

D19-08
Appropriations Revisions and Technical Corrections

Date: July 17, 2019
Proposed by: DWD
Prepared by: Bureau of Legal Affairs
Re: LRB-3684/P1

The Department asked the Legislative Reference Bureau to split the preliminary draft of LRB-0378/P2, which was included with the original proposal for D19-08, into two separate preliminary drafts without adding new provisions. This memo summarizes the draft of LRB-3684/P1.

Section	Change	Reason
1 & 12	Create an appropriation for LIRC to receive transcript and copying fees.	Originally requested by LIRC in the 2015 State Budget process. Provides an appropriation for receiving fees currently collected by LIRC.
2	Clarifies location for deposit of assessment for program administration.	Department may assess employers an assessment to ensure funding for the UI program. This clarifies which appropriation would handle the funds.
3	Amendment to the appropriation that primarily receives employer interest and penalties to receive additional sources of funds.	Consolidates certain appropriations and clarifies language.
4	Repeals the appropriation in s. 20.445(1)(gg).	Repeals an appropriation that is no longer used, related to technology assessments.
5	Repeals the appropriation in s. 20.445(1)(gm).	Repeals an appropriation related to the employer handbook because those funds are redirected to the (gd) appropriation (employer interest and penalties).
6 & 31	Repeals SWIB authority to manage the unemployment administration fund.	The unemployment administration fund no longer exists, so this should have been repealed when the fund ceased to exist.
7 & 31	Repeal “administrative account.”	The “administrative account” replaced the unemployment administrative fund. State moneys are supposed to be handled by appropriations and funds, not accounts. This removes the references to the account in favor of citation to the specific appropriation for the moneys.

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8, 9, 10, 11, 12, 13, 14, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32	Repeals references to the “administrative account” and replaces those references with the specific appropriation in s. 20.445(1).	This change ensures that the unemployment appropriations are drafted consistent with current State budget practices and removes ambiguity regarding the appropriate appropriation applicable to certain moneys.
15, 17, 18	Repeals and amends references regarding costs of printing certain materials.	Consolidates language regarding printing forms and handbooks. Replaces references to the “administrative account” with a specific appropriation for consistency. <i>See</i> Section 5.
30	Amends and moves statute regarding use of contributions for administrative purposes.	If federal law is changed to permit this purpose, the Department prefers the proposed language in Section 30. This statutory language has apparently not been updated since 1943.
33	Transfers funds to the appropriation in s. 20.445(1)(gd).	It is necessary to transfer any remaining funds in these appropriations, which are being repealed. <i>See</i> Sections 4 and 5.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3684/P1
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 20.445 (1) (gg), 20.445 (1) (gm), 25.17 (1) (x), 108.02 (1), 108.14
2 (7) (c), 108.14 (23) (d) and 108.20; **to renumber and amend** 108.19 (4); **to**
3 **amend** 20.445 (1) (gc), 20.445 (1) (gd), 108.04 (11) (f), 108.07 (5) (a), 108.07 (5)
4 (c), 108.07 (6), 108.09 (5) (b), 108.14 (2m), 108.14 (3m), 108.14 (12) (d), 108.14
5 (16), 108.16 (5) (c), 108.16 (6) (k), 108.16 (8) (f), 108.161 (4) (a) and (b), 108.161
6 (9), 108.162 (7), 108.17 (3), 108.17 (3m), 108.19 (1), 108.19 (1e) (a), 108.19 (2)
7 and 108.22 (1) (am); and **to create** 20.427 (1) (g) of the statutes; **relating to:**
8 various changes relating to financing of and appropriations for the
9 unemployment insurance program.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the **state** 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.** 20.427 (1) (g) of the statutes is created to read:

2 20.427 (1) (g) *Agency collections.* All moneys received from fees or other
3 charges for copying of documents, generation of copies of documents from optical disc
4 or electronic storage, publication of books, and other services provided in carrying
5 out the functions of the commission.

 ****NOTE: This creates an appropriation for LIRC to receive moneys for various
purposes, including transcript fees under s. 108.09 (5) (b).

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

7 20.445 (1) (gc) *Unemployment administration.* All moneys received by the
8 department under s. 108.19 ~~not otherwise appropriated under this subsection (1)~~ for
9 the administration of ch. 108.

 ****NOTE: If DWD ever were to assess employers under s. 108.19 (1), the
contributions would probably have to be deposited in the appropriation account under s.
20.445 (1) (gc) given how the relevant statutes are currently worded, so this change
provides as such.

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

11 20.445 (1) (gd) *Unemployment interest and penalty payments.* All moneys
12 received as interest and penalties collected under ss. 108.04 (11) (c) and (cm) and (13)
13 (c) and 108.22 except interest and penalties deposited under s. 108.19 (1q), and
14 forfeitures under s. 103.05 (5), ~~all moneys not appropriated under par. (gg) and all~~
15 moneys received under s. 108.09 (5) (c), all moneys received under s. 108.14 (16), all
16 moneys received under s. 108.18 (1) (c), all moneys transferred to this appropriation
17 account from the appropriation account under par. (gh), and all other nonfederal
18 moneys received for the employment service or for the administration of ch. 108 that
19 are not otherwise appropriated under this subsection, for the payment of benefits
20 specified in s. 108.07 (5) and 1987 Wisconsin Act 38, section 132 (1) (c), for the
21 payment of interest to employers under s. 108.17 (3m), for research relating to the

1 condition of the unemployment reserve fund under s. 108.14 (6), for administration
2 of the unemployment insurance program and federal or state unemployment
3 insurance programs authorized by the governor under s. 16.54, for satisfaction of any
4 federal audit exception concerning a payment from the unemployment reserve fund
5 or any federal aid disallowance concerning the unemployment insurance program,
6 for assistance to the department of justice in the enforcement of ch. 108, for the
7 payment of interest due on advances from the federal unemployment account under
8 title XII of the social security act to the unemployment reserve fund, and for
9 payments made to the unemployment reserve fund to obtain a lower interest rate or
10 deferral of interest payments on these advances, ~~except as otherwise provided in s.~~
11 ~~108.20.~~

****NOTE: This is the so-called "I&P fund." However, it is not a separate segregated fund, but rather an appropriation account in the general fund. The changes in this SECTION direct certain moneys to this account, as further explained in other SECTIONS of the bill.

12 **SECTION 4.** 20.445 (1) (gg) of the statutes is repealed.

****NOTE: As currently written, this is a separate appropriation used to dedicate some I&P money to DWD for IT upgrades, etc. It is repealed due to the fact that it is no longer being used.

13 **SECTION 5.** 20.445 (1) (gm) of the statutes is repealed.

****NOTE: This repeals an appropriation that receives moneys paid for printed copies of a UI Handbook for employers. This money is instead directed to the appropriation under s. 20.445 (1) (gd) along with fees charged for other printed materials.

14 **SECTION 6.** 25.17 (1) (x) of the statutes is repealed.

****NOTE: See the note under SECTION 31 regarding the former unemployment administration fund. Section 25.17 (1), which gives the SWIB authority to manage the various segregated funds, was apparently erroneously not amended to remove the reference to the fund. This repeals that obsolete reference.

15 **SECTION 7.** 108.02 (1) of the statutes is repealed.

****NOTE: See the note under SECTION 31 regarding the former unemployment administration fund.

16 **SECTION 8.** 108.04 (11) (f) of the statutes is amended to read:

1 108.04 (11) (f) All amounts forfeited under par. (c) and all collections from
2 administrative assessments under par. (cm) shall be credited to the administrative
3 ~~account~~ appropriation under s. 20.445 (1) (gd).

 ****NOTE: This is amended to simply reference s. 20.445 (1) (gd), which provides
that this money goes into that account.

4 **SECTION 9.** 108.07 (5) (a) of the statutes is amended to read:

5 108.07 (5) (a) If no employer from which the claimant has base period wages
6 is subject to the contribution requirements of ss. 108.17 and 108.18, the benefits shall
7 be ~~charged to the administrative account and~~ paid from the appropriation under s.
8 20.445 (1) (gd).

 ****NOTE: See the note under SECTION 31.

9 **SECTION 10.** 108.07 (5) (c) of the statutes is amended to read:

10 108.07 (5) (c) If 2 or more employers from which the claimant has base period
11 wages are not subject to the contribution requirements of ss. 108.17 and 108.18, and
12 one or more employers from which the claimant has base period wages are subject
13 to the contribution requirements of ss. 108.17 and 108.18, that percentage of the
14 employee's benefits which would otherwise be chargeable to the fund's balancing
15 account under sub. (3) or s. 108.04 (1) (f) or (5), or under s. 108.16 (6m) (e) for benefits
16 specified in s. 108.16 (3) (b), shall be ~~charged to the administrative account and~~ paid
17 from the appropriation under s. 20.445 (1) (gd).

 ****NOTE: See the note under SECTION 31.

18 **SECTION 11.** 108.07 (6) of the statutes is amended to read:

19 108.07 (6) The department may initially charge benefits otherwise chargeable
20 ~~to the administrative account payable from the appropriation under s. 20.445 (1) (gd)~~
21 as provided under this section to the fund's balancing account, and periodically

1 reimburse the charges to the balancing account from the ~~administrative account~~
2 appropriation under s. 20.445 (1) (gd).

***NOTE: See the note under SECTION 31.

3 **SECTION 12.** 108.09 (5) (b) of the statutes is amended to read:

4 108.09 (5) (b) All testimony at any hearing under this section shall be recorded
5 by electronic means, but need not be transcribed unless either of the parties requests
6 a transcript before expiration of that party's right to further appeal under this
7 section and pays a fee to the commission in advance, the amount of which shall be
8 established by rule of the commission. When the commission provides a transcript
9 to one of the parties upon request, the commission shall also provide a copy of the
10 transcript to all other parties free of charge. The transcript fee collected shall be paid
11 ~~to the administrative account~~ credited to the appropriation account under s. 20.427
12 (1) (g).

***NOTE: See the note under SECTION 1.

13 **SECTION 13.** 108.14 (2m) of the statutes is amended to read:

14 108.14 (2m) In the discharge of their duties under this chapter an appeal
15 tribunal, commissioner, or other authorized representative of the department or
16 commission may administer oaths to persons appearing before them, take
17 depositions, certify to official acts, and by subpoenas, served in the manner in which
18 circuit court subpoenas are served, compel attendance of witnesses and the
19 production of books, papers, documents, and records necessary or convenient to be
20 used by them in connection with any investigation, hearing, or other proceeding
21 under this chapter. A party's attorney of record may issue a subpoena to compel the
22 attendance of a witness or the production of evidence. A subpoena issued by an
23 attorney must be in substantially the same form as provided in s. 805.07 (4) and must

1 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of
2 issuance, send a copy of the subpoena to the appeal tribunal or other representative
3 of the department responsible for conducting the proceeding. However, in any
4 investigation, hearing, or other proceeding involving the administration of oaths or
5 the use of subpoenas under this subsection due notice shall be given to any interested
6 party involved, who shall be given an opportunity to appear and be heard at any such
7 proceeding and to examine witnesses and otherwise participate therein. Witness
8 fees and travel expenses involved in proceedings under this chapter may be allowed
9 by the appeal tribunal or representative of the department at rates specified by
10 department rules, and shall be paid from the ~~administrative account~~ appropriation
11 under s. 20.445 (1) (n).

****NOTE: This specifies for witness and travel fees to be paid from the federal appropriation.

12 **SECTION 14.** 108.14 (3m) of the statutes is amended to read:

13 108.14 (3m) In any court action to enforce this chapter the department, the
14 commission, and the state may be represented by any licensed attorney who is an
15 employee of the department or the commission and is designated by either of them
16 for this purpose or at the request of either of them by the department of justice. If
17 the governor designates special counsel to defend, in behalf of the state, the validity
18 of this chapter or of any provision of Title IX of the social security act, the expenses
19 and compensation of the special counsel and of any experts employed by the
20 department in connection with that proceeding may be charged to the ~~administrative~~
21 ~~account~~ appropriation under s. 20.445 (1) (gd). If the compensation is being
22 determined on a contingent fee basis, the contract is subject to s. 20.9305.

****NOTE: This provides for the charging of these costs to the I&P account.

23 **SECTION 15.** 108.14 (7) (c) of the statutes is repealed.

***NOTE: This provision about printing of various types of documents is repealed, with the language incorporated into s. 108.14 (16) instead.

1 **SECTION 16.** 108.14 (12) (d) of the statutes is amended to read:

2 108.14 **(12)** (d) If it is finally determined that moneys thus received have been
3 thus lost or improperly expended, ~~then~~ the department shall either make the
4 necessary replacement from those moneys in the administrative account specified in
5 ~~s. 108.20 (2m)~~ the appropriation under s. 20.445 (1) (gd) or shall submit, at the next
6 budget hearings conducted by the governor and at the budget hearings conducted by
7 the next legislature convened in regular session, a request that the necessary
8 replacement be made by an appropriation from the general fund.

***NOTE: See the note under SECTION 31.

9 **SECTION 17.** 108.14 (16) of the statutes is amended to read:

10 108.14 **(16)** The department shall have duplicated or printed, ~~and shall~~
11 ~~distribute without charge, such employment security~~ any reports, studies and,
12 forms, records, decisions, regulations, rules, or other materials, including the text of
13 this chapter ~~and, the handbook under sub. (23), and other~~ instructional or
14 explanatory pamphlets for employers or workers, as that it deems necessary for
15 public information or for the proper administration of this chapter; ~~but the.~~ The
16 department may collect a reasonable charge, which shall be credited to the
17 ~~administrative~~ appropriation account under s. 20.445 (1) (gd), for any such item the
18 cost of which is not fully covered by federal administrative grants.

***NOTE: This directs moneys received for printed materials to the I&P account.
See SECTION 31.

***NOTE: See also the notes under SECTIONS 15 and 18.

19 **SECTION 18.** 108.14 (23) (d) of the statutes is repealed.

***NOTE: This repeals a provision specifically governing charges for printed copies of a UI Handbook for employers. This would instead be governed by s. 108.14 (16), and the handbook is referenced there instead. (This does not repeal the requirement that DWD create the handbook.) See the note under SECTION 17.

1 **SECTION 19.** 108.16 (5) (c) of the statutes is amended to read:

2 108.16 **(5)** (c) While the state has an account in the “Unemployment Trust
3 Fund”, public deposit insurance charges, on the fund’s balances held in banks,
4 savings banks, savings and loan associations, and credit unions in this state, the
5 premiums on surety bonds required of the fund’s treasurer under this section, and
6 any other expense of administration otherwise payable from the fund’s interest
7 earnings, shall be paid from the ~~administrative account~~ appropriation under s.
8 20.445 (1) (n) or (ne).

 ****NOTE: This adds cross-references to s. 20.445 (1) (n) and (ne), both of which
could be used to pay banking costs.

9 **SECTION 20.** 108.16 (6) (k) of the statutes is amended to read:

10 108.16 **(6)** (k) All payments to the fund from the ~~administrative account~~ as
11 ~~authorized under s. 108.20 (2m)~~ appropriation under s. 20.445 (1) (gd).

 ****NOTE: Sections 20.445 (1) (gd) and 108.20 (2m) allow for “payments to the fund
if such action is necessary to obtain a lower interest rate or deferral of interest payments
on advances from the federal unemployment account under title XII of the social security
act.” This therefore replaces this language with a reference to s. 20.445 (1) (gd), the I&P
account.

12 **SECTION 21.** 108.16 (8) (f) of the statutes is amended to read:

13 108.16 **(8)** (f) The successor shall take over and continue the transferor’s
14 account, including its positive or negative balance and all other aspects of its
15 experience under this chapter in proportion to the payroll assignable to the
16 transferred business and the liability of the successor shall be proportioned to the
17 extent of the transferred business. The transferor and the successor shall be jointly
18 and severally liable for any amounts owed by the transferor ~~to the fund and to the~~
19 ~~administrative account~~ under this chapter at the time of the transfer, but a successor
20 under par. (c) is not liable for the debts of the transferor except in the case of fraud
21 or malfeasance.

***NOTE: Deletes a reference to the administrative account (see SECTION 31) in favor of a more general reference to ch. 108.

1 **SECTION 22.** 108.161 (4) (a) and (b) of the statutes are amended to read:

2 108.161 (4) (a) Stating for which such purposes and in what amounts the
3 appropriation is being made ~~to the administrative account created by s. 108.20.~~

4 (b) Directing the fund's treasurer to transfer the appropriated amounts to the
5 ~~administrative account~~ the appropriation account under s. 20.445 (1) (n) only as and
6 to the extent that they are currently needed for such expenditures, and directing that
7 there shall be restored to the account created by sub. (1) any amount thus transferred
8 ~~which~~ that has ceased to be needed or available for such expenditures.

***NOTE: See the note under SECTION 31.

9 **SECTION 23.** 108.161 (9) of the statutes is amended to read:

10 108.161 (9) Any land and building or office quarters acquired under this section
11 shall continue to be used for employment security purposes. Realty or quarters may
12 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)
13 or 16.848 (1) and may not be sold or transferred without the governor's approval. The
14 proceeds from the sale, or the value of realty or quarters upon transfer, shall be
15 credited to the account established in sub. (1) or credited to the ~~fund established in~~
16 ~~s. 108.20~~ appropriate appropriation account under s. 20.445, or both as determined
17 by the department in accordance with federal requirements. Equivalent substitute
18 rent-free quarters may be provided, as federally approved. Amounts credited under
19 this subsection shall be used solely to finance employment security quarters
20 according to federal requirements.

***NOTE: As described in the note under SECTION 31, there is no longer a fund established under s. 108.20.

21 **SECTION 24.** 108.162 (7) of the statutes is amended to read:

1 108.162 (7) Any amount appropriated under s. 20.445 (1) (na) ~~which~~ that has
2 not been obligated shall be available for employment security local office building
3 projects, consistent with this section and ~~ss. s. 108.161 and 108.20.~~

***NOTE: See the note under SECTION 31.

4 **SECTION 25.** 108.17 (3) of the statutes is amended to read:

5 108.17 (3) If an employing unit ~~makes application~~ applies to the department
6 to adjust an alleged overpayment by the employer of contributions or interest under
7 this chapter, and files such an application within 3 years after the close of the
8 calendar year in which such payment was made, the department shall ~~make a~~
9 ~~determination~~ determine under s. 108.10 ~~as to the existence and whether and to~~
10 ~~what~~ extent of any such an overpayment, and ~~said section shall apply to such~~
11 ~~determination~~ exists. Except as provided in sub. (3m), the department shall allow
12 an employer a credit for any amount determined under s. 108.10 to have been
13 erroneously paid by the employer, without interest, against its future contribution
14 payments; or, if the department finds it impracticable to allow the employer such a
15 credit, it shall refund ~~such~~ the overpayment to the employer, without interest, from
16 the fund or the ~~administrative account, as the case may be~~ appropriate appropriation
17 under s. 20.445.

***NOTE: This substitutes a reference to “the appropriate appropriation,” though
it would most likely be the s. 20.445 (1) (gd) account in the case of a refund of any interest
or penalties.

18 **SECTION 26.** 108.17 (3m) of the statutes is amended to read:

19 108.17 (3m) If an appeal tribunal or the commission issues a decision under
20 s. 108.10 (2), or a court issues a decision on review under s. 108.10 (4), in which it is
21 determined that an amount has been erroneously paid by an employer, the
22 department shall, from the ~~administrative account~~ appropriation under s. 20.445 (1)

1 (gd), credit the employer with interest at the rate of 0.75 percent per month or
2 fraction thereof on the amount of the erroneous payment. Interest shall accrue from
3 the month which the erroneous payment was made until the month in which it is
4 either used as a credit against future contributions or refunded to the employer.

***NOTE: This substitutes a reference to the I&P account for these payments. See
SECTION 31.

5 **SECTION 27.** 108.19 (1) of the statutes is amended to read:

6 108.19 (1) Each employer subject to this chapter shall regularly contribute to
7 ~~the administrative account at the rate of two-tenths of one~~ pay an assessment equal
8 to 0.2 percent per year on its payroll, except that the department may prescribe at
9 the close of any fiscal year such lower rates of contribution under this section
10 subsection, to apply to classes of employers throughout the ensuing fiscal year, as will
11 in the department's judgment adequately finance the administration of this chapter,
12 and as will in the department's judgment fairly represent the relative cost of the
13 services rendered by the department to each such class.

***NOTE: Deletes reference to the administrative account. See the note under
SECTION 31.

14 **SECTION 28.** 108.19 (1e) (a) of the statutes is amended to read:

15 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an
16 employer that finances benefits by reimbursement in lieu of contributions under s.
17 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
18 under s. 108.18 and this section, pay an assessment ~~to the administrative account~~
19 for each year ~~prior to~~ before the year 2010 equal to the lesser of 0.01 percent of its
20 payroll for that year or the solvency contribution that would otherwise be payable
21 by the employer under s. 108.18 (9) for that year.

***NOTE: Deletes a reference to the administrative account. See SECTION 31.

22 **SECTION 29.** 108.19 (2) of the statutes is amended to read:

1 108.19 (2) If the department finds, at any time within a fiscal year for which
2 it has prescribed lower contribution rates to the administrative account than the
3 maximum rate permitted under sub. (1), that such lower rates will not adequately
4 finance the administration of this chapter or are excessive for that purpose, the
5 department may by general rule prescribe a new schedule of rates in no case
6 exceeding the specified maximum to apply under this section for the balance of the
7 fiscal year.

****NOTE: Deletes a reference to the administrative account. See SECTION 31.

8 **SECTION 30.** 108.19 (4) of the statutes is renumbered 108.18 (1) (c) and
9 amended to read:

10 108.18 (1) (c) If Notwithstanding par. (b), if section 303 (a) (5) of title III of the
11 social security act and section 3304 (a) (4) of the internal revenue code are amended
12 to permit a state agency to use, in financing administrative expenditures incurred
13 in carrying out its employment security functions, some any part of the moneys
14 collected or to be collected under the state unemployment insurance law, an
15 employer's contributions in partial or complete substitution for grants under
16 title III, then this chapter shall, by rule of the department, be modified in the manner
17 and to the extent and within the limits necessary to permit such use by the
18 department under this chapter; and the modifications shall become effective on the
19 same date as such use becomes permissible under the federal amendments the
20 department may credit any portion of that part of an employer's contributions to the
21 appropriation under s. 20.445 (1) (gd).

****NOTE: This provision dates to Chapter (Act) 181, Laws of 1943, and reads essentially the same today as it did then. The changes here move the provision to s. 108.18, where it is more relevant, and specifically provide that, in the event that federal law is changed so as to allow a portion of contributions to be used for administrative purposes, those moneys would be directed to the I&P account.

