

HOUSE BILL No. 6426

September 10, 2008, Introduced by Reps. Polidori, Miller, Gonzales, Spade, Clemente, Brown, Espinoza, Condino, Constan, Bauer, Hood, Rick Jones and Alma Smith 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
8 discretion of the bureau, as of the date of the charge. Benefits
9 paid to an individual as a result of an employer's failure to
10 provide the unemployment agency with separation, employment, and

1 wage data as required by section 32 shall be considered as benefits
2 properly paid to the extent that the benefits are chargeable to the
3 noncomplying employer.

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

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

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

19 (c) For benefit years established before ~~the conversion date~~
20 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and except as otherwise
21 provided in section 11(d) or (g) or section 46a, the charges for
22 regular benefits to any reimbursing employer or to any contributing
23 employer's experience account shall not exceed the weekly benefit
24 rate multiplied by $\frac{3}{4}$ the number of credit weeks earned by the
25 individual during his or her base period from that employer. If the
26 resultant product is not an even multiple of $\frac{1}{2}$ the weekly benefit
27 rate, the amount shall be raised to an amount equal to the next

1 higher multiple of 1/2 the weekly benefit rate, and in the case of
2 an individual who was employed by only 1 employer in his or her
3 base period and who earned 34 credit weeks with that employer, the
4 product shall be raised to the next higher multiple of the weekly
5 benefit rate.

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

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

24 (1) ~~When~~ **IF** an individual has multiemployer credit weeks in
25 his or her base period, and ~~when~~ **IF** it becomes necessary to use
26 those credit weeks as a basis for benefit payments, a single
27 determination shall be made of the individual's weekly benefit rate

1 and maximum amount of benefits based on the individual's
2 multiemployer credit weeks and the wages earned in those credit
3 weeks. Each employer involved in the individual's multiemployer
4 credit weeks shall be an interested party to the determination. The
5 proviso in section 29(2) ~~shall not be applicable~~ **DOES NOT APPLY** to
6 multiemployer credit weeks, nor ~~shall~~ **DOES** the reduction provision
7 of section 29(4) apply to benefit entitlement based upon those
8 credit weeks.

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

25 (3) Benefits paid in accordance with the determination based
26 on multiemployer credit weeks shall be allocated to each employer
27 involved and charged as of the quarter in which the payments are

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

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

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

26 (1) Training benefits as provided in section 27(g), and
27 extended benefits as provided in section 64, shall be allocated to

1 each reimbursing employer involved in the individual's base period
2 of the claim to which the benefits are related, on the basis of the
3 ratio that the total wages earned during the total credit weeks
4 counted under section 50(b) with a reimbursing employer bears to
5 the total amount of wages earned during the total credit weeks
6 counted under section 50(b) with all employers.

7 (2) Training benefits and extended benefits, to the extent
8 that they are not reimbursable by the federal government and have
9 been allocated to a reimbursing employer, shall be charged to that
10 reimbursing employer. A contributing employer's experience account
11 shall not be charged with training benefits. Training benefits
12 based on service with a contributing employer, to the extent that
13 they are not reimbursable by the federal government, shall be
14 charged to the nonchargeable benefits account. Extended benefits
15 paid and based on service with a contributing employer, to the
16 extent that they are not reimbursable by the federal government,
17 shall be charged to that employer's experience account.

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

25 (4) Notice of charges made under this subsection shall be
26 given to each employer by means of a current listing of charges, at
27 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 period.

(2) Training benefits, and extended benefits to the extent they are not reimbursable by the federal government and have been

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

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

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

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

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

17 ~~—— (j) If a reimbursing employer is charged for extended benefits~~
18 ~~during a period when extended benefits are paid based on the~~
19 ~~average rate of total unemployment, in accordance with section~~
20 ~~64(5)(c)(ii), the bureau shall credit the account of the reimbursing~~
21 ~~employer for the full amount of those extended benefits. The bureau~~
22 ~~shall charge the contingent fund created under section 10(6) for~~
23 ~~amounts so credited to reimbursing employers. This subsection is~~
24 ~~effective with respect to benefit charges for extended benefits~~
25 ~~paid for weeks of unemployment beginning the week after the week in~~
26 ~~which this subsection becomes effective and ending the week ending~~
27 ~~January 17, 2004.~~

1 (J) FOR BENEFITS YEARS BEGINNING AFTER MARCH 30, 2009,
2 BENEFITS PAID TO A PERSON WHO LEAVES EMPLOYMENT TO ACCOMPANY A
3 SPOUSE WHO IS A FULL-TIME MEMBER OF THE UNITED STATES ARMED FORCES
4 AND IS REASSIGNED FOR MILITARY SERVICE IN A DIFFERENT GEOGRAPHIC
5 LOCATION ARE NOT CHARGEABLE TO THE EMPLOYER, BUT SHALL BE CHARGED
6 TO THE NONCHARGEABLE BENEFITS ACCOUNT.

7 Enacting section 1. This amendatory act does not take effect
8 unless Senate Bill No. 130 of the 94th Legislature is enacted into
9 law.