

HOUSE BILL No. 6289

November 14, 1990, Introduced by Reps. Martin, Perry Bullard.
Jonker and Watkins and referred to the Committee on Labor.

A bill to amend Act No. 1 of the Public Acts of the Extra
Session of 1936, entitled as amended
"Michigan employment security act,"
as amended, being sections 421.1 to 421.73 of the Michigan
Compiled Laws, by adding section 54c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 1 of the Public Acts of the Extra
2 Session of 1936, as amended, being sections 421.1 to 421.73 of
3 the Michigan Compiled Laws, is amended by adding section 54c to
4 read as follows:

5 SEC. 54C. (1) AN EMPLOYING UNIT OR AN OFFICER OR AGENT OF
6 AN EMPLOYING UNIT, A CLAIMANT FOR UNEMPLOYMENT BENEFITS, AN
7 EMPLOYEE OF THE COMMISSION, OR A THIRD PARTY THAT HAS KNOWINGLY
8 OR WILLFULLY APPROPRIATED OR CONVERTED TO HIS, HER, OR ITS OWN
9 USE MONEY TO BE USED FOR THE PAYMENT OF BENEFITS UNDER THIS ACT

1 OR MONEY RECEIVED AS THE PAYMENT OF CONTRIBUTION LIABILITY UNDER
2 THIS ACT IS GUILTY OF EMBEZZLEMENT PUNISHABLE AS FOLLOWS:

3 (A) IF THE AMOUNT OBTAINED AS A RESULT OF THE KNOWING OR
4 WILLFUL APPROPRIATION OR CONVERSION OF MONEY IS LESS THAN
5 \$1,000.00, THE COMMISSION MAY RECOVER THE AMOUNT OBTAINED AS A
6 RESULT OF THE KNOWING OR WILLFUL APPROPRIATION OR CONVERSION OF
7 MONEY AND MAY ALSO RECOVER DAMAGES EQUAL TO 2 TIMES THAT AMOUNT.

8 (B) IF THE AMOUNT OBTAINED AS A RESULT OF THE KNOWING FALSE
9 STATEMENT OR REPRESENTATION OR THE FAILURE TO DISCLOSE A MATERIAL
10 FACT IS \$1,000.00 OR MORE, THE COMMISSION MAY RECOVER THE AMOUNT
11 OBTAINED AS A RESULT OF THE KNOWING OR WILLFUL APPROPRIATION OR
12 CONVERSION OF MONEY AND MAY ALSO RECOVER DAMAGES EQUAL TO 3 TIMES
13 THAT AMOUNT. THE COMMISSION MAY REFER THE MATTER TO THE PROSE-
14 CUTING ATTORNEY OF THE COUNTY IN WHICH THE ALLEGED VIOLATION
15 OCCURRED FOR PROSECUTION. IF THE COMMISSION HAS NOT MADE ITS OWN
16 DETERMINATION UNDER THIS SUBDIVISION, THE PENALTY SOUGHT BY THE
17 PROSECUTOR SHALL INCLUDE THE AMOUNT DESCRIBED IN THIS SUBDIVISION
18 AND SHALL ALSO INCLUDE 1 OR MORE OF THE FOLLOWING PENALTIES:

19 (i) IF THE AMOUNT OBTAINED OR WITHHELD FROM PAYMENT AS A
20 RESULT OF THE KNOWING OR WILLFUL APPROPRIATION OR CONVERSION OF
21 MONEY IS \$1,000.00 OR MORE BUT LESS THAN \$25,000.00, THEN A PEN-
22 ALTY SHALL BE SOUGHT OF IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR
23 IN THE ALTERNATIVE THE PERFORMANCE OF COMMUNITY SERVICE OF NOT
24 MORE THAN 1 YEAR BUT NOT TO EXCEED 2,080 HOURS.

25 (ii) IF THE AMOUNT OBTAINED OR WITHHELD FROM PAYMENT AS A
26 RESULT OF THE KNOWING OR WILLFUL APPROPRIATION OR CONVERSION OF
27 MONEY IS \$25,000.00 OR MORE BUT LESS THAN \$100,000.00, THEN A

1 PENALTY SHALL BE SOUGHT OF IMPRISONMENT FOR NOT MORE THAN 2
2 YEARS, OR IN THE ALTERNATIVE THE PERFORMANCE OF COMMUNITY SERVICE
3 OF NOT MORE THAN 2 YEARS BUT NOT TO EXCEED 4,160 HOURS.

4 (iii) IF THE AMOUNT OBTAINED OR WITHHELD FROM PAYMENT AS A
5 RESULT OF THE KNOWING OR WILLFUL APPROPRIATION OR CONVERSION OF
6 MONEY IS \$100,000.00 OR MORE, THEN A PENALTY SHALL BE SOUGHT OF
7 IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR IN THE ALTERNATIVE THE
8 PERFORMANCE OF COMMUNITY SERVICE OF NOT MORE THAN 5 YEARS BUT NOT
9 TO EXCEED 10,400 HOURS.

10 (iv) IF THE KNOWING OR WILLFUL APPROPRIATION OR CONVERSION
11 OF MONEY MADE TO OBTAIN OR WITHHOLD AN AMOUNT FROM PAYMENT DOES
12 NOT RESULT IN A LOSS TO THE COMMISSION, THEN A PENALTY SHALL BE
13 SOUGHT EQUAL TO 3 TIMES THE AMOUNT THAT WOULD HAVE BEEN OBTAINED
14 BY THE KNOWING OR WILLFUL APPROPRIATION OR CONVERSION OF MONEY,
15 BUT NOT LESS THAN \$1,000.00, AND IMPRISONMENT FOR NOT MORE THAN 2
16 YEARS, OR IN THE ALTERNATIVE THE PERFORMANCE OF COMMUNITY SERVICE
17 OF NOT MORE THAN 2 YEARS BUT NOT TO EXCEED 4,160 HOURS.

18 (2) THIS SECTION SHALL APPLY EVEN IF THE AMOUNT OBTAINED OR
19 WITHHELD FROM PAYMENT HAS BEEN REPORTED OR REPORTED AND PAID BY
20 AN INDIVIDUAL INVOLVED IN THE EMBEZZLEMENT.

21 (3) THIS SECTION APPLIES TO CONDUCT THAT BEGAN BEFORE THE
22 EFFECTIVE DATE OF THIS SECTION BUT THAT CONTINUED ON OR AFTER THE
23 EFFECTIVE DATE OF THIS SECTION AND TO CONDUCT THAT BEGAN ON OR
24 AFTER THE EFFECTIVE DATE OF THIS SECTION.

25 (4) THE PENALTIES PROVIDED IN THIS SECTION SHALL BE IN ADDI-
26 TION TO ANY PENALTY PROVIDED IN THIS ACT FOR A LATE FILING.

1 (5) IF A DETERMINATION IS MADE THAT AN INDIVIDUAL HAS
 2 VIOLATED THIS SECTION, THE INDIVIDUAL IS SUBJECT TO THE PENALTY
 3 PROVISIONS OF THIS SECTION AND, WHERE APPLICABLE, THE REQUIRE-
 4 MENTS OF SECTION 62.

5 (6) AMOUNTS RECOVERED BY THE COMMISSION PURSUANT TO THIS
 6 SECTION SHALL BE CREDITED TO THE PENALTY AND INTEREST ACCOUNT OF
 7 THE CONTINGENT FUND. NOT LESS THAN ANNUALLY THE COMMISSION SHALL
 8 TRANSFER TO THE UNEMPLOYMENT TRUST FUND AMOUNTS RECOVERED UNDER
 9 THIS SECTION TO THE EXTENT THAT THE UNEMPLOYMENT TRUST FUND HAS
 10 NOT PREVIOUSLY BEEN CREDITED FOR THE AMOUNT OBTAINED AS A RESULT
 11 OF THE CONSPIRACY.

12 (7) THIS SECTION SHALL TAKE EFFECT OCTOBER 1, 1991.

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

16 (a) Senate Bill No. 1159 or House Bill No. _____ (request
 17 no. 06231'90)

18 (b) Senate Bill No. 1160 or House Bill No. _____ (request
 19 no. 06232'90)

20 (c) Senate Bill No. _____ or House Bill No. 6290 (request
 21 no. 06234'90)

22 (d) Senate Bill No. _____ or House Bill No. 6291 (request
 23 no. 06235'90)

24 (e) Senate Bill No. 1161 or House Bill No. _____ (request
 25 no. 06236'90)

26 (f) Senate Bill No. _____ or House Bill No. 6292 (request
 27 no. 06237'90)