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BILL ANALYSIS



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House Bill 4545 (Substitute H-4 as passed by the House)
House Bill 4546 (Substitute H-3 as passed by the House)
Sponsor: Representative Jim Ellison (H.B. 4545)
Representative Gary Howell (H.B. 4546)
House Committee: Workforce and Talent Development
Senate Committee: Commerce

Date Completed: 9-26-17

CONTENT

House Bill 4545 (H-4) would amend the Michigan Employment Security Act to do the following:

- **Allow the Unemployment Insurance Agency (UIA) to make information that it obtained available for course or program planning, grant application, and other purposes, as well as for use in connection with research projects of a public nature.**
- **Require the UIA to identify online the information that it collected that could be made available to institutions of higher education, intermediate school districts (ISDs), and Michigan Works! Agencies, and assist those entities in gaining access to the information.**
- **Require a confidentiality agreement to be executed between the UIA and a public official or an employee authorized by an institution of higher education, ISD or Michigan Works! Agency, and require the agreement to last a maximum of 10 years.**
- **Specify that if a confidentiality agreement were breached, the public official or authorized employee could be subject to misdemeanor penalties equivalent to those that would apply to a person associated with an institution of higher education, ISD, Michigan Works! Agency, or public agency who disclosed confidential information.**

House Bill 4546 (H-3) would amend a provision of the Michigan Employment Security Act that prohibits the improper disclosure of information obtained from the UIA, to extend misdemeanor penalties to a person associated with an institution of higher education, ISD, or Michigan Works! Agency, who disclosed confidential information obtained for purposes other than those described in House Bill 4545 (H-4).

House Bill 4546 (H-3) is tie-barred to House Bill 4545, and each bill would take effect 90 days after its enactment.

House Bill 4545 (H-4) is discussed in more detail below.

In general, under the Act, information obtained from any employing unit or individual through the administration of the Act and determinations as to the benefit rights of any individual are confidential and may not be disclosed or open to public inspection other than to public

employees and public officials, or their agents or contractors, in the performance of their official duties under the Act in any manner that reveals the individual's or the employing unit's identity or any identifying particular about any individual or any past or present employing unit or that could be combined with other publicly available information to reveal identifying particulars.

However, subject to restrictions it prescribes, by rule or otherwise, the UIA may make information that it obtains available for use in connection with research projects of a public service nature to a college, university, or agency of the State that is acting as a contractor or agent of a public official and conducting research that assists the public official in carrying out the duties of the office.

The bill would allow the UIA to make information that it obtained available for the following:

- Use in connection with research projects of a public service nature.
- Course, program, or training program planning, improvement, or evaluation.
- Grant application or evaluation.
- Institutional or program accreditation.
- Economic development or workforce research.
- Award eligibility.
- Federal or State mandated reporting.

The information could be made available to an institution of higher education, ISD, or Michigan Works! Agency, or, as currently provided, to a State agency.

The bill would require the UIA to identify online the information that it collected that could be made available to institutions of higher education, ISDs, and Michigan Works! Agencies, and to assist them in the application process required to gain access to that information.

("Institution of higher education" would mean that term as defined in Section 53 of the Act, i.e., a public or nonprofit educational institution that does any of the following: a) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate; b) is legally authorized in the State to provide a program of education beyond high school; or c) provides an educational program for which it awards a bachelor's or higher degree, provides a program that is acceptable for full credit toward such a degree, provides a program of postgraduate or postdoctoral studies, or provides a program of training to prepare students for gainful employment in a recognized occupation. For the purposes of this definition, all recognized public and nonprofit colleges and universities in the State are institutions of higher education. "Michigan works agency" would mean that term as defined in the Michigan Works One-Stop Service Center Systems Act: an entity designated to be the administrator for workforce development activities in a local Michigan Works area under the guidance of the local workforce development board.)

The Michigan Employment Security Act prohibits a person associated with an institution or agency from disclosing the information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the UIA. The bill also would prohibit a person associated with a State agency from disclosing this information.

The Act requires the UIA to enter into a written agreement with the public official that holds the official responsible for ensuring that the confidentiality of the information is maintained. The bill would require the UIA to enter into an agreement with the public official or an

authorized employee of the institution of higher education, ISD, or Michigan Works! Agency for a period of not more than 10 years for that purpose.

The Act specifies that if the agreement is violated, it must be terminated and the public official may be subject to penalties equivalent to those that apply under Section 54(f) to a person associated with a college, university, or public agency who discloses confidential information. Under the bill, if the agreement were violated, it would have to be terminated and the public official or authorized employee would be subject to penalties equal to those specified under Section 54(f) that apply to a person associated with an institution of higher education, ISD, Michigan Works! Agency, or public agency who disclosed confidential information.

(Section 54(f) specifies that an individual associated with a college, university, or public agency of the State who uses information obtained from the UIA in connection with a research project of a public service nature, in a manner as to reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the UIA, or for any purpose other than use in connection with that research project, is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a maximum fine of \$1,000, or both. Under House Bill 4546 (H-3), these penalties would remain the same but would apply to an individual associated with an institution of higher education, ISD, Michigan Works! Agency, or State agency who disclosed information obtained by the UIA as described in House Bill 4545 (H-4), and used it to reveal an individual's identity or for purpose other than those stated in that bill.)

MCL 421.11 (H.B. 4545)
421.54 (H.B. 4546)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would result in an indeterminate cost to the State. The Unemployment Insurance Agency, which is within the Department of Talent and Economic Development, would experience costs in order to develop a formal process for requesting data from the UIA and expanding the entities that are able to request the data. The Department does not have an estimate of these costs or know whether additional appropriations would be necessary. Since the Department already makes information available to higher education institutions, it is unlikely that these costs would be significant enough to require additional appropriations.

The bills could have a negative fiscal impact on local government. Since they would increase the individuals and organizations eligible to receive information from the Unemployment Insurance Agency, the bills also would increase the number of potential violations for unlawfully disclosing that information. Any increase in misdemeanor arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, and jails. Any associated increase in fine revenue would increase funding to public libraries.

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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.