

SENATE BILL NO. 533

April 21, 1999, Introduced by Senator STEIL and referred to the Committee on Human Resources, Labor, Senior Citizens and Veterans Affairs.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 17 and 20 (MCL 421.17 and 421.20), section 17 as amended by 1996 PA 535 and section 20 as amended by 1994 PA 162.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17. (1) The commission shall maintain in the fund a
2 nonchargeable benefits account, and a separate experience account
3 for each employer as provided in this section. As used in this
4 act, "experience account" means an account in the fund showing an
5 employer's experience with respect to contribution payments and
6 benefit charges under this act, determined and recorded in the
7 manner provided in this act. "Nonchargeable benefits account"
8 means the account in the fund maintained as provided in
9 subsections (2) and (3). A reference in this act to the

1 "solvency account" shall be construed to refer to the
2 nonchargeable benefits account and a reference in this act to an
3 employer's "experience record" or "rating account" shall be con-
4 strued to include reference to the employer's experience
5 account. But this act shall not be construed to grant an
6 employer or individuals in the employer's service prior claims or
7 rights to the amount paid by the employer to the unemployment
8 compensation fund. All contributions to that fund shall be
9 pooled and available to pay benefits to any individual entitled
10 to the benefits under this act, irrespective of the source of the
11 contributions.

12 (2) The nonchargeable benefits account shall be credited
13 with the following:

14 (a) All net earnings received on money, property, or securi-
15 ties in the fund.

16 (b) Any positive balance remaining in the employer's
17 experience account as of the second June 30 computation date
18 occurring after the employer has ceased to be subject to this act
19 or after the employer has elected to change from a contributing
20 employer to a reimbursing employer.

21 (c) The proceeds of the nonchargeable benefits component of
22 employers' contribution rates determined as provided in section
23 19(a)(5).

24 (d) All reimbursements received under section 11(c).

25 (e) All amounts which may be paid or advanced by the federal
26 government under section 903 OF TITLE IX or section 1201 OF TITLE

1 XII of the social security act, 42 U.S.C. 1103 and 1321, to the
2 account of the state in the federal unemployment trust fund.

3 (f) All benefits improperly paid to claimants which have
4 been recovered and which were previously charged to an employer's
5 account.

6 (g) Any benefits forfeited by an individual by application
7 of section 62(b).

8 (h) The amount of any benefit check, any employer refund
9 check, or any claimant restitution refund check duly issued which
10 has not been presented for payment within 1 year after the date
11 of issue.

12 (i) Any other unemployment fund income not creditable to the
13 experience account of any employer.

14 (j) Any negative balance transferred to an employer's new
15 experience account pursuant to this section.

16 (k) Amounts transferred from the contingent fund pursuant to
17 section 10.

18 (3) ~~The~~ SUBJECT TO SECTION 20(J), THE nonchargeable bene-
19 fits account shall be charged with the following:

20 (a) Any negative balance remaining in an employer's
21 experience account as of the second June 30 computation date
22 occurring after the employer has ceased to be subject to this act
23 or has elected to change from a contributing employer to a reim-
24 bursing employer.

25 (b) Refunds of amounts erroneously collected due to the non-
26 chargeable benefits component of an employer's contribution
27 rate.

1 (c) All training benefits paid under section 27(g) not
2 reimbursable by the federal government and based on service with
3 a contributing employer.

4 (d) Any positive balance credited or transferred to an
5 employer's new experience account pursuant to this subsection.

6 (e) Repayments to the federal government of amounts advanced
7 by it under section 1201 OF TITLE XII of the social security act,
8 42 U.S.C. 1321, to the unemployment compensation fund established
9 by this act.

10 (f) The amounts received by the fund under section 903 of
11 TITLE IX OF the social security act, 42 U.S.C. 1103, that may be
12 appropriated to the commission in accordance with subsection
13 ~~(9)~~ (8).

14 (g) All benefits determined to have been improperly paid to
15 claimants which have been credited to employers' accounts in
16 accordance with section 20(a).

17 (h) The amount of any substitute check issued to replace an
18 uncashed benefit check, employer refund check, or claimant resti-
19 tution refund check previously credited to this account.

20 (i) The amount of any benefit check issued which would be
21 chargeable to the experience account of an employer who has
22 ceased to be subject to this act, and who has had a balance
23 transferred from the employer's experience account to the sol-
24 vency or nonchargeable benefits account.

25 (j) All benefits which become nonchargeable to an employer
26 under section 29(3) or section 19(b) or (c).

1 (k) For benefit years beginning before the conversion date
2 prescribed in section 75, with benefits allocated under section
3 20(e)(2) for a week of unemployment in which a claimant earns
4 remuneration with a contributing employer which equals or exceeds
5 the amount of benefits allocated to that contributing employer,
6 and for benefit years beginning after the conversion date pre-
7 scribed in section 75, with benefits allocated under section
8 20(e)(3) for a week of unemployment in which a claimant earns
9 remuneration with a contributing employer which equals or exceeds
10 the amount of benefits allocated to that contributing employer.

11 (l) Benefits that are nonchargeable to an employer's account
12 in accordance with section 20(i).

13 (4) All contributions paid by an employer shall be credited
14 to the unemployment compensation fund, and, except as otherwise
15 provided with respect to the proceeds of the nonchargeable bene-
16 fits component of employers' contribution rates by section
17 19(a)(5), to the employer's experience account, as of the date
18 when paid. However, those contributions paid during any July
19 shall be credited as of the immediately preceding June 30.
20 Additional contributions paid by an employer as the result of a
21 retroactive contribution rate adjustment, solely for the purpose
22 of this subsection, shall be credited to the employer's
23 experience account as if paid when due, if the payment is
24 received within 30 days after the issuance of the initial assess-
25 ment which results from the contribution rate adjustment and a
26 written request for the application is filed by the employer
27 during this period.

1 (5) If an employer who has ceased to be subject to this act,
2 and who has had a positive balance transferred as provided in
3 subsection (2) from the employer's experience account to the sol-
4 vency or nonchargeable benefits account as of the second computa-
5 tion date after the employer has ceased to be subject to this
6 act, shall thereafter again become subject to this act within 6
7 years after that computation date, the employer may apply, within
8 60 days after the commission's determination that the employer is
9 again subject to this act, to the commission to have the positive
10 balance, adjusted by the debits and credits as have been made
11 subsequent to the date of transfer, credited to the employer's
12 new experience account. If the application is timely, the com-
13 mission shall credit the positive balance to the employer's new
14 experience account.

15 (6) If an employer's status as a reimbursing employer is
16 terminated within 6 years after the date the employer's
17 experience account as a prior contributing employer was trans-
18 ferred to the solvency or nonchargeable benefits account as pro-
19 vided in subsection (2) or (3) and the employer continues to be
20 subject to this act as a contributing employer, any positive or
21 negative balance in the employer's experience account as a prior
22 contributing employer, which was transferred to the solvency or
23 nonchargeable benefits account, shall be transferred to the
24 employer's new experience account. However, an employer who is
25 delinquent with respect to any reimbursement payments in lieu of
26 contributions for which the employer may be liable shall not have
27 a positive balance transferred during the delinquency.

1 (7) If a balance is transferred to an employer's new account
2 under subsection (5) or (6), the employer shall not be consid-
3 ered a "qualified employer" until the employer has again been
4 subject to this act for the period set forth in section
5 19(a)(1).

6 (8) All money credited under section 903 OF TITLE IX of the
7 social security act, 42 U.S.C. 1103, to the account of the state
8 in the federal unemployment trust fund shall immediately be cred-
9 ited by the commission to the fund's nonchargeable benefits
10 account. There is authorized to be appropriated to the commis-
11 sion from the money credited to the nonchargeable benefits
12 account under this subsection, sums found necessary for the
13 proper and efficient administration by the commission of this act
14 for purposes for which federal grants under ~~Title 3~~ TITLE III
15 of the social security act, CHAPTER 531, 49 STAT. 620, 42
16 U.S.C. 501 to 504, and the Wagner-Peyser ~~national employment~~
17 ~~system~~ act, CHAPTER 49, 48 STAT. 113, 29 U.S.C. 49 to ~~49k~~ 49c
18 AND 49d TO 49l-2, are not available or are insufficient. The
19 appropriation shall expire not more than 2 years after the date
20 of enactment and shall provide that any unexpended balance shall
21 then be credited to the nonchargeable benefits account. An
22 appropriation shall not be made under this subsection for an
23 amount which exceeds the "adjusted balance" of the nonchargeable
24 benefits account on the most recent computation date.
25 Appropriations made under this subsection shall limit the total
26 amount which may be obligated by the commission during a fiscal
27 year to an amount which does not exceed the amount by which the

1 aggregate of the amounts credited to the nonchargeable benefits
2 account under this subsection during the fiscal year and the 24
3 preceding fiscal years, exceeds the aggregate of the amounts
4 obligated by the commission pursuant to appropriation under this
5 subsection and charged against the amounts thus credited to the
6 nonchargeable benefits account during any of the 25 fiscal years
7 and any amounts credited to the nonchargeable benefits account
8 which have been used for the payment of benefits.

9 Sec. 20. (a) Benefits paid shall be charged against the
10 employer's account as of the quarter in which the payments are
11 made. If the commission determines that any benefits charged
12 against an employer's account were improperly paid, an amount
13 equal to the charge based on those benefits shall be credited to
14 the employer's account and a corresponding charge shall be made
15 to the nonchargeable benefits account as of the current period
16 or, in the discretion of the commission as of the date of the
17 charge. Benefits paid to an individual as a result of an
18 employer's failure to provide the commission with separation,
19 employment, and wage data as required by section 32 shall be con-
20 sidered as benefits properly paid to the extent that the benefits
21 are chargeable to the noncomplying employer.

22 (b) For benefit years established before the conversion date
23 prescribed in section 75, benefits paid to an individual shall be
24 based upon the credit weeks earned during the individual's base
25 period and shall be charged against the experience accounts of
26 the contributing employers or charged to the accounts of the
27 reimbursing employers from whom the individual earned credit

1 weeks. If the individual earned credit weeks from more than 1
2 employer, a separate determination shall be made of the amount
3 and duration of benefits based upon the total credit weeks and
4 wages earned with each employer. Benefits paid in accordance
5 with the determinations shall be charged against the experience
6 account of a contributing employer or charged to the account of a
7 reimbursing employer beginning with the most recent employer
8 first and thereafter as necessary against other base period
9 employers in inverse order to that in which the claimant earned
10 his or her last credit week with those employers. If there is
11 any disqualifying act or discharge under section 29(1) with an
12 employer, benefits based upon credit weeks earned from that
13 employer before the disqualifying act or discharge shall be
14 charged only after the exhaustion of charges as provided above.
15 Benefits based upon those credit weeks shall be charged first
16 against the experience account of the contributing employer
17 involved or to the account of the reimbursing employer involved
18 in the most recent disqualifying act or discharge and thereafter
19 as necessary in similar inverse order against other base period
20 employers involved in disqualifying acts or discharges. The
21 order of charges determined as of the beginning date of a benefit
22 year shall remain fixed during the benefit year. For benefit
23 years established after the conversion date prescribed in
24 section 75, the claimant's full weekly benefit rate shall be
25 charged to the account or experience account of the claimant's
26 most recent separating employer for each of the first 2 weeks of
27 benefits payable to the claimant in the benefit year in

1 accordance with the monetary determination issued pursuant to
2 section 32. Thereafter, remaining weeks of benefits payable in
3 the benefit year shall be paid in accordance with the monetary
4 determination and shall be charged proportionally to all base
5 period employers, with the charge to each base period employer
6 being made on the basis of the ratio that total wages paid by the
7 employer in the base period bears to total wages paid by all
8 employers in the base period. However, if the claimant did not
9 perform services for the most recent separating employer or
10 employing entity and receive earnings for performing the services
11 of at least the amount a claimant must earn, in the manner pre-
12 scribed in section 29(3), to requalify for benefits following a
13 disqualification under section 29(1)(a), (b), (i), or (k) during
14 the claimant's most recent period of employment with the employer
15 or employing entity, then all weeks of benefits payable in the
16 benefit year shall be charged proportionally to all base period
17 employers, with the charge to each base period employer being
18 made on the basis of the ratio that total wages paid by the
19 employer in the base period bears to total wages paid by all
20 employers in the base period. If the claimant performed services
21 for the most recent separating employing entity and received
22 earnings for performing the services of at least the amount a
23 claimant must earn, in the manner prescribed in section 29(3), to
24 requalify for benefits following a disqualification under
25 section 29(1)(a), (b), (i), or (k) during the claimant's most
26 recent period of employment for the employing entity but the
27 separating employing entity was not a liable employer, the first

1 2 weeks of benefits payable to the claimant shall be charged
2 proportionally to all base period employers, with the charge to
3 each base period employer being made on the basis of the ratio
4 that total wages paid by the employer in the base period bears to
5 total wages paid by all employers in the base period. The
6 "separating employer" is the employer that caused the individual
7 to be unemployed as defined in section 48.

8 (c) For benefit years established before the conversion date
9 prescribed in section 75, and except as otherwise provided in
10 section 11(d) or (g) or section 46a, the charges for regular ben-
11 efits to any reimbursing employer or to any contributing
12 employer's experience account shall not exceed the weekly benefit
13 rate multiplied by $\frac{3}{4}$ the number of credit weeks earned by the
14 individual during his or her base period from that employer. If
15 the resultant product is not an even multiple of $\frac{1}{2}$ the weekly
16 benefit rate, the amount shall be raised to an amount equal to
17 the next higher multiple of $\frac{1}{2}$ the weekly benefit rate, and in
18 the case of an individual who was employed by only 1 employer in
19 his or her base period and who earned 34 credit weeks with that
20 employer, the product shall be raised to the next higher multiple
21 of the weekly benefit rate.

22 (d) For benefit years beginning after the conversion date
23 prescribed in section 75, and except as otherwise provided in
24 section 11(d) or (g) or section 46, the charges for regular bene-
25 fits to any reimbursing employer's account or to any contributing
26 employer's experience account shall not exceed either the amount
27 derived by multiplying by 2 the weekly benefit rate chargeable to

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

11 (e) For benefit years beginning before the conversion date
12 prescribed in section 75:

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

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

1 employer bears to the total amount of wages earned during the
2 total multiemployer credit weeks counted under section 50(b) with
3 all such employers, computed to the nearest cent. However, if an
4 adjusted weekly benefit rate is determined in accordance with
5 section 27(f), the charge to the employer who has contributed to
6 the financing of the retirement plan shall be reduced by the same
7 amount by which the weekly benefit rate was adjusted under
8 section 27(f). Benefits for a week of unemployment allocated
9 under this subsection to a contributing employer shall be charged
10 to the nonchargeable benefits account if the claimant during that
11 week earns remuneration with that employer which equals or
12 exceeds the amount of benefits allocated to that employer.

13 (3) Benefits paid in accordance with the determination based
14 on multiemployer credit weeks shall be allocated to each employer
15 involved and charged as of the quarter in which the payments are
16 made. Notice of charges made under this subsection shall be
17 given to each employer by means of a current listing of charges,
18 at least weekly, or of a quarterly statement of charges. The
19 listing or statement shall specify the weeks for which benefits
20 were paid based on multiemployer credit weeks and the amount of
21 benefits paid chargeable to that employer for each week. The
22 notice shall be considered to satisfy the requirements of
23 sections 21(a) and 32(d) that notification be given each employer
24 of benefits charged against that employer's account by means of a
25 copy or listing of the benefit check, and all protest and appeal
26 rights applicable to benefit check copies or listings shall also
27 be applicable to the notice of charges. If an employer receives

1 both a current listing of charges and a quarterly statement of
2 charges under this subsection, all protest and appeal rights
3 shall only be applicable to the first notice given.

4 (f) For benefit years beginning after the conversion date
5 prescribed in section 75, benefits for a week of unemployment
6 charged under this section to a contributing employer shall be
7 charged to the nonchargeable benefits account if the claimant
8 during that week earns remuneration with that employer which
9 equals or exceeds the amount of benefits charged to that
10 employer.

11 (g) For benefit years beginning before the conversion date
12 prescribed in section 75:

13 (1) Training benefits as provided in section 27(g), and
14 extended benefits as provided in section 64, shall be allocated
15 to each reimbursing employer involved in the individual's base
16 period of the claim to which the benefits are related, on the
17 basis of the ratio that the total wages earned during the total
18 credit weeks counted under section 50(b) with a reimbursing
19 employer bears to the total amount of wages earned during the
20 total credit weeks counted under section 50(b) with all
21 employers.

22 (2) Training benefits and extended benefits, to the extent
23 that they are not reimbursable by the federal government and have
24 been allocated to a reimbursing employer, shall be charged to
25 that reimbursing employer. A contributing employer's experience
26 account shall not be charged with training benefits. Training
27 benefits based on service with a contributing employer, to the

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

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

13 (4) Notice of charges made under this subsection shall be
14 given to each employer by means of a current listing of charges,
15 at least weekly, and subsequently by a quarterly summary state-
16 ment of charges. The listing shall specify the name and social
17 security number of each claimant paid benefits during the week,
18 the weeks for which the benefits were paid and the amount of ben-
19 efits chargeable to that employer paid for each week. The quar-
20 terly statement of charges shall list each claimant by name and
21 social security number and shall show total benefit payments
22 chargeable to that employer and made to each claimant during the
23 calendar quarter. The listing shall be considered to satisfy the
24 requirements of sections 21(a) and 32(d) that notification be
25 given each employer of benefits charged against that employer's
26 account by means of a listing of the benefit check. All protest
27 and appeal rights applicable to benefit check listings shall also

1 be applicable to the notice of charges. If an employer receives
2 both a current listing of charges and a quarterly statement of
3 charges under this subsection, all protest and appeal rights
4 shall only be applicable to the first notice given.

5 (h) For benefit years beginning after the conversion date
6 prescribed in section 75:

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

14 (2) Training benefits, and extended benefits to the extent
15 they are not reimbursable by the federal government and have been
16 allocated to a reimbursing employer, shall be charged to that
17 reimbursing employer. A contributing employer's experience
18 account shall not be charged with training benefits. Training
19 benefits based on service with a contributing employer, to the
20 extent they are not reimbursable by the federal government, shall
21 be charged to the nonchargeable benefits account. Extended bene-
22 fits paid and based on service with a contributing employer, to
23 the extent they are not reimbursable by the federal government,
24 shall be charged to that employer's experience account.

25 (3) If the training benefits or extended benefits are
26 chargeable only to a single reimbursing employer, the benefits
27 shall be charged in accordance with subsection (a). If the

1 training benefits or extended benefits are chargeable to more
2 than 1 reimbursing employer, or to 1 or more reimbursing employ-
3 ers and the nonchargeable benefits account, the benefits shall be
4 charged as of the quarter in which the payments are made.

5 (4) Notice of charges made under this subsection shall be
6 given to each employer by means of a current listing of charges,
7 at least weekly, and subsequently by a quarterly summary state-
8 ment of charges. The listing shall specify the name and social
9 security number of each claimant paid benefits in the week, the
10 weeks for which the benefits were paid, and the amount of bene-
11 fits chargeable to that employer paid for each week. The quar-
12 terly summary statement of charges shall list each claimant by
13 name and social security number and shall show total benefit pay-
14 ments chargeable to that employer and made to each claimant
15 during the calendar quarter. The listing shall be considered to
16 satisfy the requirements of sections 21(a) and 32(d) that notifi-
17 cation be given each employer of benefits charged against that
18 employer's account by means of a listing of the benefit check.
19 All protest and appeal rights applicable to benefit check list-
20 ings shall also be applicable to the notice of charges. If an
21 employer receives both a current listing of charges and a quar-
22 terly summary statement of charges under this subsection, all
23 protest and appeal rights shall only be applicable to the first
24 notice given.

25 (i) If a benefit year is established after the conversion
26 date prescribed in section 75, the portion of benefits paid in
27 that benefit year that are based on wages used to establish the

1 immediately preceding benefit year that began before the
2 conversion date shall not be charged to the employer or employers
3 who paid those wages but shall be charged instead to the non-
4 chargeable benefits account.

5 (J) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, CHARGES
6 AGAINST AN EMPLOYER'S BENEFIT ACCOUNT SHALL NOT INCLUDE CHARGES
7 FOR THE FIRST 11 WEEKS OF A CLAIMANT'S ELIGIBILITY FOR BENEFITS
8 IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:

9 (1) THE CLAIMANT IS A PRIMARY WAGE EARNER WHO RECEIVED CASH
10 ASSISTANCE FROM THE FAMILY INDEPENDENCE AGENCY IN THE CALENDAR
11 QUARTER IN WHICH THE EMPLOYER FIRST PAID WAGES TO THE CLAIMANT,
12 OR DURING A PERIOD IMMEDIATELY PRECEDING THE CALENDAR QUARTER IN
13 WHICH THE EMPLOYER FIRST PAID WAGES TO THE CLAIMANT.

14 (2) THE EMPLOYER PAID THE CLAIMANT WAGES FOR NOT MORE THAN 2
15 CALENDAR QUARTERS.

16 (K) THE AMOUNT PROHIBITED FROM BEING CHARGED TO AN
17 EMPLOYER'S BENEFIT ACCOUNT UNDER SUBSECTION (J) SHALL BE CHARGED
18 TO THE NONCHARGEABLE BENEFITS ACCOUNT DESCRIBED IN SECTION 17.

19 (L) AN EMPLOYER WHO DISCHARGES AN EMPLOYEE WITH THE INTENT
20 TO AVOID CHARGES TO THE EMPLOYER'S BENEFIT ACCOUNT IS IN WILLFUL
21 VIOLATION OF THIS ACT, AND IS SUBJECT TO THE PENALTIES DESCRIBED
22 IN SECTIONS 54 AND 54A.