

SENATE BILL No. 1019

July 16, 2014, Introduced by Senator BRANDENBURG and referred to the Committee on Reforms, Restructuring and Reinventing.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 13m (MCL 421.13m), as amended by 2012 PA 219.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13m. (1) A professional employer organization that has
2 not previously filed shall file a report with the agency in
3 accordance with R 421.121 and R 421.190 of the Michigan
4 administrative code for a determination of its status as a liable
5 employing unit and employer under this act. A PEO determined to be
6 a liable employer shall complete an electronic employer
7 registration in the manner approved by the agency to register its
8 employer liability.

9 (2) Except as provided in subdivision (b), a PEO that is a

1 liable employer shall use the following method for reporting wages
2 and paying unemployment contributions under this act:

3 (a) The PEO shall comply with all requirements of this act
4 that apply to a contributing employer. The PEO shall file a single
5 quarterly wage report and unemployment contribution report and pay
6 contributions of its client employers based on the account
7 information of each client employer. The unemployment agency shall
8 convert a reimbursing employer to a contributing employer beginning
9 with the calendar quarter in which the employer becomes a client
10 employer of a PEO. The PEO shall file reports required under R
11 421.121 of the Michigan administrative code and make contribution
12 payments by electronic reporting and payment methods approved by
13 the agency. The PEO shall notify the agency within 30 days after
14 any employer becomes its client employer and within 30 days after
15 any client employer discontinues its association with the PEO. All
16 of the following apply to a rate calculation for client employers
17 of the PEO:

18 (i) For a client employer that is a contributing employer and
19 was a client employer of ~~the~~ **A** PEO ~~on the date that the PEO changed~~
20 ~~to the reporting method provided in this subdivision,~~ **ON OR BEFORE**
21 **JANUARY 1, 2014,** the following rates apply:

22 (A) ~~Except as provided in sub-subparagraphs (B) and (C), if~~
23 ~~the client employer reported no employees or no payroll to the~~
24 ~~agency for 8 or more calendar quarters or, beginning January 1,~~
25 ~~2014, for 12 or more calendar quarters,~~ **DID NOT REPORT ANY PAYROLL**
26 **UNDER ITS UNEMPLOYMENT ACCOUNT NUMBER OR REPORTED PAYROLL WITH ZERO**
27 **DOLLARS UNDER ITS UNEMPLOYMENT ACCOUNT NUMBER TO THE AGENCY FOR THE**

1 **8 CALENDAR QUARTERS ENDING DECEMBER 31, 2013**, the client employer's
2 unemployment tax rate **FOR 2014** will be the new employer tax rate
3 **AND ANY PRIOR UNEMPLOYMENT TAX RATE FOR THE CLIENT EMPLOYER WILL**
4 **NOT BE RESUMED.**

5 ~~—— (B) If the client employer was a client employer of the PEO~~
6 ~~for less than 8 calendar quarters or, beginning January 1, 2014,~~
7 ~~for less than 12 calendar quarters, the client employer's~~
8 ~~unemployment tax rate will be based on the client employer's prior~~
9 ~~account and experience.~~

10 **(B)** ~~(C)~~ If the client employer's account has been terminated
11 for more than 1 year or if the client employer never previously
12 registered with the agency, the client shall be separately
13 registered using a method approved by the agency within 30 days
14 after the employer becomes a client employer of the PEO. The client
15 employer shall be assigned the new employer unemployment tax rate.

16 **(C) IF THE CLIENT EMPLOYER DOES NOT QUALIFY FOR THE NEW**
17 **EMPLOYER RATE UNDER SUBPARAGRAPH (A) OR (B), THE CLIENT EMPLOYER'S**
18 **UNEMPLOYMENT TAX RATE FOR 2014 SHALL BE AS PROVIDED IN SECTION 19.**

19 ~~(ii) A business entity that is a contributing AN employer and~~
20 **THAT** becomes a client employer of the PEO ~~on or~~ after January 1,
21 2014 shall **INITIALLY** retain its existing unemployment tax rate or
22 establish a new rate as provided in section 19.

23 (b) A PEO that is a liable employer and that was operating in
24 this state before January 1, 2011 may elect and use the reporting
25 method in subdivision (a) before January 1, 2014, but shall report
26 using the method in subdivision (a) on and after January 1, 2014.

27 (3) A PEO that is a liable employer is the employer for

1 purposes of claims management and hearings under this act on behalf
2 of the client employer.

3 (4) A PEO that reports under subsection (2)(a) shall confirm
4 the mailing address of the client employer, which may be stated as
5 that of the PEO or of the client employer. The PEO shall disclose
6 the business address of the client employer, which shall be the
7 physical address of the client employer, to the agency.

8 (5) Either the PEO that reports under subsection (2)(a) or the
9 PEO's client employers, but not both, shall file a quarterly wage
10 detail report electronically, and shall file a quarterly
11 contribution payment in a manner approved by the agency. If a
12 client entity of a PEO leases some of its employees from the PEO
13 but retains the remainder of its employees, the leased employees
14 shall be reported by the PEO under the client entity's unemployment
15 insurance agency account number and the retained employees shall be
16 reported by the client entity under an agency-assigned subaccount
17 number of the client entity's account number.

18 (6) The agency shall issue a FUTA certification in accordance
19 with the internal revenue code of 1986, 26 USC 1 to 9834, and
20 regulations, rulings, instructions, and directives of the internal
21 revenue service.

22 (7) The requirements of this section do not preclude the
23 agency from enforcing any provision of this act based on any act or
24 omission by a PEO that occurred before January 1, 2011.

25 (8) As used in this section, "professional employer
26 organization" or "PEO" means that term as defined in R
27 421.190(1)(d) of the Michigan administrative code.

1 Enacting section 1. This amendatory act is curative and shall
2 be applied retroactively. The amendatory act expresses the original
3 intent of the legislature as to the method for calculating the
4 unemployment tax rate for a client employer of a PEO for the 2014
5 tax year.