

Act No. 142
Public Acts of 2013
Approved by the Governor
October 29, 2013
Filed with the Secretary of State
October 29, 2013
EFFECTIVE DATE: October 29, 2013

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Rep. Foster

ENROLLED HOUSE BILL No. 4950

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to levy and provide for obligation assessments; to provide for the collection of those contributions and assessments; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of this act; and to repeal all acts and parts of acts inconsistent with this act," by amending section 20 (MCL 421.20), as amended by 2011 PA 269.

The People of the State of Michigan enact:

Sec. 20. (a) Benefits paid shall be charged against the employer's account as of the quarter in which the payments are made. If the unemployment agency determines that any benefits charged against an employer's account were improperly paid, an amount equal to the charge based on those benefits shall be credited to the employer's account and a corresponding charge shall be made to the nonchargeable benefits account as of the date of the charge. If an employer or employer's agent has a pattern of failing to respond with timely or adequate information required or requested under section 32, benefits paid to a claimant as a result of the employer's or employer's agent's failure to provide timely or adequate information shall be charged to that employer's account. To demonstrate a pattern sufficient to render the benefits chargeable, the unemployment agency shall document repeated failure to provide timely or adequate responses and shall take into consideration the number of instances of failure in relation to the number of requests. The number of failures must be more than 4 and constitute 2% or more of all the requests directed to the employer during the prior calendar year. A determination that an employer's account shall be charged and that the employer's account shall not be credited for the benefit payments is appealable in the same manner as other unemployment determinations. Recovery of benefits improperly paid to the claimant under this subsection shall be as provided in section 62(a).

(b) For benefit years established on or after October 1, 2000, the claimant's full weekly benefit rate shall be charged to the account or experience account of the claimant's most recent separating employer for each of the first 2 weeks of benefits payable to the claimant in the benefit year in accordance with the monetary determination issued pursuant to section 32. However, if the total sum of wages paid by an employer totals \$200.00 or less, those wages shall be used for

purposes of benefit payment, but any benefit charges attributable to those wages shall be charged to the nonchargeable benefits account. Thereafter, remaining weeks of benefits payable in the benefit year shall be paid in accordance with the monetary determination and shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. However, if the claimant did not perform services for the most recent separating employer or employing entity and receive earnings for performing the services of at least 40 times the state minimum hourly wage times 7 during the claimant's most recent period of employment with the employer or employing entity, then all weeks of benefits payable in the benefit year shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. If the claimant performed services for the most recent separating employing entity and received earnings for performing the services of at least 40 times the state minimum hourly wage times 7 during the claimant's most recent period of employment for the employing entity but the separating employing entity was not a liable employer, the first 2 weeks of benefits payable to the claimant shall be charged proportionally to all base period employers, with the charge to each base period employer made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. The "separating employer" is the employer that caused the individual to be unemployed as defined in section 48.

(c) For benefit years established before October 1, 2000, charges for regular benefits to reimbursing employers or to a contributing employer's experience account shall be as formerly provided in this subsection.

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

(e) For benefit years beginning before October 1, 2000, benefits and charging for multiemployer credit weeks shall be determined as formerly provided in this subsection.

(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.

(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 shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent 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 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 in 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 summary 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(f) that notification be given to 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 summary statement of charges under this subsection, all protest and appeal rights apply only to the first notice given.

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

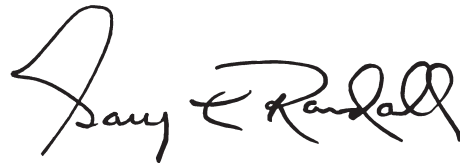
(j) For benefit years beginning after March 30, 2009, benefits paid to a person who leaves employment to accompany a spouse who is a full-time member of the United States armed forces and is reassigned for military service in a different geographic location are not chargeable to the employer, but shall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

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

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

- (a) House Bill No. 4949.
- (b) House Bill No. 4951.
- (c) House Bill No. 4952.
- (d) House Bill No. 4953.
- (e) House Bill No. 4954.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

.....
Governor