

SENATE BILL No. 400

March 19, 2009, Introduced by Senator STAMAS and referred to the Committee on Commerce and Tourism.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 20 (MCL 421.20), as amended by 2008 PA 479.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20. (a) Benefits paid shall be charged against the
2 employer's account as of the quarter in which the payments are
3 made. If the bureau determines that any benefits charged against an
4 employer's account were improperly paid, an amount equal to the
5 charge based on those benefits shall be credited to the employer's
6 account and a corresponding charge shall be made to the
7 nonchargeable benefits account as of the current period or, in the
8 discretion of the bureau, as of the date of the charge. Benefits
9 paid to an individual as a result of an employer's failure to

1 provide the unemployment agency with separation, employment, and
2 wage data as required by section 32 shall be considered as benefits
3 properly paid to the extent that the benefits are chargeable to the
4 noncomplying employer.

5 (b) For benefit years established before October 1, 2000,
6 benefits paid to an individual shall be based upon the credit weeks
7 earned during the individual's base period and shall be charged
8 against the experience accounts of the contributing employers or
9 charged to the accounts of the reimbursing employers from whom the
10 individual earned credit weeks. If the individual earned credit
11 weeks from more than 1 employer, a separate determination shall be
12 made of the amount and duration of benefits based upon the total
13 credit weeks and wages earned with each employer. Benefits paid in
14 accordance with the determinations shall be charged against the
15 experience account of a contributing employer or charged to the
16 account of a reimbursing employer beginning with the most recent
17 employer first and thereafter as necessary against other base
18 period employers in inverse order to that in which the claimant
19 earned his or her last credit week with those employers. If there
20 is any disqualifying act or discharge under section 29(1) with an
21 employer, benefits based upon credit weeks earned from that
22 employer before the disqualifying act or discharge shall be charged
23 only after the exhaustion of charges as provided above. Benefits
24 based upon those credit weeks shall be charged first against the
25 experience account of the contributing employer involved or to the
26 account of the reimbursing employer involved in the most recent
27 disqualifying act or discharge and thereafter as necessary in

1 similar inverse order against other base period employers involved
2 in disqualifying acts or discharges. The order of charges
3 determined as of the beginning date of a benefit year shall remain
4 fixed during the benefit year. For benefit years established on or
5 after October 1, 2000, the claimant's full weekly benefit rate
6 shall be charged to the account or experience account of the
7 claimant's most recent separating employer for each of the first 2
8 weeks of benefits payable to the claimant in the benefit year in
9 accordance with the monetary determination issued pursuant to
10 section 32. However, if the total sum of wages paid by an employer
11 totals \$200.00 or less, those wages shall be used for purposes of
12 benefit payment, but any benefit charges attributable to those
13 wages shall be charged to the nonchargeable benefits account.
14 Thereafter, remaining weeks of benefits payable in the benefit year
15 shall be paid in accordance with the monetary determination and
16 shall be charged proportionally to all base period employers, with
17 the charge to each base period employer being made on the basis of
18 the ratio that total wages paid by the employer in the base period
19 bears to total wages paid by all employers in the base period.
20 However, if the claimant did not perform services for the most
21 recent separating employer or employing entity and receive earnings
22 for performing the services of at least the amount a claimant must
23 earn, in the manner prescribed in section 29(3), to requalify for
24 benefits following a disqualification under section 29(1)(a), (b),
25 (i), or (k) during the claimant's most recent period of employment
26 with the employer or employing entity, then all weeks of benefits
27 payable in the benefit year shall be charged proportionally to all

1 base period employers, with the charge to each base period employer
2 being made on the basis of the ratio that total wages paid by the
3 employer in the base period bears to total wages paid by all
4 employers in the base period. If the claimant performed services
5 for the most recent separating employing entity and received
6 earnings for performing the services of at least the amount a
7 claimant must earn, in the manner prescribed in section 29(3), to
8 requalify for benefits following a disqualification under section
9 29(1)(a), (b), (i), or (k) during the claimant's most recent period
10 of employment for the employing entity but the separating employing
11 entity was not a liable employer, the first 2 weeks of benefits
12 payable to the claimant shall be charged proportionally to all base
13 period employers, with the charge to each base period employer made
14 on the basis of the ratio that total wages paid by the employer in
15 the base period bears to total wages paid by all employers in the
16 base period. The "separating employer" is the employer that caused
17 the individual to be unemployed as defined in section 48.

18 (c) For benefit years established before October 1, 2000, and
19 except as otherwise provided in section 11(d) or (g) or section
20 46a, the charges for regular benefits to any reimbursing employer
21 or to any contributing employer's experience account shall not
22 exceed the weekly benefit rate multiplied by $\frac{3}{4}$ the number of
23 credit weeks earned by the individual during his or her base period
24 from that employer. If the resultant product is not an even
25 multiple of $\frac{1}{2}$ the weekly benefit rate, the amount shall be raised
26 to an amount equal to the next higher multiple of $\frac{1}{2}$ the weekly
27 benefit rate, and in the case of an individual who was employed by

1 only 1 employer in his or her base period and who earned 34 credit
2 weeks with that employer, the product shall be raised to the next
3 higher multiple of the weekly benefit rate.

4 (d) For benefit years beginning on or after October 1, 2000,
5 and except as otherwise provided in section 11(d) or (g) or section
6 46, the charges for regular benefits to any reimbursing employer's
7 account or to any contributing employer's experience account shall
8 not exceed either the amount derived by multiplying by 2 the weekly
9 benefit rate chargeable to the employer in accordance with
10 subsection (b) if the employer is the separating employer and is
11 chargeable for the first 2 weeks of benefits, or the amount derived
12 from the percentage of the weekly benefit rate chargeable to the
13 employer in accordance with subsection (b), multiplied by the
14 number of weeks of benefits chargeable to base period employers
15 based on base period wages, to which the individual is entitled as
16 provided in section 27(d), if the employer is a base period
17 employer, or both of these amounts if the employer was both the
18 chargeable separating employer and a base period employer.

19 (e) For benefit years beginning before October 1, 2000:

20 (1) If an individual has multiemployer credit weeks in his or
21 her base period, and if it becomes necessary to use those credit
22 weeks as a basis for benefit payments, a single determination shall
23 be made of the individual's weekly benefit rate and maximum amount
24 of benefits based on the individual's multiemployer credit weeks
25 and the wages earned in those credit weeks. Each employer involved
26 in the individual's multiemployer credit weeks shall be an
27 interested party to the determination. The proviso in section 29(2)

1 does not apply to multiemployer credit weeks, nor does the
2 reduction provision of section 29(4) apply to benefit entitlement
3 based upon those credit weeks.

4 (2) The charge for benefits based on multiemployer credit
5 weeks shall be allocated to each employer involved on the basis of
6 the ratio that the total wages earned during the total
7 multiemployer credit weeks counted under section 50(b) with the
8 employer bears to the total amount of wages earned during the total
9 multiemployer credit weeks counted under section 50(b) with all
10 such employers, computed to the nearest cent. However, if an
11 adjusted weekly benefit rate is determined in accordance with
12 section 27(f), the charge to the employer who has contributed to
13 the financing of the retirement plan shall be reduced by the same
14 amount by which the weekly benefit rate was adjusted under section
15 27(f). Benefits for a week of unemployment allocated under this
16 subsection to a contributing employer shall be charged to the
17 nonchargeable benefits account if the claimant during that week
18 earns remuneration with that employer that equals or exceeds the
19 amount of benefits allocated to that employer.

20 (3) Benefits paid in accordance with the determination based
21 on multiemployer credit weeks shall be allocated to each employer
22 involved and charged as of the quarter in which the payments are
23 made. Notice of charges made under this subsection shall be given
24 to each employer by means of a current listing of charges, at least
25 weekly, or of a quarterly statement of charges. The listing or
26 statement shall specify the weeks for which benefits were paid
27 based on multiemployer credit weeks and the amount of benefits paid

1 chargeable to that employer for each week. The notice shall be
2 considered to satisfy the requirements of sections 21(a) and 32(d)
3 that notification be given each employer of benefits charged
4 against that employer's account by means of a copy or listing of
5 the benefit check, and all protest and appeal rights applicable to
6 benefit check copies or listings shall also apply to the notice of
7 charges. If an employer receives both a current listing of charges
8 and a quarterly statement of charges under this subsection, all
9 protest and appeal rights shall only apply to the first notice
10 given.

11 (f) For benefit years beginning on or after October 1, 2000,
12 if benefits for a week of unemployment are charged to 2 or more
13 base period employers, the share of the benefits allocated and
14 charged under this section to a contributing employer shall be
15 charged to the nonchargeable benefits account if the claimant
16 during that week earns remuneration with that employer that equals
17 or exceeds the amount of benefits charged to that employer.

18 (g) For benefit years beginning before October 1, 2000:

19 (1) Training benefits as provided in section 27(g), and
20 extended benefits as provided in section 64, shall be allocated to
21 each reimbursing employer involved in the individual's base period
22 of the claim to which the benefits are related, on the basis of the
23 ratio that the total wages earned during the total credit weeks
24 counted under section 50(b) with a reimbursing employer bears to
25 the total amount of wages earned during the total credit weeks
26 counted under section 50(b) with all employers.

27 (2) Training benefits and extended benefits, to the extent

1 that they are not reimbursable by the federal government and have
2 been allocated to a reimbursing employer, shall be charged to that
3 reimbursing employer. A contributing employer's experience account
4 shall not be charged with training benefits. Training benefits
5 based on service with a contributing employer, to the extent that
6 they are not reimbursable by the federal government, shall be
7 charged to the nonchargeable benefits account. Extended benefits
8 paid and based on service with a contributing employer, to the
9 extent that they are not reimbursable by the federal government,
10 shall be charged to that employer's experience account.

11 (3) If the training benefits or extended benefits are
12 chargeable only to a single reimbursing employer, the benefits
13 shall be charged in accordance with subsection (a). If the training
14 benefits or extended benefits are chargeable to more than 1
15 reimbursing employer, or to 1 or more reimbursing employers and the
16 nonchargeable benefits account, the benefits shall be charged as of
17 the quarter in which the payments are made.

18 (4) Notice of charges made under this subsection shall be
19 given to each employer by means of a current listing of charges, at
20 least weekly, and subsequently by a quarterly summary statement of
21 charges. The listing shall specify the name and social security
22 number of each claimant paid benefits during the week, the weeks
23 for which the benefits were paid, and the amount of benefits
24 chargeable to that employer paid for each week. The quarterly
25 statement of charges shall list each claimant by name and social
26 security number and shall show total benefit payments chargeable to
27 that employer and made to each claimant during the calendar

1 quarter. The listing shall be considered to satisfy the
2 requirements of sections 21(a) and 32(d) that notification be given
3 each employer of benefits charged against that employer's account
4 by means of a listing of the benefit check. All protest and appeal
5 rights applicable to benefit check listings shall also apply to the
6 notice of charges. If an employer receives both a current listing
7 of charges and a quarterly statement of charges under this
8 subsection, all protest and appeal rights shall only apply to the
9 first notice given.

10 (h) For benefit years beginning on or after October 1, 2000:

11 (1) Training benefits as provided in section 27(g), and
12 extended benefits as provided in section 64, shall be charged to
13 each reimbursing employer in the base period of the claim to which
14 the benefits are related, on the basis of the ratio that the total
15 wages paid by a reimbursing employer during the base period bears
16 to the total wages paid by all reimbursing employers in the base
17 period.

18 (2) Training benefits, and extended benefits to the extent
19 they are not reimbursable by the federal government and have been
20 allocated to a reimbursing employer, shall be charged to that
21 reimbursing employer. A contributing employer's experience account
22 shall not be charged with training benefits. Training benefits
23 based on service with a contributing employer, to the extent they
24 are not reimbursable by the federal government, shall be charged to
25 the nonchargeable benefits account. ~~Except as provided in section~~
26 ~~17(3)(m), extended~~ **EXTENDED** benefits paid and based on service with
27 a contributing employer, to the extent they are not reimbursable by

1 the federal government, shall be charged to that employer's
2 experience account.

3 (3) If the training benefits or extended benefits are
4 chargeable only to a single reimbursing employer, the benefits
5 shall be charged in accordance with subsection (a). If the training
6 benefits or extended benefits are chargeable to more than 1
7 reimbursing employer, or to 1 or more reimbursing employers and the
8 nonchargeable benefits account, the benefits shall be charged as of
9 the quarter in which the payments are made.

10 (4) Notice of charges made under this subsection shall be
11 given to each employer by means of a current listing of charges, at
12 least weekly, and subsequently by a quarterly summary statement of
13 charges. The listing shall specify the name and social security
14 number of each claimant paid benefits in the week, the weeks for
15 which the benefits were paid, and the amount of benefits chargeable
16 to that employer paid for each week. The quarterly summary
17 statement of charges shall list each claimant by name and social
18 security number and shall show total benefit payments chargeable to
19 that employer and made to each claimant during the calendar
20 quarter. The listing shall be considered to satisfy the
21 requirements of sections 21(a) and 32(d) that notification be given
22 to each employer of benefits charged against that employer's
23 account by means of a listing of the benefit check. All protest and
24 appeal rights applicable to benefit check listings shall also apply
25 to the notice of charges. If an employer receives both a current
26 listing of charges and a quarterly summary statement of charges
27 under this subsection, all protest and appeal rights shall only

1 apply to the first notice given.

2 (i) If a benefit year is established on or after October 1,
3 2000, the portion of benefits paid in that benefit year that are
4 based on wages used to establish the immediately preceding benefit
5 year that began before October 1, 2000 shall not be charged to the
6 employer or employers who paid those wages but shall be charged
7 instead to the nonchargeable benefits account.

8 (j) For benefits years beginning after March 30, 2009,
9 benefits paid to a person who leaves employment to accompany a
10 spouse who is a full-time member of the United States armed forces
11 and is reassigned for military service in a different geographic
12 location are not chargeable to the employer, but shall be charged
13 to the nonchargeable benefits account.