

HOUSE BILL No. 4590

April 12, 2005, Introduced by Rep. Bieda and referred to the Committee on Employment Relations, Training, and Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 11 (MCL 421.11), as amended by 1995 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (a) In the administration of this act, the commission
2 shall cooperate with the appropriate agency of the United States
3 under the social security act. The commission shall make reports,
4 in a form and containing information as the appropriate agency of
5 the United States may ~~from time to time~~ require, and shall comply
6 with ~~such~~ **THE** provisions ~~as~~ **THAT** the appropriate agency of the
7 United States ~~may from time to time prescribe~~ **PRESCRIBES** to
8 assure the correctness and verification of the reports. The
9 commission, subject to this act, shall comply with the regulations
10 prescribed by the appropriate agency of the United States relating
11 to the receipt or expenditure of ~~such~~ **THE** sums ~~as may be~~ **THAT**

1 **ARE** allotted and paid to this state for the purpose of assisting in
 2 the administration of this act. As used in this section, "social
 3 security act" means the social security act, chapter 531, 49 Stat.
 4 620.

5 (b)(1) Information obtained from any employing unit or
 6 individual pursuant to the administration of this act, and
 7 determinations as to the benefit rights of any individual shall be
 8 held confidential and shall not be disclosed or open to public
 9 inspection other than to public employees in the performance of
 10 their official duties ~~pursuant to~~ **UNDER** this act in any manner
 11 revealing the individual's or the employing unit's identity.
 12 However, all of the following apply:

13 (i) Information in the commission's possession that ~~may~~ **MIGHT**
 14 affect a claim for worker's disability compensation under the
 15 worker's disability compensation act of 1969, ~~Act No. 317 of the~~
 16 ~~Public Acts of 1969, being sections 418.101 to 418.941 of the~~
 17 ~~Michigan Compiled Laws 1969 PA 317, MCL 418.101 TO 418.941,~~ shall
 18 be available to interested parties, regardless of whether the
 19 commission is a party to an action or proceeding arising under ~~Act~~
 20 ~~No. 317 of the Public Acts of 1969~~ **THAT ACT.**

21 (ii) Any information in the commission's possession that may
 22 affect a claim for benefits or a charge to an employer's ~~rating~~
 23 **EXPERIENCE** account shall be available to interested parties.

24 (iii) Except as provided in this act, ~~such~~ **THE** information and
 25 determinations shall not be used in any action or proceeding before
 26 any court or administrative tribunal unless the commission is a
 27 party to or a complainant in the action or proceeding, or unless

1 used for the prosecution of fraud, civil proceeding, or other legal
 2 proceeding ~~pursuant to~~ **IN THE PROGRAMS INDICATED IN** subdivision
 3 (2).

4 (iv) Any report or statement, written or verbal, made by any
 5 person to the commission, any member of the commission, or to any
 6 person engaged in administering this ~~law shall be~~ **ACT IS** a
 7 privileged communication, and a person, firm, or corporation shall
 8 not be held liable for slander or libel on account of a report or
 9 statement. ~~Such~~ **THE** records and reports in the custody of the
 10 commission shall be available for examination by the employer or
 11 employee affected.

12 (v) Subject to restrictions ~~as~~ **THAT** the commission ~~may~~
 13 **PRESCRIBES** by rule, ~~prescribe,~~ information in the commission's
 14 possession may be made available to any agency of this or any other
 15 state, or any federal agency, charged with the administration of an
 16 unemployment compensation law or the maintenance of a system of
 17 public employment offices; the bureau of internal revenue of the
 18 United States department of the treasury; **THE BUREAU OF THE CENSUS**
 19 **OF THE ECONOMICS AND STATISTICS ADMINISTRATION OF THE UNITED STATES**
 20 **DEPARTMENT OF COMMERCE**; or the social security administration of
 21 the United States department of health and human services.

22 (vi) Information obtained in connection with the administration
 23 of the employment service may be made available to persons or
 24 agencies for purposes appropriate to the operation of a public
 25 employment service. Subject to ~~such~~ restrictions ~~as~~ **THAT** the
 26 commission ~~may~~ **PRESCRIBES** by rule, ~~prescribe,~~ the commission
 27 may also make ~~such~~ **THAT** information available to agencies of

1 other states ~~which~~ **THAT** are responsible for the administration of
 2 public assistance to unemployed workers, and to the departments of
 3 this state. Information so released shall be used only for purposes
 4 not inconsistent with the purposes of this act.

5 ~~—— (vii) The commission may make available to the department of~~
 6 ~~treasury information collected for the income eligibility and~~
 7 ~~verification system begun on October 1, 1988 for the purpose of~~
 8 ~~detection of potential tax fraud in other areas.~~

9 **(vii)** ~~(viii)~~ Upon request, the commission shall furnish to any
 10 agency of the United States charged with the administration of
 11 public works or assistance through public employment, and may
 12 furnish to any state agency similarly charged, the name, address,
 13 ordinary occupation, and employment status of each recipient of
 14 benefits and the recipient's rights to further benefits under this
 15 act.

16 **(viii)** ~~(ix)~~ Subject to restrictions ~~as~~ the commission ~~may~~
 17 ~~prescribe~~ **PRESCRIBES**, by rule or otherwise, the commission may
 18 also make ~~such~~ information **THAT IT OBTAINS** available to colleges,
 19 universities, and public agencies of this state for use in
 20 connection with research projects of a public service nature. A
 21 person associated with ~~such~~ **THOSE** institutions or agencies shall
 22 not disclose the information in any manner ~~which~~ **THAT** would
 23 reveal the identity of any individual or employing unit from or
 24 concerning whom the information was obtained by the commission.

25 **(ix)** ~~(x)~~ The commission may request the comptroller of the
 26 currency of the United States to cause an examination of the
 27 correctness of any return or report of any national banking

1 association rendered ~~pursuant to~~ **UNDER** this act, and may, in
2 connection with the request, transmit the report or return to the
3 comptroller of the currency of the United States as provided in
4 section 3305(c) of the internal revenue code, **26 USC 3305**.

5 (2) The commission shall disclose to qualified requesting
6 agencies, upon request, with respect to an identified individual,
7 information in its records pertaining to the individual's name;
8 social security number; gross wages paid during each quarter; the
9 name, address, and federal and state employer identification number
10 of the individual's employer; any other wage information; whether
11 an individual is receiving, has received, or has applied for
12 unemployment benefits; the amount of unemployment benefits the
13 individual is receiving or is entitled to receive; the individual's
14 current or most recent home address; whether the individual has
15 refused an offer of work and if so a description of the job offered
16 including the terms, conditions, and rate of pay; and any other
17 information which the qualified requesting agency considers useful
18 in verifying eligibility for, and the amount of, benefits. For
19 purposes of this subdivision, "qualified requesting agency" means
20 any state or local child support enforcement agency responsible for
21 enforcing child support obligations under a plan approved under
22 part d of ~~Title~~ **TITLE** IV of the social security act, 42 ~~U.S.C.~~
23 **USC** 651 to ~~669~~ **669B**; the United States department of health and
24 human services for purposes of establishing or verifying
25 eligibility or benefit amounts under ~~Titles~~ **TITLES** II and XVI of
26 the social security act, 42 ~~U.S.C.~~ **USC** 401 to ~~433~~ **434** and 42
27 ~~U.S.C.~~ **USC** 1381 to ~~1383d~~ **1383F**; the United States department of

1 agriculture for the purposes of determining eligibility for, and
 2 amount of, benefits under the food stamp program established under
 3 the food stamp act of 1977, 7 ~~U.S.C.~~ **USC** 2011 to ~~2032~~ **2036**; and
 4 any other state or local agency of this or any other state
 5 responsible for administering the following programs:

6 (i) The aid to families with dependent children program under
 7 part a of ~~Title~~ **TITLE** IV of the social security act, 42 ~~U.S.C.~~
 8 **USC** 601 to ~~617~~ **619**.

9 (ii) The medicaid program under ~~Title~~ **TITLE** XIX of the social
 10 security act, 42 ~~U.S.C.~~ **USC** 1396 to ~~1396u~~ **1396V**.

11 (iii) The unemployment compensation program under section 3304
 12 of the internal revenue code of 1954, 26 ~~U.S.C.~~ **USC** 3304.

13 (iv) The food stamp program under the food stamp act of 1977, 7
 14 ~~U.S.C.~~ **USC** 2011 to ~~2032~~ **2036**.

15 (v) Any state program under a plan approved under ~~Title~~
 16 **TITLE** I, X, XIV, or XVI of the social security act, 42 ~~U.S.C.~~ **USC**
 17 301 to 306, 42 ~~U.S.C.~~ **USC** 1201 to 1206, 42 ~~U.S.C.~~ **USC** 1351 to
 18 1355, and 42 ~~U.S.C.~~ **USC** 1381 to ~~1383d~~ **1383F**.

19 (vi) Any program administered under the social welfare act,
 20 ~~Act No. 280 of the Public Acts of 1939, being sections 400.1 to~~
 21 ~~400.119b of the Michigan Compiled Laws~~ **1939 PA 280, MCL 400.1 TO**
 22 **400.119B**.

23 The information shall be disclosed only if the qualified
 24 requesting agency has executed an agreement with the commission to
 25 obtain ~~such~~ **THE** information and if the information is requested
 26 for the purpose of determining the eligibility of applicants for
 27 benefits, or the type and amount of benefits for which applicants

are eligible, under any of the programs listed above or under ~~Titles~~ **TITLE** II and XVI of the social security act; for establishing and collecting child support obligations from, and locating individuals owing such obligations which are being enforced pursuant to a plan described in section 454 of the social security act, 42 ~~U.S.C.~~ **USC** 654; or for investigating or prosecuting alleged fraud under any of these programs.

The commission shall cooperate with the department of ~~social~~ **HUMAN** services in establishing the computer data matching system authorized in section 83 of ~~Act No. 280 of the Public Acts of 1939, being section 400.83 of the Michigan Compiled Laws~~ **THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.83**, to transmit the information requested on at least a quarterly basis. The information shall not be released unless the qualified requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information.

In addition to the requirements of this section, except as later provided in this subdivision, all other requirements with respect to confidentiality of information obtained in the administration of this act shall apply to the use of the information by the officers and employees of the qualified requesting agencies, and the sanctions imposed under this act for improper disclosure of the information shall be applicable to ~~such~~ **THOSE** officers and employees. A qualified requesting agency may redisclose information only to ~~the following individuals or agencies: (1)~~ the individual who is the subject of the information, ~~(2)~~ an attorney or other duly authorized agent

1 representing the individual if the information is needed in
2 connection with a claim for benefits against the requesting agency,
3 or ~~-(3)-~~ any criminal or civil prosecuting ~~authorities~~ **AUTHORITY**
4 acting for or on behalf of the requesting agency.

5 The commission is authorized to enter into an agreement with
6 any qualified requesting agency for the purposes described in this
7 subdivision. ~~Such~~ **THE** agreement or agreements must comply with
8 all federal laws and regulations applicable to such agreements.

9 (3) The commission shall enable the United States department
10 of health and human services to obtain prompt access to any wage
11 and unemployment benefit claims information, including any
12 information that might be useful in locating an absent parent or an
13 absent parent's employer, for purposes of section 453 of the social
14 security act, 42 ~~U.S.C.~~ **USC** 653, in carrying out the child
15 support enforcement program under title IV **OF THAT ACT**. Access to
16 the information shall not be provided unless the requesting agency
17 agrees to reimburse the commission for the costs incurred in
18 furnishing the information.

19 (4) Upon request accompanied by presentation of a consent to
20 the release of information signed by an individual, the commission
21 shall disclose to the United States department of housing and urban
22 development and any state or local public housing agency
23 responsible for verifying an applicant's or participant's
24 eligibility for, or level of benefits in, any housing assistance
25 program administered by the United States department of housing and
26 urban development, the name, address, wage information, whether an
27 individual is receiving, has received, or has made application for

1 unemployment benefits, and the amount of unemployment benefits the
2 individual is receiving or is entitled to receive under this act.
3 This information shall be used only to determine an individual's
4 eligibility for benefits or the amount of benefits to which an
5 individual is entitled under a housing assistance program of the
6 United States department of housing and urban development. The
7 information shall not be released unless the requesting agency
8 agrees to reimburse the commission for the costs incurred in
9 furnishing the information. For purposes of this subsection,
10 "public housing agency" means an agency described in section
11 3(b)(6) of the United States housing act of 1937, 42 ~~U.S.C.~~ **USC**
12 1437a.

13 **(5) THE COMMISSION MAY MAKE AVAILABLE TO THE DEPARTMENT OF**
14 **TREASURY INFORMATION COLLECTED FOR THE INCOME ELIGIBILITY AND**
15 **VERIFICATION SYSTEM BEGUN ON OCTOBER 1, 1988 FOR THE PURPOSE OF**
16 **DETECTION OF POTENTIAL TAX FRAUD IN OTHER AREAS.**

17 (c) The commission is authorized to enter into agreements with
18 the appropriate agencies of other states or the federal government
19 whereby potential rights to benefits accumulated under the
20 unemployment compensation laws of other states or ~~such a law~~ of
21 the federal government, or both, may constitute the basis for the
22 payment of benefits through a single appropriate agency under plans
23 ~~which~~ **THAT** the commission finds will be fair and reasonable ~~as~~
24 to all affected interests and will not result in substantial loss
25 to the unemployment compensation fund.

26 (d)(1) The commission is authorized to enter into reciprocal
27 agreements with the appropriate agencies of other states or of the

1 federal government adjusting the collection and payment of
2 contributions by employers with respect to employment not localized
3 within this state.

4 (2) The commission is authorized to enter into reciprocal
5 agreements with agencies of other states administering unemployment
6 compensation, whereby contributions paid by an employer to any
7 other state may be received by the other state as an agent acting
8 for and on behalf of this state to the same extent as if the
9 contributions had been paid directly to this state if the payment
10 is remitted to this state. Contributions so received by another
11 state shall be deemed contributions, required and paid under this
12 act as of the date the contributions were received by the other
13 state. The commission may collect contributions in a like manner
14 for agencies of other states administering unemployment
15 compensation and remit the contributions to the agencies under the
16 terms of the reciprocal agreements.

17 (e) The commission may make the state's records relating to
18 the administration of this act available and may furnish to the
19 railroad retirement board or any other state or federal agency
20 administering an unemployment compensation law, at the expense of
21 that board, state, or agency, copies of the records as the railroad
22 retirement board deems necessary for its purpose.

23 (f) The commission may cooperate with or enter into agreements
24 with any agency of another state or of the United States charged
25 with the administration of any unemployment insurance or public
26 employment service law.

27 The commission ~~is authorized to~~ MAY make investigations,

1 secure and transmit information, make available services and
2 facilities, and exercise other powers provided in this act with
3 respect to the administration of this act as it deems necessary or
4 appropriate to facilitate the administration of any unemployment
5 compensation or public employment service law, and ~~in like manner,~~
6 ~~to~~ **MAY** accept and utilize information, services, and facilities
7 made available to this state by the agency charged with the
8 administration of any other unemployment compensation or public
9 employment service law.

10 On request of an agency ~~which~~ **THAT** administers an employment
11 security law of another state or foreign government and ~~which~~
12 **THAT** has found, in accordance with that law, that a claimant is
13 liable to repay benefits received under that law, the commission
14 may collect the amount of the benefits from the claimant to be
15 refunded to the agency.

16 In any case in which under this subsection a claimant is
17 liable to repay any amount to the agency of another state or
18 foreign government, the amount may be collected by civil action in
19 the name of the commission acting as agent for the agency. Court
20 costs shall be paid or guaranteed by the agency **OF THAT STATE**.

21 To the extent permissible under the laws and constitution of
22 the United States, the commission is authorized to enter into or
23 cooperate in arrangements whereby facilities and services provided
24 under this act and facilities and services provided under the
25 unemployment compensation law of the Dominion of Canada may be
26 utilized for the taking of claims and the payment of benefits under
27 the unemployment compensation law of this state or under a similar

1 law of the Dominion of Canada.

2 Any employer who is not a resident of this state and who
3 exercises the privilege of having 1 or more individuals perform
4 service for him or her within this state, and any resident employer
5 who exercises that privilege and thereafter leaves this state,
6 ~~shall be deemed thereby~~ **IS CONSIDERED** to ~~appoint~~ **HAVE APPOINTED**
7 the secretary of state as his or her agent and attorney for the
8 acceptance of process in any civil action under this act. In
9 instituting ~~such an~~ **THE** action, ~~against any employer,~~ the
10 commission shall cause ~~such~~ process or notice to be filed with
11 the secretary of state, and ~~such~~ **THE** service shall be sufficient
12 and shall be of the same force and validity as if served upon the
13 **NONRESIDENT OR ABSENT** employer personally within this state. The
14 commission immediately shall send notice of the service of process
15 or notice, together with a copy thereof, by registered mail, return
16 receipt requested, to the employer at his or her last known
17 address. The return receipt, the commission's affidavit of
18 compliance with this section, and a copy of the notice of service
19 shall be attached to the original of the process filed in the court
20 in which the civil action is pending.

21 The courts of this state shall recognize and enforce
22 liabilities, as provided in this act, for unemployment compensation
23 contributions, penalties, and interest imposed by other states
24 which extend a like comity to this state.

25 The attorney general ~~is empowered to~~ **MAY** commence action in
26 the appropriate court of any other state or any other jurisdiction
27 of the United States by and in the name of the commission to

1 collect unemployment compensation contributions, penalties, and
2 interest finally determined, redetermined, or decided under this
3 act to be legally due this state. The officials of other states
4 which extend a like comity to this state ~~are empowered to~~ **MAY** sue
5 in the courts of this state for the collection of unemployment
6 compensation contributions, penalties, and interest, the liability
7 for which has been similarly established under the laws of the
8 other state or jurisdiction. A certificate by the secretary of
9 another state under the great seal of that state attesting the
10 authority of the official or officials to collect unemployment
11 compensation contributions, penalties, and interest ~~shall be~~ **IS**
12 conclusive evidence of that authority.

13 The attorney general ~~is authorized to~~ **MAY** commence action in
14 this state as agent for or on behalf of any other state to enforce
15 judgments and established liabilities for unemployment compensation
16 taxes or contributions, penalties, and interest due the other state
17 if the other state extends a like comity to this state.

18 (g) The commission ~~is also authorized to~~ **MAY ALSO** enter into
19 reciprocal agreements with the appropriate and authorized agencies
20 of other states or of the federal government whereby remuneration
21 and services, ~~upon the basis of which an individual may become~~
22 ~~entitled~~ **THAT DETERMINE ENTITLEMENT** to benefits under the
23 unemployment compensation law of another state or of the federal
24 government, ~~shall be deemed to be~~ **ARE CONSIDERED** wages and
25 employment for the purposes of sections 27 and 46, if the other
26 state agency or agency of the federal government has agreed to
27 reimburse the fund for that portion of benefits paid under this act

1 upon the basis of the remuneration and services as the commission
2 finds will be fair and reasonable as to all affected interests. —
3 ~~and~~ **A RECIPROCAL AGREEMENT MAY PROVIDE THAT** wages and employment,
4 ~~on the basis of which an individual may become entitled~~ **THAT**
5 **DETERMINE ENTITLEMENT** to benefits under this act, ~~shall be deemed~~
6 ~~to be~~ **ARE CONSIDERED** wages or services on the basis of which
7 unemployment compensation under the law of another state or of the
8 federal government is payable; ~~, and whereby~~ **MAY PROVIDE THAT**
9 services performed by an individual for a single employing unit for
10 which services are customarily performed by the individual in more
11 than 1 state ~~shall be deemed to be~~ **ARE CONSIDERED** services
12 performed entirely within any 1 of the states in which any part of
13 the individual's service is performed, in which the individual has
14 his or her residence, or in which the employing unit maintains a
15 place of business, if there is — in effect as to ~~such~~ **THOSE**
16 services, an election approved by the agency charged with the
17 administration of the state's unemployment compensation law,
18 pursuant to which all the services performed by the individual for
19 the employing unit are ~~deemed~~ **CONSIDERED** to be performed entirely
20 within the state; — and ~~whereby~~ **MAY PROVIDE THAT** the commission
21 will reimburse other state or federal agencies charged with the
22 administration of unemployment compensation laws with such
23 reasonable portion of benefits, paid under the law of any other
24 state or of the federal government upon the basis of employment and
25 wages, as the commission finds will be fair and reasonable as to
26 all affected interests. Reimbursements ~~so~~ payable ~~shall be~~
27 ~~deemed to be~~ **UNDER THIS SUBSECTION ARE CONSIDERED** benefits for the

1 purpose of limiting duration of benefits and for the purposes of
2 sections ~~20a~~ **20(A)** and 26, and the payments shall be charged to
3 the contributing employer's ~~rating~~ **EXPERIENCE** account for the
4 purposes of sections 17, 18, 19, and 20, or the reimbursing
5 employer's account under section 13c, ~~or~~ 13g, **13I, OR 13I**, as
6 applicable. Benefits paid under a combined wage plan shall be
7 allocated and charged to each employer involved in the quarter in
8 which the paying state requires reimbursement. Benefits charged to
9 this state shall be allocated to each employer of this state who
10 has employed the claimant during the base period of the paying
11 state in the same ratio that the wages earned by the claimant
12 during the base period of the paying state in the employ of the
13 employer bears to the total amount of wages earned by the claimant
14 in the base period of the paying state in the employ of all
15 employers of the state. The commission is authorized to make to
16 other state or federal agencies and receive from other state or
17 federal agencies reimbursements from or to the fund, in accordance
18 with arrangements made pursuant to this section.

19 (h) The commission ~~is authorized and directed to~~ **MAY** enter
20 into any agreement necessary ~~in order that it may~~ **TO** cooperate
21 with any agency of the United States charged with the
22 administration of any program for the payment of primary or
23 supplemental benefits to individuals recently discharged from the
24 military services of the United States, and to assist in the
25 establishing of eligibility and in the payments of benefits
26 ~~thereunder~~ **UNDER THOSE PROGRAMS**, and for those purposes may accept
27 and administer funds made available by the federal government and

1 may accept and exercise any delegated function ~~as may be provided~~
2 ~~thereunder~~ **UNDER THOSE PROGRAMS**. The commission shall not ~~have~~
3 ~~power to~~ enter into any agreement providing for, or exercise any
4 function connected with, the disbursement of the state's
5 unemployment trust fund for purposes not authorized by this act.

6 (i) The commission may enter into agreements with the
7 appropriate agency of the United States ~~whereby~~ **UNDER WHICH**, in
8 accordance with the laws of the United States, the commission, as
9 agent of the United States ~~—~~ or from funds provided by the United
10 States, ~~shall provide~~ **PROVIDES** for the payment of unemployment
11 compensation or unemployment allowances of any kind, including the
12 payment of any benefits and allowances that are made available for
13 manpower development, training, retraining, readjustment, and
14 relocation. The commission may receive and disburse funds from the
15 United States or any appropriate agency of the United States in
16 accordance with any such agreements.

17 If the federal enactment providing for unemployment
18 compensation, training allowance, or relocation payments requires
19 joint federal-state financing of such payments, the commission may
20 participate in the programs by using funds appropriated by the
21 legislature to the extent provided by the legislature for such
22 programs.

23 (j) The commission shall participate in any arrangement which
24 provides for the payment of compensation on the basis of combining
25 an individual's wages and employment covered under this act with
26 his or her wages and employment covered under the unemployment
27 compensation laws of other states, if the arrangement is approved

1 by the United States secretary of labor in consultation with the
2 state unemployment compensation agencies as reasonably calculated
3 to assure the prompt and full payment of compensation. An
4 arrangement shall include provisions for both of the following:

5 (i) Applying the base period of a single state law to a claim
6 involving the combining of an individual's wages and employment
7 covered under 2 or more state unemployment compensation laws.

8 (ii) Avoiding the duplicate use of wages and employment as a
9 result of the combining.

10 (k) In a proceeding before any court, the commission and the
11 state shall be represented by the attorney general of this state or
12 attorneys designated by the attorney general. Only the attorney
13 general or other attorneys designated by the attorney general shall
14 act as legal counsel for the commission.