Senate Fiscal Agency
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BILL ANALYSIS

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House Bills 4150, 4151, and 4152 (Substitute H-3)
Sponsor: Representative Walter J. DeLange
House Committee: Human Resources and Labor
Senate Committee: Human Resources, Labor, and Veterans Affairs

Date Completed: 5-25-95

SUMMARY OF HOUSE BILLS 4150, 4151, and 4152 (Substitute H-3) as passed by the House:

House Bills 4150 and 4151 would amend the Michigan Employment Security Act and the revenue Act, respectively, to provide for unemployment benefit overpayments to be deducted from tax refunds. House Bill 4152 (H-3) would amend Public Act 390 of 1978, which regulates the payment of wages and fringe benefits, to permit employers to deduct certain overpayments from an employee's wages without the employee's consent.

House Bill 4150

Under current law, if the Michigan Employment Security Commission (MESC) determines that a person has obtained benefits to which he or she is not entitled, the MESC may recover the amount received through either a deduction from benefits payable to the individual or a cash payment by the individual to the MESC. In addition, the Commission may use these methods to recover restitution resulting from an intentional false statement, misrepresentation, or concealment of material information. Under the bill, the MESC also could recover overpayments or restitution by a deduction from a tax refund payable to the individual, as provided under the revenue Act.

The bill is tie-barred to House Bill 4151.

House Bill 4151

The bill would amend the revenue Act to provide that a taxpayer's refund could be applied to a liability to repay benefits obtained under the Michigan Employment Security Act to which the taxpayer was not entitled, upon a request for tax refund offset from the MESC.

Currently, a tax refund must be applied in the following order of priority: 1) to a tax liability of the taxpayer to the State; 2) to any other liability of the taxpayer to the State; and 3) to any of the following in the order of priority received: a child support liability, a writ of garnishment or other valid court order, and a levy of the Internal Revenue Service. A liability to repay unemployment benefits would be added to the third category.

House Bill 4152 (H-3)

Public Act 390 of 1978 generally provides that a deduction for the benefit of an employer requires written consent from the employee for each wage payment subject to the deduction, and the cumulative amount of the deductions may not reduce the gross wages paid to a rate below the State minimum wage. The bill would make an exception to this for overpayments of wages or fringe benefits.

Under the bill, within six months after making an overpayment of wages or fringe benefits that were paid directly to an employee, an employer could deduct the overpayment from the employee's regularly scheduled wage payment without the employee's written consent if all of the following conditions were met:

-- The overpayment resulted from a mathematical miscalculation, typographical error, clerical error, or misprint in the processing of the employee's regularly scheduled wages or fringe benefits.
-- The miscalculation, error, or misprint was made by the employer, the employee, or a representative of the employer or employee.
-- The employer gave the employee a written explanation of the deduction at least one pay period before the wage payment affected by the deduction was made.
-- The deduction did not exceed 15% of the gross wages earned in the pay period in which it was made.
-- The deduction was made after the employer had made all deductions expressly permitted or required by law or a collective bargaining agreement, and after any employee-authorized deduction.
-- The deduction did not reduce the regularly scheduled gross wages otherwise due to the employee to a rate that was less than the minimum rate as defined in the Minimum Wage Law, or the minimum rate as prescribed by the Federal Fair Labor Standards Act, whichever was greater.

An employee who believed that his or her employer had violated these provisions could file a complaint with the Department of Labor within 12 months after the date of the alleged violation.

MCL 421.62 (H.B. 4150)
205.30a (H.B. 4151)
408.477 (H.B. 4152)

Legislative Analyst: S. Margules

FISCAL IMPACT

These bills would have an indeterminate impact on State government and local units of government. These bills would make it easier to secure a return of unemployment benefit overpayments. The Unemployment Insurance Trust Fund would be replenished and the Federal unemployment tax paid for coverage of governmental employees could be reduced to reflect these lower benefit payments.

Fiscal Analyst: K. Lindquist

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