percent~~ comply with sub.
23 (3) a penalty in the amount of 50 percent of the debt. The department shall serve a
24 final demand as provided under sub. (13) on any ~~3rd party~~ person who fails to
25 ~~surrender property. Proceedings shall not be initiated by the department until 5~~

1 ~~days after service of the final demand~~ comply with sub. (3). The department shall
2 issue a determination under s. 108.10 to the ~~3rd party person~~ for the amount of the
3 liability assessment under this subsection no sooner than 7 days after service of the
4 final demand. Assessments under this subsection shall be deposited in the
5 unemployment program integrity fund.

6 **SECTION 68.** 815.29 (1) of the statutes is amended to read:

7 815.29 (1) No execution sale of personal property shall be made unless 20 days
8 previous notice of such sale has been given by posting a notice thereof in one public
9 place of the town or municipality where such sale is to be had and, if the county where
10 such sale is to be had maintains a Web site, by posting a notice on the Web site. If
11 the town or municipality where such sale is to be had maintains a Web site, the town
12 or municipality may also post a notice on its Web site. The notice shall specify the
13 time and place of sale but when any property seized is likely to perish or depreciate
14 in value before the expiration of the 20 days the court or a judge may order the same
15 to be sold in such manner and upon such terms as the best interests of the parties
16 demand. Every such sale shall be made at auction between the hours of 9 a.m. and
17 5 p.m. and no property shall be sold unless it is in view of those attending the sale,
18 except as provided in s. ss. 71.91 (5) (c) 2. and 108.22 (3) (b) and in the case of the sale
19 of the interest of the judgment debtor in property in the possession of a secured party.
20 It shall be offered for sale in such lots and parcels as is calculated to bring the highest
21 price.

22 **SECTION 69. Nonstatutory provisions.**

23 (1) The authorized FTE positions for the department of workforce development,
24 funded from the appropriation under section 20.445 (1) (v) of the statutes, are

1 increased by 5.0 SEG positions for the purpose of conducting program integrity
2 activities.

3 (2) Notwithstanding SECTION 70 (4) of this act and section 108.22 (1m) of the
4 statutes, as affected by this act, if any person owes any contributions,
5 reimbursements or assessments under section 108.15, 108.151, 108.155, or 108.19
6 (1m) of the statutes, benefit overpayments, interest, fees, payments for forfeitures,
7 other penalties, or any other amount to the department of workforce development
8 under chapter 108 of the statutes and has failed to pay the amount owed, the
9 department has a perfected lien upon the right, title, and interest in all of the
10 person's real and personal property located in this state in the amount finally
11 determined to be owed, plus costs. Except where creation of a lien is barred or stayed
12 by bankruptcy or other insolvency law, the lien is effective on the effective date of this
13 subsection and shall continue until the amount owed, plus costs and interest to the
14 date of payment, is paid, except as provided in section 108.22 (8) (d) of the statutes,
15 as created by this act. If a lien is initially barred or stayed by bankruptcy or other
16 insolvency law, it shall become effective immediately upon expiration or removal of
17 such bar or stay. The perfected lien does not give the department priority over
18 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges
19 whose interests have been recorded before the department's lien is recorded. This
20 subsection applies only to amounts that first became due or were determined to be
21 owed prior to the effective date of this subsection and that remain unpaid as of the
22 effective date of this subsection, except that this subsection does not affect a lien that
23 was created, before the effective date of this subsection, under section 108.22 (1m),
24 2015 stats. A lien created under this subsection shall otherwise be considered a lien
25 under section 108.22 (1m) of the statutes, as affected by this act.

1 (3) A warrant issued under section 108.22 (2), 2015 stats., that has not been
2 satisfied or released as of the effective date of this subsection shall remain effective
3 and shall otherwise be considered to be a warrant issued under section 108.22 (2),
4 as affected by this act.

5 **SECTION 70. Initial applicability.**

6 (1) The treatment of sections 108.04 (1) (hm) and (hr) and 108.22 (9) and (10)
7 of the statutes first applies to determinations issued under section 108.09 or 108.10
8 of the statutes on the effective date of this subsection.

9 (2) The treatment of section 108.05 (3) (d) of the statutes first applies to
10 determinations issued under section 108.09 of the statutes on the effective date of
11 this subsection.

12 (3) The treatment of section 108.133 (4) (c) of the statutes first applies with
13 respect to submissions made by employing units under section 108.133 (4) (a) of the
14 statutes on the effective date of this subsection.

15 (4) The treatment of section 108.22 (1m) of the statutes first applies to amounts
16 that first become due or that are determined to be owed on the effective date of this
17 subsection.

18 **SECTION 71. Effective dates.** This act takes effect on the first Sunday after
19 publication, except as follows:

20 (1) The treatment of sections 108.05 (3) (d) and 108.133 (4) (c) of the statutes
21 and SECTION 70 (2) and (3) of this act take effect on January 7, 2018, or on the first
22 Sunday after publication, whichever occurs later.

23 (END)

2017-2018 Legislative Session Schedule

January 3, 2017	2017 Inauguration
January 10, 2017	Floorperiod
January 17 to 19, 2017	Floorperiod
February 7 and 9, 2017	Floorperiod
March 7 to 9, 2017	Floorperiod
March 28 to April 6, 2017	Floorperiod
April 20, 2017	Bills sent to Governor
May 2 to 11, 2017	Floorperiod
June 6 to 30, 2017, OR budget passage	Floorperiod
August 3, 2017	Nonbudget Bills sent to Governor
August 3, 2017 (or later)	Budget Bill sent to Governor
September 12 to 21, 2017	Floorperiod
October 10 to October 12, 2017	Floorperiod
October 31 to November 9, 2017	Floorperiod
December 7, 2017	Bills sent to Governor
January 16 to 25, 2018	Floorperiod
February 13 to 22, 2018	Floorperiod
March 13 to 22, 2018	Last general-business Floorperiod
April 12, 2018	Bills sent to Governor
April 17 to 19, 2018	Limited-business Floorperiod
April 26, 2018	Bills sent to Governor
May 8 and 9, 2018	Veto Review Floorperiod
March 23, 2018 to January 7, 2019	Interim, committee work
May 23, 2018	Bills sent to Governor
January 7, 2019	2019 Inauguration