



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: August 9, 2017

Time: 9:30 a.m.

Place: Department of Workforce Development
201 E. Washington Avenue
Madison, Wisconsin
GEF-1, Room F305

AGENDA ITEMS AND TENTATIVE SCHEDULE:

1. Call to Order and Introductions
2. Approval of Minutes of the June 28, 2017 Council Meeting
3. Review and Discussion of LRB Draft of Agreed Upon Bill
4. Timeline of Agreed Bill/Future Meeting Dates
5. 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 28, 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, Shane Griesbach, Terry Hayden, and Mark Reihl

Department Staff Present: Ben Peirce, Karl Dahlen, Andy Rubsam, Andrew Evenson, Becky Kikkert, Patrick Lonergan, Tom McHugh, Mary Jan Rosenak, Pam James, Janet Sausen, Robert Usarek, Jill Moksouphanh, Emily Savard, Karen Schultz, and Robin Gallagher

Members of the Public Present: Maria Gonzalez Knavel (Labor Industry Review Commission (LIRC), General Counsel), Victor Forberger (Wisconsin UI Clinic), Chris Reader (Wisconsin Manufacturers & Commerce), Brian Dake (WI Independent Businesses, Inc.), Erika Strebel (Daily Reporter) and Bill Smith (National Federation of Independent Business)

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 Maria Gonzalez of LIRC, Karl Dahlen, Chief Legal Counsel and Andrew Evenson, the department's Legislative Liaison.

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

Motion by Mr. Gustafson, second by Mr. Hayden to approve the June 12, 2017 meeting minutes without correction. The motion carried unanimously.

3. Department Update

Ms. Knutson provided an update on the unemployment insurance (UI) reserve fund. The Trust Fund balance is currently \$1.33 billion. The estimated balance of the Trust Fund on June 30 is anticipated to be \$1.33 billion, which will trigger a change from Tax Schedule C to Tax Schedule D in 2018.

4. Update on Court Cases

Ms. Knutson stated the Supreme Court granted the department's petition for review in the *DWD v. LIRC, Valarie Beres & Mequon Jewish Campus, Inc.* case on June 15. The department's brief is due August 16 and the parties were directed by the Supreme Court to brief an additional issue:

"Does the practice of deferring to agency interpretations of statutes comport with Article VII, Section 2 of the Wisconsin Constitution, which vests the judicial power in the unified court system?"

The Supreme Court also asked the parties in the *Tetra Tech EC, Inc. v. Wisconsin Department of Revenue* case to brief the same issue and ordered oral arguments of both cases to be heard on the same day.

5. Update on Legislation

Ms. Knutson reported there are no updates to report on the Budget Bill (SB30/AB64), Mobility Grant Study (AB243) or Work Search Waiver (SB83/AB131) legislation.

6. Correspondence – League of Wisconsin Municipalities

The department received an e-mail from the League of Wisconsin Municipalities requesting an exclusion from coverage for UI liability for the services of volunteer or paid part-time firefighters or EMTs.

Mr. Rubsam reported that the Village of Weston proposal would exclude the services of paid on-call or volunteer part-time firefighters and EMTs so that the pay for those services would not be included in employees' base period wages. When a firefighter or EMT is laid off from their regular employment and collects UI benefits, the municipality may be charged a pro rata portion of those benefits because they are a base period employer. Governmental units are typically reimbursable employers and pay dollar for dollar on benefits paid out, in lieu of paying tax contributions.

The federal unemployment law requires state law to cover the services performed by employees of governmental units unless federal law specifically excludes the services. There are no known federal exclusions for firefighters or EMTs who work for municipalities. If Wisconsin law includes the proposed exclusion, Wisconsin law would no longer conform to federal requirements. If Wisconsin law fails to conform to federal requirements, the federal government will withhold payment of the administrative grant that funds the UI program and Wisconsin employers will no longer receive federal unemployment tax credits for state UI taxes paid. The department therefore recommends that the proposed exclusions not be added to Wisconsin's law.

Ms. Knutson stated that the department could arrange for the Bureau of Tax and Accounting to meet with the League of Wisconsin Municipalities to discuss proportional charging. This has been a recurring proposal, but a state law change would not resolve the issue; it requires a federal

law change. The department informed the League of Wisconsin Municipalities that their correspondence would be discussed with the Council at today's meeting.

7. Department Proposals for Agreed Bill Pending Action

Ms. Knutson stated the Council has two remaining department proposals that are awaiting approval:

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

8. LRB Draft of Agreed Upon Proposals

Ms. Knutson presented the LRB draft of agreed-upon proposals that was received by the department last night. The department had reviewed an earlier version of the draft and language changes were presented to Mr. Duchek. A review of the current proposal in its entirety has not yet been completed. Ms. Knutson requested the Council begin reviewing the draft to discuss any concerns or issues that may need to be addressed.

Mr. Rubsam stated that throughout the LRB version, there are several notes that appear within the document. When LRB makes changes based on style and format, these changes are reflected in the notes. The changes made are not intended to change the original intent of the proposals.

9. Labor and Management Proposals for Agreed Bill Pending Action

Ms. Knutson reported no additional information or research was requested at the last meeting. Department staff is readily available to answer questions or help with anything needed with respect to the proposals.

10. Timeline of Agreed Bill/Future Meeting Dates

Ms. Knutson stated that the first floor period for the legislature is scheduled September 12 and the department would like to have the Agreed Bill ready for committee hearing by late August. The LRB draft includes some delayed effective and initial applicability dates based on discussions with the business areas.

11. Future meeting dates

Ms. Knutson stated future meeting dates would be dependent on the action taken at today's meeting. There has been discussion on having telephone meetings to vote on language. The department can poll the Council to determine dates to appear by phone and will plan to hold its regularly scheduled, in-person meeting in September.

12. Motion to Caucus

Motion by Mr. Manley, 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.

13. Report out of Caucus

The Council reconvened at 12:33 p.m. Mr. Manley reported that the Council is ready to proceed at this time with the proposals that have previously been approved without any additional proposals at this time.

14. Adjourn

Motion by Mr. Manley, second by Mr. Reihl to adjourn at 12:35 p.m. The motion carried unanimously.

To: Unemployment Insurance Advisory Council

From: Andy Rubsam

CC: Janell Knutson, Chair

Date: July 27, 2017

Re: LRB draft of agreed bill (LRB-3233/P3)

The proposals that the UIAC approved correspond to the following sections in the LRB draft of the agreed bill:

- D17-02 (Fiscal Agent Joint and Several Liability): 65
- D17-04 (Concealment of Holiday Pay, etc.): 15
- D7-05 (Ineligibility for Failure to Provide Information): 5, 6
- D17-07 (Revisions to Collections Provisions): 7-8, 11-12, 16, 22, 47, 49-64, 66-70
- D17-08 (Minor and Technical Changes): 2-4, 9, 13-14, 17-21, 23-25, 38-45, 48, 71
- D17-10 (Amendments to Drug Testing Statutes): 1, 10, 26-37, 46



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3233/P5
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 (8) (b), 108.04 (13)
6 (c), 108.04 (13) (e), 108.04 (16) (a) 4., 108.04 (17) (e), 108.05 (3) (d), 108.05 (10)
7 (b), 108.062 (2) (m), 108.062 (6) (a), 108.062 (10), 108.09 (4) (d) 2., 108.09 (4) (e)
8 2., 108.09 (9) (c), 108.095 (8), 108.10 (1), 108.10 (5), 108.133 (2) (intro.), 108.133
9 (2) (a) 1., 108.133 (2) (a) 2., 108.133 (2) (a) 3., 108.133 (2) (a) 4., 108.133 (2) (a)
10 5., 108.133 (2) (b), 108.133 (3) (a) to (e), 108.133 (4) (a), 108.15 (3) (a), 108.15 (5)
11 (b), 108.151 (5) (f), 108.155 (4) (intro.), 108.16 (2) (e), 108.16 (2) (em), 108.19
12 (1m), 108.21 (2), 108.22 (1m), 108.22 (1r), 108.22 (2), 108.22 (4), 108.22 (5),
13 108.22 (9), 108.223 (1) (br), 108.225 (1) (b), 108.225 (4) (b) and 815.29 (1); and
14 **to create** 108.04 (1) (hr), 108.133 (1) (ag), 108.133 (4) (c), 108.16 (6) (p), 108.19
15 (1s) (a) 5., 108.19 (1s) (a) 6., 108.22 (1t), 108.22 (2) (c), 108.22 (3) (b), 108.22 (8)

- 1 (d), 108.22 (10) and 108.22 (11) of the statutes; **relating to:** various changes to
2 the unemployment 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. Providing for the transfer, at the end of each fiscal biennium, of any unencumbered moneys appropriated for drug testing and related expenses to the unemployment program integrity fund to be used for DWD UI 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:

1 108.02 (13) (i) An “~~employer~~” employer shall cease to be subject to this chapter
2 only upon department action terminating coverage of such employer. The
3 department may terminate an “~~employer’s~~” employer’s coverage, on its own motion
4 or on application by the “~~employer~~” employer, by electronically delivering to the
5 employer, or mailing –a notice of termination to the “~~employer’s~~” employer’s
6 last-known address, a notice of termination. An employer’s coverage may be
7 terminated whenever the employer ceased to exist, transferred its entire business,
8 or would not otherwise be subject under any one or more of pars. (b) to (g). If any
9 employer of agricultural labor or domestic service work becomes subject to this
10 chapter under par. (c) or (d), with respect to such employment, and ~~such~~ the employer
11 is otherwise subject to this chapter with respect to other employment, the employer
12 shall continue to be covered with respect to agricultural labor or domestic service, ~~or~~
13 both, while the employer is otherwise subject to this chapter, without regard to the
14 employment or wage requirements under par. (c) or (d). If a termination of coverage
15 is based on an employer’s application, it shall be effective as of the close of the quarter
16 in which the application was filed. Otherwise, it shall be effective as of the date
17 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.

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

19 108.04 (1) (hm) The department may require any claimant to appear before it
20 and to answer truthfully, orally or in writing, any questions relating to the claimant’s
21 eligibility for benefits ~~or to provide such demographic information as may be~~
22 ~~necessary to permit the department to conduct a statistically valid sample audit of~~
23 ~~compliance with this chapter.~~ A claimant is not eligible ineligible to receive benefits

1 for any week ~~in~~ about which the claimant fails to comply with a request by the
2 department to provide the information required under this paragraph, ~~or any~~
3 ~~subsequent week,~~ and remains ineligible until the claimant complies with the
4 request. Except as provided in sub. (2) (e) and (f), if a claimant later complies with
5 a request by the department within the period specified in s. 108.09 (2) (c), the
6 claimant is eligible to receive benefits as of the week ~~in which the failure occurred~~
7 about which the department questions the claimant's eligibility, if otherwise
8 qualified.

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

10 108.04 (1) (hr) The department may require any claimant to appear before it
11 and to provide, orally or in writing, demographic information that is necessary to
12 permit the department to conduct a statistically valid sample audit of compliance
13 with this chapter. A claimant is ineligible to receive benefits for any week in which
14 the claimant fails to comply with a request by the department to provide the
15 information required under this paragraph and remains ineligible until the claimant
16 complies with the request. If a claimant later complies with a request by the
17 department within the period specified in s. 108.09 (2) (c), the claimant is eligible to
18 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.

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

20 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
21 which there is a determination that the claimant failed to conduct a reasonable
22 search for suitable work and the department has not waived the search requirement

1 under par. (b) or s. 108.062 (10m). If the department has paid benefits to a claimant
2 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).

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

4 108.04 (2) (g) 2. If a claimant's security credentials are used in the filing of an
5 initial or continued claim for benefits or any other transaction, the individual using
6 the security credentials is presumed to have been the claimant or the claimant's
7 authorized agent. This presumption may be rebutted by a preponderance of evidence
8 showing that the claimant who created the security credentials or the claimant's
9 authorized agent was not the person who used the credentials in a given transaction.
10 If a claimant uses an agent to engage in any transaction with the department using
11 the claimant's security credentials, the claimant is responsible for the actions of the
12 agent. If a claimant who created security credentials or the claimant's authorized
13 agent divulges the credentials to another person, or fails to take adequate measures
14 to protect the credentials from being divulged to an unauthorized person, and the
15 department pays benefits to an unauthorized person because of the claimant's action
16 or inaction, the department may recover from the claimant the benefits that were
17 paid to the unauthorized person in the same manner as provided for overpayments
18 to claimants under s. 108.22 (8) or under s. 108.245. If a claimant who created
19 security credentials or the claimant's authorized agent divulges the credentials to
20 another person, or fails to take adequate measures to protect the credentials from
21 being divulged to an unauthorized person, the department is not obligated to pursue
22 recovery of, or to reimburse the claimant for, benefits payable to the claimant that
23 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).

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

2 108.04 (7) (e) Paragraph (a) does not apply if the department determines that
3 the employee accepted work ~~which~~ that the employee could have failed to accept
4 under sub. (8) and terminated ~~such~~ the work on the same grounds and within the
5 first 30 calendar days after starting the work, or that the employee accepted work
6 ~~which~~ that the employee could have refused under sub. (9) and terminated ~~such~~ the
7 work within the first 30 calendar days after starting the work. For purposes of this
8 paragraph, an employee has the same grounds for voluntarily terminating work if
9 the employee could have failed to accept the work under sub. (8) (d) to (em) when it
10 was offered, regardless of the reason articulated by the employee for the termination.

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

12 108.04 (8) (b) There is a rebuttable presumption that an employee has failed,
13 without good cause, to accept suitable work when offered if the department
14 determines, based on a report submitted by an employing unit in accordance with s.
15 108.133 (4), that the employing unit required, as a condition of an offer of
16 employment, that the employee submit to a test for the ~~presence~~ unlawful use of
17 controlled substances and withdrew the conditional offer after the employee either
18 declined to submit to such a test or tested positive for one or more controlled
19 substances without evidence of a valid prescription for each controlled substance for
20 which the employee tested positive. In the case of the employee declining to submit
21 to such a test, the employee shall be ineligible for benefits until the employee again
22 qualifies for benefits in accordance with the rules promulgated under this
23 paragraph. In the case of the employee testing positive in such a test without

1 evidence of a valid prescription, the employee shall be ineligible for benefits until the
2 employee again qualifies for benefits in accordance with the rules promulgated
3 under this paragraph, except that the employee may maintain his or her eligibility
4 for benefits in the same manner as is provided in s. 108.133 (3) (d). The department
5 shall promulgate rules identifying a period of ineligibility that must elapse or a
6 requalification requirement that must be satisfied, or both, in order for an employee
7 who becomes ineligible for benefits as provided in this paragraph to again qualify for
8 benefits and specifying how a claimant may overcome the presumption in this
9 paragraph. The department shall charge to the fund's balancing account any
10 benefits otherwise chargeable to the account of an employer that is subject to the
11 contribution requirements under ss. 108.17 and 108.18 whenever an employee of
12 that employer fails, without good cause, to accept suitable work as described in this
13 paragraph.

****NOTE: This change was added to be consistent with the other changes in s.
108.133.

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

15 108.04 **(13)** (c) If an employer, after notice of a benefit claim, fails to file an
16 objection to the claim under s. 108.09 (1), any benefits allowable under any resulting
17 benefit computation shall, unless the department applies a provision of this chapter
18 to disqualify the claimant, be promptly paid. Except as otherwise provided in this
19 paragraph, any eligibility question in objection to the claim raised by the employer
20 after benefit payments to the claimant are commenced does not affect benefits paid
21 ~~prior to~~ before the end of the week in which a determination is issued as to the
22 eligibility question unless the benefits are erroneously paid without fault on the part
23 of the employer. Except as otherwise provided in this paragraph, if an employer fails

1 to provide correct and complete information requested by the department during a
2 fact-finding investigation, but later provides the requested information, benefits
3 paid ~~prior to~~ before the end of the week in which a redetermination is issued
4 regarding the matter or, if no redetermination is issued, ~~prior to~~ before the end of the
5 week in which an appeal tribunal decision is issued regarding the matter, are not
6 affected by the redetermination or decision, unless the benefits are erroneously paid
7 without fault on the part of the employer as provided in par. (f). If benefits are
8 erroneously paid because the employer and the employee are at fault, the
9 department shall charge the employer for the benefits and proceed to create an
10 overpayment under s. 108.22 (8) (a). If benefits are erroneously paid without fault
11 on the part of the employer, regardless of whether the employee is at fault, the
12 department shall charge the benefits as provided in par. (d), unless par. (e) applies,
13 and proceed to create an overpayment under s. 108.22 (8) (a). If benefits are
14 erroneously paid because an employer is at fault and the department recovers the
15 benefits erroneously paid under s. 108.22 (8), the recovery does not affect benefit
16 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).

17 **SECTION 12.** 108.04 (13) (e) of the statutes is amended to read:

18 108.04 (13) (e) If the department erroneously pays benefits from one
19 employer's account and a 2nd employer is at fault, the department shall credit the
20 benefits paid to the first employer's account and charge the benefits paid to the 2nd
21 employer's account. Filing of a tardy or corrected report or objection does not affect
22 the 2nd employer's liability for benefits paid ~~prior to~~ before the end of the week in
23 which the department makes a recomputation of the benefits allowable or ~~prior to~~

1 before the end of the week in which the department issues a determination
2 concerning any eligibility question raised by the report or by the 2nd employer. If
3 the 2nd employer fails to provide correct and complete information requested by the
4 department during a fact-finding investigation, but later provides the requested
5 information, the department shall charge to the account of the 2nd employer the cost
6 of benefits paid ~~prior to~~ before the end of the week in which a redetermination is issued
7 regarding the matter or, if no redetermination is issued, ~~prior to~~ before the end of the
8 week in which an appeal tribunal decision is issued regarding the matter, unless the
9 benefits erroneously are paid without fault on the part of the employer as provided
10 in par. (f). If the department recovers the benefits erroneously paid under s. 108.22
11 ~~(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).

12 **SECTION 13.** 108.04 (16) (a) 4. of the statutes is amended to read:
13 108.04 **(16)** (a) 4. A plan for training approved under the federal ~~workforce~~
14 ~~investment act~~ Workforce Innovation and Opportunity Act, 29 USC 2822 3101 to
15 3361, or another federal law that enhances job skills.

16 **SECTION 14.** 108.04 (17) (e) of the statutes is amended to read:
17 108.04 **(17)** (e) A school year employee of a government unit, Indian tribe, or
18 nonprofit organization ~~which~~ that provides services to or on behalf of any educational
19 institution who performs services other than in an instructional, research, or
20 principal administrative capacity is ineligible for benefits based on such services for
21 any week of unemployment which occurs during a period between 2 successive
22 academic years or terms if the school year employee performed such services for any
23 such government unit, Indian tribe, or nonprofit organization in the first such year

1 or term and there is reasonable assurance that he or she will perform such services
2 for any such government unit, Indian tribe, or nonprofit organization in the 2nd such
3 year or term.

4 **SECTION 15.** 108.05 (3) (d) of the statutes is amended to read:

5 108.05 (3) (d) A claimant is ineligible to receive benefits for any week in which
6 the claimant conceals holiday pay, vacation pay, termination pay, or sick pay as
7 provided in s. 108.04 (11) (a) or wages or hours worked as provided in s. 108.04 (11)
8 (b).

9 **SECTION 16.** 108.05 (10) (b) of the statutes is amended to read:

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

11 **SECTION 17.** 108.062 (2) (m) of the statutes is amended to read:

12 108.062 (2) (m) Indicate whether the plan ~~will include~~ includes
13 employer-sponsored training to enhance job skills ~~sponsored by the employer and~~
14 ~~acknowledge that, pursuant to federal law, the employees in the work unit may~~
15 ~~participate in training funded under the federal Workforce Investment Act of 1998~~
16 Innovation and Opportunity Act, 29 USC 3101 to 3361, or another federal law that
17 enhances job skills without affecting availability for work, subject to the department
18 approval of the department.

19 **SECTION 18.** 108.062 (6) (a) of the statutes is amended to read:

20 108.062 (6) (a) Except as provided in par. (b), an employee who is included
21 under a work-share program and who qualifies to receive regular benefits for any
22 week during the effective period of the program shall receive a benefit payment for
23 each week that the employee is included under the program in an amount equal to
24 the employee's regular benefit amount under s. 108.05 (1) multiplied by the
25 employee's proportionate reduction in hours worked for that week as a result of the

1 work-share program. Such an employee shall receive benefits as calculated under
2 this paragraph and not as provided under s. 108.05 (3). For purposes of this
3 paragraph, the department shall treat holiday pay, vacation pay, termination pay,
4 and sick pay paid by the employer that sponsors the plan as hours worked. In
5 applying this paragraph, the department shall disregard discrepancies of less than
6 15 minutes between hours reported by employees and employers.

7 **SECTION 19.** 108.062 (10) of the statutes is amended to read:

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

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

23 108.09 (4) (d) 2. If the appellant submits to the appeal tribunal a written
24 explanation for failing to appear at the hearing that is received before a decision is
25 electronically delivered or mailed under subd. 1., an appeal tribunal shall review the

1 appellant's explanation. The appeal tribunal shall electronically deliver or mail to
2 the respondent a copy of the appellant's explanation. The respondent may, within
3 7 days after the appeal tribunal electronically delivers or mails the appellant's
4 explanation to the respondent, submit to the appeal tribunal a written response to
5 the appellant's explanation. If the appeal tribunal finds that the appellant's
6 explanation does not establish good cause for failing to appear, the appeal tribunal
7 shall issue a decision containing this finding and ~~such~~ dismissing the appeal. Such
8 a decision may be issued without a hearing. If the appeal tribunal finds that the
9 appellant's explanation establishes good cause for failing to appear, the appeal
10 tribunal shall issue a decision containing this finding, and such a decision may be
11 issued without a hearing. The same or another appeal tribunal established by the
12 department for this purpose shall then issue a decision under sub. (3) (b) after
13 conducting a hearing concerning any matter in the determination. If such a hearing
14 is held concerning any matter in the determination, the appeal tribunal shall only
15 consider testimony and other evidence admitted at that hearing in making a
16 decision.

17 **SECTION 21.** 108.09 (4) (e) 2. of the statutes is amended to read:

18 108.09 (4) (e) 2. If the respondent submits to the appeal tribunal a written
19 explanation for failing to appear at the hearing that is received before a decision
20 favorable to the respondent is electronically delivered or mailed under subd. 1., the
21 appeal tribunal shall acknowledge receipt of the explanation in its decision but shall
22 take no further action concerning the explanation at that time. If the respondent
23 submits to the appeal tribunal a written explanation for failing to appear that is
24 received before a decision unfavorable to the respondent is electronically delivered
25 or mailed under subd. 1., an appeal tribunal shall review the respondent's

1 explanation. The appeal tribunal shall electronically deliver or mail to the appellant
2 a copy of the respondent's explanation. The appellant may, within 7 days after the
3 appeal tribunal electronically delivers or mails the respondent's explanation to the
4 appellant, submit to the appeal tribunal a written response to the respondent's
5 explanation. If the appeal tribunal finds that the respondent's explanation does not
6 establish good cause for failing to appear, the appeal tribunal shall issue a decision
7 containing this finding, and such a decision may be issued without a hearing. The
8 same or another appeal tribunal established by the department for this purpose shall
9 also issue a decision based on the testimony and other evidence presented at the
10 hearing at which the respondent failed to appear. If the appeal tribunal finds that
11 the respondent's explanation establishes good cause for failing to appear, the appeal
12 tribunal shall issue a decision containing this finding, and such a decision may be
13 issued without a hearing. The same or another appeal tribunal established by the
14 department for this purpose shall then issue a decision under sub. (3) (b) after
15 conducting a hearing concerning any matter in the determination. If such a hearing
16 is held concerning any matter in the determination, the appeal tribunal shall only
17 consider testimony and other evidence admitted at that hearing in making a
18 decision.

19 **SECTION 22.** 108.09 (9) (c) of the statutes is amended to read:

20 108.09 (9) (c) If any determination or decision awarding benefits is finally
21 amended, modified, or reversed, any benefits paid to the claimant ~~which~~ that would
22 not have been paid under ~~such~~ the final determination or decision shall be deemed
23 an erroneous payment. Sections 108.04 (13) (c) and (d), 108.16 (3), and 108.22 (8)
24 shall apply to the charging and recovery of ~~such~~ the 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).

1 **SECTION 23.** 108.095 (8) of the statutes is amended to read:

2 108.095 (8) The mailing issuance of determinations and decisions under this
3 section shall be ~~first~~ by electronic delivery or 1st class mail and may include the use
4 of services performed by the U.S. postal service requiring the payment of extra fees.

5 **SECTION 24.** 108.10 (1) of the statutes is amended to read:

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

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

17 **SECTION 25.** 108.10 (5) of the statutes is amended to read:

18 108.10 (5) The mailing issuance of determinations and decisions provided in
19 subs. (1) to (4) shall be ~~first~~ by electronic delivery or 1st class, mail and may include
20 the use of services performed by the U.S. postal ~~department~~ service requiring the
21 payment of extra fees.

22 **SECTION 26.** 108.133 (1) (a) of the statutes is renumbered 108.133 (1) (ar).

1 **SECTION 27.** 108.133 (1) (ag) of the statutes is created to read:

2 108.133 (1) (ag) “Applicant” means an individual who files an initial claim in
3 order to establish a benefit year under this chapter.

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

4 **SECTION 28.** 108.133 (2) (intro.) of the statutes is amended to read:

5 108.133 (2) DRUG TESTING PROGRAM. (intro.) The department shall establish a
6 program to test ~~claimants who apply for regular benefits under this chapter~~
7 applicants for the ~~presence~~ unlawful use of controlled substances in accordance with
8 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.

9 **SECTION 29.** 108.133 (2) (a) 1. of the statutes is amended to read:

10 108.133 (2) (a) 1. Identify a process for testing ~~claimants~~ applicants for the
11 ~~presence~~ unlawful use of controlled substances. The department shall ensure that
12 the process adheres to any applicable federal requirements regarding drug testing.
13 The department shall pay the reasonable costs of controlled substances testing.

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

15 108.133 (2) (a) 2. Identify the parameters for a substance abuse treatment
16 program for ~~claimants~~ applicants who engage in the unlawful use of controlled
17 substances and specify criteria that ~~a claimant~~ an applicant must satisfy in order
18 to be considered in full compliance with requirements of the substance abuse
19 treatment program. If the rules require that ~~a claimant~~ an applicant enrolled in the
20 substance abuse treatment program submit to additional tests for the ~~presence~~
21 unlawful use of controlled substances following the initial test conducted under sub.
22 (3) (c), the rules shall allow the ~~claimant~~ applicant to have at least one more positive

1 test result following the initial test without, on that basis, being considered not to be
2 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.

3 **SECTION 31.** 108.133 (2) (a) 3. of the statutes is amended to read:

4 108.133 (2) (a) 3. Create a screening process for determining whether there is
5 a reasonable suspicion that ~~a claimant~~ an applicant has engaged in the unlawful use
6 of controlled substances.

7 **SECTION 32.** 108.133 (2) (a) 4. of the statutes is amended to read:

8 108.133 (2) (a) 4. Identify the parameters for a job skills assessment for
9 claimants applicants who engage in the unlawful use of controlled substances and
10 specify criteria that ~~a claimant~~ an applicant must satisfy in order to be considered
11 in full compliance with the requirements of the job skills assessment.

12 **SECTION 33.** 108.133 (2) (a) 5. of the statutes is amended to read:

13 108.133 (2) (a) 5. Identify a period of ineligibility that must elapse or a
14 requalification requirement that must be satisfied, or both, in order for ~~a claimant~~
15 an applicant to again qualify for benefits after becoming ineligible for benefits under
16 sub. (3) (a) or (c).

17 **SECTION 34.** 108.133 (2) (b) of the statutes is amended to read:

18 108.133 (2) (b) When ~~a claimant~~ an applicant applies for regular benefits under
19 this chapter, do all of the following:

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

22 2. Determine whether the claimant applicant is an individual for whom
23 suitable work is only available in an occupation identified in the rules promulgated

1 under par. (am), unless the department has already determined that the applicant
2 is an individual for whom suitable work is only available in an occupation that
3 regularly conducts drug testing under subd. 1.

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

8 4. If the claimant is determined by the department determines under subd. 2.
9 ~~to be~~ that the applicant is an individual for whom suitable work is only available in
10 an occupation identified in the rules promulgated under par. (am), conduct a
11 screening on the claimant ~~if a screening is not already required under subd. 3.~~
12 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.

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

17 **SECTION 35.** 108.133 (3) (a) to (e) of the statutes are amended to read:

18 108.133 (3) (a) If ~~a claimant~~ an applicant is required under sub. (2) (b) 5. to
19 submit to a test for the ~~presence~~ unlawful use of controlled substances and the
20 claimant applicant declines to submit to such a test, the claimant applicant is
21 ineligible for benefits under this chapter until the claimant applicant is again eligible
22 for benefits as provided in the rules promulgated under sub. (2) (a) 5.

1 (b) If ~~a claimant~~ an applicant who is required under sub. (2) (b) 5. to submit
2 to a test for the presence unlawful use of controlled substances submits to the test
3 and does not test positive for any controlled substance or the ~~claimant~~ applicant
4 presents evidence satisfactory to the department that the ~~claimant~~ applicant
5 possesses a valid prescription for each controlled substance for which the ~~claimant~~
6 applicant tests positive, the ~~claimant~~ applicant may receive benefits under this
7 chapter if otherwise eligible and may not be required to submit to any further test
8 for the presence unlawful use of controlled substances until a subsequent benefit
9 year.

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

18 (d) ~~A claimant~~ An applicant who tests positive for one or more controlled
19 substances without presenting evidence of a valid prescription as described in par.
20 (c) may maintain his or her eligibility for benefits under this chapter by enrolling in
21 the substance abuse treatment program and undergoing a job skills assessment.
22 Such ~~a claimant~~ an applicant remains eligible for benefits under this chapter, if
23 otherwise eligible, for each week the ~~claimant is in full compliance~~ applicant fully
24 complies with any requirements of the substance abuse treatment program and job

1 skills assessment, as determined by the department in accordance with the rules
2 promulgated under sub. (2) (a) 2. and 4.

3 (e) All information relating to ~~a claimant's~~ an individual's declining to take a
4 test for the unlawful use of controlled substances, testing positive for the unlawful
5 use of controlled substances, prescription medications, medical records, and
6 enrollment and participation in the substance abuse treatment program under this
7 chapter shall, subject to and in accordance with any rules promulgated by the
8 department, be confidential and not subject to the right of inspection or copying
9 under s. 19.35 (1).

10 **SECTION 36.** 108.133 (4) (a) of the statutes is amended to read:

11 108.133 (4) (a) An employing unit may, in accordance with the rules
12 promulgated by the department under par. (b), voluntarily submit to the department
13 the results of a test for the ~~presence~~ unlawful use of controlled substances that was
14 conducted on an individual as a condition of an offer of employment or notify the
15 department that an individual declined to submit to such a test, along with
16 information necessary to identify the individual. Upon receipt of any such results
17 of a test conducted and certified in a manner approved by the department or
18 notification that an individual declined to submit to such a test, the department shall
19 determine whether the individual is a claimant receiving benefits. If the individual
20 is a claimant receiving benefits, the department shall, in accordance with rules
21 promulgated by the department under par. (b), use that information for purposes of
22 determining eligibility for benefits under s. 108.04 (8) (b).

****NOTE: This change was added to be consistent with the other changes in this
section.

23 **SECTION 37.** 108.133 (4) (c) of the statutes is created to read:

1 108.133 (4) (c) Any employing unit that, in good faith, submits the results of
2 a positive test or notifies the department that an individual declined to submit to a
3 test under par. (a) is immune from civil liability for its acts or omissions with respect
4 to the submission of the positive test results or the notification that the individual
5 declined to submit to the test.

6 **SECTION 38.** 108.15 (3) (a) of the statutes is amended to read:

7 108.15 (3) (a) It The government unit shall file a written notice to that effect
8 of election with the department before the beginning of such that year except that
9 if the government unit became newly subject to this chapter as of the beginning of
10 such year, it shall file the notice or within 30 days after the date of mailing to it a
11 written notification by the department that it issues a determination that the
12 government unit is subject to this chapter. Such, whichever is later. An election
13 under this subsection shall remain in effect for not less than 3 calendar years.

14 **SECTION 39.** 108.15 (5) (b) of the statutes is amended to read:

15 108.15 (5) (b) The department shall monthly bill each government unit for any
16 reimbursements required under this section, ~~and any reimbursement thus billed~~
17 ~~shall be due and shall be paid by such government unit within 20 days after the date~~
18 ~~such bill is mailed to it by the department, which shall be due within 20 days after~~
19 the date the department issues the bill.

***NOTE: I worded this slightly differently.

20 **SECTION 40.** 108.151 (5) (f) of the statutes is amended to read:

21 108.151 (5) (f) Whenever an employer's reimbursement account has a negative
22 balance as of the close of any calendar month, the fund's treasurer shall promptly bill
23 such electronically deliver to the employer, at its or mail to the employer's
24 last-known address, a bill for that portion of its negative balance which has resulted

1 from the net benefits charged to ~~such~~ the account within ~~such~~ that month.
2 Reimbursement payment shall be due within 20 days ~~thereafter~~ after the date the
3 department issues the bill. Any required payment ~~which~~ that remains unpaid after
4 its applicable due date is a delinquent payment. Section 108.22 shall apply for
5 collecting delinquent payments.

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

6 **SECTION 41.** 108.155 (4) (intro.) of the statutes is amended to read:

7 108.155 (4) (intro.) The department shall bill ~~assessments~~ an assessment
8 under this section to a reimbursable employer at its, by electronically delivering the
9 assessment to the employer or mailing the assessment to the employer's last known
10 address, in the month of September of each year, and the assessment shall be due to
11 the department within 20 days after ~~the date such bill is mailed by~~ the date the
12 department issues the assessment. Any assessment that remains unpaid after its
13 ~~applicable~~ due date is a delinquent payment. If a reimbursable employer is
14 delinquent in paying an assessment under this section, in addition to pursuing
15 action under the provisions of ss. 108.22 and 108.225, the department may do any
16 of the following:

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

17 **SECTION 42.** 108.16 (2) (e) of the statutes is amended to read:

18 108.16 (2) (e) Except as provided in par. (em), benefits ~~to~~ shall be charged
19 against a given employer's account ~~shall be so charged~~ as of the date ~~shown by the~~
20 check that the department issues the payment covering such benefits. Each ~~such~~
21 ~~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 43.** 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 44.** 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 45.** 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.

14 **SECTION 46.** 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 47.** 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 48.** 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, based on examination of the records of any such employing unit under
22 sub. (1) and embodied in an audit report ~~mailed~~ issued to the employing unit, ~~shall~~
23 ~~constitute~~ are a determination within the meaning of under s. 108.10.

24 **SECTION 49.** 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 63.

18 **SECTION 50.** 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 51.** 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 52.** 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.

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

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

20 **SECTION 53.** 108.22 (2) (c) of the statutes is created to read:

21 108.22 (2) (c) At least 15 days before issuing any warrant to a person under par.
22 (a), the department shall issue a demand to the person for payment of the amounts
23 owed and give written or electronic notice that the department may issue a warrant.

1 The refusal or failure of the person to receive the notice does not prevent the
2 department from issuing the warrant. The department is only required to give the
3 notice required under this paragraph to a person the first time the department issues
4 a warrant to the person, and not for any subsequent warrant issued to that person.

***NOTE: This has been reworded for additional clarity.

5 **SECTION 54.** 108.22 (3) of the statutes is renumbered 108.22 (3) (a) and
6 amended to read:

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

***NOTE: See my additional changes here.

16 **SECTION 55.** 108.22 (3) (b) of the statutes is created to read:

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

1 **SECTION 56.** 108.22 (4) of the statutes is amended to read:

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

7 **SECTION 57.** 108.22 (5) of the statutes is amended to read:

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

14 **SECTION 58.** 108.22 (8) (b) 1. (intro.) and a. of the statutes are consolidated,
15 renumbered 108.22 (8) (b) and amended to read:

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

21 **SECTION 59.** 108.22 (8) (b) 1. b. to d. of the statutes are repealed.

22 **SECTION 60.** 108.22 (8) (b) 2. of the statutes is repealed.

23 **SECTION 61.** 108.22 (8) (b) 3. of the statutes is repealed.

24 **SECTION 62.** 108.22 (8) (bh) of the statutes is repealed.

25 **SECTION 63.** 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.

3 **SECTION 64.** 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 65.** 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. An appeal or review of a determination under this subsection shall not
22 include an appeal or review of determinations of amounts owed by the person.

****NOTE: I said "person" here instead of "employer" because the word "employer"
was not previously referenced. I also added language to the end of this provision to match
the language at the end of the previous SECTION.

23 **SECTION 66.** 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 67.** 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 68.** 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 69.** 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 70.** 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 71. 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 72 (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., or any predecessor statute. A lien created under this subsection shall

1 otherwise be considered a lien under section 108.22 (1m) of the statutes, as affected
2 by this act.

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

7 (4) The department of workforce development shall send a notice to the
8 legislative reference bureau when a rule promulgated by the department of
9 workforce development that is based on scope statement 046-17 is filed with the
10 legislative reference bureau under section 227.20 of the statutes, if filed before the
11 first day of the 36th month beginning after publication.

12 **SECTION 72. Initial applicability.**

13 (1) The treatment of section 108.04 (1) (hm) and (hr) of the statutes first applies
14 to determinations issued under section 108.09 or 108.10 of the statutes on the
15 effective date of this subsection.

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

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

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

1 (5) The treatment of section 108.22 (9) of the statutes first applies to
2 determinations of personal liability under section 108.22 (9) of the statutes issued
3 under section 108.10 of the statutes on the effective date of this subsection.

 ***NOTE: This language was added to clarify that the changes in s. 108.22 (9) would
 first apply to new determinations of liability issued under the amended statute on or after
 the bill's effective date.

4 **SECTION 73. Effective dates.** This act takes effect on the first Sunday after
5 publication, except as follows:

6 (1) The treatment of sections 108.05 (3) (d) and 108.133 (4) (c) of the statutes
7 and SECTION 72 (2) and (3) of this act take effect on January 7, 2018, or on the first
8 Sunday after publication, whichever occurs later.

9 (2) The treatment of sections 108.04 (8) (b) and 108.133 (1) (a) and (ag), (2)
10 (intro.), (a) 1., 2., 3., 4., and 5. and (b), (3) (a), (b), (c), and (d), and (4) (a) of the statutes
11 takes effect on the date that a rule promulgated by the department of workforce
12 development that is based on scope statement 046-17 takes effect, or on the first day
13 of the 36th month beginning after publication, whichever occurs first.

 ***NOTE: This language was added so that the technical changes to the UI drug
 testing statutes will coincide with corresponding changes in a planned DWD rule change.

14

(END)