

SENATE BILL No. 1015

January 30, 2002, Introduced by Senators STEIL, NORTH, KOIVISTO and MC MANUS and referred to the Committee on Human Resources and Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
(MCL 421.1 to 421.75) by adding section 13/.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 13/. (1) AN INDIAN TRIBE OR TRIBAL UNIT LIABLE AS AN
2 EMPLOYER UNDER SECTION 41 SHALL PAY REIMBURSEMENTS IN LIEU OF
3 CONTRIBUTIONS UNDER THE SAME TERMS AND CONDITIONS AS ALL OTHER
4 REIMBURSING EMPLOYERS LIABLE UNDER SECTION 41, UNLESS THE INDIAN
5 TRIBE OR TRIBAL UNIT ELECTS TO PAY CONTRIBUTIONS.

6 (2) AN INDIAN TRIBE OR TRIBAL UNIT THAT ELECTS TO MAKE CON-
7 TRIBUTIONS SHALL FILE WITH THE UNEMPLOYMENT AGENCY A WRITTEN
8 REQUEST FOR THAT ELECTION BEFORE JANUARY 1 OF THE CALENDAR YEAR
9 IN WHICH THE ELECTION WILL BE EFFECTIVE OR WITHIN 30 DAYS OF THE
10 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.
11 THE INDIAN TRIBE OR TRIBAL UNIT SHALL DETERMINE IF THE ELECTION

1 TO PAY CONTRIBUTIONS WILL APPLY TO THE TRIBE AS A WHOLE, WILL
2 APPLY ONLY TO INDIVIDUAL TRIBAL UNITS, OR WILL APPLY TO STATED
3 COMBINATIONS OF INDIVIDUAL TRIBAL UNITS.

4 (3) AN INDIAN TRIBE OR TRIBAL UNIT PAYING REIMBURSEMENTS IN
5 LIEU OF CONTRIBUTIONS SHALL BE BILLED FOR THE FULL AMOUNT OF BEN-
6 EFITS ATTRIBUTABLE TO SERVICE IN THE EMPLOY OF THE INDIAN TRIBE
7 OR TRIBAL UNIT. AN INDIAN TRIBE OR TRIBAL UNIT SHALL REIMBURSE
8 THE FUND ANNUALLY WITHIN 30 CALENDAR DAYS AFTER THE MAILING OF
9 THE FINAL BILLING FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

10 (4) IF AN INDIAN TRIBE OR TRIBAL UNIT FAILS TO MAKE PAYMENTS
11 IN LIEU OF CONTRIBUTIONS, INCLUDING ASSESSMENTS OF INTEREST AND
12 PENALTIES, WITHIN 90 CALENDAR DAYS AFTER THE MAILING OF THE
13 NOTICE OF DELINQUENCY, THE INDIAN TRIBE WILL LOSE THE ABILITY TO
14 MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS IMMEDIATELY UNLESS THE
15 PAYMENT IN FULL OR COLLECTION ON THE SECURITY IS RECEIVED BY THE
16 UNEMPLOYMENT AGENCY BY DECEMBER 1 OF THAT CALENDAR YEAR. AN
17 INDIAN TRIBE THAT LOSES THE ABILITY TO MAKE PAYMENTS IN LIEU OF
18 CONTRIBUTIONS SHALL BE MADE A CONTRIBUTING EMPLOYER AND SHALL NOT
19 HAVE THE ABILITY TO MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS UNTIL
20 ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBUTIONS, INTEREST,
21 OR PENALTIES HAVE BEEN PAID. THE ABILITY TO MAKE PAYMENTS IN
22 LIEU OF CONTRIBUTIONS SHALL BE REINSTATED EFFECTIVE THE JANUARY 1
23 IMMEDIATELY SUCCEEDING THE YEAR IN WHICH THE INDIAN TRIBE HAS
24 PAID IN FULL ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBU-
25 TIONS, INTEREST, AND PENALTIES. IF AN INDIAN TRIBE FAILS TO PAY
26 IN FULL ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBUTIONS,
27 INTEREST, AND PENALTIES WITHIN 90 CALENDAR DAYS OF A NOTICE OF

1 DELINQUENCY, THE UNEMPLOYMENT AGENCY SHALL IMMEDIATELY NOTIFY THE
2 UNITED STATES DEPARTMENT OF LABOR AND THE INTERNAL REVENUE SERV-
3 ICE OF THE UNITED STATES DEPARTMENT OF TREASURY OF THAT
4 DELINQUENCY. IF THAT DELINQUENCY IS SATISFIED, THE UNEMPLOYMENT
5 AGENCY SHALL IMMEDIATELY NOTIFY THE UNITED STATES DEPARTMENT OF
6 LABOR AND THE INTERNAL REVENUE SERVICE OF THE UNITED STATES
7 DEPARTMENT OF TREASURY THAT ALL CONTRIBUTIONS, PAYMENTS IN LIEU
8 OF CONTRIBUTIONS, INTEREST, AND PENALTIES HAVE BEEN PAID.

9 (5) A NOTICE OF DELINQUENCY TO AN INDIAN TRIBE OR TRIBAL
10 UNIT SHALL INCLUDE INFORMATION THAT FAILURE TO MAKE FULL PAYMENT
11 WITHIN 90 DAYS OF THE DATE OF MAILING OF THE NOTICE OF DELIN-
12 QUENCY WILL RESULT IN THE INDIAN TRIBE LOSING THE ABILITY TO MAKE
13 PAYMENTS IN LIEU OF CONTRIBUTIONS UNTIL THE DELINQUENCY AND ALL
14 CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBUTIONS, INTEREST, AND
15 PENALTIES HAVE BEEN PAID IN FULL.

16 (6) ANY INDIAN TRIBE OR TRIBAL UNIT THAT MAKES REIMBURSEMENT
17 PAYMENTS IN LIEU OF CONTRIBUTIONS SHALL BE REQUIRED TO POST A
18 SECURITY, SUBJECT TO ALL OF THE FOLLOWING CONDITIONS:

19 (A) A REIMBURSING TRIBE OR TRIBAL UNIT MUST EITHER POST THE
20 SECURITY WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY
21 ACT THAT ADDED THIS SECTION OR BY NOVEMBER 30 OF THE YEAR BEFORE
22 THE YEAR FOR WHICH THE SECURITY IS REQUIRED.

23 (B) THE SECURITY SHALL BE IN THE FORM OF A SURETY BOND,
24 IRREVOCABLE LETTER OF CREDIT, OR OTHER BANKING DEVICE THAT IS
25 ACCEPTABLE TO THE UNEMPLOYMENT AGENCY AND THAT PROVIDES FOR PAY-
26 MENT TO THE UNEMPLOYMENT AGENCY, ON DEMAND, OF AN AMOUNT EQUAL TO

1 THE SECURITY THAT IS REQUIRED TO BE POSTED. THE REQUIRED
2 SECURITY MAY BE POSTED BY A THIRD-PARTY GUARANTOR.

3 (C) THE REQUIREMENT FOR A SECURITY DOES NOT APPLY TO AN
4 INDIAN TRIBE OR TRIBAL UNIT THAT IS EXPECTED TO HAVE LESS THAN
5 \$100,000.00 PER CALENDAR YEAR IN TOTAL WAGE PAYMENTS, AS DETER-
6 MINED BY THE UNEMPLOYMENT AGENCY. AN INDIAN TRIBE OR TRIBAL UNIT
7 IS REQUIRED TO PROVIDE SECURITY IF THE PAYMENT OF GROSS WAGES IN
8 A CALENDAR YEAR IS EQUAL TO OR GREATER THAN \$100,000.00. THE
9 EMPLOYER SHALL NOTIFY THE UNEMPLOYMENT AGENCY WITHIN 60 DAYS FROM
10 THE DATE ITS PAYROLL EQUALS OR EXCEEDS \$100,000.00. THE SECURITY
11 SHALL BE POSTED WITHIN 30 DAYS OF NOTICE BY THE UNEMPLOYMENT
12 AGENCY OF A REQUIREMENT TO POST A SECURITY.

13 (D) THE AMOUNT OF THE SECURITY REQUIRED IS 4.0% OF THE
14 EMPLOYER'S ESTIMATED TOTAL ANNUAL WAGE PAYMENTS, AS DETERMINED BY
15 THE UNEMPLOYMENT AGENCY. INDIAN TRIBES OR TRIBAL UNITS THAT HAVE
16 A PREVIOUS WAGE PAYMENT HISTORY SHALL BE REQUIRED TO FILE A
17 SECURITY THAT IS EQUAL TO 4.0% OF THE GROSS WAGES PAID FOR THE
18 12-MONTH PERIOD ENDING JUNE 30 OF THE YEAR IMMEDIATELY PRECEDING
19 THE YEAR FOR WHICH THE SECURITY IS REQUIRED OR 4.0% OF THE
20 EMPLOYER'S ESTIMATED TOTAL ANNUAL WAGES, WHICHEVER IS GREATER.

21 (7) ANY INDIAN TRIBE OR TRIBAL UNIT THAT IS LIABLE FOR REIM-
22 BURSEMENTS IN LIEU OF CONTRIBUTIONS MAY FORM A GROUP ACCOUNT WITH
23 ANOTHER TRIBE OR TRIBAL UNIT, IN THE SAME MANNER AND WITH THE
24 SAME RESTRICTIONS PROVIDED IN SECTION 13E(3).

25 (8) NOTWITHSTANDING SECTION 41(1), AFTER DECEMBER 20, 2000,
26 "EMPLOYER" INCLUDES AN INDIAN TRIBE OR TRIBAL UNIT FOR WHICH

1 SERVICES ARE PERFORMED IN EMPLOYMENT AS DEFINED IN SUBSECTION
2 (9).

3 (9) AFTER DECEMBER 20, 2000, "EMPLOYMENT" INCLUDES SERVICE
4 PERFORMED IN THE EMPLOY OF AN INDIAN TRIBE OR TRIBAL UNIT, IF THE
5 SERVICE IS EXCLUDED FROM EMPLOYMENT AS THAT TERM IS DEFINED IN
6 THE FEDERAL UNEMPLOYMENT TAX ACT, CHAPTER 23 OF SUBTITLE C OF THE
7 INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3301 TO 3311, SOLELY BY
8 REASON OF SECTION 3306(c)(7) OF THE FEDERAL UNEMPLOYMENT TAX ACT,
9 CHAPTER 23 OF SUBTITLE C OF THE INTERNAL REVENUE CODE OF 1986,
10 AND IS NOT OTHERWISE EXCLUDED FROM THE DEFINITION OF EMPLOYMENT
11 UNDER SECTION 43.

12 (10) AS USED IN THIS ACT:

13 (A) "INDIAN TRIBE" MEANS THAT TERM AS DEFINED IN SECTION
14 3306(u) OF THE FEDERAL UNEMPLOYMENT TAX ACT, CHAPTER 23 OF SUBTI-
15 TLE C OF THE INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3306.

16 (B) "TRIBAL UNIT" INCLUDES ANY SUBDIVISION, SUBSIDIARY, OR
17 BUSINESS ENTERPRISE, WHOLLY OWNED BY AN INDIAN TRIBE.