

Act No. 383
Public Acts of 2010
Approved by the Governor
December 22, 2010
Filed with the Secretary of State
December 22, 2010
EFFECTIVE DATE: January 1, 2011

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Senators Allen, Barcia and Cropsey

ENROLLED SENATE BILL No. 1038

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," (MCL 421.1 to 421.75) by adding section 13m.

The People of the State of Michigan enact:

Sec. 13m. (1) A professional employer organization that has not previously filed shall file a report with the agency in accordance with R 421.121 and R 421.190 of the Michigan administrative code for a determination of its status as a liable employing unit and employer under this act. A PEO determined to be a liable employer shall complete an electronic employer registration in the manner approved by the agency to register its employer liability.

(2) Except as provided in subdivision (b), a PEO that is a liable employer shall use the following method for reporting wages and paying unemployment contributions under this act:

(a) The PEO shall comply with all requirements of this act that apply to a contributing employer. The PEO shall file a single quarterly wage report and unemployment contribution report and pay contributions of its client employers based on the account information of each client employer. The unemployment agency shall convert a reimbursing employer to a contributing employer beginning with the calendar quarter in which the employer becomes a client employer of a PEO. The PEO shall file reports required under R 421.121 of the Michigan administrative code and make contribution payments by electronic reporting and payment methods approved by the agency. The PEO shall notify the agency within 30 days after any employer becomes its client employer and within 30 days after any client employer

discontinues its association with the PEO. All of the following apply to a rate calculation for client employers of the PEO:

(i) For a client employer that is a contributing employer and was a client employer of the PEO on the date that the PEO changed to the reporting method provided in this subdivision, the following rates apply:

(A) Except as provided in sub-subparagraphs (B) and (C), if the client employer reported no employees or no payroll to the agency for 8 or more quarters, the client employer's unemployment tax rate will be the new employer tax rate.

(B) If the client employer was a client employer of the PEO for less than 8 full calendar quarters, the client employer's unemployment tax rate will be based on the client employer's prior account and experience.

(C) If the client employer's account has been terminated for more than 1 year or if the client employer never previously registered with the agency, the client shall be separately registered using a method approved by the agency within 30 days after the employer becomes a client employer of the PEO. The client employer shall be assigned the new employer unemployment tax rate.

(ii) A business entity that is a contributing employer and becomes a client employer of the PEO on or after January 1, 2011 shall retain its existing unemployment tax rate or establish a new rate as provided in section 19.

(b) A PEO that is a liable employer and that was operating in this state before January 1, 2011 may elect and use the reporting method in subdivision (a) before January 1, 2014, but shall report using the method in subdivision (a) on and after January 1, 2014.

(3) A PEO that is a liable employer is the employer for purposes of claims management and hearings under this act on behalf of the client employer.

(4) A PEO that reports under subsection (2)(a) shall confirm the mailing address of the client employer, which may be stated as that of the PEO or of the client employer. The PEO shall disclose the business address of the client employer, which shall be the physical address of the client employer, to the agency.

(5) Either the PEO that reports under subsection (2)(a) or the PEO's client employers, but not both, shall file a quarterly wage detail report electronically, and shall file a quarterly contribution payment in a manner approved by the agency.

(6) The agency shall issue a FUTA certification in accordance with the internal revenue code of 1986, 26 USC 1 to 9834, and regulations, rulings, instructions, and directives of the internal revenue service.

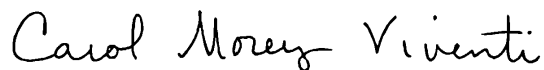
(7) The requirements of this section do not preclude the agency from enforcing any provision of this act based on any act or omission by a PEO that occurred before January 1, 2011.

(8) As used in this section, "professional employer organization" or "PEO" means that term as defined in R 421.190(1)(d) of the Michigan administrative code.

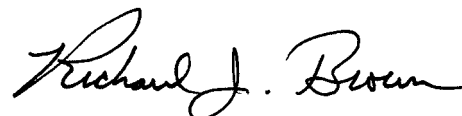
Enacting section 1. This amendatory act takes effect January 1, 2011.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1037 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor

Compiler's note: Senate Bill No. 1037, referred to in enacting section 2, was filed with the Secretary of State December 22, 2010, and became 2010 PA 370, Eff. July 1, 2011.