



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2716/1
MED:skw

2023 SENATE BILL 232

April 14, 2023 - Introduced by Senators QUINN and FELZKOWSKI, cosponsored by Representatives PETRYK, ALLEN, ARMSTRONG, BEHNKE, BODDEN, BORN, BROOKS, DALLMAN, DITTRICH, DUCHOW, EDMING, GREEN, GUNDRUM, MACCO, MAGNAFICI, MICHALSKI, MOSES, MURSAU, NEDWESKI, O'CONNOR, OLDENBURG, PENTERMAN, PETERSEN, PLUMER, RETTINGER, SCHMIDT, WICHGERS, WITTKER and STEFFEN. Referred to Committee on Economic Development and Technical Colleges.

1 **AN ACT** *to renumber and amend* 108.04 (2) (a) 4., 108.04 (15) (a) 2. and 108.13
2 (4) (a) 4.; *to consolidate, renumber and amend* 108.04 (15) (a) (intro.) and
3 1.; *to amend* 20.445 (1) (aL), 20.445 (1) (gd), 20.445 (1) (nd), 40.02 (22) (b) 3.,
4 40.65 (5) (b) 2., 49.147 (3) (ac) 2., 49.163 (3) (a) 3. c., 71.67 (7) (title), 105.01 (1)
5 (b) 1., 105.115 (2) (b), 105.115 (2) (c), 105.115 (3) (a) 1., 105.115 (4) (b) 1., 105.115
6 (4) (b) 3., 106.38 (3) (c) 3., 108.04 (2) (a) 3., 108.04 (12) (b), 108.133 (2) (a) (intro.),
7 108.133 (2) (am), 108.14 (1), 108.141 (1) (b) 3., 108.142 (1) (h) 3., 108.19 (1m),
8 111.39 (4) (c), 230.43 (4), 230.85 (3) (d) and 779.01 (2) (am); *to repeal and*
9 *recreate* chapter 108 (title); and *to create* 15.223 (2), 108.01 (2m), 108.013,
10 108.02 (21r), 108.04 (2) (a) 4. c., 108.04 (2) (a) 5., 108.04 (15) (a) 2. b., 108.04 (15)
11 (am) and (ao) and 108.14 (8o) of the statutes; **relating to:** various changes to

SENATE BILL 232

1 the unemployment insurance law, federal Reemployment Services and
2 Eligibility Assessment grants, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

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

Program name change

The bill changes references in the statutes to “unemployment insurance” to “reemployment assistance” and requires the program and its benefits to be known as reemployment assistance. The bill also requires DWD to have a division known as the Division of Reemployment Assistance and requires the reemployment assistance law to be administered by that division.

General qualifying requirements

Under current law, a claimant for UI benefits is generally required to 1) register for work, 2) be able to work and available for work, and 3) conduct a work search for each week in order to remain eligible. A claimant is required to conduct at least four work search actions each week, and DWD may require, by rule, that an individual conduct more than four work search actions per week. Finally, if a claimant is claiming benefits for a week other than an initial week, the claimant must provide information or job application materials that are requested by DWD and participate in a public employment office workshop or training program or in similar reemployment services required by DWD.

The bill does the following:

1. Requires, for the third and subsequent weeks of a claimant’s benefit year, that at least two of the required weekly work search actions be direct contacts with potential employers.

2. Requires a claimant who resides in this state, for each week other than an initial week, to submit and keep posted on the DWD’s job center website a current resume.

3. Requires, when a claimant is claiming benefits with less than three weeks of benefits left, that the claimant complete a reemployment counseling session.

Additionally, current law allows DWD to use information or job application materials described above to assess a claimant’s efforts, skills, and ability to find or obtain work and to develop a list of potential opportunities for a claimant to obtain suitable work. However, current law provides that a claimant who otherwise satisfies the required weekly work search requirement is not required to apply for any specific positions on the list of potential opportunities in order to satisfy the work search requirement. The bill requires, instead of allows, DWD to provide this assistance. The bill also repeals the language in current law providing that a claimant who otherwise satisfies the weekly work search requirement is not required to apply for specific positions provided by DWD and requires DWD to provide each

SENATE BILL 232

claimant with at least four potential opportunities each week, one or more of which may be opportunities with a temporary help company.

Finally, current law allows DWD to require a claimant to participate in a public employment office workshop or training program. The bill provides that DWD must require a claimant to participate in a public employment office workshop or training program if the claimant is likely to exhaust regular UI benefits. DWD may also require other claimants to participate in a public employment office workshop or training program, but must prioritize claimants more likely to have difficulty obtaining reemployment.

Drug testing

Current state law requires DWD to establish a program that is consistent with federal law to test certain claimants who apply for UI benefits for the presence of controlled substances. A claimant who tests positive for a controlled substance for which the claimant does not have a prescription is ineligible for UI benefits until certain requalification criteria are satisfied or unless he or she enrolls in a substance abuse treatment program and undergoes a job skills assessment, and a claimant who declines to submit to a test is simply ineligible for benefits until he or she requalifies. Claimants who are required to undergo drug testing include individuals for whom suitable work is only available in occupations for which drug testing is regularly conducted in this state. However, current law provides that these provisions do not apply until DWD promulgates rules to implement the requirements and those rules take effect, including rules identifying occupations for which drug testing is regularly conducted in this state.

The bill requires DWD to immediately promulgate the required rules.

Reemployment Services and Eligibility Assessment grants

Under federal law, the United States Department of Labor (USDOL) operates the Reemployment Services and Eligibility Assessment (RESEA) program, whereby grants are awarded to states to provide reemployment services to claimants. Participation in the RESEA program is voluntary and requires that a state submit a state plan to USDOL that outlines how the state intends to conduct a program of reemployment services and eligibility assessments.

The bill requires that DWD act to continue to participate in the RESEA program and requires DWD to provide certain RESEA services to all UI claimants.

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.** 15.223 (2) of the statutes is created to read:

SENATE BILL 232**SECTION 1**

1 15.223 (2) DIVISION OF REEMPLOYMENT ASSISTANCE. There is created in the
2 department of workforce development a division of reemployment assistance.

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

4 20.445 (1) (aL) ~~Unemployment insurance~~ Reemployment assistance
5 *administration; controlled substances testing and substance abuse treatment.*

6 Biennially, the amounts in the schedule for conducting screenings of applicants,
7 testing applicants for controlled substances, the provision of substance abuse
8 treatment to applicants and claimants, and related expenses under s. 108.133.
9 Notwithstanding s. 20.001 (3) (b), the unencumbered balance on June 30 of each
10 odd-numbered year shall be transferred to the ~~unemployment~~ reemployment
11 assistance program integrity fund.

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

13 20.445 (1) (gd) ~~Unemployment~~ Reemployment assistance; interest and penalty
14 *payments.* All moneys received as interest and penalties collected under ss. 108.04
15 (11) (c) and (cm) and (13) (c) and 108.22 except interest and penalties deposited under
16 s. 108.19 (1q), and forfeitures under s. 103.05 (5), all moneys not appropriated under
17 par. (gg) and all moneys transferred to this appropriation account from the
18 appropriation account under par. (gh) for the payment of benefits specified in s.
19 108.07 (5) and 1987 Wisconsin Act 38, section 132 (1) (c), for the payment of interest
20 to employers under s. 108.17 (3m), for research relating to the condition of the
21 unemployment reserve fund under s. 108.14 (6), for administration of the
22 ~~unemployment insurance~~ reemployment assistance program and federal or state
23 ~~unemployment insurance~~ reemployment assistance programs authorized by the
24 governor under s. 16.54, for satisfaction of any federal audit exception concerning a
25 payment from the unemployment reserve fund or any federal aid disallowance

SENATE BILL 232

1 concerning the ~~unemployment insurance~~ reemployment assistance program, for
2 assistance to the department of justice in the enforcement of ch. 108, for the payment
3 of interest due on advances from the federal unemployment account under title XII
4 of the social security act to the unemployment reserve fund, and for payments made
5 to the unemployment reserve fund to obtain a lower interest rate or deferral of
6 interest payments on these advances, except as otherwise provided in s. 108.20.

7 **SECTION 4.** 20.445 (1) (nd) of the statutes is amended to read:

8 20.445 (1) (nd) *Unemployment Reemployment assistance administration;*
9 *apprenticeship and other employment services.* From the moneys received from the
10 federal government under section 903 (d) of the federal Social Security Act, as
11 amended, the amounts in the schedule, as authorized by the governor under s. 16.54,
12 to be used for administration by the department of apprenticeship programs under
13 subch. I of ch. 106 and for administration and service delivery of employment and
14 workforce information services, including the delivery of reemployment assistance
15 services to ~~unemployment insurance~~ reemployment assistance claimants. All
16 moneys transferred from par. (n) for this purpose shall be credited to this
17 appropriation account. No moneys may be expended from this appropriation unless
18 the treasurer of the unemployment reserve fund determines that such expenditure
19 is currently needed for the purposes specified in this paragraph.

20 **SECTION 5.** 40.02 (22) (b) 3. of the statutes is amended to read:

21 40.02 (22) (b) 3. Unemployment insurance or reemployment assistance
22 benefits.

23 **SECTION 6.** 40.65 (5) (b) 2. of the statutes is amended to read:

24 40.65 (5) (b) 2. Any unemployment insurance or reemployment assistance
25 benefit payable to the participant because of his or her work record.

SENATE BILL 232**SECTION 7**

1 **SECTION 7.** 49.147 (3) (ac) 2. of the statutes is amended to read:

2 49.147 (3) (ac) 2. State and federal unemployment reemployment assistance
3 contributions or federal unemployment taxes.

4 **SECTION 8.** 49.163 (3) (a) 3. c. of the statutes is amended to read:

5 49.163 (3) (a) 3. c. State reemployment assistance contributions and federal
6 unemployment insurance ~~contributions or~~ taxes, if any.

7 **SECTION 9.** 71.67 (7) (title) of the statutes is amended to read:

8 71.67 (7) (title) ~~WITHHOLDING FROM UNEMPLOYMENT COMPENSATION INSURANCE~~
9 REEMPLOYMENT ASSISTANCE.

10 **SECTION 10.** 105.01 (1) (b) 1. of the statutes is amended to read:

11 105.01 (1) (b) 1. The person employing the individuals in addition to wages or
12 salaries pays federal social security taxes, state reemployment assistance
13 contributions, and federal unemployment ~~contributions or~~ taxes, carries worker's
14 compensation insurance as required by state law, and maintains liability insurance
15 covering the acts of its employees while rendering services to, for or under the
16 direction of a 3rd person; and

17 **SECTION 11.** 105.115 (2) (b) of the statutes is amended to read:

18 105.115 (2) (b) A statement of the employment status of the home care worker,
19 specifically, whether the home care worker is an employee of the home care
20 placement agency or of the home care consumer or is an independent contractor and
21 a statement identifying which party is responsible for paying the wages or salary of
22 the home care worker, paying federal social security taxes and state reemployment
23 assistance contributions and federal unemployment ~~contributions or~~ taxes with
24 respect to the home care worker, and procuring worker's compensation or liability
25 insurance covering injury to the home care worker.

SENATE BILL 232

1 **SECTION 12.** 105.115 (2) (c) of the statutes is amended to read:

2 105.115 (2) (c) A statement that, notwithstanding the employment status of the
3 home care worker specified in the notice, the home care consumer may be determined
4 to be the employer of the home care worker for purposes of certain state and federal
5 labor laws and that, if that is the case, the home care consumer may be held
6 responsible for paying the wages or salary of the home care worker, paying federal
7 social security taxes and state reemployment assistance contributions and federal
8 unemployment ~~contributions~~ or taxes with respect to the home care worker,
9 procuring worker's compensation or liability insurance covering injury to the home
10 care worker, and complying with various other state and federal labor laws.

11 **SECTION 13.** 105.115 (3) (a) 1. of the statutes is amended to read:

12 105.115 (3) (a) 1. A statement identifying which party is responsible for paying
13 the wages or salary of the home care worker, paying federal social security taxes and
14 state reemployment assistance contributions and federal unemployment
15 ~~contributions~~ or taxes with respect to the home care worker, and procuring worker's
16 compensation or liability insurance covering injury to the home care worker.

17 **SECTION 14.** 105.115 (4) (b) 1. of the statutes is amended to read:

18 105.115 (4) (b) 1. If the department finds that a home care placement agency
19 has failed to provide a home care consumer with the notice required under sub. (2)
20 and that the home care consumer is liable for the payment of federal social security
21 taxes or state reemployment assistance contributions or federal unemployment
22 ~~contributions~~ or taxes with respect to the home care worker, for the provision of
23 worker's compensation or liability insurance covering injury to the home care
24 worker, for the payment of any fine or penalty imposed on the home care consumer
25 for noncompliance with any state or federal labor law with respect to the home care

SENATE BILL 232**SECTION 14**

1 worker, or for any injury to the home care worker, the department may recover from
2 the home care placement agency, on behalf of the home care consumer, an amount
3 equal to the total cost of those liabilities.

4 **SECTION 15.** 105.115 (4) (b) 3. of the statutes is amended to read:

5 105.115 (4) (b) 3. In the case of a home care consumer who commences an action
6 in circuit court under par. (a), if the circuit court finds that the home care placement
7 agency has failed to provide the home care consumer with the notice required under
8 sub. (2) and that the home care consumer is liable for the payment of federal social
9 security taxes or state reemployment assistance contributions or federal
10 unemployment ~~contributions~~ or taxes with respect to the home care worker, for the
11 provision of worker's compensation or liability insurance covering injury to the home
12 care worker, for the payment of any fine or penalty imposed on the home care
13 consumer for noncompliance with any state or federal labor law with respect to the
14 home care worker, or for any injury to the home care worker, the court may order the
15 home care placement agency to pay to the home care consumer an amount equal to
16 the total cost of those liabilities, together with costs under ch. 814 and,
17 notwithstanding s. 814.04 (1), reasonable attorney fees.

18 **SECTION 16.** 106.38 (3) (c) 3. of the statutes is amended to read:

19 106.38 (3) (c) 3. State reemployment assistance contributions and federal
20 unemployment insurance ~~contributions~~ or taxes, if any.

21 **SECTION 17.** Chapter 108 (title) of the statutes is repealed and recreated to
22 read:

CHAPTER 108**REEMPLOYMENT ASSISTANCE**

23
24
25 **SECTION 18.** 108.01 (2m) of the statutes is created to read:

SENATE BILL 232

1 108.01 **(2m)** The federal Social Security Act requires that, in order for an
2 individual to be eligible for reemployment assistance benefits, the individual must
3 be able to work, available to work, and actively seeking work. The reemployment
4 assistance program in Wisconsin should enact and focus on policies that complement
5 individuals' efforts to find employment.

6 **SECTION 19.** 108.013 of the statutes is created to read:

7 **108.013 Name of program.** The program established under this chapter and
8 administered by the department shall be referred to as the "Reemployment
9 Assistance Program," and the benefits available under this chapter shall be referred
10 to as "reemployment assistance benefits."

11 **SECTION 20.** 108.02 (21r) of the statutes is created to read:

12 108.02 **(21r)** REEMPLOYMENT ASSISTANCE. "Reemployment assistance," when
13 used in reference to the law of another state or jurisdiction or the federal government,
14 includes an unemployment insurance law of that state or jurisdiction or the federal
15 government.

16 **SECTION 21.** 108.04 (2) (a) 3. of the statutes is amended to read:

17 108.04 **(2)** (a) 3. The claimant conducts a reasonable search for suitable work
18 during that week and provides verification of that search to the department. The
19 search for suitable work must include at least 4 actions per week that constitute a
20 reasonable search as prescribed by rule of the department. The department shall
21 require, for the 3rd or subsequent week of the claimant's benefit year, that at least
22 2 actions per week be direct contacts with potential employing units, as prescribed
23 by rule of the department. In addition, the department may, by rule, require a
24 claimant to take more than 4 reasonable work search actions in any week. The
25 department shall require a uniform number of reasonable work search actions for

SENATE BILL 232**SECTION 21**

1 similar types of claimants. The department may require a claimant to apply for one
2 or more of the potential opportunities provided to the claimant under sub. (15) (a) 1.
3 and may refer a claimant to opportunities with a temporary help company as part
4 of the required search for suitable work under this subdivision.

5 **SECTION 22.** 108.04 (2) (a) 4. of the statutes is renumbered 108.04 (2) (a) 4.
6 (intro.) and amended to read:

7 108.04 (2) (a) 4. (intro.) If the claimant is claiming benefits for a week other
8 than an initial week, the claimant ~~provides~~ does all of the following:

9 a. Provides information or job application materials that are requested by the
10 department ~~and participates.~~

11 b. Participates in a public employment office workshop or training program or
12 in similar reemployment services that are required by the department under sub.
13 (15) (a) 2.

14 **SECTION 23.** 108.04 (2) (a) 4. c. of the statutes is created to read:

15 108.04 (2) (a) 4. c. Submits and keeps posted on the department's job center
16 website a current resume, if the claimant resides in this state.

17 **SECTION 24.** 108.04 (2) (a) 5. of the statutes is created to read:

18 108.04 (2) (a) 5. The claimant completes any reemployment counseling session
19 required of the claimant under sub. (15) (ao) 1.

20 **SECTION 25.** 108.04 (12) (b) of the statutes is amended to read:

21 108.04 (12) (b) Any individual who receives, through the department, any other
22 type of unemployment or reemployment assistance benefit or allowance for a given
23 week is ineligible for benefits for that same week under this chapter, except as
24 specifically required for conformity with 19 USC 2101 to 2497b.

SENATE BILL 232

1 **SECTION 26.** 108.04 (15) (a) (intro.) and 1. of the statutes are consolidated,
2 renumbered 108.04 (15) (a) 1. and amended to read:

3 108.04 **(15)** (a) 1. Except as provided in par. (b), the department ~~may do any of~~
4 ~~the following shall~~, for the purpose of assisting claimants to find or obtain work: ~~1.~~
5 ~~Use, use the information or, materials, and resume provided under sub. (2) (a) 4. to~~
6 ~~assess a claimant's efforts, skills, and ability to find or obtain work and to develop~~
7 ~~a list of potential opportunities for a the claimant to obtain suitable work. A~~
8 ~~claimant who otherwise satisfies the requirement under sub. (2) (a) 3. is not required~~
9 ~~to apply for any specific positions on the list in order to satisfy that requirement~~ The
10 department shall provide each claimant, prior to the claimant filing a weekly claim
11 for benefits, with at least 4 such potential opportunities each week, one or more of
12 which may be opportunities with a temporary help company.

13 **SECTION 27.** 108.04 (15) (a) 2. of the statutes is renumbered 108.04 (15) (a) 2.
14 a. and amended to read:

15 108.04 **(15)** (a) 2. a. ~~Require~~ Except as provided in par. (b), the department shall
16 require a claimant whom the department identifies as likely to exhaust regular
17 benefits to participate in a public employment office workshop or training program
18 or in similar reemployment services that do not charge the claimant a participation
19 fee and that offer instruction to improve the claimant's ability to obtain suitable
20 work.

21 **SECTION 28.** 108.04 (15) (a) 2. b. of the statutes is created to read:

22 108.04 **(15)** (a) 2. b. Except as provided in par. (b), in addition to the claimants
23 described in subd. 2. a., the department may require other claimants to participate
24 in the reemployment services described in subd. 2. a., but the department shall
25 prioritize claimants who are more likely to have difficulty obtaining reemployment.

SENATE BILL 232**SECTION 29**

1 **SECTION 29.** 108.04 (15) (am) and (ao) of the statutes are created to read:

2 108.04 (15) (am) In carrying out this state's program of reemployment services
3 and eligibility assessments using grant funds awarded under 42 USC 506, the
4 department shall, except as provided in par. (b), provide reemployment services to
5 all claimants receiving benefits, including benefits under ss. 108.141 and 108.142,
6 including by doing all of the following for each such claimant:

7 1. Requiring the claimant to complete an online assessment aimed at
8 identifying the claimant's skills, abilities, and career aptitude.

9 2. Coordinating with the claimant to develop an individualized employment
10 plan for the claimant.

11 3. Requiring the claimant to participate in the services described under par. (a)
12 2. a. as needed pursuant to the individualized employment plan described in subd.
13 2.

14 (ao) Except as provided in par. (b), the department shall, when a claimant's
15 remaining benefit entitlement under s. 108.06 (1) is 3 or less times the claimant's
16 weekly benefit rate under s. 108.05 (1), do all of the following:

17 1. Require the claimant to participate in a live, one-on-one reemployment
18 counseling session between the claimant and an employee of the department.

19 2. Provide the claimant information about services and benefits that are
20 available to the claimant pursuant to the federal Workforce Innovation and
21 Opportunity Act of 2014, 29 USC 3101 to 3361, once the claimant exhausts his or her
22 benefit entitlement.

23 **SECTION 30.** 108.13 (4) (a) 4. of the statutes is renumbered 108.13 (4) (a) 2m.
24 and amended to read:

SENATE BILL 232

1 108.13 (4) (a) 2m. ~~“Unemployment insurance”~~ “Reemployment assistance”
2 means any compensation payable under this chapter, including amounts payable by
3 the department pursuant to an agreement under any federal law providing for
4 compensation, assistance or allowances with respect to unemployment.

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

6 108.133 (2) (a) (intro.) ~~Promulgate~~ Immediately promulgate rules to establish
7 the program. The department shall do all of the following in the rules promulgated
8 under this paragraph:

9 **SECTION 32.** 108.133 (2) (am) of the statutes is amended to read:

10 108.133 (2) (am) ~~Promulgate~~ Immediately promulgate rules identifying
11 occupations for which drug testing is regularly conducted in this state. The
12 department shall notify the U.S. department of labor of any rules promulgated under
13 this paragraph.

14 **SECTION 33.** 108.14 (1) of the statutes is amended to read:

15 108.14 (1) This chapter shall be administered by the department through its
16 division of reemployment assistance.

17 **SECTION 34.** 108.14 (8o) of the statutes is created to read:

18 108.14 (8o) The department shall act to continue to receive grants for
19 reemployment services and eligibility assessments under 42 USC 506.

20 **SECTION 35.** 108.141 (1) (b) 3. of the statutes is amended to read:

21 108.141 (1) (b) 3. Has no right to ~~unemployment~~ reemployment assistance
22 benefits or allowances, as the case may be, under the railroad unemployment
23 insurance act or such other federal laws as are specified in regulations issued by the
24 U.S. secretary of labor, and has not received and is not seeking ~~unemployment~~
25 reemployment assistance benefits under the ~~unemployment—insurance~~

SENATE BILL 232**SECTION 35**

1 reemployment assistance law of Canada, but if the individual is seeking such
2 benefits and the appropriate agency finally determines that he or she is not entitled
3 to benefits under such law he or she is an exhaustee.

4 **SECTION 36.** 108.142 (1) (h) 3. of the statutes is amended to read:

5 108.142 (1) (h) 3. Has no right to ~~unemployment~~ reemployment assistance
6 benefits or allowances under the railroad unemployment insurance act or such other
7 federal laws as are specified in regulations issued by the U.S. secretary of labor, and
8 has not received and is not seeking ~~unemployment~~ reemployment assistance
9 benefits under the ~~unemployment insurance~~ reemployment assistance law of
10 Canada, but if the individual is seeking such benefits and the appropriate agency
11 finally determines that he or she is not entitled to benefits under that law, the
12 individual is an “exhaustee”.

13 **SECTION 37.** 108.19 (1m) of the statutes is amended to read:

14 108.19 (1m) Each employer subject to this chapter as of the date a rate is
15 established under this subsection shall pay an assessment to the ~~unemployment~~
16 reemployment assistance interest payment fund at a rate established by the
17 department sufficient to pay interest due on advances from the federal
18 unemployment account under Title XII of the federal social security act, 42 USC 1321
19 to 1324. The rate established by the department for employers who finance benefits
20 under s. 108.15 (2), 108.151 (2), or 108.152 (1) shall be 75 percent of the rate
21 established for other employers. The amount of any employer’s assessment shall be
22 the product of the rate established for that employer multiplied by the employer’s
23 payroll of the previous calendar year as taken from quarterly employment and wage
24 reports filed by the employer under s. 108.205 (1) or, in the absence of the filing of
25 such reports, estimates made by the department. Each assessment made under this

SENATE BILL 232

1 subsection is due within 30 days after the date the department issues the
2 assessment. If the amounts collected from employers under this subsection exceed
3 the amounts needed to pay interest due, the department shall use any excess to pay
4 interest owed in subsequent years on advances from the federal unemployment
5 account. If the department determines that additional interest obligations are
6 unlikely, the department shall transfer the excess to the balancing account of the
7 fund, the ~~unemployment~~ reemployment assistance program integrity fund, or both
8 in amounts determined by the department.

9 **SECTION 38.** 111.39 (4) (c) of the statutes is amended to read:

10 111.39 (4) (c) If, after hearing, the examiner finds that the respondent has
11 engaged in discrimination, unfair honesty testing or unfair genetic testing, the
12 examiner shall make written findings and order such action by the respondent as
13 will effectuate the purpose of this subchapter, with or without back pay. If the
14 examiner awards any payment to an employee because of a violation of s. 111.321 by
15 an individual employed by the employer, under s. 111.32 (6), the employer of that
16 individual is liable for the payment. If the examiner finds a respondent violated s.
17 111.322 (2m), the examiner shall award compensation in lieu of reinstatement if
18 requested by all parties and may award compensation in lieu of reinstatement if
19 requested by any party. Compensation in lieu of reinstatement for a violation of s.
20 111.322 (2m) may not be less than 500 times nor more than 1,000 times the hourly
21 wage of the person discriminated against when the violation occurred. Back pay
22 liability may not accrue from a date more than 2 years prior to the filing of a
23 complaint with the department. Interim earnings or amounts earnable with
24 reasonable diligence by the person discriminated against or subjected to unfair
25 honesty testing or unfair genetic testing shall operate to reduce back pay otherwise

SENATE BILL 232**SECTION 38**

1 allowable. Amounts received by the person discriminated against or subject to the
2 unfair honesty testing or unfair genetic testing as ~~unemployment~~ reemployment
3 assistance benefits or welfare payments shall not reduce the back pay otherwise
4 allowable, but shall be withheld from the person discriminated against or subject to
5 unfair honesty testing or unfair genetic testing and immediately paid to the
6 unemployment reserve fund or, in the case of a welfare payment, to the welfare
7 agency making the payment.

8 **SECTION 39.** 230.43 (4) of the statutes is amended to read:

9 230.43 (4) RIGHTS OF EMPLOYEE. If an employee has been removed, demoted or
10 reclassified, from or in any position or employment in contravention or violation of
11 this subchapter, and has been restored to such position or employment by order of
12 the commission or any court upon review, the employee shall be entitled to
13 compensation therefor from the date of such unlawful removal, demotion or
14 reclassification at the rate to which he or she would have been entitled by law but
15 for such unlawful removal, demotion or reclassification. Interim earnings or
16 amounts earnable with reasonable diligence by the employee shall operate to reduce
17 back pay otherwise allowable. Amounts received by the employee as ~~unemployment~~
18 reemployment assistance benefits or welfare payments shall not reduce the back pay
19 otherwise allowable, but shall be withheld from the employee and immediately paid
20 to the unemployment reserve fund or, in the case of a welfare payment, to the welfare
21 agency making such payment. The employee shall be entitled to an order of
22 mandamus to enforce the payment or other provisions of such order.

23 **SECTION 40.** 230.85 (3) (d) of the statutes is amended to read:

24 230.85 (3) (d) Interim earnings or amounts earnable with reasonable diligence
25 by the person subjected to the retaliatory action or threat shall reduce back pay

SENATE BILL 232

1 otherwise allowable. Amounts received by the person subjected to the retaliatory
2 action or threat as ~~unemployment~~ reemployment assistance benefits or welfare
3 payments do not reduce the back pay otherwise allowable, but shall be withheld from
4 the person subjected to the retaliatory action or threat and immediately paid to the
5 unemployment reserve fund or to the welfare agency making the payment.

6 **SECTION 41.** 779.01 (2) (am) of the statutes is amended to read:

7 779.01 (2) (am) “Labor” includes any wages and related contributions for state
8 employment taxes, worker’s compensation and ~~unemployment—compensation~~
9 insurance reemployment assistance, and other fringe benefits.

10 **SECTION 42. Terminology changes.**

11 (1) UNEMPLOYMENT INSURANCE; TERMINOLOGY CHANGES.

12 (a) Wherever “unemployment insurance” appears in the following, as affected
13 by the acts of 2023, “reemployment assistance” is substituted: ss. 6.10 (9), 13.63 (1)
14 (b), 15.227 (3), 16.48 (1) (intro.), (am), (bm), and (f) and (3), 19.85 (1) (ee), 20.002 (11)
15 (a), 20.445 (1) (gm), (n), and (ne), 29.024 (2r) (title) and (d) 1., 46.272 (7) (e), 47.035
16 (1), 48.715 (7), 49.163 (2) (am) 5., 49.19 (4) (dm) 4., 50.498 (title) and (4) (b), 51.032
17 (title) and (4), 59.40 (2) (e), 59.57 (2) (b), 66.1103 (1) (a), 71.01 (10) (b), 71.05 (6) (b)
18 47m., 71.26 (1) (h), 71.45 (1) (c), 71.52 (6), 71.67 (7) (a) and (b) 2., 71.80 (16) (a) and
19 (b), 73.0301 (2) (c) 2., 73.09 (8), 93.135 (title) and (4), 101.654 (2) (c), 102.17 (1) (c) 2.,
20 102.28 (7) (b) 2., 102.315 (2m) (d), 103.34 (10) (title), 103.92 (3) and (8) (title), 105.13
21 (1), 108.02 (15) (c) 1., (dm) 1., (e), (i) 2., and (k) 9., 10., and 19. b., (21) (a) 2. and (b),
22 and (21e) (e), 108.04 (2) (ae), (4) (c), (5) (intro.), (5g) (a) (intro.), (7) (a) and (L) (intro.),
23 (8) (a) and (c), (11) (g) 2. d., (12) (c) and (d), and (13) (g) 2., 108.06 (5) (a), 108.065 (3),
24 108.068 (6), 108.07 (3m) and (5m), 108.13 (2) and (4) (b), (c) (intro.), (e), and (f),
25 108.135 (1) (intro.) and (a), 108.14 (5) (a), (ag), and (ar), (6), (7) (a), (8) (a), (8m) (a),

SENATE BILL 232**SECTION 42**

1 (8n) (a) and (b), (8s) (a) and (b), (8t), (9), (13), (14), (18), (19), (23) (b) 1., and (24),
2 108.141 (1) (h) and (3g) (a) 2., (c), and (d), 108.142 (1) (i), 108.155 (6), 108.16 (5) (b),
3 108.161 (3) and (3e), 108.162 (1), 108.19 (1e) (d), (1f) (b), and (4), 108.20 (2m), 108.227
4 (title) and (2) (c) 2., 115.31 (6m), 116.03 (4), 118.19 (1m) (b), 120.25 (2) (a) and (6),
5 138.09 (3) (am) 2. and (4) (c), 138.12 (4) (b) 5m. and (5) (am) 1. b. and 3., 138.14 (5)
6 (b) 2m. and (9) (cm), 146.40 (4d) (d), 165.066 (title), 169.35 (title) and (3), 170.12 (8)
7 (b) 1. bm. and 4., 175.46 (5) (a), 202.021 (4) (a) 6., 202.06 (2) (g), 202.23 (2), 217.06
8 (5m), 217.09 (1t), 218.0116 (1g) (b) and (1m) (a) 2m. and (d), 218.02 (3) (dm), (6) (d),
9 and (9) (a) 1m., 218.04 (4) (am) 2m. and (5) (at), 218.05 (4) (c) 2m., (11) (bm), and (12)
10 (at), 218.11 (6m) (c), 218.12 (3m) (c), 218.22 (3m) (c), 218.32 (3m) (c), 218.41 (3m) (b)
11 3., 218.51 (4m) (b) 3., 224.44 (title), 224.72 (7m) (bm), 224.725 (6) (bm), 224.77 (2m)
12 (e), 224.95 (1) (bm), 230.26 (4), 238.31 (1) (e) 4. c., 238.397 (2) (a) 4. c., 254.115 (title)
13 and (5), 254.176 (5), 254.20 (7), 256.18 (title) and (4m), 299.07 (title) and (3), 303.08
14 (3), (4), and (5) (intro.), 341.51 (4m) (c), 343.305 (6) (e) 6., 343.66 (3m), 440.12 (title)
15 and (2), 463.14 (title) and (5), 551.412 (4g) (a) 2m. and (d), 562.05 (5) (a) 11. and (8)
16 (f), 563.285 (title) and (1m), 628.097 (title) and (2m), 628.10 (2) (cm), 628.93 (2) (title),
17 632.69 (2) (d) 2. and (4) (d), 633.14 (2m) (b), 633.15 (2) (d), 751.155 (title) and (3),
18 815.18 (13) (j), 859.02 (2) (a), and 949.06 (3) (b).

19 (b) Wherever “unemployment compensation” appears in the following, as
20 affected by the acts of 2023, “reemployment assistance” is substituted: ss. 49.45 (23b)
21 (a) 2. f., 71.07 (6n) (c) 3., 71.28 (6n) (c) 3., 71.47 (6n) (c) 3., 108.04 (13) (g) 1. b., 108.11
22 (2), 701.0508 (1) (b) 1., 756.04 (2) (c) 4., and 767.75 (3m) (title).

23 (c) Wherever “unemployment” appears in the following, as affected by the acts
24 of 2023, “reemployment assistance” is substituted: ss. 20.427 (1) (k) (title), 20.445 (1)
25 (gc) (title), (gg) (title), (gh) (title), (nb) (title), (u), and (v), 25.17 (1) (xe) and (xf), 108.04

SENATE BILL 232

1 (2) (bb) 5., 108.16 (6) (i) and (m) and (6m) (b), 108.19 (title), (1f) (a), (1q), and (1s) (a)
2 (intro.) and 2. and (b), 108.221 (3), 108.225 (4) (b), and 111.15.

3 **SECTION 43. Nonstatutory provisions.**

4 (1) The department of workforce development shall submit a notice to the
5 legislative reference bureau for publication in the Wisconsin Administrative
6 Register when the department determines that the department has any rules in
7 place that are necessary to implement the treatment of s. 108.04 (2) (a) 3. by this act.

8 **SECTION 44. Initial applicability.**

9 (1) The treatment of s. 108.04 (2) (a) 3. first applies with respect to weeks of
10 unemployment beginning on the effective date of this subsection.

11 (2) The renumbering and amendment of s. 108.04 (2) (a) 4. and (15) (a) 2., the
12 consolidation, renumbering, and amendment of s. 108.04 (15) (a) (intro.) and 1., and
13 the creation of s. 108.04 (2) (a) 4. c. and 5. and (15) (a) 2. b., (am), and (ao) first apply
14 with respect to weeks of unemployment beginning on the effective date of this
15 subsection.

16 **SECTION 45. Effective dates.** This act takes effect on July 2, 2024, except as
17 follows:

18 (1) The treatment of s. 108.04 (2) (a) 3. and SECTION 44 (1) of this act take effect
19 on the Sunday after the notice under SECTION 43 (1) of this act is published in the
20 Wisconsin Administrative Register or on December 31, 2023, whichever occurs first.

21 (2) The treatment of ss. 108.01 (2m), 108.133 (2) (a) (intro.) and (am), and
22 108.14 (8o) and (30), the renumbering and amendment of s. 108.04 (2) (a) 4. and (15)
23 (a) 2., the consolidation, renumbering, and amendment of s. 108.04 (15) (a) (intro.)
24 and 1., and the creation of s. 108.04 (2) (a) 4. c. and 5. and (15) (a) 2. b., (am), and (ao)

SENATE BILL 232

SECTION 45

1 and SECTIONS 43 (1) and 44 (2) of this act take effect on the first Sunday after
2 publication.

3 (END)