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Senate Bill 1015 (as introduced 1-20-02)
Sponsor: Senator Glenn D. Steil
Committee: Human Resources and Labor

Date Completed: 2-20-02

CONTENT

The bill would amend the Michigan Employment Security Act to do the following:

- Require an Indian tribe or tribal unit to pay reimbursements instead of contributions to the Unemployment Compensation Fund, unless it elected to make contributions.**
- Provide that a tribe would lose the ability to pay reimbursements if it were in default.**
- Require a tribe or tribal unit that made reimbursement payments to post security, unless it paid less than \$100,000 in gross wages in a year.**

The bill provides that an Indian tribe or tribal unit liable as an employer under Section 41 of the Act would have to pay reimbursements instead of contributions under the same terms and conditions as all other reimbursing employers liable under Section 41, unless the tribe or tribal unit elected to pay contributions. Under the bill, the term "Indian tribe" would be defined as it is in Section 3306(u) of the Federal Unemployment Tax Act, i.e., any Indian tribe, land, nation, or other organized group or community recognized under Federal law as eligible for the special programs and services provided by the United States to Indians. "Tribal unit" would include any subdivision, subsidiary, or business enterprise, wholly owned by an Indian tribe.

An Indian tribe or tribal unit that elected to pay contributions would have to file a written request with the Unemployment Agency before January 1 of the year in which the election would be effective, or within 30 days of the bill's effective date. The tribe or tribal unit would have to determine if the election to pay contributions would apply to the tribe as a whole, apply only to individual tribal units, or apply to stated combinations of individual tribal units. A tribe or tribal unit that paid reimbursements instead of contributions would be billed for the full amount of benefits attributable to service in the employ of the tribe or tribal unit. The tribe or tribal unit would have to reimburse the Unemployment Compensation Fund, annually, within 30 days after the final billing was mailed for the immediately preceding calendar year.

If an Indian tribe or tribal unit failed to make required payments instead of contributions, including assessments of interest and penalties, within 90 calendar days of the mailing of the notice of delinquency, the tribe immediately would lose the ability to make payments instead of contributions, unless the Unemployment Agency received full payment or collection on the required security by December 1 of that calendar year. An Indian tribe that lost the ability to make payments instead of contributions would be made a contributing employer and could not make payments until all contributions, payments instead of contributions, interest, and penalties had been paid. The ability to make payments instead of contributions would have to be reinstated effective January 1 immediately succeeding the year in which the tribe paid these debts. If an Indian tribe failed to pay in full all contributions, payments instead of contributions, interest, and penalties within 90 calendar days of a notice of delinquency, the

Unemployment Agency immediately would have to notify the U.S. Department of Labor and the Internal Revenue Service (IRS) of that delinquency. If the delinquency were satisfied, the Unemployment Agency immediately would have to notify the U.S. Department of Labor and the IRS that all contributions, payments instead of contributions, interest, and penalties had been paid.

A notice of delinquency to an Indian tribe or tribal unit would have to include information that failure to make full payment within 90 days of the date the notice was mailed would cause the tribe to lose the ability to make payments instead of contributions until the delinquency and all contributions, payments instead of contributions, interest, and penalties had been paid.

Any Indian tribe or tribal unit that made reimbursement payments instead of contributions would have to post a security if the payment of gross wages in a calendar year were \$100,000 or more. The tribe or tribal unit would have to post the security either within 30 days of the bill's effective date, or by November 30 of the year before the year for which the security was required. The security would have to be in the form of a surety bond, irrevocable letter of credit, or other banking device that was acceptable to the Unemployment Agency and that provided for payment to the Agency, on demand, of an amount equal to the security required to be posted. The required security could be posted by a third-party guarantor.

The requirement for a security would not apply to an Indian tribe or tribal unit that was expected to have less than \$100,000 per calendar year in total wage payments, as determined by the Agency. The employer would have to notify the Agency within 60 days from the date its payroll equaled or exceeded \$100,000. The security would have to be posted within 30 days of notice by the Agency of a requirement to post a security.

The amount of the required security would be 4% of the employer's estimated total annual wage payments, as determined by the Agency. Indian tribes or tribal units that had a previous wage payment history would be required to file a security equal to 4% of the gross wages paid for the 12-month period ending June 30 of the year immediately preceding the year for which the security was required, or 4% of the employer's estimated total annual wages, whichever was greater.

Any Indian tribe or tribal unit that was liable for reimbursements instead of contributions could form a group account with another tribe or tribal unit, as provided under the Act.

The bill specifies that after December 20, 2000, the term "employer" would include an Indian tribe or tribal unit for which services were performed in employment as defined in the bill, and "employment" would include services performed in the employ of a tribe or tribal unit if the service were excluded from employment under Section 3306(c)(7) of the Federal Unemployment Tax Act and were not otherwise excluded from employment under the Michigan Employment Security Act. (Section 3306(c)(7) excludes services performed in the employ of an Indian tribe from the definition of "employment" in the Federal Act.)

Proposed MCL 421.13I

Legislative Analyst: George Towne

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.