

HOUSE BILL No. 6424

September 6, 2006, Introduced by Reps. Espinoza, Alma Smith, Leland, Anderson, Angerer, Polidori, Farrah, Kathleen Law, Sheltroun, Gleason and Tobocman 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 20 (MCL 421.20), as amended by 2003 PA 174, and
by adding section 64a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20. (a) Benefits paid shall be charged against the
2 employer's account as of the quarter in which the payments are
3 made. If the ~~bureau~~ **AGENCY** determines that any benefits charged
4 against an employer's account were improperly paid, an amount equal
5 to the charge based on those benefits shall be credited to the
6 employer's account and a corresponding charge shall be made to the
7 nonchargeable benefits account as of the current period or, in the
8 discretion of the ~~bureau~~ **AGENCY**, as of the date of the charge.
9 Benefits paid to an individual as a result of an employer's failure

1 to provide the unemployment agency with separation, employment,
2 ~~and~~ OR wage data as required by section 32 shall be considered as
3 benefits properly paid to the extent that the benefits are
4 chargeable to the noncomplying employer.

5 (b) For benefit years established before ~~the conversion date~~
6 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, benefits paid to an
7 individual shall be based upon the credit weeks earned during the
8 individual's base period and shall be charged against the
9 experience accounts of the contributing employers or charged to the
10 accounts of the reimbursing employers from whom the individual
11 earned credit weeks. If the individual earned credit weeks from
12 more than 1 employer, a separate determination shall be made of the
13 amount and duration of benefits based upon the total credit weeks
14 and wages earned with each employer. Benefits paid in accordance
15 with the determinations shall be charged against the experience
16 account of a contributing employer or charged to the account of a
17 reimbursing employer beginning with the most recent employer first
18 and thereafter as necessary against other base period employers in
19 inverse order to that in which the claimant earned his or her last
20 credit week with those employers. If there is any disqualifying act
21 or discharge under section 29(1) with an employer, benefits based
22 upon credit weeks earned from that employer before the
23 disqualifying act or discharge shall be charged only after the
24 exhaustion of charges as provided above. Benefits based upon those
25 credit weeks shall be charged first against the experience account
26 of the contributing employer involved or to the account of the
27 reimbursing employer involved in the most recent disqualifying act

1 or discharge and thereafter as necessary in similar inverse order
2 against other base period employers involved in disqualifying acts
3 or discharges. The order of charges determined as of the beginning
4 date of a benefit year shall remain fixed during the benefit year.
5 For benefit years established **ON OR** after ~~the conversion date~~
6 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the claimant's full
7 weekly benefit rate shall be charged to the account or experience
8 account of the claimant's most recent separating employer for each
9 of the first 2 weeks of benefits payable to the claimant in the
10 benefit year in accordance with the monetary determination issued
11 ~~pursuant to~~ **UNDER** section 32. However, if the total sum of wages
12 paid by an employer totals \$200.00 or less, those wages shall be
13 used for purposes of benefit payment, but any benefit charges
14 attributable to those wages shall be charged to the nonchargeable
15 benefits account. Thereafter, remaining weeks of benefits payable
16 in the benefit year shall be paid in accordance with the monetary
17 determination and shall be charged proportionally to all base
18 period employers, with the charge to each base period employer
19 being made on the basis of the ratio that total wages paid by the
20 employer in the base period bears to total wages paid by all
21 employers in the base period. However, if the claimant did not
22 perform services for the most recent separating employer or
23 employing entity and receive earnings for performing the services
24 of at least the amount a claimant must earn, in the manner
25 prescribed in section 29(3), to requalify for benefits following a
26 disqualification under section 29(1)(a), (b), (i), or (k) during
27 the claimant's most recent period of employment with the employer

1 or employing entity, then all weeks of benefits payable in the
2 benefit year shall be charged proportionally to all base period
3 employers, with the charge to each base period employer being made
4 on the basis of the ratio that total wages paid by the employer in
5 the base period bears to total wages paid by all employers in the
6 base period. If the claimant performed services for the most recent
7 separating employing entity and received earnings for performing
8 the services of at least the amount a claimant must earn, in the
9 manner prescribed in section 29(3), to requalify for benefits
10 following a disqualification under section 29(1)(a), (b), (i), or
11 (k) during the claimant's most recent period of employment for the
12 employing entity but the separating employing entity was not a
13 liable employer, the first 2 weeks of benefits payable to the
14 claimant shall be charged proportionally to all base period
15 employers, with the charge to each base period employer being made
16 on the basis of the ratio that total wages paid by the employer in
17 the base period bears to total wages paid by all employers in the
18 base period. The "separating employer" is the employer that caused
19 the individual to be unemployed as defined in section 48.

20 (c) For benefit years established before ~~the conversion date~~
21 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and except as otherwise
22 provided in section 11(d) or (g) or section 46a, the charges for
23 regular benefits to any reimbursing employer or to any contributing
24 employer's experience account shall not exceed the weekly benefit
25 rate multiplied by $\frac{3}{4}$ the number of credit weeks earned by the
26 individual during his or her base period from that employer. If the
27 resultant product is not an even multiple of $\frac{1}{2}$ the weekly benefit

1 rate, the amount shall be raised to an amount equal to the next
2 higher multiple of 1/2 the weekly benefit rate, and in the case of
3 an individual who was employed by only 1 employer in his or her
4 base period and who earned 34 credit weeks with that employer, the
5 product shall be raised to the next higher multiple of the weekly
6 benefit rate.

7 (d) For benefit years beginning **ON OR** after ~~the conversion~~
8 ~~date prescribed in section 75~~ **OCTOBER 1, 2000**, and except as
9 otherwise provided in section 11(d) or (g) or section 46, the
10 charges for regular benefits to any reimbursing employer's account
11 or to any contributing employer's experience account shall not
12 exceed either the amount derived by multiplying by 2 the weekly
13 benefit rate chargeable to the employer in accordance with
14 subsection (b) if the employer is the separating employer and is
15 chargeable for the first 2 weeks of benefits, or the amount derived
16 from the percentage of the weekly benefit rate chargeable to the
17 employer in accordance with subsection (b), multiplied by the
18 number of weeks of benefits chargeable to base period employers
19 based on base period wages, to which the individual is entitled as
20 provided in section 27(d), if the employer is a base period
21 employer, or both of these amounts if the employer was both the
22 chargeable separating employer and a base period employer.

23 (e) For benefit years beginning before ~~the conversion date~~
24 ~~prescribed in section 75~~ **OCTOBER 1, 2000**:

25 (1) When an individual has multiemployer credit weeks in his
26 or her base period, and when it becomes necessary to use those
27 credit weeks as a basis for benefit payments, a single

determination shall be made of the individual's weekly benefit rate and maximum amount of benefits based on the individual's multiemployer credit weeks and the wages earned in those credit weeks. Each employer involved in the individual's multiemployer credit weeks shall be an interested party to the determination. The proviso in section 29(2) shall not be applicable to multiemployer credit weeks, nor shall the reduction provision of section 29(4) apply to benefit entitlement based upon those credit weeks.

(2) The charge for benefits based on multiemployer credit weeks shall be allocated to each employer involved on the basis of the ratio that the total wages earned during the total multiemployer credit weeks counted under section 50(b) with the employer bears to the total amount of wages earned during the total multiemployer credit weeks counted under section 50(b) with all such employers, computed to the nearest cent. However, if an adjusted weekly benefit rate is determined in accordance with section 27(f), the charge to the employer who has contributed to the financing of the retirement plan shall be reduced by the same amount by which the weekly benefit rate was adjusted under section 27(f). Benefits for a week of unemployment allocated under this subsection to a contributing employer shall be charged to the nonchargeable benefits account if the claimant during that week earns remuneration with that employer that equals or exceeds the amount of benefits allocated to that employer.

(3) Benefits paid in accordance with the determination based on multiemployer credit weeks shall be allocated to each employer involved and charged as of the quarter in which the payments are

1 made. Notice of charges made under this subsection shall be given
2 to each employer by means of a current listing of charges, at least
3 weekly, or of a quarterly statement of charges. The listing or
4 statement shall specify the weeks for which benefits were paid
5 based on multiemployer credit weeks and the amount of benefits paid
6 chargeable to that employer for each week. The notice shall be
7 considered to satisfy the requirements of sections 21(a) and 32(d)
8 that notification be given each employer of benefits charged
9 against that employer's account by means of a copy or listing of
10 the benefit check, and all protest and appeal rights applicable to
11 benefit check copies or listings shall also be applicable to the
12 notice of charges. If an employer receives both a current listing
13 of charges and a quarterly statement of charges under this
14 subsection, all protest and appeal rights shall only be applicable
15 to the first notice given.

16 (f) For benefit years beginning **ON OR** after ~~the conversion~~
17 ~~date prescribed in section 75~~ **OCTOBER 1, 2000**, if benefits for a
18 week of unemployment are charged to 2 or more base period
19 employers, the share of the benefits allocated and charged under
20 this section to a contributing employer shall be charged to the
21 nonchargeable benefits account if the claimant during that week
22 earns remuneration with that employer that equals or exceeds the
23 amount of benefits charged to that employer.

24 (g) For benefit years beginning before ~~the conversion date~~
25 ~~prescribed in section 75~~ **OCTOBER 1, 2000**:

26 (1) Training benefits as provided in section 27(g), and
27 extended benefits as provided in section 64, shall be allocated to

1 each reimbursing employer involved in the individual's base period
2 of the claim to which the benefits are related, on the basis of the
3 ratio that the total wages earned during the total credit weeks
4 counted under section 50(b) with a reimbursing employer bears to
5 the total amount of wages earned during the total credit weeks
6 counted under section 50(b) with all employers.

7 (2) Training benefits and extended benefits, to the extent
8 that they are not reimbursable by the federal government and have
9 been allocated to a reimbursing employer, shall be charged to that
10 reimbursing employer. A contributing employer's experience account
11 shall not be charged with training benefits. Training benefits
12 based on service with a contributing employer, to the extent that
13 they are not reimbursable by the federal government, shall be
14 charged to the nonchargeable benefits account. Extended benefits
15 paid and based on service with a contributing employer, to the
16 extent that they are not reimbursable by the federal government,
17 shall be charged to that employer's experience account.

18 (3) If the training benefits or extended benefits are
19 chargeable only to a single reimbursing employer, the benefits
20 shall be charged in accordance with subsection (a). If the training
21 benefits or extended benefits are chargeable to more than 1
22 reimbursing employer, or to 1 or more reimbursing employers and the
23 nonchargeable benefits account, the benefits shall be charged as of
24 the quarter in which the payments are made.

25 (4) Notice of charges made under this subsection shall be
26 given to each employer by means of a current listing of charges, at
27 least weekly, and subsequently by a quarterly summary statement of

1 charges. The listing shall specify the name and social security
 2 number of each claimant paid benefits during the week, the weeks
 3 for which the benefits were paid, and the amount of benefits
 4 chargeable to that employer paid for each week. The quarterly
 5 statement of charges shall list each claimant by name and social
 6 security number and shall show total benefit payments chargeable to
 7 that employer and made to each claimant during the calendar
 8 quarter. The listing shall be considered to satisfy the
 9 requirements of sections 21(a) and 32(d) that notification be given
 10 each employer of benefits charged against that employer's account
 11 by means of a listing of the benefit check. All protest and appeal
 12 rights applicable to benefit check listings shall also ~~be~~
 13 ~~applicable~~ **APPLY** to the notice of charges. If an employer receives
 14 both a current listing of charges and a quarterly statement of
 15 charges under this subsection, all protest and appeal rights shall
 16 only ~~be applicable~~ **APPLY** to the first notice given.

17 (h) For benefit years beginning **ON OR** after ~~the conversion~~
 18 ~~date prescribed in section 75~~ **OCTOBER 1, 2000:**

19 (1) Training benefits as provided in section 27(g), ~~and~~
 20 extended benefits as provided in section 64, **OR ADDITIONAL BENEFITS**
 21 **AS PROVIDED IN SECTION 64A**, shall be charged to each reimbursing
 22 employer in the base period of the claim to which the benefits are
 23 related, on the basis of the ratio that the total wages paid by a
 24 reimbursing employer during the base period bears to the total
 25 wages paid by all reimbursing employers in the base period.

26 (2) Training benefits, ~~and~~ extended benefits, **OR ADDITIONAL**
 27 **BENEFITS**, to the extent ~~they are~~ not reimbursable by the federal

1 government and ~~have been~~ allocated to a reimbursing employer,
2 shall be charged to that reimbursing employer. A contributing
3 employer's experience account shall not be charged with training
4 benefits. Training benefits based on service with a contributing
5 employer, to the extent they are not reimbursable by the federal
6 government, shall be charged to the nonchargeable benefits account.
7 Except as provided in section 17(3)(m), extended benefits **OR**
8 **ADDITIONAL BENEFITS** paid and based on service with a contributing
9 employer, to the extent ~~they are~~ not reimbursable by the federal
10 government, shall be charged to that employer's experience account.

11 (3) If the training benefits, ~~or~~ extended benefits, **OR**
12 **ADDITIONAL BENEFITS** are chargeable only to a single reimbursing
13 employer, the ~~benefits~~ **CHARGE** shall be ~~charged~~ **MADE** in
14 accordance with subsection (a). If the training benefits, ~~or~~
15 extended benefits, **OR ADDITIONAL BENEFITS** are chargeable to more
16 than 1 reimbursing employer, or to 1 or more reimbursing employers
17 and the nonchargeable benefits account, the ~~benefits~~ **CHARGE** shall
18 be ~~charged~~ **MADE** as of the quarter in which the payments are made.

19 (4) Notice of charges made under this subsection shall be
20 given to each employer by means of a current listing of charges, at
21 least weekly, and subsequently by a quarterly summary statement of
22 charges. The listing shall specify the name and social security
23 number of each claimant paid benefits in the week, the weeks for
24 which the benefits were paid, and the amount of benefits chargeable
25 to that employer paid for each week. The quarterly summary
26 statement of charges shall list each claimant by name and social
27 security number and shall show total ~~benefit~~ payments chargeable

1 to that employer and made to each claimant during the calendar
2 quarter. The listing shall be considered to satisfy the
3 requirements of sections 21(a) and 32(d) that notification be given
4 to each employer of ~~benefits charged~~ **CHARGES** against that
5 employer's account by means of a listing of the ~~benefit~~ **PAYMENT**
6 check. All protest and appeal rights applicable to ~~benefit~~
7 **PAYMENT** check listings shall also ~~be applicable~~ **APPLY** to the
8 notice of charges. If an employer receives both a current listing
9 of charges and a quarterly summary statement of charges under this
10 subsection, all protest and appeal rights shall **APPLY** only ~~be~~
11 ~~applicable~~ to the first notice given.

12 (i) If a benefit year is established **ON OR** after ~~the~~
13 ~~conversion date prescribed in section 75~~ **OCTOBER 1, 2000**, the
14 portion of benefits paid in that benefit year that are based on
15 wages used to establish the immediately preceding benefit year that
16 began before ~~the conversion date~~ **OCTOBER 1, 2000** shall not be
17 charged to the employer or employers who paid those wages but shall
18 be charged instead to the nonchargeable benefits account.

19 ~~—— (j) If a reimbursing employer is charged for extended benefits~~
20 ~~during a period when extended benefits are paid based on the~~
21 ~~average rate of total unemployment, in accordance with section~~
22 ~~64(5)(c)(ii), the bureau shall credit the account of the reimbursing~~
23 ~~employer for the full amount of those extended benefits. The bureau~~
24 ~~shall charge the contingent fund created under section 10(6) for~~
25 ~~amounts so credited to reimbursing employers. This subsection is~~
26 ~~effective with respect to benefit charges for extended benefits~~
27 ~~paid for weeks of unemployment beginning the week after the week in~~

~~which this subsection becomes effective and ending the week ending
January 17, 2004.~~

SEC. 64A. (1) AN INDIVIDUAL WHO HAS RECEIVED BENEFITS FOR THE
MAXIMUM NUMBER OF WEEKS TO WHICH THE INDIVIDUAL IS ENTITLED FOR THE
BENEFIT YEAR UNDER SECTION 27 IS ELIGIBLE TO RECEIVE UP TO 13 WEEKS
OF ADDITIONAL BENEFITS, AS DEFINED IN SECTION 64, AT THE RATE AND
FROM THE SOURCE OTHERWISE APPLICABLE TO REGULAR BENEFITS, IF ALL OF
THE FOLLOWING CONDITIONS EXIST:

(A) THE INDIVIDUAL MEETS ALL OF THE CONDITIONS FOR ELIGIBILITY
FOR REGULAR UNEMPLOYMENT BENEFITS EXCEPT THAT THE INDIVIDUAL HAS
RECEIVED BENEFITS FOR THE MAXIMUM NUMBER OF WEEKS TO WHICH THE
INDIVIDUAL IS ENTITLED FOR THE BENEFIT YEAR UNDER SECTION 27.

(B) THE SEASONALLY ADJUSTED TOTAL UNEMPLOYMENT RATE AS
DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE STATE
EXCEEDED 5% FOR THE 3 MONTHS PRECEDING THE DATE OF EXHAUSTION OF
REGULAR BENEFITS.

(2) ADDITIONAL BENEFITS ARE PAYABLE UNDER THIS SECTION FOR
WEEKS BEGINNING 30 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
ACT THAT ADDED THIS SECTION.