

HOUSE BILL No. 4950

September 4, 2013, Introduced by Rep. Foster and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 20 (MCL 421.20), as amended by 2011 PA 269.

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 unemployment agency determines that any benefits
4 charged against an employer's account were improperly paid, an
5 amount equal to the charge based on those benefits shall be
6 credited to the employer's account and a corresponding charge shall
7 be made to the nonchargeable benefits account as of the date of the
8 charge. ~~Benefits paid to an individual as a result of an employer's~~
9 ~~failure to provide the unemployment agency with separation,~~
10 ~~employment, and wage data as required by section 32 shall be~~

1 ~~considered as benefits properly paid to the extent that the~~
2 ~~benefits are chargeable to the noncomplying employer.~~ IF AN EMPLOYER
3 OR EMPLOYER'S AGENT HAS A PATTERN OF FAILING TO RESPOND WITH TIMELY
4 OR ADEQUATE INFORMATION REQUIRED OR REQUESTED UNDER SECTION 32,
5 BENEFITS PAID TO A CLAIMANT AS A RESULT OF THE EMPLOYER'S OR
6 EMPLOYER'S AGENT'S FAILURE TO PROVIDE TIMELY OR ADEQUATE
7 INFORMATION SHALL BE CHARGED TO THAT EMPLOYER'S ACCOUNT. TO
8 DEMONSTRATE A PATTERN SUFFICIENT TO RENDER THE BENEFITS CHARGEABLE,
9 THE UNEMPLOYMENT AGENCY SHALL DOCUMENT REPEATED FAILURE TO PROVIDE
10 TIMELY OR ADEQUATE RESPONSES AND SHALL TAKE INTO CONSIDERATION THE
11 NUMBER OF INSTANCES OF FAILURE IN RELATION TO THE NUMBER OF
12 REQUESTS. THE NUMBER OF FAILURES MUST BE MORE THAN 4 AND CONSTITUTE
13 2% OR MORE OF ALL THE REQUESTS DIRECTED TO THE EMPLOYER DURING THE
14 PRIOR CALENDAR YEAR. A DETERMINATION THAT AN EMPLOYER'S ACCOUNT
15 SHALL BE CHARGED AND THAT THE EMPLOYER'S ACCOUNT SHALL NOT BE
16 CREDITED FOR THE BENEFIT PAYMENTS IS APPEALABLE IN THE SAME MANNER
17 AS OTHER UNEMPLOYMENT DETERMINATIONS. NOTWITHSTANDING ANY CHARGE TO
18 AN EMPLOYER'S ACCOUNT, A CLAIMANT SHALL REPAY THE BENEFITS THAT
19 WERE PAID BECAUSE OF THE EMPLOYER'S OR EMPLOYER'S AGENT'S FAILURE
20 TO PROVIDE TIMELY OR ADEQUATE INFORMATION.

21 (b) ~~For benefit years established before October 1, 2000,~~
22 ~~benefits paid to an individual shall be based upon the credit weeks~~
23 ~~earned during the individual's base period and shall be charged~~
24 ~~against the experience accounts of the contributing employers or~~
25 ~~charged to the accounts of the reimbursing employers from whom the~~
26 ~~individual earned credit weeks. If the individual earned credit~~
27 ~~weeks from more than 1 employer, a separate determination shall be~~

1 ~~made of the amount and duration of benefits based upon the total~~
2 ~~credit weeks and wages earned with each employer. Benefits paid in~~
3 ~~accordance with the determinations shall be charged against the~~
4 ~~experience account of a contributing employer or charged to the~~
5 ~~account of a reimbursing employer beginning with the most recent~~
6 ~~employer first and thereafter as necessary against other base~~
7 ~~period employers in inverse order to that in which the claimant~~
8 ~~earned his or her last credit week with those employers. If there~~
9 ~~is any disqualifying act or discharge under section 29(1) with an~~
10 ~~employer, benefits based upon credit weeks earned from that~~
11 ~~employer before the disqualifying act or discharge shall be charged~~
12 ~~only after the exhaustion of charges as provided above. Benefits~~
13 ~~based upon those credit weeks shall be charged first against the~~
14 ~~experience account of the contributing employer involved or to the~~
15 ~~account of the reimbursing employer involved in the most recent~~
16 ~~disqualifying act or discharge and thereafter as necessary in~~
17 ~~similar inverse order against other base period employers involved~~
18 ~~in disqualifying acts or discharges. The order of charges~~
19 ~~determined as of the beginning date of a benefit year shall remain~~
20 ~~fixed during the benefit year. For benefit years established on or~~
21 ~~after October 1, 2000, the claimant's full weekly benefit rate~~
22 ~~shall be charged to the account or experience account of the~~
23 ~~claimant's most recent separating employer for each of the first 2~~
24 ~~weeks of benefits payable to the claimant in the benefit year in~~
25 ~~accordance with the monetary determination issued pursuant to~~
26 ~~section 32. However, if the total sum of wages paid by an employer~~
27 ~~totals \$200.00 or less, those wages shall be used for purposes of~~

1 benefit payment, but any benefit charges attributable to those
2 wages shall be charged to the nonchargeable benefits account.
3 Thereafter, remaining weeks of benefits payable in the benefit year
4 shall be paid in accordance with the monetary determination and
5 shall be charged proportionally to all base period employers, with
6 the charge to each base period employer being made on the basis of
7 the ratio that total wages paid by the employer in the base period
8 bears to total wages paid by all employers in the base period.
9 However, if the claimant did not perform services for the most
10 recent separating employer or employing entity and receive earnings
11 for performing the services of at least 40 times the state minimum
12 hourly wage times 7 during the claimant's most recent period of
13 employment with the employer or employing entity, then all weeks of
14 benefits payable in the benefit year shall be charged
15 proportionally to all base period employers, with the charge to
16 each base period employer being made on the basis of the ratio that
17 total wages paid by the employer in the base period bears to total
18 wages paid by all employers in the base period. If the claimant
19 performed services for the most recent separating employing entity
20 and received earnings for performing the services of at least 40
21 times the state minimum hourly wage times 7 during the claimant's
22 most recent period of employment for the employing entity but the
23 separating employing entity was not a liable employer, the first 2
24 weeks of benefits payable to the claimant shall be charged
25 proportionally to all base period employers, with the charge to
26 each base period employer made on the basis of the ratio that total
27 wages paid by the employer in the base period bears to total wages

1 paid by all employers in the base period. The "separating employer"
2 is the employer that caused the individual to be unemployed as
3 defined in section 48.

4 (c) For benefit years established before October 1, 2000,
5 **CHARGES FOR REGULAR BENEFITS TO REIMBURSING EMPLOYERS OR TO A**
6 **CONTRIBUTING EMPLOYER'S EXPERIENCE ACCOUNT SHALL BE AS FORMERLY**
7 **PROVIDED IN THIS SUBSECTION.** ~~and except as otherwise provided in~~
8 ~~section 11(d) or (g) or section 46a, the charges for regular~~
9 ~~benefits to any reimbursing employer or to any contributing~~
10 ~~employer's experience account shall not exceed the weekly benefit~~
11 ~~rate multiplied by 3/4 the number of credit weeks earned by the~~
12 ~~individual during his or her base period from that employer. If the~~
13 ~~resultant product is not an even multiple of 1/2 the weekly benefit~~
14 ~~rate, the amount shall be raised to an amount equal to the next~~
15 ~~higher multiple of 1/2 the weekly benefit rate, and in the case of~~
16 ~~an individual who was employed by only 1 employer in his or her~~
17 ~~base period and who earned 34 credit weeks with that employer, the~~
18 ~~product shall be raised to the next higher multiple of the weekly~~
19 ~~benefit rate.~~

20 (d) For benefit years beginning on or after October 1, 2000,
21 and except as otherwise provided in section 11(d) or (g) or section
22 46, the charges for regular benefits to any reimbursing employer's
23 account or to any contributing employer's experience account shall
24 not exceed either the amount derived by multiplying by 2 the weekly
25 benefit rate chargeable to the employer in accordance with
26 subsection (b) if the employer is the separating employer and is
27 chargeable for the first 2 weeks of benefits, or the amount derived

1 from the percentage of the weekly benefit rate chargeable to the
2 employer in accordance with subsection (b), multiplied by the
3 number of weeks of benefits chargeable to base period employers
4 based on base period wages, to which the individual is entitled as
5 provided in section 27(d), if the employer is a base period
6 employer, or both of these amounts if the employer was both the
7 chargeable separating employer and a base period employer.

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

9 **BENEFITS AND CHARGING FOR MULTIEMPLOYER CREDIT WEEKS SHALL BE**
10 **DETERMINED AS FORMERLY PROVIDED IN THIS SUBSECTION. +**

11 ~~—— (1) If an individual has multiemployer credit weeks in his or~~
12 ~~her base period, and if it becomes necessary to use those credit~~
13 ~~weeks as a basis for benefit payments, a single determination shall~~
14 ~~be made of the individual's weekly benefit rate and maximum amount~~
15 ~~of benefits based on the individual's multiemployer credit weeks~~
16 ~~and the wages earned in those credit weeks. Each employer involved~~
17 ~~in the individual's multiemployer credit weeks shall be an~~
18 ~~interested party to the determination. The proviso in section 29(2)~~
19 ~~does not apply to multiemployer credit weeks, nor does the~~
20 ~~reduction provision of section 29(4) apply to benefit entitlement~~
21 ~~based upon those credit weeks.~~

22 ~~—— (2) The charge for benefits based on multiemployer credit~~
23 ~~weeks shall be allocated to each employer involved on the basis of~~
24 ~~the ratio that the total wages earned during the total~~
25 ~~multiemployer credit weeks counted under section 50(b) with the~~
26 ~~employer bears to the total amount of wages earned during the total~~
27 ~~multiemployer credit weeks counted under section 50(b) with all~~

~~such employers, computed to the nearest cent. However, if an adjusted weekly benefit rate is determined in accordance with section 27(f), the charge to the employer who has contributed to the financing of the retirement plan shall be reduced by the same amount by which the weekly benefit rate was adjusted under section 27(f). Benefits for a week of unemployment allocated under this subsection to a contributing employer shall be charged to the nonchargeable benefits account if the claimant during that week earns remuneration with that employer that equals or exceeds the amount of benefits allocated to that employer.~~

~~—— (3) Benefits paid in accordance with the determination based on multiemployer credit weeks shall be allocated to each employer involved and charged as of the quarter in which the payments are made. Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, or of a quarterly statement of charges. The listing or statement shall specify the weeks for which benefits were paid based on multiemployer credit weeks and the amount of benefits paid chargeable to that employer for each week. The notice shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given each employer of benefits charged against that employer's account by means of a listing of the benefit payment, and all protest and appeal rights applicable to benefit payment listings shall also apply to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only apply to the first notice given.~~

(f) For benefit years beginning on or after October 1, 2000 and before January 1, 2014, if a base period contributing employer notifies the unemployment agency that it paid gross wages to a claimant in a week at least equal to the employer's benefit charge for that claimant for the week, then the unemployment agency shall issue a monetary redetermination noncharging the account of the employer for that week and for the remaining weeks of the benefit year for benefits payable to the claimant that would otherwise be charged to the employer's account. For benefit years beginning on or after January 1, 2014, benefits payable to an individual for a week and for each remaining payable week in the benefit year shall be charged to the nonchargeable benefits account if either of the following occurs:

(1) The individual reports gross earnings in the week with a contributing base period employer at least equal to the employer's benefit charges for that individual for the week.

(2) A contributing base period employer timely protests a determination charging benefits to its account for a week in which the employer paid gross wages to an individual at least equal to the employer's charges for benefits paid to that individual for that week.

(g) For benefit years beginning before October 1, 2000,
**TRAINING BENEFITS ARE DETERMINED AS FORMERLY PROVIDED IN THIS
SUBSECTION. ÷**

~~(1) Training benefits as provided in section 27(g), and
extended benefits as provided in section 64, shall be allocated to
each reimbursing employer involved in the individual's base period~~

~~of the claim to which the benefits are related, on the basis of the ratio that the total wages earned during the total credit weeks counted under section 50(b) with a reimbursing employer bears to the total amount of wages earned during the total credit weeks counted under section 50(b) with all employers.~~

~~—— (2) Training benefits and extended benefits, to the extent that they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be charged to that reimbursing employer. A contributing employer's experience account shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent that they are not reimbursable by the federal government, shall be charged to the nonchargeable benefits account. Extended benefits paid and based on service with a contributing employer, to the extent that they are not reimbursable by the federal government, shall be charged to that employer's experience account.~~

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

~~—— (4) Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, and subsequently by a quarterly summary statement of charges. The listing shall specify the name and social security~~

~~number of each claimant paid benefits during the week, the weeks for which the benefits were paid, and the amount of benefits chargeable to that employer paid for each week. The quarterly statement of charges shall list each claimant by name and social security number and shall show total benefit payments chargeable to that employer and made to each claimant during the calendar quarter. The listing shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given each employer of benefits charged against that employer's account by means of a listing of the benefit payment. All protest and appeal rights applicable to benefit payment listings shall also apply to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only apply to the first notice given.~~

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

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

(2) Training benefits, and extended benefits to the extent they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be charged to that reimbursing employer. A contributing employer's experience account

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

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

15 (4) Notice of charges made under this subsection shall be
16 given to each employer by means of a current listing of charges, at
17 least weekly, and subsequently by a quarterly summary statement of
18 charges. The listing shall specify the name and social security
19 number of each claimant paid benefits in the week, the weeks for
20 which the benefits were paid, and the amount of benefits chargeable
21 to that employer paid for each week. The quarterly summary
22 statement of charges shall list each claimant by name and social
23 security number and shall show total benefit payments chargeable to
24 that employer and made to each claimant during the calendar
25 quarter. The listing shall be considered to satisfy the
26 requirements of sections 21(a) and ~~32(d)~~ **32(F)** that notification be
27 given to each employer of benefits charged against that employer's

1 account by means of a listing of the benefit payment. All protest
2 and appeal rights applicable to benefit payment listings shall also
3 apply to the notice of charges. If an employer receives both a
4 current listing of charges and a quarterly summary statement of
5 charges under this subsection, all protest and appeal rights ~~shall~~
6 ~~only~~ apply **ONLY** to the first notice given.

7 (i) If a benefit year is established on or after October 1,
8 2000, the portion of benefits paid in that benefit year that are
9 based on wages used to establish the immediately preceding benefit
10 year that began before October 1, 2000 shall not be charged to the
11 employer or employers who paid those wages but shall be charged
12 instead to the nonchargeable benefits account.

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

19 Enacting section 1. The provisions in section 20(a) of the
20 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.20,
21 as amended by this amendatory act, governing benefits that are
22 considered to be properly paid because of failure to provide the
23 unemployment agency with timely or adequate information apply to
24 benefit payments made after October 21, 2013.

25 Enacting section 2. This amendatory act does not take effect
26 unless all of the following bills of the 97th Legislature are
27 enacted into law:

1 (a) Senate Bill No.____ or House Bill No. 4951(request no.
2 02825'13).

3 (b) Senate Bill No.____ or House Bill No. 4952(request no.
4 02826'13).

5 (c) Senate Bill No.____ or House Bill No. 4949(request no.
6 02987'13).

7 (d) Senate Bill No.____ or House Bill No. 4954(request no.
8 03302'13).

9 (e) Senate Bill No.____ or House Bill No. 4953(request no.
10 03440'13).