

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1038

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 THAT HAS
2 NOT PREVIOUSLY FILED SHALL FILE A REPORT WITH THE AGENCY IN
3 ACCORDANCE WITH R 421.121 AND R 421.190 OF THE MICHIGAN
4 ADMINISTRATIVE CODE FOR A DETERMINATION OF ITS STATUS AS A LIABLE
5 EMPLOYING UNIT AND EMPLOYER UNDER THIS ACT. A PEO DETERMINED TO BE
6 A LIABLE EMPLOYER SHALL COMPLETE AN ELECTRONIC EMPLOYER
7 REGISTRATION IN THE MANNER APPROVED BY THE AGENCY TO REGISTER ITS
8 EMPLOYER LIABILITY.
9 (2) EXCEPT AS PROVIDED IN SUBDIVISION (B), A PEO THAT IS A
10 LIABLE EMPLOYER SHALL USE THE FOLLOWING METHOD FOR REPORTING WAGES

1 AND PAYING UNEMPLOYMENT CONTRIBUTIONS UNDER THIS ACT:

2 (A) THE PEO SHALL COMPLY WITH ALL REQUIREMENTS OF THIS ACT
3 THAT APPLY TO A CONTRIBUTING EMPLOYER. THE PEO SHALL FILE A SINGLE
4 QUARTERLY WAGE REPORT AND UNEMPLOYMENT CONTRIBUTION REPORT AND PAY
5 CONTRIBUTIONS OF ITS CLIENT EMPLOYERS BASED ON THE ACCOUNT
6 INFORMATION OF EACH CLIENT EMPLOYER. THE UNEMPLOYMENT AGENCY SHALL
7 CONVERT A REIMBURSING EMPLOYER TO A CONTRIBUTING EMPLOYER BEGINNING
8 WITH THE CALENDAR QUARTER IN WHICH THE EMPLOYER BECOMES A CLIENT
9 EMPLOYER OF A PEO. THE PEO SHALL FILE REPORTS REQUIRED UNDER R
10 421.121 OF THE MICHIGAN ADMINISTRATIVE CODE AND MAKE CONTRIBUTION
11 PAYMENTS BY ELECTRONIC REPORTING AND PAYMENT METHODS APPROVED BY
12 THE AGENCY. THE PEO SHALL NOTIFY THE AGENCY WITHIN 30 DAYS AFTER
13 ANY EMPLOYER BECOMES ITS CLIENT EMPLOYER AND WITHIN 30 DAYS AFTER
14 ANY CLIENT EMPLOYER DISCONTINUES ITS ASSOCIATION WITH THE PEO. ALL
15 OF THE FOLLOWING APPLY TO A RATE CALCULATION FOR CLIENT EMPLOYERS
16 OF THE PEO:

17 (i) FOR A CLIENT EMPLOYER THAT IS A CONTRIBUTING EMPLOYER AND
18 WAS A CLIENT EMPLOYER OF THE PEO ON THE DATE THAT THE PEO CHANGED
19 TO THE REPORTING METHOD PROVIDED IN THIS SUBDIVISION, THE FOLLOWING
20 RATES APPLY:

21 (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPHS (B) AND (C), IF
22 THE CLIENT EMPLOYER REPORTED NO EMPLOYEES OR NO PAYROLL TO THE
23 AGENCY FOR 8 OR MORE QUARTERS, THE CLIENT EMPLOYER'S UNEMPLOYMENT
24 TAX RATE WILL BE THE NEW EMPLOYER TAX RATE.

25 (B) IF THE CLIENT EMPLOYER WAS A CLIENT EMPLOYER OF THE PEO
26 FOR LESS THAN 8 FULL CALENDAR QUARTERS, THE CLIENT EMPLOYER'S
27 UNEMPLOYMENT TAX RATE WILL BE BASED ON THE CLIENT EMPLOYER'S PRIOR

1 ACCOUNT AND EXPERIENCE.

2 (C) IF THE CLIENT EMPLOYER'S ACCOUNT HAS BEEN TERMINATED FOR
3 MORE THAN 1 YEAR OR IF THE CLIENT EMPLOYER NEVER PREVIOUSLY
4 REGISTERED WITH THE AGENCY, THE CLIENT SHALL BE SEPARATELY
5 REGISTERED USING A METHOD APPROVED BY THE AGENCY WITHIN 30 DAYS
6 AFTER THE EMPLOYER BECOMES A CLIENT EMPLOYER OF THE PEO. THE CLIENT
7 EMPLOYER SHALL BE ASSIGNED THE NEW EMPLOYER UNEMPLOYMENT TAX RATE.

8 (ii) A BUSINESS ENTITY THAT IS A CONTRIBUTING EMPLOYER AND
9 BECOMES A CLIENT EMPLOYER OF THE PEO ON OR AFTER JANUARY 1, 2011
10 SHALL RETAIN ITS EXISTING UNEMPLOYMENT TAX RATE OR ESTABLISH A NEW
11 RATE AS PROVIDED IN SECTION 19.

12 (B) A PEO THAT IS A LIABLE EMPLOYER AND THAT WAS OPERATING IN
13 THIS STATE BEFORE JANUARY 1, 2011 MAY ELECT AND USE THE REPORTING
14 METHOD IN SUBDIVISION (A) BEFORE JANUARY 1, 2014, BUT SHALL REPORT
15 USING THE METHOD IN SUBDIVISION (A) ON AND AFTER JANUARY 1, 2014.

16 (3) A PEO THAT IS A LIABLE EMPLOYER IS THE EMPLOYER FOR
17 PURPOSES OF CLAIMS MANAGEMENT AND HEARINGS UNDER THIS ACT ON BEHALF
18 OF THE CLIENT EMPLOYER.

19 (4) A PEO THAT REPORTS UNDER SUBSECTION (2) (A) SHALL CONFIRM
20 THE MAILING ADDRESS OF THE CLIENT EMPLOYER, WHICH MAY BE STATED AS
21 THAT OF THE PEO OR OF THE CLIENT EMPLOYER. THE PEO SHALL DISCLOSE
22 THE BUSINESS ADDRESS OF THE CLIENT EMPLOYER, WHICH SHALL BE THE
23 PHYSICAL ADDRESS OF THE CLIENT EMPLOYER, TO THE AGENCY.

24 (5) EITHER THE PEO THAT REPORTS UNDER SUBSECTION (2) (A) OR THE
25 PEO'S CLIENT EMPLOYERS, BUT NOT BOTH, SHALL FILE A QUARTERLY WAGE
26 DETAIL REPORT ELECTRONICALLY, AND SHALL FILE A QUARTERLY
27 CONTRIBUTION PAYMENT IN A MANNER APPROVED BY THE AGENCY.

1 (6) THE AGENCY SHALL ISSUE A FUTA CERTIFICATION IN ACCORDANCE
2 WITH THE INTERNAL REVENUE CODE OF 1986, 26 USC 1 TO 9834, AND
3 REGULATIONS, RULINGS, INSTRUCTIONS, AND DIRECTIVES OF THE INTERNAL
4 REVENUE SERVICE.

5 (7) THE REQUIREMENTS OF THIS SECTION DO NOT PRECLUDE THE
6 AGENCY FROM ENFORCING ANY PROVISION OF THIS ACT BASED ON ANY ACT OR
7 OMISSION BY A PEO THAT OCCURRED BEFORE JANUARY 1, 2011.

8 (8) AS USED IN THIS SECTION, "PROFESSIONAL EMPLOYER
9 ORGANIZATION" OR "PEO" MEANS THAT TERM AS DEFINED IN R
10 421.190(1)(D) OF THE MICHIGAN ADMINISTRATIVE CODE.

11 Enacting section 1. This amendatory act takes effect January
12 1, 2011.

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