

# SENATE BILL No. 840

March 25, 1992, Introduced by Senator HONIGMAN and referred to the Committee on Labor.

A bill to amend section 54b of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as added by Act No. 4 of the Public Acts of 1991, being section 421.54b of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 54b of Act No. 1 of the Public Acts of  
2 the Extra Session of 1936, as added by Act No. 4 of the Public  
3 Acts of 1991, being section 421.54b of the Michigan Compiled  
4 Laws, is amended to read as follows:

5       Sec. 54b. (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 conspired  
8 with 1 or more persons to commit an offense prohibited by this  
9 act or to commit an act permitted by this act in an illegal

1 manner shall be guilty of conspiracy punishable by 1 or more of  
2 the following:

3 (a) If the commission determines that an individual con-  
4 spired to commit an illegal act under this act, the commission  
5 may recover the amount of money so obtained or withheld from pay-  
6 ment as a result of the illegal act, and may also recover damages  
7 equal to 3 times that amount.

8 (b) The commission may refer the matter TO THE PROSECUTING  
9 ATTORNEY OF THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED  
10 for prosecution. If the commission has not made its own determi-  
11 nation under subdivision (a), the penalty sought by the prosecu-  
12 tor shall include the amount described in subdivision (a) and  
13 shall also include 1 or more of the following penalties:

14 (i) If the amount obtained or withheld from payment as a  
15 result of the conspiracy is \$25,000.00 or less, then 1 of the  
16 following:

17 (A) ~~-(a)-~~ Imprisonment for not more than 2 years.

18 (B) ~~-(b)-~~ The performance of community service of not more  
19 than 2 years but not to exceed 4,160 hours.

20 (C) ~~-(c)-~~ A combination of ~~-(a)-~~ (A) and ~~-(b)-~~ (B) that does  
21 not exceed 2 years.

22 (ii) If the amount obtained or withheld from payment as a  
23 result of the conspiracy is more than \$25,000.00, then 1 of the  
24 following:

25 (A) ~~-(a)-~~ Imprisonment for not more than 5 years.

26 (B) ~~-(b)-~~ The performance of community service of not more  
27 than 5 years but not to exceed 10,400 hours.

1 (C) ~~-(e)-~~ A combination of ~~-(a)-~~ (A) and ~~-(b)-~~ (B) that does  
2 not exceed 5 years.

3 (iii) If a conspiracy to obtain or withhold an amount from  
4 payment does not result in a loss to the commission, then both a  
5 fine equal to 3 times the amount involved in the conspiracy, but  
6 not less than \$1,000.00 and 1 of the following:

7 (A) ~~-(a)-~~ Imprisonment for not more than 2 years.

8 (B) ~~-(b)-~~ The performance of community service for not more  
9 than 2 years but not to exceed 4,160 hours.

10 (C) ~~-(e)-~~ A combination of ~~-(a)-~~ (A) and ~~-(b)-~~ (B) that does  
11 not exceed 2 years.

12 (2) This section shall apply even if the amount obtained or  
13 withheld from payment has been reported or reported and paid by  
14 an individual involved in a conspiracy.

15 (3) This section applies to conduct that began before ~~the~~  
16 ~~effective date of this section~~ APRIL 1, 1992, but that continued  
17 on or after ~~the effective date of this section~~ APRIL 1, 1992,  
18 and to conduct that began on or after ~~the effective date of this~~  
19 ~~section~~ APRIL 1, 1992.

20 (4) The penalties provided in this section shall be in addi-  
21 tion to any penalty provided in this act for a late filing.

22 (5) If a determination is made that an individual has vio-  
23 lated this section, the individual is subject to the penalty pro-  
24 visions of this section and, where applicable, the requirements  
25 of section 62.

26 (6) ~~Amounts~~ THE AMOUNT recovered by the commission  
27 pursuant to ~~this section~~ SUBSECTION (1) shall be credited FIRST

1 TO THE UNEMPLOYMENT TRUST FUND AND THEREAFTER to the penalty and  
2 interest account of the contingent fund ~~— Not less than annu-~~  
3 ~~ally the commission shall transfer to the unemployment trust fund~~  
4 ~~amounts recovered under this section to the extent that the unem-~~  
5 ~~ployment trust fund has not previously been credited for~~ TO THE  
6 EXTENT OF THE AMOUNT RECOVERED IN EXCESS OF the amount obtained  
7 as a result of the conspiracy.

8 (7) This section shall take effect April 1, 1992.