

HOUSE BILL No. 4945

July 2, 2003, Introduced by Reps. Farrah, Woronchak, Byrum, Elkins, Hopgood, Plakas, Tobocman, Accavitti, Gielegem, Phillips, Dennis, Condino, Bieda, Murphy, Meisner, Paletko, Stallworth, Wojno, Zelenko, Law, Lipsey, Gillard, Brown, Adamini, Gleason, Cheeks, Waters, Smith, Minore, Whitmer, Rivet, Kolb, Spade, McConico, Gaffney, Nofs, Ward, Moolenaar, Stakoe, Hunter, Sak, Vagnozzi, Daniels, Richardville, Julian, Anderson, Kooiman, Wenke, Stewart, Garfield, Ehardt, LaSata and Ruth Johnson and referred to the Committee on Employment Relations, Training and Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 64 (MCL 421.64), as amended by 1993 PA 275.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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1 Sec. 64. (1)(a) Payment of extended benefits under this
2 section shall be made at the individual's weekly extended benefit
3 rate, ~~as defined in subsection (6)(d),~~ for any week of
4 unemployment which begins in the individual's eligibility period,
5 to each individual who is fully eligible and not disqualified
6 under this act, who has exhausted all rights to regular benefits
7 under this act, ~~and~~ who is not seeking or receiving benefits
8 with respect to that week under the unemployment compensation law
9 of Canada, and who does not have rights to benefits under the
10 unemployment compensation law of any other state or the United
11 States or to compensation or allowances under any other federal

1 law, such as the trade expansion act, ~~or~~ the automotive
2 products trade act, or the railroad unemployment insurance act;
3 however, if the individual is seeking benefits and the
4 appropriate agency finally determines that the individual is not
5 entitled to benefits under another law, the individual shall be
6 considered to have exhausted the right to benefits. For the
7 purpose of the preceding sentence, an individual shall have
8 exhausted the right to regular benefits under this section with
9 respect to any week of unemployment in the individual's
10 eligibility period **under either of the following circumstances:**

11 (i) When payments of regular benefits may not be made for
12 that week because the individual has received all regular
13 benefits available based on his or her employment or wages during
14 the base period for the current benefit year. ~~—or~~

15 (ii) When the right to the benefits has terminated before
16 that week by reason of the expiration or termination of the
17 benefit year with respect to which the right existed; and the
18 individual has no, or insufficient, wages or employment to
19 establish a new benefit year. However, for purposes of this
20 subsection, an individual shall be considered to have exhausted
21 the right to regular benefits with respect to any week of
22 unemployment in his or her eligibility period ~~—~~ when the
23 individual may become entitled to regular benefits with respect
24 to that week ~~—~~ or future weeks, but the benefits are not
25 payable at the time the individual claims extended benefits
26 because final action on a pending redetermination or on an appeal
27 has not yet been taken with respect to eligibility or

1 qualification for the regular benefits or when the individual may
2 be entitled to regular benefits with respect to future weeks of
3 unemployment, but regular benefits are not payable with respect
4 to any week of unemployment in his or her eligibility period by
5 reason of seasonal limitations in any state unemployment
6 compensation law.

7 (b) Except where inconsistent with the provisions of this
8 section, the terms and conditions of this act ~~which~~ **that** apply
9 to claims for regular benefits and to the payment of those
10 benefits ~~shall~~ apply to claims for extended benefits and to the
11 payment of those benefits.

12 (c) An individual shall not be paid additional compensation
13 and extended compensation with respect to the same week. If an
14 individual is potentially eligible for both types of compensation
15 in this state with respect to the same week, the commission may
16 pay extended compensation instead of additional compensation with
17 respect to the week. If an individual is potentially eligible
18 for extended compensation in 1 state and potentially eligible for
19 additional compensation for the same week in another state, the
20 individual may elect which of the 2 types of compensation to
21 claim.

22 (2) The commission ~~will~~ **shall** establish, for each eligible
23 individual who files an application, an extended benefit account
24 with respect to that individual's benefit year. The amount
25 established in the account shall be whichever of the following is
26 ~~the lesser~~ **smaller**:

27 (a) Fifty percent of the total amount of regular benefits

1 payable to the individual under this act during the benefit
2 year.

3 (b) Thirteen times the individual's weekly extended benefit
4 rate.

5 ~~In case any~~ **If an** amount determined under subdivision (a)
6 or (b) ~~of this subsection~~ is not an exact multiple of 1/2 of
7 the individual's weekly extended benefit rate, the amount shall
8 be decreased to the next lower such multiple.

9 (3) ~~An~~ **All of the following apply to an** extended benefit
10 period:

11 (a) ~~Shall begin~~ **The period begins** with the third week after
12 whichever of the following weeks first occurs:

13 (i) A week for which there is a national "on" indicator as
14 determined by the United States secretary of labor.

15 (ii) A week for which there is a Michigan "on" indicator.

16 (b) ~~Shall end~~ **The period ends** with the third week after the
17 first week for which there is both a national "off" indicator and
18 a Michigan "off" indicator.

19 (c) ~~Shall not last for a period of less than~~ **The period is**
20 **at least** 13 consecutive weeks **long**, and ~~shall~~ **does** not begin by
21 reason of a Michigan "on" indicator before the fourteenth week
22 after the close of a prior extended benefit period under this
23 section. ~~, as amended.~~ However, an extended benefit period
24 ~~shall terminate~~ **terminates** with the week preceding the week for
25 which no extended benefit payments are considered to be shareable
26 compensation under the federal-state extended unemployment
27 compensation act of 1970, 26 U.S.C. section 3304.

1 (4) An individual's "eligibility period" ~~shall consist~~
2 **consists** of the weeks in his or her benefit year ~~which~~ **that**
3 begin in an extended benefit period, and if his or her benefit
4 year ends within the extended benefit period, any weeks
5 thereafter ~~which~~ **that** begin in the period.

6 (5)(a) With respect to weeks beginning after September 25,
7 1982, a national "on" indicator for a week shall be determined by
8 the United States secretary of labor.

9 (b) A national "off" indicator for a week shall be determined
10 by the United States secretary of labor.

11 (c) There is a Michigan "on" indicator for a week if ~~the~~
12 **either of the following is true:**

13 (i) **The** rate of insured unemployment under this act for the
14 period consisting of that week and the immediately preceding 12
15 weeks:

16 (A) ~~(i)~~ Equaled or exceeded 120% of the average of the
17 insured unemployment rates for the corresponding 13-week period
18 ending in each of the preceding 2 calendar years, and

19 (B) ~~(ii)~~ Equaled or exceeded 4% for weeks beginning before
20 September 26, 1982, or 5% for weeks beginning after September 25,
21 1982.

22 (ii) **The average rate of total unemployment in this state,**
23 **seasonally adjusted, for the period consisting of the most recent**
24 **3 months for which data are published for all states before the**
25 **close of the week equaled or exceeded both of the following:**

26 (A) **Six and one-half percent.**

27 (B) **One hundred ten percent of the average rate of total**

1 unemployment in this state, seasonally adjusted, for the period
2 consisting of the corresponding 3-month period in either or both
3 of the preceding 2 calendar years.

4 (d) There is a Michigan "off" indicator for a week if, for
5 the period consisting of that week and the immediately preceding
6 12 weeks, either subdivision ~~-(e)(i) or (e)(ii)-~~ **(c)(i)(A) or**
7 **(c)(i)(B)** was not satisfied **and if, for the period consisting of**
8 **the most recent 3 months for which data are published for all**
9 **states before the close of the week, either subdivision**
10 **(c)(ii)(A) or (c)(ii)(B) was not satisfied.** Notwithstanding any
11 other provision of this act, if ~~Michigan~~ **this state** is in a
12 period in which emergency unemployment compensation is payable in
13 ~~Michigan~~ **this state** under section 102 of the emergency
14 unemployment compensation act of 1991, Public Law 102-164 or
15 another similar federal law, and if the governor has the
16 authority under this federal act or another similar federal law,
17 then the governor may elect to trigger "off" the Michigan
18 indicator for extended benefits under this act only for a period
19 in which emergency unemployment compensation is payable in
20 ~~Michigan~~ **this state**, if the election by the governor would not
21 result in a decrease in the number of weeks of unemployment
22 benefits payable to an individual under this act or under federal
23 law.

24 (e) For purposes of subdivisions (c) and (d), the rate of
25 insured unemployment for any 13-week period shall be determined
26 by reference to the average monthly covered employment under this
27 act for the first 4 of the most recent 6 calendar quarters ending

1 before the close of that period.

2 (f) ~~For purposes of~~ **As used in** this subsection: ~~the term~~
3 "rate

4 (i) **"Rate** of insured unemployment" means the percentage
5 ~~arrived at~~ **determined** by dividing:

6 (A) ~~(i)~~ The average weekly number of individuals filing
7 claims for regular benefits for weeks of unemployment with
8 respect to the specified period, as determined on the basis of
9 the reports made by all state agencies, or in the case of
10 subdivisions (c) and (d), by the commission, to the federal
11 government; by

12 (B) ~~(ii)~~ In the case of subdivisions (c) and (d), the
13 average monthly covered employment under this act for the
14 specified period.

15 (ii) **"The average rate of total unemployment in this state,**
16 **seasonally adjusted,"** means the rate established for the period
17 to which the rate applies in weekly trigger notices published by
18 the United States secretary of labor.

19 (g) Calculations under subdivisions (c) and (d) shall be made
20 by the commission and shall conform to regulations, if any,
21 prescribed by the United States secretary of labor under
22 authority of the federal-state extended unemployment compensation
23 act of 1970. ~~as amended.~~

24 (h) Notwithstanding subdivisions (c) and (d), but subject to
25 subsection (3)(c), for weeks of unemployment beginning after
26 March 30, 1977 and before September 26, 1982, there is a Michigan
27 "on" indicator for a week if the rate of insured unemployment

1 under this act for the period consisting of that week and the
2 immediately preceding 12 weeks equaled or exceeded 5%; and for
3 weeks beginning after September 25, 1982, there is a Michigan
4 "on" indicator for a week if the rate of insured unemployment
5 under this act for the period consisting of that week and the
6 immediately preceding 12 weeks equaled or exceeded 6%. However,
7 any week for which there would otherwise be a Michigan "on"
8 indicator shall continue to be such a week and shall not be
9 determined to be a week for which there is a Michigan "off"
10 indicator.

11 (6) ~~For purposes of~~ **As used in** this section:

12 (a) "Regular benefits" means benefits payable to an
13 individual under this act and, unless otherwise expressly
14 provided, under any other state unemployment compensation law,
15 including unemployment benefits payable pursuant to 5 U.S.C. 8501
16 to 8525, other than extended benefits, and other than additional
17 benefits which includes training benefits under section 27(g).

18 (b) "Extended benefits" means benefits, including additional
19 benefits and unemployment benefits payable pursuant to 5
20 U.S.C. 8501 to 8525, payable for weeks of unemployment beginning
21 in an extended benefit period to an individual as provided under
22 this section.

23 (c) "Additional benefits" means benefits totally financed by
24 a state and payable to exhaustees by reason of conditions of high
25 unemployment or by reason of other special factors under the
26 provisions of any state law as well as training benefits paid
27 under section 27(g) with respect to an extended benefit period.

1 (d) "Weekly extended benefit rate" means an amount equal to
2 the amount of regular benefits payable under this act to an
3 individual within the individual's benefit year for a week of
4 total unemployment, unless the individual had more than 1 ~~such~~
5 weekly **extended benefit** rate within that benefit year, in which
6 case the individual's weekly extended benefit rate shall be
7 computed by dividing the maximum amount of regular benefits
8 payable under this act within that benefit year by the number of
9 weeks for which benefits were payable, adjusted to the next lower
10 multiple of \$1.00.

11 (e) "Benefits payable" includes all benefits computed in
12 accordance with section 27(d), irrespective of whether the
13 individual was otherwise eligible for the benefits within his or
14 her current benefit year and irrespective of any benefit
15 reduction by reason of a disqualification which required a
16 reduction.

17 (7)(a) An extended benefit period on the basis of a national
18 "on" indicator may not begin with a calendar week starting before
19 January 1, 1972.

20 (b) With respect to calendar weeks beginning before
21 January 1, 1972, an extended benefit period under this section
22 shall be determined solely by reference to the Michigan "on"
23 indicator and the Michigan "off" indicator, however an extended
24 benefit period established on the basis of a Michigan "on"
25 indicator may not begin with a week earlier than 60 days after
26 the date of the enactment of the federal-state extended
27 unemployment compensation act of 1970, as amended.

1 (8)(a) Notwithstanding the provisions of subsection (1)(b),
2 an individual shall be ineligible for payment of extended
3 benefits for any week of unemployment beginning after March 31,
4 1981 in the individual's eligibility period if the commission
5 finds that during that period **either of the following:**

6 (i) The individual failed to accept any offer of suitable
7 work ~~—, as defined in subdivision (e),—~~ or failed to apply for
8 any suitable work ~~—, as defined in subdivision (e),—~~ to which the
9 individual was referred by the commission. ~~—; or~~

10 (ii) The individual failed to actively engage in seeking work
11 as ~~—prescribed—~~ **described** in subdivision (f).

12 (b) Any individual who has been found ineligible for extended
13 benefits ~~—pursuant to—~~ **under** subdivision (a) shall also be denied
14 benefits beginning with the first day of the week following the
15 week in which the failure occurred and until the individual has
16 been employed in each of 4 subsequent weeks, whether or not
17 consecutive, and has earned remuneration equal to not less than 4
18 times the extended weekly benefit amount, as determined under
19 subsection (2).

20 (c) ~~—For purposes of this subsection, the term—~~ **As used in**
21 **this subsection,** "suitable work" means, with respect to any
22 individual, any work which is within that individual's
23 capabilities, if ~~—the—~~ **both of the following apply:**

24 (i) **The** gross weekly remuneration payable for the work
25 exceeds the sum of **the following:**

26 (A) ~~—(i)—~~ The individual's extended weekly benefit amount as
27 determined under subsection (2). ~~—, plus~~

1 **(B)** ~~(ii)~~ The amount, if any, of supplemental unemployment
2 compensation benefits, as defined in section 501(c)(17)(d) of the
3 internal revenue code, payable to the individual for that week.

4 ~~—; and further,~~

5 **(ii)** ~~(iii)~~ ~~That the~~ **The** employer pays wages not less than
6 the higher of the minimum wage provided by section 6(a)(1) of the
7 fair labor standards act of 1938, 29 U.S.C. 206(a)(1), without
8 regard to any exemption, or the applicable state or local minimum
9 wage.

10 (d) An individual shall not be denied extended benefits for
11 failure to accept an offer of, or apply for, any job which meets
12 the definition of suitability as described in subdivision (c) if
13 **1 or more of the following are true:**

14 (i) The position was not offered to the individual in writing
15 and was not listed with the state employment service. ~~—; or~~

16 (ii) The failure could not result in a denial of benefits
17 under the definition of suitable work in section 29(6) to the
18 extent that the criteria of suitability in that section are not
19 inconsistent with the provisions of subdivision (c). ~~—; or~~

20 (iii) The individual furnishes satisfactory evidence to the
21 commission that his or her prospects for obtaining work in his or
22 her customary occupation within a reasonably short period are
23 good. If that evidence is deemed satisfactory for this purpose,
24 the determination of whether any work is suitable with respect to
25 that individual shall be made in accordance with the definition
26 of suitable work in section 29(6) without regard to the
27 definition specified by subdivision (c).

1 (e) Notwithstanding subsection (1)(b), work shall not be
2 considered suitable work for an individual ~~which~~ **if the work**
3 does not meet the labor standard provisions required by section
4 3304(a)(5) of the internal revenue code and section 29(7). ~~of~~
5 ~~this act.~~

6 (f) For the purposes of subdivision (a)(ii), an individual
7 ~~shall be treated as~~ **is** actively engaged in seeking work during
8 any week if **both of the following are true:**

9 (i) The individual has engaged in a systematic and sustained
10 effort to obtain work during that week. ~~—, and~~

11 (ii) The individual furnishes tangible evidence to the
12 commission that he or she has engaged in a systematic and
13 sustained effort during that week.

14 (g) The commission shall refer any applicant for extended
15 benefits to any suitable work which meets the criteria prescribed
16 in subdivisions (c) and (d).

17 (h) With respect to initial extended benefit claims filed
18 after March 31, 1981, an individual ~~shall not be~~ **is not**
19 eligible to receive extended benefits with respect to any week of
20 unemployment in his or her eligibility period if that individual
21 has been disqualified for benefits under this act because he or
22 she voluntarily left work, was discharged for misconduct, or
23 failed to accept an offer of or apply for suitable work unless
24 the individual requalified in accordance with a specific
25 provision of this act requiring that the individual be employed
26 subsequent to the week in which the act or discharge occurred
27 which caused the disqualification.

1 (i) For weeks of unemployment beginning on or after March 7,
2 1993 and before January 1, 1995, subsection (8) shall not be
3 considered in determining the eligibility of an individual for
4 the payment of extended benefits. This subdivision shall take
5 effect for weeks of unemployment beginning on or after March 7,
6 1993 and before January 1, 1995.

7 (9)(a) Except as provided in subdivision (b), payment of
8 extended benefits shall not be made to any individual for any
9 week of unemployment, beginning on or after June 1, 1981, which
10 otherwise would have been payable pursuant to an interstate claim
11 filed in any state under the interstate benefit payment plan, if
12 an extended benefit period is not in effect for ~~such~~ **the** week
13 in the state in which the interstate claim is filed.

14 (b) Subdivision (a) ~~shall~~ **does** not apply with respect to
15 the first 2 weeks for which extended benefits are payable,
16 pursuant to an interstate claim, to the individual from the
17 extended benefit account established for the individual.

18 (10) Notwithstanding the provisions of subsection (1)(b), an
19 individual who established a benefit year under section 46a on or
20 after January 2, 1983, shall be eligible to receive extended
21 benefits only if the individual earned wages in an amount
22 exceeding 40 times the individual's most recent weekly benefit
23 rate during the base period of the benefit year which is used to
24 establish the individual's extended benefit account under
25 subsection (2).

26 (11) This subsection ~~shall be~~ **is** effective for weeks of
27 unemployment beginning after October 30, 1982. Notwithstanding

1 any other provision of this section, an individual's extended
2 benefit entitlement, with respect to weeks of unemployment
3 beginning after the end of the benefit year, shall be reduced,
4 but not below zero, by the product of the number of weeks for
5 which the individual received any amounts of trade readjustment
6 allowances, paid under the trade act of 1974, ~~as amended,~~ 19
7 U.S.C. 2101 to 2487, within that benefit year, multiplied by the
8 individual's weekly benefit amount for extended benefits.

9 (12) The amendments to subsection (5) made by the amendatory
10 act that added this subsection apply to all weeks of unemployment
11 following the effective date of the amendatory act that added
12 this subsection, and extended benefits shall be determined as if
13 the amendments to subsection (5) made by the amendatory act that
14 added this subsection were in effect for weeks of unemployment on
15 or after May 11, 2003.