



HOUSE BILL No. 4748

April 25, 1995, Introduced by Rep. Munsell and referred to the Committee on Human Resources and Labor.

A bill to amend section 11 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 25 of the Public Acts of 1995, being section 421.11 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 11 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 25 of the Public
3 Acts of 1995, being section 421.11 of the Michigan Compiled Laws,
4 is amended to read as follows:

5 Sec. 11. (a) In the administration of this act, the commis-
6 sion shall cooperate with the appropriate agency of the United
7 States under the social security act. The commission shall make
8 reports, in a form and containing information as the appropriate
9 agency of the United States may from time to time require, and

1 shall comply with such provisions as the appropriate agency of
2 the United States may from time to time prescribe to assure the
3 correctness and verification of the reports. The commission,
4 subject to this act, shall comply with the regulations prescribed
5 by the appropriate agency of the United States relating to the
6 receipt or expenditure of such sums as may be allotted and paid
7 to this state for the purpose of assisting in the administration
8 of this act. As used in this section, "social security act"
9 means the social security act, chapter 531, 49 Stat. 620.

10 (b) (1) Information obtained from any employing unit or
11 individual pursuant to the administration of this act, and deter-
12 minations as to the benefit rights of any individual shall be
13 held confidential and shall not be disclosed or open to public
14 inspection other than to public employees in the performance of
15 their official duties pursuant to this act in any manner reveal-
16 ing the individual's or the employing unit's identity. However,
17 all of the following apply:

18 ~~(i) Information in the commission's possession that may~~
19 ~~affect a claim for worker's disability compensation under the~~
20 ~~worker's disability compensation act of 1969, Act No. 317 of the~~
21 ~~Public Acts of 1969, being sections 418.101 to 418.941 of the~~
22 ~~Michigan Compiled Laws, shall be available to interested parties,~~
23 ~~regardless of whether the commission is a party to an action or~~
24 ~~proceeding arising under Act No. 317 of the Public Acts of 1969.~~

25 (i) ~~(ii)~~ Any information in the commission's possession
26 that may affect a claim for benefits or a charge to an employer's
27 rating account shall be available to interested parties.

1 (ii) ~~(iii)~~ Except as provided in this act, such
2 information and determinations shall not be used in any action or
3 proceeding before any court or administrative tribunal unless the
4 commission is a party to or a complainant in the action or pro-
5 ceeding, or unless used for the prosecution of fraud, civil pro-
6 ceeding, or other legal proceeding pursuant to subdivision (2).
7 INFORMATION IN THE COMMISSION'S POSSESSION THAT MAY AFFECT A
8 CLAIM FOR WORKER'S DISABILITY COMPENSATION UNDER THE WORKER'S
9 DISABILITY COMPENSATION ACT OF 1969, ACT NO. 317 OF THE PUBLIC
10 ACTS OF 1969, BEING SECTIONS 418.101 TO 418.941 OF THE MICHIGAN
11 COMPILED LAWS, SHALL BE AVAILABLE TO INTERESTED PARTIES, REGARD-
12 LESS OF WHETHER THE COMMISSION IS A PARTY TO AN ACTION OR PRO-
13 CEEDING ARISING UNDER ACT NO. 317 OF THE PUBLIC ACTS OF 1969.

14 (iii) ~~(iv)~~ Any report or statement, written or verbal,
15 made by any person to the commission, any member of the commis-
16 sion, or to any person engaged in administering this law shall be
17 a privileged communication, and a person, firm, or corporation
18 shall not be held liable for slander or libel on account of a
19 report or statement. Such records and reports in the custody of
20 the commission shall be available for examination by the employer
21 or employee affected.

22 (iv) ~~(v)~~ Subject to restrictions as the commission may by
23 rule prescribe, information in the commission's possession may be
24 made available to any agency of this or any other state, or any
25 federal agency, charged with the administration of an unemploy-
26 ment compensation law or the maintenance of a system of public
27 employment offices; the bureau of internal revenue of the United

1 States department of the treasury; or the social security
2 administration of the United States department of health and
3 human services.

4 (v) ~~(vi)~~ Information obtained in connection with the
5 administration of the employment service may be made available to
6 persons or agencies for purposes appropriate to the operation of
7 a public employment service. Subject to such restrictions as the
8 commission may by rule prescribe, the commission may also make
9 such information available to agencies of other states which are
10 responsible for the administration of public assistance to unem-
11 ployed workers, and to the departments of this state.

12 Information so released shall be used only for purposes not
13 inconsistent with the purposes of this act.

14 (vi) ~~(vii)~~ The commission may make available to the
15 department of treasury information collected for the income eli-
16 gibility and verification system begun on October 1, 1988 for the
17 purpose of detection of potential tax fraud in other areas.

18 (vii) ~~(viii)~~ Upon request, the commission shall furnish to
19 any agency of the United States charged with the administration
20 of public works or assistance through public employment, and may
21 furnish to any state agency similarly charged, the name, address,
22 ordinary occupation, and employment status of each recipient of
23 benefits and the recipient's rights to further benefits under
24 this act.

25 (viii) ~~(ix)~~ Subject to restrictions as the commission may
26 prescribe, by rule or otherwise, the commission may also make
27 such information available to colleges, universities, and public

1 agencies of this state for use in connection with research
2 projects of a public service nature. A person associated with
3 such institutions or agencies shall not disclose the information
4 in any manner which would reveal the identity of any individual
5 or employing unit from or concerning whom the information was
6 obtained by the commission.

7 (ix) ~~(x)~~ The commission may request the comptroller of the
8 currency of the United States to cause an examination of the cor-
9 rectness of any return or report of any national banking associa-
10 tion rendered pursuant to this act, and may, in connection with
11 the request, transmit the report or return to the comptroller of
12 the currency of the United States as provided in section 3305(c)
13 of the internal revenue code.

14 (2) The commission shall disclose to qualified requesting
15 agencies, upon request, with respect to an identified individual,
16 information in its records pertaining to the individual's name;
17 social security number; gross wages paid during each quarter; the
18 name, address, and federal and state employer identification
19 number of the individual's employer; any other wage information;
20 whether an individual is receiving, has received, or has applied
21 for unemployment benefits; the amount of unemployment benefits
22 the individual is receiving or is entitled to receive; the
23 individual's current or most recent home address; whether the
24 individual has refused an offer of work and if so a description
25 of the job offered including the terms, conditions, and rate of
26 pay; and any other information which the qualified requesting
27 agency considers useful in verifying eligibility for, and the

1 amount of, benefits. For purposes of this subdivision,
2 "qualified requesting agency" means any state or local child sup-
3 port enforcement agency responsible for enforcing child support
4 obligations under a plan approved under part d of Title IV of the
5 social security act, 42 U.S.C. 651 to 669; the United States
6 department of health and human services for purposes of estab-
7 lishing or verifying eligibility or benefit amounts under Titles
8 II and XVI of the social security act, 42 U.S.C. 401 to 433 and
9 42 U.S.C. 1381 to 1383d; the United States department of agricul-
10 ture for the purposes of determining eligibility for, and amount
11 of, benefits under the food stamp program established under the
12 food stamp act of 1977, 7 U.S.C. 2011 to 2032; and any other
13 state or local agency of this or any other state responsible for
14 administering the following programs:

15 (i) The aid to families with dependent children program
16 under part a of Title IV of the social security act, 42
17 U.S.C. 601 to 617.

18 (ii) The medicaid program under Title XIX of the social
19 security act, 42 U.S.C. 1396 to 1396u.

20 (iii) The unemployment compensation program under section
21 3304 of the internal revenue code of 1954, 26 U.S.C. 3304.

22 (iv) The food stamp program under the food stamp act of
23 1977, 7 U.S.C. 2011 to 2032.

24 (v) Any state program under a plan approved under Title I,
25 X, XIV, or XVI of the social security act, 42 U.S.C. 301 to 306,
26 42 U.S.C. 1201 to 1206, 42 U.S.C. 1351 to 1355, and 42
27 U.S.C. 1381 to 1383d.

1 (vi) Any program administered under the social welfare act,
2 Act No. 280 of the Public Acts of 1939, being sections 400.1 to
3 400.119b of the Michigan Compiled Laws.

4 The information shall be disclosed only if the qualified
5 requesting agency has executed an agreement with the commission
6 to obtain such information and if the information is requested
7 for the purpose of determining the eligibility of applicants for
8 benefits, or the type and amount of benefits for which applicants
9 are eligible, under any of the programs listed above or under
10 Titles II and XVI of the social security act; for establishing
11 and collecting child support obligations from, and locating indi-
12 viduals owing such obligations which are being enforced pursuant
13 to a plan described in section 454 of the social security act, 42
14 U.S.C. 654; or for investigating or prosecuting alleged fraud
15 under any of these programs.

16 The commission shall cooperate with the department of social
17 services in establishing the computer data matching system autho-
18 rized in section 83 of Act No. 280 of the Public Acts of 1939,
19 being section 400.83 of the Michigan Compiled Laws, to transmit
20 the information requested on at least a quarterly basis. The
21 information shall not be released unless the qualified requesting
22 agency agrees to reimburse the commission for the costs incurred
23 in furnishing the information.

24 In addition to the requirements of this section, except as
25 later provided in this subdivision, all other requirements with
26 respect to confidentiality of information obtained in the
27 administration of this act shall apply to the use of the

1 information by the officers and employees of the qualified
2 requesting agencies, and the sanctions imposed under this act for
3 improper disclosure of the information shall be applicable to
4 such officers and employees. A qualified requesting agency may
5 redisclose information only to the following individuals or
6 agencies: (1) the individual who is the subject of the informa-
7 tion, (2) an attorney or other duly authorized agent representing
8 the individual if the information is needed in connection with a
9 claim for benefits against the requesting agency, or (3) any
10 criminal or civil prosecuting authorities acting for or on behalf
11 of the requesting agency.

12 The commission is authorized to enter into an agreement with
13 any qualified requesting agency for the purposes described in
14 this subdivision. Such agreement or agreements must comply with
15 all federal laws and regulations applicable to such agreements.

16 (3) The commission shall enable the United States department
17 of health and human services to obtain prompt access to any wage
18 and unemployment benefit claims information, including any infor-
19 mation that might be useful in locating an absent parent or an
20 absent parent's employer, for purposes of section 453 of the
21 social security act, 42 U.S.C. 653, in carrying out the child
22 support enforcement program under title IV. Access to the infor-
23 mation shall not be provided unless the requesting agency agrees
24 to reimburse the commission for the costs incurred in furnishing
25 the information.

26 (4) Upon request accompanied by presentation of a consent to
27 the release of information signed by an individual, the

1 commission shall disclose to the United States department of
2 housing and urban development and any state or local public hous-
3 ing agency responsible for verifying an applicant's or
4 participant's eligibility for, or level of benefits in, any hous-
5 ing assistance program administered by the United States depart-
6 ment of housing and urban development, the name, address, wage
7 information, whether an individual is receiving, has received, or
8 has made application for unemployment benefits, and the amount of
9 unemployment benefits the individual is receiving or is entitled
10 to receive under this act. This information shall be used only
11 to determine an individual's eligibility for benefits or the
12 amount of benefits to which an individual is entitled under a
13 housing assistance program of the United States department of
14 housing and urban development. The information shall not be
15 released unless the requesting agency agrees to reimburse the
16 commission for the costs incurred in furnishing the information.
17 For purposes of this subsection, "public housing agency" means an
18 agency described in section 3(b)(6) of the United States housing
19 act of 1937, 42 U.S.C. 1437a.

20 (c) The commission is authorized to enter into agreements
21 with the appropriate agencies of other states or the federal gov-
22 ernment whereby potential rights to benefits accumulated under
23 the unemployment compensation laws of other states or such a law
24 of the federal government, or both, may constitute the basis for
25 the payment of benefits through a single appropriate agency under
26 plans which the commission finds will be fair and reasonable as

1 to all affected interests and will not result in substantial loss
2 to the unemployment compensation fund.

3 (d) (1) The commission is authorized to enter into recipro-
4 cal agreements with the appropriate agencies of other states or
5 of the federal government adjusting the collection and payment of
6 contributions by employers with respect to employment not local-
7 ized within this state.

8 (2) The commission is authorized to enter into reciprocal
9 agreements with agencies of other states administering unemploy-
10 ment compensation, whereby contributions paid by an employer to
11 any other state may be received by the other state as an agent
12 acting for and on behalf of this state to the same extent as if
13 the contributions had been paid directly to this state if the
14 payment is remitted to this state. Contributions so received by
15 another state shall be deemed contributions, required and paid
16 under this act as of the date the contributions were received by
17 the other state. The commission may collect contributions in a
18 like manner for agencies of other states administering unemploy-
19 ment compensation and remit the contributions to the agencies
20 under the terms of the reciprocal agreements.

21 (e) The commission may make the state's records relating to
22 the administration of this act available and may furnish to the
23 railroad retirement board or any other state or federal agency
24 administering an unemployment compensation law, at the expense of
25 that board, state, or agency, copies of the records as the rail-
26 road retirement board deems necessary for its purpose.

1 (f) The commission may cooperate with or enter into
2 agreements with any agency of another state or of the United
3 States charged with the administration of any unemployment insur-
4 ance or public employment service law.

5 The commission is authorized to make investigations, secure
6 and transmit information, make available services and facilities,
7 and exercise other powers provided in this act with respect to
8 the administration of this act as it deems necessary or appropri-
9 ate to facilitate the administration of any unemployment compen-
10 sation or public employment service law, and in like manner, to
11 accept and utilize information, services, and facilities made
12 available to this state by the agency charged with the adminis-
13 tration of any other unemployment compensation or public employ-
14 ment service law.

15 On request of an agency which administers an employment
16 security law of another state or foreign government and which has
17 found, in accordance with that law, that a claimant is liable to
18 repay benefits received under that law, the commission may col-
19 lect the amount of the benefits from the claimant to be refunded
20 to the agency.

21 In any case in which under this subsection a claimant is
22 liable to repay any amount to the agency of another state or for-
23 eign government, the amount may be collected by civil action in
24 the name of the commission acting as agent for the agency. Court
25 costs shall be paid or guaranteed by the agency.

26 To the extent permissible under the laws and constitution of
27 the United States, the commission is authorized to enter into or

1 cooperate in arrangements whereby facilities and services
2 provided under this act and facilities and services provided
3 under the unemployment compensation law of the Dominion of Canada
4 may be utilized for the taking of claims and the payment of bene-
5 fits under the unemployment compensation law of this state or
6 under a similar law of the Dominion of Canada.

7 Any employer who is not a resident of this state and who
8 exercises the privilege of having 1 or more individuals perform
9 service for him or her within this state, and any resident
10 employer who exercises that privilege and thereafter leaves this
11 state, shall be deemed thereby to appoint the secretary of state
12 as his or her agent and attorney for the acceptance of process in
13 any civil action under this act. In instituting such an action
14 against any employer, the commission shall cause such process or
15 notice to be filed with the secretary of state, and such service
16 shall be sufficient and shall be of the same force and validity
17 as if served upon the employer personally within this state. The
18 commission immediately shall send notice of the service of pro-
19 cess or notice, together with a copy thereof, by registered mail,
20 return receipt requested, to the employer at his or her last
21 known address. The return receipt, the commission's affidavit of
22 compliance with this section, and a copy of the notice of service
23 shall be attached to the original of the process filed in the
24 court in which the civil action is pending.

25 The courts of this state shall recognize and enforce liabil-
26 ities, as provided in this act, for unemployment compensation

1 contributions, penalties, and interest imposed by other states
2 which extend a like comity to this state.

3 The attorney general is empowered to commence action in the
4 appropriate court of any other state or any other jurisdiction of
5 the United States by and in the name of the commission to collect
6 unemployment compensation contributions, penalties, and interest
7 finally determined, redetermined, or decided under this act to be
8 legally due this state. The officials of other states which
9 extend a like comity to this state are empowered to sue in the
10 courts of this state for the collection of unemployment compensa-
11 tion contributions, penalties, and interest, the liability for
12 which has been similarly established under the laws of the other
13 state or jurisdiction. A certificate by the secretary of another
14 state under the great seal of that state attesting the authority
15 of the official or officials to collect unemployment compensation
16 contributions, penalties, and interest shall be conclusive evi-
17 dence of that authority.

18 The attorney general is authorized to commence action in
19 this state as agent for or on behalf of any other state to
20 enforce judgments and established liabilities for unemployment
21 compensation taxes or contributions, penalties, and interest due
22 the other state if the other state extends a like comity to this
23 state.

24 (g) The commission is also authorized to enter into recipro-
25 cal agreements with the appropriate and authorized agencies of
26 other states or of the federal government whereby remuneration
27 and services, upon the basis of which an individual may become

1 entitled to benefits under the unemployment compensation law of
2 another state or of the federal government, shall be deemed to be
3 wages and employment for the purposes of sections 27 and 46, if
4 the other state agency or agency of the federal government has
5 agreed to reimburse the fund for that portion of benefits paid
6 under this act upon the basis of the remuneration and services as
7 the commission finds will be fair and reasonable as to all
8 affected interests, and wages and employment, on the basis of
9 which an individual may become entitled to benefits under this
10 act, shall be deemed to be wages or services on the basis of
11 which unemployment compensation under the law of another state or
12 of the federal government is payable, and whereby services per-
13 formed by an individual for a single employing unit for which
14 services are customarily performed by the individual in more than
15 1 state shall be deemed to be services performed entirely within
16 any 1 of the states in which any part of the individual's service
17 is performed, in which the individual has his or her residence,
18 or in which the employing unit maintains a place of business, if
19 there is, in effect as to such services, an election approved by
20 the agency charged with the administration of the state's unem-
21 ployment compensation law, pursuant to which all the services
22 performed by the individual for the employing unit are deemed to
23 be performed entirely within the state, and whereby the commis-
24 sion will reimburse other state or federal agencies charged with
25 the administration of unemployment compensation laws with such
26 reasonable portion of benefits, paid under the law of any other
27 state or of the federal government upon the basis of employment

1 and wages, as the commission finds will be fair and reasonable as
2 to all affected interests. Reimbursements so payable shall be
3 deemed to be benefits for the purpose of limiting duration of
4 benefits and for the purposes of sections 20a and 26, and the
5 payments shall be charged to the contributing employer's rating
6 account for the purposes of sections 17, 18, 19, and 20, or the
7 reimbursing employer's account under section 13c or 13g, as
8 applicable. Benefits paid under a combined wage plan shall be
9 allocated and charged to each employer involved in the quarter in
10 which the paying state requires reimbursement. Benefits charged
11 to this state shall be allocated to each employer of this state
12 who has employed the claimant during the base period of the
13 paying state in the same ratio that the wages earned by the
14 claimant during the base period of the paying state in the employ
15 of the employer bears to the total amount of wages earned by the
16 claimant in the base period of the paying state in the employ of
17 all employers of the state. The commission is authorized to make
18 to other state or federal agencies and receive from other state
19 or federal agencies reimbursements from or to the fund, in
20 accordance with arrangements made pursuant to this section.

21 (h) The commission is authorized and directed to enter into
22 any agreement necessary in order that it may cooperate with any
23 agency of the United States charged with the administration of
24 any program for the payment of primary or supplemental benefits
25 to individuals recently discharged from the military services of
26 the United States, and to assist in the establishing of
27 eligibility and in the payments of benefits thereunder, and for

1 those purposes may accept and administer funds made available by
2 the federal government and may accept and exercise any delegated
3 function as may be provided thereunder. The commission shall not
4 have power to enter into any agreement providing for, or exercise
5 any function connected with, the disbursement of the state's
6 unemployment trust fund for purposes not authorized by this act.

7 (i) The commission may enter into agreements with the appro-
8 priate agency of the United States whereby, in accordance with
9 the laws of the United States, the commission, as agent of the
10 United States, or from funds provided by the United States, shall
11 provide for the payment of unemployment compensation or unemploy-
12 ment allowances of any kind, including the payment of any bene-
13 fits and allowances that are made available for manpower develop-
14 ment, training, retraining, readjustment, and relocation. The
15 commission may receive and disburse funds from the United States
16 or any appropriate agency of the United States in accordance with
17 any such agreements.

18 If the federal enactment providing for unemployment compen-
19 sation, training allowance, or relocation payments requires joint
20 federal-state financing of such payments, the commission may par-
21 ticipate in the programs by using funds appropriated by the leg-
22 islature to the extent provided by the legislature for such
23 programs.

24 (j) The commission shall participate in any arrangement
25 which provides for the payment of compensation on the basis of
26 combining an individual's wages and employment covered under this
27 act with his or her wages and employment covered under the

1 unemployment compensation laws of other states, if the
2 arrangement is approved by the United States secretary of labor
3 in consultation with the state unemployment compensation agencies
4 as reasonably calculated to assure the prompt and full payment of
5 compensation. An arrangement shall include provisions for both
6 of the following:

7 (i) Applying the base period of a single state law to a
8 claim involving the combining of an individual's wages and
9 employment covered under 2 or more state unemployment compensa-
10 tion laws.

11 (ii) Avoiding the duplicate use of wages and employment as a
12 result of the combining.

13 (k) In a proceeding before any court, the commission and the
14 state shall be represented by the attorney general of this state
15 or attorneys designated by the attorney general. Only the attor-
16 ney general or other attorneys designated by the attorney general
17 shall act as legal counsel for the commission.