



**House
Legislative
Analysis
Section**

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UNEMPLOYMENT COMPENSATION REFORM

House Bill 5240

Sponsor: Rep. Gordon Sparks
Committee: Labor

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Complete to 12-28-87

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***A SUMMARY OF HOUSE BILL 5240 AS
INTRODUCED 12-16-87***

The bill would amend the Michigan Employment Security Act to repeal certain parts of the act on specific dates, and to make general amendments.

- The act at present specifies that members of the Michigan Employment Security Commission continue to hold office until a successor is appointed and confirmed. Under the bill, members would not be allowed to serve beyond the completion of their respective terms. Similarly, the bill would specify that members of the Michigan Employment Security Advisory Council could not serve beyond expiration of their terms.
- The bill would require approval of the Employment Security Commission budget by the legislature, and would require that the commission pay \$22,382,000 in 1983, 1984, and 1985 solvency tax overpayments to employers. Payments would be made on a pro rata basis, and would include interest. Should there be an insufficient amount in the contingency fund to cover the amount owed, then the bill would require that payments be continuously made each year until the entire amount had been fully paid. Until then, the commission could not use the contingency fund for any purpose other than payment of federal interest obligations.
- The bill would require the commission to contract with an outside consulting firm no later than January 1, 1990, to provide an employment search program for persons receiving unemployment benefits. The program would be based on the model described in the 1987 W. E. Upjohn Institute for Employment Research report, entitled "Employer Costs and Worker's Benefits of Unemployment Insurance in Michigan: An Interstate Comparison." It would be available to all claimants, and would be mandatory for any claimant who had received benefits for ten weeks or more.
- Under the bill, the commission would be required to pay to employers the same rate of interest and damages for improperly charged or assessed collections paid under protest that the commission charges for delinquent payments by employers. Interest would be paid at the rate of one percent per month, and ten percent of the contributions collected or charged would be paid as damages. The commission would be required to pay this same rate of interest on overpayments held over three months after the commission had determined that an amount had been erroneously collected. The bill would also require the commission to record a statement of the reason for discharge of a lien, if the lien was assessed in error, and would increase from \$2 to \$15 the fees paid to record liens.
- The bill would repeal the solvency tax, effective on the date that the commission files a written notice with the secretary of state certifying that the remaining solvency taxes that were deferred had been paid. The bill would also repeal the provision which authorizes the commission to demand immediate payment when an employer's negative balance is \$100,000 or more.

- The bill would require an employer to disclose to the buyer of his or her business the fact that the buyer could become a successor in contribution liability. Under the bill, an attorney who assisted an employer in the sale or transfer of a business, and who failed to inform a buyer of the disclosure requirements would be subject to legal action. Should an employer fail to disclose contribution liability, then a successor employer would not be liable for the contribution liability of the prior employer. Employers who did not have a contribution rate established at the time of purchase would be assigned a rate of 2.7 percent.
- The bill would require unemployment compensation checks to be paid by an alternate system if the computer system broke down and to require that chargeable employers be notified within seven days that a check had been issued.
- The act at present provides for a weekly benefit rate based on 70 percent of an individual's average after tax weekly wage. Between January 4, 1987 and January 3, 1988, this rate could not exceed 53 percent of the state average weekly wage; after January 3, 1988, this rate is scheduled to be raised. The bill would eliminate this provision, set the maximum weekly benefit amount at \$230, and return the wage replacement ratio to 65 percent of after tax earnings.
- Current law allows a claimant to receive a weekly benefit for a week in which he or she receives wages of less than half of his or her weekly benefit rate, or to receive half of the weekly benefit rate for a week in which he or she receives wages of at least half but not as much as the benefit rate. The bill would eliminate these provisions and specify that benefits would be reduced by 50 cents for each \$1 of wages received.
- Effective December 31, 1987, the bill would require that benefits for seasonal employment in a fruit or vegetable food processing operation would only be payable for weeks of unemployment which occurred during normal seasonal periods of work. Benefits would not be paid for unemployment periods between two normal seasonal periods if it could be reasonably expected that the claimant would obtain the same type of employment during the second seasonal period. If, however, an individual were denied benefits on this assumption and was not offered an opportunity to work during the second normal seasonal work period, the individual would be entitled to retroactive benefits for each week for which a claim had been filed. To receive designation as a seasonal employer, an employer would be required to submit an application 20 days before the beginning of the normal seasonal work period. The employer would have to display the application in a conspicuous location on the premises. If the commission granted the seasonal employer designation, the employer would have to display official notices, notifying employees of the estimated beginning and ending dates of its normal

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seasonal work period, in conspicuous locations. A successor of a seasonal employer would inherit the designation unless the successor requested cancellation within 120 days after acquiring the business.

- The bill would require all eligible claimants to serve a waiting period of one week of unemployment within each benefit year and prior to the first period for which the individual claimed benefits.
- Under present law, an individual who leaves one employer to accept work with another employer may use the wages earned with the first employer for the purpose of computing and charging benefits from the new employer. The bill would amend the act to require that individuals who intentionally misrepresented their employment record when seeking work could not use credit weeks of previous employment to establish eligibility for benefits against the new employer, nor could charges be made against either employer for any of those weeks. If the second employer were located in another state, the bill would require that benefits paid — based on wages earned from that employer — be charged to the nonchargeable benefits account, rather than the account of the Michigan employer.
- The bill would amend the act to specify that a member of the Board of Review could not serve beyond completion of his or her term.
- The bill would require that the commission make available to the public an up to date subject matter index and copies of all referee, Board of Review, and Michigan court decisions relative to unemployment insurance.
- The bill would add to the list of employment positions not eligible for unemployment insurance coverage that of salespersons operating on a deposit-commission basis outside permanent retail establishments, provided that remuneration for performance of services was directly related to sales, rather than to the number of hours worked, and that the services were performed under a written contract stating that the individual would not be treated as an employee for federal tax purposes. Services performed by individuals who, under contract, transported goods by truck, owned or leased the truck, received remuneration on the basis of miles driven and not on hours worked, and were not treated as employees for federal tax purposes would also not be considered eligible under the act.
- The act at present provides that amounts paid to a claimant for vacation, retroactive pay, or in lieu of notice be deemed remuneration in determining unemployment status and benefit payments. The bill would amend the act to provide that notice of such allocation would be satisfied if employers provide notice of such allocations in collective bargaining agreements, or in notices displayed in conspicuous locations frequented by employees, or delivered to employees. The bill would require that notices mailed to laid-off employees be mailed not later than five working days before the beginning of the vacation pay period.
- The bill would repeal that section of the act (known as the “alternate earnings qualifier”) which permits individuals who otherwise would not qualify to establish a benefit year if they have at least 14 credit weeks and a base period wage in excess of 20 times the state average weekly wage.

MCL 421.3 et al.