D21-20
Repeal Work Search and Work Registration Waivers from Statute

Date: April 15, 2021
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Repeal Work Search and Work Registration Waivers from Statute

1. Description of Proposed Change

Unemployment benefit claimants must conduct at least four work searches each week and register for work, unless a waiver relieves them of these requirements. Federal law also requires claimants to be actively seeking work and to register for work. Before 2017 Wis. Act 370 (enacted during the 2018 extraordinary session), the unemployment work search waivers were set forth in Wis. Admin. Code DWD § 127.02. The unemployment work registration waivers were in Wis. Admin. Code DWD § 126.03.

Act 370 codified in statute the work search and work registration waivers that existed in Administrative Code chapters DWD 126 and 127. Act 370 also created statutory language to permit the Department to promulgate administrative rules that modify the statutory work search and work registration waivers or create additional work search or work registration waivers “to comply with a requirement under federal law or is specifically allowed under federal law.” The Department has not yet repealed the prior Administrative Code waivers. The Department promulgated an emergency rule during the COVID-19 pandemic to waive work search during the pandemic, consistent with federal law.

The Governor’s Budget Bill (AB 68 / SB 111) would repeal the work search waiver provisions in statute as created by Act 370, restore the applicable statutes to their pre-Act 370 language, and direct the Department to establish work search waivers by administrative rule.
2. Proposed Statutory Changes

Section 108.04 (2) (a) (intro.) of the statutes is amended to read:

Except as provided in pars. (b) to (bd), sub. (16) (am) and (b), and s. 108.062 (10) and (10m) and as otherwise expressly provided, a claimant is eligible for benefits as to any given week only if all of the following apply:

Section 108.04 (2) (a) 3. of the statutes is repealed and recreated to read:

The claimant conducts a reasonable search for suitable work during that week and provides verification of that search to the department. The search for suitable work must include at least 4 actions per week that constitute a reasonable search as prescribed by rule of the department. In addition, the department may, by rule, require a claimant to take more than 4 reasonable work search actions in any week. The department shall require a uniform number of reasonable work search actions for similar types of claimants. This subdivision does not apply to a claimant if the department determines that the claimant is currently laid off from employment with an employer but there is a reasonable expectation of reemployment of the individual by that employer. In determining whether the claimant has a reasonable expectation of reemployment by an employer, the department shall request the employer to verify the claimant's employment status and shall consider all of the following:

a. The history of layoffs and reemploysments by the employer.

b. Any information that the employer furnished to the claimant or the department concerning the claimant's anticipated reemployment date.

c. Whether the claimant has recall rights with the employer under the terms of any applicable collective bargaining agreement.

1 Subject to revision to ensure cross-references are corrected.
**D21-20**

**Repeal Work Search and Work Registration Waivers from Statute**

**Section 108.04 (2) (b) of the statutes is repealed and recreated to read:**

The department may, by rule, establish waivers from the registration for work requirement under par. (a) 2. and the work search requirement under par. (a) 3.

**Section 108.04 (2) (bb) of the statutes is repealed.**

**Section 108.04 (2) (bd) of the statutes is repealed.**

**Section 108.04 (2) (bm) of the statutes is amended to read:**

A claimant is ineligible to receive benefits for any week for which there is a determination that the claimant failed to comply with the registration for work and work search requirements under par. (a) 2. or 3. or failed to provide verification to the department that the claimant complied with those requirements, unless the department has waived those requirements under par. (b), (bb), or (bd) or s. 108.062 (10m). If the department has paid benefits to a claimant for any such week, the department may recover the overpayment under s. 108.22.

**3. Effects of Proposed Change**

a. **Policy:** The proposed change would restore the law on work search and work registration waivers to the status quo before Act 370.

b. **Administrative:** This proposal will require training of Department staff.

c. **Fiscal:** A fiscal estimate is attached.

**4. State and Federal Issues**

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.
D21-20
Repeal Work Search and Work Registration Waivers from Statute

5. Proposed Effective/Applicability Date

This proposal would be effective with the other provisions of the agreed bill.
D21-20
Repeal Work Search and Work Registration Waivers from Statute
FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Date: 3/21/19
Prepared by: UI Technical Services Section

Work Search Waiver Provisions by Rule in Lieu of Statute

Issue: This proposal deletes work search waiver provisions in current law and instead allow DWD to establish such waivers by rule.

Annual and Biennial Impacts:

Effective date is dependent on the promulgation of rules

The proposal, as written, would not have any impact on benefit payments or UI tax revenue. It would not impact reimbursable employers, nor the UI Trust Fund. Any impacts would be determined based on DWD administrative rule.
FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:
This proposal removes the waiver requirements from statute and instead allows DWD to establish waivers for the registration for work and work search requirements by rule. The proposal also specifies that the work search requirement does not apply to a claimant who has been laid off but DWD determines that the claimant has a reasonable expectation to be recalled to work.

UI Trust Fund Impact:
This proposal is estimated to have no impact on the UI Trust.

IT and Administrative Impact:
There is no IT or administrative impact to the Unemployment Insurance program.

Trust Fund Methodology:
This proposal would revert statute to rule and policy matching the current statute, so there would be no impact.

IT and Administrative Impact Methodology:
This proposal would revert statute to rule and policy matching the current statute, so there would be no impact.