

HOUSE BILL No. 4452

March 16, 2011, Introduced by Reps. Yonker, Hooker, Potvin, Callton, Olson, Haveman, Jenkins, Rendon, Horn, Opsommer and O'Brien and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 27 (MCL 421.27), as amended by 2010 PA 322.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27. (a) (1) When a determination, redetermination, or
2 decision is made that benefits are due an unemployed individual,
3 the benefits shall become payable from the fund and continue to be
4 payable to the unemployed individual, subject to the limitations
5 imposed by the individual's monetary entitlement, if the individual
6 continues to be unemployed and to file claims for benefits, until
7 the determination, redetermination, or decision is reversed, a
8 determination, redetermination, or decision on a new issue holding
9 the individual disqualified or ineligible is made, or, for benefit
10 years beginning before October 1, 2000, a new separation issue

1 arises resulting from subsequent work.

2 (2) Benefits shall be paid in person or by mail through
3 employment offices in accordance with rules promulgated by the
4 commission.

5 (b)(1) Subject to subsection (f), the weekly benefit rate for
6 an individual, with respect to benefit years beginning before
7 October 1, 2000, shall be 67% of the individual's average after tax
8 weekly wage, except that the individual's maximum weekly benefit
9 rate shall not exceed \$300.00. However, with respect to benefit
10 years beginning on or after October 1, 2000, the individual's
11 weekly benefit rate is 4.1% of the individual's wages paid in the
12 calendar quarter of the base period in which the individual was
13 paid the highest total wages, plus \$6.00 for each dependent as
14 defined in subdivision (4), up to a maximum of 5 dependents,
15 claimed by the individual at the time the individual files a new
16 claim for benefits, except that the individual's maximum weekly
17 benefit rate shall not exceed \$300.00 before April 26, 2002 and
18 \$362.00 for claims filed on and after April 26, 2002. The weekly
19 benefit rate for an individual claiming benefits on and after April
20 26, 2002 shall be recalculated subject to the \$362.00 maximum
21 weekly benefit rate. The unemployment agency shall establish the
22 procedures necessary to verify the number of dependents claimed. If
23 a person fraudulently claims a dependent, that person is subject to
24 the penalties set forth in sections 54 and 54c. For benefit years
25 beginning on or after October 2, 1983, the weekly benefit rate
26 shall be adjusted to the next lower multiple of \$1.00.

27 (2) For benefit years beginning before October 1, 2000, the

1 state average weekly wage for a calendar year shall be computed on
2 the basis of the 12 months ending the June 30 immediately before
3 that calendar year. The commission shall prepare a table of weekly
4 benefit rates based on an "average after tax weekly wage"
5 calculated by subtracting, from an individual's average weekly wage
6 as determined in accordance with section 51, a reasonable
7 approximation of the weekly amount required to be withheld by the
8 employer from the remuneration of the individual based on
9 dependents and exemptions for income taxes under 26 USC 3401 to
10 3406, and under section 351 of the income tax act of 1967, 1967 PA
11 281, MCL 206.351, and for old age and survivor's disability
12 insurance taxes under the federal insurance contributions act, 26
13 USC 3101 to 3128. For purposes of applying the table to an
14 individual's claim, a dependent shall be as defined in subdivision
15 (3). The table applicable to an individual's claim shall be the
16 table reflecting the number of dependents claimed by the individual
17 under subdivision (3). The commission shall adjust the tables based
18 on changes in withholding schedules published by the United States
19 department of treasury, internal revenue service, and by the
20 department of treasury. The number of dependents allowed shall be
21 determined with respect to each week of unemployment for which an
22 individual is claiming benefits.

23 (3) For benefit years beginning before October 1, 2000, a
24 dependent means any of the following persons who ~~is~~**ARE** receiving
25 and for at least 90 consecutive days immediately before the week
26 for which benefits are claimed, or, in the case of a dependent
27 husband, wife, or child, for the duration of the marital or

1 parental relationship, if the relationship has existed less than 90
2 days, has received more than ~~half~~-1/2 the cost of his or her
3 support from the individual claiming benefits:

4 (a) A child, including stepchild, adopted child, or grandchild
5 of the individual who is under 18 years of age, or 18 years of age
6 or over if, because of physical or mental infirmity, the child is
7 unable to engage in a gainful occupation, or is a full-time student
8 as defined by the particular educational institution, at a high
9 school, vocational school, community or junior college, or college
10 or university and has not attained the age of 22.

11 (b) The husband or wife of the individual.

12 (c) The legal father or mother of the individual if that
13 parent is either more than 65 years of age or is permanently
14 disabled from engaging in a gainful occupation.

15 (d) A brother or sister of the individual if the brother or
16 sister is orphaned or the living parents are dependent parents of
17 an individual, and the brother or sister is under 18 years of age,
18 or 18 years of age or over if, because of physical or mental
19 infirmity, the brother or sister is unable to engage in a gainful
20 occupation, or is a full-time student as defined by the particular
21 educational institution, at a high school, vocational school,
22 community or junior college, or college or university and is less
23 than 22 years of age.

24 (4) For benefit years beginning on or after October 1, 2000, a
25 dependent means any of the following persons who received for at
26 least 90 consecutive days immediately before the first week of the
27 benefit year or, in the case of a dependent husband, wife, or

1 child, for the duration of the marital or parental relationship if
2 the relationship existed less than 90 days before the beginning of
3 the benefit year, has received more than 1/2 the cost of his or her
4 support from the individual claiming the benefits:

5 (a) A child, including stepchild, adopted child, or grandchild
6 of the individual who is under 18 years of age, or 18 years of age
7 and over if, because of physical or mental infirmity, the child is
8 unable to engage in a gainful occupation, or is a full-time student
9 as defined by the particular educational institution, at a high
10 school, vocational school, community or junior college, or college
11 or university and has not attained the age of 22.

12 (b) The husband or wife of the individual.

13 (c) The legal father or mother of the individual if that
14 parent is either more than 65 years of age or is permanently
15 disabled from engaging in a gainful occupation.

16 (d) A brother or sister of the individual if the brother or
17 sister is orphaned or the living parents are dependent parents of
18 an individual, and the brother or sister is under 18 years of age,
19 or 18 years of age and over if, because of physical or mental
20 infirmity, the brother or sister is unable to engage in a gainful
21 occupation, or is a full-time student as defined by the particular
22 educational institution, at a high school, vocational school,
23 community or junior college, or college or university and is less
24 than 22 years of age.

25 (5) For benefit years beginning before October 1, 2000,
26 dependency status of a dependent, child or otherwise, once
27 established or fixed in favor of an individual continues during the

1 individual's benefit year until terminated. Dependency status of a
2 dependent terminates at the end of the week in which the dependent
3 ceases to be an individual described in subdivision (3)(a), (b),
4 (c), or (d) because of age, death, or divorce. For benefit years
5 beginning on or after October 1, 2000, the number of dependents
6 established for an individual at the beginning of the benefit year
7 shall remain in effect during the entire benefit year.

8 (6) For benefit years beginning before October 1, 2000,
9 failure on the part of an individual, due to misinformation or lack
10 of information, to furnish all information material for
11 determination of the number of the individual's dependents when the
12 individual files a claim for benefits with respect to a week is
13 good cause to issue a redetermination as to the amount of benefits
14 based on the number of the individual's dependents as of the
15 beginning date of that week. Dependency status of a dependent,
16 child or otherwise, once established or fixed in favor of a person
17 is not transferable to or usable by another person with respect to
18 the same week.

19 For benefit years beginning on or after October 1, 2000,
20 failure on the part of an individual, due to misinformation or lack
21 of information, to furnish all information material for
22 determination of the number of the individual's dependents is good
23 cause to issue a redetermination as to the amount of benefits based
24 on the number of the individual's dependents as of the beginning of
25 the benefit year.

26 (c) Subject to subsection (f), all of the following apply to
27 eligible individuals:

1 (1) Each eligible individual shall be paid a weekly benefit
2 rate with respect to the week for which the individual earns or
3 receives no remuneration. Notwithstanding the definition of week in
4 section 50, if within 2 consecutive weeks in which an individual
5 was not unemployed within the meaning of section 48 there was a
6 period of 7 or more consecutive days for which the individual did
7 not earn or receive remuneration, that period shall be considered a
8 week for benefit purposes under this act if a claim for benefits
9 for that period is filed not later than 30 days after the end of
10 the period.

11 (2) Each eligible individual shall have his or her weekly
12 benefit rate reduced with respect to each week in which the
13 individual earns or receives remuneration at the rate of 50 cents
14 for each whole \$1.00 of remuneration earned or received during that
15 week.

16 (3) An individual who receives or earns partial remuneration
17 may not receive a total of benefits and earnings that exceeds 1-1/2
18 times his or her weekly benefit amount. For each dollar of total
19 benefits and earnings that exceeds 1-1/2 times the individual's
20 weekly benefit amount, benefits shall be reduced by \$1.00.

21 (4) If the reduction in a claimant's benefit rate for a week
22 in accordance with subdivision (2) or (3) results in a benefit rate
23 greater than zero for that week, the claimant's balance of weeks of
24 benefit payments shall be reduced by 1 week.

25 (5) All remuneration for work performed during a shift that
26 terminates on 1 day but that began on the preceding day shall be
27 considered to have been earned by the eligible individual on the

1 preceding day.

2 (d) For benefit years beginning before October 1, 2000, and
3 subject to subsection (f) and this subsection, the amount of
4 benefits to which an individual who is otherwise eligible is
5 entitled during a benefit year from an employer with respect to
6 employment during the base period is the amount obtained by
7 multiplying the weekly benefit rate with respect to that employment
8 by $3/4$ of the number of credit weeks earned in the employment. For
9 the purpose of this subsection and section 20(c), if the resultant
10 product is not an even multiple of $1/2$ the weekly benefit rate, the
11 product shall be raised to an amount equal to the next higher
12 multiple of $1/2$ the weekly benefit rate, and, for an individual who
13 was employed by only 1 employer in the individual's base period and
14 earned 34 credit weeks with that employer, the product shall be
15 raised to the next higher multiple of the weekly benefit rate. The
16 maximum amount of benefits payable to an individual within a
17 benefit year, with respect to employment by an employer, shall not
18 exceed 26 times the weekly benefit rate with respect to that
19 employment. The maximum amount of benefits payable to an individual
20 within a benefit year shall not exceed the amount to which the
21 individual would be entitled for 26 weeks of unemployment in which
22 remuneration was not earned or received. The limitation of total
23 benefits set forth in this subsection does not apply to claimants
24 declared eligible for training benefits in accordance with
25 subsection (g). For benefit years beginning on or after October 1,
26 2000, and subject to subsection (f) and this subsection, the
27 maximum benefit amount payable to an individual in a benefit year

1 for purposes of this section and section 20(d) is the number of
2 weeks of benefits payable to an individual during the benefit year,
3 multiplied by the individual's weekly benefit rate. The number of
4 weeks of benefits payable to an individual shall be calculated by
5 taking 43% of the individual's base period wages and dividing the
6 result by the individual's weekly benefit rate. If the quotient is
7 not a whole or half number, the result shall be rounded down to the
8 nearest half number. However, not more than 26 weeks of benefits or
9 less than 14 weeks of benefits shall be payable to an individual in
10 a benefit year. The limitation of total benefits set forth in this
11 subsection does not apply to claimants declared eligible for
12 training benefits in accordance with subsection (g).

13 (e) When a claimant dies or is judicially declared insane or
14 mentally incompetent, unemployment compensation benefits accrued
15 and payable to that person for weeks of unemployment before death,
16 insanity, or incompetency, but not paid, shall become due and
17 payable to the person who is the legal heir or guardian of the
18 claimant or to any other person found by the commission to be
19 equitably entitled to the benefits by reason of having incurred
20 expense in behalf of the claimant for the claimant's burial or
21 other necessary expenses.

22 (f)(1) For benefit years beginning before October 1, 2000, and
23 notwithstanding any inconsistent provisions of this act, the weekly
24 benefit rate of each individual who is receiving or will receive a
25 "retirement benefit", as defined in subdivision (4), shall be
26 adjusted as provided in subparagraphs (a), (b), and (c). However,
27 an individual's extended benefit account and an individual's weekly

1 extended benefit rate under section 64 shall be established without
2 reduction under this subsection unless subdivision (5) is in
3 effect. Except as otherwise provided in this subsection, all other
4 provisions of this act continue to apply in connection with the
5 benefit claims of those retired persons.

6 (a) If and to the extent that unemployment benefits payable
7 under this act would be chargeable to an employer who has
8 contributed to the financing of a retirement plan under which the
9 claimant is receiving or will receive a retirement benefit yielding
10 a pro rata weekly amount equal to or larger than the claimant's
11 weekly benefit rate as otherwise established under this act, the
12 claimant shall not receive unemployment benefits that would be
13 chargeable to the employer under this act.

14 (b) If and to the extent that unemployment benefits payable
15 under this act would be chargeable to an employer who has
16 contributed to the financing of a retirement plan under which the
17 claimant is receiving or will receive a retirement benefit yielding
18 a pro rata weekly amount less than the claimant's weekly benefit
19 rate as otherwise established under this act, then the weekly
20 benefit rate otherwise payable to the claimant and chargeable to
21 the employer under this act shall be reduced by an amount equal to
22 the pro rata weekly amount, adjusted to the next lower multiple of
23 \$1.00, which the claimant is receiving or will receive as a
24 retirement benefit.

25 (c) If the unemployment benefit payable under this act would
26 be chargeable to an employer who has not contributed to the
27 financing of a retirement plan under which the claimant is

1 receiving or will receive a retirement benefit, then the weekly
2 benefit rate of the claimant as otherwise established under this
3 act shall not be reduced due to receipt of a retirement benefit.

4 (d) If the unemployment benefit payable under this act is
5 computed on the basis of multiemployer credit weeks and a portion
6 of the benefit is allocable under section 20(e) to an employer who
7 has contributed to the financing of a retirement plan under which
8 the claimant is receiving or will receive a retirement benefit, the
9 adjustments required by subparagraph (a) or (b) apply only to that
10 portion of the weekly benefit rate that would otherwise be
11 allocable and chargeable to the employer.

12 (2) If an individual's weekly benefit rate under this act was
13 established before the period for which the individual first
14 receives a retirement benefit, any benefits received after a
15 retirement benefit becomes payable shall be determined in
16 accordance with the formula stated in this subsection.

17 (3) When necessary to assure prompt payment of benefits, the
18 commission shall determine the pro rata weekly amount yielded by an
19 individual's retirement benefit based on the best information
20 currently available to it. In the absence of fraud, a determination
21 shall not be reconsidered unless it is established that the
22 individual's actual retirement benefit in fact differs from the
23 amount determined by \$2.00 or more per week. The reconsideration
24 shall apply only to benefits as may be claimed after the
25 information on which the reconsideration is based was received by
26 the commission.

27 (4) (a) As used in this subsection, "retirement benefit" means

1 a benefit, annuity, or pension of any type or that part thereof
2 that is described in subparagraph (b) that is both:

3 (i) Provided as an incident of employment under an established
4 retirement plan, policy, or agreement, including federal social
5 security if subdivision (5) is in effect.

6 (ii) Payable to an individual because the individual has
7 qualified on the basis of attained age, length of service, or
8 disability, whether or not the individual retired or was retired
9 from employment. Amounts paid to individuals in the course of
10 liquidation of a private pension or retirement fund because of
11 termination of the business or of a plant or department of the
12 business of the employer involved are not retirement benefits.

13 (b) If a benefit as described in subparagraph (a) is payable
14 or paid to the individual under a plan to which the individual has
15 contributed:

16 (i) Less than ~~half~~ $\frac{1}{2}$ of the cost of the benefit, then only
17 ~~half~~ $\frac{1}{2}$ of the benefit is treated as a retirement benefit.

18 (ii) ~~Half~~ **ONE-HALF** or more of the cost of the benefit, then
19 none of the benefit is treated as a retirement benefit.

20 (c) The burden of establishing the extent of an individual's
21 contribution to the cost of his or her retirement benefit for the
22 purpose of subparagraph (b) is upon the employer who has
23 contributed to the plan under which a benefit is provided.

24 (5) Notwithstanding any other provision of this subsection,
25 for any week that begins after March 31, 1980, and with respect to
26 which an individual is receiving a governmental or other pension
27 and claiming unemployment compensation, the weekly benefit amount

1 payable to the individual for those weeks shall be reduced, but not
2 below zero, by the entire prorated weekly amount of any
3 governmental or other pension, retirement or retired pay, annuity,
4 or any other similar payment that is based on any previous work of
5 the individual. This reduction shall be made only if it is required
6 as a condition for full tax credit against the tax imposed by the
7 federal unemployment tax act, 26 USC 3301 to 3311.

8 (6) For benefit years beginning on or after October 1, 2000,
9 notwithstanding any inconsistent provisions of this act, the weekly
10 benefit rate of each individual who is receiving or will receive a
11 retirement benefit, as defined in subdivision (4), shall be
12 adjusted as provided in subparagraphs (a), (b), and (c). However,
13 an individual's extended benefit account and an individual's weekly
14 extended benefit rate under section 64 shall be established without
15 reduction under this subsection, unless subdivision (5) is in
16 effect. Except as otherwise provided in this subsection, all the
17 other provisions of this act apply to the benefit claims of those
18 retired persons. However, if the reduction would impair the full
19 tax credit against the tax imposed by the federal unemployment tax
20 act, 26 USC 3301 to 3311, unemployment benefits shall not be
21 reduced as provided in subparagraphs (a), (b), and (c) for receipt
22 of any governmental or other pension, retirement or retired pay,
23 annuity, or other similar payment that was not includable in the
24 gross income of the individual for the taxable year in which it was
25 received because it was a part of a rollover distribution.

26 (a) If any base period or chargeable employer has contributed
27 to the financing of a retirement plan under which the claimant is

1 receiving or will receive a retirement benefit yielding a pro rata
2 weekly amount equal to or larger than the claimant's weekly benefit
3 rate as otherwise established under this act, the claimant shall
4 not receive unemployment benefits.

5 (b) If any base period employer or chargeable employer has
6 contributed to the financing of a retirement plan under which the
7 claimant is receiving or will receive a retirement benefit yielding
8 a pro rata weekly amount less than the claimant's weekly benefit
9 rate as otherwise established under this act, then the weekly
10 benefit rate otherwise payable to the claimant shall be reduced by
11 an amount equal to the pro rata weekly amount, adjusted to the next
12 lower multiple of \$1.00, which the claimant is receiving or will
13 receive as a retirement benefit.

14 (c) If no base period or separating employer has contributed
15 to the financing of a retirement plan under which the claimant is
16 receiving or will receive a retirement benefit, then the weekly
17 benefit rate of the claimant as otherwise established under this
18 act shall not be reduced due to receipt of a retirement benefit.

19 (g) Notwithstanding any other provision of this act, an
20 individual pursuing vocational training or retraining pursuant to
21 section 28(2) who has exhausted all benefits available under
22 subsection (d) may be paid for each week of approved vocational
23 training pursued beyond the date of exhaustion a benefit amount in
24 accordance with subsection (c), but not in excess of the
25 individual's most recent weekly benefit rate. However, an
26 individual shall not be paid training benefits totaling more than
27 18 times the individual's most recent weekly benefit rate. The

1 expiration or termination of a benefit year shall not stop or
2 interrupt payment of training benefits if the training for which
3 the benefits were granted began before expiration or termination of
4 the benefit year.

5 (h) A payment of accrued unemployment benefits shall not be
6 made to an eligible individual or in behalf of that individual as
7 provided in subsection (e) more than 6 years after the ending date
8 of the benefit year covering the payment or 2 calendar years after
9 the calendar year in which there is final disposition of a
10 contested case, whichever is later.

11 (i) Benefits based on service in employment described in
12 section 42(8), (9), and (10) are payable in the same amount, on the
13 same terms, and subject to the same conditions as compensation
14 payable on the basis of other service subject to this act, except
15 that:

16 (1) With respect to service performed in an instructional,
17 research, or principal administrative capacity for an institution
18 of higher education as defined in section 53(2), or for an
19 educational institution other than an institution of higher
20 education as defined in section 53(3), benefits shall not be paid
21 to an individual based on those services for any week of
22 unemployment beginning after December 31, 1977 that commences
23 during the period between 2 successive academic years or during a
24 similar period between 2 regular terms, whether or not successive,
25 or during a period of paid sabbatical leave provided for in the
26 individual's contract, to an individual if the individual performs
27 the service in the first of the academic years or terms and if

1 there is a contract or a reasonable assurance that the individual
2 will perform service in an instructional, research, or principal
3 administrative capacity for an institution of higher education or
4 an educational institution other than an institution of higher
5 education in the second of the academic years or terms, whether or
6 not the terms are successive.

7 (2) With respect to service performed in other than an
8 instructional, research, or principal administrative capacity for
9 an institution of higher education as defined in section 53(2) or
10 for an educational institution other than an institution of higher
11 education as defined in section 53(3), benefits shall not be paid
12 based on those services for any week of unemployment beginning
13 after December 31, 1977 that commences during the period between 2
14 successive academic years or terms to any individual if that
15 individual performs the service in the first of the academic years
16 or terms and if there is a reasonable assurance that the individual
17 will perform the service for an institution of higher education or
18 an educational institution other than an institution of higher
19 education in the second of the academic years or terms.

20 (3) With respect to any service described in subdivision (1)
21 or (2), benefits shall not be paid to an individual based upon
22 service for any week of unemployment that commences during an
23 established and customary vacation period or holiday recess if the
24 individual performs the service in the period immediately before
25 the vacation period or holiday recess and there is a contract or
26 reasonable assurance that the individual will perform the service
27 in the period immediately following the vacation period or holiday

1 recess.

2 (4) If benefits are denied to an individual for any week
3 solely as a result of subdivision (2) and the individual was not
4 offered an opportunity to perform in the second academic year or
5 term the service for which reasonable assurance had been given, the
6 individual is entitled to a retroactive payment of benefits for
7 each week for which the individual had previously filed a timely
8 claim for benefits. An individual entitled to benefits under this
9 subdivision may apply for those benefits by mail in accordance with
10 R 421.210 of the Michigan administrative code as promulgated by the
11 commission.

12 (5) Benefits based upon services in other than an
13 instructional, research, or principal administrative capacity for
14 an institution of higher education shall not be denied for any week
15 of unemployment commencing during the period between 2 successive
16 academic years or terms solely because the individual had performed
17 the service in the first of the academic years or terms and there
18 is reasonable assurance that the individual will perform the
19 service for an institution of higher education or an educational
20 institution other than an institution of higher education in the
21 second of the academic years or terms, unless a denial is required
22 as a condition for full tax credit against the tax imposed by the
23 federal unemployment tax act, 26 USC 3301 to 3311.

24 (6) For benefit years established before October 1, 2000, and
25 notwithstanding subdivisions (1), (2), and (3), the denial of
26 benefits does not prevent an individual from completing
27 requalifying weeks in accordance with section 29(3) nor does the

1 denial prevent an individual from receiving benefits based on
2 service with an employer other than an educational institution for
3 any week of unemployment occurring between academic years or terms,
4 whether or not successive, or during an established and customary
5 vacation period or holiday recess, even though the employer is not
6 the most recent chargeable employer in the individual's base
7 period. However, in that case section 20(b) applies to the sequence
8 of benefit charging, except for the employment with the educational
9 institution, and section 50(b) applies to the calculation of credit
10 weeks. When a denial of benefits under subdivision (1) no longer
11 applies, benefits shall be charged in accordance with the normal
12 sequence of charging as provided in section 20(b).

13 (7) For benefit years beginning on or after October 1, 2000,
14 and notwithstanding subdivisions (1), (2), and (3), the denial of
15 benefits shall not prevent an individual from completing
16 requalifying weeks in accordance with section 29(3) nor shall the
17 denial prevent an individual from receiving benefits based on
18 service with another base period employer other than an educational
19 institution for any week of unemployment occurring between academic
20 years or terms, whether or not successive, or during an established
21 and customary vacation period or holiday recess. However, when
22 benefits are paid based on service with 1 or more base period
23 employers other than an educational institution, the individual's
24 weekly benefit rate shall be calculated in accordance with
25 subsection (b)(1) but during the denial period the individual's
26 weekly benefit payment shall be reduced by the portion of the
27 payment attributable to base period wages paid by an educational

1 institution and the account or experience account of the
2 educational institution shall not be charged for benefits payable
3 to the individual. When a denial of benefits under subdivision (1)
4 is no longer applicable, benefits shall be paid and charged on the
5 basis of base period wages with each of the base period employers
6 including the educational institution.

7 (8) For the purposes of this subsection, "academic year" means
8 that period, as defined by the educational institution, when
9 classes are in session for that length of time required for
10 students to receive sufficient instruction or earn sufficient
11 credit to complete academic requirements for a particular grade
12 level or to complete instruction in a noncredit course.

13 (9) In accordance with subdivisions (1), (2), and (3),
14 benefits for any week of unemployment shall be denied to an
15 individual who performed services described in subdivision (1),
16 (2), or (3) in an educational institution while in the employ of an
17 educational service agency. For the purpose of this subdivision,
18 "educational service agency" means a governmental agency or
19 governmental entity that is established and operated exclusively
20 for the purpose of providing the services to 1 or more educational
21 institutions.

22 (j) Benefits shall not be paid to an individual on the basis
23 of any base period services, substantially all of which consist of
24 participating in sports or athletic events or training or preparing
25 to participate, for a week that commences during the period between
26 2 successive sport seasons or similar periods if the individual
27 performed the services in the first of the seasons or similar

1 periods and there is a reasonable assurance that the individual
2 will perform the services in the later of the seasons or similar
3 periods.

4 (k)(1) Benefits are not payable on the basis of services
5 performed by an alien unless the alien is an individual who was
6 lawfully admitted for permanent residence at the time the services
7 were performed, was lawfully present for the purpose of performing
8 the services, or was permanently residing in the United States
9 under color of law at the time the services were performed,
10 including an alien who was lawfully present in the United States
11 under section 212(d)(5) of the immigration and nationality act, 8
12 USC 1182.

13 (2) Any data or information required of individuals applying
14 for benefits to determine whether benefits are payable because of
15 their alien status are uniformly required from all applicants for
16 benefits.

17 (3) If an individual's application for benefits would
18 otherwise be approved, a determination that benefits to that
19 individual are not payable because of the individual's alien status
20 shall not be made except upon a preponderance of the evidence.

21 (m)(1) An individual filing a new claim for unemployment
22 compensation under this act, at the time of filing the claim, shall
23 disclose whether the individual owes child support obligations as
24 defined in this subsection. If an individual discloses that he or
25 she owes child support obligations and is determined to be eligible
26 for unemployment compensation, the commission shall notify the
27 state or local child support enforcement agency enforcing the

1 obligation that the individual has been determined to be eligible
2 for unemployment compensation.

3 (2) Notwithstanding section 30, the commission shall deduct
4 and withhold from any unemployment compensation payable to an
5 individual who owes child support obligations by using whichever of
6 the following methods results in the greatest amount:

7 (a) The amount, if any, specified by the individual to be
8 deducted and withheld under this subdivision.

9 (b) The amount, if any, determined pursuant to an agreement
10 submitted to the commission under 42 USC 654(19)(b)(i), by the
11 state or local child support enforcement agency.

12 (c) Any amount otherwise required to be deducted and withheld
13 from unemployment compensation by legal process, as that term is
14 defined in 42 USC 659(i)(5), properly served upon the commission.

15 (3) The amount of unemployment compensation subject to
16 deduction under subdivision (2) is that portion that remains
17 payable to the individual after application of the recoupment
18 provisions of section 62(a) and the reduction provisions of
19 subsections (c) and (f).

20 (4) Any amount deducted and withheld under subdivision (2)
21 shall be paid by the commission to the appropriate state or local
22 child support enforcement agency.

23 (5) Any amount deducted and withheld under subdivision (2)
24 shall be treated for all purposes as if it were paid to the
25 individual as unemployment compensation and paid by the individual
26 to the state or local child support enforcement agency in
27 satisfaction of the individual's child support obligations.

1 (6) Provisions concerning deductions under this subsection
2 apply only if the state or local child support enforcement agency
3 agrees in writing to reimburse and does reimburse the commission
4 for the administrative costs incurred by the commission under this
5 subsection that are attributable to child support obligations being
6 enforced by the state or local child support enforcement agency.
7 The administrative costs incurred shall be determined by the
8 commission. The commission, in its discretion, may require payment
9 of administrative costs in advance.

10 (7) As used in this subsection:

11 (a) "Unemployment compensation", for purposes of subdivisions
12 (1) to (5), means any compensation payable under this act,
13 including amounts payable by the commission pursuant to an
14 agreement under any federal law providing for compensation,
15 assistance, or allowances with respect to unemployment.

16 (b) "Child support obligations" includes only obligations that
17 are being enforced pursuant to a plan described in 42 USC 654 that
18 has been approved by the secretary of health and human services
19 under 42 USC 651 to 669b.

20 (c) "State or local child support enforcement agency" means
21 any agency of this state or a political subdivision of this state
22 operating pursuant to a plan described in subparagraph (b).

23 (n) Subsection (i)(2) applies to services performed by school
24 bus drivers employed by a private contributing employer holding a
25 contractual relationship with an educational institution, but only
26 if at least 75% of the individual's base period wages with that
27 employer are attributable to services performed as a school bus

1 driver. SUBSECTION (I)(1) AND (2) APPLIES TO OTHER SERVICES
2 DESCRIBED IN THOSE SUBDIVISIONS THAT ARE PERFORMED BY EMPLOYEES OF
3 A PRIVATE CONTRIBUTING EMPLOYER UNDER THE EMPLOYER'S CONTRACT WITH
4 AN EDUCATIONAL INSTITUTION.

5 (o)(1) For weeks of unemployment beginning after July 1, 1996,
6 unemployment benefits based on services by a seasonal worker
7 performed in seasonal employment are payable only for weeks of
8 unemployment that occur during the normal seasonal work period.
9 Benefits shall not be paid based on services performed in seasonal
10 employment for any week of unemployment beginning after March 28,
11 1996 that begins during the period between 2 successive normal
12 seasonal work periods to any individual if that individual performs
13 the service in the first of the normal seasonal work periods and if
14 there is a reasonable assurance that the individual will perform
15 the service for a seasonal employer in the second of the normal
16 seasonal work periods. If benefits are denied to an individual for
17 any week solely as a result of this subsection and the individual
18 is not offered an opportunity to perform in the second normal
19 seasonal work period for which reasonable assurance of employment
20 had been given, the individual is entitled to a retroactive payment
21 of benefits under this subsection for each week that the individual
22 previously filed a timely claim for benefits. An individual may
23 apply for any retroactive benefits under this subsection in
24 accordance with R 421.210 of the Michigan administrative code.

25 (2) Not less than 20 days before the estimated beginning date
26 of a normal seasonal work period, an employer may apply to the
27 commission in writing for designation as a seasonal employer. At

1 the time of application, the employer shall conspicuously display a
2 copy of the application on the employer's premises. Within 90 days
3 after receipt of the application, the commission shall determine if
4 the employer is a seasonal employer. A determination or
5 redetermination of the commission concerning the status of an
6 employer as a seasonal employer, or a decision of a referee or the
7 board of review, or of the courts of this state concerning the
8 status of an employer as a seasonal employer, which has become
9 final, together with the record thereof, may be introduced in any
10 proceeding involving a claim for benefits, and the facts found and
11 decision issued in the determination, redetermination, or decision
12 shall be conclusive unless substantial evidence to the contrary is
13 introduced by or on behalf of the claimant.

14 (3) If the employer is determined to be a seasonal employer,
15 the employer shall conspicuously display on its premises a notice
16 of the determination and the beginning and ending dates of the
17 employer's normal seasonal work periods. The notice shall be
18 furnished by the commission. The notice shall additionally specify
19 that an employee must timely apply for unemployment benefits at the
20 end of a first seasonal work period to preserve his or her right to
21 receive retroactive unemployment benefits if he or she is not
22 reemployed by the seasonal employer in the second of the normal
23 seasonal work periods.

24 (4) The commission may issue a determination terminating an
25 employer's status as a seasonal employer on the commission's own
26 motion for good cause, or upon the written request of the employer.
27 A termination determination under this subdivision terminates an

1 employer's status as a seasonal employer, and becomes effective on
2 the beginning date of the normal seasonal work period that would
3 have immediately followed the date the commission issues the
4 determination. A determination under this subdivision is subject to
5 review in the same manner and to the same extent as any other
6 determination under this act.

7 (5) An employer whose status as a seasonal employer is
8 terminated under subdivision (4) may not reapply for a seasonal
9 employer status determination until after a regularly recurring
10 normal seasonal work period has begun and ended.

11 (6) If a seasonal employer informs an employee who received
12 assurance of being rehired that, despite the assurance, the
13 employee will not be rehired at the beginning of the employer's
14 next normal seasonal work period, this subsection does not prevent
15 the employee from receiving unemployment benefits in the same
16 manner and to the same extent he or she would receive benefits
17 under this act from an employer who has not been determined to be a
18 seasonal employer.

19 (7) A successor of a seasonal employer is considered to be a
20 seasonal employer unless the successor provides the commission,
21 within 120 days after the transfer, with a written request for
22 termination of its status as a seasonal employer in accordance with
23 subdivision (4).

24 (8) At the time an employee is hired by a seasonal employer,
25 the employer shall notify the employee in writing if the employee
26 will be a seasonal worker. The employer shall provide the worker
27 with written notice of any subsequent change in the employee's

1 status as a seasonal worker. If an employee of a seasonal employer
2 is denied benefits because that employee is a seasonal worker, the
3 employee may contest that designation in accordance with section
4 32a.

5 (9) As used in this subsection:

6 (a) "Construction industry" means the work activity designated
7 in sector group 23 - construction of the North American
8 classification system - United States office of management and
9 budget, 1997 edition.

10 (b) "Normal seasonal work period" means that period or those
11 periods of time determined under rules promulgated by the
12 commission during which an individual is employed in seasonal
13 employment.

14 (c) "Seasonal employment" means the employment of 1 or more
15 individuals primarily hired to perform services in an industry,
16 other than the construction industry, that does either of the
17 following:

18 (1) Customarily operates during regularly recurring periods of
19 26 weeks or less in any 52-consecutive-week period.

20 (2) Customarily employs at least 50% of its employees for
21 regularly recurring periods of 26 weeks or less within a period of
22 52 consecutive weeks.

23 (d) "Seasonal employer" means an employer, other than an
24 employer in the construction industry, who applies to the
25 commission for designation as a seasonal employer and who the
26 commission determines to be an employer whose operations and
27 business are substantially engaged in seasonal employment.

1 (e) "Seasonal worker" means a worker who has been paid wages
2 by a seasonal employer for work performed only during the normal
3 seasonal work period.

4 (10) This subsection does not apply if the United States
5 department of labor finds it to be contrary to the federal
6 unemployment tax act, 26 USC 3301 to 3311, or the social security
7 act, chapter 531, 49 Stat. 620, and if conformity with the federal
8 law is required as a condition for full tax credit against the tax
9 imposed under the federal unemployment tax act, 26 USC 3301 to
10 3311, or as a condition for receipt by the commission of federal
11 administrative grant funds under the social security act, chapter
12 531, 49 Stat. 620.

13 (p) Benefits shall not be paid to an individual based upon his
14 or her services as a school crossing guard for any week of
15 unemployment that begins between 2 successive academic years or
16 terms, if that individual performs the services of a school
17 crossing guard in the first of the academic years or terms and has
18 a reasonable assurance that he or she will perform those services
19 in the second of the academic years or terms.