

# **SUMMARY OF AMENDMENTS TO WISCONSIN'S UNEMPLOYMENT INSURANCE**

In 2013, Governor Scott Walker signed into law three pieces of legislation containing substantial amendments to the unemployment insurance (UI) program. 2013 Wisconsin Act 20 (the state's 2013-15 budget) contained amendments to seven aspects of the UI program. 2013 Wisconsin Act 36 contained twenty-seven amendments to portions of the UI program. Below is a brief summary of these Acts categorized based on the changes made to Benefits, Taxes, and Other Changes. In addition, at the end is a summary of the provisions of the work share law, 2013 Wisconsin Act 11.

## **BENEFIT CHANGES**

- **Quit Exceptions**

2013 Wisconsin Act 20 makes a number of changes with respect to a claimant's eligibility for benefits when he or she voluntarily terminates his or her work. If an employee quits a job and the employee's reason for leaving the job is covered by a statutory quit exception, he or she is still eligible for benefits if he or she is otherwise qualified for benefits. If an employee quits a job and the reason is not covered by one of the statutory quit exceptions, the employee is ineligible for benefits until he or she requalifies for benefits. 2013 Wisconsin Act 20:

- 1. Eliminates eight of seventeen previous quit exceptions:**

- (a) 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.
- (b) 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.
- (c) The employee left or lost his or her work because the employee reached the employer's compulsory retirement age.
- (d) 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.
- (e) The employee terminated his or her work with a labor organization if the termination caused the employee to lose seniority rights granted under a collective bargaining agreement and resulted in the loss of the employee's employment with the employer that is a party to that collective bargaining agreement.
- (f) 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 wages in the terminated work constituting not more than 5 percent of the employee's base period wages for purposes of entitlement for benefits.

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

2. **Modifies the quit exception that allows benefits when an employee quits a new job within the first ten weeks.** The exception is only available if the employee could have originally refused to accept employment at the new job and still have collected UI benefits as a result of the new job not being deemed suitable work. The modification provides that the claimant will only have 30 calendar days after starting the new job to quit, and still be eligible for benefits rather than ten weeks. Wis. Stats. §108.04 (7)(e).
3. **Modifies the quit to follow spouse exception.** Currently, an employee can quit a job and still be eligible for benefits if the reason for quitting was to accompany a spouse who relocated for employment. The bill narrows the exception so that it only applies if the employee's spouse is an active duty member of the U.S. Armed Forces who is required to relocate by the Armed Forces to a location that it is impracticable for the employee to commute to work. Wis. Stats. § 108.04 (7)(t).
4. **Consolidates two quit exceptions into one.** The first exception consolidated is commonly referred to as the quit-to-take exception. It provides that an employee is eligible for benefits if he or she quits one job to accept a new job under certain circumstances:
  - (a) First, the new job must be employment covered by the UI program;
  - (b) Second, the employee needs to have been offered the new job before quitting the old job;
  - (c) Third, the new job must have certain more favorable conditions; and,
  - (d) Finally, the employee must have earned wages of 4 times his or her weekly benefit rate with the new employer before 4 weeks have elapsed after the week of the quit.

The second exception consolidated is commonly referred to as the quit part-time. It provides that an employee who quits a part-time job is eligible for benefits if the reason for quitting the part-time job is the loss of full time employment and it is economically unfeasible for the employee to continue

the part-time work. Two other conditions must be satisfied with respect to this quit exception. First, the employee must work less than 32 hours at the part-time job. Second, the employee must be otherwise eligible for benefits as a result of the loss of full time employment.

2013 Wisconsin Act 20 combined these two exceptions into one. If an employee terminates work to accept covered employment and the new employment satisfies any one of the following four conditions with respect to the new job compared to the job the employee quit:

- (a) The weekly wages were at least equal;
- (b) The number of hours of work were equal or greater;
- (c) There was an opportunity for significantly longer term work; or,
- (d) Closer to employee's home.

It will also apply regardless of whether or not the employee is working at a part-time job or whether the claimant earns a certain amount of wages in the subsequent work. Wis. Stat. § 108.04 (7)(L).

5. **Amends the requalification requirements.** If a claimant quits a job and the reason for quitting is not covered by one of the statutory quit exceptions, the law provides certain criteria a claimant must satisfy to again be eligible for UI benefits. Currently, a claimant must earn 4 times his or her weekly benefit rate (WBR) and 4 weeks from the week of the quit must elapse. The new law provides that a claimant must solely earn 6 times his or her WBR from the week of the quit. Wis. Stat. §108.04 (7)(a).

**Effective date:**

The amendments to the quit exceptions first applies with respect to determinations issued on or after January 5, 2014.

**Primary Statute Amended:**

Wisconsin Statute § 108.04 (7).

- **Misconduct and Substantial Fault**

2013 Wisconsin Act 20 creates a two-tier standard for disqualifying claimants from receiving UI benefits. The new law first provides a definition for misconduct and then enumerates that misconduct specifically includes, but is not limited to, seven general actions by an employee. The seven examples include that a claimant will be ineligible for benefits if the claimant's discharge resulted from:

1. A violation of an employer's reasonable written drug and alcohol policy, if the claimant had knowledge of the policy and either admitted to the use of alcohol or drug or refused to take a test or tested positive in a test administered by the employer in accordance with a testing methodology approved by DWD.
2. Theft of an employer's property or services, theft of currency of any value, felonious conduct connected with the claimant's employment, or intentional or negligent conduct by a claimant that causes substantial damage to his or her employer's property.
3. A conviction of a crime or other offense subject to civil forfeiture, while on or off duty, if the conviction makes it impossible for the claimant to perform the duties that the claimant performs for the employer.
4. One or more threats or acts of harassment, assault, or other physical violence instigated by a claimant at the employer's workplace.
5. Under certain circumstances, absenteeism or excessive tardiness.
6. Unless directed by a claimant's employer, falsifying the employer's business records.
7. Unless directed by the employer, a willful and deliberate violation of a written and uniformly applied standard by a claimant for an employer that is licensed or certified by a governmental agency, which standard has been communicated by the employer to the claimant and which violation would cause the employer to be sanctioned or to have its license or certification suspended by the agency.

In addition, the new law provides that if the claimant's discharge is due to substantial fault a claimant may be disqualified from receiving benefits. "Substantial fault" includes those acts or omissions of an employee over which the employee exercised reasonable control and which violate reasonable requirements of the employee's employer. Substantial fault essentially means that if an employer establishes a reasonable job policy to which an employee can conform, failure to conform constitutes substantial fault. Substantial fault does not include:

1. Minor violations of the employer's rules unless the employee repeats the violation after receiving a warning,

2. Unintentional mistakes made by the employee, nor
3. Not performing work because the employee lacks skill, ability, or was not supplied equipment.

The new law also:

1. Removes the statutory language regarding disqualification for absenteeism or tardiness; and,
2. Provides that both the discharge for misconduct and discharge for substantial fault provisions have the same seven by fourteen frame work for requalification for benefits. However, if the claimant is disqualified from benefits under the substantial fault criteria, the wages earned at the job may be used in determining the claimant's eligibility for and amount of benefits should the claimant requalify for benefits. If the claimant requalifies the employer is not charged for any benefit payments, but instead these benefits will be charged to the UI balancing account.

**Effective Date:**

The changes apply with respect to determinations issued on or after January 5, 2014.

**Primary Statute Amended:**

Wisconsin Statute § 108.04 (5) and (5g).

- **Work Search - - Temporary Help Companies**

2013 Wisconsin Act 20 provides if a claimant's last employer was a "temporary help company", the claimant must contact that employer weekly for an assignment or the claimant is considered to not have conducted a reasonable search for suitable work. The temporary help company must provide written notice of the fact that the claimant did not contact the temporary help company to the Department within 10 business days after the end of that week. There are three exceptions to this requirement:

1. The claimant has been waived from work search actions by the Department;
2. The temporary help company did not require the claimant to contact it or failed to give the claimant written notice of the requirement that the claimant must conduct weekly contacts with the temporary help agency seeking assignments; or,
3. There is good cause for the failure of the claimant to contact the temporary help company.

If the claimant does contact the temporary help company, the claimant will have satisfied one of the required weekly work search actions.

**Effective Date:**

The temporary help company work search provision applies with respect to determinations issued on or after January 5, 2014.

**Primary Statute Created:**

Wisconsin Statute § 108.04 (2)(i).

- **Increasing Claimants' Weekly Work Search Actions**

2013 Wisconsin Act 20 increased the required number of weekly work search actions from two to at least four. The Department is required to promulgate rules for the circumstances when a claimant may be required to perform more than four job search actions in a given week.

**Effective Date:**

This amendment first applies to weeks of unemployment beginning after July 7, 2013, except that the Department will not require a claimant to conduct more than four work search actions in a week until it has promulgated the appropriate rules.

**Primary Statute Amended:**

Wisconsin Statute § 108.04 (2)(a) 3.

- **SSDI and UI Payments**

2013 Wisconsin Act 36 provides a claimant cannot simultaneously collect both Social Security Disability Insurance (SSDI) benefits and UI benefits.

**Effective Date:**

The Department shall implement the change with respect to SSDI and UI benefits for determinations issued on or after January 5, 2014.

**Primary Statute Created:**

Wisconsin Statute §§ 108.04 (2)(h) and 108.04 (12)(f).

- **Requiring Claimant to Create and Protect Security Credentials**

2013 Wisconsin Act 36 explicitly provides that a claimant must create security credentials to file a claim and ensures that a claimant is held responsible for giving out UI security credentials that enable another person to improperly file for benefits on the claimant's behalf.

**Effective Date:**

The amendment first applies for determinations issued on or after January 5, 2014.

**Primary Statute Created:**

Wisconsin Statute § 108.04 (2)(g).

- **Claimant Fails to Provide Information to the Department**

Currently, benefits may be suspended if a claimant does not provide certain requested information to the Department pertaining to a claimant's eligibility for benefits. A claimant will only receive these benefits for the week when he or she provides the information to the Department, if otherwise qualified to receive benefits. Yet, if the claimant has good cause for failing to provide the information, he or she may receive benefits back to the date that the Department suspended benefits. 2013 Wisconsin Act 36 enables a claimant to receive benefits back to the date the Department suspended benefits without a need to show good cause for failing to provide the information. There are two limitations on the claimant receiving the benefits back to the date the Department originally suspended the benefits as a result of not providing requested information:

1. The claimant needs to be otherwise eligible for benefits; and,

2. A claimant only has two years from the time the Department requests the information for the claimant to provide it in order to still be eligible to receive the suspended benefits.

The change does not impact a claimant if he or she fails to provide social security numbers or provides a false social security number to the Department in filing a claim. If a claimant fails to provide his or her social security number he or she will receive benefits back to the date that the Department suspended benefits, if the claimant has good cause for failing to provide his or her social security number.

**Effective Date:**

The amendments first apply with respect to determinations issued on or after January 5, 2014.

**Primary Statute Amended:**

Wisconsin Statute § 108.04 (1)(hm).

- **Increase Weekly Benefit Amount**

2013 Wisconsin Act 36 increases the maximum amount of weekly benefits a UI claimant may receive from \$363 to \$370 and the minimum amount will continue at \$54 per week.

**Effective Date:**

The change with respect to the maximum amount of benefits first applies to benefit payments made after January 5, 2014.

**Primary Statutes Amended and Created:**

Wisconsin Statute §§ 108.05 (1)(q), 108.05 (1)(r), and 108.05 (2)(c).



- **Amending the Suitable Work Requirement Re-eligibility**

In order to be eligible for benefits a claimant must:

- (1) Accept suitable work when it is offered.
- (2) Return to work if a former employer recalls the employee within 52 weeks after the employee last worked for that employer, unless there is good cause for not accepting the work.

Current law provides that if a claimant fails to accept suitable work or the recalled position, he or she is ineligible for benefits unless he or she qualifies again for benefits. If a claimant is disqualified for failure to accept suitable work or the recalled position the claimant must satisfy two requirements before being eligible again for benefits. The claimant must earn wages that are equal to at least four times the employee's weekly benefit rate (WBR) and four weeks need to elapse from when the claimant did not accept the suitable work.

2013 Wisconsin Act 36 changes the requalification requirements to increase the weekly benefit rate (WBR) the claimant must earn to six times the claimant's WBR, but removes the requirement that four weeks need to elapse from when the claimant did not accept the suitable work.

**Effective Date:**

The law change first applies to determinations issued on or after January 5, 2014.

**Primary Statute Amended:**

Wisconsin Statute § 108.04 (8)(a) and (c).

- **Cafeteria Benefit Plans**

Under current law, the value of a cafeteria plan is included in the employee's wage base but it is not taxed as wages. 2013 Wisconsin Act 36 makes consistent the treatment of cafeteria benefit plan payments by not paying benefits on untaxed wages.

**Effective Date:**

The amendment shall first apply to new claims filed on or after September 29, 2013.

**Primary Statute Amended:**

Wisconsin Statute § 108.02 (4m).

- **Prisoners Collecting UI as a Result of Work Release**

Some private employers hire prison inmates on work release for work performed outside of the prison. 2013 Wisconsin Act 36 classifies prisoners' work release employment as non-covered employment for purposes of the UI program. As a result, these private employers will not pay unemployment taxes on the wages paid to the inmates and the inmates will be unable to use these wages to collect UI benefits if they are later released from prison and unemployed. This amendment does not impact inmates with Huber privileges being held in county jails.

**Effective Date:**

The change with respect to the treatment of prison inmate wages for UI purposes first applies to determinations issued on or after January 5, 2014.

**Primary Statute Created:**

Wisconsin Statute § 108.02 (15)(kt).

- **Random UI Search Audits**

2013 Wisconsin Act 36 requires the Department to conduct random audits of claimants' weekly work search efforts.

**Effective Date:**

The Department shall conduct random audits of claimants' work search efforts on or after January 5, 2014.

**Primary Statute Created:**

Wisconsin Statute § 108.14 (20)

- **Extended Training Benefits**

Currently, a claimant may qualify to receive benefits while participating in an extended training program under certain conditions including, but not limited to, when he or she has exhausted all other UI benefits. 2013 Wisconsin Act 36 repeals the payment of extended training benefits.

**Effective Date:**

The repeal of the payment of extended training benefits first applies for individuals who are not qualified for the program as of December 22, 2013.

**Primary Statute Repealed:**

Wisconsin Statute § 108.06 (7).

- **Facilitate Claimant's Reemployment**

2013 Wisconsin Act 36 requires UI claimants to provide additional information to the Department in order to enhance the Department's ability to assist claimants to become more quickly employed.

**Effective Date:**

The requirement that claimants provide additional information to the Department became effective July 7, 2013.

**Primary Statute Created:**

Wisconsin Statute §§108.04 (2) (a) 4. and 108.04 (15).

## TAX CHANGES

- **Payment of Interest to the Federal Government**

The Federal Unemployment Account loans money for state unemployment programs to ensure a continued flow of benefits during economic downturns. State law provides that businesses pay the interest through a Special Assessment for Interest (SAFI). 2013 Wisconsin Act 20 provides up to \$30 million of general purpose revenue (GPR) to pay the interest owed by Wisconsin on the federal loan relieving businesses from the SAFI assessment. The current projections are that the interest owed to the federal government will be \$19 million in 2013 and \$7 million in 2014.

**Effective Date:**

This provision became effective on July 1, 2013 and will be repealed on July 1, 2015.

**Primary Statute Created:**

Wisconsin Statute § 20.445 (1)(fx).

- **Interfund Borrowing**

Wisconsin employers have not been eligible to claim the maximum amount of unemployment tax credits on their federal unemployment (FUTA) tax return because Wisconsin has had an outstanding federal UI loan for at least two years.

2013 Wisconsin Act 20 authorizes the Department of Administration to loan GPR money up to \$50 million to the UI Trust Fund. The Secretary of DWD shall request the loan whenever the Secretary determines that taking the loan may cause employers to experience a lower FUTA tax rate. The interest-free loan will be repaid using UI contributions from employers in accordance with federal requirements. 2013 Wisconsin Act 20 directs that the timing of any repayment must accord with federal requirements for ensuring a favorable tax experience for employers.

**Effective Date:**

The Secretary will have authority to request the interfund borrowing beginning January 1, 2014.

**Primary Statutes Created:**

Wisconsin Statute §§ 20.002 (11)(b)3m. and 108.16 (13)

- **Contribution Financing Tax Rates**

Currently, most employers must pay contributions (taxes) to finance UI benefits. The amount an employer pays has two components. The first component is an employer's contribution rate, which is generally based on the employer's experience with respect to the UI system. The second component is an employer's solvency rate, which ranges from 0.2 to 1.35 percent of taxable payroll (up to \$14,000 per employee per calendar year), based on the employee's experience rate.

The highest contribution rate that must be paid by an employer applies to an overdrawn employer with a reserve percentage of negative 6.0 percent or lower.

2013 Wisconsin Act 20 amends each of the four tax schedules contained in Wis. Stats. § 108.18 (4), so that overdrawn employers with reserve percentages lower than negative 6.0 percent have higher contribution rates. The highest contribution rate would increase from 8.5 to 10.7 percent of taxable payroll. 2013 Wisconsin Act 20 also amends each of the four schedules of solvency so that in each of the added contribution rates in each of the four schedules the solvency rate is 1.30 percent of taxable payroll.

**Effective Date:**

The changes on tax rates are effective for payrolls on or after January 1, 2015.

**Primary Statute Amended:**

Wisconsin Statute § 108.18 (4).

- **Online Employer Complaint System**

2013 Wisconsin Act 36 requires the Department to request funding from the federal government for the Department to develop and maintain an online portal for employers to log in and file complaints about the UI program.

**Effective Date:**

The Department shall request funding from the federal government for the Department to develop and maintain the online employer complaint system. The system must be operational on or after January 5, 2014. If the Department does not obtain the funding, the Department is still required to create the online employer complaint system.

**Primary Statute Created:**

Wisconsin Statute § 108.14 (21).

- **Reporting of Individual Business Reserve Fund Balance**

2013 Wisconsin Act 36 requires the Department to clarify and provide definitions to explain the financing of the UI system and the operation of an employer's reserve fund balance. The Department shall provide this information to subject employers, post it on the Internet, and provide this same information to any employer who becomes newly subject to pay UI taxes.

**Effective Date:**

The Department shall begin to provide the reserve fund balance information to employers no later than July 7, 2014.

**Primary Statute Created:**

Wisconsin Statute § 108.14 (24).

- **Lost Licenses**

Typically, if a claimant's employment is suspended or terminated due to losing a license required to perform the job, the claimant is ineligible for benefits. If the claimant's license is reinstated and the employer does not rehire the claimant, the claimant becomes eligible for benefits and any benefits paid are charged to the employer's UI account. 2013 Wisconsin Act 36 provides that any resulting benefits will instead be charged to the UI balancing account.

**Effective Date:**

The lost license provision first applies with respect to determinations issued on or after January 5, 2014.

**Primary Statute Amended:**

Wisconsin Statute § 108.04 (1)(f)

## OTHER CHANGES

- **Standardized DWD Handbook for Employers**

2013 Wisconsin Act 36 provides the Department shall create and periodically update a handbook for employers. The purpose of the handbook is to inform employers who are or may be subject to UI law about the provisions and requirements of the law. The Department will update, modify, and enhance its current employer handbook to ensure that it adequately addresses the topics required by the new law.

**Effective Date:**

The Department shall make available the updated handbook by July 7, 2014.

**Primary Statute Created:**

Wisconsin Statute § 108.14 (23)

- **Department Overpayments**

2013 Wisconsin Act 36 clarifies and narrows the situations where the law would classify actions as Department error, thereby limiting circumstances when claimants can retain erroneous overpayments. It also authorizes the Department to initiate a legal action to recover erroneous overpayments from any person if the overpayment to that person did not result from Department error. Prior to the Department initiating a legal action for recovery of erroneous overpayments the claimant must have exhausted all administrative appeal rights.

**Effective Date:**

The amendment to statutory provisions regarding Department error and erroneous overpayments first applies with respect to determinations issued on or after January 5, 2014.

**Primary Statutes Amended and Created:**

Wisconsin Statute §§ 108.02 (10e) and 108.04 (2)(g)

- **Financial Record Matching**

2013 Wisconsin Act 36 will enable the Department to enter into agreements with financial institutions to match UI delinquent debtor files against accounts held at Wisconsin financial institutions. The law provides a more efficient method for the Department to determine if someone delinquent in making payments has a bank account that has sufficient assets to pay the debt. 2013 Wisconsin Act 36 provides two protections for UI debtors. The Department may only:

1. Use the collection tool when the employer or claimant has exhausted all appeal rights to contest the debt.
2. Release the information to financial institutions if a warrant has been issued, and the debt is public information.

**Effective Date:**

The Department shall implement the change with respect to financial record matching on or after January 1, 2014.

**Primary Statute Created:**

Wisconsin Statute § 108.223

- **Data Sharing with DOT/DMV**

2013 Wisconsin Act 36 grants the Department collection tools that are used by other state agencies. The Department may enter into a data sharing agreement with the Department of Transportation – Division of Motor Vehicles, to facilitate the sharing of information in order to enhance collection of unpaid debts.

**Effective Date:**

The Department may enter into data sharing agreements on or after January 1, 2014.

**Primary Statute Amended:**

Wisconsin Statute § 218.31 (1m)



- **License Suspension for Failure to Pay Taxes**

2013 Wisconsin Act 36 grants the authority to suspend licenses of employers who have failed to pay their taxes. The Department shall promulgate rules specifying procedures to protect employers from having action taken with respect to their licenses.

**Effective Date:**

The new law is effective when the Department promulgates rules specifying procedures to protect employers from having action taken with respect to their licenses.

**Primary Statute Amended:**

Wisconsin Statute § 108.227 and various sections of laws that grant individual's licenses.

- **Department Acceptance of the Filing of a Late Successorship Application**

2013 Wisconsin Act 36 allows the Department to accept a late optional successorship application, if the business application being late resulted from excusable neglect. Successorship occurs when all or a portion of the former owner's UI account is transferred to the new owner due to a transfer of all or a portion of the business. If a former business has a positive unemployment insurance account, a new owner of the business may elect to file an optional successorship application with the Department. The change only permits the Department to accept an application not more than 90 days after its due date regardless of whether there is excusable neglect for the application being late.

**Effective Date:**

The Department may accept a late optional successorship application with respect to transfers of businesses occurring after December 31, 2013.

**Primary Statute Amended:**

Wisconsin Statute § 108.16 (8)(b)4.

- **Interest Owed by Employers**

2013 Wisconsin Act 36 grants the Department some flexibility to waive or decrease interest owed by employers in limited circumstances.

**Effective Date:**

The new law is effective when the Department promulgates rules specifying the procedures the Department may use to modify employer owed interest.

**Primary Statute Created:**

Wisconsin Statute § 108.22 (1)(cm).

- **Fees Imposed for Employers that are Tardy Filing Quarterly Wage Reports**

2013 Wisconsin Act 36 amends the amount of tardy filing fees imposed on employers that are delinquent in filing their quarterly wage reports.

**Effective Date:**

The tardy filing fee provisions first applies to quarterly wage reports to be filed for wages earned in 2014.

**Primary Statute Created:**

Wisconsin Statute § 108.22 (1)(a).

- **Limited Liability Companies**

2013 Wisconsin Act 36 discontinues the treatment of limited liability companies with the same members as a single employer. This change in law is a federal conformity issue.

**Effective Date:**

The provision impacting limited liability companies with the same members became effective July 7, 2013.

**Primary Statute Created:**

Wisconsin Statute §§ 108.02 (13)(a) and 108.16 (2).

- **Technical Corrections to Law Changes from Last Legislative Session**

2013 Wisconsin Act 36 makes technical corrections to provisions contained in previous UI Acts, 2011 Wisconsin Act 198 and 2011 Wisconsin Act 236 from the last legislative session. This included:

1. The legislature clarified the language with respect to concealment of wages. The amendment to Wisconsin Statutes §§ 108.04 (11)(b) and 108.05 (3)(d) provides that claimants who conceal hours worked when filing a claim would be treated similarly to those who conceal wages and first applies with respect to weeks of unemployment beginning on July 7, 2013.

2. The amendment corrects terminology (i.e. ineligibility versus penalty) within Wisconsin Statute § 108.04 (11)(bh) and first applies with respect to weeks of unemployment beginning on July 7, 2013.
3. The legislature provided that a claimant who earns more than \$500 in a particular week is ineligible for benefits. The list of items enumerated within the statute determined if a claimant exceeded the \$500 threshold failed to include a number of items that the law typically uses in making monetary determinations with respect to a claimant's eligibility for benefits. The amendment corrects this error by amending Wisconsin Statute § 108.05 (3)(dm) and first applies with respect to weeks of unemployment beginning on January 5, 2014.
4. The legislature created the penalty and interest fund for the Department to deposit penalties collected from claimants, but the fund was scheduled to lapse before the Department would be able to collect and use the money. The amendment provides that the repeal of the penalty and interest fund created by Wisconsin Statute §§ 20.445 (1)(v), 25.17 (1)(xf), and 108.19 (1s) will not lapse until 2034.

- **Administrative Law Judge (ALJ) Training**

2013 Wisconsin Act 36 requires the Labor and Industry Review Commission (LIRC) to maintain and enhance its searchable database of UI cases. It also requires the Department to provide training and continuing education for all ALJs.

**Effective Date:**

The provisions related to enhancing LIRC's searchable database of UI cases and training and continuing education of ALJs shall be implemented no later than July 7, 2014.

**Primary Statute Created:**

Wisconsin Statute §108.14 (22) and (25).

- **Timing of Required Department Reports**

2013 Wisconsin Act 36 alters the dates to submit three reports to the Legislature and the Unemployment Insurance Advisory Council (Council). The reports are:

- (a) Summary of the Department's activities related to detection and prosecution of UI fraud in the preceding year and is due by March 15, 2014;
- (b) Provide a statement of the UI financial outlook and is next due by April 15, 2015;  
and,
- (c) Summary of the deliberations of the Council and is next due by May 15, 2015.

**Primary Statute Amended:**

Wisconsin Statute § 16.48 (1)(a) and (b); 108.14 (19).

- **Standardized Witness Forms**

2013 Wisconsin Act 36 requires the Department to create a standardized sworn affidavit witness form for employers and claimants.

**Effective Date:**

The implementation of the Department developed standard sworn affidavit form requires that it be incorporated into the administrative rules and, therefore, the implementation date shall be when the Department amends its rule to contain the standard affidavit form.

**Primary Statute Created:**

Wisconsin Statute § 108.14 (26).

- **Increase Number of Fraud Workers**

2013 Wisconsin Act 36 requires the Department to request funding from the federal government to hire additional workers to conduct fraud investigations.

**Effective Date:**

The Department shall timely request funding from the federal government. If the federal government grants the funding, the Department may begin to conduct additional investigations on or after January 5, 2014.

**Primary Statute Created:**

Non-statutory Provision

## WORK SHARE

2013 Wisconsin Act 11 authorizes a work share program in Wisconsin. Work share, also called short-time compensation, is a special UI program that reduces the impact of a business downturn on workers, employers and the government. An employer reduces the hours of work for all workers in an affected unit instead of laying-off a portion of the workforce. Workers then receive partial UI benefits to help compensate for the lost hours of work. Currently, at least twenty-six states are operating a work share program.

The employer must submit a work share plan to the Department for its approval and the employer must certify that the employer will:

- Reduce the number of hours of employees instead of layoffs;
- Reduce uniformly the employees' work week hours between the range of 10-50%;
- Provide its normal retirement and health care benefits to employees participating in work share program as if the employees were not participating in the work share program;
- Include in the plan the method the employer will use to provide notice to an employee whose work week will be reduced, unless this is not feasible;
- Include in the plan an estimate of the number of layoffs avoided as a result of the work share program;
- Include at least 10% of the employees in the affected work unit within the work share program;
- Provide that at least 20 positions are covered by the work share program on the effective date of the program;
- Do not include employees who are employed on a seasonal, temporary, or intermittent basis;
- Prevent the layoff of at least 2 jobs by implementing the work share program; and,
- Comply with all applicable state and federal laws.

Other requirements include:

- Employees do not need to be available for work or satisfy normal work search action requirements; except the employee must be available by the work share employer to address an increase in business demand;
- Employees may participate, as appropriate, in training to enhance job skills upon approval by the Department;
- A participating employer may only have an affected unit participate up to six months in a five year period.

### **Effective Date:**

The work share law shall be implemented no later than December 31, 2013.

### **Primary Statute Created:**

Wisconsin Statute § 108.062.