

HOUSE BILL No. 4617

March 21, 1991, Introduced by Reps. Profit, Munsell, Brown, DeMars and Palamara and referred to the Committee on Labor.

A bill to amend section 11 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 178 of the Public Acts of 1989, being section 421.11 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 11 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 178 of the
3 Public Acts of 1989, being section 421.11 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 11. (a) In the administration of this act, the commis-
6 sion shall cooperate with the appropriate agency of the United
7 States under the social security act. The commission shall make
8 reports, in a form and containing information as the appropriate
9 agency of the United States may from time to time require, and

1 shall comply with such provisions as the appropriate agency of
2 the United States may from time to time prescribe to assure the
3 correctness and verification of the reports. The commission,
4 subject to this act, shall comply with the regulations prescribed
5 by the appropriate agency of the United States relating to the
6 receipt or expenditure of such sums as may be allotted and paid
7 to this state for the purpose of assisting in the administration
8 of this act. As used in this section, "social security act"
9 means the social security act, chapter 531, 49 Stat. 620.

10 (b) (1) Information obtained from any employing unit or
11 individual pursuant to the administration of this act, and deter-
12 minations as to the benefit rights of any individual shall be
13 held confidential and shall not be disclosed or open to public
14 inspection other than to public employees in the performance of
15 their official duties pursuant to this act in any manner reveal-
16 ing the individual's or the employing unit's identity. However,
17 any information in the commission's possession that may affect a
18 claim for benefits or a charge to an employer's rating account
19 shall be available to interested parties. Except as provided in
20 this act, ~~such~~ information and determinations shall not be used
21 in any action or proceeding before any court or administrative
22 tribunal unless the commission is a party to or a complainant in
23 the action or proceeding, or unless used for the prosecution of
24 fraud, civil proceeding, or other legal proceeding pursuant to
25 subdivision (2). Any report or statement, written or verbal,
26 made by any person to the commission, any member of the
27 commission, or to any person engaged in administering this law

1 shall be a privileged communication, and a person, firm, or
2 corporation shall not be held liable for slander or libel on
3 account of a report or statement. Such records and reports in
4 the custody of the commission shall be available for examination
5 by the employer or employee affected.

6 Subject to restrictions as the commission may by rule pre-
7 scribe, ~~such~~ information may be made available to any agency of
8 this or any other state, or any federal agency, charged with the
9 administration of an unemployment compensation law or the mainte-
10 nance of a system of public employment offices; the bureau of
11 internal revenue of the United States department of the treasury;
12 or the social security administration of the United States
13 department of health and human services. Information obtained in
14 connection with the administration of the employment service may
15 be made available to persons or agencies for purposes appropriate
16 to the operation of a public employment service. Subject to such
17 restrictions as the commission may by rule prescribe, the commis-
18 sion may also make such information available to agencies of
19 other states ~~which~~ THAT are responsible for the administration
20 of public assistance to unemployed workers, and to the depart-
21 ments of this state. Information so released shall be used only
22 for purposes not inconsistent with the purposes of this act. The
23 commission may make available to the department of treasury
24 information collected for the income eligibility and verification
25 system begun on October 1, 1988 for the purpose of detection of
26 potential tax fraud in other areas.

1 Upon request, the commission shall furnish to any agency of
2 the United States charged with the administration of public works
3 or assistance through public employment, and may furnish to any
4 state agency similarly charged, the name, address, ordinary occu-
5 pation, and employment status of each recipient of benefits and
6 the recipient's rights to further benefits under this act.

7 Subject to restrictions as the commission may prescribe, by
8 rule or otherwise, the commission may also make ~~such~~ informa-
9 tion available to colleges, universities, and public agencies of
10 this state for use in connection with research projects of a
11 public service nature. A person associated with such institu-
12 tions or agencies shall not disclose the information in any
13 manner which would reveal the identity of any individual or
14 employing unit from or concerning whom the information was
15 obtained by the commission.

16 The commission may request the comptroller of the currency
17 of the United States to cause an examination of the correctness
18 of any return or report of any national banking association
19 rendered pursuant to this act, and may, in connection with the
20 request, transmit the report or return to the comptroller of the
21 currency of the United States as provided in section 3305(c) of
22 the internal revenue code OF 1986, 26 U.S.C. 3305.

23 (2) The commission shall disclose to qualified requesting
24 agencies, upon request, with respect to an identified individual,
25 information in its records pertaining to the individual's name;
26 social security number; gross wages paid during each quarter; the
27 name, address, and federal and state employer identification

1 number of the individual's employer; any other wage information;
2 whether an individual is receiving, has received, or has applied
3 for unemployment benefits; the amount of unemployment benefits
4 the individual is receiving or is entitled to receive; the
5 individual's current or most recent home address; whether the
6 individual has refused an offer of work and if so a description
7 of the job offered including the terms, conditions, and rate of
8 pay; and any other information ~~which~~ THAT the qualified
9 requesting agency considers useful in verifying eligibility for,
10 and the amount of, benefits. For purposes of this subdivision,
11 "qualified requesting agency" means any state or local child sup-
12 port enforcement agency responsible for enforcing child support
13 obligations under a plan approved under part ~~d~~ D of ~~Title~~
14 TITLE IV of the social security act, CHAPTER 531, 49 STAT. 620,
15 42 U.S.C. 651 to 667; the United States department of health and
16 human services for purposes of establishing or verifying eligi-
17 bility or benefit amounts under ~~Titles II and XVI of the social~~
18 ~~security act, 42 U.S.C. 401 to 433 and 42 U.S.C. 1381 to 1383c~~
19 TITLE II OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620,
20 42 U.S.C. 401 TO 405, 406 TO 418, 420 TO 423, 424a TO 426, AND
21 427 TO 433, AND UNDER TITLE XVI OF THE SOCIAL SECURITY ACT, CHAP-
22 TER 531, 49 STAT. 620, 42 U.S.C. 1381 TO 1383d; the United States
23 department of agriculture for the purposes of determining eligi-
24 bility for, and amount of, benefits under the food stamp program
25 established under the food stamp act of 1977, PUBLIC LAW 88-525,
26 7 U.S.C. 2011 to ~~2027~~ 2012 AND 2013 TO 2032; and any other

1 state or local agency of this or any other state responsible for
2 administering the following programs:

3 (i) The aid to families with dependent children program
4 under part ~~a~~ A of ~~Title~~ TITLE IV of the social security act,
5 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 601 to ~~615~~ 603, 604 TO
6 610, 612 TO 613, AND 615 TO 617.

7 (ii) The medicaid program under ~~Title~~ TITLE XIX of the
8 social security act, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 to
9 ~~1396g~~ 1396f AND 1396i TO 1396u.

10 (iii) The unemployment compensation program under section
11 3304 of the internal revenue code of ~~1954~~ 1986, 26
12 U.S.C. 3304.

13 (iv) The food stamp program under the food stamp act of
14 1977, PUBLIC LAW 88-525, 7 U.S.C. 2011 to ~~2029~~ 2012 AND 2013 TO
15 2032 .

16 (v) Any state program under a plan approved under ~~Title I,~~
17 ~~X, XIV, or XVI of the social security act, 42 U.S.C. 301 to 306,~~
18 ~~42 U.S.C. 1201 to 1206, 42 U.S.C. 1351 to 1355, and~~
19 ~~42 U.S.C. 1381 to 1383c~~ FORMER TITLES I, X, AND XIV OF THE
20 SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620, OR UNDER TITLE
21 XVI OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620,
22 42 U.S.C. 1381 TO 1383d.

23 (vi) Any program administered under the social welfare act,
24 Act No. 280 of the Public Acts of 1939, being sections 400.1 to
25 400.121 of the Michigan Compiled Laws.

26 The information shall be disclosed only if the qualified
27 requesting agency has executed an agreement with the commission

1 to obtain such information and if the information is requested
2 for the purpose of determining the eligibility of applicants for
3 benefits, or the type and amount of benefits for which applicants
4 are eligible, under any of the programs listed above or under
5 Titles II and XVI of the social security act; for establishing
6 and collecting child support obligations from, and locating indi-
7 viduals owing ~~such~~ obligations ~~which~~ THAT are being enforced
8 pursuant to a plan described in section 454 of the social secur-
9 ity act, 42 U.S.C. 654; or for investigating or prosecuting
10 alleged fraud under any of these programs.

11 The commission shall cooperate with the department of social
12 services in establishing the computer data matching system autho-
13 rized in section 83 of Act No. 280 of the Public Acts of 1939,
14 being section 400.83 of the Michigan Compiled Laws, to transmit
15 the information requested on at least a quarterly basis. The
16 information shall not be released unless the qualified requesting
17 agency agrees to reimburse the commission for the costs incurred
18 in furnishing the information.

19 In addition to the requirements of this section, except as
20 later provided in this subdivision, all other requirements with
21 respect to confidentiality of information obtained in the admin-
22 istration of this act shall apply to the use of the information
23 by the officers and employees of the qualified requesting agen-
24 cies, and the sanctions imposed under this act for improper dis-
25 closure of the information shall be applicable to such officers
26 and employees. A qualified requesting agency may redisclose
27 information only to the following individuals or agencies: (1)

1 the individual who is the subject of the information, (2) an
2 attorney or other duly authorized agent representing the individ-
3 ual if the information is needed in connection with a claim for
4 benefits against the requesting agency, or (3) any criminal or
5 civil prosecuting authorities acting for or on behalf of the
6 requesting agency.

7 The commission is authorized to enter into an agreement with
8 any qualified requesting agency for the purposes described in
9 this subdivision. ~~Such~~ THE agreement or agreements ~~must~~
10 SHALL comply with all federal laws and regulations applicable to
11 ~~such~~ THE agreements.

12 (3) The commission shall disclose to the United States
13 department of health and human services any wage and unemployment
14 benefit claims information, including any information that might
15 be useful in locating an absent parent or an absent parent's
16 employer, for purposes of section 453 OF PART D OF TITLE IV of
17 the social security act, CHAPTER 531, 49 STAT. 620, 42
18 U.S.C. 653, in carrying out the child support enforcement program
19 under title IV OF THE SOCIAL SECURITY ACT, CHAPTER 531,
20 49 STAT. 620, 42 U.S.C. 601 TO 603, 604 TO 610, 612 TO 613, 615
21 TO 617, 620 TO 628, 651 TO 679, AND 681 TO 687. The information
22 shall not be released unless the requesting agency agrees to
23 reimburse the commission for the costs incurred in furnishing the
24 information.

25 (4) Upon request accompanied by presentation of a consent to
26 the release of information signed by a claimant, the commission
27 shall disclose to the United States department of housing and

1 urban development and any state or local public housing agency
2 responsible for verifying an applicant's or participant's eligi-
3 bility for, or level of benefits in, any housing assistance pro-
4 gram administered by the United States department of housing and
5 urban development, the name, address, wage information, whether
6 an individual is receiving, has received, or has made application
7 for unemployment benefits, and the amount of unemployment bene-
8 fits the individual is receiving or is entitled to receive under
9 this act. This information shall be used only to determine an
10 individual's eligibility for benefits or the amount of benefits
11 to which an individual is entitled under a housing assistance
12 program of the United States department of housing and urban
13 development. The information shall not be released unless the
14 requesting agency agrees to reimburse the commission for the
15 costs incurred in furnishing the information. For purposes of
16 this subsection, "public housing agency" means an agency
17 described in section 3(b)(6) OF TITLE I of the United States
18 housing act of 1937, CHAPTER 896, 88 STAT. 653, 42 U.S.C. 1437a.

19 (c) The commission is authorized to enter into agreements
20 with the appropriate agencies of other states or the federal gov-
21 ernment whereby potential rights to benefits accumulated under
22 the unemployment compensation laws of other states or such a law
23 of the federal government, or both, may constitute the basis for
24 the payment of benefits through a single appropriate agency under
25 plans ~~which~~ THAT the commission finds will be fair and reason-
26 able as to all affected interests and will not result in
27 substantial loss to the unemployment compensation fund.

1 (d) (1) The commission is authorized to enter into
2 reciprocal agreements with the appropriate agencies of other
3 states or of the federal government adjusting the collection and
4 payment of contributions by employers with respect to employment
5 not localized within this state.

6 (2) The commission is authorized to enter into reciprocal
7 agreements with agencies of other states administering unemploy-
8 ment compensation, whereby contributions paid by an employer to
9 any other state may be received by the other state as an agent
10 acting for and on behalf of this state to the same extent as if
11 the contributions had been paid directly to this state if the
12 payment is remitted to this state. Contributions so received by
13 another state shall be deemed contributions, required and paid
14 under this act as of the date the contributions were received by
15 the other state. The commission may collect contributions in a
16 like manner for agencies of other states administering unemploy-
17 ment compensation and remit the contributions to the agencies
18 under the terms of the reciprocal agreements.

19 (e) The commission may make the state's records relating to
20 the administration of this act available and may furnish to the
21 railroad retirement board or any other state or federal agency
22 administering an unemployment compensation law, at the expense of
23 that board, state, or agency, copies of the records as the rail-
24 road retirement board deems necessary for its purpose.

25 (f) The commission may cooperate with or enter into agree-
26 ments with any agency of another state or of the United States

1 charged with the administration of any unemployment insurance or
2 public employment service law.

3 The commission is authorized to make investigations, secure
4 and transmit information, make available services and facilities,
5 and exercise other powers provided in this act with respect to
6 the administration of this act as it deems necessary or appropri-
7 ate to facilitate the administration of any unemployment compen-
8 sation or public employment service law, and in like manner, to
9 accept and utilize information, services, and facilities made
10 available to this state by the agency charged with the adminis-
11 tration of any other unemployment compensation or public employ-
12 ment service law.

13 On request of an agency which administers an employment
14 security law of another state or foreign government and which has
15 found, in accordance with that law, that a claimant is liable to
16 repay benefits received under that law, the commission may col-
17 lect the amount of the benefits from the claimant to be refunded
18 to the agency.

19 In any case in which under this subsection a claimant is
20 liable to repay any amount to the agency of another state or for-
21 eign government, the amount may be collected by civil action in
22 the name of the commission acting as agent for the agency. Court
23 costs shall be paid or guaranteed by the agency.

24 To the extent permissible under the laws and constitution of
25 the United States, the commission is authorized to enter into or
26 cooperate in arrangements whereby facilities and services
27 provided under this act and facilities and services provided

1 under the unemployment compensation law of the Dominion of Canada
2 may be utilized for the taking of claims and the payment of bene-
3 fits under the unemployment compensation law of this state or
4 under a similar law of the Dominion of Canada.

5 Any employer who is not a resident of this state and who
6 exercises the privilege of having 1 or more individuals perform
7 service for him or her within this state, and any resident
8 employer who exercises that privilege and thereafter leaves this
9 state, shall be deemed ~~thereby~~ to appoint the secretary of
10 state as his or her agent and attorney for the acceptance of pro-
11 cess in any civil action under this act. In instituting such an
12 action against any employer, the commission shall cause such pro-
13 cess or notice to be filed with the secretary of state, and such
14 service shall be sufficient and shall be of the same force and
15 validity as if served upon the employer personally within this
16 state. The commission immediately shall send notice of the serv-
17 ice of process or notice, together with a copy thereof, by regis-
18 tered mail, return receipt requested, to the employer at his or
19 her last known address. The return receipt, the commission's
20 affidavit of compliance with this section, and a copy of the
21 notice of service shall be attached to the original of the pro-
22 cess filed in the court in which the civil action is pending.

23 The courts of this state shall recognize and enforce liabil-
24 ities, as provided in this act, for unemployment compensation
25 contributions, penalties, and interest imposed by other states
26 which extend a like comity to this state.

1 The attorney general is empowered to commence action in the
2 appropriate court of any other state or any other jurisdiction of
3 the United States by and in the name of the commission to collect
4 unemployment compensation contributions, penalties, and interest
5 finally determined, redetermined, or decided under this act to be
6 legally due this state. The officials of other states which
7 extend a like comity to this state are empowered to sue in the
8 courts of this state for the collection of unemployment compensa-
9 tion contributions, penalties, and interest, the liability for
10 which has been similarly established under the laws of the other
11 state or jurisdiction. A certificate by the secretary of another
12 state under the great seal of that state attesting the authority
13 of the official or officials to collect unemployment compensation
14 contributions, penalties, and interest shall be conclusive evi-
15 dence of that authority.

16 The attorney general is authorized to commence action in
17 this state as agent for or on behalf of any other state to
18 enforce judgments and established liabilities for unemployment
19 compensation taxes or contributions, penalties, and interest due
20 the other state if the other state extends a like comity to this
21 state.

22 (g) The commission is also authorized to enter into recipro-
23 cal agreements with the appropriate and authorized agencies of
24 other states or of the federal government (1) whereby remunera-
25 tion and services, upon the basis of which an individual may
26 become entitled to benefits under the unemployment compensation
27 law of another state or of the federal government, shall be

1 deemed to be wages and employment for the purposes of sections 27
2 and 46, if the other state agency or agency of the federal gov-
3 ernment has agreed to reimburse the fund for that portion of ben-
4 efits paid under this act upon the basis of the remuneration and
5 services as the commission finds will be fair and reasonable as
6 to all affected interests, and wages and employment, on the basis
7 of which an individual may become entitled to benefits under this
8 act, shall be deemed to be wages or services on the basis of
9 which unemployment compensation under the law of another state or
10 of the federal government is payable, and (2) whereby services
11 performed by an individual for a single employing unit ~~for~~
12 ~~which~~ THAT services are customarily performed by the individual
13 in more than 1 state shall be deemed to be services performed
14 entirely within any 1 of the states (a) in which any part of the
15 individual's service is performed, (b) in which the individual
16 has his or her residence, or (c) in which the employing unit
17 maintains a place of business, provided there is, in effect as to
18 such services, an election approved by the agency charged with
19 the administration of the state's unemployment compensation law,
20 pursuant to which all the services performed by the individual
21 for the employing unit are deemed to be performed entirely within
22 the state, and (3) whereby the commission will reimburse other
23 state or federal agencies charged with the administration of
24 unemployment compensation laws with such reasonable portion of
25 benefits, paid under the law of any other state or of the federal
26 government upon the basis of employment and wages, as the
27 commission finds will be fair and reasonable as to all affected

1 interests. Reimbursements so payable shall be deemed to be
2 benefits for the purpose of limiting duration of benefits and for
3 the purposes of sections 20a and 26, and the payments shall be
4 charged to the contributing employer's rating account for the
5 purposes of sections 17, 18, 19, and 20, or the reimbursing
6 employer's account under section 13c or 13g, as applicable.
7 Benefits paid under a combined wage plan shall be allocated and
8 charged to each employer involved in the quarter in which the
9 paying state requires reimbursement. Benefits charged to this
10 state shall be allocated to each employer of this state who has
11 employed the claimant during the base period of the paying state
12 in the same ratio that the wages earned by the claimant during
13 the base period of the paying state in the employ of the employer
14 bears to the total amount of wages earned by the claimant in the
15 base period of the paying state in the employ of all employers of
16 the state. The commission is authorized to make to other state
17 or federal agencies and receive from other state or federal agen-
18 cies reimbursements from or to the fund, in accordance with
19 arrangements made pursuant to this section.

20 (h) The commission is authorized and directed to enter into
21 any agreement necessary in order that it may cooperate with any
22 agency of the United States charged with the administration of
23 any program for the payment of primary or supplemental benefits
24 to individuals recently discharged from the military services of
25 the United States, and to assist in the establishing of eligibil-
26 ity and in the payments of benefits thereunder, and for those
27 purposes may accept and administer funds made available by the

1 federal government and may accept and exercise any delegated
2 function as may be provided thereunder. The commission shall not
3 have power to enter into any agreement providing for, or exercise
4 any function connected with, the disbursement of the state's
5 unemployment trust fund for purposes not authorized by this act.

6 (i) The commission may enter into agreements with the appro-
7 priate agency of the United States whereby, in accordance with
8 the laws of the United States, the commission, as agent of the
9 United States, or from funds provided by the United States, shall
10 provide for the payment of unemployment compensation or unemploy-
11 ment allowances of any kind, including the payment of any bene-
12 fits and allowances that are made available for manpower develop-
13 ment, training, retraining, readjustment, and relocation. The
14 commission may receive and disburse funds from the United States
15 or any appropriate agency of the United States in accordance with
16 any such agreements.

17 If the federal enactment providing for unemployment compen-
18 sation, training allowance, or relocation payments requires joint
19 federal-state financing of such payments, the commission may par-
20 ticipate in the programs by using funds appropriated by the leg-
21 islature to the extent provided by the legislature for such
22 programs.

23 (j) The commission shall participate in any arrangement
24 which provides for the payment of compensation on the basis of
25 combining an individual's wages and employment covered under this
26 act with his or her wages and employment covered under the
27 unemployment compensation laws of other states, if the

1 arrangement is approved by the United States secretary of labor
2 in consultation with the state unemployment compensation agencies
3 as reasonably calculated to assure the prompt and full payment of
4 compensation. An arrangement shall include provisions for both
5 of the following:

6 (i) Applying the base period of a single state law to a
7 claim involving the combining of an individual's wages and
8 employment covered under 2 or more state unemployment compensa-
9 tion laws.

10 (ii) Avoiding the duplicate use of wages and employment as a
11 result of the combining.

12 (k) In a proceeding before any court, the commission and the
13 state shall be represented by the attorney general of this state
14 or attorneys designated by the attorney general. Only the attor-
15 ney general or other attorneys designated by the attorney general
16 shall act as legal counsel for the commission.

17 (l) UPON WRITTEN REQUEST, THE COMMISSION SHALL DISCLOSE
18 INFORMATION OBTAINED FROM AN EMPLOYING UNIT OR AN INDIVIDUAL TO 1
19 OR MORE OF THE FOLLOWING:

20 (1) THE DEPARTMENT OF TREASURY.

21 (2) THE DEPARTMENT OF LABOR, BUREAU OF EMPLOYMENT
22 STANDARDS.

23 (3) THE DEPARTMENT OF COMMERCE, STATE ACCIDENT FUND.

24 Section 2. This amendatory act shall not take effect unless
25 all of the following bills of the 86th Legislature are enacted
26 into law:

1 (a) Senate Bill No. _____ or House Bill No. 4619

2 (request no. 03070'91 *).

3 (b) Senate Bill No. _____ or House Bill No. 4618

4 (request no. 03071'91 *).