

HOUSE BILL NO. 5890

July 30, 2024, Introduced by Reps. Aiyash, Wilson, Young, Brenda Carter, O'Neal, Neeley, Dievendorf, Edwards, Hood, Wegela, Andrews, Arbit, McKinney and Herzberg and referred to the Committee on Labor.

A bill to require certain employers that close or relocate an establishment or engage in a mass layoff to pay severance pay to certain employees; to require certain employers to display certain information at work sites; to provide for the powers and duties of certain state governmental officers and entities; to require the promulgation of rules; to provide for civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "relocation, closing, and

1 mass layoff severance pay act".

2 Sec. 3. As used in this act:

3 (a) "Closing" or "closes" means the permanent shutdown of a
4 covered establishment. A closing may occur because of a relocation,
5 a termination, or the consolidation of the covered employer's
6 operations.

7 (b) "Compensation" means all wages, salaries, fees, bonuses,
8 commissions, and other payments made on behalf of or for the
9 benefit of an eligible employee.

10 (c) "Covered employer" means a person that directly or
11 indirectly owns and operates a covered establishment. A parent
12 corporation is considered an indirect owner and operator of any
13 covered establishment that is directly owned and operated by its
14 corporate subsidiary.

15 (d) "Covered establishment" means a facility or part of a
16 facility at which in the 12-month period immediately preceding a
17 closing, mass layoff, or relocation, both of the following
18 conditions were met:

19 (i) 20 or more employees worked, regardless of whether the
20 employees worked at the facility at the same time.

21 (ii) The employees described in subparagraph (i) received in the
22 aggregate a total of \$2,000,000.00 or more in compensation.

23 (e) "Department" means the department of labor and economic
24 opportunity.

25 (f) "Director" means the director of the department or the
26 director's designee.

27 (g) "Eligible employee" means an employee who meets all of the
28 following conditions:

29 (i) At the time of a closing or mass layoff, the employee has

1 been continuously employed at the covered establishment for at
2 least 1 year, including any period when the employee was on a leave
3 of absence. The requirement that the employee be employed at the
4 time of the closing or mass layoff does not apply to an employee
5 who voluntarily quit employment at the covered establishment to
6 take a new job 30 days or less before the date set by the covered
7 employer for a closing or mass layoff in an initial notice provided
8 by the covered employer that is required under this act or federal
9 law.

10 (ii) The employee has not been discharged for cause.

11 (iii) The employee has not accepted employment at another or
12 relocated facility operated by the covered employer.

13 (h) "Gross earnings" includes all pay for regular hours, shift
14 differentials, premiums, overtime, floating holidays, holidays,
15 funeral leave, jury duty pay, sick pay, and vacation pay earned
16 within the 12-month period immediately preceding a closing or mass
17 layoff. Gross earnings does not include payments made under a
18 third-party benefit program, such as disability payments.

19 (i) "Mass layoff" means a reduction in a covered employer's
20 workforce, not the result of a closing, that results in a loss of
21 20 or more employees at a covered establishment.

22 (j) "Relocation" means the removal of all or substantially all
23 operations in a covered establishment to a new location, within or
24 outside this state, 100 or more miles distant from its original
25 location.

26 (k) "Week's pay" means an amount equal to an employee's gross
27 earnings during the 12-month period immediately preceding the month
28 of a closing or mass layoff, as determined by the department,
29 divided by the number of weeks in which the employee received gross

1 earnings during that 12-month period.

2 Sec. 5. (1) A covered employer that closes or engages in a
3 mass layoff at a covered establishment shall pay to an eligible
4 employee of the covered establishment severance pay at the rate of
5 1 week's pay for each year that the eligible employee was employed
6 at the covered establishment and partial pay for any partial year.
7 The severance pay to an eligible employee under this section is in
8 addition to any final wage payment to the eligible employee and
9 must be paid not later than 1 regular pay period after the
10 employee's last full day of work.

11 (2) A covered employer is not exempt from liability for
12 severance pay under this act solely because it files a voluntary
13 petition for bankruptcy protection under chapter 7 or chapter 11 of
14 title 11 of the federal bankruptcy code, 11 USC 701 to 784 and 11
15 USC 1101 to 1195, or because an involuntary petition is commenced
16 against it pursuant to section 303 of the federal bankruptcy code,
17 11 USC 303.

18 (3) A covered employer that violates this section is subject
19 to a civil fine of not more than \$1,000.00 for each separate
20 violation. The prosecutor of the county in which the violation
21 occurred or the attorney general may bring an action to collect the
22 fine. A civil fine must not be imposed under this subsection if
23 doing so would prevent the violator from making all payments
24 required under subsection (1).

25 Sec. 7. (1) A covered employer that violates this act is
26 liable to an affected eligible employee for both of the following
27 amounts:

28 (a) The amount of the severance pay required to be paid to the
29 eligible employee under this act that remains unpaid.

1 (b) An additional 4 weeks' pay.

2 (2) Notwithstanding section 9 or any other provision of law, 1
3 or more employees may bring an action, for and on behalf of that
4 employee or those employees and any other employees similarly
5 situated, in any court of competent jurisdiction to recover unpaid
6 severance pay. A labor organization may bring an action on behalf
7 of its members. A court, in an action brought under this section,
8 in addition to any judgment awarded to the plaintiff, shall allow
9 for a reasonable attorney fee and costs of the action to be
10 recovered by the plaintiff. An action brought under this section
11 must be brought not later than 6 years after the date of the
12 violation.

13 Sec. 9. The department or attorney general may bring an action
14 in any court of competent jurisdiction to recover unpaid severance
15 pay under this act. An employee is not prohibited from bringing, or
16 being a plaintiff in, an action under section 7(2) because the
17 department or the attorney general brings an action under this
18 section. Money from an award recovered by the department or
19 attorney general on behalf of an employee under this section must
20 be held in a special deposit account and must be paid, on order of
21 the director or attorney general, to the employee. Money from an
22 award in the special deposit account remaining 3 or more years
23 after the final disposition of the action, if the money has
24 remained in the special deposit account because of the inability to
25 pay the employee, must be deposited into the general fund. An
26 action brought under this section must be brought not later than 6
27 years after the date of the violation.

28 Sec. 11. (1) A covered employer shall notify the department in
29 writing not less than 90 days before relocating or closing a

1 covered establishment. A covered employer shall notify the
2 department as far in advance as is practicable, but not less than
3 90 days before, of a mass layoff at a covered establishment, and
4 shall report to the department in writing the date that the covered
5 employer expects to begin recalling employees and the date by which
6 the covered employer expects to have recalled all of the employees.
7 A notification or report provided to the department under this
8 section must include all relevant information in the possession of
9 the covered employer regarding a potential recall, if applicable.

10 (2) To monitor compliance with the requirements of this act, a
11 covered employer shall allow the department access to its
12 employees' compensation records, with appropriate notice from the
13 department and at a mutually agreeable time.

14 (3) The department shall create a poster for use by covered
15 employers that includes statements that summarize an employee's
16 rights under this act. A covered employer shall display the poster
17 at each of its work sites in a conspicuous location that is
18 accessible to its employees. A covered employer that violates this
19 subsection is subject to a civil fine of not more than \$5,000.00
20 for each separate violation. The prosecutor of the county in which
21 the violation occurred or the attorney general may bring an action
22 to collect the fine.

23 Sec. 13. (1) A covered employer shall notify the employees of
24 a covered establishment and the officers of the municipality where
25 the covered establishment is located in writing not less than 90
26 days before closing the covered establishment, unless this notice
27 requirement is waived by the department. A covered employer that
28 violates this section is responsible for a state civil infraction
29 and may be ordered to pay a civil fine of not more than \$1,000.00.

1 (2) A civil fine imposed under this section must not be
2 collected if collecting the civil fine would prevent the violator
3 from making all payments required under section 5(1).

4 Sec. 15. Benefits paid or payable to an eligible employee
5 under the Michigan employment security act, 1936 (Ex Sess) PA 1,
6 MCL 421.1 to 421.75, do not reduce the amount of severance pay an
7 eligible employee is entitled to receive under this act.

8 Sec. 17. Not later than 90 days after the effective date of
9 this act, the department shall promulgate rules to implement this
10 act under the administrative procedures act of 1969, 1969 PA 306,
11 MCL 24.201 to 24.328.

12 Sec. 19. (1) This act does not prohibit a covered employer
13 from entering into a collective bargaining agreement or other
14 agreement that requires the covered employer to pay to an employee
15 severance pay in an amount that is greater than the amount required
16 under this act. If a covered employer does not pay severance pay to
17 an eligible employee in accordance with a collective bargaining
18 agreement or other agreement, and if the covered employer would
19 otherwise be required to pay severance pay to the eligible employee
20 under this act, the covered employer shall pay to the eligible
21 employee severance pay in accordance with this act.

22 (2) If a collective bargaining agreement or other agreement
23 that is in effect on the effective date of this act conflicts with
24 this act, this act applies to the parties to the agreement on the
25 date that the agreement expires or is terminated, amended,
26 extended, or renewed.

27 Enacting section 1. This act takes effect 90 days after the
28 date it is enacted into law.