

HOUSE BILL No. 6599

November 6, 2008, Introduced by Rep. Condino and referred to the Committee on Labor.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 13M. (1) A PROFESSIONAL EMPLOYER ORGANIZATION (PEO) SHALL
2 USE 1 OF THE FOLLOWING METHODS FOR EMPLOYER REPORTING AND
3 CONTRIBUTIONS OBLIGATIONS UNDER THIS ACT:

4 (A) THE PEO SHALL FILE QUARTERLY WAGE REPORTS AND UNEMPLOYMENT
5 CONTRIBUTION REPORTS OR REIMBURSING EMPLOYER QUARTERLY PAYROLL
6 REPORTS AS THE EMPLOYER OF ITS COVERED EMPLOYEES BASED ON THE
7 ACCOUNT INFORMATION OF EACH CLIENT EMPLOYER. THE PEO SHALL PROVIDE
8 THE UNEMPLOYMENT AGENCY WITH A SCHEDULE SHOWING THE COVERED
9 EMPLOYEES AND UNEMPLOYMENT INSURANCE EMPLOYER ACCOUNT NUMBER OF

1 EACH CLIENT EMPLOYER AS A PART OF EACH REPORT. EACH CALENDAR
2 QUARTER IN THE MANNER REQUIRED BY R 421.121 OF THE MICHIGAN
3 ADMINISTRATIVE CODE, THE PEO SHALL PAY THE UNEMPLOYMENT AGENCY THE
4 TOTAL AMOUNT DUE FROM EACH OF ITS CLIENT EMPLOYERS FOR COVERED
5 EMPLOYEES, BASED ON THE INDIVIDUAL CONTRIBUTION PAYMENTS OR
6 REIMBURSEMENT PAYMENTS IN LIEU OF CONTRIBUTIONS, ITEMIZED BY CLIENT
7 EMPLOYER ACCOUNT NUMBER. WHEN THE FULL AND TIMELY CONTRIBUTION
8 PAYMENT IS MADE TO THE UNEMPLOYMENT AGENCY FOR A CALENDAR QUARTER,
9 IT SHALL CERTIFY THAT FACT TO THE UNITED STATES DEPARTMENT OF
10 TREASURY, INTERNAL REVENUE SERVICE, TO PRESERVE THE FULL TAX CREDIT
11 FOR THE PEO AGAINST THE TAX IMPOSED BY THE FEDERAL UNEMPLOYMENT TAX
12 ACT, 26 USC 3301 TO 3311. A PEO SHALL NOTIFY THE UNEMPLOYMENT
13 AGENCY WITHIN 30 DAYS AFTER ANY EMPLOYER BECOMES A CLIENT OF THE
14 PEO AND WITHIN 30 DAYS AFTER THE PEO DISCONTINUES AN ASSOCIATION
15 WITH A CLIENT EMPLOYER. A PEO MAY OPERATE UNDER THIS SUBDIVISION
16 FOR THE TAX YEAR 2009 ONLY IF THE PEO HAS SUBMITTED AN AFFIDAVIT
17 MAKING THE ELECTION TO THE UNEMPLOYMENT AGENCY BY APRIL 1, 2009. IN
18 ADDITION, ALL OF THE FOLLOWING APPLY TO A PEO AND REPORTS UNDER
19 THIS SUBDIVISION:

20 (i) NOTWITHSTANDING THE RATES ESTABLISHED IN SECTION 19, THE
21 FOLLOWING RATES APPLY TO A BUSINESS ENTITY UNDER THIS SECTION THAT
22 IS A CONTRIBUTING EMPLOYER AND WAS A CLIENT EMPLOYER OF THE PEO ON
23 THE DATE THAT THE PEO CHANGED TO THE REPORTING METHOD PROVIDED IN
24 THIS SUBDIVISION:

25 (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPHS (B) AND (C), THE
26 CONTRIBUTION RATE OF THE CLIENT EMPLOYER FOR THE NEXT 2 SUCCEEDING
27 TAX YEARS SHALL BE THE GREATER OF THE CLIENT EMPLOYER'S MOST

1 RECENTLY CALCULATED CONTRIBUTION RATE DURING THE 24 CALENDAR
2 QUARTERS IMMEDIATELY BEFORE BECOMING A CLIENT OF THE PEO OR 2.7%.
3 THE RATE FOR THE THIRD AND SUBSEQUENT YEARS SHALL BE CALCULATED AS
4 IF THE EMPLOYER HAD MORE THAN 4 CONSECUTIVE YEARS OF LIABILITY AS
5 PROVIDED IN SECTION 19.

6 (B) IF THE BUSINESS ENTITY WAS A CLIENT EMPLOYER OF THE PEO
7 FOR LESS THAN 8 FULL CALENDAR QUARTERS AND THE CLIENT EMPLOYER'S
8 MOST RECENTLY CALCULATED CONTRIBUTION RATE BEFORE BECOMING A CLIENT
9 OF THE PEO WAS LESS THAN 2.7%, THE CONTRIBUTION RATE FOR THE NEXT 2
10 SUCCEEDING TAX YEARS SHALL BE THE CLIENT EMPLOYER'S MOST RECENTLY
11 CALCULATED CONTRIBUTION RATE. THE RATE FOR THE THIRD AND SUBSEQUENT
12 YEARS SHALL BE CALCULATED AS IF THE EMPLOYER HAD MORE THAN 4
13 CONSECUTIVE YEARS OF LIABILITY AS PROVIDED IN SECTION 19.

14 (C) IF A CLIENT EMPLOYER DID NOT HAVE A CONTRIBUTION RATE AT
15 ANY TIME DURING THE 24 CALENDAR QUARTERS IMMEDIATELY BEFORE
16 BECOMING A CLIENT OF THE PEO, THE CONTRIBUTION RATE FOR THE NEXT 2
17 SUCCEEDING TAX YEARS SHALL BE 2.7%. IN THE THIRD SUCCEEDING TAX
18 YEAR, THE CLIENT EMPLOYER'S CONTRIBUTION RATE SHALL BE 1/3 OF THE
19 CLIENT EMPLOYER'S CHARGEABLE BENEFITS COMPONENT CALCULATED UNDER
20 SECTION 19 PLUS 1.8%. IN THE FOURTH SUCCEEDING TAX YEAR, THE CLIENT
21 EMPLOYER'S CONTRIBUTION RATE SHALL BE 2/3 OF THE CLIENT EMPLOYER'S
22 CHARGEABLE BENEFITS COMPONENT CALCULATED UNDER SECTION 19 PLUS
23 1.0%. IN THE FIFTH AND SUBSEQUENT TAX YEARS, THE CLIENT EMPLOYER'S
24 CONTRIBUTION RATE SHALL BE THE CLIENT EMPLOYER'S CHARGEABLE
25 BENEFITS COMPONENT CALCULATED UNDER SECTION 19, PLUS THE CLIENT
26 EMPLOYER'S CALCULATED ACCOUNT BUILDING COMPONENT, PLUS THE CLIENT
27 EMPLOYER'S CALCULATED NONCHARGEABLE BENEFITS COMPONENT.

1 (ii) A BUSINESS ENTITY THAT BECOMES A CLIENT EMPLOYER OF A PEO
2 ON OR AFTER JANUARY 1, 2009 SHALL RETAIN ITS EXISTING CONTRIBUTION
3 RATE OR ESTABLISH A NEW RATE AS PROVIDED IN SECTION 19, IF THE
4 CLIENT EMPLOYER IS A CONTRIBUTING EMPLOYER.

5 (B) THE PEO SHALL MAKE QUARTERLY REPORTS AND PAYMENTS OF
6 CONTRIBUTIONS, PENALTIES, AND INTEREST ON WAGES FOR COVERED
7 EMPLOYEES UNDER ITS OWN EMPLOYER NUMBER AND RATE. THE ELECTION TO
8 REPORT UNDER THIS SUBDIVISION SHALL APPLY TO ALL COMMONLY OWNED,
9 MANAGED, AND CONTROLLED ENTITIES OF THE PEO. IN ADDITION, A PEO
10 THAT OPERATES UNDER THIS SUBDIVISION SHALL DO ALL OF THE FOLLOWING:

11 (i) WITHIN 30 DAYS AFTER THE INCEPTION OF EACH NEW PEO
12 AGREEMENT, PROVIDE THE UNEMPLOYMENT AGENCY WITH THE NAME AND
13 EMPLOYER IDENTIFICATION NUMBER OF EACH CLIENT UNDER THE AGREEMENT.
14 INCLUDE A LIST OF ANY ACTIVE OR INACTIVE UNEMPLOYMENT INSURANCE
15 ACCOUNT NUMBER ASSOCIATED WITH THAT CLIENT AND AN EXPLANATION OF
16 ANY CLIENT ACCOUNT THAT WILL REMAIN OPEN.

17 (ii) WITHIN 30 DAYS AFTER THE TERMINATION OF A SERVICE CONTRACT
18 WITH A CLIENT, PROVIDE THE UNEMPLOYMENT AGENCY WITH THE NAME AND
19 EMPLOYER IDENTIFICATION NUMBER OF EACH CLIENT SEPARATED UNDER THE
20 TERMINATED AGREEMENT AND THE DATE OF THE SEPARATION.

21 (iii) BY MARCH 31, 2009, PROVIDE THE UNEMPLOYMENT AGENCY WITH
22 THE NAME AND EMPLOYER IDENTIFICATION NUMBER OF EACH EXISTING
23 CLIENT. INCLUDE A LIST OF ANY ACTIVE OR INACTIVE UNEMPLOYMENT
24 INSURANCE ACCOUNT NUMBER ASSOCIATED WITH THAT CLIENT AND AN
25 EXPLANATION OF ANY CLIENT ACCOUNT THAT WILL REMAIN OPEN.

26 (2) IF A PEO THAT REPORTS AS PROVIDED IN SUBSECTION (1) (B) IS
27 A MEMBER OF A LICENSED PEO GROUP THAT REPORTS PAYROLL FOR CLIENT

1 COMPANIES ON MULTIPLE UNEMPLOYMENT INSURANCE ACCOUNT NUMBERS, THE
2 PEO SHALL DO ALL OF THE FOLLOWING:

3 (A) NOTIFY THE UNEMPLOYMENT AGENCY WITHIN 30 DAYS AFTER ANY
4 TRANSFER OF EMPLOYEES BETWEEN UNEMPLOYMENT INSURANCE ACCOUNTS. THE
5 NOTICE SHALL BE ON FORMS PRESCRIBED BY THE UNEMPLOYMENT AGENCY FOR
6 PURPOSES OF TRANSFERRING EXPERIENCE AND SHALL INCLUDE THE
7 UNEMPLOYMENT INSURANCE ACCOUNT NUMBERS INVOLVED IN THE TRANSFER,
8 THE CLIENT NAME, AND THE WORKSITE EMPLOYEES THAT HAVE BEEN
9 TRANSFERRED BETWEEN THE ACCOUNTS.

10 (B) CERTIFY QUARTERLY TO THE UNEMPLOYMENT AGENCY THAT NO
11 EMPLOYEES HAVE BEEN TRANSFERRED BETWEEN ACCOUNTS UNLESS THE
12 EXPERIENCE HAS ALSO BEEN TRANSFERRED AND THE UNEMPLOYMENT AGENCY
13 HAS BEEN NOTIFIED OF THE TRANSFER.

14 (C) POST AND MAINTAIN A SURETY BOND ISSUED BY A CORPORATE
15 SURETY ENTITY AUTHORIZED TO DO BUSINESS IN THIS STATE IN AN AMOUNT
16 SET BY THE UNEMPLOYMENT AGENCY NOT TO EXCEED 1/12 OF THE
17 UNEMPLOYMENT INSURANCE TAX CONTRIBUTIONS OR PAYMENTS IN LIEU OF
18 CONTRIBUTIONS FOR WHICH THE PEO WAS LIABLE IN THE LAST CALENDAR
19 YEAR. IN LIEU OF THE SURETY BOND, THE PEO MAY DO 1 OF THE
20 FOLLOWING:

21 (i) DEPOSIT IN A DEPOSITORY, SECURITIES WITH A MARKET VALUE
22 EQUIVALENT TO THE AMOUNT REQUIRED FOR THE SURETY BOND UNDER THIS
23 SUBDIVISION. THE SECURITIES SHALL INCLUDE AUTHORIZATION TO THE
24 UNEMPLOYMENT AGENCY TO SELL ANY SECURITIES IN AN AMOUNT SUFFICIENT
25 TO PAY DELINQUENT CONTRIBUTIONS.

26 (ii) PROVIDE THE UNEMPLOYMENT AGENCY WITH AN IRREVOCABLE LETTER
27 OF CREDIT ISSUED BY A STATE OR FEDERALLY CHARTERED FINANCIAL

1 INSTITUTION IN AN AMOUNT EQUAL TO THE AMOUNT REQUIRED FOR A SURETY
2 BOND UNDER THIS SUBDIVISION.

3 (iii) PROVIDE A CERTIFICATE OF DEPOSIT ISSUED BY A STATE OR
4 FEDERALLY CHARTERED FINANCIAL INSTITUTION IN AN AMOUNT REQUIRED FOR
5 A SURETY BOND UNDER THIS SUBDIVISION AND PLEDGED TO THE
6 UNEMPLOYMENT AGENCY.

7 (iv) PROVIDE SUFFICIENT EVIDENCE THAT THE PEO HAS BEEN
8 ACCREDITED BY A BONDED, INDEPENDENT, AND QUALIFIED ASSURANCE
9 ORGANIZATION APPROVED BY THE DIRECTOR THAT PROVIDES SATISFACTORY
10 ASSURANCE OF COMPLIANCE ACCEPTABLE TO THE UNEMPLOYMENT AGENCY.

11 (3) UPON WRITTEN REQUEST BY THE PEO AND WRITTEN APPROVAL OF
12 THE UNEMPLOYMENT AGENCY, A PEO MAY CHANGE FROM REPORTING UNDER
13 SUBSECTION (1) (B) TO REPORTING AS PROVIDED UNDER SUBSECTION (1) (A).
14 A PEO THAT HAS ELECTED TO REPORT AS PROVIDED IN SUBSECTION (1) (A)
15 SHALL NOT CHANGE ITS REPORTING METHOD.

16 (4) A REPORT REQUIRED UNDER THIS ACT MAY BE SUBMITTED
17 ELECTRONICALLY.

18 (5) THE REQUIREMENTS IN THIS SECTION DO NOT PRECLUDE THE
19 UNEMPLOYMENT AGENCY FROM ENFORCING ANY PROVISION OF THIS ACT BASED
20 ON ANY ACT OR OMISSION BY A PEO THAT OCCURRED BEFORE JANUARY 1,
21 2009.

22 (6) AS USED IN THIS SECTION:

23 (A) "COVERED EMPLOYEE" MEANS AN INDIVIDUAL PROVIDING SERVICES
24 TO A CLIENT ORGANIZATION UNDER A PROFESSIONAL EMPLOYER AGREEMENT
25 WITH A PEO AS PROVIDED IN THE MICHIGAN PROFESSIONAL EMPLOYER
26 AGREEMENT REGULATION ACT.

27 (B) "PROFESSIONAL EMPLOYER ORGANIZATION" OR "PEO" MEANS THAT

1 TERM AS DEFINED IN SECTION 3 OF THE MICHIGAN PROFESSIONAL EMPLOYER
2 AGREEMENT REGULATORY ACT.

3 Enacting section 1. This amendatory act takes effect January
4 1, 2009.

5 Enacting section 2. This amendatory act does not take effect
6 unless Senate Bill No.____ or House Bill No.____ (request no.
7 07735'08) of the 94th Legislature is enacted into law.