



2013 ASSEMBLY BILL 366

September 13, 2013 - Introduced by Representatives SINICKI, OHNSTAD, YOUNG, GOYKE, KOLSTE, ZAMARRIPA, BERNARD SCHABER, SHANKLAND, MASON, BERCEAU, ZEPNICK, RICHARDS, PASCH, JORGENSEN, C. TAYLOR, BARNES, HEBL and SARGENT. Referred to Committee on Labor.

1 **AN ACT** *to repeal* 16.531 (4), 20.002 (11) (b) 3m., 108.04 (2) (i), 108.04 (5) (e) to
2 (g), 108.16 (13), 108.18 (4) (figure) Schedule A lines 24. to 26., 108.18 (4) (figure)
3 Schedule B lines 24. to 26., 108.18 (4) (figure) Schedule C lines 24. to 26., 108.18
4 (4) (figure) Schedule D lines 24. to 26., 108.18 (9) (figure) Schedule A lines 25
5 to 27, 108.18 (9) (figure) Schedule B lines 25 to 27, 108.18 (9) (figure) Schedule
6 C lines 25 to 27 and 108.18 (9) (figure) Schedule D lines 25 to 27; **to amend**
7 20.002 (11) (a), 20.002 (11) (b) 1., 20.002 (11) (c), 20.002 (11) (d) (intro.), 108.02
8 (15m) (intro.), 108.04 (2) (a) 2., 108.04 (2) (a) 3. (intro.), 108.04 (7) (h), 108.14
9 (8n) (e), 108.141 (7) (a), 108.18 (4) (figure) Schedule A line 23., 108.18 (4) (figure)
10 Schedule B line 23., 108.18 (4) (figure) Schedule C line 23. and 108.18 (4)
11 (figure) Schedule D line 23.; **to repeal and recreate** 108.04 (5) (a) to (d), 108.04
12 (5g) and 108.04 (7) (t); and **to create** 108.04 (7) (d), (g), (j), (k), (n), (o) and (r)

ASSEMBLY BILL 366

1 of the statutes; **relating to:** various changes in the unemployment insurance
2 law.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law. Significant provisions include:

Misconduct, absenteeism, and tardiness

Under current law, effective January 5, 2014, if an employee is discharged for misconduct connected with his or her employment, the employee is ineligible to receive UI benefits until seven weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages, or certain other amounts treated as wages, after the week in which the discharge occurs, equal to at least 14 times the employee's weekly benefit rate in employment covered by the UI law of any state or the federal government. In addition, all wages earned with the employer that discharges the employee are excluded in determining the amount of any future benefits to which the employee is entitled. The law defines "misconduct" to mean one or more actions or conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which an employer has the right to expect of his or her employees, or in carelessness or negligence of such degree or recurrence as to manifest culpability, wrongful intent, or evil design of equal severity to such disregard, or to show an intentional or substantial disregard of an employer's interests, or of an employee's duties and obligations to his or her employer. Under the law, "misconduct" specifically includes absenteeism by an employee on more than two occasions within the 120-day period before the date of the employee's termination, unless otherwise specified by his or her employer in an employment manual of which the employee has acknowledged receipt with his or her signature, or excessive tardiness by an employee in violation of a policy of the employer that has been communicated to the employee, if the employee does not provide his or her employer with both notice and one or more valid reasons for the absenteeism or tardiness. In addition, "misconduct" specifically includes 1) a violation of an employer's reasonable written policy concerning the use of alcohol beverages, a controlled substance (dangerous drug), or a controlled substance analog (a drug that is similar to a controlled substance); 2) theft of an employer's property or services under certain circumstances; 3) conviction of an employee of a crime or civil violation under certain circumstances; 4) threats or acts of harassment, assault, or other physical violence at a workplace; 5) falsifying an employer's business records unless directed the employer; and 6) unless directed by the employer, a willful and deliberate violation of a governmental standard or regulation under certain circumstances. In addition, currently, an employee whose work is terminated by his or her employer for "substantial fault" by the employee connected with the employee's work is ineligible to receive benefits until seven weeks have elapsed since the end of the week in which the termination occurs and the employee earns wages, or certain other amounts treated as wages, after the week in which the termination

ASSEMBLY BILL 366

occurs equal to at least 14 times the employee's weekly benefit rate in employment covered by the UI law of any state or the federal government. Under the law, "substantial fault" includes those acts or omissions of an employee over which an employee exercised reasonable control and which violate reasonable requirements of the employee's employer but does not include certain minor infractions, errors, or failure to perform work because of insufficient skill, ability, or equipment.

This bill retains the suspension and requalification requirements for misconduct but eliminates the suspension and requalification requirements for substantial fault. Under the bill, absenteeism and tardiness are not specifically defined as "misconduct" but the bill provides that if an employee is discharged for failure to notify an employer of absenteeism or tardiness that becomes excessive, and the employee's employer complies with certain requirements relating formulation and implementation of policies regarding absenteeism and tardiness, the employee is ineligible to receive benefits until six weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages after the week in which the discharge occurs equal to at least six times the employee's weekly benefit rate in employment covered by the UI law of any state or the federal government. The bill also modifies current law concerning specific acts that constitute misconduct by eliminating specific enumeration of 1) threats or acts of harassment, assault, or physical violence; and 2) falsifying business records. Under the bill, the specific acts that constitute misconduct for use of alcohol beverages, a controlled substance, or controlled substance analog include only those acts that violate an employer's uniformly applied written policy of which the employee had knowledge; do not include refusal to take a test for use of alcohol beverages, a controlled substance, or a controlled substance analog; and, with respect to alcohol beverages, include only consumption or being under the influence of alcohol beverages during working hours. In addition, the specific acts do not include convictions of civil violations, violations of governmental standards or regulations of tribal governments or violations resulting in sanctions other than fines, or felonious conduct connected with an employee's employment or intentional or negligent conduct by an employee that causes substantial damage to an employer's property. Under the bill, the specific acts not enumerated may nevertheless constitute "misconduct" if the acts are interpreted to fall within the definition of that term in the bill.

Registration and work search requirements

Currently, with limited exceptions, in order to become and remain eligible to receive benefits for any week, a claimant is required to, among other things, register for work in the manner directed by the Department of Workforce Development (DWD) and to conduct a reasonable search for suitable work within that week, which must include at least four actions that constitute a reasonable search as prescribed by rule by DWD. In addition, DWD may require a claimant to take more than four reasonable work search actions in any week, but DWD must require a uniform number of reasonable search actions for similar types of claimants.

This bill retains the work-registration requirement but deletes the requirement that a claimant register for work in the manner directed by DWD. The bill also reduces the required number of reasonable work search actions per week

ASSEMBLY BILL 366

that a claimant must take to two actions and deletes authority of DWD to require a claimant to take more than four reasonable search actions in any week.

Temporary help companies and work search

Under current law, effective January 5, 2014, there is a rebuttable presumption that a UI claimant who is subject to the UI law's work search requirement has not conducted a reasonable search for suitable work in a given week if 1) the claimant was last employed by a temporary help company, as defined under current law; 2) the temporary help company required the claimant to contact the temporary help company about available assignments weekly, or less often as prescribed by the temporary help company, and the temporary help company gave the claimant written notice of that requirement at the time the claimant was initially employed by the company; 3) during that week, the claimant was required to contact the temporary help company about available assignments and the claimant did not contact the temporary help company about available assignments; and 4) the temporary help company submits a written notice within ten business days after the end of that week to DWD reporting that the claimant failed to so contact the temporary help company. The claimant may overcome the rebuttable presumption only by a showing that the claimant did in fact contact the temporary help company about available assignments or by showing that the claimant was not informed of this requirement or had other good cause for failing to do so. The claimant's contact of the temporary help company for a given week counts as one action toward the UI law's work search requirement for that week.

The bill repeals these provisions for claimants who were last employed by temporary help companies.

Contribution and solvency rate schedules

Currently, all employers that engage employees in work that is covered under the UI law, other than governmental, nonprofit, and Indian tribal employers that elect to pay directly for the cost of benefits, must pay contributions (taxes) to finance UI benefits. The total contributions of an employer are the sum of the contributions payable as a result of the employer's contribution rate and the contributions payable as a result of the employer's solvency rate, each of which varies with the employment stability of the employer and the solvency of the unemployment reserve fund (fund), from which benefits are paid. An employer's contributions payable as a result of its contribution rate are credited to the employer's account in the fund, while an employer's contributions payable as a result of its solvency rate are credited to the fund's balancing account, which is used to finance benefits not payable from any employer's account.

An employer's contribution rate is determined based upon the employer's reserve percentage. The employer's reserve percentage is the net balance of the employer's account as of the computation date (generally June 30), stated as a percentage of the employer's taxable payroll in the 12-month period ending on the computation date. Current law defines "taxable payroll" as the first \$14,000 of wages paid by an employer to each employee during a calendar year. An employer's solvency rate is determined by reference to the employer's contribution rate and rises as the contribution rate rises.

ASSEMBLY BILL 366

Currently, there are four schedules of contribution rates and four schedules of solvency rates. The schedule that applies for any year depends upon the solvency of the fund on June 30 of the preceding year. Under current law, the following contribution rates apply to employers, effective January 1, 2015: 1) if an overdrawn employer has a negative reserve percentage of 7.0 percent or lower, but less than 8.0 percent, the contribution rate for such an employer is 9.25 percent of taxable payroll; 2) if an overdrawn employer has a negative reserve percentage of 8.0 percent or lower, but less than 9.0 percent, the contribution rate for such an employer is 10.00 percent of taxable payroll; and 3) if an overdrawn employer has a negative reserve percentage of 9.0 percent or greater, the contribution rate for such an employer is 10.70 percent of taxable payroll. For each of the contribution rates in each of the four schedules for overdrawn employers with negative reserve percentages of 7.0 or greater, the employer must pay a solvency rate of 1.30 percent of taxable payroll.

The bill repeals these contribution rates for overdrawn employers with negative reserve percentages lower than 7.0 percent. Under the bill, all overdrawn employers with negative reserve percentages of 6.0 percent or lower pay the same contribution rate of 8.50 percent of taxable payroll for each of the four schedules of contribution rates. The bill also repeals the corresponding solvency rates for overdrawn employers with negative reserve percentages of 7.0 percent or lower so that all overdrawn employers with negative reserve percentages of 6.0 percent or lower pay the same solvency rates.

Termination of work; exemptions from requalification requirements

Currently, unless an exemption applies, if an employee voluntarily terminates his or her work with an employer, the employee is generally ineligible to receive UI benefits until the employee satisfies certain requalification requirements. The bill recreates certain exemptions from the requalification requirements for employees who voluntarily terminate employment, which were repealed by 2013 Wisconsin Act 20, effective January 5, 2014, for the following circumstances:

1. The employee terminated his or her work to accept a recall to work for a former employer within 52 weeks after having last worked for that employer.

2. The employee maintained a temporary residence near the terminated work; the employee maintained a permanent residence in another locality; and the employee terminated the work and returned to his or her permanent residence because the work available to the employee had been reduced to less than 20 hours per week in at least two consecutive weeks.

3. The employee left or lost his or her work because the employee reached the employer's compulsory retirement age.

4. The employee terminated part-time work because a loss of other, full-time employment made it economically unfeasible for the employee to continue the part-time work.

5. The employee terminated his or her work in a position serving as a part-time elected or appointed member of a governmental body or representative of employees; the employee was engaged in work for an employer other than the employer in which the employee served as the member or representative; and the employee was paid

ASSEMBLY BILL 366

wages in the terminated work constituting not more than 5 percent of the employee's base period wages for purposes of entitlement for benefits.

6. The employee terminated his or her work in one of two or more concurrently held positions, at least one of which was full-time work, if the employee terminated his or her work before receiving notice of termination from a full-time work position.

7. The employee owns or controls an ownership interest in a family-owned corporation and the employee's employment was terminated because of an involuntary cessation of the business of the corporation under certain specified conditions.

Also under current law, effective January 5, 2014, an employee who voluntarily terminates his or her work with an employer is exempt from the requalification requirements if the employee's spouse is an active duty member of the U.S. armed forces who was required by the U.S. armed forces to relocate and the employee terminated his or her work to accompany the spouse to that place. Under the bill, the exemption is instead available to any employee who changed his or her place of employment to a place to which it is impractical to commute if the employee terminated his or her work to accompany the spouse to that place.

The bill does not affect any other exemptions from the requalification requirements for employees who voluntarily terminate employment.

Loans by this state to the unemployment reserve fund

Currently, effective January 1, 2014, the secretary of workforce development may request the secretary of administration to reallocate (loan) moneys to the unemployment reserve fund from other state funds or accounts. The total outstanding amount of reallocations may not exceed \$50,000,000 at any given time. Any reallocation is subject to the approval of the Joint Committee on Finance. The secretary of administration may not assess any interest upon outstanding reallocations. The law provides that the secretary of workforce development must request a reallocation whenever the secretary determines that employers in this state that are subject to a requirement to pay a federal unemployment tax might experience a lower tax rate if this state were to loan moneys to the unemployment reserve fund and the loan could be made under existing law. The law also directs the secretary of workforce development to repay any loans made by this state to the unemployment reserve fund whenever the secretary determines that repayment can be made without jeopardizing the ability of DWD to continue to pay other liabilities and costs chargeable to the fund.

This bill deletes the authority to make reallocations to the unemployment reserve fund from other state funds and accounts.

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:

ASSEMBLY BILL 366

1 **SECTION 1.** 16.531 (4) of the statutes, as created by 2013 Wisconsin Act 20, is
2 repealed.

3 **SECTION 2.** 20.002 (11) (a) of the statutes, as affected by 2013 Wisconsin Act 20,
4 is amended to read:

5 20.002 (11) (a) All appropriations, special accounts and fund balances within
6 the general fund or any segregated fund may be made temporarily available for the
7 purpose of allowing encumbrances or financing expenditures of other general or
8 segregated fund activities ~~or for the purpose of financing unemployment insurance~~
9 ~~benefits from the unemployment reserve fund under par. (b) 3m. whenever there are~~
10 ~~insufficient that do not have sufficient~~ moneys in the funds or accounts from which
11 the activities are financed ~~or whenever there are insufficient moneys in the~~
12 ~~unemployment reserve fund to pay unemployment insurance benefit payments if~~
13 there are accounts receivable balances or moneys anticipated to be received from
14 lottery proceeds, as defined in s. 25.75 (1) (c), tax ~~or contribution~~ revenues, gifts,
15 grants, fees, sales of service, or interest earnings recorded under s. 16.52 (2) that will
16 be sufficient to repay the fund or account from which moneys are transferred. The
17 secretary of administration shall determine the composition and allowability of the
18 accounts receivable balances and anticipated moneys to be received for this purpose
19 in accordance with s. 20.903 (2) and shall specifically approve the use of surplus
20 moneys from the general or segregated funds after consultation with the appropriate
21 state agency head for use by specified accounts or programs. The secretary of
22 administration shall reallocate available moneys from the budget stabilization fund
23 under s. 16.465 prior to reallocating moneys from any other fund.

24 **SECTION 3.** 20.002 (11) (b) 1. of the statutes, as affected by 2013 Wisconsin Act
25 20, is amended to read:

ASSEMBLY BILL 366**SECTION 3**

1 20.002 (11) (b) 1. ~~Except with respect to reallocations made under subd. 3m.,~~
2 the The secretary of administration shall limit the total amount of any temporary
3 reallocations to a fund other than the general fund to \$400,000,000.

4 **SECTION 4.** 20.002 (11) (b) 3m. of the statutes, as created by 2013 Wisconsin Act
5 20, is repealed.

6 **SECTION 5.** 20.002 (11) (c) of the statutes, as affected by 2013 Wisconsin Act 20,
7 is amended to read:

8 20.002 (11) (c) The secretary may assess a special interest charge against the
9 programs or activities utilizing surplus moneys within the same fund under this
10 subsection in an amount not to exceed the daily interest earnings rate of the state
11 investment fund during the period of transfer of surplus moneys to other accounts
12 or programs. ~~Except as provided in s. 16.465 and except with respect to transfers~~
13 ~~made under par. (b) 3m.,~~ the secretary shall assess a special interest charge against
14 the fund utilizing surplus moneys under this subsection in an amount equal to the
15 rate of return the state investment fund earnings would have created to the fund
16 from which the reallocation was made. This interest shall be calculated and credited
17 to the appropriate fund at the same time the earnings from the state investment fund
18 are distributed and shall be considered an adjustment to those earnings.

19 **SECTION 6.** 20.002 (11) (d) (intro.) of the statutes, as affected by 2013 Wisconsin
20 Act 20, is amended to read:

21 20.002 (11) (d) (intro.) ~~Except with respect to transfers made under par. (b) 3m.,~~
22 ~~this~~ This subsection applies only to those funds participating in the investment fund
23 for purposes of temporary reallocation between funds or accounts. ~~No transfer may~~
24 ~~be made under this subsection from~~ and does not include any of the following funds
25 or specified accounts in these funds:

ASSEMBLY BILL 366

1 **SECTION 7.** 108.02 (15m) (intro.) of the statutes, as affected by 2013 Wisconsin
2 Act 20, is amended to read:

3 108.02 **(15m)** FAMILY CORPORATION. (intro.) “Family Except as provided in s.
4 108.04 (7) (r), “family corporation” means:

5 **SECTION 8.** 108.04 (2) (a) 2. of the statutes, as affected by 2013 Wisconsin Acts
6 11 and 20, is amended to read:

7 108.04 **(2)** (a) 2. Except as provided in s. 108.062 (10m), as of that week, the
8 individual has registered for work as directed by the department; and

9 **SECTION 9.** 108.04 (2) (a) 3. (intro.) of the statutes, as affected by 2013
10 Wisconsin Acts 11 and 20, is amended to read:

11 108.04 **(2)** (a) 3. (intro.) The individual conducts a reasonable search for
12 suitable work during that week, unless the search requirement is waived under par.
13 (b) or s. 108.062 (10m). The search for suitable work must include ~~at least 4~~ 2 actions
14 ~~per week~~ that constitute a reasonable search as prescribed by rule of the department.
15 ~~In addition, the department may, by rule, require an individual to take more than~~
16 ~~4 reasonable work search actions in any week. The department shall require a~~
17 ~~uniform number of reasonable work search actions for similar types of claimants.~~
18 This subdivision does not apply to an individual if the department determines that
19 the individual is currently laid off from employment with an employer but there is
20 a reasonable expectation of reemployment of the individual by that employer. In
21 determining whether the individual has a reasonable expectation of reemployment
22 by an employer, the department shall request the employer to verify the individual’s
23 employment status and shall also consider other factors, including:

24 **SECTION 10.** 108.04 (2) (i) of the statutes, as created by 2013 Wisconsin Act 20,
25 is repealed.

ASSEMBLY BILL 366

1 **SECTION 11.** 108.04 (5) (a) to (d) of the statutes, as created by 2013 Wisconsin
2 Act 20, are repealed and recreated to read:

3 108.04 (5) (a) A violation by an employee of an employer's reasonable written
4 policy concerning the illegal use of a controlled substance or controlled substance
5 analog, or the consumption of alcohol beverages, if the policy is uniformly applied to
6 all employees of the employer and the employee had knowledge of the employer's
7 policy, and if the employee:

8 1. Admitted to the use of a controlled substance or controlled substance analog
9 or tested positive for the use of a controlled substance or controlled substance analog
10 in a test used by the employer in accordance with a testing methodology approved
11 by the department; or

12 2. Consumed alcohol beverages or was under the influence of alcohol beverages
13 during working hours.

14 (b) Theft of an employer's property or services with intent to deprive the
15 employer of the property or services permanently, or theft of currency of any value.

16 (c) Conviction of an employee of a crime, while on or off duty, if the conviction
17 makes it impossible for the employee to perform the duties that the employee
18 performs for the employer.

19 (d) Unless directed by the employer, a willful and deliberate violation of a
20 written or uniformly applied standard or regulation of the federal government or a
21 state or local government by an employee of an employer that is licensed or certified
22 by a governmental agency, which standard or regulation has been communicated by
23 the employer to the employee and which violation would cause the employer to be
24 fined or to have its license or certification suspended by the agency.

ASSEMBLY BILL 366

1 **SECTION 12.** 108.04 (5) (e) to (g) of the statutes, as created by 2013 Wisconsin
2 Act 20, are repealed.

3 **SECTION 13.** 108.04 (5g) of the statutes, as affected by 2013 Wisconsin Act 20,
4 is repealed and recreated to read:

5 108.04 **(5g)** DISCHARGE FOR FAILURE TO NOTIFY AN EMPLOYER OF ABSENTEEISM OR
6 TARDINESS. (a) If an employee is discharged for failing to notify his or her employer
7 of absenteeism or tardiness that becomes excessive, and the employer has complied
8 with the requirements of par. (d) with respect to that employee, the employee is
9 ineligible to receive benefits until 6 weeks have elapsed since the end of the week in
10 which the discharge occurs and the employee earns wages after the week in which
11 the discharge occurs equal to at least 6 times the employee's weekly benefit rate
12 under s. 108.05 (1) in employment covered by the unemployment insurance law of
13 any state or the federal government. For purposes of requalification, the employee's
14 weekly benefit rate shall be the rate that would have been paid had the discharge not
15 occurred.

16 (b) For purposes of this subsection, tardiness becomes excessive if an employee
17 is absent for 4 or more scheduled workdays in the 120-day period preceding the date
18 of the discharge without providing adequate notice to his or her employer.

19 (c) For purposes of this subsection, absenteeism becomes excessive if an
20 employee is absent for 2 or more scheduled workdays in the 120-day period
21 preceding the date of the discharge without providing adequate notice to his or her
22 employer.

23 (d) 1. The requalifying requirements of par. (a) apply only if the employer has
24 a written policy on notification of tardiness or absences that:

25 a. Defines what constitutes a single occurrence of tardiness or absenteeism.

ASSEMBLY BILL 366

1 b. Describes the process for providing adequate notice of tardiness or absence
2 and, with respect to tardiness, gives the employee a reasonable amount of time to
3 provide notice including, at a minimum, the opportunity to provide that notice as
4 soon as practically possible; and

5 c. Notifies the employee that failure to provide adequate notice of an absence
6 or tardiness may lead to a discharge.

7 2. The employer shall provide a copy of the written policy under subd. 1. to each
8 employee and shall have written evidence that the employee received a copy of the
9 policy.

10 3. The employer must have given the employee at least one warning concerning
11 the employee's violation of the employer's written policy under subd. 1. within the
12 120-day period preceding the date of the discharge.

13 4. The employer must apply the written policy under subd. 1. uniformly to all
14 employees of the employer.

15 (e) The department shall charge to the fund's balancing account the cost of any
16 benefits paid to an employee that are otherwise chargeable to the account of an
17 employer that is subject to the contribution requirements under ss. 108.17 and
18 108.18 if the employee is discharged by that employer and par. (a) applies.

19 (em) If an employee is not disqualified under this subsection, the employee may
20 nevertheless be subject to disqualification under sub. (5).

21 **SECTION 14.** 108.04 (7) (d), (g), (j), (k), (n), (o) and (r) of the statutes are created
22 to read:

23 108.04 (7) (d) Paragraph (a) does not apply if the department determines that
24 the employee terminated his or her work to accept a recall to work for a former
25 employer within 52 weeks after having last worked for such employer.

ASSEMBLY BILL 366

1 (g) Paragraph (a) does not affect an employee's eligibility to receive benefits if
2 the employee:

- 3 1. Maintained a temporary residence near the work terminated; and
- 4 2. Maintained a permanent residence in another locality; and
- 5 3. Terminated such work and returned to his or her permanent residence
6 because the work available to the employee had been reduced to less than 20 hours
7 per week in at least 2 consecutive weeks.

8 (j) Paragraph (a) does not apply if the department determines that the
9 employee left or lost his or her work because of reaching the compulsory retirement
10 age used by the employee's employing unit.

11 (k) Paragraph (a) does not apply to an employee who terminates his or her
12 part-time work if the employee is otherwise eligible to receive benefits because of the
13 loss of the employee's full-time employment and the loss of the full-time
14 employment makes it economically unfeasible for the employee to continue the
15 part-time work.

16 (n) Paragraph (a) does not apply to an employee who:

- 17 1. Terminated work in a position serving as a part-time elected or appointed
18 member of a governmental body or representative of employees;
- 19 2. Was engaged in work for an employing unit other than the employing unit
20 in which the employee served under subd. 1. at the time that the employee
21 terminated work under subd. 1.; and
- 22 3. Was paid wages in the terminated work constituting not more than 5 percent
23 of the employee's base period wages for purposes of benefit entitlement.

24 (o) Paragraph (a) does not apply to an employee who terminates his or her work
25 in one of 2 or more concurrently held positions, at least one of which is full-time work,

ASSEMBLY BILL 366

1 if the employee terminates his or her work before receiving notice of termination
2 from a position that is full-time work.

3 (r) Paragraph (a) does not apply if the department determines that the
4 employee owns or controls, directly or indirectly, an ownership interest, however
5 designated or evidenced, in a family corporation and the employee's employment was
6 terminated by the employer because of an involuntary cessation of the business of
7 the corporation under one or more of the conditions specified in sub. (1) (gm). In this
8 paragraph, "family corporation" has the meaning given in s. 108.02 (15m) and
9 includes a corporation or a limited liability company that is treated as a corporation
10 under this chapter in which 50 percent or more of the ownership interest is or was
11 owned or controlled, directly or indirectly, by one or more brothers or sisters of a
12 claimant, or by a combination of one or more brothers or sisters and one or more of
13 the persons specified in s. 108.02 (15m) (a).

14 **SECTION 15.** 108.04 (7) (h) of the statutes, as affected by 2013 Wisconsin Act
15 20, is amended to read:

16 108.04 (7) (h) The department shall charge to the fund's balancing account
17 benefits paid to an employee that are otherwise chargeable to the account of an
18 employer that is subject to the contribution requirements of ss. 108.17 and 108.18
19 if the employee voluntarily terminates employment with that employer and par. (a),
20 (c), ~~(d)~~, (e), ~~(k)~~, (L), ~~(o)~~, (q), (s), or (t) applies.

21 **SECTION 16.** 108.04 (7) (t) of the statutes, as affected by 2013 Wisconsin Act 20,
22 is repealed and recreated to read:

23 108.04 (7) (t) Paragraph (a) does not apply if the department determines that
24 the employee's spouse changed his or her place of employment to a place to which it

ASSEMBLY BILL 366

1 is impractical to commute and the employee terminated his or her work to
2 accompany the spouse to that place.

3 **SECTION 17.** 108.14 (8n) (e) of the statutes, as affected by 2013 Wisconsin Acts
4 20 and 36, is amended to read:

5 108.14 **(8n)** (e) The department shall charge this state's share of any benefits
6 paid under this subsection to the account of each employer by which the employee
7 claiming benefits was employed in the applicable base period, in proportion to the
8 total amount of wages he or she earned from each employer in the base period, except
9 that if s. 108.04 (1) (f), (5), (7) (a), (c), ~~(d)~~, (e), ~~(k)~~, (L), ~~(o)~~, (q), (s), or (t), (7m) or (8) (a)
10 or 108.07 (3), (3r), or (5) (b) would have applied to employment by such an employer
11 who is subject to the contribution requirements of ss. 108.17 and 108.18, the
12 department shall charge the share of benefits based on employment with that
13 employer to the fund's balancing account, or, if s. 108.04 (1) (f) or (5) or 108.07 (3)
14 would have applied to an employer that is not subject to the contribution
15 requirements of ss. 108.17 and 108.18, the department shall charge the share of
16 benefits based on that employment in accordance with s. 108.07 (5) (a) and (b). The
17 department shall also charge the fund's balancing account with any other state's
18 share of such benefits pending reimbursement by that state.

19 **SECTION 18.** 108.141 (7) (a) of the statutes, as affected by 2013 Wisconsin Acts
20 20 and 36, is amended to read:

21 108.141 **(7)** (a) The department shall charge the state's share of each week of
22 extended benefits to each employer's account in proportion to the employer's share
23 of the total wages of the employee receiving the benefits in the employee's base
24 period, except that if the employer is subject to the contribution requirements of ss.
25 108.17 and 108.18 the department shall charge the share of extended benefits to

ASSEMBLY BILL 366

1 which s. 108.04 (1) (f), (5), (7) (a), (c), (d), (e), (k), (L), (o), (q), (s), or (t), (7m) or (8) (a)
2 or 108.07 (3), (3r), or (5) (b) applies to the fund's balancing account.

3 **SECTION 19.** 108.16 (13) of the statutes, as created by 2013 Wisconsin Act 20,
4 is repealed.

5 **SECTION 20.** 108.18 (4) (figure) Schedule A line 23. of the statutes, as affected
6 by 2013 Wisconsin Act 20, is amended to read:

Figure 108.18 (4):

Schedule A

Line	Reserve Percentage	Contribution Rate
23.	Overdrawn by at least 6.0% but under 7.0% <u>or more</u>	8.50

7 **SECTION 21.** 108.18 (4) (figure) Schedule A lines 24. to 26. of the statutes, as
8 created by 2013 Wisconsin Act 20, are repealed.

9 **SECTION 22.** 108.18 (4) (figure) Schedule B line 23. of the statutes, as affected
10 by 2013 Wisconsin Act 20, is amended to read:

Figure 108.18 (4):

Schedule B

Line	Reserve Percentage	Contribution Rate
23.	Overdrawn by at least 6.0% but under 7.0% <u>or more</u>	8.50

11 **SECTION 23.** 108.18 (4) (figure) Schedule B lines 24. to 26. of the statutes, as
12 created by 2013 Wisconsin Act 20, are repealed.

ASSEMBLY BILL 366

1 **SECTION 24.** 108.18 (4) (figure) Schedule C line 23. of the statutes, as affected
2 by 2013 Wisconsin Act 20, is amended to read:

Figure 108.18 (4):

Schedule C

Line	Reserve Percentage	Contribution Rate
23.	Overdrawn by at least 6.0% but under <u>7.0% or more</u>	8.50

3 **SECTION 25.** 108.18 (4) (figure) Schedule C lines 24. to 26. of the statutes, as
4 created by 2013 Wisconsin Act 20, are repealed.

5 **SECTION 26.** 108.18 (4) (figure) Schedule D line 23. of the statutes, as affected
6 by 2013 Wisconsin Act 20, is amended to read:

Figure 108.18 (4):

Schedule D

Line	Reserve Percentage	Contribution Rate
23.	Overdrawn by at least 6.0% but under <u>7.0% or more</u>	8.50

7 **SECTION 27.** 108.18 (4) (figure) Schedule D lines 24. to 26. of the statutes, as
8 created by 2013 Wisconsin Act 20, are repealed.

9 **SECTION 28.** 108.18 (9) (figure) Schedule A lines 25 to 27 of the statutes, as
10 created by 2013 Wisconsin Act 20, are repealed.

11 **SECTION 29.** 108.18 (9) (figure) Schedule B lines 25 to 27 of the statutes, as
12 created by 2013 Wisconsin Act 20, are repealed.

13 **SECTION 30.** 108.18 (9) (figure) Schedule C lines 25 to 27 of the statutes, as
14 created by 2013 Wisconsin Act 20, are repealed.

15 **SECTION 31.** 108.18 (9) (figure) Schedule D lines 25 to 27 of the statutes, as
16 created by 2013 Wisconsin Act 20, are repealed.

ASSEMBLY BILL 366**1 SECTION 32. Initial applicability.**

2 (1) INTERFUND TRANSFER AUTHORITY. The treatment of sections 16.531 (4), 20.002
3 (11) (a), (b), 1. and 3m., (c), and (d) (intro.) and 108.16 (13) of the statutes first applies
4 with respect to authorization to make transfers on the effective date of this
5 subsection.

6 (2) MISCONDUCT AND SUBSTANTIAL FAULT. The treatment of sections 108.04 (5) (a)
7 to (d) and (e) to (g) and (5g) of the statutes first applies with respect to determinations
8 issued under section 108.09 of the statutes on January 5, 2014, or the first Sunday
9 after publication, whichever is later, or, with respect to determinations that are
10 appealed, to decisions issued under section 108.09 of the statutes on January 5, 2014,
11 or the first Sunday after publication, whichever is later.

12 (3) TEMPORARY HELP COMPANIES. The treatment of section 108.04 (2) (i) of the
13 statutes first applies with respect to determinations issued under section 108.09 of
14 the statutes on the first Sunday of the 7th month beginning after the effective date
15 of this subsection, or, with respect to determinations that are appealed, to decisions
16 issued under section 108.09 of the statutes on the first Sunday of the 7th month
17 beginning after the effective date of this subsection.

18 (4) VOLUNTARY TERMINATION OF WORK. The treatment of sections 108.02 (15m)
19 (intro.), 108.04 (7) (d), (g), (h), (j), (k), (n), (o), (r), and (t), 108.14 (8n) (e), and 108.141
20 (7) (a) of the statutes first applies with respect to determinations issued under
21 section 108.09 of the statutes on the first Sunday of the 7th month beginning after
22 the effective date of this subsection, or, with respect to determinations that are
23 appealed, to decisions issued under section 108.09 of the statutes on the first Sunday
24 of the 7th month beginning after the effective date of this subsection.

