House
Legislative
Analysis
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UNEMPLOYMENT INSURANCE AMENDMENTS

House Bill 4188
Sponsor: Rep. Rose Bogardus
Committee: Employment Relations, Training and Safety

Complete to 3-30-01

A SUMMARY OF HOUSE BILL 4188 AS INTRODUCED 2-13-01

Public Act 25 of 1995 amended the Michigan Employment Security Act in general to reduce not only employers' unemployment insurance (UI) taxes but also unemployed workers' UI benefits and, in the case of some workers, access to these benefits. The bill would further reduce employers' UI taxes, restore most of the UI benefit cuts made by P.A. 25, and add several new provisions to the act regarding IRA rollovers, "good cause" for late filing for education employees under certain circumstances, and spousal transfer and worker lockout exemptions to the act's benefit disqualification section.

P.A. 25 amendments. Public Act 25 of 1995 reduced employer UI taxes by ten percent. The bill would further reduce these taxes -- the chargeable benefits component (CBC), account building component (ABC), and non-chargeable benefits component (NBC) of the contribution rate -- by another 12.5 percent.

The bill also would reverse a number of changes made by Public Act 25 of 1995 to return the weekly benefit rate to 70 percent of a worker's after tax weekly wage (and, after the conversion to the wage record system, to 4.2 percent of an individual's highest total wages during the base period); return to indexing the maximum weekly benefit to no more than 58 percent of the state average weekly wage (SAWW); return the "credit week multiplier" to 20 times the state minimum hourly wage; return to the benefit reduction/earning offset system that allows full weekly UI benefits so long as a claimant doesn't earn more than half his or her weekly benefit that week; allow seasonal workers to qualify for UI benefits during "off season" unemployment and allow temporary workers to return to their pre-P.A. 25 eligibility status; and remove the requirement that the Michigan Employment Security Agency (formerly the Michigan Employment Security Commission) deny benefits to certain workers when it considered their experience and prior earnings in determining "suitable work."

More specifically, the bill would delete the following changes to provisions in the employment security act regarding workers' benefits made by P.A. 25 of 1995:

** Weekly benefit rate. Before enactment of P.A. 25, the Michigan Employment Security Act set the weekly benefit rate (for benefit years beginning before conversion to the wage record system, which P.A. 162 of 1994 set for January 1, 1997, and which P.A. 90 of 1997 changed to July 1, 2001) at 70 percent of an unemployed worker's average after tax weekly wage. P.A. 25 decreased that rate by three percent, to 67 percent; the bill would change the rate back to 70 percent.

For benefit years beginning with the conversion to the wage record system, the act had required that an individual's weekly benefit rate be 4.2 percent of his or her wages paid in the calendar quarter of the base period in which he or she was paid the highest total wages. (For calendar years beginning after the conversion date, "base period" meant the first four of the last five completed calendar quarters before the first day of the individual's benefit year.) P.A. 25 lowered the percentage to 4.0 percent (which P.A. 181 of 1995 raised to 4.1 percent to conform with the change from 65 to 67 percent made in the final version of the bill that became P.A. 25). The bill would return the rate to 4.2 percent. [Section 27(b)(1)]

** Maximum weekly benefit. P.A. 25 completely eliminated the indexing of the maximum weekly benefit that an unemployed worker could receive to the state average weekly wage (SAWW), and instead set the maximum at a flat $300 per week. The bill would return capping the maximum weekly benefit by indexing it to no more than 58 percent of the SAWW.

(Note: Prior to enactment of Public Act 25 of 1995, Public Act 311 of 1993 already had temporarily suspended (for benefit years established between 1994 and 1997) indexing the maximum weekly benefit to 58 percent of the SAWW. Instead, P.A. 311 set the maximum benefit at a flat $293 per week until on January 5, 1997, at which time the maximum benefit once again would have been indexed to the SAWW (though for 1997 the maximum benefit rate was to be set at 53, not 58 percent, of the SAWW, with the rate rising two percent, to 55 percent of the SAWW, in calendar year 1998). However, P.A. 25 of 1995 eliminated a return to indexing the maximum benefit to the SAWW; at the same time it also increased the flat cap from $293 per week to $300 per week. [Section 27(b)(1)])

** Benefit reductions and earnings offsets. Prior to P.A. 25, unemployed workers could receive a full week's UI benefit if they earned less than 50 percent of their weekly benefit amount. P.A. 25 reduced the weekly benefit amount by 50 cents for each dollar earned by a claimant during a week of unemployment. The bill would delete the 50 cents' reduction provision and reinstate the former provisions to allow each eligible individual to receive a full weekly benefit rate each week he or she received no pay or pay equal to less than one-half his or her weekly benefit rate, and to receive one-half his or her weekly benefit rate each week he or she received more than half but less than his or her full weekly benefit rate. [27(c)]

** Temporary and seasonal workers. P.A. 25 restricted the ability of seasonal and temporary workers (other than construction workers) to qualify for UI benefits. The bill would remove these restrictions.

The employment security act specifies various conditions that disqualify someone from receiving UI benefits. P.A. 25 disqualified from eligibility for UI benefits temporary workers who failed to notify their "temporary help" employer within seven days of completing an employer's assignment. The bill would remove these restrictions on temporary [Section 29(1)(*l*)] workers' ability to qualify for benefits.

P.A. 25 also disqualified seasonal workers who work for designated "seasonal employers" from eligibility for benefits except for unemployment benefits based on services by a seasonal worker performed in seasonal employment only for weeks of unemployment that occur

during the normal seasonal work period (and not, as before P.A. 25, for unemployment during "off season"). In addition, P.A. 25 left it up to employers to decide whether or not to apply to the Michigan Employment Security Agency (MESA, formerly the MESC) for designation as a "seasonal employer," and up to the MESA to decide which employers could be so designated. P.A. 25 defined "seasonal employer" to mean "an employer, other than an employer in the construction industry, who applies to the commission for designation as a seasonal employer and who the commission determines to be an employer whose operations and business are substantially engaged in seasonal employment." "Seasonal employment" is defined as "the employment of [one] or more individuals primarily hired to perform services in an industry that does either of the following: (1) Customarily operates during regularly recurring periods of 26 weeks or less in any 52-consecutive-week period. (2) Customarily employs at least 50 [percent] of its employees for regularly recurring periods of 26 weeks or less within a period of 52 consecutive weeks." The bill would remove this language regarding seasonal workers.

** "Credit week multiplier." Prior to P. A. 25, for benefit years established before January 1, 1997, the employment security act had required unemployed workers to have earned wages equal to or greater than 20 times the state minimum hourly wage in order to qualify for UI benefits. P.A. 25 changed this eligibility requirement by increasing the amount of earnings needed to be eligible (the so-called "credit week multiplier") from 20 to 30 times the state minimum hourly wage for benefit years established before the wage record system conversion date and after January 1, 1996. The bill would return the amount of earnings necessary to qualify for benefits to 20 times the state minimum wage (which was raised by P.A. 1 of 1997 from $3.35 per hour to $5.15 per hour on September 1, 1997) for benefit years established before the wage record system conversion date. [Section 50]

** "Suitable work." Under the employment security act, an unemployed worker is required to accept "suitable work" when it is offered or else lose his or her UI benefits. Prior to enactment of P.A. 25, the act required the Michigan Employment Security Agency to consider a list of certain factors in determining whether or not work was "suitable" for an individual. The list consisted of the following factors:

(1) The degree of risk involved to the individual's health, safety, and morals;

(2) The individual's physical fitness and prior training;

(3) His or her experience and prior earnings;

(4) His or her length of unemployment and prospects for securing local work in his or her customary occupation; and

(5) The distance of the available work from the individual's residence.

P.A. 25 put limitations on the "experience and prior earnings" factor, requiring the MESA to deny benefits if an unemployed worker turned down work that paid a progressively decreasing percentage of his or her prior earnings the longer he or she was unemployed. The bill would delete these limitations on the Michigan Employment Security Agency in considering

denial of benefits to an individual based on his or her experience and prior earnings. [Section 29(6)]

Other provisions. The bill also would make changes to the act regarding Individual Retirement Account (IRA) "rollovers," spousal transfers, and worker lockouts, and UI benefits for certain educational employees. More specifically, the bill would do the following:

** Allow the transfer of an individual's IRA (or other federally tax qualified retirement account) into another IRA (or other federally tax qualified retirement account) without affecting the individual's eligibility for UI benefits or the calculation of those benefits [Section 29(f)(1)(a)];

** Allow someone who left a job because his or her spouse had been transferred elsewhere because of the spouse's job to remain eligible for benefits, and charge the benefits to the nonchargeable benefits account (NBA) [Section 29(13)]; and

** Allow workers whose unemployment was due to a lockout to remain qualified for benefits [Section 29(7)].

** Give employees (who performed services in other than an instructional, research, or principal administrative capacity) of educational institutions who were promised, and then not given, a job in a subsequent academic year (a) "good cause" for late filing and (b) retroactive benefits for the time they were supposed to have been working [Section 29(I)(4), (5)].

Finally, the bill also would delete sections of the act disqualifying certain school bus drivers [Section 27(n)] and school crossing guards [Section 27(p)] for UI benefits. Under the employment security act, school bus drivers are not eligible for benefits during customary school holidays, recesses, and the periods between academic terms and school years. Public Act 535 of 1982, which significantly changed the unemployment security act in light of the severe economic recession of the early 1980s, extended this denial of benefits to bus drivers who work for private employers who contract with educational institutions to provide bus service if 75 percent or more of the driver's base period wages with that private employer are for services as a bus driver. The bill would delete this provision. Public Act 181 of 1995, which amended the employment security act to exempt construction workers and the construction industry from the definitions (added by P.A. 25) of "seasonal employment" and "seasonal employer," also excluded school crossing guards (most of whom are municipal rather than school employees) from eligibility for UI benefits during breaks between two successive academic terms or years if the crossing guard had worked during the first of the academic terms or years and had a "reasonable assurance" that he or she would be employed as a crossing guard in the next academic term or year. The bill would delete this provision.

MCL 421.19, 421.27, 421.29, and 421.50

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.