

SENATE BILL No. 401

March 19, 2009, Introduced by Senator HUNTER and referred to the Committee on Commerce and Tourism.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 17 (MCL 421.17), as amended by 2003 PA 174.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17. (1) The bureau shall maintain in the unemployment
2 compensation fund a nonchargeable benefits account and a separate
3 experience account for each employer as provided in this section.
4 This act does not give an employer or individuals in the employer's
5 service prior claims or rights to the amount paid by the employer
6 to the unemployment compensation fund. All contributions to that
7 fund shall be pooled and available to pay benefits to any
8 individual entitled to the benefits under this act, irrespective of
9 the source of the contributions.

10 (2) The nonchargeable benefits account shall be credited with

1 the following:

2 (a) All net earnings received on money, property, or
3 securities in the fund.

4 (b) Any positive balance remaining in the employer's
5 experience account as of the second June 30 computation date
6 occurring after the employer has ceased to be subject to this act
7 or after the employer has elected to change from a contributing
8 employer to a reimbursing employer.

9 (c) The proceeds of the nonchargeable benefits component of
10 employers' contribution rates determined as provided in section
11 19(a) (5) .

12 (d) All reimbursements received under section 11(c) .

13 (e) All amounts ~~which~~ **THAT** may be paid or advanced by the
14 federal government under section 903 or section 1201 of the social
15 security act, 42 U.S.C. ~~USC~~ 1103 and 1321, to the account of the
16 state in the federal unemployment trust fund.

17 (f) All benefits improperly paid to claimants ~~which~~ **THAT** have
18 been recovered and ~~which~~ **THAT** were previously charged to an
19 employer's account.

20 (g) Any benefits forfeited by an individual by application of
21 section 62(b) .

22 (h) The amount of any benefit check, any employer refund
23 check, or any claimant restitution refund check duly issued ~~which~~
24 **THAT** has not been presented for payment within 1 year after the
25 date of issue.

26 (i) Any other unemployment fund income not creditable to the
27 experience account of any employer.

1 (j) Any negative balance transferred to an employer's new
2 experience account pursuant to this section.

3 (k) Amounts transferred from the contingent fund ~~pursuant to~~
4 **UNDER** section 10.

5 (3) The nonchargeable benefits account shall be charged with
6 the following:

7 (a) Any negative balance remaining in an employer's experience
8 account as of the second June 30 computation date occurring after
9 the employer has ceased to be subject to this act or has elected to
10 change from a contributing employer to a reimbursing employer.

11 (b) Refunds of amounts erroneously collected due to the
12 nonchargeable benefits component of an employer's contribution
13 rate.

14 (c) All training benefits paid under section 27(g) not
15 reimbursable by the federal government and based on service with a
16 contributing employer.

17 (d) Any positive balance credited or transferred to an
18 employer's new experience account ~~pursuant to~~**UNDER** this
19 subsection.

20 (e) Repayments to the federal government of amounts advanced
21 by it under section 1201 of the social security act, 42 ~~U.S.C.~~**USC**
22 1321, to the unemployment compensation fund established by this
23 act.

24 (f) The amounts received by the unemployment compensation fund
25 under section 903 of the social security act, 42 ~~U.S.C.~~**USC** 1103,
26 that may be appropriated to the bureau in accordance with
27 subsection (8).

1 (g) All benefits determined to have been improperly paid to
2 claimants ~~which~~ **THAT** have been credited to employers' accounts in
3 accordance with section 20(a).

4 (h) The amount of any substitute check issued to replace an
5 uncashed benefit check, employer refund check, or claimant
6 restitution refund check previously credited to this account.

7 (i) The amount of any benefit check issued ~~which~~ **THAT** would be
8 chargeable to the experience account of an employer who has ceased
9 to be subject to this act, and who has had a balance transferred
10 from the employer's experience account to the solvency or
11 nonchargeable benefits account.

12 (j) All benefits ~~which~~ **THAT** become nonchargeable to an
13 employer under section 29(3) or section 19(b) or (c).

14 (k) For benefit years beginning before ~~the conversion date~~
15 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, with benefits allocated
16 under section 20(e)(2) for a week of unemployment in which a
17 claimant earns remuneration with a contributing employer ~~which~~ **THAT**
18 equals or exceeds the amount of benefits allocated to that
19 contributing employer, and for benefit years beginning ~~after the~~
20 ~~conversion date prescribed in section 75~~ **ON OR AFTER OCTOBER 1,**
21 **2000**, with benefits allocated under section 20(e)(3) for a week of
22 unemployment in which a claimant earns remuneration with a
23 contributing employer ~~which~~ **THAT** equals or exceeds the amount of
24 benefits allocated to that contributing employer.

25 (l) Benefits that are nonchargeable to an employer's account in
26 accordance with section 20(i).

27 ~~— (m) The share of extended benefits otherwise charged to the~~

~~1 account of a contributing employer, but only during a period when~~
~~2 extended benefits are paid based on the average rate of total~~
~~3 unemployment in accordance with section 64(5)(c)(ii).~~

4 (4) All contributions paid by an employer shall be credited to
5 the unemployment compensation fund, and, except as otherwise
6 provided with respect to the proceeds of the nonchargeable benefits
7 component of employers' contribution rates by section 19(a)(5), to
8 the employer's experience account, as of the date when paid.

9 However, those contributions paid during any July shall be credited
10 as of the immediately preceding June 30. Additional contributions
11 paid by an employer as the result of a retroactive contribution
12 rate adjustment, solely for the purpose of this subsection, shall
13 be credited to the employer's experience account as if paid when
14 due, if the payment is received within 30 days after the issuance
15 of the initial assessment ~~which~~ **THAT** results from the contribution
16 rate adjustment and a written request for the application is filed
17 by the employer during this period.

18 (5) If an employer who has ceased to be subject to this act,
19 and who has had a positive balance transferred as provided in
20 subsection (2) from the employer's experience account to the
21 solvency or nonchargeable benefits account as of the second
22 computation date after the employer has ceased to be subject to
23 this act, becomes subject to this act again within 6 years after
24 that computation date, the employer may apply, within 60 days after
25 the bureau's determination that the employer is again subject to
26 this act, to the bureau to have the positive balance, adjusted by
27 the debits and credits as have been made subsequent to the date of

1 transfer, credited to the employer's new experience account. If the
2 application is timely, the bureau shall credit the positive balance
3 to the employer's new experience account.

4 (6) If an employer's status as a reimbursing employer is
5 terminated within 6 years after the date the employer's experience
6 account as a prior contributing employer was transferred to the
7 solvency or nonchargeable benefits account as provided in
8 subsection (2) or (3) and the employer continues to be subject to
9 this act as a contributing employer, any positive or negative
10 balance in the employer's experience account as a prior
11 contributing employer, which was transferred to the solvency or
12 nonchargeable benefits account, shall be transferred to the
13 employer's new experience account. However, an employer who is
14 delinquent with respect to any reimbursement payments in lieu of
15 contributions for which the employer may be liable shall not have a
16 positive balance transferred during the delinquency.

17 (7) If a balance is transferred to an employer's new account
18 under subsection (5) or (6), the employer shall not be considered a
19 "qualified employer" until the employer has again been subject to
20 this act for the period set forth in section 19(a)(1).

21 (8) All money credited under section 903 of the social
22 security act, 42 ~~U.S.C.~~ **USC** 1103, to the account of the state in
23 the federal unemployment trust fund shall immediately be credited
24 by the bureau to the fund's nonchargeable benefits account. There
25 is authorized to be appropriated to the bureau from the money
26 credited to the nonchargeable benefits account under this
27 subsection, an amount determined to be necessary for the proper and

1 efficient administration by the bureau of this act for purposes for
2 which federal grants under Title 3 of the social security act, 42
3 U.S.C.—USC 501 to 504, and the Wagner-Peyser ~~national employment~~
4 ~~system~~ act, 29 U.S.C.—USC 49 to ~~49k-49L-2~~, are not available or are
5 insufficient. The appropriation shall expire not more than 2 years
6 after the date of enactment and shall provide that any unexpended
7 balance shall then be credited to the nonchargeable benefits
8 account. An appropriation shall not be made under this subsection
9 for an amount ~~which~~ **THAT** exceeds the "adjusted balance" of the
10 nonchargeable benefits account on the most recent computation date.
11 Appropriations made under this subsection shall limit the total
12 amount ~~which~~ **THAT** may be obligated by the bureau during a fiscal
13 year to an amount ~~which~~ **THAT** does not exceed the amount by which
14 the aggregate of the amounts credited to the nonchargeable benefits
15 account under this subsection during the fiscal year and the 24
16 preceding fiscal years, exceeds the aggregate of the amounts
17 obligated by the bureau ~~pursuant to~~ **BY** appropriation under this
18 subsection and charged against the amounts thus credited to the
19 nonchargeable benefits account during any of the 25 fiscal years
20 and any amounts credited to the nonchargeable benefits account
21 ~~which~~ **THAT** have been used for the payment of benefits.

22 ~~— (9) Section 17(3)(m) is effective with respect to benefit~~
23 ~~charges for extended benefits paid for weeks of unemployment~~
24 ~~beginning the week after the week in which this subsection is~~
25 ~~effective and ending the week ending January 17, 2004.~~