



HOUSE BILL No. 6193

November 14, 1996, Introduced by Rep. Prusi and referred to the Committee on Human Resources and Labor.

A bill to amend sections 32, 32a, and 38 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," section 32 as amended by Act No. 162 of the Public Acts of 1994 and sections 32a and 38 as amended by Act No. 164 of the Public Acts of 1983, being sections 421.32, 421.32a, and 421.38 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 32, 32a, and 38 of Act No. 1 of the
2 Public Acts of the Extra Session of 1936, section 32 as amended
3 by Act No. 162 of the Public Acts of 1994 and sections 32a and 38
4 as amended by Act No. 164 of the Public Acts of 1983, being sec-
5 tions 421.32, 421.32a, and 421.38 of the Michigan Compiled Laws,
6 are amended to read as follows:

1 Sec. 32. (a) Claims for benefits shall be made pursuant to
2 regulations prescribed by the commission. The commission shall
3 designate representatives who promptly shall examine claims and
4 make a determination on the facts. The commission may establish
5 rules providing for the examination of claims, the determination
6 of the validity of the claims, and the amount and duration of
7 benefits to be paid. The claimant and other interested parties
8 promptly shall be notified of the determination and the reasons
9 for the determination.

10 (b) For benefit years established before the conversion date
11 prescribed in section 75, the commission may prescribe regula-
12 tions for notifying and shall notify the employer, whose
13 experience account may be charged, and the employing unit where
14 the claimant last worked that the claimant has filed an applica-
15 tion for benefits. The notice shall require the employer and
16 employing unit to furnish information to the commission necessary
17 to determine the claimant's benefit rights.

18 Upon receipt of the employer's reports, the commission
19 promptly shall make a determination based upon the available
20 information. The claimant and the employer, whose experience
21 account may be charged pursuant to the determination, promptly
22 shall be notified of the determination. The notice shall show
23 the name and account number of the employer whose experience
24 account may be charged pursuant to the determination, the weekly
25 benefit amount and the maximum number of credit weeks against
26 which the claimant may draw benefits, and whether or not the
27 claimant is eligible and qualified to draw benefits. An employer

1 may designate in writing to the commission an individual or
2 another employer or an employing unit to receive any notice
3 required to be given by the commission to that employer or to
4 represent that employer in any proceeding before the commission
5 as provided in section 31.

6 If an employer or employing unit fails to respond within 10
7 days after mailing of the request for information, the commission
8 shall make a determination upon the available information. In
9 the absence of a showing by the employer satisfying the commis-
10 sion that the employer reasonably could not submit the requested
11 information, the determination shall be final as to the noncom-
12 plying employer, as to benefits paid before the week following
13 the receipt of the employer's reply and chargeable against the
14 employer's experience account as a result of the employer's late
15 reply and the payments shall be considered to have been proper
16 payments. The commission may require an employer who consis-
17 tently fails to meet the commission's requirements, as to submis-
18 sion of reports covering employment of individuals, to provide
19 the reports automatically upon the separation of individuals from
20 employment, in the manner and within the time limits the commis-
21 sion prescribes by regulation necessary to carry out this
22 section. An employer may be permitted to provide the reports
23 automatically upon separation of individuals from employment, in
24 the manner and within the time limits prescribed by the
25 commission.

26 After an application for benefits is filed, the commission's
27 determination shall include only the most recent employer.

1 Subsequently, as necessary, the commission shall issue
2 determinations covering other base period employers, individually
3 in inverse order to that in which the claimant earned his or her
4 last credit week with the employers.

5 For benefit years established after the conversion date pre-
6 scribed in section 75, the commission shall mail to the claimant,
7 to each base period employer or employing unit, and to the sepa-
8 rating employer or employing unit, a monetary determination. The
9 monetary determination shall notify each of these employers or
10 employing units that the claimant has filed an application for
11 benefits and the amount the claimant reported as earned with the
12 separating employer or employing unit, and shall state the name
13 of each employer or employing unit in the base period and the
14 name of the separating employer or employing unit. The monetary
15 determination shall also state the claimant's weekly benefit
16 rate, the amount of base period wages paid by each base period
17 employer, the maximum benefit amount that could be charged to
18 each employer's account or experience account, and the reason for
19 separation reported by the claimant. The monetary determination
20 shall also state whether the claimant is monetarily eligible to
21 receive unemployment benefits. No further reconsideration of a
22 separation from any base period employer will be made unless the
23 base period employer notifies the commission of a possible dis-
24 qualifying separation in accordance with this subsection.
25 Benefits paid in accordance with the monetary determination shall
26 be considered proper payments and shall not be changed unless the
27 commission receives new, corrected, or additional information

1 from the employer, within 10 calendar days after the mailing of
2 the monetary determination, and the information results in a
3 change in the monetary determination. New, additional, or cor-
4 rected information received by the commission after the 10-day
5 period shall be considered a request for reconsideration by the
6 employer of the monetary determination and shall be reviewed as
7 provided in section 32a.

8 For the purpose of determining a claimant's nonmonetary eli-
9 gibility and qualification for benefits, if the claimant's most
10 recent base period or benefit year separation was for a reason
11 other than the lack of work, then a determination shall be issued
12 concerning that separation to the claimant and to the separating
13 employer. If a claimant is not disqualified based on his or her
14 most recent separation from employment and has satisfied the
15 requirements of section 29, the commission shall issue a nonmone-
16 tary determination as to that separation only. If a claimant is
17 not disqualified based on his or her most recent separation from
18 employment and has not satisfied the requirements of section 29,
19 the commission shall issue 1 or more nonmonetary determinations
20 necessary to establish the claimant's qualification for benefits
21 based on any prior separation in inverse chronological order.
22 The commission shall consider all base period separations involv-
23 ing disqualifications under section 29(1)(h), (j), (l), or (m) in
24 determining a claimant's nonmonetary eligibility and qualifica-
25 tion for benefits. An employer may designate in writing to the
26 commission an individual or another employer or an employing unit
27 to receive any notice required to be given by the commission to

1 that employer or to represent that employer in any proceeding
2 before the commission as provided in section 31.

3 If the commission requests additional monetary or nonmone-
4 tary information from an employer or employing unit and the com-
5 mission fails to receive a written response from the employer or
6 employing unit within 10 calendar days after the date of mailing
7 the request for information, the commission shall make a determi-
8 nation based upon the available information at the time the
9 determination is made. The determination shall be final and any
10 payment made shall be considered a proper payment with respect to
11 benefits paid before the week following the receipt of the
12 employer's reply and chargeable against the employer's account or
13 experience account as a result of the employer's late reply.

14 (c) The claimant or interested party may file an application
15 with an office of the commission for a redetermination in accord-
16 ance with section 32a.

17 (d) The issuance of each benefit check shall be considered a
18 determination by the commission that the claimant receiving the
19 check was covered during the compensable period, and eligible and
20 qualified for benefits. A chargeable employer, upon receipt of a
21 listing of the check as provided in section 21(a), may protest by
22 requesting a redetermination as to the eligibility or qualifica-
23 tion as to that period and a determination as to later weeks and
24 benefits still unpaid as are affected by the protest. Upon
25 receipt of the protest or request, the commission shall investi-
26 gate and redetermine whether the claimant is eligible and
27 qualified as to that period. If, upon the redetermination, the

1 claimant is found ineligible or not qualified, the commission
2 shall investigate and determine whether the claimant obtained
3 benefits, for 1 or more preceding weeks within the series of con-
4 secutive weeks which includes the week covered by the redetermin-
5 ation, improperly as the result of administrative error, false
6 statement, misrepresentation, or nondisclosure of a material
7 fact. If the commission finds that the claimant has obtained
8 benefits through administrative error, false statement, misrepre-
9 sentation, or nondisclosure of a material fact, the commission
10 shall proceed under the appropriate provisions of section 62.

11 ~~(e) Notwithstanding any other provision of this act, if~~
12 ~~both parties or their authorized agents or attorneys agree, the~~
13 ~~claimant and the employer may bypass redetermination and the~~
14 ~~board of review to request circuit court review of a decision by~~
15 ~~the referee.~~

16 (E) ~~(f)~~ When a claimant commences to file continued claims
17 through a different state claim office in this state or else-
18 where, the commission promptly shall issue written notice of that
19 fact to the chargeable employer.

20 (F) ~~(g)~~ If a claimant refuses an offer of work, or fails
21 to apply for work of which the claimant has been notified, as
22 provided in section 29(1)(c) or (e), the commission promptly
23 shall make a written determination as to whether or not the
24 refusal or failure requires disqualification under section 29.
25 Notice of the determination, specifying the name and address of
26 the employing unit offering or giving notice of the work and of
27 the chargeable employer, shall be sent to the claimant, the

1 employing unit offering or giving notice of the work, and the
2 chargeable employer.

3 Sec. 32a. (1) ~~The commission shall, upon~~ UPON application
4 by an interested party for review of a determination, ~~or~~ upon
5 request for transfer to a referee for a hearing filed with the
6 commission within 30 days after the mailing or personal service
7 of a notice of determination, or upon ~~its~~ THE COMMISSION'S own
8 motion within that 30-DAY period, THE COMMISSION SHALL review any
9 determination. ~~The~~ AFTER REVIEW, THE commission shall
10 ~~thereafter~~ issue a redetermination affirming, modifying, or
11 reversing the prior determination and stating the reasons
12 ~~therefor~~ FOR THE REDETERMINATION, or may ~~at~~ IN its discretion
13 transfer the matter to a referee for a hearing. If a redetermin-
14 ation is issued, the commission shall promptly notify the inter-
15 ested parties of the redetermination, ~~which shall become~~ THE
16 REDETERMINATION IS final unless within 30 days after the mailing
17 or personal service of a notice ~~thereof~~ OF THE REDETERMINATION
18 an appeal is filed with the commission for a hearing on the rede-
19 termination before a referee in accordance with section 33.

20 (2) The commission may, for good cause, including any admin-
21 istrative clerical error, reconsider a prior determination or
22 redetermination after the 30-day period has expired and
23 ~~thereafter~~ AFTER RECONSIDERATION issue a redetermination
24 affirming, modifying, or reversing the prior determination or
25 redetermination, or transfer the matter to a referee for a
26 hearing. A reconsideration shall not be made unless the request
27 is filed with the commission, or reconsideration is initiated by

1 the commission with notice to the interested parties, within 1
2 year from the date of mailing or personal service of the original
3 determination on the disputed issue.

4 (3) If ~~, in the event of failure on the part of~~ an inter-
5 ested party FAILS to file a protest within the 30-day period ~~,~~
6 AND the commission for good cause reconsiders a prior determina-
7 tion or redetermination and issues a redetermination, a
8 disqualification, or AN ineligibility imposed thereunder,
9 ~~except~~ OTHER THAN AN ineligibility imposed ~~by reason of~~ DUE
10 TO receipt of retroactive pay, ~~shall~~ THE REDETERMINATION, DIS-
11 QUALIFICATION, OR INELIGIBILITY DOES not apply to a compensable
12 period for which benefits were paid or are payable unless the
13 benefits were obtained ~~by reason~~ AS A RESULT of an administra-
14 tive clerical error, ~~or~~ a false statement, or A nondisclosure
15 or misrepresentation of a material fact by the claimant.
16 However, the redetermination ~~shall become~~ IS final unless
17 within 30 days after the date of mailing or personal service of
18 the notice of redetermination an appeal is filed for a hearing on
19 the redetermination before a referee in accordance with section
20 33.

21 (4) IN ADDITION TO THE TRANSFER PROVISIONS IN SUBSECTIONS
22 (1) AND (2), BOTH OF THE FOLLOWING APPLY:

23 (A) IF BOTH THE CLAIMANT AND THE EMPLOYER AGREE, THE MATTER
24 MAY BE TRANSFERRED DIRECTLY TO A REFEREE IN A CASE INVOLVING THE
25 PAYMENT OF UNEMPLOYMENT BENEFITS.

26 (B) IF BOTH THE COMMISSION AND THE EMPLOYER AGREE, THE
27 MATTER MAY BE TRANSFERRED DIRECTLY TO A REFEREE IN A CASE

1 INVOLVING UNEMPLOYMENT CONTRIBUTIONS OR REIMBURSEMENTS IN LIEU OF
2 CONTRIBUTIONS.

3 Sec. 38. (1) The circuit court ~~of~~ IN the county in which
4 the claimant resides or the circuit court ~~of~~ IN the county in
5 which the claimant's place of employment is or was located, or,
6 if a claimant is not a party to the case, the circuit court ~~of~~
7 IN the county in which the employer's principal place of business
8 in this state is located, may review questions of fact and law on
9 the record made before the referee and the board of review
10 involved in a final order or decision of the board, and may make
11 further orders in respect ~~thereto~~ TO THAT ORDER OR DECISION as
12 justice may require, but the court may reverse an order or deci-
13 sion only if it finds that the order or decision is contrary to
14 law or is not supported by competent, material, and substantial
15 evidence on the whole record. Application for review shall be
16 made within 30 days after THE mailing of a copy of the order or
17 decision by any method permissible under the rules and practices
18 of the circuit ~~courts~~ COURT of this state.

19 (2) An order or decision of a hearing referee THAT INVOLVES
20 A CLAIM FOR UNEMPLOYMENT BENEFITS may be appealed directly to the
21 circuit court if the claimant and the employer or their autho-
22 rized agents or attorneys agree to do so by written stipulation
23 filed with the referee. A HEARING REFEREE'S ORDER OR DECISION
24 INVOLVING AN EMPLOYER'S CONTRIBUTIONS OR PAYMENTS IN LIEU OF CON-
25 TRIBUTIONS UNDER THIS ACT MAY BE APPEALED DIRECTLY TO THE CIRCUIT
26 COURT IF THE EMPLOYER AND COMMISSION EXECUTE AND FILE WITH THE

1 HEARING REFEREE A WRITTEN STIPULATION AGREEING TO THE DIRECT
2 APPEAL TO THE CIRCUIT COURT.

3 (3) The commission ~~shall be considered to be~~ IS a party to
4 any judicial action involving an order or decision of the board
5 of review or a referee.

6 (4) ~~An appeal may be had from the~~ THE decision of the cir-
7 cuit court MAY BE APPEALED in the ~~same~~ manner ~~as~~ provided by
8 the laws of this state ~~with respect to~~ FOR appeals from THE
9 circuit ~~courts~~ COURT.