

# HOUSE BILL No. 4320

February 27, 2007, Introduced by Reps. Walker, Elsenheimer and Hansen 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 2003 PA 174.

## 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

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

7 (b) For benefit years established before ~~the conversion date~~  
8 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, benefits paid to an  
9 individual shall be based upon the credit weeks earned during the  
10 individual's base period and shall be charged against the  
11 experience accounts of the contributing employers or charged to the  
12 accounts of the reimbursing employers from whom the individual  
13 earned credit weeks. If the individual earned credit weeks from  
14 more than 1 employer, a separate determination shall be made of the  
15 amount and duration of benefits based upon the total credit weeks  
16 and wages earned with each employer. Benefits paid in accordance  
17 with the determinations shall be charged against the experience  
18 account of a contributing employer or charged to the account of a  
19 reimbursing employer beginning with the most recent employer first  
20 and thereafter as necessary against other base period employers in  
21 inverse order to that in which the claimant earned his or her last  
22 credit week with those employers. If there is any disqualifying act  
23 or discharge under section 29(1) with an employer, benefits based  
24 upon credit weeks earned from that employer before the  
25 disqualifying act or discharge shall be charged only after the  
26 exhaustion of charges as provided above. Benefits based upon those  
27 credit weeks shall be charged first against the experience account

1 of the contributing employer involved or to the account of the  
2 reimbursing employer involved in the most recent disqualifying act  
3 or discharge and thereafter as necessary in similar inverse order  
4 against other base period employers involved in disqualifying acts  
5 or discharges. The order of charges determined as of the beginning  
6 date of a benefit year shall remain fixed during the benefit year.  
7 For benefit years established ~~after the conversion date prescribed~~  
8 ~~in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, the claimant's full  
9 weekly benefit rate shall be charged to the account or experience  
10 account of the claimant's most recent separating employer for each  
11 of the first 2 weeks of benefits payable to the claimant in the  
12 benefit year in accordance with the monetary determination issued  
13 pursuant to section 32. However, if the total sum of wages paid by  
14 an employer totals \$200.00 or less, those wages shall be used for  
15 purposes of benefit payment, but any benefit charges attributable  
16 to those wages shall be charged to the nonchargeable benefits  
17 account. Thereafter, remaining weeks of benefits payable in the  
18 benefit year shall be paid in accordance with the monetary  
19 determination and shall be charged proportionally to all base  
20 period employers, with the charge to each base period employer  
21 being made on the basis of the ratio that total wages paid by the  
22 employer in the base period bears to total wages paid by all  
23 employers in the base period. However, if the claimant did not  
24 perform services for the most recent separating employer or  
25 employing entity and receive earnings for performing the services  
26 of at least the amount a claimant must earn, in the manner  
27 prescribed in section 29(3), to requalify for benefits following a

1 disqualification under section 29(1)(a), (b), (i), or (k) during  
2 the claimant's most recent period of employment with the employer  
3 or employing entity, then all weeks of benefits payable in the  
4 benefit year shall be charged proportionally to all base period  
5 employers, with the charge to each base period employer being made  
6 on the basis of the ratio that total wages paid by the employer in  
7 the base period bears to total wages paid by all employers in the  
8 base period. If the claimant performed services for the most recent  
9 separating employing entity and received earnings for performing  
10 the services of at least the amount a claimant must earn, in the  
11 manner prescribed in section 29(3), to requalify for benefits  
12 following a disqualification under section 29(1)(a), (b), (i), or  
13 (k) during the claimant's most recent period of employment for the  
14 employing entity but the separating employing entity was not a  
15 liable employer, the first 2 weeks of benefits payable to the  
16 claimant shall be charged proportionally to all base period  
17 employers, with the charge to each base period employer ~~being made~~  
18 on the basis of the ratio that total wages paid by the employer in  
19 the base period bears to total wages paid by all employers in the  
20 base period. The "separating employer" is the employer that caused  
21 the individual to be unemployed as defined in section 48.

22 (c) For benefit years established before ~~the conversion date~~  
23 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and except as otherwise  
24 provided in section 11(d) or (g) or section 46a, the charges for  
25 regular benefits to any reimbursing employer or to any contributing  
26 employer's experience account shall not exceed the weekly benefit  
27 rate multiplied by  $\frac{3}{4}$  the number of credit weeks earned by the

1 individual during his or her base period from that employer. If the  
2 resultant product is not an even multiple of 1/2 the weekly benefit  
3 rate, the amount shall be raised to an amount equal to the next  
4 higher multiple of 1/2 the weekly benefit rate, and in the case of  
5 an individual who was employed by only 1 employer in his or her  
6 base period and who earned 34 credit weeks with that employer, the  
7 product shall be raised to the next higher multiple of the weekly  
8 benefit rate.

9 (d) For benefit years beginning ~~after the conversion date~~  
10 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, and except as  
11 otherwise provided in section 11(d) or (g) or section 46, the  
12 charges for regular benefits to any reimbursing employer's account  
13 or to any contributing employer's experience account shall not  
14 exceed either the amount derived by multiplying by 2 the weekly  
15 benefit rate chargeable to the employer in accordance with  
16 subsection (b) if the employer is the separating employer and is  
17 chargeable for the first 2 weeks of benefits, or the amount derived  
18 from the percentage of the weekly benefit rate chargeable to the  
19 employer in accordance with subsection (b), multiplied by the  
20 number of weeks of benefits chargeable to base period employers  
21 based on base period wages, to which the individual is entitled as  
22 provided in section 27(d), if the employer is a base period  
23 employer, or both of these amounts if the employer was both the  
24 chargeable separating employer and a base period employer.

25 (e) For benefit years beginning before ~~the conversion date~~  
26 ~~prescribed in section 75~~ **OCTOBER 1, 2000**:

27 (1) ~~When~~ **IF** an individual has multiemployer credit weeks in

1 his or her base period, and ~~when~~ **IF** it becomes necessary to use  
2 those credit weeks as a basis for benefit payments, a single  
3 determination shall be made of the individual's weekly benefit rate  
4 and maximum amount of benefits based on the individual's  
5 multiemployer credit weeks and the wages earned in those credit  
6 weeks. Each employer involved in the individual's multiemployer  
7 credit weeks shall be an interested party to the determination. The  
8 proviso in section 29(2) ~~shall not be applicable~~ **DOES NOT APPLY** to  
9 multiemployer credit weeks, nor ~~shall~~ **DOES** the reduction provision  
10 of section 29(4) apply to benefit entitlement based upon those  
11 credit weeks.

12 (2) The charge for benefits based on multiemployer credit  
13 weeks shall be allocated to each employer involved on the basis of  
14 the ratio that the total wages earned during the total  
15 multiemployer credit weeks counted under section 50(b) with the  
16 employer bears to the total amount of wages earned during the total  
17 multiemployer credit weeks counted under section 50(b) with all  
18 such employers, computed to the nearest cent. However, if an  
19 adjusted weekly benefit rate is determined in accordance with  
20 section 27(f), the charge to the employer who has contributed to  
21 the financing of the retirement plan shall be reduced by the same  
22 amount by which the weekly benefit rate was adjusted under section  
23 27(f). Benefits for a week of unemployment allocated under this  
24 subsection to a contributing employer shall be charged to the  
25 nonchargeable benefits account if the claimant during that week  
26 earns remuneration with that employer that equals or exceeds the  
27 amount of benefits allocated to that employer.

1 (3) Benefits paid in accordance with the determination based  
2 on multiemployer credit weeks shall be allocated to each employer  
3 involved and charged as of the quarter in which the payments are  
4 made. Notice of charges made under this subsection shall be given  
5 to each employer by means of a current listing of charges, at least  
6 weekly, or of a quarterly statement of charges. The listing or  
7 statement shall specify the weeks for which benefits were paid  
8 based on multiemployer credit weeks and the amount of benefits paid  
9 chargeable to that employer for each week. The notice shall be  
10 considered to satisfy the requirements of sections 21(a) and 32(d)  
11 that notification be given each employer of benefits charged  
12 against that employer's account by means of a copy or listing of  
13 the benefit check, and all protest and appeal rights applicable to  
14 benefit check copies or listings shall also ~~be applicable~~ **APPLY** to  
15 the notice of charges. If an employer receives both a current  
16 listing of charges and a quarterly statement of charges under this  
17 subsection, all protest and appeal rights shall only ~~be applicable~~  
18 **APPLY** to the first notice given.

19 (f) For benefit years beginning ~~after the conversion date~~  
20 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, if benefits  
21 for a week of unemployment are charged to 2 or more base period  
22 employers, the share of the benefits allocated and charged under  
23 this section to a contributing employer shall be charged to the  
24 nonchargeable benefits account if the claimant during that week  
25 earns remuneration with that employer that equals or exceeds the  
26 amount of benefits charged to that employer.

27 (g) For benefit years beginning before ~~the conversion date~~

~~prescribed in section 75~~ **OCTOBER 1, 2000:**

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

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

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



(4) Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, and subsequently by a quarterly summary statement of charges. The listing shall specify the name and social security number of each claimant paid benefits during the week, the weeks for which the benefits were paid, and the amount of benefits chargeable to that employer paid for each week. The quarterly statement of charges shall list each claimant by name and social security number and shall show total benefit payments chargeable to that employer and made to each claimant during the calendar quarter. The listing shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given each employer of benefits charged against that employer's account by means of a listing of the benefit check. All protest and appeal rights applicable to benefit check listings shall also be ~~applicable~~ **APPLY** to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only be ~~applicable~~ **APPLY** to the first notice given.

(h) For benefit years beginning ~~after the conversion date prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000:**

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

1 period.

2 (2) Training benefits, and extended benefits to the extent  
3 they are not reimbursable by the federal government and have been  
4 allocated to a reimbursing employer, shall be charged to that  
5 reimbursing employer. A contributing employer's experience account  
6 shall not be charged with training benefits. Training benefits  
7 based on service with a contributing employer, to the extent they  
8 are not reimbursable by the federal government, shall be charged to  
9 the nonchargeable benefits account. Except as provided in section  
10 17(3)(m), extended benefits paid and based on service with a  
11 contributing employer, to the extent they are not reimbursable by  
12 the federal government, shall be charged to that employer's  
13 experience account.

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

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

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

13 (i) If a benefit year is established ~~after the conversion date~~  
14 ~~prescribed in section 75~~**ON OR AFTER OCTOBER 1, 2000**, the portion  
15 of benefits paid in that benefit year that are based on wages used  
16 to establish the immediately preceding benefit year that began  
17 before ~~the conversion date~~**OCTOBER 1, 2000** shall not be charged to  
18 the employer or employers who paid those wages but shall be charged  
19 instead to the nonchargeable benefits account.

20 ~~—— (j) If a reimbursing employer is charged for extended benefits~~  
21 ~~during a period when extended benefits are paid based on the~~  
22 ~~average rate of total unemployment, in accordance with section~~  
23 ~~64(5)(c)(ii), the bureau shall credit the account of the reimbursing~~  
24 ~~employer for the full amount of those extended benefits. The bureau~~  
25 ~~shall charge the contingent fund created under section 10(6) for~~  
26 ~~amounts so credited to reimbursing employers. This subsection is~~  
27 ~~effective with respect to benefit charges for extended benefits~~

1 ~~paid for weeks of unemployment beginning the week after the week in~~  
2 ~~which this subsection becomes effective and ending the week ending~~  
3 ~~January 17, 2004.~~

4 (J) FOR BENEFIT YEARS BEGINNING AFTER THE EFFECTIVE DATE OF  
5 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, BENEFITS THAT ARE  
6 ATTRIBUTABLE TO BUSINESS NECESSITY RESULTING FROM A GOVERNMENTAL  
7 ROAD CLOSURE OR REPAIR THAT TEMPORARILY LIMITS ACCESS TO THE  
8 EMPLOYER'S BUSINESS PREMISES FOR A PERIOD OF 30 DAYS OR MORE ARE  
9 NOT CHARGEABLE TO THE EMPLOYER, BUT ARE CHARGEABLE TO THE  
10 NONCHARGEABLE BENEFITS ACCOUNT.