



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 612 through 615 (as discharged)
Sponsor: Senator Jason E. Allen (S.B. 612)
Senator Randy Richardville (S.B. 613)
Senator Jud Gilbert, II (S.B. 614)
Senator Roger Kahn, M.D. (S.B. 615)
Committee: Commerce and Tourism

CONTENT

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

- Allow the recovery of interest on the amount of improperly paid unemployment benefits.
- Double the amount of damages that may be recovered for a fraud violation involving less than \$500.
- Create the "Special Fraud Control Fund" and require amounts recovered for fraud violations to be deposited into this Fund.
- Require interest and penalties collected for improperly paid benefits to be paid into the proposed Fund.
- Require money in the Fund to be spent first on packaged software that had a proven record of success with the detection and collection of unemployment benefit overpayments.

Senate Bill 612 specifies that, if the Unemployment Insurance Agency (UIA) determined that a person had obtained benefits to which he or she was not entitled, the UIA could recover the amount received plus interest. Currently, the UIA may recover the amount received.

Interest recovered under the bill would have to be deposited in the Administration Fund created under the Act. Interest deposited would have to be spent first to acquire, through a competitive bid process, packaged software that had a proven record of success in detecting and collecting unemployment benefit overpayments, before being applied to other administrative expenses.

Senate Bill 613 would allow the UIA to recover damages equal to four times the amount obtained fraudulently for a second or subsequent violation involving less than \$500. Under the Act, various sanctions apply to an employing unit, claimant, UIA employee, or other person who knowingly makes a false statement or representation to obtain or increase an unemployment benefit, to prevent or reduce the payment of benefits to an individual entitled to benefits, or to avoid or reduce a contribution or other payment required under the Act or the unemployment compensation law of any state or of the Federal government. If the amount obtained as a result of a violation is less than \$500, the UIA may recover the applicable amount plus damages of two times that amount. Other amounts may be recovered for violations involving larger amounts. Under the bill, for a second or subsequent violation involving less than \$500, the UIA could recover damages equal to four times the amount obtained.

Amounts recovered by the UIA for violations described above would have to be credited as follows:

- Deductions from unemployment insurance benefits would have to be applied solely to the amount of the benefits liable to be repaid.
- All other recoveries would have to be applied first to administrative sanctions and damages, then to interest, and then to the amount liable to be repaid, and would have to be credited to the Special Fraud Control Fund.

Senate Bill 614 would require interest and penalties collected under Section 62 (the section Senate Bill 612 would amend) to be paid into the Special Fraud Control Fund. Under the Act, past-due contributions and amounts illegally obtained must bear interest at the rate of 1% per month, computed on a day-to-day basis for each day the amounts remain unpaid, until the UIA receives payment plus accrued interest. Interest and penalties collected under this provision must be paid into the Contingent Fund. The bill would make an exception for that interest and penalties collected under Section 62 (for benefits paid to a person who was not entitled to them), which would have to be paid into the Special Fraud Control Fund.

Senate Bill 615 would create in the Department of Treasury Contingent Fund a separate fund to be known as the "Special Fraud Control Fund". The Special Fraud Control Fund would consist of money collected or received by the UIA from all interest and penalties collected under Section 62 and all gifts to, interest on, or profits earned by the Fund.

Money in the Special Fraud Control Fund would be continuously appropriated only to the UIA and could not be transferred or otherwise made available to any other State agency.

All amounts in the Fund would have to be used first for the acquisition of packaged software that had a proven record of success with the detection and collection of unemployment benefit overpayments, and then for administrative costs associated with the prevention, discovery, and collection of unemployment benefit overpayments, as included in the biennial budget of the UIA and approved by the Legislature. The UIA would have to submit a report to the Secretary of the Senate and the Clerk of the House of Representatives at the close of the two-year period following the bill's effective date, to show how the money from the Fund was used and the results obtained from it.

All of the bills are tie-barred to each other and to a bill that has yet to be introduced.

MCL 421.62 (S.B. 612)
421.54 (S.B. 613)
421.15 (S.B. 614)
421.10 (S.B. 615)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would increase and reallocate revenue received by the Unemployment Insurance Agency from various people who have received overpayments of benefits.

The bills would create a new revenue stream by allowing interest to be charged on repayments of unemployment insurance benefit overpayments. The interest would be deposited into the Administration Fund. The interest would be earmarked first for the acquisition of packaged software to detect and collect overpayments of unemployment benefits. Remaining funds would be used for the administrative expenses of the UIA. The amount of interest that would be collected is unknown and depends on a number of variables including the rate, the duration of the repayment period, and the extent to which the Commission would use the waiver option for overpayments that were not attributable to fraud or any fault of the claimant. The acquisition of specialized software would likely lead to

increased recovery of overpayments; however, the cost of such a program is not known at this time.

The bills would increase the amount of potential damages paid by people who make false statements or misrepresentations that affect unemployment benefits. Under the current language, the damages sought may be twice the amount of the overpayment if the overpayment was less than \$500. New language would double that amount to four times the amount for a second offense. The proposal would redirect revenue recovered for this offense from the existing Contingent Fund to the proposed Special Fraud Control Fund that would be created. The revenue in this Fund would be required to be allocated first for the acquisition of packaged software to detect unemployment overpayments, and second for administrative costs associated with prevention, discovery, and collection of overpayments.

The bill also would require the UIA to compile and submit a report every two years outlining how the Agency would use these funds and any results from the Fund.

According to the U.S. Department of Labor, the CY 2007 Benefit Accuracy Measurement (BAM) program, Michigan's rate of overpayment, based on a random sampling of payments made, is estimated to be 9.21% or approximately \$160.0 million. Of that amount, the estimated rate of overpayments as a result of fraud is 2.47% or \$42.8 million. The national average for overpayments is 9.13% and for overpayments resulting from fraud is 2.73%. Both measurements for Michigan were based on total benefits paid of \$1.7 billion.

Public Act 251 of 2008, the FY 2008-09 appropriation act for the Department of Energy, Labor, and Economic Growth/Unemployment Agency includes a line item for investigating, preventing, and detecting fraud among employers and claimants. The Expanded Fraud Control Program line item includes 33.2 FTEs and \$3.3 million.

Date Completed: 6-25-09

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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.