

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 (PEO) SHALL
2 ELECT AND USE ONLY 1 OF THE REPORTING METHODS DESCRIBED IN
3 SUBDIVISIONS (A) AND (B) FOR EMPLOYER REPORTING AND CONTRIBUTIONS
4 REQUIRED UNDER THIS ACT. ALL PEOS THAT ARE COMMONLY OWNED, MANAGED,
5 OR CONTROLLED SHALL ELECT AND USE THE SAME REPORTING METHOD. EXCEPT
6 AS PROVIDED IN SUBSECTION (3), THE REPORTING METHOD ELECTED UNDER
7 THIS SECTION SHALL APPLY TO ALL SUBSEQUENT TAX YEARS. THE REPORTING
8 METHODS ARE AS FOLLOWS:

9 (A) CLIENT-BASED REPORTING. THE PEO SHALL FILE A QUARTERLY
10 WAGE REPORT AND UNEMPLOYMENT CONTRIBUTION REPORT OR REIMBURSING

1 EMPLOYER QUARTERLY PAYROLL REPORT AS THE EMPLOYER OF ITS COVERED
2 EMPLOYEES BASED ON THE ACCOUNT INFORMATION OF EACH CLIENT EMPLOYER.
3 THE PEO SHALL PROVIDE THE UNEMPLOYMENT AGENCY WITH A SCHEDULE
4 LISTING THE COVERED EMPLOYEES AND UNEMPLOYMENT INSURANCE EMPLOYER
5 ACCOUNT NUMBER OF EACH CLIENT EMPLOYER AS A PART OF EACH REPORT.
6 EACH CALENDAR QUARTER IN THE MANNER REQUIRED BY R 421.121 OF THE
7 MICHIGAN ADMINISTRATIVE CODE, THE PEO SHALL PAY THE UNEMPLOYMENT
8 AGENCY THE TOTAL AMOUNT DUE FROM ALL OF ITS CLIENT EMPLOYERS FOR
9 COVERED EMPLOYEES, BASED ON THE INDIVIDUAL CONTRIBUTION PAYMENTS OR
10 REIMBURSEMENT PAYMENTS IN LIEU OF CONTRIBUTIONS, ITEMIZED BY CLIENT
11 EMPLOYER ACCOUNT NUMBER. A PEO SHALL NOTIFY THE UNEMPLOYMENT AGENCY
12 WITHIN 30 DAYS AFTER ANY EMPLOYER BECOMES A CLIENT OF THE PEO AND
13 WITHIN 30 DAYS AFTER THE PEO DISCONTINUES AN ASSOCIATION WITH A
14 CLIENT EMPLOYER. IN ADDITION, ALL OF THE FOLLOWING APPLY TO A PEO
15 AND REPORTS UNDER THIS SUBDIVISION:

16 (i) NOTWITHSTANDING THE RATES ESTABLISHED IN SECTION 19, THE
17 FOLLOWING RATES APPLY TO A BUSINESS ENTITY THAT IS A CONTRIBUTING
18 EMPLOYER AND WAS A CLIENT EMPLOYER OF THE PEO ON THE DATE THAT THE
19 PEO CHANGED TO CLIENT-BASED REPORTING, OR A CLIENT THAT TRANSFERS
20 FROM A PEO THAT ELECTED PEO-BASED REPORTING TO A PEO THAT ELECTED
21 CLIENT-BASED REPORTING:

22 (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPHS (B) AND (C), THE
23 CONTRIBUTION RATE OF THE CLIENT EMPLOYER FOR THE NEXT 2 SUCCEEDING
24 TAX YEARS SHALL BE THE GREATER OF THE CLIENT EMPLOYER'S MOST
25 RECENTLY CALCULATED CONTRIBUTION RATE DURING THE 24 CALENDAR
26 QUARTERS IMMEDIATELY BEFORE BECOMING A CLIENT OF THE PEO OR 2.7%.
27 THE RATE FOR THE THIRD AND SUBSEQUENT YEARS SHALL BE CALCULATED AS

1 IF THE CLIENT EMPLOYER HAD MORE THAN 4 CONSECUTIVE YEARS OF
2 LIABILITY AS PROVIDED IN SECTION 19.

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

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

26 (ii) A BUSINESS ENTITY THAT BECOMES A CLIENT EMPLOYER OF A PEO
27 ON OR AFTER JANUARY 1, 2011 SHALL RETAIN ITS EXISTING CONTRIBUTION

1 RATE OR ESTABLISH A NEW RATE AS PROVIDED IN SECTION 19, IF THE
2 CLIENT EMPLOYER IS A CONTRIBUTING EMPLOYER.

3 (B) PEO-BASED REPORTING. THE PEO SHALL MAKE QUARTERLY REPORTS
4 AND PAYMENTS OF CONTRIBUTIONS, PENALTIES, AND INTEREST ON WAGES FOR
5 COVERED EMPLOYEES UNDER ITS OWN EMPLOYER NUMBER AND RATE. A PEO
6 THAT ELECTS PEO-BASED REPORTING SHALL ALSO DO ALL OF THE FOLLOWING:

7 (i) WITHIN 30 DAYS AFTER THE INCEPTION OF EACH NEW PROFESSIONAL
8 EMPLOYER AGREEMENT, PROVIDE THE UNEMPLOYMENT AGENCY WITH THE NAME
9 AND EMPLOYER IDENTIFICATION NUMBER OF THE NEW CLIENT EMPLOYER.
10 INCLUDE A LIST OF EACH ACTIVE OR INACTIVE EMPLOYMENT INSURANCE
11 ACCOUNT NUMBER ASSOCIATED WITH THAT CLIENT EMPLOYER AND AN
12 EXPLANATION OF EACH CLIENT EMPLOYMENT INSURANCE ACCOUNT THAT WILL
13 REMAIN OPEN.

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

19 (iii) IF THE PEO IS OPERATING IN THIS STATE ON JANUARY 1, 2011,
20 BY MARCH 31, 2011 PROVIDE THE UNEMPLOYMENT AGENCY WITH THE NAME AND
21 EMPLOYER IDENTIFICATION NUMBER OF EACH OF ITS CURRENT CLIENT
22 EMPLOYERS, INCLUDING EACH ACTIVE OR INACTIVE UNEMPLOYMENT INSURANCE
23 ACCOUNT NUMBER ASSOCIATED WITH EACH CLIENT EMPLOYER AND AN
24 EXPLANATION OF EACH CLIENT EMPLOYER ACCOUNT THAT WILL REMAIN OPEN.

25 (2) A PEO THAT IS OPERATING IN THIS STATE ON JANUARY 1, 2011
26 AND IS NEITHER FULLY EXPERIENCE RATED AS PROVIDED IN SECTION 19 NOR
27 UNDER COMMON OWNERSHIP, MANAGEMENT, OR CONTROL WITH ANOTHER PEO

1 THAT IS FULLY EXPERIENCE RATED SHALL REPORT USING THE REPORTING
2 METHOD IN SUBSECTION (1) (A) .

3 (3) A PEO THAT IS USING PEO-BASED REPORTING IN THIS STATE ON
4 JANUARY 1, 2011 SHALL NOT ELECT AND USE THE CLIENT-BASED REPORTING
5 METHOD BEFORE THE YEAR 2013 UNLESS IT SUBMITS AN AFFIDAVIT MAKING
6 THE ELECTION TO THE UNEMPLOYMENT INSURANCE AGENCY BY FEBRUARY 15 OF
7 THE YEAR FOR WHICH IT INTENDS TO USE THAT METHOD.

8 (4) A REPORT REQUIRED UNDER THIS ACT MAY BE SUBMITTED
9 ELECTRONICALLY.

10 (5) THE REQUIREMENTS IN THIS SECTION DO NOT PRECLUDE THE
11 UNEMPLOYMENT AGENCY FROM ENFORCING ANY PROVISION OF THIS ACT BASED
12 ON ANY ACT OR OMISSION BY A PEO THAT OCCURRED BEFORE JANUARY 1,
13 2011.

14 (6) AS USED IN THIS SECTION, "COVERED EMPLOYEE", "PROFESSIONAL
15 EMPLOYER AGREEMENT", AND "PEO" OR "PROFESSIONAL EMPLOYER
16 ORGANIZATION" MEAN THOSE TERMS AS DEFINED IN SECTION 3 OF THE
17 MICHIGAN PROFESSIONAL EMPLOYER ORGANIZATION REGULATORY ACT.

18 Enacting section 1. This amendatory act takes effect January
19 1, 2011.

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