

HOUSE BILL No. 5722

March 31, 1992, Introduced by Reps. DeLange, Murphy, McNutt, Jonker and O'Connor and referred to the Committee on Labor.

A bill to amend section 64 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. 172 of the Public Acts of 1984, being section 421.64 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 64 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 172 of the
3 Public Acts of 1984, being section 421.64 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 64. (1)(a) Payment of extended benefits under this sec-
6 tion shall be made at the individual's weekly EXTENDED benefit
7 rate as defined in subsection (6)(d), for any week of
8 unemployment which begins in the individual's eligibility period,
9 to each individual who is fully eligible and not disqualified

1 under this act, who has exhausted all rights to regular benefits
2 under this act and who is not seeking or receiving benefits with
3 respect to that week under the unemployment compensation law of
4 Canada and who does not have rights to benefits under the unem-
5 ployment compensation law of any other state or the United States
6 or to compensation or allowances under any other federal law,
7 such as the trade expansion act, or the automotive products trade
8 act or the railroad unemployment insurance act; however, if the
9 individual is seeking benefits and the appropriate agency finally
10 determines that the individual is not entitled to benefits under
11 another law the individual shall be considered to have exhausted
12 the right to benefits. For the purpose of the preceding sen-
13 tence, an individual shall have exhausted the right to regular
14 benefits under this section with respect to any week of unemploy-
15 ment in the individual's eligibility period:

16 (i) When payments of regular benefits may not be made for
17 that week because the individual has received all regular bene-
18 fits available based on his or her employment or wages during the
19 base period for the current benefit year, or

20 (ii) When the right to the benefits has terminated before
21 that week by reason of the expiration or termination of the bene-
22 fit year with respect to which the right existed; and the indi-
23 vidual has no, or insufficient, wages or employment to establish
24 a new benefit year. However, for purposes of this subsection, an
25 individual shall be considered to have exhausted the right to
26 regular benefits with respect to any week of unemployment in his
27 or her eligibility period, when the individual may become

1 entitled to regular benefits with respect to that week, or future
2 weeks, but the benefits are not payable at the time the individ-
3 ual claims extended benefits because final action on a pending
4 redetermination or on an appeal has not yet been taken with
5 respect to eligibility or qualification for the regular benefits
6 or when the individual may be entitled to regular benefits with
7 respect to future weeks of unemployment, but regular benefits are
8 not payable with respect to any week of unemployment in his or
9 her eligibility period by reason of seasonal limitations in any
10 state unemployment compensation law.

11 (b) Except where inconsistent with the provisions of this
12 section, the terms and conditions of this act which apply to
13 claims for regular benefits ~~—~~ and to the payment of those bene-
14 fits shall apply to claims for extended benefits and to the pay-
15 ment of those benefits.

16 (c) An individual shall not be paid additional compensation
17 and extended compensation with respect to the same week. If an
18 individual is potentially eligible for both types of compensation
19 in this state with respect to the same week, the commission may
20 pay extended compensation instead of additional compensation with
21 respect to the week. If an individual is potentially eligible
22 for extended compensation in 1 state and potentially eligible for
23 additional compensation for the same week in another state, the
24 individual may elect which of the 2 types of compensation to
25 claim.

26 (2) The commission will establish, for each eligible
27 individual who files an application, an extended benefit account

1 with respect to that individual's benefit year. The amount
2 established in the account shall be whichever of the following is
3 the lesser:

4 (a) Fifty percent of the total amount of regular benefits
5 payable to the individual under this act during the benefit
6 year.

7 (b) Thirteen times the individual's weekly extended benefit
8 rate.

9 In case any amount determined under ~~paragraph~~ SUBDIVISION
10 (a) or (b) of this subsection is not an exact multiple of $1/2$ of
11 the individual's weekly extended benefit rate, the amount shall
12 be decreased to the next lower such multiple.

13 (3) An extended benefit period:

14 (a) Shall begin with the third week after whichever of the
15 following weeks first occurs:

16 (i) A week for which there is a national "on" indicator as
17 determined by the United States secretary of labor.

18 (ii) A week for which there is a Michigan "on" indicator.

19 (b) Shall end with the third week after the first week for
20 which there is both a national "off" indicator and a Michigan
21 "off" indicator.

22 (c) Shall not last for a period of less than 13 consecutive
23 weeks, and shall not begin by reason of a Michigan "on" indicator
24 before the fourteenth week after the close of a prior extended
25 benefit period under this section, as amended. However, an
26 extended benefit period shall terminate with the week preceding
27 the week for which no extended benefit payments are considered to

1 be shareable compensation under the federal-state extended
2 unemployment compensation act of 1970, 26 U.S.C. section 3304.

3 (4) An individual's "eligibility period" shall consist of
4 the weeks in his or her benefit year which begin in an extended
5 benefit period, and if his or her benefit year ends within the
6 extended benefit period, any weeks thereafter which begin in the
7 period.

8 (5)(a) With respect to weeks beginning after September 25,
9 1982, a national "on" indicator for a week shall be determined by
10 the United States secretary of labor.

11 (b) A national "off" indicator for a week shall be deter-
12 mined by the United States secretary of labor.

13 (c) There is a Michigan "on" indicator for a week if the
14 rate of insured unemployment under this act for the period con-
15 sisting of that week and the immediately preceding 12 weeks:

16 (i) Equalled or exceeded 120% of the average of the insured
17 unemployment rates for the corresponding 13-week period ending in
18 each of the preceding 2 calendar years, and

19 (ii) Equalled or exceeded 4% for weeks beginning before
20 September 26, 1982, or 5% for weeks beginning after September 25,
21 1982.

22 (d) There is a Michigan "off" indicator for a week if, for
23 the period consisting of that week and the immediately preceding
24 12 weeks, either subdivision (c)(i) or (c)(ii) was not
25 satisfied. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF
26 MICHIGAN IS IN A PERIOD IN WHICH EMERGENCY UNEMPLOYMENT
27 COMPENSATION IS PAYABLE IN MICHIGAN UNDER SECTION 102 OF THE

1 EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991, PUBLIC
2 LAW 102-164, THEN THE GOVERNOR MAY ELECT TO TRIGGER "OFF" THE
3 MICHIGAN INDICATOR FOR EXTENDED BENEFITS UNDER THIS ACT ONLY FOR
4 A PERIOD IN WHICH EMERGENCY UNEMPLOYMENT COMPENSATION IS PAYABLE
5 IN MICHIGAN, IF AUTHORIZED TO DO SO BY FEDERAL LAW, AND IF THE
6 NET RESULT OF ELECTING TO TRIGGER "OFF" EXTENDED BENEFITS UNDER
7 THIS ACT ONLY FOR A PERIOD IN WHICH EMERGENCY UNEMPLOYMENT COM-
8 PENSATION IS PAYABLE IN MICHIGAN WOULD NOT BE A DECREASE IN THE
9 NUMBER OF WEEKS OF UNEMPLOYMENT BENEFITS PAYABLE TO MICHIGAN
10 WORKERS UNDER THIS ACT OR UNDER FEDERAL LAW.

11 (e) For purposes of subdivisions (c) and (d), the rate of
12 insured unemployment for any 13-week period shall be determined
13 by reference to the average monthly covered employment under this
14 act for the first 4 of the most recent 6 calendar quarters ending
15 before the close of that period.

16 (f) For purposes of this subsection, the term "rate of
17 insured unemployment" means the percentage arrived at by
18 dividing:

19 (i) The average weekly number of individuals filing claims
20 for regular benefits for weeks of unemployment with respect to
21 the specified period, as determined on the basis of the reports
22 made by all state agencies, or in the case of subdivisions (c)
23 and (d), by the commission, to the federal government; by

24 (ii) In the case of subdivisions (c) and (d), the average
25 monthly covered employment under this act for the specified
26 period.

1 (g) Calculations under subdivisions (c) and (d) shall be
2 made by the commission and shall conform to regulations, if any,
3 prescribed by the United States secretary of labor under author-
4 ity of the federal-state extended unemployment compensation act
5 of 1970, as amended.

6 (h) Notwithstanding subdivisions (c) and (d), but subject to
7 subsection (3)(c), for weeks of unemployment beginning after
8 March 30, 1977 and before September 26, 1982, there is a Michigan
9 "on" indicator for a week ~~of~~ IF the rate of insured unemploy-
10 ment under this act for the period consisting of that week and
11 the immediately preceding 12 weeks equaled or exceeded 5%; and
12 for weeks beginning after September 25, 1982, there is a Michigan
13 "on" indicator for a week if the rate of insured unemployment
14 under this act for the period consisting of that week and the
15 immediately preceding 12 weeks equaled or exceeded 6%. However,
16 any week for which there would otherwise be a Michigan "on" indi-
17 cator shall continue to be such a week and shall not be deter-
18 mined to be a week for which there is a Michigan "off"
19 indicator.

20 (6) For purposes of this section:

21 (a) "Regular benefits" means benefits payable to an individ-
22 ual under this act and, unless otherwise expressly provided,
23 under any other state unemployment compensation law, including
24 unemployment benefits payable pursuant to 5 U.S.C. 8501 to 8525,
25 other than extended benefits, and other than additional benefits
26 which includes training benefits under section 27(g).

1 (b) "Extended benefits" means benefits, including additional
2 benefits and unemployment benefits payable pursuant to 5
3 U.S.C. 8501 to 8525, payable for weeks of unemployment beginning
4 in an extended benefit period to an individual as provided under
5 this section.

6 (c) "Additional benefits" means benefits totally financed by
7 a state and payable to exhaustees by reason of conditions of high
8 unemployment or by reason of other special factors under the pro-
9 visions of any state law as well as training benefits paid under
10 section 27(g) with respect to an extended benefit period.

11 (d) "Weekly extended benefit rate" means an amount equal to
12 the amount of regular benefits payable under this act to an indi-
13 vidual within the individual's benefit year for a week of total
14 unemployment, unless the individual had more than 1 such weekly
15 rate within that benefit year in which case the individual's
16 weekly extended benefit rate shall be computed by dividing the
17 maximum amount of regular benefits payable under this act within
18 that benefit year by the number of weeks for which benefits were
19 payable, adjusted to the next lower multiple of \$1.00.

20 (e) "Benefits payable" includes all benefits computed in
21 accordance with section 27(d), irrespective of whether the indi-
22 vidual was otherwise eligible for the benefits within his or her
23 current benefit year and irrespective of any benefit reduction by
24 reason of a disqualification which required a reduction.

25 (7)(a) An extended benefit period on the basis of a national
26 "on" indicator may not begin with a calendar week starting before
27 January 1, 1972.

1 (b) With respect to calendar weeks beginning before
2 January 1, 1972, an extended benefit period under this section
3 shall be determined solely by reference to the Michigan "on"
4 indicator and the Michigan "off" indicator, however an extended
5 benefit period established on the basis of a Michigan "on" indi-
6 cator may not begin with a week earlier than 60 days after the
7 date of the enactment of the federal-state extended unemployment
8 compensation act of 1970, as amended.

9 (8)(a) Notwithstanding the provisions of subsection (1)(b),
10 an individual shall be ineligible for payment of extended bene-
11 fits for any week of unemployment beginning after March 31, 1981
12 in the individual's eligibility period if the commission finds
13 that during that period:

14 (i) The individual failed to accept any offer of suitable
15 work, as defined in subdivision (c), or failed to apply for any
16 suitable work, as defined in subdivision (c), to which the indi-
17 vidual was referred by the commission; or

18 (ii) The individual failed to actively engage in seeking
19 work as prescribed in subdivision (f).

20 (b) Any individual who has been found ineligible for
21 extended benefits pursuant to subdivision (a) shall also be
22 denied benefits beginning with the first day of the week follow-
23 ing the week in which the failure occurred and until the individ-
24 ual has been employed in each of 4 subsequent weeks, whether or
25 not consecutive, and has earned remuneration equal to not less
26 than 4 times the extended weekly benefit amount, as determined
27 under subsection (2).

1 (c) For purposes of this subsection, the term "suitable
2 work" means, with respect to any individual, any work which is
3 within that individual's capabilities, if the gross weekly remuneration
4 payable for the work exceeds the sum of:

5 (i) The individual's extended weekly benefit amount as
6 determined under subsection (2), plus

7 (ii) The amount, if any, of supplemental unemployment
8 COMPENSATION benefits, as defined in section 501(c)(17)(d) of the
9 internal revenue code, payable to the individual for that week;
10 and further,

11 (iii) That the employer pays wages not less than the higher
12 of the minimum wage provided by section 6(a)(1) of the fair labor
13 standards act of 1938, 29 U.S.C. 206(a)(1), without regard to any
14 exemption, or the applicable state or local minimum wage.

15 (d) ~~No~~ AN individual shall NOT be denied extended benefits
16 for failure to accept an offer of, or apply for, any job which
17 meets the definition of suitability as described in subdivision
18 (c) if:

19 (i) The position was not offered to the individual in writing
20 and was not listed with the state employment service; or

21 (ii) The failure could not result in a denial of benefits
22 under the definition of suitable work in section 29(6) to the
23 extent that the criteria of suitability in that section are not
24 inconsistent with the provisions of subdivision (c); or

25 (iii) The individual furnishes satisfactory evidence to the
26 commission that his or her prospects for obtaining work in his or
27 her customary occupation within a reasonably short period are

1 good. If that evidence is deemed satisfactory for this purpose,
2 the determination of whether any work is suitable with respect to
3 that individual shall be made in accordance with the definition
4 of suitable work in section 29(6) without regard to the defini-
5 tion specified by subdivision (c).

6 (e) Notwithstanding subsection (1)(b), ~~no~~ work shall NOT
7 be ~~deemed to be~~ CONSIDERED suitable work for an individual
8 which does not ~~accord with~~ MEET the labor standard provisions
9 required by section 3304(a)(5) of the internal revenue code and
10 section 29(7) of this act.

11 (f) For the purposes of subdivision (a)(ii), an individual
12 shall be treated as actively engaged in seeking work during any
13 week if:

14 (i) The individual has engaged in a systematic and sustained
15 effort to obtain work during that week, and

16 (ii) The individual furnishes tangible evidence to the com-
17 mission that he or she has engaged in a systematic and sustained
18 effort during that week.

19 (g) The commission shall refer any applicant for extended
20 benefits to any suitable work which meets the criteria prescribed
21 in subdivisions (c) and (d).

22 (h) With respect to initial extended benefit claims filed
23 after March 31, 1981, an individual shall not be eligible to
24 receive extended benefits with respect to any week of unemploy-
25 ment in his or her eligibility period if that individual has been
26 disqualified for benefits under this act because he or she
27 voluntarily left work, was discharged for misconduct, or failed

1 to accept an offer of or apply for suitable work unless the
2 individual requalified in accordance with a specific provision of
3 this act requiring that the individual be employed subsequent to
4 the week in which the act or discharge occurred which caused the
5 disqualification.

6 (9)(a) Except as provided in subdivision (b), payment of
7 extended benefits shall not be made to any individual for any
8 week of unemployment, beginning on or after June 1, 1981, which
9 otherwise would have been payable pursuant to an interstate claim
10 filed in any state under the interstate benefit payment plan, if
11 an extended benefit period is not in effect for such week in the
12 state in which the interstate claim is filed.

13 (b) Subdivision (a) shall not apply with respect to the
14 first 2 weeks for which extended benefits are payable, pursuant
15 to an interstate claim, to the individual from the extended bene-
16 fit account established for the individual.

17 (10) Notwithstanding the provisions of subsection (1)(b), an
18 individual who established a benefit year under section 46a on or
19 after January 2, 1983, shall be eligible to receive extended ben-
20 efits only if the individual earned wages in an amount exceeding
21 40 times the individual's most recent weekly benefit rate during
22 the base period of the benefit year which is used to establish
23 the individual's extended benefit account under subsection (2).

24 (11) This subsection shall be effective for weeks of unem-
25 ployment beginning after October 30, 1982. Notwithstanding any
26 other provision of this section, an individual's extended benefit
27 entitlement, with respect to weeks of unemployment beginning

1 after the end of the benefit year, shall be reduced, but not
2 below zero, by the product of the number of weeks for which the
3 individual received any amounts of trade readjustment allowances,
4 paid under the trade act of 1974, as amended, 19 U.S.C. 2101 to
5 ~~2487~~ 2495, within that benefit year, multiplied by the
6 individual's weekly benefit amount for extended benefits.