House
Legislative
Analysis
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UNEMPLOYMENT INSURANCE AMENDMENTS

House Bill 4745
Sponsor: Rep. Alvin Kukuk

House Bill 4746
Sponsor: Rep. Michael Goschka

House Bills 4747 and 4748
Sponsor: Rep. Susan Munsell

Committee: Human Resources & Labor

Complete to 5-1-95

A SUMMARY OF HOUSE BILLS 4745-4748 AS INTRODUCED 4-25-95

Public Act 25 (enrolled Senate Bill 322) of 1995 generally amended the Michigan Employment Security Act to reduce unemployment insurance (UI) taxes on employers and to reduce benefits to unemployed workers. A number of amendments added to Senate Bill 322 on the floor of the House resulted in internal inconsistencies in the bill. Cleanup legislation has been introduced to amend these recent amendments, as well as to add several other amendments, including a substantive amendment regarding seasonal employment.

House Bill 4745 would amend the section of the employment security act dealing with the nonchargeable benefits component (NBC) tax rate (MCL 421.19). The section limits a 50 percent reduction in the maximum one percent NBC rate (that is, to one-half of one percent) to employers who, between the years 1993 and 1996, have no benefits charged to their accounts for the preceding five years (60 months). The bill would delete the 1996 date (changed by P.A. 25 from 1999), so that the 50 percent reduction would apply to all employers who, after 1993, had had no benefit charges to their accounts for five years.

House Bill 4746 would amend the section of the employment security act (section 27) regulating benefits paid to unemployed workers (MCL 421.27). More specifically, the bill would do the following:

* raise a percentage used in calculating an individual's benefit rate from the 4.0 percent set by P.A. 25 (reduced from 4.2 percent) to 4.1 percent, so as to conform to the change (from 65 percent to 67 percent) made in the percentage of an unemployed worker's after tax wages that are used to determine his or her unemployment benefit;

* expand the definition of "construction industry" added by P.A. 25 to this section of the act to include "major subgroup 17" (in addition to subgroups 15 and 16) of the 1987 federal Standard Industrial Classification Manual; and

* reduce from 40 to 26 weeks the number of weeks required to meet the second method of defining "seasonal employment" in order to conform to the change made to the first method of determining "seasonal employment."

In addition, the bill would (a) reinstate the payment of partial benefits by striking a January 7, 1996, cutoff for such benefits added by P.A. 25, and (b) specifically exclude the construction industry from the definitions of "seasonal employment" and "seasonal employer" added by P.A. 25.

House Bill 4747 would amend the employment security act (MCL 421.29) to restore language, deleted by P.A. 25, that would require the Michigan Employment Security Commission (MESC) to consider an individual's "experience and prior earnings" (among other factors) when determining whether work is "suitable." The language deleted by P.A. 25 was reinserted at the end of this section, and the bill would rewrite this language to specify that the MESC would consider experience and prior earnings specifically for determinations made regarding workers who filed without good cause to accept suitable work.

House Bill 4748 would amend the section of the employment security act (MCL 421.11), added by P.A. 25, that allows the MESC to disclose otherwise confidential information obtained from employers or employees that affects worker's disability compensation claims. Such information may be disclosed to "interested parties, regardless of whether the commission is a party to an action or proceeding arising under" the worker's disability compensation act. The bill would delete this language as it appears in MCL 421.11(b)(1)(i), and add it (with no changes) to the end of MCL 421.11(b)(1)(ii).

More specifically, the bills would do the following:

House Bill 4745. Under the employment security act, the yearly tax on employers is made up of three "components" -- the chargeable benefits component (CBC), the account building component (ABC), and the nonchargeable benefits component (NBC) -- which are computed separately (according to a formula specified in the act) and then added together. The maximum NBC charged to employers is one percent of a figure determined by a formula specified in the act.

Before passage of P.A. 25, the only reduction in this maximum one percent NBC tax was a temporary 50 percent reduction (to one-half of one percent) available only to employers who, between the years of 1993 and 1999, had no benefit charges against their accounts for five years (60 months). P.A. 25 changed the 1999 date to 1996, thereby specifying that after 1996, this one-half of one percent maximum would no longer be available to employers who had had no benefit charges to their accounts for five years. However, the bill also added additional reductions -- beginning after 1995 -- to the maximum NBC rate (down to a minimum of one-tenth of one percent), as well as two ways to qualify for these additional deductions.

Under P.A. 25, beginning after the years 1995 through 1998, an employer's maximum NBC rate basically will be reduced by one-tenth of one percent for each additional year (a)

that an employer goes without benefit charges to his or her account or (b) that an employer's chargeable benefits component (CBC) is less than two-tenths of one percent for that period. Thus, after 1995 employers without benefit charges for six years -- or a CBC less than two-tenths of one percent for six years -- will have a maximum NBC rate of four-tenths of one percent; after 1996, employers without benefit charges for seven years (or a CBC rate of less than two-tenths of one percent for seven years) will have a maximum NBC rate of three-tenths of one percent; after 1997, employers with no benefit charges for eight years (or the alternate CBC rate for eight years) will have an NBC rate of two-tenths of one percent; and after 1998, employers with no benefit charges for nine years (or the alternate CBC rate for that period) will have an NBC rate of one-tenth of one percent.

Thus P.A. 25 eliminated the temporary 50 percent reduction in the maximum one percent NBC rate for employers with five-year periods of no benefit charges, while enacting permanent new reductions (beginning at four-tenths of one percent) for employers with six- to nine-year periods of no benefit charges. By eliminating the 1996 cutoff, the bill would reinstate the 50 percent reduction for employers with no benefit charges for five years.

The bill also would eliminate the existing use of the alternate method (using a CBC rate of less than two-tenths of one percent) for determining reductions of the one percent NBC rate and instead apply this alternate method only to employers with no benefit charges for five years.

House Bill 4746. P.A. 25 reduced the percentage (from 70 to 67) of an unemployed worker's after tax weekly wages used to set his or her weekly unemployment benefit rate and set a flat $300 maximum cap (instead of a percentage of the state average weekly wage) on benefits. P.A. 25 additionally specified that the 67 percent figure and the $300 cap apply with respect to benefit years beginning on or after January 1, 1996, and before July 1, 1997 (the date on which P.A. 25 specified that the unemployment system will change from a "wage request" system to a "wage record" system), and reduced (from 4.2 percent to 4.0 percent) the percentage in a formula used to calculate unemployed workers' benefit rates after this "conversion" date. P.A. 25 also added provisions that restricted unemployment benefits for "seasonal workers" working in "seasonal employment" for "seasonal employers" (all of which terms are defined in the 1995 amendatory act), and defined "construction industry" to mean "the work activity designated in major groups 15 and 16 of the standard industrial classification manual, United States Office of Management and Budget, 1987 edition."

The bill would:

* eliminate virtually duplicative language in the act regarding the 67 percent after tax weekly wage figure and the $300 cap for the period between January 1, 1996, and July 1, 1997;

* raise (from 4.0 to 4.1) the percentage used in this section of the act to calculate unemployed workers' benefit rates, to correspond to the change (from 65 percent to 67 percent) made in a House floor amendment in the percentage of a worker's after tax wages that are used to determine benefits; and

* amend the definition of "construction industry" to add "group 17" of the 1987 federal Standard Industrial Classification Manual to the definition of "construction industry," and to change the number of weeks (from 40 to 26) in the second method of determining the definition of "seasonal employment".

Finally, and most substantively, the bill would exempt the construction industry (as defined in the act) from the definitions of "seasonal employment," and "seasonal employer," which would mean that constructions workers would be exempted from the restrictions on unemployment benefits otherwise placed on seasonal workers.

House Bill 4747. The employment security act lists a number of factors that the Michigan Unemployment Security Commission (MESC) must take into consideration when determining whether work is "suitable" for an unemployed worker, including the degree of risk involved to the person's health, safety, and morals; his or her physical fitness and prior training; his or her length of unemployment and prospects for securing local work in his or her customary occupation; and the distance of available work from his or her residence. P.A. 25 deleted from this list of items required to be considered the person's experience and prior earnings, and added instead that the MESC must consider the person's experience and prior earnings, subject to certain limitations having to do with the length of time he or she had been unemployed (in which case, as the period of unemployment increases, the percentage of previous gross pay that an unemployed worker must accept decreases).

The bill would reinstate the language, stricken by P.A. 25, requiring the MESC to consider an individual's work and prior earnings in determining whether work was "suitable," and would rewrite the language prefacing the newly added limitations regarding length of unemployment and percentage of gross pay.

The bill also would change a reference to a subdivision in the act. P.A. 25 added, to the list of circumstances disqualifying unemployed workers from receiving unemployment benefits, several new disqualifications: temporary workers who failed to notify their temporary help firms when the worker finished a temporary job, being fired for taking illegal drugs or refusing to submit to required drug tests, and (as added on the House floor) a "needs test" that disqualifies unemployed workers from receiving benefits if the worker has an income of more than $100,000 in the year in which he or she applied for benefits. The "needs test" disqualification is further qualified by saying that it won't take effect unless two things occur: (a) within 30 days of the effective date of the act that added the temporary work disqualification (i.e. P.A. 25), the governor requests a determination from the federal government regarding both whether or not the "needs test" disqualification conforms with federal law and that conformity with federal law is not a condition for a federal unemployment tax act credit or for federal grants to the state under the federal Social Security Act, and (b) the U.S. Department of Labor says that the "needs test" disqualification does conform with federal law (or verifies that conformity with federal law isn't a condition for a tax credit or grant). The bill would change the reference to the temporary help disqualification in this "needs test" subsection to a reference, instead, to the "needs test" subsection itself.

House Bill 4748. P.A. 25 added a provision to the employment security act that allows the MESC to disclose (to "interested parties") otherwise normally confidential information from employers and employees when that information may affect a claim for worker's disability compensation ("regardless of whether the commission is a party" to a worker's compensation action or proceeding). The provision was added as MCL 421.11(b)(1)(i). The bill would move this language, with no changes, to the end of MCL 421.11(b)(1)(ii).