

HOUSE BILL No. 4260

February 16, 2011, Introduced by Reps. Byrum, Durhal, Brown, Stapleton, McCann, Smiley, Cavanagh, Ananich, Melton, Lane, Bledsoe, Switalski, Hobbs, Townsend, Hovey-Wright, Irwin, Bauer, Stallworth, Liss, Slavens, Darany, Rutledge, Talabi, Santana, Segal, Barnett, Womack, Constan, Lindberg, Nathan, Stanley, Lipton, Kandreas, Howze, Olumba and Oakes and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 64 (MCL 421.64), as amended by 2009 PA 19.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 64. (1)(a) Payment of extended benefits under this
2 section shall be made at the individual's weekly extended benefit
3 rate, for any week of unemployment that begins in the individual's
4 eligibility period, to each individual who is fully eligible and
5 not disqualified under this act, who has exhausted all rights to
6 regular benefits under this act, who is not seeking or receiving
7 benefits with respect to that week under the unemployment
8 compensation law of Canada, and who does not have rights to
9 benefits under the unemployment compensation law of any other state

1 or the United States or to compensation or allowances under any
2 other federal law, such as the trade expansion act, the automotive
3 products trade act, or the railroad unemployment insurance act;
4 however, if the individual is seeking benefits and the appropriate
5 agency finally determines that the individual is not entitled to
6 benefits under another law, the individual shall be considered to
7 have exhausted the right to benefits. For the purpose of the
8 preceding sentence, an individual shall have exhausted the right to
9 regular benefits under this section with respect to any week of
10 unemployment in the individual's eligibility period under either of
11 the following circumstances:

12 (i) When payments of regular benefits may not be made for that
13 week because the individual has received all regular benefits
14 available based on his or her employment or wages during the base
15 period for the current benefit year.

16 (ii) When the right to the benefits has terminated before that
17 week by reason of the expiration or termination of the benefit year
18 with respect to which the right existed; and the individual has no,
19 or insufficient, wages or employment to establish a new benefit
20 year. However, for purposes of this subsection, an individual shall
21 be considered to have exhausted the right to regular benefits with
22 respect to any week of unemployment in his or her eligibility
23 period when the individual may become entitled to regular benefits
24 with respect to that week or future weeks, but the benefits are not
25 payable at the time the individual claims extended benefits because
26 final action on a pending redetermination or on an appeal has not
27 yet been taken with respect to eligibility or qualification for the

1 regular benefits or when the individual may be entitled to regular
2 benefits with respect to future weeks of unemployment, but regular
3 benefits are not payable with respect to any week of unemployment
4 in his or her eligibility period by reason of seasonal limitations
5 in any state unemployment compensation law.

6 (b) Except where inconsistent with the provisions of this
7 section, the terms and conditions of this act that apply to claims
8 for regular benefits and to the payment of those benefits apply to
9 claims for extended benefits and to the payment of those benefits.

10 (c) An individual shall not be paid additional compensation
11 and extended compensation with respect to the same week. If an
12 individual is potentially eligible for both types of compensation
13 in this state with respect to the same week, the bureau may pay
14 extended compensation instead of additional compensation with
15 respect to the week. If an individual is potentially eligible for
16 extended compensation in 1 state and potentially eligible for
17 additional compensation for the same week in another state, the
18 individual may elect which of the 2 types of compensation to claim.

19 (2) The bureau shall establish, for each eligible individual
20 who files an application, an extended benefit account with respect
21 to that individual's benefit year. The amount established in the
22 account shall be determined as follows:

23 (a) If subdivision (b) does not apply, whichever of the
24 following is smaller:

25 (i) Fifty percent of the total amount of regular benefits
26 payable to the individual under this act during the benefit year.

27 (ii) Thirteen times the individual's weekly extended benefit

1 rate.

2 (b) With respect to a week beginning in a period in which the
3 average rate of total unemployment as described in subsection
4 (5)(c)(ii) equals or exceeds 8%, but no later than the end of the
5 week in which extended benefits payable under this section cease to
6 be funded under section 2005 of the American recovery and
7 reinvestment act of 2009, Public Law 111-5, whichever of the
8 following is smaller:

9 (i) Eighty percent of the total amount of regular benefits
10 payable to the individual under this act during the benefit year.

11 (ii) Twenty times the individual's weekly extended benefit
12 rate.

13 If an amount determined under this subsection is not an exact
14 multiple of 1/2 of the individual's weekly extended benefit rate,
15 the amount shall be decreased to the next lower such multiple.

16 (3) All of the following apply to an extended benefit period:

17 (a) The period begins with the third week after whichever of
18 the following weeks first occurs:

19 (i) A week for which there is a national "on" indicator as
20 determined by the United States secretary of labor.

21 (ii) A week for which there is a Michigan "on" indicator.

22 (b) The period ends with the third week after the first week
23 for which there is both a national "off" indicator and a Michigan
24 "off" indicator.

25 (c) The period is at least 13 consecutive weeks long, and does
26 not begin by reason of a Michigan "on" indicator before the
27 fourteenth week after the close of a prior extended benefit period

1 under this section. However, an extended benefit period terminates
2 with the week preceding the week for which no extended benefit
3 payments are considered to be shareable compensation under the
4 federal-state extended unemployment compensation act of 1970,
5 section 3304 nt of the internal revenue code of 1986, 26 USC 3304
6 nt.

7 (4) An individual's "eligibility period" consists of the weeks
8 in his or her benefit year that begin in an extended benefit
9 period, and if his or her benefit year ends within the extended
10 benefit period, any weeks thereafter that begin in the period.

11 (5) (a) With respect to weeks beginning after September 25,
12 1982, a national "on" indicator for a week shall be determined by
13 the United States secretary of labor.

14 (b) A national "off" indicator for a week shall be determined
15 by the United States secretary of labor.

16 (c) There is a Michigan "on" indicator for a week if 1 or both
17 of the following apply:

18 (i) The rate of insured unemployment under this act for the
19 period consisting of that week and the immediately preceding 12
20 weeks equaled or exceeded 120% of the average of the insured
21 unemployment rates for the corresponding 13-week period ending in
22 each of the preceding 2 calendar years, and equaled or exceeded 5%.

23 **WITH RESPECT TO COMPENSATION EACH WEEK OF UNEMPLOYMENT BEGINNING**
24 **AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS**
25 **SENTENCE AND ENDING THE EARLIER OF DECEMBER 31, 2011 OR THE WEEK**
26 **ENDING 4 WEEKS BEFORE THE LAST WEEK FOR WHICH 100% FEDERAL SHARING**
27 **IS AVAILABLE UNDER SECTION 2005(A) OF PUBLIC LAW 111-5, WITHOUT**

1 REGARD TO THE EXTENSION OF FEDERAL SHARING FOR CERTAIN CLAIMS AS
2 PROVIDED UNDER SECTION 2005(C) OF THAT LAW, THE RATE OF INSURED
3 UNEMPLOYMENT UNDER THIS ACT FOR THE PERIOD CONSISTING OF THAT WEEK
4 AND THE IMMEDIATELY PRECEDING 12 WEEKS EQUALED OR EXCEEDED 120% OF
5 THE AVERAGE OF THE INSURED UNEMPLOYMENT RATES FOR THE CORRESPONDING
6 13-WEEK PERIOD ENDING IN ANY OR ALL OF THE PRECEDING 3 CALENDAR
7 YEARS, AND EQUALED OR EXCEEDED 5%.

8 (ii) For weeks beginning after ~~the week in which the 2009~~
9 ~~amendatory act that amended this subparagraph becomes effective and~~
10 ~~ending at the end of the week in which extended benefits payable~~
11 ~~under this section cease to be funded under section 2005 of the~~
12 ~~American recovery and reinvestment act of 2009, Public Law 111-5,~~
13 **APRIL 13, 2009 AND ENDING WITH THE WEEK ENDING 4 WEEKS BEFORE THE**
14 **LAST WEEK OF UNEMPLOYMENT FOR WHICH 100% FEDERAL SHARING IS**
15 **AVAILABLE UNDER SECTION 2005(A) OF PUBLIC LAW 111-5, WITHOUT REGARD**
16 **TO THE EXTENSION OF FEDERAL SHARING FOR CERTAIN CLAIMS AS PROVIDED**
17 **UNDER SECTION 2005(C) OF THAT LAW,** the average rate of total
18 unemployment in this state, seasonally adjusted, as determined by
19 the United States secretary of labor, for the period consisting of
20 the most recent 3 months for which data for all states are
21 published before the close of the week equaled or exceeded both of
22 the following:

23 (A) Six and one-half percent.

24 (B) One hundred ten percent of the average rate of total
25 unemployment in this state, seasonally adjusted, for the period
26 consisting of the corresponding 3-month period in ~~either or both~~
27 **OR MORE** of the preceding ~~2-3~~ calendar years.

1 (d) There is a Michigan "off" indicator for a week if, for the
2 period consisting of that week and the immediately preceding 12
3 weeks, either subdivision (c) (i) or (c) (ii) was not satisfied.
4 Notwithstanding any other provision of this act, if this state is
5 in a period in which temporary extended unemployment compensation
6 is payable in this state under title II of the job creation and
7 worker assistance act of 2002, Public Law 107-147, or another
8 similar federal law, and if the governor has the authority under
9 that federal act or another similar federal law, then the governor
10 may elect to trigger "off" the Michigan indicator for extended
11 benefits under this act only for a period in which temporary
12 extended unemployment compensation is payable in this state, if the
13 election by the governor would not result in a decrease in the
14 number of weeks of unemployment benefits payable to an individual
15 under this act or under federal law.

16 (e) For purposes of subdivisions (c) and (d), the rate of
17 insured unemployment for any 13-week period shall be determined by
18 reference to the average monthly covered employment under this act
19 for the first 4 of the most recent 6 calendar quarters ending
20 before the close of that period.

21 (f) As used in this subsection, "rate of insured unemployment"
22 means the percentage determined by dividing:

23 (i) The average weekly number of individuals filing claims for
24 regular benefits for weeks of unemployment with respect to the
25 specified period as determined on the basis of the reports made by
26 all state agencies or, in the case of subdivisions (c) and (d), by
27 the bureau, to the federal government; by

1 (ii) In the case of subdivisions (c) and (d), the average
2 monthly covered employment under this act for the specified period.

3 (g) Calculations under subdivisions (c) and (d) shall be made
4 by the bureau and shall conform to regulations, if any, prescribed
5 by the United States secretary of labor under ~~authority of the~~
6 ~~federal state extended unemployment compensation act of 1970 title~~
7 ~~II of Public Law 91-373,~~ section 3304 nt of the internal revenue
8 code of 1986, 26 USC 3304 nt.

9 (h) An "on" indicator under subdivision (c)(ii) applies to
10 claimants who qualify for benefits payable beginning the week after
11 ~~the effective date of the 2009 amendatory act that amended this~~
12 ~~subdivision and ending the last week extended benefits under this~~
13 ~~section are funded under section 2005 of the American recovery and~~
14 ~~reinvestment act of 2009, Public Act 111-5 APRIL 13, 2009 AND~~
15 **ENDING WITH THE WEEK ENDING 4 WEEKS BEFORE THE LAST WEEK OF**
16 **UNEMPLOYMENT FOR WHICH 100% FEDERAL SHARING IS AVAILABLE UNDER**
17 **SECTION 2005(A) OF PUBLIC LAW 111-5, WITHOUT REGARD TO THE**
18 **EXTENSION OF FEDERAL SHARING FOR CERTAIN CLAIMS AS PROVIDED UNDER**
19 **SECTION 2005(C) OF THAT LAW.**

20 (6) As used in this section:

21 (a) "Regular benefits" means benefits payable to an individual
22 under this act and, unless otherwise expressly provided, under any
23 other state unemployment compensation law, including unemployment
24 benefits payable pursuant to 5 USC 8501 to 8525, other than
25 extended benefits, and other than additional benefits which
26 includes training benefits under section 27(g).

27 (b) "Extended benefits" means benefits, including additional

1 benefits and unemployment benefits payable pursuant to 5 USC 8501
2 to 8525, payable for weeks of unemployment beginning in an extended
3 benefit period to an individual as provided under this section.

4 (c) "Additional benefits" means benefits totally financed by a
5 state and payable to exhaustees by reason of conditions of high
6 unemployment or by reason of other special factors under the
7 provisions of any state law as well as training benefits paid under
8 section 27(g) with respect to an extended benefit period.

9 (d) "Weekly extended benefit rate" means an amount equal to
10 the amount of regular benefits payable under this act to an
11 individual within the individual's benefit year for a week of total
12 unemployment, unless the individual had more than 1 weekly extended
13 benefit rate within that benefit year, in which case the
14 individual's weekly extended benefit rate shall be computed by
15 dividing the maximum amount of regular benefits payable under this
16 act within that benefit year by the number of weeks for which
17 benefits were payable, adjusted to the next lower multiple of
18 \$1.00.

19 (e) "Benefits payable" includes all benefits computed in
20 accordance with section 27(d), irrespective of whether the
21 individual was otherwise eligible for the benefits within his or
22 her current benefit year and irrespective of any benefit reduction
23 by reason of a disqualification that required a reduction.

24 (7) (a) Notwithstanding the provisions of subsection (1)(b),
25 an individual ~~shall be~~ **IS** ineligible for payment of extended
26 benefits for any week of unemployment if the bureau finds that
27 during that period either of the following occurred:

1 (i) The individual failed to accept any offer of suitable work
2 or failed to apply for any suitable work to which the individual
3 was referred by the bureau.

4 (ii) The individual failed to actively engage in seeking work
5 as described in subdivision (f).

6 (b) Any individual who has been found ineligible for extended
7 benefits under subdivision (a) shall also be denied benefits
8 beginning with the first day of the week following the week in
9 which the failure occurred and until the individual has been
10 employed in each of 4 subsequent weeks, whether or not consecutive,
11 and has earned remuneration equal to not less than 4 times the
12 extended weekly benefit amount, as determined under subsection (2).

13 (c) As used in this subsection, "suitable work" means, with
14 respect to any individual, any work that is within that
15 individual's capabilities, if both of the following apply:

16 (i) The gross weekly remuneration payable for the work exceeds
17 the sum of the following:

18 (A) The individual's extended weekly benefit amount as
19 determined under subsection (2).

20 (B) The amount, if any, of supplemental unemployment
21 compensation benefits, as defined in section 501(c)(17)(D) of the
22 internal revenue code of 1986, 26 USC 501(c)(17)(D), payable to the
23 individual for that week.

24 (ii) The employer pays wages not less than the higher of the
25 minimum wage provided by section 6(a)(1) of the fair labor
26 standards act of 1938, 29 USC 206(a)(1), without regard to any
27 exemption, or the applicable state or local minimum wage.

1 (d) An individual shall not be denied extended benefits for
2 failure to accept an offer of, or apply for, any job that meets the
3 definition of suitable work ~~as described in~~ subdivision (c) if 1 or
4 more of the following are true:

5 (i) The position was not offered to the individual in writing
6 and was not listed with the state employment service.

7 (ii) The failure could not result in a denial of benefits under
8 the definition of suitable work in section 29(6) to the extent that
9 the criteria of suitability in that section are not inconsistent
10 with the provisions of subdivision (c).

11 (iii) The individual furnishes satisfactory evidence to the
12 bureau that his or her prospects for obtaining work in his or her
13 customary occupation within a reasonably short period are good. If
14 that evidence is deemed satisfactory for this purpose, the
15 determination of whether any work is suitable with respect to that
16 individual shall be made in accordance with the definition of
17 suitable work in section 29(6) without regard to the definition
18 ~~specified by~~ **IN** subdivision (c).

19 (e) Notwithstanding subsection (1)(b), work ~~shall not be~~
20 ~~considered~~ **IS NOT** suitable work for an individual if the work does
21 not meet the labor standard provisions required by section
22 3304(a)(5) of the internal revenue code **OF 1986, 26 USC 3304(A)(5),**
23 and section 29(7).

24 (f) For the purposes of subdivision (a)(ii), an individual is
25 actively engaged in seeking work during any week if both of the
26 following are true:

27 (i) The individual has engaged in a systematic and sustained

1 effort to obtain work during that week.

2 (ii) The individual furnishes tangible evidence to the bureau
3 that he or she has engaged in a systematic and sustained effort
4 during that week.

5 (g) The bureau shall refer any applicant for extended benefits
6 to any suitable work that meets the criteria prescribed in
7 subdivisions (c) and (d).

8 (h) An individual is not eligible to receive extended benefits
9 with respect to any week of unemployment in his or her eligibility
10 period if that individual has been disqualified for benefits under
11 this act because he or she voluntarily left work, was discharged
12 for misconduct, or failed to accept an offer of or apply for
13 suitable work unless the individual requalified in accordance with
14 a specific provision of this act requiring that the individual be
15 employed subsequent to the week in which the act or discharge
16 occurred that caused the disqualification.

17 (8) (a) Except as provided in subdivision (b), payment of
18 extended benefits shall not be made to any individual for any week
19 of unemployment that otherwise would have been payable pursuant to
20 an interstate claim filed in any state under the interstate benefit
21 payment plan, if an extended benefit period is not in effect for
22 the week in the state in which the interstate claim is filed.

23 (b) Subdivision (a) does not apply with respect to the first 2
24 weeks for which extended benefits are payable, pursuant to an
25 interstate claim, to the individual from the extended benefit
26 account established for the individual.

27 (9) Notwithstanding the provisions of subsection (1)(b), an

1 individual who established a benefit year under section 46a on or
2 after January 2, 1983, shall be eligible to receive extended
3 benefits only if the individual earned wages in an amount exceeding
4 40 times the individual's most recent weekly benefit rate during
5 the base period of the benefit year that is used to establish the
6 individual's extended benefit account under subsection (2).

7 (10) This subsection is effective for weeks of unemployment
8 beginning after October 30, 1982. Notwithstanding any other
9 provision of this section, an individual's extended benefit
10 entitlement, with respect to weeks of unemployment beginning after
11 the end of the benefit year, shall be reduced, but not below zero,
12 by the product of the number of weeks for which the individual
13 received any amounts of trade readjustment allowances, paid under
14 the trade act of 1974, Public Law 93-618, within that benefit year,
15 multiplied by the individual's weekly benefit amount for extended
16 benefits.