

Act No. 279
Public Acts of 1993
Approved by the Governor
December 22, 1993
Filed with the Secretary of State
December 28, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Munsell and DeLange

ENROLLED HOUSE BILL No. 5134

AN ACT to amend section 11 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "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," as amended by Act No. 178 of the Public Acts of 1989, being section 421.11 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 11 of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended by Act No. 178 of the Public Acts of 1989, being section 421.11 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 11. (a) In the administration of this act, the commission shall cooperate with the appropriate agency of the United States under the social security act. The commission shall make reports, in a form and containing information as the appropriate agency of the United States may from time to time require, and shall comply with such provisions as the appropriate agency of the United States may from time to time prescribe to assure the correctness and verification of the reports. The commission, subject to this act, shall comply with the regulations prescribed by the appropriate agency of the United States relating to the receipt or expenditure of such sums as may be allotted and paid to this state for the purpose of assisting in the administration of this act. As used in this section, "social security act" means the social security act, chapter 531, 49 Stat. 620.

(b) (1) Information obtained from any employing unit or individual pursuant to the administration of this act, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or open to public inspection other than to public employees in the performance of their official duties pursuant to this act in any manner revealing the individual's or the employing unit's identity. However, any information in the commission's possession that may affect a claim for benefits or a charge to an employer's rating account shall be available to

interested parties. Except as provided in this act, such information and determinations shall not be used in any action or proceeding before any court or administrative tribunal unless the commission is a party to or a complainant in the action or proceeding, or unless used for the prosecution of fraud, civil proceeding, or other legal proceeding pursuant to subdivision (2). Any report or statement, written or verbal, made by any person to the commission, any member of the commission, or to any person engaged in administering this law shall be a privileged communication, and a person, firm, or corporation shall not be held liable for slander or libel on account of a report or statement. Such records and reports in the custody of the commission shall be available for examination by the employer or employee affected.

Subject to restrictions as the commission may by rule prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices; the bureau of internal revenue of the United States department of the treasury; or the social security administration of the United States department of health and human services. Information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Subject to such restrictions as the commission may by rule prescribe, the commission may also make such information available to agencies of other states which are responsible for the administration of public assistance to unemployed workers, and to the departments of this state. Information so released shall be used only for purposes not inconsistent with the purposes of this act. The commission may make available to the department of treasury information collected for the income eligibility and verification system begun on October 1, 1988 for the purpose of detection of potential tax fraud in other areas.

Upon request, the commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to further benefits under this act.

Subject to restrictions as the commission may prescribe, by rule or otherwise, the commission may also make such information available to colleges, universities, and public agencies of this state for use in connection with research projects of a public service nature. A person associated with such institutions or agencies shall not disclose the information in any manner which would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commission.

The commission may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to this act, and may, in connection with the request, transmit the report or return to the comptroller of the currency of the United States as provided in section 3305(c) of the internal revenue code.

(2) The commission shall disclose to qualified requesting agencies, upon request, with respect to an identified individual, information in its records pertaining to the individual's name; social security number; gross wages paid during each quarter; the name, address, and federal and state employer identification number of the individual's employer; any other wage information; whether an individual is receiving, has received, or has applied for unemployment benefits; the amount of unemployment benefits the individual is receiving or is entitled to receive; the individual's current or most recent home address; whether the individual has refused an offer of work and if so a description of the job offered including the terms, conditions, and rate of pay; and any other information which the qualified requesting agency considers useful in verifying eligibility for, and the amount of, benefits. For purposes of this subdivision, "qualified requesting agency" means any state or local child support enforcement agency responsible for enforcing child support obligations under a plan approved under part d of Title IV of the social security act, 42 U.S.C. 651 to 669; the United States department of health and human services for purposes of establishing or verifying eligibility or benefit amounts under Titles II and XVI of the social security act, 42 U.S.C. 401 to 433 and 42 U.S.C. 1381 to 1383d; the United States department of agriculture for the purposes of determining eligibility for, and amount of, benefits under the food stamp program established under the food stamp act of 1977, 7 U.S.C. 2011 to 2032; and any other state or local agency of this or any other state responsible for administering the following programs:

(i) The aid to families with dependent children program under part a of Title IV of the social security act, 42 U.S.C. 601 to 617.

(ii) The medicaid program under Title XIX of the social security act, 42 U.S.C. 1396 to 1396u.

(iii) The unemployment compensation program under section 3304 of the internal revenue code of 1954, 26 U.S.C. 3304.

(iv) The food stamp program under the food stamp act of 1977, 7 U.S.C. 2011 to 2032.

(v) Any state program under a plan approved under Title I, X, XIV, or XVI of the social security act, 42 U.S.C. 301 to 306, 42 U.S.C. 1201 to 1206, 42 U.S.C. 1351 to 1355, and 42 U.S.C. 1381 to 1383d.

(vi) Any program administered under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.119b of the Michigan Compiled Laws.

The information shall be disclosed only if the qualified requesting agency has executed an agreement with the commission to obtain such information and if the information is requested for the purpose of determining the eligibility

of applicants for benefits, or the type and amount of benefits for which applicants are eligible, under any of the programs listed above or under Titles II and XVI of the social security act; for establishing and collecting child support obligations from, and locating individuals owing such obligations which are being enforced pursuant to a plan described in section 454 of the social security act, 42 U.S.C. 654; or for investigating or prosecuting alleged fraud under any of these programs.

The commission shall cooperate with the department of social services in establishing the computer data matching system authorized in section 83 of Act No. 280 of the Public Acts of 1939, being section 400.83 of the Michigan Compiled Laws, to transmit the information requested on at least a quarterly basis. The information shall not be released unless the qualified requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information.

In addition to the requirements of this section, except as later provided in this subdivision, all other requirements with respect to confidentiality of information obtained in the administration of this act shall apply to the use of the information by the officers and employees of the qualified requesting agencies, and the sanctions imposed under this act for improper disclosure of the information shall be applicable to such officers and employees. A qualified requesting agency may redisclose information only to the following individuals or agencies: (1) the individual who is the subject of the information, (2) an attorney or other duly authorized agent representing the individual if the information is needed in connection with a claim for benefits against the requesting agency, or (3) any criminal or civil prosecuting authorities acting for or on behalf of the requesting agency.

The commission is authorized to enter into an agreement with any qualified requesting agency for the purposes described in this subdivision. Such agreement or agreements must comply with all federal laws and regulations applicable to such agreements.

(3) The commission shall enable the United States department of health and human services to obtain prompt access to any wage and unemployment benefit claims information, including any information that might be useful in locating an absent parent or an absent parent's employer, for purposes of section 453 of the social security act, 42 U.S.C. 653, in carrying out the child support enforcement program under title IV. Access to the information shall not be provided unless the requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information.

(4) Upon request accompanied by presentation of a consent to the release of information signed by an individual, the commission shall disclose to the United States department of housing and urban development and any state or local public housing agency responsible for verifying an applicant's or participant's eligibility for, or level of benefits in, any housing assistance program administered by the United States department of housing and urban development, the name, address, wage information, whether an individual is receiving, has received, or has made application for unemployment benefits, and the amount of unemployment benefits the individual is receiving or is entitled to receive under this act. This information shall be used only to determine an individual's eligibility for benefits or the amount of benefits to which an individual is entitled under a housing assistance program of the United States department of housing and urban development. The information shall not be released unless the requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information. For purposes of this subsection, "public housing agency" means an agency described in section 3(b)(6) of the United States housing act of 1937, 42 U.S.C. 1437a.

(c) The commission is authorized to enter into agreements with the appropriate agencies of other states or the federal government whereby potential rights to benefits accumulated under the unemployment compensation laws of other states or such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under plans which the commission finds will be fair and reasonable as to all affected interests and will not result in substantial loss to the unemployment compensation fund.

(d) (1) The commission is authorized to enter into reciprocal agreements with the appropriate agencies of other states or of the federal government adjusting the collection and payment of contributions by employers with respect to employment not localized within this state.

(2) The commission is authorized to enter into reciprocal agreements with agencies of other states administering unemployment compensation, whereby contributions paid by an employer to any other state may be received by the other state as an agent acting for and on behalf of this state to the same extent as if the contributions had been paid directly to this state if the payment is remitted to this state. Contributions so received by another state shall be deemed contributions, required and paid under this act as of the date the contributions were received by the other state. The commission may collect contributions in a like manner for agencies of other states administering unemployment compensation and remit the contributions to the agencies under the terms of the reciprocal agreements.

(e) The commission may make the state's records relating to the administration of this act available and may furnish to the railroad retirement board or any other state or federal agency administering an unemployment compensation law, at the expense of that board, state, or agency, copies of the records as the railroad retirement board deems necessary for its purpose.

(f) The commission may cooperate with or enter into agreements with any agency of another state or of the United States charged with the administration of any unemployment insurance or public employment service law.

The commission is authorized to make investigations, secure and transmit information, make available services and facilities, and exercise other powers provided in this act with respect to the administration of this act as it deems

necessary or appropriate to facilitate the administration of any unemployment compensation or public employment service law, and in like manner, to accept and utilize information, services, and facilities made available to this state by the agency charged with the administration of any other unemployment compensation or public employment service law.

On request of an agency which administers an employment security law of another state or foreign government and which has found, in accordance with that law, that a claimant is liable to repay benefits received under that law, the commission may collect the amount of the benefits from the claimant to be refunded to the agency.

In any case in which under this subsection a claimant is liable to repay any amount to the agency of another state or foreign government, the amount may be collected by civil action in the name of the commission acting as agent for the agency. Court costs shall be paid or guaranteed by the agency.

To the extent permissible under the laws and constitution of the United States, the commission is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of the Dominion of Canada may be utilized for the taking of claims and the payment of benefits under the unemployment compensation law of this state or under a similar law of the Dominion of Canada.

Any employer who is not a resident of this state and who exercises the privilege of having 1 or more individuals perform service for him or her within this state, and any resident employer who exercises that privilege and thereafter leaves this state, shall be deemed thereby to appoint the secretary of state as his or her agent and attorney for the acceptance of process in any civil action under this act. In instituting such an action against any employer, the commission shall cause such process or notice to be filed with the secretary of state, and such service shall be sufficient and shall be of the same force and validity as if served upon the employer personally within this state. The commission immediately shall send notice of the service of process or notice, together with a copy thereof, by registered mail, return receipt requested, to the employer at his or her last known address. The return receipt, the commission's affidavit of compliance with this section, and a copy of the notice of service shall be attached to the original of the process filed in the court in which the civil action is pending.

The courts of this state shall recognize and enforce liabilities, as provided in this act, for unemployment compensation contributions, penalties, and interest imposed by other states which extend a like comity to this state.

The attorney general is empowered to commence action in the appropriate court of any other state or any other jurisdiction of the United States by and in the name of the commission to collect unemployment compensation contributions, penalties, and interest finally determined, redetermined, or decided under this act to be legally due this state. The officials of other states which extend a like comity to this state are empowered to sue in the courts of this state for the collection of unemployment compensation contributions, penalties, and interest, the liability for which has been similarly established under the laws of the other state or jurisdiction. A certificate by the secretary of another state under the great seal of that state attesting the authority of the official or officials to collect unemployment compensation contributions, penalties, and interest shall be conclusive evidence of that authority.

The attorney general is authorized to commence action in this state as agent for or on behalf of any other state to enforce judgments and established liabilities for unemployment compensation taxes or contributions, penalties, and interest due the other state if the other state extends a like comity to this state.

(g) The commission is also authorized to enter into reciprocal agreements with the appropriate and authorized agencies of other states or of the federal government whereby remuneration and services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages and employment for the purposes of sections 27 and 46, if the other state agency or agency of the federal government has agreed to reimburse the fund for that portion of benefits paid under this act upon the basis of the remuneration and services as the commission finds will be fair and reasonable as to all affected interests, and wages and employment, on the basis of which an individual may become entitled to benefits under this act, shall be deemed to be wages or services on the basis of which unemployment compensation under the law of another state or of the federal government is payable, and whereby services performed by an individual for a single employing unit for which services are customarily performed by the individual in more than 1 state shall be deemed to be services performed entirely within any 1 of the states in which any part of the individual's service is performed, in which the individual has his or her residence, or in which the employing unit maintains a place of business, if there is, in effect as to such services, an election approved by the agency charged with the administration of the state's unemployment compensation law, pursuant to which all the services performed by the individual for the employing unit are deemed to be performed entirely within the state, and whereby the commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any other state or of the federal government upon the basis of employment and wages, as the commission finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purpose of limiting duration of benefits and for the purposes of sections 20a and 26, and the payments shall be charged to the contributing employer's rating account for the purposes of sections 17, 18, 19, and 20, or the reimbursing employer's account under section 13c or 13g, as applicable. Benefits paid under a combined wage plan shall be allocated and charged to each employer involved in the quarter in which the paying state

requires reimbursement. Benefits charged to this state shall be allocated to each employer of this state who has employed the claimant during the base period of the paying state in the same ratio that the wages earned by the claimant during the base period of the paying state in the employ of the employer bears to the total amount of wages earned by the claimant in the base period of the paying state in the employ of all employers of the state. The commission is authorized to make to other state or federal agencies and receive from other state or federal agencies reimbursements from or to the fund, in accordance with arrangements made pursuant to this section.

(h) The commission is authorized and directed to enter into any agreement necessary in order that it may cooperate with any agency of the United States charged with the administration of any program for the payment of primary or supplemental benefits to individuals recently discharged from the military services of the United States, and to assist in the establishing of eligibility and in the payments of benefits thereunder, and for those purposes may accept and administer funds made available by the federal government and may accept and exercise any delegated function as may be provided thereunder. The commission shall not have power to enter into any agreement providing for, or exercise any function connected with, the disbursement of the state's unemployment trust fund for purposes not authorized by this act.

(i) The commission may enter into agreements with the appropriate agency of the United States whereby, in accordance with the laws of the United States, the commission, as agent of the United States, or from funds provided by the United States, shall provide for the payment of unemployment compensation or unemployment allowances of any kind, including the payment of any benefits and allowances that are made available for manpower development, training, retraining, readjustment, and relocation. The commission may receive and disburse funds from the United States or any appropriate agency of the United States in accordance with any such agreements.

If the federal enactment providing for unemployment compensation, training allowance, or relocation payments requires joint federal-state financing of such payments, the commission may participate in the programs by using funds appropriated by the legislature to the extent provided by the legislature for such programs.

(j) The commission shall participate in any arrangement which provides for the payment of compensation on the basis of combining an individual's wages and employment covered under this act with his or her wages and employment covered under the unemployment compensation laws of other states, if the arrangement is approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation. An arrangement shall include provisions for both of the following:

(i) Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under 2 or more state unemployment compensation laws.

(ii) Avoiding the duplicate use of wages and employment as a result of the combining.

(k) In a proceeding before any court, the commission and the state shall be represented by the attorney general of this state or attorneys designated by the attorney general. Only the attorney general or other attorneys designated by the attorney general shall act as legal counsel for the commission.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.