

Act No. 16
Public Acts of 2005
Approved by the Governor
May 4, 2005
Filed with the Secretary of State
May 4, 2005
EFFECTIVE DATE: July 1, 2005

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Reps. Robertson, Gosselin, Stahl, Taub and Gonzales

ENROLLED HOUSE BILL No. 4415

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 26 (MCL 421.26), as amended by 1984 PA 172.

The People of the State of Michigan enact:

Sec. 26. (a) There is established as a special fund, separate and apart from all public money or funds of this state, an unemployment compensation fund, herein referred to as the fund, which shall be administered by the commission exclusively for the purposes of this act. The fund shall consist of (1) all contributions and payments in lieu of contributions collected under the provisions of this act as well as reimbursement payments by the federal government for its portion of sharable extended benefits; (2) interest earned upon any moneys in the fund; (3) any property or securities acquired through the use of money belonging to the fund; (4) all earnings of such property or securities; (5) amounts transferred from the contingent fund pursuant to section 10; (6) all money collected, including fines, civil penalties, and interest, under section 22b; and (7) any other money received by the commission for unemployment compensation, except interest, penalties, and damages collected under other provisions of this act. All money in the fund shall be mingled and undivided.

(b) The commission shall designate a treasurer and custodian of the fund who shall administer the fund in accordance with the directions of the commission and shall issue his or her vouchers upon it in accordance with the regulations as the commission prescribes. The treasurer shall maintain within the fund 3 separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All money payable to the fund, upon receipt by the

commission, shall be forwarded to the treasurer who shall immediately deposit it in the clearing account. Refunds payable pursuant to section 16 may be paid from the clearing account upon vouchers issued by the treasurer under the direction of the commission. After clearance of the vouchers, all other money in the clearing account, except amounts needed for refunds and judgments, shall be immediately deposited with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the social security act, 42 USC 1104. The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund. Except as otherwise provided in this act, money in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the commission, in any depository designated by the commission.

(c)(1) Except as provided in paragraph (2) of this subsection, money shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the commission. The commission shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account in that fund, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt, the treasurer shall deposit the requisitioned money in the benefit account and shall issue his or her vouchers for the payment of benefits solely from the benefit account. All vouchers issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the counter-signature of a member of the commission or its duly authorized agent for that purpose. Any balance of money requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the commission, shall be redeposited with the secretary of the treasury of the United States of America, to the credit of this state's account in the unemployment trust fund, as provided in subsection (b).

(2) The commission may requisition from this state's account in the unemployment trust fund such amounts, or portions thereof, as have been specifically appropriated by the legislature for the administration of this act in accordance with the provisions of section 903(c)(2) of the federal social security act, 42 USC 1103(c)(2). Upon receipt, the treasurer shall deposit that money in the administration fund, but it shall remain a part of the unemployment compensation fund until expended.

(d) The provisions of subsections (a), (b), and (c), to the extent that they relate to the unemployment trust fund, shall be operative only while the unemployment trust fund continues to exist and until the secretary of the treasury of the United States of America continues to maintain for this state a separate account of all funds deposited in it by this state for benefit purposes, together with this state's proportionate share of the earnings of the unemployment trust fund, from which no other state is permitted to make withdrawals. If the unemployment trust fund ceases to exist, or the separate account is no longer maintained, all money, properties, or securities therein, belonging to the unemployment compensation fund of this state, shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release the money, properties, or securities in a manner approved by the commission, in bonds or other interest bearing obligations of the United States of America or of this state. The investments shall be so made that all the assets of the fund are readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the commission.

(e) The unemployment compensation fund shall be audited by the auditor general at the times requested by the state administrative board.

(f) The commission may designate an assistant treasurer who, in the absence of the treasurer and custodian as designated by the commission under the authority conferred upon it under subsection (b), may perform the duties conferred upon the treasurer and custodian under this act.

(g) The commission may enter into agreements that are necessary to secure any advance or grant of funds by the secretary of the treasury of the United States in accordance with the authority extended under section 1201 of the social security act, 42 USC 1321, or under any other act of congress extending that authority.

Any amount transferred to the unemployment trust fund by the secretary of the treasury of the United States under the terms of any agreement entered into in accordance with the authority extended in this subsection shall be repaid to the secretary of the treasury of the United States for the unemployment trust fund.

Whenever all interest bearing advances from the federal government have been repaid, if employers will be able to avoid, under the provisions of section 3302(g) of the federal unemployment tax act, 26 USC 3302(g), direct payment of the additional federal unemployment tax imposed under section 3302(c)(2) of the federal unemployment tax act, 26 USC 3302(c)(2), funds sufficient to qualify for avoidance shall be transferred from the account of this state in the federal unemployment trust fund to the federal unemployment account in that trust fund, unless precluded by federal law.

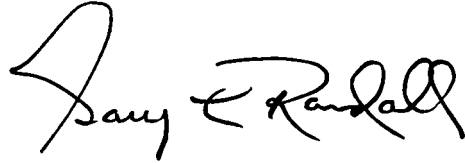
Any interest required to be paid on advances under title XII of the social security act, 42 USC 1321 to 1324, shall be paid in a timely manner and shall not be paid, directly or indirectly by an equivalent reduction in contributions or payments in lieu of contributions, from amounts in this state's account in the federal unemployment trust fund.

Enacting section 1. This amendatory act takes effect July 1, 2005.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 171.
- (b) Senate Bill No. 174.
- (c) House Bill No. 4414.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor