



SENATE BILL No. 294

February 16, 1995, Introduced by Senators GOUGEON, SHUGARS, BENNETT, CISKY, MC MANUS and SCHUETTE and referred to the Committee on Human Resources, Labor and Veterans Affairs.

A bill to amend sections 28 and 46 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," section 28 as amended by Act No. 422 of the Public Acts of 1994 and section 46 as amended by Act No. 162 of the Public Acts of 1994, being sections 421.28 and 421.46 of the Michigan Compiled Laws; and to add sections 12b and 12c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 28 and 46 of Act No. 1 of the Public
2 Acts of the Extra Session of 1936, section 28 as amended by Act
3 No. 422 of the Public Acts of 1994 and section 46 as amended by
4 Act No. 162 of the Public Acts of 1994, being sections 421.28 and
5 421.46 of the Michigan Compiled Laws, are amended and sections
6 12b and 12c are added to read as follows:

1 SEC. 12B. (1) AN INDIVIDUAL IS ELIGIBLE TO RECEIVE A
2 SELF-EMPLOYMENT STIPEND IN AN AMOUNT EQUAL TO THE UNEMPLOYMENT
3 COMPENSATION HE OR SHE WOULD OTHERWISE RECEIVE UNDER THIS ACT, IF
4 ALL OF THE FOLLOWING CONDITIONS ARE MET:

5 (A) THE COMMISSION HAS DEVELOPED A SELF-EMPLOYMENT ASSIST-
6 ANCE PROGRAM PURSUANT TO SECTION 12C, AND HAS OBTAINED APPROVAL
7 OF THAT PROGRAM FROM THE UNITED STATES DEPARTMENT OF LABOR.

8 (B) THE INDIVIDUAL IS QUALIFIED TO RECEIVE UNEMPLOYMENT COM-
9 PENSATION UNDER THIS ACT.

10 (C) THE STATE PROFILING SYSTEM DESCRIBED IN SECTION 12C VER-
11 IFIES THAT THE INDIVIDUAL IS LIKELY TO EXPERIENCE DIFFICULTY IN
12 OBTAINING REEMPLOYMENT WITH HIS OR HER CURRENT JOB SKILLS AND IS
13 THEREFORE LIKELY TO EXHAUST UNEMPLOYMENT COMPENSATION BEFORE HE
14 OR SHE IS REEMPLOYED.

15 (D) THE INDIVIDUAL IS INVOLVED IN AN INTENSIVE ENTREPRENEU-
16 RIAL TRAINING, BUSINESS COUNSELING, OR TECHNICAL ASSISTANCE PRO-
17 GRAM DIRECTLY RELATED TO SELF-EMPLOYMENT APPROVED BY OR INSTI-
18 TUTED BY THE COMMISSION.

19 (E) THE INDIVIDUAL IS ENGAGED ON A FULL-TIME BASIS DEVELOP-
20 ING HIS OR HER OWN BUSINESS FOR EACH BENEFIT WEEK FOR WHICH HE OR
21 SHE SEEKS SELF-EMPLOYMENT ASSISTANCE.

22 (F) AT THE TIME THE INDIVIDUAL APPLIES FOR SELF-EMPLOYMENT
23 ASSISTANCE, THE TOTAL NUMBER OF INDIVIDUALS RECEIVING ASSISTANCE
24 UNDER THIS SECTION DOES NOT EXCEED 5% OF THE TOTAL NUMBER OF
25 INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION UNDER THIS ACT.

26 (2) THE TOTAL AMOUNT OF SELF-EMPLOYMENT ASSISTANCE THAT AN
27 INDIVIDUAL MAY RECEIVE UNDER THIS SECTION IS EQUAL TO THE MAXIMUM

1 AMOUNT OF UNEMPLOYMENT COMPENSATION FOR WHICH HE OR SHE OTHERWISE
2 QUALIFIES, LESS THOSE BENEFITS ALREADY RECEIVED. AN INDIVIDUAL
3 SHALL NOT RECEIVE SELF-EMPLOYMENT ASSISTANCE AND UNEMPLOYMENT
4 COMPENSATION FOR THE SAME PERIOD.

5 (3) AN INDIVIDUAL WHO VOLUNTARILY OR INVOLUNTARILY CEASES TO
6 PARTICIPATE IN A SELF-EMPLOYMENT ASSISTANCE PROGRAM AUTHORIZED
7 UNDER THIS SECTION MAY RECEIVE UNEMPLOYMENT COMPENSATION FOR
8 WHICH HE OR SHE OTHERWISE QUALIFIES.

9 SEC. 12C. (1) THE COMMISSION SHALL DEVELOP AND SUBMIT TO
10 THE UNITED STATES DEPARTMENT OF LABOR A SELF-EMPLOYMENT ASSIST-
11 ANCE PLAN THAT CONTAINS ALL OF THE FOLLOWING:

12 (A) A DESCRIPTION OF A SELF-EMPLOYMENT ASSISTANCE PROFILING
13 SYSTEM DEVELOPED UNDER SUBSECTION (2).

14 (B) VERIFICATION THAT THE STATE WILL PROVIDE THE UNITED
15 STATES DEPARTMENT OF LABOR WITH AN ANNUAL REPORT ON THE STATUS OF
16 THE STATE'S SELF-EMPLOYMENT ASSISTANCE PROGRAM.

17 (C) A DESCRIPTION OF THE REQUIREMENTS AN INDIVIDUAL SHALL
18 MEET BEFORE QUALIFYING FOR SELF-EMPLOYMENT ASSISTANCE.

19 (D) VERIFICATION THAT THE COMMISSION WILL SUPERVISE THE
20 SELF-EMPLOYMENT ASSISTANCE PROGRAM.

21 (E) A STATEMENT SPECIFYING THE PROCEDURES THE STATE WILL
22 IMPLEMENT TO ENSURE THAT AN INDIVIDUAL WHO RECEIVES
23 SELF-EMPLOYMENT ASSISTANCE IS ENGAGED IN FULL-TIME
24 SELF-EMPLOYMENT.

25 (F) A DESCRIPTION OF THE SOURCE OF FUNDS FOR THE
26 SELF-EMPLOYMENT ASSISTANCE PROGRAM.

1 (G) AN ASSURANCE THAT THE SELF-EMPLOYMENT ASSISTANCE PROGRAM
2 WILL NOT REQUIRE MONEY FROM THE UNEMPLOYMENT TRUST FUND THAT
3 EXCEEDS THE AMOUNT THAT WOULD OTHERWISE BE EXPENDED TO PROVIDE
4 UNEMPLOYMENT COMPENSATION.

5 (2) THE COMMISSION SHALL DO BOTH OF THE FOLLOWING:

6 (A) DEVELOP A SELF-EMPLOYMENT ASSISTANCE PROFILING SYSTEM
7 THAT ALLOWS THE COMMISSION TO IDENTIFY THOSE INDIVIDUALS LIKELY
8 TO EXHAUST UNEMPLOYMENT COMPENSATION BEFORE BECOMING REEMPLOYED.

9 (B) AUTHORIZE PAYMENT OF SELF-EMPLOYMENT ASSISTANCE TO ONLY
10 THOSE INDIVIDUALS IN THE PROFILING SYSTEM DEVELOPED UNDER SUBDI-
11 VISION (A) WHO ARE IDENTIFIED AS LIKELY TO EXHAUST UNEMPLOYMENT
12 COMPENSATION BEFORE BECOMING REEMPLOYED.

13 (3) THE COMMISSION SHALL NOT MAKE THE SELF-EMPLOYMENT
14 ASSISTANCE PROGRAM AVAILABLE TO MORE THAN 5% OF THE TOTAL NUMBER
15 OF INDIVIDUALS WHO QUALIFY TO RECEIVE UNEMPLOYMENT COMPENSATION
16 UNDER THIS ACT.

17 Sec. 28. (1) ~~An~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION
18 12B, AN unemployed individual ~~shall be~~ IS eligible to receive
19 benefits with respect to any week only if the commission finds
20 that:

21 (a) For benefit years established before the conversion date
22 prescribed in section 75, the individual has registered for work
23 at and thereafter has continued to report at an employment office
24 in accordance with such rules as the commission may prescribe and
25 is seeking work. The requirements that the individual must
26 report at an employment office, must register for work, must be
27 available to perform suitable full-time work, and must seek work

1 may be waived by the commission if the individual is laid off and
2 the employer who laid the individual off notifies the commission
3 in writing or by computerized data exchange that the layoff is
4 temporary and that work is expected to be available for the indi-
5 vidual within a declared number of days, not to exceed 45 calen-
6 dar days following the last day the individual worked. This
7 waiver shall not be effective unless the notification from the
8 employer has been received by the commission before the individ-
9 ual has completed his or her first compensable week following
10 layoff. If the individual is not recalled within the specified
11 period, the waiver shall cease to be operative with respect to
12 that layoff. Except for a period of disqualification, the
13 requirement that the individual shall seek work may be waived by
14 the commission where it finds that suitable work is unavailable
15 both in the locality where the individual resides and in those
16 localities in which the individual has earned base period credit
17 weeks. This waiver shall not apply, for weeks of unemployment
18 beginning on or after March 1, 1981, to a claimant enrolled and
19 attending classes as a full-time student. An individual shall
20 have satisfied the requirement of personal reporting at an
21 employment office, as applied to a week in a period during which
22 the requirements of registration and seeking work have been
23 waived by the commission pursuant to this subdivision, if the
24 individual has satisfied the personal reporting requirement with
25 respect to a preceding week in that period and the individual has
26 reported with respect to the week by mail in accordance with the
27 rules promulgated by the commission. For benefit years

1 established after the conversion date prescribed in section 75,
2 the individual has registered for work and has continued to
3 report in accordance with such rules as the commission may pre-
4 scribe and is seeking work. The requirements that the individual
5 must report, must register for work, must be available to perform
6 suitable full-time work, and must seek work may be waived by the
7 commission if the individual is laid off and the employer who
8 laid the individual off notifies the commission in writing or by
9 computerized data exchange that the layoff is temporary and that
10 work is expected to be available for the individual within a
11 declared number of days, not to exceed 45 calendar days following
12 the last day the individual worked. This waiver shall not be
13 effective unless the notification from the employer has been
14 received by the commission before the individual has completed
15 his or her first compensable week following layoff. If the indi-
16 vidual is not recalled within the specified period, the waiver
17 shall cease to be operative with respect to that layoff. Except
18 for a period of disqualification, the requirement that the indi-
19 vidual shall seek work may be waived by the commission where it
20 finds that suitable work is unavailable both in the locality
21 where the individual resides and in those localities in which the
22 individual has earned wages during or after the base period.
23 This waiver shall not apply to a claimant enrolled and attending
24 classes as a full-time student. An individual shall be consid-
25 ered to have satisfied the requirement of personal reporting at
26 an employment office, as applied to a week in a period during
27 which the requirements of registration and seeking work have been

1 waived by the commission pursuant to this subdivision, if the
2 individual has satisfied the personal reporting requirement with
3 respect to a preceding week in that period and the individual has
4 reported with respect to the week by mail in accordance with the
5 rules promulgated by the commission.

6 (b) The individual has made a claim for benefits in accord-
7 ance with section 32 and has provided the commission with his or
8 her social security number.

9 (c) The individual is able and available to perform suitable
10 full-time work of a character which the individual is qualified
11 to perform by past experience or training, which is of a charac-
12 ter generally similar to work for which the individual has previ-
13 ously received wages, and for which the individual is available,
14 full time, either at a locality at which the individual earned
15 wages for insured work during his or her base period or at a
16 locality where it is found by the commission that such work is
17 available.

18 (d) In the event of the death of an individual's immediate
19 family member, the eligibility requirements of availability and
20 reporting shall be waived for the day of the death and for 4 con-
21 secutive calendar days thereafter. As used in this subdivision,
22 "immediate family member" means a spouse, child, stepchild,
23 adopted child, grandchild, parent, grandparent, brother, or
24 sister of the individual or his or her spouse. It shall also
25 include the spouse of any of the persons specified in the previ-
26 ous sentence.

1 (e) The individual participates in reemployment services,
2 such as job search assistance services, if the individual has
3 been determined or redetermined by the commission to be likely to
4 exhaust regular benefits and need reemployment services pursuant
5 to a profiling system established by the commission.

6 (2) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 12B, THE
7 commission may authorize an individual with an unexpired benefit
8 year to pursue vocational training or retraining only if the com-
9 mission finds that:

10 (a) Reasonable opportunities for employment in occupations
11 for which the individual is fitted by training and experience do
12 not exist in the locality in which the individual is claiming
13 benefits.

14 (b) The vocational training course relates to an occupation
15 or skill for which there are, or are expected to be in the imme-
16 diate future, reasonable employment opportunities.

17 (c) The training course has been approved by a local
18 advisory council on which both management and labor are repre-
19 sented, or if there is no local advisory council, by the
20 commission.

21 (d) The individual has the required qualifications and apti-
22 tudes to complete the course successfully.

23 (e) The vocational training course has been approved by the
24 state board of education and is maintained by a public or private
25 school or by the commission.

26 (3) Notwithstanding any other provision of this act, an
27 otherwise eligible individual shall not be ineligible for

1 benefits because he or she is participating in training with the
2 approval of the commission. For each week that the commission
3 finds that an individual who is claiming benefits under this act
4 and who is participating in training with the approval of the
5 commission, is satisfactorily pursuing an approved course of
6 vocational training, it shall waive the requirements that he or
7 she be available for work and be seeking work as prescribed in
8 subsection (1)(a) and (c), and it shall find good cause for his
9 or her failure to apply for suitable work, report to a former
10 employer for an interview concerning suitable work, or accept
11 suitable work as required in section 29(1)(c), (d), and (e).

12 (4) The waiver of the requirement that a claimant seek work,
13 as provided in subsection (1)(a), ~~shall~~ IS not ~~be~~ applicable
14 to weeks of unemployment for which the claimant is claiming
15 extended benefits if section 64(8)(a)(ii) is in effect, unless
16 the individual is participating in A SELF-EMPLOYMENT ASSISTANCE
17 PROGRAM PURSUANT TO SECTION 12B OR IN training approved by the
18 commission.

19 (5) Notwithstanding any other provisions of this act, an
20 otherwise eligible individual shall not be denied benefits for
21 any week beginning after October 30, 1982 solely because the
22 individual is in training approved under section 236(a)(1) of the
23 trade act of 1974, ~~as amended,~~ 19 U.S.C. 2296, nor shall the
24 individual be denied benefits by reason of leaving work to enter
25 such training if the work left is not suitable employment.
26 Furthermore, an otherwise eligible individual shall not be denied
27 benefits because of the application to any such week in training

1 of provisions of this act, or any applicable federal unemployment
2 compensation law, relating to availability for work, active
3 search for work, or refusal to accept work. For purposes of this
4 subsection, "suitable employment" means, with respect to an indi-
5 vidual, work of a substantially equal or higher skill level than
6 the individual's past adversely affected employment, as defined
7 for purposes of the trade act of 1974, 19 U.S.C. 2101 to 2495,
8 and wages for that work at not less than 80% of the individual's
9 average weekly wage as determined for the purposes of the trade
10 act of 1974.

11 Sec. 46. (a) For benefit years beginning before the conver-
12 sion date prescribed in section 75, "benefit year" with respect
13 to any individual means the period of 52 consecutive calendar
14 weeks beginning with the first calendar week with respect to
15 which the individual, who does not already have a benefit year in
16 effect, files an application in accordance with section 32.
17 However, a benefit year shall not be established unless the indi-
18 vidual meets all of the following conditions: (1) has earned 20
19 credit weeks in the 52 consecutive calendar weeks preceding the
20 week with respect to which the individual filed an application
21 for benefits; (2) with respect to the week for which the individ-
22 ual is filing an application for benefits, is unemployed, and
23 meets all of the other requirements of section 28 OR IS SUBSE-
24 QUENTLY ACCEPTED INTO THE SELF-EMPLOYMENT ASSISTANCE PROGRAM
25 DESCRIBED IN SECTION 12B; (3) with respect to the week for which
26 the individual is filing an application for benefits the
27 individual is not disqualified nor subject to disqualification,

1 except in case of a labor dispute under section 29(8), with
2 respect to the most recent period of employment with the most
3 recent employer with whom the individual earned a credit week.
4 For benefit years beginning after the conversion date prescribed
5 in section 75, benefit year with respect to any individual means
6 the period of 52 consecutive calendar weeks beginning with the
7 first calendar week with respect to which the individual, who
8 does not already have a benefit year in effect, files an applica-
9 tion for benefits in accordance with section 32. However, a ben-
10 efit year shall not be established unless the individual meets
11 either of the following conditions: (1) the total wages paid to
12 the individual in the base period of the claim equals not less
13 than 1.5 times the wages paid to the individual in the calendar
14 quarter of the base period in which the individual was paid the
15 highest wages, or (2) the individual was paid wages in 2 or more
16 calendar quarters of the base period totaling at least 20 times
17 the state average weekly wage as determined by the commission.
18 The state average weekly wage for a calendar year shall be com-
19 puted on the basis of the 12 months ending the June 30 preceding
20 that calendar year. A benefit year shall not be established if
21 the individual was not paid wages of at least the state minimum
22 hourly wage multiplied by 268.66 rounded down to the nearest
23 dollar in at least 1 calendar quarter of the base period. A ben-
24 efit year shall not be established based on base period wages
25 previously used to establish a benefit year that resulted in the
26 payment of benefits. However, if a calendar quarter of the base
27 period contains wages which were previously used to establish a

1 benefit year that resulted in the payment of benefits, a claimant
2 may establish a benefit year using the wages in the remaining
3 calendar quarters from among the first 4 of the last 5 completed
4 calendar quarters, or if a benefit year cannot be established
5 using those quarters, then by using wages from among the last 4
6 completed calendar quarters. A benefit year shall not be estab-
7 lished unless, after the beginning of the immediately preceding
8 benefit year during which the individual received benefits, the
9 individual worked and received remuneration in an amount equal to
10 at least 5 times the individual's most recent state weekly bene-
11 fit rate in effect during the individual's immediately preceding
12 benefit year.

13 If a quarterly wage report has not been submitted in a
14 timely manner by the employer as provided in section 13 for any
15 of the quarters of the base period, or wage information is not
16 available for use by the commission for the most recent completed
17 calendar quarter, the commission may obtain and use the
18 claimant's statement of wages paid during the calendar quarters
19 for which the wage reports are missing to establish a benefit
20 year. A determination based on the claimant's statement of wages
21 paid during any of these calendar quarters shall be redetermined
22 if the quarterly wage report from the employer is later received
23 and would result in a change in the claimant's weekly benefit
24 amount or duration, or both, or if the quarterly wage report from
25 the employer later becomes available for use by the commission
26 and would result in a change in the claimant's benefit amount or
27 duration, or both. If the redetermination results from the

1 employer's failure to submit the quarterly wage report in a
2 timely manner, the redetermination shall be effective as to bene-
3 fits payable for weeks beginning after the receipt of information
4 not previously submitted by the employer.

5 If an individual files an application for a 7-day period as
6 provided in section 27(c), the benefit year with respect to the
7 individual shall begin with the calendar week which contains the
8 first day of that 7-day period.

9 (b) If all, or the then remaining part, of a claimant's
10 rights to benefits during his or her benefit year are canceled
11 under the provisions of section 62(b), the remaining portion of
12 that benefit year shall be terminated as of the effective date of
13 the cancellation.

14 (c) An individual may request a redetermination of his or
15 her benefit rights and cancellation of a previously established
16 benefit year if he or she has not completed a compensable period;
17 in such case, the benefit year shall begin with the first day of
18 the first week with respect to which the request for redetermina-
19 tion of benefit rights is duly filed.

20 (d) Notwithstanding subsection (a), for services performed
21 on or after January 2, 1983, and with respect to benefit years
22 established before the conversion date prescribed in section 75,
23 an individual shall not be entitled to establish a benefit year
24 based in whole or in part on credit weeks for service in the
25 employ of an employing unit, not otherwise excluded under
26 section 43(g), in which more than 50% of the proprietary interest
27 is owned by the individual or his or her son, daughter, or

1 spouse, or any combination of these individuals, or in which more
2 than 50% of the proprietary interest is owned by the mother or
3 father of a child under the age of 18, or mother and father com-
4 bined, unless both the individual and the employer notify the
5 commission, in response to the commission's request for informa-
6 tion, of the individual's relationship to the owners of the pro-
7 prietary interest in the employing unit. Upon timely notifica-
8 tion to the commission, a benefit year may be established for the
9 individual, if the individual meets all of the following
10 conditions: (1) has earned 20 credit weeks in the 52 consecutive
11 calendar weeks preceding the week with respect to which the indi-
12 vidual filed an application for benefits; (2) with respect to the
13 week for which the individual is filing an application for bene-
14 fits is unemployed, and meets all of the other requirements of
15 section 28 OR IS SUBSEQUENTLY ACCEPTED INTO THE SELF-EMPLOYMENT
16 ASSISTANCE PROGRAM DESCRIBED IN SECTION 12B; (3) with respect to
17 the week for which the individual is filing an application for
18 benefits the individual is not disqualified nor subject to dis-
19 qualification, except in case of a labor dispute under
20 section 29(8), with respect to the most recent period of employ-
21 ment with the most recent employer with whom the individual
22 earned a credit week. If an individual files an application for
23 a 7-day period as provided in section 27(c), the benefit year
24 with respect to the individual shall begin with the calendar week
25 which contains the first day of that 7-day period. However, for
26 benefit years established on or after July 1, 1983, not more than
27 10 credit weeks based on such services shall be used to pay

1 benefits. For the purpose of calculating the individual's
2 average weekly wage, all base period wages and credit weeks shall
3 be used. With respect to benefit years beginning after the con-
4 version date prescribed in section 75, and notwithstanding
5 subsection (a), an individual shall not be entitled to establish
6 a benefit year based in whole or in part on wages earned in serv-
7 ice, not otherwise excluded under section 43(g), in the employ of
8 an employing unit in which more than 50% of the proprietary
9 interest is owned by the individual or his or her son, daughter,
10 spouse, or any combination of these individuals, or in which more
11 than 50% of the proprietary interest is owned by the mother or
12 father of a child under the age of 18, or mother and father com-
13 bined, unless both the individual and the employer notify the
14 commission, in response to the commission's request for informa-
15 tion, of the individual's relationship to the owners of the pro-
16 prietary interest in the employing unit. Upon timely notifica-
17 tion to the commission, a benefit year may be established for the
18 individual if the individual meets the requirements of
19 subsection (a). If wages in an individual's base period were
20 earned in service in the employ of such an employing unit, the
21 individual's weekly benefit rate shall be calculated in accord-
22 ance with section 27(b)(1) but the portion of the benefit rate
23 attributable to this service shall be payable for not more than 7
24 weeks. The weekly benefit payment shall be reduced thereafter by
25 the percentage of charge attributable to service with this
26 employer, in accordance with section 20.