

# HOUSE BILL No. 4985

June 20, 1991, Introduced by Rep. Hoffman and referred to the Committee on Labor.

A bill to amend sections 11 and 13 of Act No. 390 of the Public Acts of 1978, entitled as amended

"An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts,"

being sections 408.481 and 408.483 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 11 and 13 of Act No. 390 of the Public  
2 Acts of 1978, being sections 408.481 and 408.483 of the Michigan  
3 Compiled Laws, are amended to read as follows:

4 Sec. 11. (1) An employee who believes that his or her  
5 employer has violated this act may file a written complaint with

1 the department within 12 months after the alleged violation. A  
2 complaint filed under section 13(2) shall be filed within 30 days  
3 after the alleged violation occurs UNLESS THE EMPLOYEE CAN SHOW  
4 THAT HE OR SHE RELIED TO HIS OR HER DETRIMENT ON INFORMATION FUR-  
5 NISHED BY THE DEPARTMENT RELATIVE TO THE TIME PERIOD FOR FILING A  
6 COMPLAINT UNDER THIS SUBSECTION. Bilingual complaint forms shall  
7 be provided by the department in those areas where substantial  
8 numbers of non-English speaking employees are employed.

9 (2) Within a reasonable time after a complaint is filed, the  
10 department shall notify the employer, ~~and~~ investigate the  
11 claim, and ~~shall~~ attempt to informally resolve the dispute.

12 (3) If the department is unable to informally resolve the  
13 dispute, the department shall notify the employer and employee  
14 within 90 days after the complaint is filed. The notification  
15 shall include a determination of the merits of the complaint and  
16 shall cite the specific violation, if any, wages and fringe bene-  
17 fits due, and specific penalties assessed.

18 (4) The employer or employee may request a review of the  
19 department's determination within 14 days after notification is  
20 issued. If a request for a review by either the employer or  
21 employee is not received by the department within 14 days, in the  
22 absence of a showing of good cause for a late request, the  
23 department's determination is final.

24 (5) For the purpose of an investigation or proceeding under  
25 this act, the director of labor or an authorized representative  
26 of the director may administer oaths and affirmations, subpoena  
27 witnesses, compel their attendance, take evidence, and require

1 the production of records or other documents ~~which~~ THAT the  
2 department considers relevant or material to the inquiry.

3 (6) The employee, employer, and the department shall be par-  
4 ties to a proceeding before a hearings officer brought pursuant  
5 to this section.

6 (7) The director shall appoint hearings officers to make  
7 determinations in proceedings brought pursuant to this section.  
8 All proceedings in a hearing shall be conducted pursuant to the  
9 procedures applicable to the trial of contested cases under THE  
10 ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public  
11 Acts of 1969, as amended, being sections 24.201 to ~~24.315~~  
12 24.328 of the Michigan Compiled Laws. The hearings officer shall  
13 affirm, modify, or rescind the order of the department and may  
14 assess costs as provided in section 18(3).

15 (8) The hearings officer shall issue a determination which  
16 constitutes a final disposition of the proceedings to each party  
17 within 30 days after the conclusion of the hearing. The determi-  
18 nation of the hearings officer ~~shall become~~ BECOMES the final  
19 agency order upon receipt by the parties.

20 (9) A party to the proceeding may obtain judicial review of  
21 the determination of the hearings officer pursuant to Act No.  
22 306 of the Public Acts of 1969, as amended. Venue for an appeal  
23 under this act shall only be in the circuit where the employee is  
24 a resident, where the employment occurred, or where the employer  
25 has a principal place of business.

26 Sec. 13. (1) An employer shall not discharge an employee  
27 or discriminate against an employee because the employee filed a

1 complaint, instituted or caused to be instituted a proceeding  
2 under or regulated by this act, testified or is about to testify  
3 in a proceeding, or because of the exercise by the employee on  
4 behalf of an employee or others of a right afforded by this act.

5 (2) An employee who believes that he or she is discharged or  
6 otherwise discriminated against by an employer in violation of  
7 this section may file a complaint with the department alleging  
8 the discrimination within 30 days after the violation occurs  
9 UNLESS THE EMPLOYEE CAN SHOW THAT HE OR SHE RELIED TO HIS OR HER  
10 DETRIMENT ON INFORMATION FURNISHED BY THE DEPARTMENT RELATIVE TO  
11 THE TIME PERIOD FOR FILING A COMPLAINT UNDER THIS SUBSECTION.

12 Upon receipt of the complaint, the department shall cause an  
13 investigation to be made. If, upon the investigation, the  
14 department determines that this section was violated, the depart-  
15 ment shall order the rehiring or reinstatement of an employee to  
16 his or her former position with back pay.

17 (3) An employer may seek review of the department's determi-  
18 nation by following the procedure provided in section 11(4) to  
19 (9).