

SENATE BILL No. 1038

December 17, 2009, Introduced by Senators ALLEN, BARCIA and CROPSEY and referred to the Committee on Commerce and Tourism.

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:

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

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

24 (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPHS (B) AND (C), THE
25 CONTRIBUTION RATE OF THE CLIENT EMPLOYER FOR THE NEXT 2 SUCCEEDING
26 TAX YEARS SHALL BE THE GREATER OF THE CLIENT EMPLOYER'S MOST
27 RECENTLY CALCULATED CONTRIBUTION RATE DURING THE 24 CALENDAR

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

5 (B) IF THE BUSINESS ENTITY WAS A CLIENT EMPLOYER OF THE PEO
6 FOR LESS THAN 8 FULL CALENDAR QUARTERS AND THE CLIENT EMPLOYER'S
7 MOST RECENTLY CALCULATED CONTRIBUTION RATE BEFORE BECOMING A CLIENT
8 EMPLOYER OF THE PEO WAS LESS THAN 2.7%, THE CONTRIBUTION RATE FOR
9 THE NEXT 2 SUCCEEDING TAX YEARS SHALL BE THE CLIENT EMPLOYER'S MOST
10 RECENTLY CALCULATED CONTRIBUTION RATE. THE RATE FOR THE THIRD AND
11 SUBSEQUENT YEARS SHALL BE CALCULATED AS IF THE CLIENT EMPLOYER HAD
12 MORE THAN 4 CONSECUTIVE YEARS OF LIABILITY AS PROVIDED IN SECTION
13 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 EMPLOYER OF THE PEO, THE CONTRIBUTION RATE FOR
17 THE NEXT 2 SUCCEEDING TAX YEARS SHALL BE 2.7%. IN THE THIRD
18 SUCCEEDING TAX YEAR, THE CLIENT EMPLOYER'S CONTRIBUTION RATE SHALL
19 BE 1/3 OF THE CLIENT EMPLOYER'S CHARGEABLE BENEFITS COMPONENT
20 CALCULATED UNDER SECTION 19 PLUS 1.8%. IN THE FOURTH SUCCEEDING TAX
21 YEAR, THE CLIENT EMPLOYER'S CONTRIBUTION RATE SHALL BE 2/3 OF THE
22 CLIENT EMPLOYER'S CHARGEABLE BENEFITS COMPONENT CALCULATED UNDER
23 SECTION 19 PLUS 1.0%. IN THE FIFTH AND SUBSEQUENT TAX YEARS, THE
24 CLIENT EMPLOYER'S CONTRIBUTION RATE SHALL BE THE CLIENT EMPLOYER'S
25 CHARGEABLE BENEFITS COMPONENT CALCULATED UNDER SECTION 19, PLUS THE
26 CLIENT EMPLOYER'S CALCULATED ACCOUNT BUILDING COMPONENT, PLUS THE
27 CLIENT 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, 2010 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) PEO-BASED REPORTING. THE PEO SHALL MAKE QUARTERLY REPORTS
6 AND PAYMENTS OF CONTRIBUTIONS, PENALTIES, AND INTEREST ON WAGES FOR
7 COVERED EMPLOYEES UNDER ITS OWN EMPLOYER NUMBER AND RATE. A PEO
8 THAT ELECTS PEO-BASED REPORTING SHALL ALSO DO ALL OF THE FOLLOWING:

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

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

21 (iii) IF THE PEO IS OPERATING IN THIS STATE ON JANUARY 1, 2010,
22 BY MARCH 31, 2010 PROVIDE THE UNEMPLOYMENT AGENCY WITH THE NAME AND
23 EMPLOYER IDENTIFICATION NUMBER OF EACH OF ITS CURRENT CLIENT
24 EMPLOYERS, INCLUDING EACH ACTIVE OR INACTIVE UNEMPLOYMENT INSURANCE
25 ACCOUNT NUMBER ASSOCIATED WITH EACH CLIENT EMPLOYER AND AN
26 EXPLANATION OF EACH CLIENT EMPLOYER ACCOUNT THAT WILL REMAIN OPEN.

27 (2) A PEO THAT IS OPERATING IN THIS STATE ON JANUARY 1, 2010

1 AND IS NEITHER FULLY EXPERIENCE RATED AS PROVIDED IN SECTION 19 NOR
2 UNDER COMMON OWNERSHIP, MANAGEMENT, OR CONTROL WITH ANOTHER PEO
3 THAT IS FULLY EXPERIENCE RATED SHALL REPORT USING THE REPORTING
4 METHOD IN SUBSECTION (1) (A) .

5 (3) A PEO THAT IS USING PEO-BASED REPORTING IN THIS STATE ON
6 JANUARY 1, 2010 SHALL NOT ELECT AND USE THE CLIENT-BASED REPORTING
7 METHOD BEFORE THE YEAR 2012 UNLESS IT SUBMITS AN AFFIDAVIT MAKING
8 THE ELECTION TO THE UNEMPLOYMENT INSURANCE AGENCY BY FEBRUARY 15 OF
9 THE YEAR FOR WHICH IT INTENDS TO USE THAT METHOD.

10 (4) A REPORT REQUIRED UNDER THIS ACT MAY BE SUBMITTED
11 ELECTRONICALLY.

12 (5) THE REQUIREMENTS IN THIS SECTION DO NOT PRECLUDE THE
13 UNEMPLOYMENT AGENCY FROM ENFORCING ANY PROVISION OF THIS ACT BASED
14 ON ANY ACT OR OMISSION BY A PEO THAT OCCURRED BEFORE JANUARY 1,
15 2010.

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

20 Enacting section 1. This amendatory act takes effect January
21 1, 2010.

22 Enacting section 2. This amendatory act does not take effect
23 unless Senate Bill No. 1037

24 of the 95th Legislature is enacted into law.