



Senate Fiscal Agency  
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BILL ANALYSIS



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House Bills 4745 and 4746 (as reported without amendment)  
Sponsor: Representative Alvin Kukuk (House Bill 4745)  
Representative Michael Goschka (House Bill 4746)  
House Committee: Human Resources and Labor  
Senate Committee: Human Resources, Labor, and Veterans Affairs

Date Completed: 6-1-95

### RATIONALE

Public Act 25 of 1995 (Senate Bill 322), which has not yet taken effect, amended the Michigan Employment Security Act generally to reduce both employers' unemployment insurance (UI) contribution rates and benefits paid to unemployed workers. Senate Bill 322 caused confusion on several fronts, however, as some of its measures appeared to be inconsistent and other provisions apparently were inadvertently left out of the enacted version of the bill. Some people believe that these issues should be addressed before the revisions in Public Act 25 take effect.

- **Delete a January 7, 1996, sunset on provisions pertaining to partial payment of benefits when an eligible unemployed individual earns or receives remuneration during a benefit week.**

#### Nonchargeable Benefits Component

The Act provides that each employer's contribution rate for each calendar year is the sum of a chargeable benefits component, an account building component, and a nonchargeable benefits component. Each component is determined by a formula specified in the Act.

### CONTENT

The bills would amend the Michigan Employment Security Act to do all of the following:

- **Revise the schedule for reducing the nonchargeable benefits component of an employer's UI contribution rate under certain circumstances.**
- **Exempt the construction industry and employers in the construction industry from the definitions of "seasonal employment" and "seasonal employer", respectively, and revise the definition of "construction industry".**
- **Revise a provision in the definition of "seasonal employment" to refer to regularly recurring periods of 26, rather than 40, weeks or less.**
- **Increase the weekly benefit rate for benefit years beginning after the date for conversion of the UI system to a wage record system (July 1, 1997).**

The maximum nonchargeable benefits component is 1% of a figure determined by a formula specified in the Act. For calendar years after 1993 and before 1996, however, if there are no benefit charges against an employer's account for the 60 months ending as of the computation date, the maximum nonchargeable benefits component cannot exceed one-half of 1%. (Prior to the passage of Public Act 25, this reduction provision applied to calendar years after 1993 and before 1999.) House Bill 4745 would apply this provision to all calendar years after 1993. The lowered maximum rate for an employer's nonchargeable benefits component also would apply, for calendar years after 1995, if an employer's chargeable benefits component were less than one-fifth of 1%.

In addition, Public Act 25 of 1995 established a schedule for further reductions of an employer's maximum rate for the nonchargeable benefits component, based on the length of time there are no benefit charges against the employer's account or on the level of the employer's chargeable

benefits component. Under those revisions, for calendar years after 1995, the maximum nonchargeable benefits component will be two-fifths of 1%, if there are no benefit charges against an employer's account for 72 months or if the employer's chargeable benefits component is less than one-fifth of 1% for that period. The maximum rate will be three-tenths of 1%, if there are no benefit charges against an employer's account for 84 months or if the employer's chargeable benefits component is less than one-fifth of 1% for that period. The maximum rate will be one-fifth of 1% after 1997, if there are no benefit charges against an employer's account for 96 months or if the employer's chargeable benefits component is less than one-fifth of 1% for that period. The maximum rate will be one-fifth of 1% after 1998, if there are no benefit charges against an employer's account for 108 months or if the employer's chargeable benefits component is less than one-fifth of 1% for that period. House Bill 4745 would delete from each of those categories the criterion that the employer's chargeable benefits component is less than one-fifth of 1% for that period.

#### Construction/Seasonal Employment

Public Act 25 added to the Michigan Employment Security Act provisions to restrict the payment of benefits based on services by a seasonal worker performed in seasonal employment. House Bill 4746 would amend the definitions of "seasonal employment" to exclude services performed in the construction industry and "seasonal employer" to exclude an employer in the construction industry.

The Act defines "construction industry" as "the work activity designated in major groups 15 and 16 of the standard industrial classification manual, United States office of management and budget, 1987 edition". House Bill 4746 would add activity designated in major group 17 of the manual to that definition. (Reportedly, major group 15 includes building construction by general contractors or by operative builders; major group 16 includes heavy construction other than building by general contractors and special trade contractors; and group 17 includes construction activity by other special trade contractors (who engage primarily in specialized construction activities, such as plumbing, painting, and electrical work, and work for general contractors under subcontract or directly for property owners).)

In addition, "seasonal employment" is defined with respect work performed in an industry that customarily operates during regularly recurring

periods of 26 weeks or less in any 52-week period or that customarily employs at least 50% of its employees for regularly recurring periods of 40 weeks or less within a 52-week period. House Bill 4746 would change the second standard to 26 weeks.

#### Weekly Benefit Rate

The Michigan Employment Security Act, as amended by Public Act 25, specifies that an individual's weekly benefit rate for benefit years beginning before July 1, 1997, is 67% of the individual's average after tax weekly wage. For benefit years beginning after that date, an individual's weekly benefit rate will be 4.0% 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. House Bill 4746 would increase to 4.1% the weekly benefit rate for benefit years beginning after July 1, 1997.

MCL 421.19 (H.B. 4745)  
421.27 (H.B. 4746)

#### ARGUMENTS

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### Supporting Argument

Under the Michigan Employment Security Act, the yearly tax on employers is made up of three components that are computed separately according to formulas specified in the Act and then added together. The maximum nonchargeable benefits component charged to employers is 1% of a figure determined by formula. Before passage of Public Act 25 earlier in this legislative session, the only reduction in this maximum 1% charge was a temporary 50% reduction (to one-half of 1%) available only to employers who, for calendar years after 1993 and before 1999, had no benefit charges against their accounts for five years. Public Act 25 changed the 1999 date to 1996; as a result, after 1996, this reduced maximum charge no longer will be available to employers who have had no benefit charges to their accounts for five years.

Public Act 25 also added further reductions, for calendar years after 1995, to the maximum nonchargeable benefits component rate, down to a minimum of one-tenth of 1%. Under those revisions, an employer's maximum rate for the nonchargeable benefits component will be

reduced by an additional one-tenth of 1% for each year beyond five years that the employer has no benefit charges to his or her account. Thus, Public Act 25 eliminated the temporary 50% reduction in the maximum rate for the nonchargeable benefits component for employers who have a five-year period of no benefit charges, while enacting permanent further reductions for employers who have six- to nine-year periods of no benefit charges. By eliminating the 1996 cutoff added by Public Act 25, House Bill 4745 would reinstate the 50% reduction for employers with no benefit charges for five years, which applied before the enactment of Public Act 25.

### **Supporting Argument**

Public Act 25 added provisions that will restrict unemployment benefits for workers in seasonal employment for seasonal employers. Under these new provisions, employers may seek classification as "seasonal employers", and, once they become so designated, their employees will not be eligible for unemployment benefits for periods between the employer's normal work seasons. This restriction on benefits for seasonal employment could have a devastating effect on Michigan's construction industry, which employs highly skilled workers at relatively high wages. By its very nature, construction work is seasonal, yet, if construction workers are unable to receive unemployment benefits between periods of employment, they might be encouraged to leave the State, which would reduce Michigan's valuable pool of highly skilled construction labor. House Bill 4746 would preserve this economic resource by explicitly exempting the construction industry and construction employers from the Act's new definitions of "seasonal employment" and "seasonal employer".

### **Supporting Argument**

Apparently inadvertently, Public Act 25 added a date after which no partial benefits will be available to unemployed workers who earn some remuneration while unemployed. House Bill 4746 would restore the provisions for partial unemployment benefits, which otherwise will be eliminated after January 7, 1996, under the Public Act 25 revisions. The bill would delete this date, thereby reinstating the provisions pertaining to partial payments.

In addition, House Bill 4746 would correct a technical oversight made in Public Act 25. That Act reduced from 70% to 67% the percentage of an unemployed worker's after-tax weekly wages on which his or her weekly unemployment benefit

rate is based. Public Act 25 additionally reduced from 4.2% to 4.0% the percentage of quarterly wages in a different formula that will be used to calculate unemployed workers' benefit rates after the UI system converts to a wage record system in 1997. The bill would change the percentage used in the calculation to 4.1%, which is more consistent with the 67% benefit level under the current system.

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

#### **House Bill 4745**

Governmental employers that did not have any benefit charges to their unemployment benefit accounts could have a 50% reduction in their nonchargeable benefits component of their unemployment taxes. All other government entities would not be affected by this bill.

#### **House Bill 4746**

This bill would not have a fiscal impact on the State or local governmental units. Any change made by this bill to the benefits paid to construction or other seasonal employees would not have an impact on the Unemployment Insurance Trust Fund or significantly affect employers' unemployment tax levels.

Fiscal Analyst: K. Lindquist

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.