

D15-15
Program Integrity Assessment

Date: December 17, 2015
Proposed by: DWD
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ANALYSIS OF PROPOSED UI LAW CHANGE
Program Integrity Assessment

1. Description of Proposed Change

Employers previously paid an administrative assessment of the lesser of 0.01% of their yearly payroll or their solvency contribution in order to fund the renovation and modernization of the unemployment insurance division's information technology systems.¹ Employers' solvency rates are reduced by the amount of this assessment, resulting in no additional tax paid by employers.² This assessment ceased being assessed after the year 2009.

The department proposes to change the law in order to permit a new assessment on employers that pay contributions, similar to the technology assessment, in order to aid program integrity activities. The assessment would be the lesser of 0.01% of payroll or the solvency contribution of the employer. Employers' solvency rates would be reduced by the amount of the assessment. The department will consider the balance of the trust fund before issuing the assessment. The assessment would only be issued after the secretary of workforce development consults with the Council.

2. Proposed Statutory Change

Please see proposed statutory language attached.

3. Effects of Proposed Change

- a. Policy. This proposal provides the department with additional funding for program integrity activities, which include benefit fraud detection.
- b. Administrative. The department expects a minimal administrative effect for this proposal.

¹ Wis. Stat. § 108.19(1e).

² Wis. Stat. § 108.18(9c).

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c. Fiscal. A fiscal estimate is not yet available.

4. State and Federal Issues

If the trust fund balance is insufficient to pay benefits, Wisconsin would be required to borrow funds from the federal government. During a period of borrowing, the federal government may reduce Wisconsin employers' Federal Unemployment Tax credits. Wisconsin employers can avoid increases in FUTA credit reductions during a period of borrowing if certain criteria are met. The criteria are:

1. No action was taken by the state in the prior 12-month period ending September 30 to decrease the state's unemployment tax effort.
2. No action was taken by the state in the prior 12-month period ending September 30 that has resulted, or will result, in a net decrease in solvency of the state's UC system.
3. The state's average tax rate on total wages exceeds the 5-year benefit cost rate on total wages.
4. The balance of outstanding loans as of September 30 is not greater than the balance 3 years earlier.

By implementing the assessment in this proposal while the trust fund has a negative balance, the federal government may determine that Wisconsin has taken action to decrease its tax effort and/or decrease the solvency of the UC system based on the resulting reduction in employers' solvency rate under s. 108.18(9c), resulting in increased FUTA credit reductions.

There are no known federal conformity issues with this proposal. The Department recommends that any changes to the unemployment insurance law be sent to the U.S. Department of Labor for conformity review.

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5. Proposed Effective/Applicability Date

This proposal would be effective with other changes made as part of the agreed bill cycle.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4028/P1
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to renumber and amend** 108.19 (1s) (a); **to amend** 108.18 (7) (a) 1.,
2 108.18 (7) (h) and 108.18 (9c); **to repeal and recreate** 108.19 (title); and **to**
3 **create** 108.19 (1f) and 108.19 (1s) (a) 2. of the statutes; **relating to:** an
4 assessment against employers to fund unemployment insurance program
5 integrity costs.

Analysis by the Legislative Reference Bureau

Program integrity assessment

Currently, all employers that engage employees in work that is covered under the unemployment insurance (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. An employer's contributions are assessed based on the employer's contribution rate and the employer's solvency rate, each of which varies with the employment stability of the employer and the solvency of the state's Unemployment Reserve Fund (fund). An employer's contributions payable as a result of the employer's contribution rate are credited to the employer's account in the fund, while an employer's contributions payable as a result of the employer's solvency rate are credited to the fund's balancing account, which is used to fund benefits not payable from any employer's account.

In addition to these contributions, this bill levies an annual assessment on each employer that is currently subject to a contribution requirement in the amount of

0.01 percent (or a lower rate if prescribed by DWD) of an employer's taxable payroll for each year, unless the employer is not required to pay a solvency contribution. An assessed employer's solvency rate is then reduced by the amount of the assessment rate. The levy is not effective for any year unless DWD, no later than the November 30 preceding that year, publishes a class 1 notice giving notice that the levy is in effect for the ensuing year. DWD must consider the balance of the fund before prescribing the levy, and the secretary of workforce development must consult with the Council on Unemployment Insurance before DWD prescribes a levy. Under the bill, assessments are deposited in the unemployment program integrity fund and must therefore, as provided under current law, be used for payment of costs associated with program integrity activities.

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

SECTION 1. 108.18 (7) (a) 1. of the statutes is amended to read:

108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make payments to the fund during the month of November in excess of those required by this section and s. 108.19 (1) ~~and (1e), and (1f)~~. Each payment shall be credited to the employer's account for the purpose of computing the employer's reserve percentage as of the immediately preceding computation date.

SECTION 2. 108.18 (7) (h) of the statutes is amended to read:

108.18 (7) (h) The department shall establish contributions other than those required by this section and s. 108.19 (1) ~~and (1e), and (1f)~~ and contributions other than those submitted during the month of November or authorized under par. (f) or (i) 2. as a credit, without interest, against future contributions payable by the employer or shall refund the contributions at the employer's option.

SECTION 3. 108.18 (9c) of the statutes is amended to read:

108.18 (9c) **REDUCTION OF SOLVENCY RATE.** The department shall reduce the solvency rate payable under sub. (9) by each employer for each year by the ~~rate~~ rates payable by that employer under s. 108.19 (1e) (a) ~~and (1f) (a)~~ for that year.

1 **SECTION 4.** 108.19 (title) of the statutes is repealed and recreated to read:

2 **108.19** (title) **Contributions to administrative account and**
3 **unemployment interest payment and program integrity funds.**

4 **SECTION 5.** 108.19 (1f) of the statutes is created to read:

5 **108.19 (1f)** (a) Except as provided in par. (b), each employer, other than an
6 employer that finances benefits by reimbursement in lieu of contributions under s.
7 108.15, 108.151, or 108.152 shall, in addition to other contributions payable under
8 s. 108.18 and this section, pay an assessment for each year equal to the lesser of 0.01
9 percent of its payroll for that year or the solvency contribution that would otherwise
10 be payable by the employer under s. 108.18 (9) for that year. Assessments under this
11 paragraph shall be deposited in the unemployment program integrity fund.

12 (b) The levy prescribed under par. (a) is not effective for any year unless the
13 department, no later than the November 30 preceding that year, publishes a class
14 1 notice under ch. 985 giving notice that the levy is in effect for the ensuing year. The
15 department shall consider the balance of the unemployment reserve fund before
16 prescribing the levy under par. (a). The secretary of workforce development shall
17 consult with the council on unemployment insurance before the department
18 prescribes the levy under par. (a).

19 (c) Notwithstanding par. (a), the department may, if it finds that the full
20 amount of the levy is not required to effect the purposes specified in sub. (1s) (b) for
21 any year, prescribe a reduced levy for that year and in such case shall publish in the
22 notice under par. (b) the rate of the reduced levy.

23 **SECTION 6.** 108.19 (1s) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
24 is renumbered 108.19 (1s) (a) (intro.) and amended to read:

