

# SENATE BILL No. 1002

May 31, 2016, Introduced by Senators WARREN, ANANICH, HOOD, BIEDA and KNEZEK and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 62 (MCL 421.62), as amended by 2013 PA 147.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 62. (a) If the unemployment agency determines that a  
2 person has obtained benefits to which that person is not entitled,  
3 or a subsequent determination by the agency or a decision of an  
4 appellate authority reverses a prior qualification for benefits,  
5 the agency may recover a sum equal to the amount received plus  
6 interest by 1 or more of the following methods: deduction from  
7 benefits or wages payable to the individual, payment by the  
8 individual in cash, or deduction from a tax refund payable to the  
9 individual as provided under section 30a of 1941 PA 122, MCL  
10 205.30a. Deduction from benefits or wages payable to the individual

1 is limited to not more than ~~50%~~20% of each payment due the  
2 claimant. The unemployment agency shall issue a determination  
3 requiring restitution within 3 years after the date of finality of  
4 a determination, redetermination, or decision reversing a previous  
5 finding of benefit entitlement. The unemployment agency shall not  
6 initiate administrative or court action to recover improperly paid  
7 benefits from an individual more than 3 years after the date that  
8 the last determination, redetermination, or decision establishing  
9 restitution is final. The unemployment agency shall issue a  
10 determination on an issue within 3 years from the date the claimant  
11 first received benefits in the benefit year in which the issue  
12 arose, or in the case of an issue of intentional false statement,  
13 misrepresentation, or concealment of material information in  
14 violation of section 54(a) or (b) or sections 54a to 54c, within 6  
15 years after the receipt of the improperly paid benefits unless the  
16 unemployment agency filed a civil action in a court within the 3-  
17 year or 6-year period; the individual made an intentional false  
18 statement, misrepresentation, or concealment of material  
19 information to obtain the benefits; or the unemployment agency  
20 issued a determination requiring restitution within the 3-year or  
21 6-year period. Except in a case of an intentional false statement,  
22 misrepresentation, or concealment of material information, the  
23 unemployment agency shall waive recovery of an improperly paid  
24 benefit if the payment was not the fault of the individual and if  
25 repayment would be contrary to equity and good conscience and shall  
26 waive any interest. If the agency or an appellate authority waives  
27 collection of restitution and interest, except as provided in

1 subdivision (ii), the waiver is prospective and does not apply to  
2 restitution and interest payments already made by the individual.  
3 As used in this subsection, "contrary to equity and good  
4 conscience" means any of the following:

5 (i) The claimant provided incorrect wage information without  
6 the intent to misrepresent, and the employer provided either no  
7 wage information upon request or provided inaccurate wage  
8 information that resulted in the overpayment.

9 (ii) The claimant's disposable household income, exclusive of  
10 social welfare benefits, is at or below the annual update of the  
11 poverty guidelines most recently published in the federal register  
12 by the United States ~~department of health and human services~~  
13 **DEPARTMENT OF HEALTH AND HUMAN SERVICES** under the authority of 42  
14 USC 9902(2), and the claimant has applied for a waiver under this  
15 subsection. A waiver granted under the conditions described in this  
16 subdivision applies from the date the application is filed.

17 (iii) The improper payments resulted from an administrative or  
18 clerical error by the unemployment agency. A requirement to repay  
19 benefits as the result of a change in judgment at any level of  
20 administrative adjudication or court decision concerning the facts  
21 or application of law to a claim adjudication is not an  
22 administrative or clerical error for purposes of this subdivision.

23 (b) For benefit years beginning on or after October 1, 2000,  
24 if the unemployment agency determines that a person has  
25 intentionally made a false statement or misrepresentation or has  
26 concealed material information to obtain benefits, whether or not  
27 the person obtains benefits by or because of the intentional false

1 statement, misrepresentation, or concealment of material  
2 information, ~~the person shall,~~ in addition to any other applicable  
3 interest and penalties, ~~have his or her~~ **THE PERSON'S** rights to  
4 benefits for the benefit year in which the act occurred **SHALL BE**  
5 canceled as of the date the claimant made the false statement or  
6 misrepresentation or concealed material information, and wages used  
7 to establish that benefit year shall not be used to establish  
8 another benefit year. A chargeable employer may protest a claim  
9 filed after October 1, 2014 to establish a successive benefit year  
10 under section 46(c), if there was a determination by the  
11 unemployment agency or decision of a court or administrative  
12 tribunal finding that the claimant made a false statement, made a  
13 misrepresentation, or concealed material information related to his  
14 or her report of earnings for a preceding benefit year claim. If a  
15 protest is made, any unreported earnings from the preceding benefit  
16 year that were falsely stated, misrepresented, or concealed shall  
17 not be used to establish a benefit year for a successive claim.  
18 Before receiving benefits in a benefit year established within 4  
19 years after cancellation of rights to benefits under this  
20 subsection, the individual, in addition to making the restitution  
21 of benefits established under subsection (a), may be liable for an  
22 additional amount as otherwise determined by the unemployment  
23 agency under this act, which may be paid by cash, deduction from  
24 benefits, or deduction from a tax refund. The individual is liable  
25 for any fee the federal government imposes with respect to  
26 instituting a deduction from a federal tax refund. Restitution  
27 resulting from the intentional false statement, misrepresentation,

1 or concealment of material information is not subject to the ~~50%~~  
2 20% limitation provided in subsection (a).

3 (c) Any determination made by the unemployment agency under  
4 this section is final unless an application for a redetermination  
5 is filed in accordance with section 32a.

6 (d) The unemployment agency shall take the action necessary to  
7 recover all benefits improperly obtained or paid under this act,  
8 and to enforce all interest and penalties under subsection (b). The  
9 unemployment agency may conduct an amnesty program for a designated  
10 period under which penalties and interest assessed against an  
11 individual owing restitution for improperly paid benefits may be  
12 waived if the individual pays the full amount of restitution owing  
13 within the period specified by the agency.

14 (e) Interest recovered under this section shall be deposited  
15 in the contingent fund.

16 Enacting section 1. This amendatory act takes effect 90 days  
17 after the date it is enacted into law.

18 Enacting section 2. This amendatory act does not take effect  
19 unless all of the following bills of the 98th Legislature are  
20 enacted into law:

21 (a) Senate Bill No. 1003.

22

23 (b) Senate Bill No. 1000.

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25 (c) Senate Bill No. 1001.

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