

SENATE BILL No. 500

September 16, 2015, Introduced by Senator HORN and referred to the Committee on Economic Development and International Investment.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 44 (MCL 421.44), as amended by 2011 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 44. (1) "Remuneration" means all compensation paid for
2 personal services, including commissions and bonuses, and except
3 for agricultural and domestic services, the cash value of all
4 compensation payable in a medium other than cash. Any remuneration
5 payable to an individual that has not been actually received by
6 that individual within 21 days after the end of the pay period in
7 which the remuneration was earned, shall, for the purposes of
8 subsections (2) to (5) and section 46, be considered to have been
9 paid on the twenty-first day after the end of that pay period. ~~For~~
10 ~~benefit years beginning on or after October 1, 2000, if~~ **IF** back pay

1 is awarded to an individual and is allocated by an employer or
2 legal authority to a period of weeks within 1 or more calendar
3 quarters, the back pay shall be considered paid in that calendar
4 quarter or those calendar quarters for purposes of section 46. The
5 reasonable cash value of compensation payable in a medium other
6 than cash shall be estimated and determined in accordance with
7 rules promulgated by the unemployment agency. ~~Beginning January 1,~~
8 ~~1986, remuneration shall include~~ **REMUNERATION INCLUDES** tips
9 actually reported to an employer under section 6053(a) of the
10 internal revenue code, **26 USC 6053(A)**, by an employee who receives
11 tip income. Remuneration does not include either of the following:

12 (a) Money paid an individual by a unit of government for
13 services rendered as a member of the ~~national guard~~ **NATIONAL GUARD**
14 of this state, or for similar services to another state or the
15 United States.

16 (b) Money paid by an employer to a worker under a supplemental
17 unemployment benefit plan consistent with the criteria for a
18 supplemental unemployment benefit plan as described in ~~internal~~
19 ~~revenue service~~ **INTERNAL REVENUE SERVICE** publication 15-A,
20 employer's supplemental tax guide, regardless of whether the
21 benefits are paid from a trust or by the employer.

22 (2) "Wages", subject to subsections (3) to (5), means
23 remuneration paid by employers for employment and ~~, beginning~~
24 ~~January 1, 1986,~~ includes tips actually reported to an employer
25 under section 6053(a) of the internal revenue code, **26 USC 6053(A)**,
26 by an employee who receives tip income. If any provision of this
27 subsection prevents this state from qualifying for any federal

1 interest relief provisions provided under section 1202 of title XII
2 of the social security act, 42 USC 1322, or prevents employers in
3 this state from qualifying for the limitation on the reduction of
4 federal unemployment tax act credits as provided under section
5 3302(f) of the federal unemployment tax act, 26 USC 3302, that
6 provision is invalid to the extent necessary to maintain
7 qualification for the interest relief provisions and federal
8 unemployment tax credits.

9 (3) For the purpose of determining the amount of contributions
10 due from an employer under this act, wages ~~shall be~~ **ARE** limited by
11 the taxable wage limit applicable under subsection (4). For this
12 purpose, wages ~~shall exclude all remuneration paid within a~~
13 ~~calendar year~~ **AN EMPLOYING UNIT PAYS** to an individual ~~by an~~
14 ~~employing unit after the individual was paid within that year by~~
15 ~~that employing unit remuneration equal to~~ **THAT EXCEEDS** the taxable
16 wage limit on which unemployment taxes were paid or were payable in
17 this state and in any other states **FOR THAT EMPLOYEE BY THE**
18 **EMPLOYING UNIT WITHIN THAT YEAR.** If ~~an~~ **A SUCCESSOR** employing unit ~~,~~
19 ~~hereinafter referred to as successor, during any calendar year~~
20 becomes a transferee **DURING A CALENDAR YEAR** in a transfer of
21 business, as defined in section 22, of ~~another,~~ ~~hereinafter~~
22 ~~referred to as a predecessor,~~ **EMPLOYING UNIT** and immediately after
23 the transfer employs in his or her trade or business an individual
24 who immediately before the transfer was employed in the trade or
25 business of the predecessor, then for the purpose of determining
26 whether the successor has paid remuneration with respect to
27 employment equal to the taxable wage limit to that individual

1 during the calendar year, any remuneration with respect to
2 employment paid to that individual by the predecessor during the
3 calendar year and before the transfer shall be considered as having
4 been paid by the successor.

5 (4) The taxable wage limit for each calendar year is ~~\$8,000.00~~
6 ~~in the 1983 calendar year, \$8,500.00 in the 1984 calendar year,~~
7 ~~\$9,000.00 in the 1985 calendar year,~~ \$9,500.00 in the calendar
8 years 1986 through 2002, and \$9,000.00 for calendar years after
9 2002 and before 2012, or the maximum amount of remuneration paid
10 within a calendar year by an employer subject to the federal
11 unemployment tax act, 26 USC 3301 to 3311, to an individual with
12 respect to employment as defined in that act that is subject to tax
13 under that act during that year for each calendar year, whichever
14 is greater. For calendar years beginning 2012, the taxable wage
15 limit is \$9,500.00, but if at the beginning of a calendar quarter
16 the balance in the unemployment compensation fund equals or exceeds
17 \$2,500,000,000.00 and the agency projects that the balance will
18 remain at or above \$2,500,000,000.00 for the remainder of the
19 calendar quarter and for the entire succeeding calendar quarter,
20 the taxable wage limit for that calendar quarter and the succeeding
21 calendar quarter is \$9,000.00 for an employer that is not
22 delinquent in the payment of unemployment contributions, penalties,
23 or interest. **FOR CALENDAR YEARS BEGINNING 2016, IF ON JUNE 30 OF**
24 **THE CURRENT YEAR THE BALANCE IN THE UNEMPLOYMENT COMPENSATION FUND**
25 **EQUALS OR EXCEEDS \$2,500,000,000.00 AND THE AGENCY PROJECTS THAT**
26 **THE BALANCE WILL REMAIN AT OR ABOVE \$2,500,000,000.00 FOR THE**
27 **ENTIRE SUCCEEDING CALENDAR QUARTER, THE TAXABLE WAGE LIMIT**

1 BEGINNING IN THE NEXT CALENDAR YEAR IS \$9,000.00 FOR AN EMPLOYER
2 THAT IS NOT DELINQUENT IN THE PAYMENT OF UNEMPLOYMENT
3 CONTRIBUTIONS, PENALTIES, OR INTEREST AND THAT TIMELY FILES
4 ELECTRONIC REPORTS AS REQUIRED UNDER SECTION 13(2). IF THE
5 UNEMPLOYMENT COMPENSATION FUND BALANCE IS LESS THAN
6 \$2,500,000,000.00 ON JUNE 30 OF ANY YEAR IN WHICH THE \$9,000.00
7 TAXABLE WAGE LIMIT IS IN EFFECT FOR NONDELINQUENT EMPLOYERS, THE
8 UNEMPLOYMENT AGENCY SHALL PROVIDE NOTICE TO EMPLOYERS THAT THE
9 REDUCED WAGE BASE EXCEPTION TO THE TAXABLE WAGE LIMIT OF \$9,500.00
10 WILL NO LONGER BE IN EFFECT AS OF JANUARY 1 OF THE FOLLOWING YEAR.
11 FOR PURPOSES OF THIS SUBSECTION, AN EMPLOYER IS DELINQUENT IN THE
12 PAYMENT OF UNEMPLOYMENT CONTRIBUTION, PENALTIES, OR INTEREST IF THE
13 EMPLOYER HAS A QUARTERLY UNPAID BALANCE OF \$25.00 OR MORE, UNLESS 1
14 OR MORE OF THE FOLLOWING APPLY:

15 (A) THE EMPLOYER HAS FILED A TIMELY PROTEST OR APPEAL OF THE
16 NOTICE OF ASSESSMENT AND THE ASSESSMENT HAS NOT BECOME FINAL.

17 (B) WITHIN 45 DAYS AFTER THE BEGINNING OF THE FIRST CALENDAR
18 QUARTER IN WHICH THE REDUCED TAXABLE WAGE BASE LIMIT TAKES EFFECT
19 FOR NONDELINQUENT EMPLOYERS, ALL OUTSTANDING BALANCES OWED TO THE
20 UNEMPLOYMENT AGENCY ARE PAID IN FULL.

21 (C) IF THE EMPLOYER IS A DOMESTIC EMPLOYER, ALL APPLICABLE
22 CONTRIBUTIONS, INTEREST, AND PENALTIES ARE PAID ON OR BEFORE THE
23 DATE SPECIFIED BY THE AGENCY UNDER SECTION 13(1).

24 (5) For the purposes of this act, the term "wages" shall ~~shall~~ DOES
25 not include any of the following:

26 (a) The amount of a payment, including an amount paid by an
27 employer for insurance or annuities or into a fund, to provide for

1 such a payment, made to, or on behalf of, an employee or any of the
2 employee's dependents under a plan or system established by an
3 employer that makes provision for the employer's employees
4 generally, or for the employer's employees generally and their
5 dependents, or for a class or classes of the employer's employees,
6 or for a class or classes of the employer's employees and their
7 dependents, on account of retirement, sickness or accident
8 disability, medical or hospitalization expenses in connection with
9 sickness or accident disability, or death.

10 (b) A payment made to an employee, including an amount paid by
11 an employer for insurance or annuities, or into a fund, to provide
12 for such a payment, on account of retirement.

13 (c) A payment on account of sickness or accident disability,
14 or medical or hospitalization expenses in connection with sickness
15 or accident disability, made by an employer to, or on behalf of, an
16 employee after the expiration of 6 calendar months following the
17 last calendar month in which the employee worked for the employer.

18 (d) A payment made to, or on behalf of, an employee or the
19 employee's beneficiary from or to a trust described in section
20 401(a) of the internal revenue code of 1986, **26 USC 401(A)**, that is
21 exempt from tax under section 501(a) of the internal revenue code
22 of 1986, **26 USC 501(A)**, at the time of the payment, unless the
23 payment is made to an employee of the trust as remuneration for
24 services rendered as an employee and not as a beneficiary of the
25 trust, or under or to an annuity plan which, at the time of the
26 payment, is a plan described in section 403(a) of the internal
27 revenue code of 1986, **26 USC 403(A)**, or under or to a bond purchase

1 plan that at the time of the payment, is a qualified bond purchase
2 plan described in former section 405(a) of the internal revenue
3 code.

4 (e) The payment by an employer, without deduction from the
5 remuneration of the employee, of the tax imposed upon an employee
6 under section 3101 of the federal insurance contributions act, 26
7 USC 3101.

8 (f) Remuneration paid in any medium other than cash to an
9 employee for service not in the course of the employer's trade or
10 business.

11 (g) A payment, other than vacation or sick pay, made to an
12 employee after the month in which the employee attains the age of
13 65, if the employee did not work for the employer in the period for
14 which the payment is made.

15 (h) Remuneration paid to or on behalf of an employee as moving
16 expenses if, and to the extent that, at the time of payment of the
17 remuneration it is reasonable to believe that a corresponding
18 deduction is allowable under section 217 of the internal revenue
19 code of 1986, **26 USC 217**.

20 ~~—— (6) The amendments made to this section by amendatory act 1977
21 PA 155 apply to all remuneration paid after December 31, 1977.~~

22 ~~—— (7) The amendments made in subsection (1) by the amendatory
23 act that added this subsection shall first apply to remuneration
24 paid after December 31, 1977.~~