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BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

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Senate Bill 647

Sponsor: Senator Jerome T. Hart

Committee: Human Resources and Senior Citizens

Date Completed: 10-25-89

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SUMMARY OF SENATE BILL 647 as introduced 10-25-89:

The bill would amend the Michigan Employment Security Act to require the Michigan Employment Security Commission (MESC) to develop and implement a program to provide, upon request, claimant and employer advocacy assistance; to appropriate \$5 million for the program and set maximums on expenditures for the program in the fiscal year ending September 30, 1990, and for each of the subsequent three fiscal years; to require an annual vote of the MESC to continue the program after three years; to require the MESC to approve and contract with individuals who would provide advocacy assistance services; and to require the MESC to report annually to the Legislature on the program's operation.

The purpose of the advocacy assistance program would be to provide information, consultation, and representation to claimants and employers relating to the referee or board of review appeal level, or both. The program, and its method of implementation, would have to be developed and approved by an affirmative majority vote of the MESC members within six months after the bill's effective date.

The program would be funded from the Contingent Fund from interest on contributions as well as penalties and damages collected under the Act. For the fiscal year ending September 30, 1990, \$5,000,000 would be appropriated, of which not more than \$500,000 could be spent. Not more than \$1,500,000 could be spent per year for each of the subsequent three fiscal years. The bill's appropriation would be considered a work project and could not lapse at the end of the fiscal year but would continue to be available for expenditure until the project was completed. Each year, beginning three years after the date a claimant or employer first received advocacy assistance services, a majority of the MESC members would have to vote affirmatively to continue the program for that year. The appropriations would have to be used to finance all costs connected with the program. No more than 60% of the appropriations could be used for costs related to representing claimants, and 40% for costs related to representing employers.

An individual who desired to provide advocacy assistance services would have to apply to the MESC for approval. The Commission would be required to develop standards for individuals providing services, including standards relating to knowledge of the Act and the practices and procedures at the referee and board of review appeal levels. Advocacy assistance services could be provided by individuals who were not attorneys. The MESC would have to develop a schedule for paying individuals providing services. These individuals would not be active MESC or State employees. The only active MESC or State employees involved in the program would be those supervising or coordinating the program, who could not provide direct advocacy assistance services.

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The MESC also could include standards regarding the provision of services in precedent-setting cases, multclaimant cases, cases without merit, or other cases or factors determined by the Commission.

Individuals approved to provide services would have to contract with the MESC that the payments made under a schedule established by the Commission would be payment in full for all services rendered and expenses incurred, and that the claimant or employer who had received the services would not be billed or liable for the cost of the services or representation provided. Approved individuals would receive only the fee approved by the MESC and no other fee for those services from the claimant or employer.

If a claimant or employer received advocacy assistance services beyond an initial consultation, the other party in the case would have to be immediately notified of that fact in a manner and within a time determined by the MESC. The Commission could not approve the same individual to provide advocacy assistance services for both claimants and employers, and would have to designate clearly each individual approved to provide services as representing either claimants or employers.

An individual approved by the Commission to provide services would not be entitled to payment for representing his or her own personal interests. No active State employee could represent a claimant or employer under the program at the referee or board of review appeal level. These provisions could not be construed, however, to prevent an MESC employee from participating in a case in which the Commission was an interested party or if the employee were representing the MESC's interest when acting as an administrator for a Federal program as required by Federal law.

The MESC would have to report annually to the Legislature on the program's operation. The first report would be due within 60 days after the first anniversary date of the program's beginning. Each report would have to include at least the following for the previous 12-month period: number and type of claimants and employers served; costs to the program of the claimants served; costs of the employers served; and an analysis of the impact of the services on the appeal system under the Act.

The program could not begin until payments to employers for excess solvency taxes paid under Section 10(7) began. (Senate Bill 68 would amend the Act to add Section 10(7) to require the repayment of excess solvency taxes.)

The bill is tie-barred to House Bills 4815, Senate Bills 68, 466, 639-646, and 648, and an unIntroduced bill (request no. 04207'89).

Proposed MCL 421.5a

Legislative Analyst: S. Margules

FISCAL IMPACT

The fiscal obligation incumbent in this bill is provided for in Senate Bill 646 (a supplemental budget for the MESC for FY 1989-90). The amount provided in Senate Bill 646 for Senate Bill 647 is \$5,000,000.

Fiscal Analyst: K. Lindquist

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.