

PENALTIES FOR MESC VIOLATIONS

House Bill 4269

Sponsor: Rep. Raymond M. Murphy

House Bill 4270

Sponsor: Rep. Bill Martin

House Bill 4272

Sponsor: Rep. Nate Jonker

Committee: Labor

Complete to 2-21-91

A SUMMARY OF HOUSE BILLS 4269, 4270, AND 4272 AS INTRODUCED 2-15-91

The bills would amend the Michigan Employment Security Act to provide penalties for certain violations and to establish interest charges for unpaid penalties. The bills are tie-barred to each other and would take effect April 1, 1992, providing House Bill 4271 (and three other bills that have not yet been introduced) were also enacted. (House Bill 4271 specifies that certain sections of the penal code on conspiracy, embezzlement, false pretenses, and larceny would not apply to corresponding violations of the employment security act, and could only be prosecuted under the employment security act.)

House Bills 4270 and 4272 would establish penalties for embezzlement, fraud, and other violations, and would revise current penalties for misrepresentation by either an employing unit or one of its officers or agents, a claimant, a Michigan Employment Security Commission (MESC) employee, or a third party. The penalties would be imposed in addition to any other penalty provided in the act. The penalties would also apply even if the amount embezzled were reported or paid by the embezzler, and whether or not the violation occurred before the effective date of the bill. Amounts recovered would be deposited in the Penalty and Interest Account of the Contingent Fund, and credited annually to the Unemployment Trust Fund. The penalties would be as follows:

<u>Violation</u>	<u>Penalty</u>	<u>Add'l. Prosecuting Att'y. Action</u>
Embezzlement of less than \$1,000	Commission could recover up to amount embezzled, plus damages equal to 2 times amount embezzled.	None
Embezzlement of \$1,000 or more	Commission could recover up to amount embezzled, plus damages equal to 3 times amount embezzled.	<p>\$1,000 - \$24,999: Up to 1 year in prison or up to 1 year/2,080 hours of community service.</p> <p>\$25,000 - \$99,999: Up to 2 years in prison or up to 2 years/4,160 hours of community service.</p> <p>\$100,000 or more: Up to 5 years in prison or up to 5 years/10,400 hours of community service.</p>

<u>Violation</u>	<u>Penalty</u>	<u>Add'l. Prosecuting Att'y. Action</u>
Fraud	Recovery of amount obtained, plus damages equal to 3 times this amount.	<u>Less than \$25,000:</u> Up to 1 year in prison or up to 1 year/2,080 hours of community service. <u>\$25,000 - \$99,999:</u> Up to 2 years in prison or up to 2 years/4,160 hours of community service. <u>\$100,000 or more:</u> Up to 5 years in prison or up to 5 years/10,400 hours of community service.
Obtaining \$1,000 or less by misrepresentation	Recovery of amount obtained, plus damages equal to 2 times this amount.	None
Obtaining \$1,000 or more by misrepresentation	Recovery of amount obtained, plus damages equal to 3 times this amount.	<u>\$1,000 - \$25,000:</u> Up to 1 year in prison or up to 1 year/2,080 hours of community service. <u>More than \$25,000:</u> Up to 2 years in prison or up to 2 years/4,160 hours of community service.
Other violations	Recovery of amount obtained, plus damages equal to 3 times this amount.	<u>\$100,000 or less:</u> Up to 1 year in prison or up to 1 year/2,080 hours of community service. <u>More than \$100,000:</u> Up to 2 years in prison or up to 2 years/4,160 hours of community service.

If a violation involving embezzlement or misrepresentation did not result in a loss to the MESC then the penalty would be equal to three times the amount that would have been obtained by embezzlement, but not less than \$1,000; the penalty could also include imprisonment for not more than two years, or the performance of up two years--or up to 4,160 hours--of community service.

Also, the act currently requires interest to be calculated on unpaid MESC contributions at the rate of one percent per month, computed on a day-to-day basis for each day of delinquency until payment is received. *House Bill 4269* would amend the act to extend this requirement to amounts illegally obtained or previously withheld from payment, and to damages recovered by the commission for the above violations.

MCL 421.1 et al.