

May 1976 Spec. Sess.  
Assembly Bill 1

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## CHAPTER 343, Laws of 1975

AN ACT to repeal 108.02 (5) (g) 7. c, (7) (b), (12m) and (19), 108.04 (4) (aL) and (ar), (8) (c) and (12) (a) and (f), 108.05 (2m), 108.061, 108.09 (2m) and (2n), 108.14 (9r), 108.15 (10) and 108.18 (8) (a) and (b); to renumber 108.04 (4) (af); to renumber and amend 108.02 (7) (a), 108.04 (8) (af), (b) and (d) and 108.18 (8) (intro.); to amend 108.02 (5) (g) 22, (8) (b), (15), (24) and (25), 108.03 (3), 108.04 (1) (g) (intro.), (3m), (4) (a), (7) (a), (8) (a), (13) (c) 1 and 2 and (d), (15) (c) 2, (16) (b) and (18), 108.05 (1m) and (2) (title), (a), (b) (intro.) and 4, (c) to (e) and (h), 108.07 (1) (a) and (2) to (4), 108.09 (1), (3) (e), (3m), (4) and (6) (b) and (c), 108.10 (3), 108.14 (8n) (b), (e) and (f), 108.141 (1) (j) 2 and (4), 108.15 (4) (b), 108.151 (4) (a) (intro.) and (5) (c), 108.16 (2m) and (3) (a), 108.18 (1) (b), (4) (figure), (5) and (9) (a) to (c) and (h) and 108.22 (1) and (8); to repeal and recreate 108.04 (1) (g) 3, 108.05 (2) (g), 108.06, 108.07 (1) (b) and 108.09 (2) and (2r); and to create 108.04 (4) (c), (7) (am), (d) and (e), (15) (d) and (19) and 108.09 (3) (f), (g) and (h) of the statutes, relating to unemployment compensation and the unemployment reserve fund.

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

SECTION 1. 108.02 (5) (g) 7. c of the statutes is repealed.

SECTION 2. 108.02 (5) (g) 22 of the statutes is amended to read:

108.02 (5) (g) 22. Employment by an employer who is engaged in the canning of fresh perishable fruits or vegetables within a given calendar year of an employe who has been employed by such employer within fewer than ~~17~~ the number of weeks of employment specified in s. 108.04 (4) (a) and solely within the active canning season or seasons, as determined by the department, of the establishment in which ~~he~~ the employe has been employed by such employer, unless ~~he~~ the employe had earned wages for services performed for one or more other covered employers, and submits adequate evidence of such wages, of \$200 or more during the 52 weeks preceding ~~his~~ the employe's first week of employment by the canning employer ending within that year.

SECTION 3. 108.02 (7) (a) of the statutes is renumbered 108.02 (7) and amended to read:

108.02 (7) AVERAGE WEEKLY WAGE. An employee's "average weekly wage" with respect to a given employer and benefit ~~determination means the average weekly amount determined~~ computation is the amount obtained by dividing the employee's number of weeks of employment by such employer, within the base period specified by s. 108.06 (1), which have not been used in a previous benefit ~~determination~~ computation into the total gross wages paid for such employment.

SECTION 4. 108.02 (7) (b) of the statutes is repealed.

SECTION 5. 108.02 (8) (b) of the statutes is amended to read:

108.02 (8) (b) ~~But Notwithstanding par. (a),~~ an employer's "payroll" for any calendar year after 1971 ~~shall not include more than 1975 includes only~~ the first \$4,200 \$6,000 of wages paid by ~~him~~ the employer during such year to an individual with respect to "employment" ~~(, including any employment covered by the unemployment compensation law of any other state).~~

SECTION 6. 108.02 (12m) of the statutes is repealed.

SECTION 7. 108.02 (15), (24) and (25) of the statutes are amended to read:

108.02 (15) WEEKLY BENEFIT RATE. An employee's "weekly benefit rate" from a given employer means the amount ~~determined~~ computed in accordance with s. 108.05.

(24) BENEFIT YEAR. An employee's "benefit year" means the period for which ~~his~~ the employee's benefit rights are ~~determined~~ computed under ~~ss. s. 108.06 and 108.061.~~

(25) BASE PERIOD. An employee's "base period" means the period, immediately preceding ~~his~~ the employee's benefit year, which is used to ~~determine~~ compute his or her benefit rights for that year pursuant to ~~ss. s. 108.06 and 108.061.~~

SECTION 8. 108.02 (19) of the statutes is repealed.

SECTION 9. 108.03 (3) of the statutes is amended to read:

108.03 (3) When an employer, after due notice of a benefit claim ~~against his account,~~ has conceded liability ~~thereunder~~ or has failed to file the required report ~~thereon,~~ or has failed to raise any eligibility ~~issue thereunder~~ question in objection to such claim, any benefits ~~allowed~~ allowable under any resulting benefit ~~determination~~ computation shall, unless the department has taken administrative notice of any fact indicating the claimant's ineligibility, be promptly paid; ~~and any issue,~~ Any eligibility question in objection to such claim thereafter raised by the employer shall not affect benefits ~~already~~ paid prior to the end of the week in which a determination is issued as to such eligibility question.

SECTION 10. 108.04 (1) (g) (intro.) of the statutes is amended to read:

108.04 (1)(g) (intro.) In case an individual claims benefits based on ~~his~~ the individual's employment by a corporation, if ~~he and the members of his immediate family together own 51 per cent or more of its voting stock,~~ or if ~~he and his spouse together own 20 per cent or more of its voting stock and one of them was during such employment~~ more than 50% of the voting shares of the corporation are owned, directly or indirectly, by the individual or by the individual's parent, child, spouse, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or by a combination of 2 or more of these, or if the individual or the individual's spouse singly or together own 20% or more of its voting shares and one of them is an officer or director of the corporation, then:

SECTION 11. 108.04 (1) (g) 3 of the statutes is repealed and recreated to read:

108.04 (1) (g) 3. The individual's credit weeks based on such employment shall, if more than 5, be reduced to 5.

SECTION 12. 108.04 (3m) and (4) (a) of the statutes are amended to read:

108.04 (3m) (title) PAYMENT OF WAITING PERIOD WEEK. Benefits, from ~~his~~ a

claimant's remaining benefit credits, shall be paid to an employe the claimant for his or her waiting period week, despite s. 108.02 (19), if he establishes that he has become employed, within the first 10 weeks of his benefit year, by one or more employing units (other than his most recent base period employer), and has worked for such units within at least 4 of those 10 weeks and has thereby earned wages equaling at least 4 times his weekly benefit rate if the claimant becomes eligible for benefits for a subsequent week of unemployment within that benefit year and is otherwise eligible for benefits for the waiting period week. There shall be no waiting period for any claim with a benefit year which commences during or after the 2nd week ending in January 1977.

(4) (a) An employe shall not be eligible to start a benefit year with any given week of unemployment unless he or she has had a total of 17 or more "weeks of employment" from one or more employers within the 52 weeks preceding that week or within those 52 weeks plus the number of any weeks over 7 (occurring within those 52 weeks) for which he or she received temporary total disability payments under ch. 102, or back pay within the meaning and limits of s. 108.05 (6). The number of "weeks of employment" required to start a new benefit year is reduced to 16 weeks beginning in the 2nd week ending in 1977 and is reduced to 15 weeks beginning in the first week ending in 1978.

SECTION 13. 108.04 (4) (af) of the statutes is renumbered 108.04 (4) (b).

SECTION 14. 108.04 (4) (aL) and (ar) of the statutes are repealed.

SECTION 15. 108.04 (4) (c) of the statutes is created to read:

108.04 (4) (c) An employe is not eligible to start a new benefit year unless at least one of the required "weeks of employment" is a week in which the employe has performed some actual wage-earning services subsequent to the start of any previous benefit year.

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

108.04 (7) (a) If an employe terminates his or her employment with an employing unit, ~~he~~ the employe shall be ineligible for any benefits for the week of termination and thereafter until he or she has again been employed within at least 4 weeks ~~in each of which he worked at least 20 hours and has earned wages of at least \$200, except as hereinafter otherwise provided in this subsection.~~

SECTION 17. 108.04 (7) (am), (d) and (e) of the statutes are created to read:

108.04 (7) (am) Paragraph (a) shall not apply if the department determines that the suspension or termination of the claimant's employment was in lieu of a suspension or termination by the employer of another employe's employment. The claimant shall not be deemed unavailable for the claimant's work with the employer by reason of such suspension or termination.

(d) The requalifying employment and work requirements of par. (a) shall not apply if the department determines that the employe terminated his or her employment to accept a recall to work for a former employer within 52 weeks after having last worked for such employer.

(e) Paragraph (a) shall not apply if the department determines that the employe accepted work which the employe could have refused with good cause under sub. (8) and terminated such employment with the same good cause and within the first 10 weeks after starting work.

SECTION 18. 108.04 (8) (a) of the statutes is amended to read:

108.04 (8) (a) ~~If an~~ An employe who fails either to apply for work when notified by a public employment office or to accept work when offered to him, ~~and such shall, if the failure was without good cause as determined by the department, he shall be~~

ineligible for the week in which such failure occurs and thereafter until ~~he~~ the employe has again been employed within at least 4 weeks and has earned wages equaling at least 4 times ~~his weekly benefit rate~~ \$200.

SECTION 19. 108.04 (8) (af) of the statutes is renumbered 108.04 (8) (b) and amended to read:

108.04 (8) (b) ~~If an~~ An employe who fails to return to work with a former employer who has duly recalled ~~him, and such~~ the employe within 52 weeks after having last worked for such employer shall, if the failure was without good cause as determined by the department, ~~he shall~~ be ineligible for benefits from that employer's account for the week in which such failure occurs and thereafter until ~~he~~ the employe has again been employed within at least 4 weeks and has earned wages equaling at least 4 times ~~his weekly benefit rate~~ \$200. If the employe received actual notice of the recall to work, par. (a) shall apply rather than this paragraph.

SECTION 20. 108.04 (8) (b) of the statutes is renumbered 108.04 (8) (d) and amended to read:

108.04 (8) (d) If the department determines that ~~such~~ a failure under this subsection has occurred with good cause, but that the employe is physically unable to work or substantially unavailable for work, ~~he~~ the employe shall be ineligible for the week in which such failure occurred and while such inability or unavailability continues.

SECTION 21. 108.04 (8) (c) of the statutes is repealed.

SECTION 22. 108.04 (8) (d) of the statutes is renumbered 108.04 (8) (c) and amended to read:

108.04 (8) (c) ~~A claimant~~ An employe shall be deemed to have good cause under par. (a) or (b) if the department determines that ~~his~~ the failure related to work at a lower grade of skill or significantly lower rate of pay than applied to ~~him~~ the employe on one or more recent jobs, and that ~~he~~ the employe had not yet had a reasonable opportunity ~~(, in view of labor market conditions and his~~ the employe's degree of skill, but not to exceed 6 weeks after ~~he~~ the employe became unemployed), to seek a new job substantially in line with ~~his~~ the employe's prior job skill and ~~prior~~ rate of pay.

SECTION 23. 108.04 (12) (a) and (f) of the statutes are repealed.

SECTION 24. 108.04 (13) (c) 1 and 2, (d) and (15) (c) 2 of the statutes are amended to read:

108.04 (13) (c) 1. The department may ~~determine~~ compute and proceed to pay the benefits thus claimed, based on the claimant's statements and any other information then available.

2. If benefits are thus ~~determined~~ computed, the employer shall be liable for a tardy filing fee of ~~\$5~~ \$15, to be paid to the department and credited to the administration fund, except where the employer later files the required report and satisfies the department that it was tardy because of circumstances beyond ~~his~~ the employer's control.

(d) As to any benefits paid from one employer's account by reason of another employer's failure to file duly a report requested from ~~him~~ it by the department, ~~the first week's~~ any benefits thus paid ~~shall not be recovered from the employe but~~ shall be credited to the one employer's account and charged to the other employer's account. Filing of a tardy or corrected report shall not affect benefits paid prior to the end of the week in which the department makes a recomputation of the benefits allowable or prior to the end of the week in which a determination is issued as to any eligibility question raised by the report or by the other employer.

(15) (c) 2. All but ~~\$10~~ \$30 of the employe's weekly rate of retirement payments

under one or more other retirement systems.

SECTION 25. 108.04 (15) (d) of the statutes is created to read:

108.04 (15) (d) Shall not be affected by any retirement payments made on other than a regular periodic instalment basis.

SECTION 26. 108.04 (16) (b) and (18) of the statutes are amended to read:

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

(18) SERVICE IN A SCHOOL YEAR POSITION. An individual whose service for a nonprofit organization or government unit, other than a hospital or institution of higher education, in a regular annual school-year position is terminated or suspended at the start of or during a customary vacation period of the individual or of the school or schools in relation to which the services were performed shall not be eligible for benefits based on such service for any week which begins or ends during that vacation period. An individual employed as a substitute teacher shall ~~also~~ be ineligible for benefits during any vacation period based on such work ~~during any vacation period.~~

SECTION 27. 108.04 (19) of the statutes is created to read:

108.04 (19) PROFESSIONAL ATHLETES UNDER CONTRACT. An employe whose benefit rights are based on services performed as a professional athlete, under a formal contract, shall not be eligible for benefits based on such employment during the duration of that contract.

SECTION 28. 108.05 (1m) and (2) (title), (a), (b) (intro.) and 4 and (c) to (e) of the statutes are amended to read:

108.05 (1m) FINAL PAYMENTS IN CERTAIN CASES. Whenever an employe's benefit credits from an employer's account under a given determination computation are nearly exhausted, so that paying the benefits normally due ~~him~~ for a given week of unemployment would reduce such credits below ~~his~~ the employe's applicable weekly benefit rate, ~~his~~ the actual benefits for such week shall equal all benefit credits remaining from that employer's account under ~~said determination~~ such computation.

(2) (title) SEMIANNUAL ADJUSTMENT OF MAXIMUM AND MINIMUM BENEFIT RATES.  
(a) This chapter's maximum weekly benefit rate, as to benefit determinations whose first benefit check is issued weeks of unemployment in a given half year ~~(starting January 1 or July 1)~~, shall be based on the "average wages per average week" of the preceding "base year" ~~ended 6 months before the starting date of the given half year~~, pursuant to this subsection.

(b) The department shall determine ~~semiannually~~, by each December 1 and by June 1, for the last completed "base year" ~~ended June 30 or December 31~~ respectively, from reports to the department ~~(including and corrections thereof)~~ filed within 3 months after the close of that year "base year" by employers ~~(except government units)~~ covered by this chapter, other than government units, as to their employes in employment covered by this chapter:

4. The amount ~~(herein, called "average wages per average week")~~ in this section, obtained by dividing said such quotient by 52.

(c) ~~Based on the amount of "average wages per average week" thus determined, this~~ This chapter's maximum weekly benefit rate, as to benefit determinations issued weeks of unemployment in the ensuing half year ~~(starting January 1 or July 1)~~, shall equal the result obtained by rounding ~~63% beginning on the first Monday in July,~~

~~1974 and 66-2/3% beginning the first Monday in 1975 of said the “average wages per average week” to the nearest multiple of one dollar, and the minimum weekly benefit rate shall be an amount which is 19% of the maximum rate and adjusted, if not a multiple of one dollar, to the next lower multiple of one dollar.~~

~~(d) Whenever said result is the new maximum rate is, or the new maximum and minimum rates are, higher or lower than such rate, or rates if both are affected, in the current half year’s maximum weekly benefit rate schedule, under the schedule which currently applies under this section, the department shall change the closing starting lines of that schedule, for benefit determinations whose first benefit check is issued in the next half year, so that each such line will show an “average weekly wage class” two dollars higher and a “weekly benefit rate” one dollar higher than the preceding line, except that the new last line, showing the new maximum weekly benefit rate determined under par. (c), shall specify that “average weekly wage class” which ranges upward without limit and starts one cent above the higher wage figure of the next preceding line and wage classes so that the first line will show that average wages below the least amount necessary to qualify for the minimum rate will have no benefit rate and the 2nd line will show the new minimum rate and the average weekly wage class to which it applies and shall change the closing lines so that the next to last line will show a benefit rate \$1 less than the new maximum rate and the average weekly wage class to which it applies and the last line will show the new maximum rate and an average weekly wage class which starts one cent above the higher wage figure of the next to last line and ranges upward without limit. The intervening lines of the schedule shall be consecutively numbered with a separate line for each \$1 change in benefit rate and the applicable average weekly wage class for each benefit rate shall have as its higher figure an amount equal to 2 times the benefit rate and a lower figure one cent above the higher figure on the preceding line.~~

~~(e) The commission shall promptly record in its minutes, and shall have officially published within 10 days, the “average wages per average week” and the corresponding maximum and minimum weekly benefit rate rates thus determined by it, and the resulting schedule of average weekly wage classes and weekly benefit rates, which shall then apply to all benefit determinations whose first benefit check is issued weeks of unemployment in the ensuing half year.~~

SECTION 29. 108.05 (2) (g) of the statutes is repealed and recreated to read:

108.05 (2) (g) Any change in the minimum benefit rate does not affect benefits payable to a claimant for a benefit year that begins prior to the effective date of a new rate schedule.

SECTION 30. 108.05 (2) (h) of the statutes is amended to read:

~~108.05 (2) (h) Any change in weekly benefit rates published pursuant to par. (c) shall apply to any benefit determination issued in the given half year, whether or not its first benefit check is issued in that half year. Whenever January 1 or July 1 does not fall on Saturday, Sunday or Monday, any change in weekly benefit rates under this subsection shall apply after the first ensuing Sunday.~~

SECTION 31. 108.05 (2m) of the statutes is repealed.

SECTION 32. 108.06 of the statutes is repealed and recreated to read:

**108.06 Benefit liability and credits.** (1) (a) Each credit week shall, in computing the employe’s total benefit credits, be valued at eight-tenths of the employe’s weekly benefit rate as to an employer.

(b) The total benefit credits under any benefit computation, based on its credit weeks and weekly benefit rate as to a given employer, shall be adjusted to the nearest multiple of one-half of such weekly benefit rate.

(c) If the credit weeks available in an employee's base period would allow the employe a total of more than 34 weeks of benefits for total unemployment in a given benefit year, such total shall be reduced to 34 by eliminating the last credits available.

(2) No benefits shall be payable to a claimant, based on credit weeks in the base period, for any week of unemployment occurring after the close of the claimant's benefit year except under s. 108.141.

(3) (a) There shall be payable to an employe, for weeks ending within the benefit year, only those benefits computed for that benefit year based on the credit weeks, other than those canceled under s. 108.04 (5) or reduced under s. 108.04 (1) (g), in the immediately preceding base period. Credit weeks used in a given benefit computation, including any such weeks canceled under s. 108.04 (5) or reduced under s. 108.04 (1) (g), shall not be available for use in any subsequent benefit computation except under s. 108.141.

(b) To compute qualifying employment under s. 108.04 (4), and any other benefit rights, the department shall count all credit weeks with a given employer as if they had occurred consecutively and immediately prior to the last day of any work with that employer.

(4) (a) Except as provided in par. (b), an employe's "base period" shall be the 52 weeks which immediately precede a "valid new claim week", and an employe's "benefit year" shall be the 52 weeks which begin with a "valid new claim week".

(b) If an employe receives temporary total disability payments under ch. 102, or back pay within the meaning and limits of s. 108.05 (6):

1. For more than 7 of the 52 weeks preceding a valid new claim week, the base period shall be lengthened by the number of weeks over 7 (occurring within those 52 weeks) for which such payments were received.

2. For more than 17 of the 52 weeks of a benefit year, that benefit year shall be lengthened by the number of weeks over 17 (occurring within those 52 weeks) for which such payments were received.

(5) An employe shall have a "valid new claim week" starting a new benefit year if all the following conditions are met:

(a) The week is not within an unexpired benefit year.

(b) The employe is totally or partially unemployed in that week, and has claimed as to that week pursuant to s. 108.08 (1).

(c) The employe has registered for work pursuant to s. 108.04 (2), if it applies to that week.

(d) As of the start of that week, the employe has qualifying employment pursuant to s. 108.04 (4).

(e) As of the start of that week, the employe has some uncanceled and uncharged credit weeks.

(f) The employe is otherwise eligible as to that week.

SECTION 33. 108.061 of the statutes is repealed.

SECTION 34. 108.07 (1) (a) of the statutes is amended to read:

108.07 (1) (a) In case an employe is unemployed and eligible as to a claimant had 2 or more employers in the same week, and has claimed benefits, he shall, for the purposes of this subsection and s. 108.04 (13), be deemed to have claimed benefits from the account of each such employer; but his benefits for such unemployment in such week shall be paid only from the account of that one of such employers by whom he was most recently employed within his base period and is otherwise eligible. benefits shall be paid based on the most recent employment in the base period, except as

provided in this section.

SECTION 35. 108.07 (1) (b) of the statutes is repealed and recreated to read:

108.07 (1) (b) If the claimant's benefit eligibility is suspended under s. 108.04 as to a given employer and the claimant is otherwise eligible, benefits shall be paid based on the most recent employment in the base period with benefit credits available.

SECTION 36. 108.07 (2) to (4) of the statutes are amended to read:

108.07 (2) In case ~~an employe~~ a claimant has usually performed services in the same week for 2 or more employers, under an arrangement between such employers, the department may combine his the wages and his employment from such employers to ~~determine his~~ compute benefit rights under ss. 108.05 and 108.06 as if such wages and employment had been from a single employer, and ~~may~~ pay benefits accordingly, and ~~may~~ prorate the resulting benefit charges between the accounts of such employers, by such methods as it deems fair and reasonable. The department may temporarily charge such benefit payments to the fund's balancing account, pending their pro rata allocation to the accounts of such employers.

(3) ~~In case an employe, to whom no benefit determination then applies, becomes unemployed and eligible as to 2 or more employers, the department may, if it~~ If the department finds that applying sub. (1) (a) would be grossly inequitable to the employe, determine and use first his most fairly representative benefit rights claimant it may establish a sequence of payment that is more equitable.

(4) Once a benefit determination year has been issued ~~to an employe based on his work for a former employer, established, the sequence of~~ benefit payments and charges ~~thereunder in that benefit year~~ shall not be affected by any later determination that a subsequent employing unit was also a covered employer.

SECTION 37. 108.09 (1) of the statutes is amended to read:

108.09 (1) FILING. Claims for benefits shall be filed pursuant to general department rules, either at the public employment office for the district or as the department's rules may otherwise direct; ~~provided that the department may waive the filing of a claim directly by the employe himself, for benefits from a given employer's account, where due notice of the employe's unemployment is given the employer by the department or is given the department by the employer, which notice shall in either of such cases serve as a claim for benefits. The~~ Each employer from whose account benefits are claimed (whether directly by the employe or through the department) duly notified of a benefit claim shall promptly inform the department in writing of his acceptance or rejection of as to the employe's weekly wages and credit weeks, and of any eligibility question in objection to such claim, together with his the reasons therefor. In any case the employe's statement may be taken as to eligibility, weekly wages, and credit weeks.

SECTION 38. 108.09 (2) of the statutes is repealed and recreated to read:

108.09 (2) COMPUTATION AND DETERMINATION. (a) The department shall promptly issue a computation setting forth the employe's potential benefit rights based on any reports duly filed by an employer or employers, or on the employe's statement and any other information then available. The results of the computation, a recomputation, or pertinent portion of either, shall be mailed to the last-known address of each party. The department may recompute an employe's potential benefit rights at any time on the basis of subsequent information or to correct a technical or clerical mistake, except that a party's failure to make specific written objection, received by the department within 14 days after the above mailing, as to a computation or recomputation is a waiver by such party of any objection thereto. Any objections to a computation which are not satisfactorily resolved by recomputation shall be resolved by a determination under par. (b).



(b) A department deputy shall issue determinations whenever necessary to resolve any matters which may bar, suspend, terminate or otherwise affect the employee's eligibility for benefits.

(c) A department deputy may set aside or amend a determination at any time on the basis of subsequent information or to correct a technical or clerical mistake, unless a party has filed a timely request for hearing as to the determination.

(d) A copy of each determination shall be mailed to the last-known address of each of the parties, except that a party's copy of any determination may be given to such party instead of being mailed.

SECTION 39. 108.09 (2m) and (2n) of the statutes are repealed.

SECTION 40. 108.09 (2r) of the statutes is repealed and recreated to read:

108.09 (2r) HEARING REQUEST. Any party to a determination may request a hearing as to any matter in that determination if such request is made in accordance with procedure prescribed by the department and is received by the department within 14 days after a copy of the determination was duly mailed or given to such party, whichever first occurs. An employer cannot request a hearing unless the employer has completed and filed or simultaneously with the request for hearing completes and files any required report as to the employee's eligibility, weekly benefit rate and credit weeks, and cannot request a hearing with respect to benefits already paid either in accordance with the employer's concession of liability or because the employer failed to complete or timely file any required report as to the employee's eligibility, weekly benefit rate and credit weeks.

SECTION 41. 108.09 (3) (e) of the statutes is amended to read:

108.09 (3) (e) If a party, having failed to appear at a hearing, shows probable good cause for such failure to the appeal tribunal within ~~10 days after the hearing date or within 5~~ 7 days after the decision was mailed to his such party's last-known address, ~~whichever last occurs~~, the appeal tribunal may set aside its decision and afford further opportunity to be heard, either before the same or another appeal tribunal.

SECTION 42. 108.09 (3) (f), (g) and (h) of the statutes are created to read:

108.09 (3) (f) The appeal tribunal shall dismiss any request for hearing which has not been timely filed unless the party filing such request shows probable good cause that the reason for having failed to file the request timely was beyond the control of such party.

(g) Within 14 days after its decision was mailed to the parties the appeal tribunal may on its own motion amend or set aside its decision and may thereafter make new findings and decision on the basis of evidence previously submitted in such case, or the same or another appeal tribunal may make new findings and a decision after taking additional testimony.

(h) The appeal tribunal may take testimony with regard to whether a party had good cause for failing to appear at a hearing or whether a party's failure to file a timely request for hearing was for a reason beyond the control of such party and may dispose of the case on that ground if it finds that such good cause or reason is not established.

SECTION 43. 108.09 (3m), (4) and (6) (b) and (c) of the statutes are amended to read:

108.09 (3m) REPORTS BY EXPERTS. The contents of verified or certified reports by qualified experts ~~shall be received in evidence in any proceeding under this section, in the same manner and subject to the same conditions as would apply to such reports under s. 102.17 (1) (as) presented by claimants for compensation, shall constitute prima facie evidence as to the matter contained in such reports in any proceeding~~

under this section, insofar as such reports are otherwise competent and relevant, subject to such rules and limitations as the department prescribes.

(4) APPEAL TRIBUNALS. To hear and decide a disputed ~~claim~~ claims, the department shall establish ~~an one or more appeal tribunal tribunals, each of which shall consist of a salaried examiner who is an employe of the department. Any such tribunal may consist of one or three full-time salaried examiners; or it may consist of an appeal board composed of one full-time salaried examiner who shall serve as chairman, and of two other members appointed by the department, namely an employer or representative of employers and an employe or representative of employes, who shall each be paid a fee of not more than ten dollars per day of active service on such tribunal (plus necessary expenses). No person shall examiner may hear any case in which ~~he~~ the examiner is a directly interested party. ~~The chairman of such an appeal board shall act for it at any session in the absence of one or both other members, provided they have had due notice of such session.~~~~

(6) (b) ~~Either~~ Any party may petition the commission for review of an appeal tribunal decision, pursuant to general department rules, if such petition is received by the department within 14 days after it the appeal tribunal decision was mailed to his the party's last-known address. Promptly after the filing receipt of such a petition, the commission shall dismiss it as if not timely at any level or, if timely, may affirm, reverse, change, or set aside such the appeal tribunal decision, on the basis of the evidence previously submitted in such case, or direct or it may order the taking of additional testimony evidence as to such matters as it may direct and thereafter make its findings and decision.

(c) Within 14 days after expiration of the right of the parties to request a hearing by an appeal tribunal or to petition for review by the commission, or within ~~30~~ 28 days after a decision of the commission was mailed to the parties, the commission may on its own motion reverse, change, or set aside the determination or decision, on the basis of evidence previously submitted in such case, ~~or direct the taking of testimony or it may order the taking of evidence as to such matters as it may direct and thereafter make its findings and decision.~~

SECTION 44. 108.10 (3) of the statutes is amended to read:

108.10 (3) The commission's authority to take action as to any issue or proceeding under this section shall be the same as that specified in s. 108.09 (6) (a), (b) ~~and~~, (c) ~~and~~ (d).

SECTION 45. 108.14 (8n) (b), (e) and (f) of the statutes are amended to read:

108.14 (8n) (b) Such arrangements may provide, as to any individual whose employment has been covered by this chapter and by the unemployment compensation law of one or more other participating jurisdictions, for transfer by the department to another agency of relevant records or information, and the acceptance and use thereof ~~(, in combination with similar data from other jurisdictions),~~ by such other agency, as a basis for ~~determining~~ computing and paying benefits under the law administered by such other agency. Reciprocally, such arrangements may provide for similar acceptance, combination and use by the department of data received from other jurisdictions to ~~determine~~ compute and pay benefits under this chapter.

(e) This state's share of any benefits paid under this subsection shall be charged to the account of each employer by whom the employe was employed in ~~his~~ the applicable base period, in proportion to the total amount of wages he ~~or she~~ earned from each employer in ~~his~~ such base period, except that if s. 108.04 (5) or (7) (a) ~~applies would have applied~~ to employment by such an employer, who is not exempt from the contribution requirements of ss. 108.17 and 108.18 under s. 108.15 or 108.151, the share of benefits based on employment with that employer shall be

charged to the fund's balancing account. The balancing account shall be charged with any other state's share of such benefits pending reimbursement by that state.

(f) To facilitate the application of such arrangements to this chapter, the department may make reasonable estimates to convert into weekly benefit rates and credit weeks the data received by it under such arrangements, and may ~~determine~~ compute and pay benefits accordingly.

SECTION 46. 108.14 (9r) of the statutes is repealed.

SECTION 47. 108.141 (1) (j) 2 and (4) of the statutes are amended to read:

108.141 (1) (j) 2. His or her benefit year having expired in the extended benefit period and prior to such week, lacks qualifying employment on the basis of which he or she could establish a "valid new claim week", under s. ~~108.061~~ 108.06; and

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

SECTION 48. 108.15 (4) (b) of the statutes is amended to read:

108.15 (4) (b) Each government unit's account shall be duly charged with any benefits based on work for such unit, and shall be duly credited with any reimbursement paid by or for it to the fund, and with any benefit overpayment from the account recovered by the department.

SECTION 49. 108.15 (10) of the statutes is repealed.

SECTION 50. 108.151 (4) (a) (intro.) and (5) (c) of the statutes are amended to read:

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

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

SECTION 51. 108.16 (2m) and (3) (a) of the statutes are amended to read:

108.16 (2m) If ~~a~~ the department ~~deputy~~ finds that any benefits charged to an employer's account have been erroneously paid to an individual without fault by the employer, such individual and ~~such the~~ the employer ~~and the fund's treasurer~~ shall be notified as to ~~such the~~ the erroneous payment. In case benefits are currently payable to such individual from ~~such the~~ the employer's account, the ~~deputy~~ department may correct the error by adjusting such benefits accordingly. To correct any ~~error~~ erroneous payment not thus adjusted, the fund's treasurer shall ~~correct the fund's records by restoring~~ be notified of the erroneous payment and, except where the employer is a government unit or a nonprofit organization which has elected reimbursement financing, the treasurer shall restore the proper amount to the employer's account and ~~by charging~~ charge such amount to the fund's balancing account, and may ~~at any time~~ thereafter reimburse the balancing account by crediting to it benefits which would otherwise be payable to, or cash recovered from, the individual ~~in question or cash~~

recovered from such individual. To correct any erroneous payment from the account of an employer who is a government unit, or a nonprofit organization which has elected reimbursement financing, the treasurer may credit to such account benefits which would otherwise be payable to, or cash received from, the individual.

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

SECTION 52. 108.18 (1) (b), (4) (figure) and (5) of the statutes are amended to read:

108.18 (1) (b) An employer's contributions shall be credited to ~~his~~ the employer's account in the fund, but only after any solvency contribution paid or payable by ~~him~~ or deducted from his account under subs. (8) and (9) the employer has been credited to the fund's balancing account (currently, as of the date when paid or deducted).

(4) (figure)

Line	Reserve Percentage	Contribution Rate
1.	8.5% or more	0.0%
2.	8.0% but under 8.5%	0.5%
3.	7.0% but under 8.0%	1.0%
4.	6.0% but under 7.0%	1.5%
5.	5.0% but under 6.0%	2.0%
6.	3.5% but under 5.0%	2.5%
7.	2.0% but under 3.5%	3.0%
8.	0.0% but under 2.0%	3.5%
9.	Overdrawn by less than minus 2.0%	4.0%
10.	Overdrawn by minus 2.0% <del>or more</del> but under minus 4.0%	4.4% 4.5%
11.	<u>Overdrawn by minus 4.0% or more</u>	5.0%

(5) LIMITATION. To prevent unduly sharp increases in contribution rates during bad years, an employer's contribution rate for any calendar year shall in no case exceed by more than one ~~per cent (on percent on the employer's payroll)~~ the rate which applied to him it at the close of the preceding calendar year, except under sub. subs. (2) and (8).

SECTION 53. 108.18 (8) (intro.) of the statutes is renumbered 108.18 (8) and amended to read:

108.18 (8) SOLVENCY CONTRIBUTIONS. Each employer's solvency contribution for each period of a calendar year shall be figured by applying the solvency rate determined for that year under sub. (9) to ~~his~~ the employer's payroll for that period, and shall be payable to the fund's balancing account by the due-date of ~~his~~ its contribution report, ~~as follows:~~

SECTION 54. 108.18 (8) (a) and (b) of the statutes are repealed.

SECTION 55. 108.18 (9) (a) to (c) and (h) of the statutes are amended to read:

108.18 (9) (a) The solvency rate for ~~1965~~ 1976 shall be 0.8% and for 1977 shall

be ~~0.25%~~ 0.7%.

(b) The solvency rate required for each subsequent calendar year shall depend on the extent to which the net balance of the fund's balancing account at the close of the preceding July falls short of the adequacy level then required, and shall be determined by the fund's treasurer pursuant to this subsection except that the solvency rate of any employer having either a 0.0% or a 0.5% contribution rate under sub. (4) shall not be more than 0.5%.

(c) The adequacy level required for the fund's balancing account ~~shall be: 1. \$15 million at the close of July 1965. 2. \$18 million at the close of July 1966. 3. At~~ at the close of July 1977, and each subsequent July, shall be the amount which equals 0.4% of the gross wages paid by all employers in the immediately preceding calendar year, as determined pursuant to par. (h).

(h) The department shall determine the gross wages and the aggregate "payrolls" for each calendar year, by the following June 1, from reports to the department ~~(, including corrections thereof),~~ filed within 3 months after the close of that year by employers ~~(except government units) covered by this chapter~~ as to their employes in employment covered by this chapter: 1. The gross wages thus reported by such employers as paid in that year for such employment; and 2. The aggregate "payrolls" thus reported by such employers as paid in that year for such employment, excluding reports from government units and any employer with a valid election of reimbursement financing under s. 108.151. If the "payroll" amount is increased under s. 108.02 (8), so that the "payroll" amount for the preceding and subsequent calendar years are not the same, the aggregate "payrolls" for the preceding calendar year shall be the amount derived from the above reports increased proportionately by 90% of the difference between such "payroll" amounts.

SECTION 56. 108.22 (1) and (8) of the statutes are amended to read:

108.22 (1) If any employer is delinquent in making by the assigned due-date any employment and wage report, contribution report, or payment to the department required of him it under this chapter, ~~he~~ the employer shall be liable for pay a tardy payment or filing fee of one-dollar \$15 for each such delinquency and shall ~~become~~ additionally liable for pay interest on such delinquent payment at the rate of ~~one-half per cent~~ 8% per month ~~(or fraction thereof)~~ from the date such payment became due, ~~except that said fee shall apply in lieu of such interest in any case where such interest (accrued up to the date on which such delinquent contribution and said fee are paid) is less than one dollar.~~ Such tardy payment and filing fees and interest shall be paid to the department and credited to the unemployment administration fund.

(8) (a) In case benefits have been ~~overpaid or improperly~~ erroneously paid to an individual, the individual's liability to reimburse the fund for such overpayment may be set forth in a determination or decision issued under s. 108.09.

(b) To recover any overpayment for which liability has been thus established which is not otherwise repaid or recovery of which has not been waived, the department may offset the amount of the overpayment against benefits the individual would otherwise be eligible to receive, or file a warrant against the liable individual in the same manner as is provided in this section for collecting delinquent payments from employers, or both, but only to the extent of recovering the actual amount of the overpayment and any costs and disbursements, without interest.

SECTION 57. **Treatment of contributions and contribution reports in 1976.** In calculating an employer's net reserve as of the 1976 computation date under section 108.02 (11) of the statutes, the employer's account shall be credited with contributions, on the employer's payroll through such date, if paid by the close of the second month which follows that date or if paid under section 108.18 (7) of the

statutes and within the period therein specified. Employment and wage reports and contribution reports and payments for the second calendar quarter of 1976, and amended reports for the first calendar quarter of 1976, are due from an employer on or before 30 days after the date such reports or amended reports are mailed by the department of industry, labor and human relations to the employer, rather than as would otherwise apply under section 108.17 (2) of the statutes.

**SECTION 58. Application.** (1) This act shall take effect on the day after publication, except as provided in this section.

(2) The change effected by this act in section 108.02 (5) (g) 7. c and the first sentence of section 108.04 (18) of the statutes shall apply to employment after December 31, 1976.

(3) The changes effected by this act in sections 108.02 (7), (15), (19), (24) and (25), 108.04 (1) (g), (3m) and (15) (c) 2 and (d), 108.05 (1m), 108.06, 108.061, 108.07 (2), 108.09 (1) and (2) (a), 108.14 (8n) (b) and (f) and 108.141 (1) (j) 2 and (4) of the statutes shall apply with respect to benefit years which begin during and after the third week commencing after the week in which this act is published.

(4) The changes effected by this act in sections 108.02 (8) (b) and 108.18 (1) (b), (5), (8) (intro.), (a) and (b) and (9) (a) and (b) of the statutes shall apply with respect to payrolls beginning January 1, 1976.

(5) The changes effected in sections 108.03 (3) and 108.04 (13) (c) and (d) of the statutes shall apply with respect to required reports requested by the department of industry, labor and human relations during or after the third week commencing after the week in which this act is published.

(6) The changes effected by this act in sections 108.04 (7), (8) and (19) and 108.16 (2m) and (3) (a) of the statutes shall apply with respect to determinations, other than amended determinations, issued under s. 108.09 (2) (b) of the statutes during and after the third week commencing after the week in which this act is published.

(7) The change effected by this act with respect to section 108.04 (12) (f) of the statutes shall apply to weeks of unemployment that begin on or after April 6, 1975.

(8) The changes effected by this act in section 108.05 (2) and (2m) of the statutes shall apply beginning with the semiannual determinations and ensuing "half year" under that section next commencing after the publication of this act.

(9) The changes effected by this act in section 108.151 (4) (a) (intro.) of the statutes shall be effective as of January 1, 1977.

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