

Act No. 18
Public Acts of 2009
Approved by the Governor
April 13, 2009
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**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009**

Introduced by Rep. Lindberg

ENROLLED HOUSE BILL No. 4668

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 17 (MCL 421.17), as amended by 2003 PA 174.

The People of the State of Michigan enact:

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

(2) The nonchargeable benefits account shall be credited with the following:

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

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

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

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

(e) All amounts that may be paid or advanced by the federal government under section 903 or section 1201 of the social security act, 42 USC 1103 and 1321, to the account of the state in the federal unemployment trust fund.

(f) All benefits improperly paid to claimants that have been recovered and that were previously charged to an employer's account.

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

(h) The amount of any benefit check, any employer refund check, or any claimant restitution refund check duly issued that has not been presented for payment within 1 year after the date of issue.

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

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

(k) Amounts transferred from the contingent fund under section 10.

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

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

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

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

(d) Any positive balance credited or transferred to an employer's new experience account under this subsection.

(e) Repayments to the federal government of amounts advanced by it under section 1201 of the social security act, 42 USC 1321, to the unemployment compensation fund established by this act.

(f) The amounts received by the unemployment compensation fund under section 903 of the social security act, 42 USC 1103, that may be appropriated to the bureau in accordance with subsection (8).

(g) All benefits determined to have been improperly paid to claimants that have been credited to employers' accounts in accordance with section 20(a).

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

(i) The amount of any benefit check issued that would be chargeable to the experience account of an employer who has ceased to be subject to this act, and who has had a balance transferred from the employer's experience account to the solvency or nonchargeable benefits account.

(j) All benefits that become nonchargeable to an employer under section 29(3) or section 19(b) or (c).

(k) For benefit years beginning before October 1, 2000, with benefits allocated under section 20(e)(2) for a week of unemployment in which a claimant earns remuneration with a contributing employer that equals or exceeds the amount of benefits allocated to that contributing employer, and for benefit years beginning on or after October 1, 2000, with benefits allocated under section 20(e)(3) for a week of unemployment in which a claimant earns remuneration with a contributing employer that equals or exceeds the amount of benefits allocated to that contributing employer.

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

(4) All contributions paid by an employer shall be credited to the unemployment compensation fund, and, except as otherwise provided with respect to the proceeds of the nonchargeable benefits component of employers' contribution rates by section 19(a)(5), to the employer's experience account, as of the date when paid. However, those contributions paid during any July shall be credited as of the immediately preceding June 30. Additional contributions paid by an employer as the result of a retroactive contribution rate adjustment, solely for the purpose of this subsection, shall be credited to the employer's experience account as if paid when due, if the payment is received within 30 days after the issuance of the initial assessment that results from the contribution rate adjustment and a written request for the application is filed by the employer during this period.

(5) If an employer who has ceased to be subject to this act, and who has had a positive balance transferred as provided in subsection (2) from the employer's experience account to the solvency or nonchargeable benefits account as of the second computation date after the employer has ceased to be subject to this act, becomes subject to this act again within 6 years after that computation date, the employer may apply, within 60 days after the bureau's determination that the employer is again subject to this act, to the bureau to have the positive balance, adjusted by the debits and credits as have been made subsequent to the date of transfer, credited to the employer's new experience account. If the application is timely, the bureau shall credit the positive balance to the employer's new experience account.

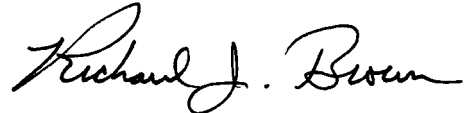
(6) If an employer's status as a reimbursing employer is terminated within 6 years after the date the employer's experience account as a prior contributing employer was transferred to the solvency or nonchargeable benefits account as provided in subsection (2) or (3) and the employer continues to be subject to this act as a contributing employer, any positive or negative balance in the employer's experience account as a prior contributing employer, which was transferred to the solvency or nonchargeable benefits account, shall be transferred to the employer's new experience account.

However, an employer who is delinquent with respect to any reimbursement payments in lieu of contributions for which the employer may be liable shall not have a positive balance transferred during the delinquency.

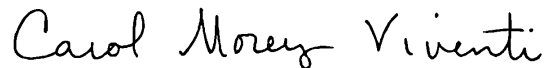
(7) If a balance is transferred to an employer's new account under subsection (5) or (6), the employer shall not be considered a "qualified employer" until the employer has again been subject to this act for the period set forth in section 19(a)(1).

(8) All money credited under section 903 of the social security act, 42 USC 1103, to the account of the state in the federal unemployment trust fund shall immediately be credited by the bureau to the fund's nonchargeable benefits account. There is authorized to be appropriated to the bureau from the money credited to the nonchargeable benefits account under this subsection, an amount determined to be necessary for the proper and efficient administration by the bureau of this act for purposes for which federal grants under Title 3 of the social security act, 42 USC 501 to 504, and the Wagner-Peyser act, 29 USC 49 to 49l-2, are not available or are insufficient. The appropriation shall expire not more than 2 years after the date of enactment and shall provide that any unexpended balance shall then be credited to the nonchargeable benefits account. An appropriation shall not be made under this subsection for an amount that exceeds the "adjusted balance" of the nonchargeable benefits account on the most recent computation date. Appropriations made under this subsection shall limit the total amount that may be obligated by the bureau during a fiscal year to an amount that does not exceed the amount by which the aggregate of the amounts credited to the nonchargeable benefits account under this subsection during the fiscal year and the 24 preceding fiscal years, exceeds the aggregate of the amounts obligated by the bureau by appropriation under this subsection and charged against the amounts thus credited to the nonchargeable benefits account during any of the 25 fiscal years and any amounts credited to the nonchargeable benefits account that have been used for the payment of benefits.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor