

Act No. 224
Public Acts of 1989
Approved by the Governor
December 14, 1989
Filed with the Secretary of State
December 18, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Senators Dillingham, Engler, Welborn, Arthurhultz and N. Smith

ENROLLED SENATE BILL No. 68

AN ACT to amend section 10 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make an appropriation for carrying out the provisions of this act; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," as amended by Act No. 247 of the Public Acts of 1983, being section 421.10 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 10 of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended by Act No. 247 of the Public Acts of 1983, being section 421.10 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 10. (1) There is hereby created in the state treasury a special fund to be known and designated as the administration fund (Michigan employment security act). Any balances in this fund at the end of any fiscal year of the state shall be carried over as a part of the fund and shall not revert to the general fund of the state. Except as otherwise provided in subsection (3), all money deposited into the administration fund under the provisions of this act shall be appropriated by the legislature to the commission to pay the expenses of the administration of this act.

(2) The administration fund shall be credited with all money appropriated to the fund by the legislature, all money received from the United States of America or any agency thereof for such purpose, and all money received by the state for the fund. All money in this fund which is received from the federal government or any agency thereof or which is appropriated by this state for the purposes of this act, except money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of the federal social security act, as amended, 42 U.S.C. 1103, and with section 17(f) of this act, shall be expended solely for the purposes and in the amounts found necessary by the appropriate agency of the United States of America and the legislature for the proper and efficient administration of this act.

(3) All money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of the federal social security act, as amended, 42 U.S.C. 1103, and with section 17(f) of this act, shall be deposited in the administration fund. Any such money which remains unexpended at the close of the 2-year period beginning on the date of enactment of a specific appropriation shall be immediately redeposited with the secretary of the treasury of the United States of America to the credit of this state's account in the unemployment trust fund; or any such money which for any reason cannot be expended or is not to be expended for the purpose for which appropriated before the close of this 2-year period shall be so redeposited at the earliest practicable date.

(4) If any money received after June 30, 1941, from the appropriate agency of the United States of America under title 3 of the social security act, 42 U.S.C. 501 to 504, or any unencumbered balances in the administration fund (Michigan employment security act) as of that date, or any money granted after that date to this state pursuant to the Wagner-Peyser act, or any money made available by this state or its political subdivisions and matched by money granted to this state pursuant to the Wagner-Peyser act, is found by the appropriate agency of the United States, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by such agency of the United States for the proper administration of this act, it is the policy of this state that the money shall be replaced by money appropriated for that purpose from the general funds of this state to the administration fund (Michigan employment security act) for expenditure as provided in this act. Upon receipt of notice of such a finding by the appropriate agency of the United States, the commission shall promptly report the amount required for such replacement to the governor and the governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of that amount. This subsection shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of title 3 of the social security act, 42 U.S.C. 501 to 504.

(5) If any funds expended or disbursed by the commission are so found by the appropriate agency of the United States to have been lost or expended for purposes other than, or in amounts in excess of, those found necessary by such agency of the United States for the proper administration of this act, and if these funds are replaced as aforesaid by money appropriated for such purpose from the general funds of the state, then those members of the commission who voted for or otherwise approved the expenditure or disbursement of such funds for such purposes or in such amounts, shall be jointly and severally liable to the state in an amount equal to the sum of money appropriated to replace such funds; and the members of the commission shall be required by the governor to post a proper bond in a sum not less than \$25,000.00 to cover their liability as prescribed in this section, the cost of the bond to be paid from the general fund of the state of Michigan.

(6) There is hereby created in the state treasury a separate fund to be known as the contingent fund (Michigan employment security act) into which shall be deposited all solvency taxes collected under section 19a and all interest on contributions, penalties and damages collected under this act. All amounts in the contingent fund (Michigan employment security act) and all earnings on those amounts are hereby continuously appropriated without regard to fiscal year for the administration of the commission, for the purpose provided by subsection (7), and for the payment of interest on advances from the federal government to the unemployment compensation fund under section 1201 of the social security act, 42 U.S.C. 1321, to be expended only when authorized by the commission. Money deposited from the solvency taxes collected pursuant to section 19a shall not be used for the administration of the commission, except for the repayment of loans from the state treasury and interest on such loans made under section 19a(3). However, an authorization or expenditure shall not be made as a substitution for a grant of federal funds or for any portion of such grant or grants, which, in the absence of an authorization, would be available to the commission, and that immediately upon receipt of administrative grants from the appropriate agency of the United States of America to cover administrative costs for which the commission has authorized and made expenditures from the contingent fund, such grants shall be transferred to the contingent fund to the extent necessary to reimburse the contingent fund for the amount of such expenditures. Amounts needed to refund interest, damages, and penalties erroneously collected shall be withdrawn and expended for such a purpose from the contingent fund upon order of the commission. Any amount authorized to be expended for administration pursuant to this section may be transferred to the administration fund. An amount not needed for the purpose for which authorized shall, upon order of the commission, be returned to the contingent fund. Amounts needed to refund erroneously collected solvency taxes shall be withdrawn and expended for that purpose upon order of the commission.

(7) Notwithstanding any other provision of this section, \$21,000,000.00 shall be paid on a pro rata basis to employers who paid the solvency tax for 1983, 1984, or 1985. The commission shall make a good faith effort to locate each employer eligible for receipt of a payment under this subsection. The payment shall be made to these employers, within 6 months after the effective date of the amendatory act that added this subsection, from the solvency tax account and the penalty and interest account in the contingent fund. Any funds from the penalty and interest account of the contingent fund that are not needed to make the payments required by this subsection shall be returned from the solvency tax account to the penalty and interest account of the contingent fund after the good faith effort required by this subsection has been made. For purposes of this subsection, the

total solvency tax paid by employers and received by the commission for 1983, 1984, and 1985, as of a date determined by the commission which is not later than March 31, 1990, shall provide the basis for proration of the payments. The commission shall give public notice of that date at least 30 days before that date. The payment to each employer may not exceed the amount actually paid by the employer for 1983, 1984, and 1985. If an employer has unpaid contributions, solvency taxes, or interest or penalties on such contributions or solvency taxes on such date determined by the commission that exceed the amount of the solvency tax payment, the check issued by the commission shall be made out jointly to the employer and the commission. Payments authorized to be made under this subsection shall not be made until the advocacy assistance program provided by section 5a has been approved by the commission.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

- (a) Senate Bill No. 466.
- (b) Senate Bill No. 640.
- (c) Senate Bill No. 641.
- (d) Senate Bill No. 644.
- (e) Senate Bill No. 645.
- (f) Senate Bill No. 646.
- (g) House Bill No. 4815.
- (h) House Bill No. 5222.
- (i) House Bill No. 5223.
- (j) House Bill No. 5224.
- (k) House Bill No. 5226.
- (l) House Bill No. 5227.
- (m) House Bill No. 5229.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved

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Governor.