

HOUSE BILL No. 4654

March 19, 2009, Introduced by Reps. Hansen, Agema, Horn, Espinoza, Moss, Elsenheimer, Meekhof, Caul, Rogers, Genetski, Rick Jones, Tyler, Pearce, Mayes, Booher, Wayne Schmidt, Sheltrown and Proos and referred to the Committee on Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 20 (MCL 421.20), as amended by 2008 PA 479.

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 bureau determines that any benefits charged against an
4 employer's account were improperly paid, an amount equal to the
5 charge based on those benefits shall be credited to the employer's
6 account and a corresponding charge shall be made to the
7 nonchargeable benefits account as of the current period or, in the
8 discretion of the bureau, as of the date of the charge. Benefits

1 paid to an individual as a result of an employer's failure to
2 provide the unemployment agency with separation, employment, and
3 wage data as required by section 32 shall be considered as benefits
4 properly paid to the extent that the benefits are chargeable to the
5 noncomplying employer.

6 (b) For benefit years established before October 1, 2000,
7 benefits paid to an individual shall be based upon the credit weeks
8 earned during the individual's base period and shall be charged
9 against the experience accounts of the contributing employers or
10 charged to the accounts of the reimbursing employers from whom the
11 individual earned credit weeks. If the individual earned credit
12 weeks from more than 1 employer, a separate determination shall be
13 made of the amount and duration of benefits based upon the total
14 credit weeks and wages earned with each employer. Benefits paid in
15 accordance with the determinations shall be charged against the
16 experience account of a contributing employer or charged to the
17 account of a reimbursing employer beginning with the most recent
18 employer first and thereafter as necessary against other base
19 period employers in inverse order to that in which the claimant
20 earned his or her last credit week with those employers. If there
21 is any disqualifying act or discharge under section 29(1) with an
22 employer, benefits based upon credit weeks earned from that
23 employer before the disqualifying act or discharge shall be charged
24 only after the exhaustion of charges as provided above. Benefits
25 based upon those credit weeks shall be charged first against the
26 experience account of the contributing employer involved or to the
27 account of the reimbursing employer involved in the most recent

1 disqualifying act or discharge and thereafter as necessary in
2 similar inverse order against other base period employers involved
3 in disqualifying acts or discharges. The order of charges
4 determined as of the beginning date of a benefit year shall remain
5 fixed during the benefit year. For benefit years established on or
6 after October 1, 2000, the claimant's full weekly benefit rate
7 shall be charged to the account or experience account of the
8 claimant's most recent separating employer for each of the first 2
9 weeks of benefits payable to the claimant in the benefit year in
10 accordance with the monetary determination issued pursuant to
11 section 32. However, if the total sum of wages paid by an employer
12 totals \$200.00 or less, those wages shall be used for purposes of
13 benefit payment, but any benefit charges attributable to those
14 wages shall be charged to the nonchargeable benefits account.
15 Thereafter, remaining weeks of benefits payable in the benefit year
16 shall be paid in accordance with the monetary determination and
17 shall be charged proportionally to all base period employers, with
18 the charge to each base period employer being made on the basis of
19 the ratio that total wages paid by the employer in the base period
20 bears to total wages paid by all employers in the base period.
21 However, if the claimant did not perform services for the most
22 recent separating employer or employing entity and receive earnings
23 for performing the services of at least the amount a claimant must
24 earn, in the manner prescribed in section 29(3), to requalify for
25 benefits following a disqualification under section 29(1)(a), (b),
26 (i), or (k) during the claimant's most recent period of employment
27 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 the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) 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, and except as otherwise provided in section 11(d) or (g) or section 46a, the charges for regular benefits to any reimbursing employer or to any contributing employer's experience account shall not exceed the weekly benefit rate multiplied by $\frac{3}{4}$ the number of credit weeks earned by the individual during his or her base period from that employer. If the resultant product is not an even multiple of $\frac{1}{2}$ the weekly benefit rate, the amount shall be raised to an amount equal to the next higher multiple of $\frac{1}{2}$ the weekly

1 benefit rate, and in the case of an individual who was employed by
2 only 1 employer in his or her base period and who earned 34 credit
3 weeks with that employer, the product shall be raised to the next
4 higher multiple of the weekly benefit rate.

5 (d) For benefit years beginning on or after October 1, 2000,
6 and except as otherwise provided in section 11(d) or (g) or section
7 46, the charges for regular benefits to any reimbursing employer's
8 account or to any contributing employer's experience account shall
9 not exceed either the amount derived by multiplying by 2 the weekly
10 benefit rate chargeable to the employer in accordance with
11 subsection (b) if the employer is the separating employer and is
12 chargeable for the first 2 weeks of benefits, or the amount derived
13 from the percentage of the weekly benefit rate chargeable to the
14 employer in accordance with subsection (b), multiplied by the
15 number of weeks of benefits chargeable to base period employers
16 based on base period wages, to which the individual is entitled as
17 provided in section 27(d), if the employer is a base period
18 employer, or both of these amounts if the employer was both the
19 chargeable separating employer and a base period employer.

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

21 (1) If an individual has multiemployer credit weeks in his or
22 her base period, and if it becomes necessary to use those credit
23 weeks as a basis for benefit payments, a single determination shall
24 be made of the individual's weekly benefit rate and maximum amount
25 of benefits based on the individual's multiemployer credit weeks
26 and the wages earned in those credit weeks. Each employer involved
27 in the individual's multiemployer credit weeks shall be an

1 interested party to the determination. The proviso in section 29(2)
2 does not apply to multiemployer credit weeks, nor does the
3 reduction provision of section 29(4) apply to benefit entitlement
4 based upon those credit weeks.

5 (2) The charge for benefits based on multiemployer credit
6 weeks shall be allocated to each employer involved on the basis of
7 the ratio that the total wages earned during the total
8 multiemployer credit weeks counted under section 50(b) with the
9 employer bears to the total amount of wages earned during the total
10 multiemployer credit weeks counted under section 50(b) with all
11 such employers, computed to the nearest cent. However, if an
12 adjusted weekly benefit rate is determined in accordance with
13 section 27(f), the charge to the employer who has contributed to
14 the financing of the retirement plan shall be reduced by the same
15 amount by which the weekly benefit rate was adjusted under section
16 27(f). Benefits for a week of unemployment allocated under this
17 subsection to a contributing employer shall be charged to the
18 nonchargeable benefits account if the claimant during that week
19 earns remuneration with that employer that equals or exceeds the
20 amount of benefits allocated to that employer.

21 (3) Benefits paid in accordance with the determination based
22 on multiemployer credit weeks shall be allocated to each employer
23 involved and charged as of the quarter in which the payments are
24 made. Notice of charges made under this subsection shall be given
25 to each employer by means of a current listing of charges, at least
26 weekly, or of a quarterly statement of charges. The listing or
27 statement shall specify the weeks for which benefits were paid

1 based on multiemployer credit weeks and the amount of benefits paid
2 chargeable to that employer for each week. The notice shall be
3 considered to satisfy the requirements of sections 21(a) and 32(d)
4 that notification be given each employer of benefits charged
5 against that employer's account by means of a copy or listing of
6 the benefit check, and all protest and appeal rights applicable to
7 benefit check copies or listings shall also apply to the notice of
8 charges. If an employer receives both a current listing of charges
9 and a quarterly statement of charges under this subsection, all
10 protest and appeal rights shall only apply to the first notice
11 given.

12 (f) For benefit years beginning on or after October 1, 2000,
13 if benefits for a week of unemployment are charged to 2 or more
14 base period employers, the share of the benefits allocated and
15 charged under this section to a contributing employer shall be
16 charged to the nonchargeable benefits account if the claimant
17 during that week earns remuneration with that employer that equals
18 or exceeds the amount of benefits charged to that employer.

19 (g) For benefit years beginning before October 1, 2000:

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

1 (2) Training benefits and extended benefits, to the extent
2 that they are not reimbursable by the federal government and have
3 been allocated to a reimbursing employer, shall be charged to that
4 reimbursing employer. A contributing employer's experience account
5 shall not be charged with training benefits. Training benefits
6 based on service with a contributing employer, to the extent that
7 they are not reimbursable by the federal government, shall be
8 charged to the nonchargeable benefits account. Extended benefits
9 paid and based on service with a contributing employer, to the
10 extent that they are not reimbursable by the federal government,
11 shall be charged to that employer's experience account.

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

19 (4) Notice of charges made under this subsection shall be
20 given to each employer by means of a current listing of charges, at
21 least weekly, and subsequently by a quarterly summary statement of
22 charges. The listing shall specify the name and social security
23 number of each claimant paid benefits during the week, the weeks
24 for which the benefits were paid, and the amount of benefits
25 chargeable to that employer paid for each week. The quarterly
26 statement of charges shall list each claimant by name and social
27 security number and shall show total benefit payments chargeable to

1 that employer and made to each claimant during the calendar
2 quarter. The listing shall be considered to satisfy the
3 requirements of sections 21(a) and 32(d) that notification be given
4 each employer of benefits charged against that employer's account
5 by means of a listing of the benefit check. All protest and appeal
6 rights applicable to benefit check listings shall also apply to the
7 notice of charges. If an employer receives both a current listing
8 of charges and a quarterly statement of charges under this
9 subsection, all protest and appeal rights shall only apply to the
10 first notice given.

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

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

19 (2) Training benefits, and extended benefits to the extent
20 they are not reimbursable by the federal government and have been
21 allocated to a reimbursing employer, shall be charged to that
22 reimbursing employer. A contributing employer's experience account
23 shall not be charged with training benefits. Training benefits
24 based on service with a contributing employer, to the extent they
25 are not reimbursable by the federal government, shall be charged to
26 the nonchargeable benefits account. Except as provided in section
27 17(3)(m), extended benefits paid and based on service with a

1 contributing employer, to the extent they are not reimbursable by
2 the federal government, shall be charged to that employer's
3 experience account.

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

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

1 under this subsection, all protest and appeal rights shall only
2 apply to the first notice given.

3 (i) If a benefit year is established on or after October 1,
4 2000, the portion of benefits paid in that benefit year that are
5 based on wages used to establish the immediately preceding benefit
6 year that began before October 1, 2000 shall not be charged to the
7 employer or employers who paid those wages but shall be charged
8 instead to the nonchargeable benefits account.

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

15 **(K) FOR BENEFIT YEARS BEGINNING AFTER THE EFFECTIVE DATE OF**
16 **THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, BENEFITS THAT ARE**
17 **ATTRIBUTABLE TO BUSINESS NECESSITY RESULTING FROM A GOVERNMENTAL**
18 **ROAD CLOSURE OR REPAIR THAT TEMPORARILY LIMITS ACCESS TO THE**
19 **EMPLOYER'S BUSINESS PREMISES FOR A PERIOD OF 30 DAYS OR MORE ARE**
20 **NOT CHARGEABLE TO THE EMPLOYER, BUT ARE CHARGEABLE TO THE**
21 **NONCHARGEABLE BENEFITS ACCOUNT.**