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BILL ANALYSIS

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Senate Bill 322 (as enrolled)
Sponsor: Senator Dave Honigman
Senate Committee: Human Resources, Labor, and Veteran Affairs
House Committee: Human Resources and Labor

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RATIONALE

The cost of operating a business in Michigan apparently is high compared with the cost in other states. One factor contributing to business costs is the rate of taxation required to support the unemployment insurance (UI) system, and Michigan's UI tax rate is among the highest in the country. Reportedly, Michigan's UI tax rate ranks third in the nation based on total and taxable wages; State revenue from employer taxes ranks fifth highest, at $1.3 billion; and Michigan's average UI cost per employee ($446) ranks sixth highest nationally. Business operators consistently have cited Michigan's high UI costs as a major component of the cost of doing business in the State, and contend that it hinders their ability both to hire workers and to ensure continuing profitable enterprises. Further, since UI is an experience-rated system, the high level of taxes is directly related to Michigan's level of unemployment benefits. Michigan's average weekly benefit amount reportedly ranked seventh nationally in 1994 at $212.95, and total benefits paid out ranked eighth highest at $937.5 million. In addition, according to the Michigan Jobs Commission (MJC), the State's maximum unemployment benefit for an individual with no dependents is the highest among Michigan's competitor states, and the State's minimum earnings requirement to qualify for benefits is the third lowest in that group of eight states. Some people contend that Michigan's high UI costs, generous unemployment compensation benefit payouts, and low benefit qualifying criteria impede the State's economic and employment competitiveness. They claim that, unless the UI burden on employers is eased, Michigan will remain at a competitive disadvantage with respect to other states, and that UI benefits and taxes must be reduced if Michigan is to be considered an attractive place for private investment and job creation.

CONTENT

The bill would amend the Michigan Employment Security Act to do all of the following:

- **Reduce the percentage of wages on which the weekly benefit rate is based, increase the maximum weekly benefit, and eliminate indexing of the maximum weekly benefit as a percentage of the State average weekly wage.**
- **Restrict the payment of benefits for a seasonal employee's periods of unemployment.**
- **Revise provisions for the payment of unemployment compensation benefits for a week in which an eligible individual earned partial remuneration.**
- **Revise some of the conditions under which an individual is disqualified from receiving unemployment compensation benefits; and disqualify certain temporary employees, in- home salespersons, and high-wage earners, from eligibility for benefits.**
- **Revise the duration of the temporary maximum level of the account building component of the tax formula used to calculate an employer's contribution to the Unemployment Compensation (UC) Fund.**
- **Revise the duration of the temporary maximum nonchargeable benefits component of the tax formula used to calculate an employer's contribution to the UC Fund, under certain circumstances, and provide for further future reductions.**

-- For calendar years after 1995, reduce some employers' contribution rates if the UC Fund met certain criteria.
-- Revise the definition of "credit week".
-- Change the date for conversion of the UI system to a wage record system.

Contribution Rates

The Act provides that each employer's contribution rate for each calendar year is the sum of a chargeable benefits component, an account building component, and a nonchargeable benefits component. Each component is determined by a formula specified in the Act.

Account Building Component. The Act specifies that the account building component is not to exceed the lesser of one-half (or, for calendar years after 1993 and before 1999, .69) of the percentage calculated under the Act's formula, or 3%, if on June 30 of the preceding calendar year, the balance in the UC Fund was less than 50% of the aggregate of all contributing employers' annual payrolls for the 12 months ending March 31, times the cost criterion. Under the bill, the temporary maximum contribution rate would apply for calendar years after 1993 and before 1996.

"Cost criterion" means the number arrived at as of each computation date (i.e., June 30), through the following calculation: "(i) With respect to each period of 12 consecutive months starting after 1956, calculate the percentage ratio of the benefits paid during the 12 months to the aggregate amount of the payrolls paid by employers within the most recent calendar year completed before the start of the 12 month-period"; "(ii) Select the largest percentage ratio...to be used as of that computation date".

Nonchargeable Benefits Component. The Act specifies that the maximum nonchargeable benefits component is 1%. For calendar years after 1993 and before 1999, however, if there are no benefit charges against an employer's account for the 60 months ending as of the computation date and if the Act's advocacy assistance program is funded and operates for that fiscal year, the maximum nonchargeable benefits component cannot exceed one-half of 1%; the bill would apply this provision to calendar years after 1993 and before 1996. The bill also would remove the requirement that the advocacy assistance program be funded and operate.

In addition, the bill specifies that, for calendar years after 1995, the maximum nonchargeable benefits component would be .4 of 1%, if there were no benefit charges against an employer's account for 72 months or if the employer's chargeable benefits component were less than .2 of 1% for that period. The maximum rate would be .3 of 1%, if there were no benefit charges against an employer's account for 84 months or if the employer's chargeable benefits component were less than .2 of 1% for that period. The maximum rate would be .2 of 1% after 1997, if there were no benefit charges against an employer's account for 96 months or if the employer's chargeable benefits component were less than .2 of 1% for that period. The maximum rate would be .1 of 1% after 1998, if there were no benefit charges against an employer's account for 108 months or if the employer's chargeable benefits component were less than .2 of 1% for that period.

Contribution Rate Reduction. The bill would require that, unless an employer's contribution rate were .1 of 1%, for calendar years beginning after December 31, 1995, the calculated contribution rate be reduced by 10% or by deducting .1 of 1% from the contribution rate, whichever resulted in the lower rate, for employers who had been liable for the payment of contributions in accordance with the Act for more than four consecutive years, if the UC Fund balance, excluding money borrowed from the Federal Unemployment Trust Fund, equaled or exceeded 1.2% of the aggregate amount of all contributing employers' payrolls for the 12 months ending on the contribution date. If an employer's contribution rate were reduced by a .1 of 1% deduction, the employer's contributions would have to be credited to each of the components of the contribution rate on a pro rata basis.

Benefits

Weekly Benefit Rate. The Act provides that the weekly benefit rate for an individual, for benefit years beginning before the date of conversion to a wage record system (January 1, 1997), is 70% of his or her average after tax weekly wage. The bill would change that rate to 67% of the person's after tax weekly wage, and change the conversion date to July 1, 1997.

In addition, the Act specifies that a person's weekly benefit rate cannot exceed 58% of the State average weekly wage. The maximum

weekly benefit amount cannot exceed $293, however, for benefit years beginning on or after January 2, 1994, but before January 5, 1997. For benefit years beginning after January 5, 1997, an individual's weekly benefit rate cannot exceed 53% of the State average weekly wage. For benefit years beginning on or after January 4, 1998, but before January 3, 1999, an individual's weekly benefit rate cannot exceed 55% of the State average weekly wage. The bill would delete this indexing of the maximum weekly benefit as a percentage of the State average weekly wage and provides, instead, that a person's maximum weekly benefit rate could not exceed $300.

With respect to benefit years beginning after the wage record system conversion date, the Act requires that an individual's weekly benefit rate be 4.2% of his or her wages paid in the calendar quarter of the base period in which the individual was paid the highest total wages. The bill would lower that weekly benefit rate to 4.0%. (For calendar years beginning after the conversion date, "base period" means the first four of the last five completed calendar quarters before the first day of the person's benefit year.)

Seasonal Em ployment. For weeks of unemployment beginning after July 1, 1996, benefits based on services by a seasonal worker performed in seasonal employment would be payable only for weeks of unemployment that occurred during the normal seasonal work period. Benefits could not be paid based on services performed in seasonal employment for any week of unemployment that began during the period between two successive normal seasonal work periods, to any person who performed the service in the first of those work periods if there were a reasonable assurance that he or she would perform the service for a seasonal employer in the second of the normal seasonal work periods. If benefits were denied for any week solely because of this provision and the individual were not offered an opportunity to perform in the second normal seasonal work period for which reasonable assurance of employment had been given, the person would be entitled to a retroactive payment of benefits for each week that he or she previously filed a timely claim for benefits. An individual could apply for benefits in accordance with the Michigan Administrative Code (R 421.210).

At least 20 days before the estimated beginning date of a normal seasonal work period, an employer could apply to the MESC in writing for designation as a seasonal employer. At the time of application, the employer would have to display conspicuously a copy of the application on the employer's premises. The MESC would have to determine if the employer were a seasonal employer within 90 days after receiving the application. A determination or redetermination of the MESC, or a decision of a referee or the board of review or of a Michigan court concerning an employer's status as a seasonal employer, together with a record of the determination or decision, could be introduced in any proceeding involving a claim for benefits. The facts found and decision issued would be conclusive unless substantial evidence to the contrary were introduced by, or on behalf of, the claimant.

If the employer were determined to be a seasonal employer, the employer would have to display conspicuously on its premises a notice furnished by the MESC of the determination and the beginning and ending dates of its normal seasonal work period. The notice also would have to specify that an employee would have to apply in a timely manner for unemployment compensation at the end of a first seasonal work period to preserve his or her right to receive retroactive unemployment compensation in the event that he or she was not reemployed by the seasonal employer in the second of the normal seasonal work periods.

The MESC could issue a determination terminating an employer's status as a seasonal employer on the Commission's own motion for good cause, or upon the employer's written request. A termination would take effect on the beginning date of the normal seasonal work period that would have immediately followed the date the MESC issued the termination. A termination determination would be subject to review in the same manner and to the same extent as any other MESC determination under the Act. An employer whose status as a seasonal employer was terminated could not reapply for a seasonal employer status determination until after a regularly recurring normal seasonal work period had begun and ended.

If a seasonal employer informed an employee who received assurance of being rehired that, despite the assurance, he or she would not be rehired at the beginning of the employer's next normal seasonal work period, the employee would not be prevented from receiving benefits in the same manner and to the same extent he or she would

receive benefits from an employer who had not been determined to be a seasonal employer.

A successor of a seasonal employer would be considered a seasonal employer unless the successor provided the MESC, within 120 days after the transfer, with a written request for termination of its status as a seasonal employer.

At the time an employee was hired by a seasonal employer, the employer would have to notify the employee in writing whether he or she would be a seasonal worker. The employer also would have to provide the worker with written notice of any subsequent change in the employee's status as a seasonal worker. If an employee of a seasonal employer were denied benefits because the employee was a seasonal worker, the employee could contest that designation.

"Normal seasonal work period" would mean the period or periods of time determined pursuant to rules promulgated by the MESC during which an individual was employed in season employment. "Seasonal employment" would mean the employment of one or more individuals primarily hired to perform services in an industry that did either of the following:

-- Customarily operated during regularly recurring periods of 26 weeks or less in a period of 52 consecutive weeks.
-- Customarily employed at least 50% of its employees for regularly recurring periods of 40 weeks or less within a period of 52 consecutive weeks.

"Seasonal employer" would mean an employer who applied to the MESC for designation as a seasonal employer and who the Commission determined to be an employer whose operations and business were substantially engaged in seasonal employment. "Seasonal worker" would mean a worker whose wages had customarily been paid by a seasonal employer for work performed only during the normal seasonal work period.

If the bill's seasonal employment provisions were found by the U.S. Department of Labor to be contrary to the Federal Unemployment Tax Act or the Social Security Act, and if conformity with the Federal law were required as a condition for full tax credit against the tax imposed under the Federal Unemployment Tax Act or as a condition for receipt by the MESC of Federal administrative grant funds under the Social Security Act, then the seasonal employment provisions would be invalid.

Periods of Partial Remuneration. The Act provides that each eligible individual must be paid a weekly benefit rate for a week in which he or she earns or receives no remuneration or remuneration of less than one-half of his or her weekly benefit rate. An eligible person is paid one-half of his or her weekly benefit rate for a week in which he or she earns or receives remuneration equal to at least one-half but less than the amount of the benefit rate.

The bill, instead, provides that an eligible individual would be paid a weekly benefit rate for a week for which he or she received no remuneration. Each eligible individual's weekly benefit rate would be reduced with respect to each week in which he or she earned or received partial remuneration, at the rate of 50 cents for each whole dollar of remuneration earned or received during that week. A person who earned or received partial remuneration could not receive benefits and earnings that exceeded 1-1/2 times his or her weekly benefit rate amount. For each dollar of total benefits and earnings that exceeded 1-1/2 times an individual's weekly benefit amount, benefits would have to be reduced by $1. If the reduction in a claimant's benefit rate resulted in a benefit rate greater than zero for that week, the claimant's balance of benefit weeks would be reduced by one week.

Disqualification For Benefits. The Act specifies various conditions that disqualify a person from receiving unemployment compensation benefits. For purposes of requalifying conditions, disqualification for theft or destruction of property is divided into categories of $25 or less and more than $25. The bill would delete this value amount distinction. In order to requalify for benefits, a worker disqualified for theft or property destruction would have to complete 13 requalifying weeks of employment, which currently is required for theft or destruction resulting in loss or damage of over $25.

In addition, the bill would disqualify from eligibility for benefits a person who was employed by a "temporary help firm" if each of the following applied:

-- The firm provided the employee with a written notice before he or she began performing services for the client stating, in substance, that within seven days after

completing services for a client, the employee was under a duty to notify the temporary help firm of the completion of those services and that failure to provide notice would constitute a voluntary quit that would affect the employee's eligibility for unemployment compensation.

-- The employee did not notify the temporary help firm that he or she had completed his or her services for the client, within seven days after completion of the assignment.

"Temporary help firm" would mean an employer whose primary business was to provide a client with the temporary services of one or more individuals under contract with the employer.

The bill also would disqualify a person who was discharged for any of the following:

-- Illegally ingesting, injecting, inhaling, or possessing a controlled substance on the employer's premises.

-- Refusing to submit to a drug test that was required to be administered in a nondiscriminatory manner.

-- Testing positive on a drug test, if the test were administered in a nondiscriminatory manner. (If the worker disputed the test results, a generally accepted confirmatory test would have to be administered; the confirmatory test also would have to indicate a positive result for the presence of a controlled substance before the worker was disqualified.)

"Controlled substance" would mean that term as defined in the Public Health Code. "Drug test" would mean a test designed to detect the illegal use of a controlled substance. "Nondiscriminatory manner" would mean administered impartially and objectively in accordance with a collective bargaining agreement, rule, policy, a verbal or written notice, or a labor-management contract.

In addition, the bill would disqualify from receiving unemployment benefits a person who had an income in excess of $100,000 for the calendar year in which he or she applied for benefits. This provision would not take effect, however, unless both of the following occurred:

-- Within 30 days of the bill's effective date, the Governor requested from the U.S. Department of Labor a determination confirming whether the disqualification was in conformity with the Federal Unemployment Tax Act and the Social Security Act, and whether conformity with those Federal Acts was a condition for a full tax credit against the tax imposed under the Federal Unemployment Tax Act or was a condition for State receipt of Federal administrative grant funds under the Social Security Act.

-- The U.S. Department of Labor determined that the disqualification was in conformity with the Federal Acts, or verified that conformity was not a condition for a tax credit or a grant.

Suitable W ork. The Act requires that, in determining a benefit recipient's continued eligibility, the MESC consider certain factors related to whether work is suitable for that individual. (A person may be disqualified from receiving benefits for failing, without good cause, to report to his or her former employer within a reasonable time after that employer provided notice of an interview concerning available suitable work.) Under the bill, a person who was unemployed for one to 12 weeks and refused an offer of work determined by the MESC to be suitable for that individual would have to be denied benefits if the pay rate for that work were at least 80% of the gross pay rate he or she received immediately before becoming unemployed. Benefits would have to be denied if the person were unemployed for 13 to 20 weeks and the pay rate were at least 75% of his or her previous gross pay rate. Benefits would have to be denied if the person were unemployed for more than 20 weeks and the pay rate were at least 70% of his or her previous gross pay rate.

In-Home Salespersons. The bill would exclude from the definition of "employment" services performed as a direct seller, if either of the following applied:

-- The person was engaged in the trade or business of selling, or soliciting the sale of, consumer products or services to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis that the MESC or the U.S. Department of Labor designated by rule or regulation, for resale, by the buyer or any other person, in the home or other than in a permanent retail establishment.

-- The person was engaged in the trade or business of selling, or soliciting the sale of, consumer products or services in the home or other than in a permanent retail establishment.

This exclusion would apply only if substantially all the remuneration for the performance of the services were directly related to sales or other output, rather than hours worked, and if the services were performed pursuant to a written contract that provided that the person performing the services would not be treated as an employee with respect to those services for Federal tax purposes.

The bill also would delete a provision that excludes from the definition of "employment" service performed by a home improvement and remodeling salesperson.

"Credit Week". Currently, with respect to benefit years established before January 1, 1997, "credit week" means a calendar week of an individual's "base period" during which he or she earned wages equal to or greater than 20 times the State minimum hourly wage in effect on the first day of the calendar week in which he or she filed an application for benefits. Under the bill, that definition would apply to benefit years established before January 1, 1996. After that date, a credit week would be a calendar week of the base period during which the person earned wages equal to or greater than 30 times the State minimum hourly wage. ("Benefit year" means the period of 52 consecutive calendar weeks beginning with the first calendar week with respect to which the individual files an application for benefits. "Base period", for benefit years beginning before January 1, 1997, means the period of 52 consecutive weeks ending with the day immediately preceding the first day of the person's benefit year. For benefit years beginning after January 1, 1997, "base period" means the first four of the last five completed calendar quarters before the first day of the person's benefit year.)

Conversion Date

Public Act 162 of 1994 amended the Michigan Employment Security Act to provide for the conversion to a wage record system on January 1, 1997. The bill would change the conversion date to July 1, 1997.

MCL 421.19 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Although Michigan has made recent improvements to its business climate with the reduction of property, income, and business taxes, the State's UI taxes still are among the highest in the nation. The cost of UI has a negative effect on employer profits, leaving less money available for reinvestment, expansion of operations, and creation of jobs. According to testimony before the Senate Human Resources, Labor, and Veterans Affairs Committee presented by the Michigan Chamber of Commerce, a 1994 survey conducted by the U.S. Chamber of Commerce revealed that the average payment by employers for unemployment insurance was $227 per employee. In Michigan, the average UI tax cost per employee is $446. This situation, which is exacerbated by the generous unemployment compensation benefits provided for in Michigan's UI system, puts Michigan at an economic disadvantage compared with other states and hinders the development of the State's economy, investment in Michigan businesses, and job creation. The bill would make more strides toward improving the competitiveness of Michigan's business climate.

With the enactment of the bill, Michigan would be a much more attractive place to do business. Decreasing the nonchargeable benefits component for employers who had no benefit charges over an extended period and reducing contribution rates when the UC Fund met specific standards of viability should help to alleviate the UI tax burden on Michigan businesses. In addition, lowering the benefit ratio to 67% of a person's after tax weekly wage and redefining "credit week" to mean 30, rather than 20, times the State minimum wage, would reduce the long-term growth in Michigan employers' UI contribution rates. Further, tightening up benefit qualification criteria for seasonal workers and excluding some temporary workers and those involved in in-home direct sales from eligibility for benefits would help to reduce the drain on the State's UC Fund, thereby contributing to the integrity of Michigan's UI system and generally promoting Michigan as a good place to do business.

Response: The reforms called for in the bill are unnecessary and could be detrimental to the economy. Michigan's business climate is strong and improving. The State has been cited in recent years as being among the nation's leaders in new job development, the unemployment rate is among the most favorable of the leading industrial states and has consistently been near or below the national rate over the last 18 months or so, and the UC Fund is projected to grow under the current

parameters of Michigan's UI system. Although positive economic conditions and the viability and projected growth of the UC Fund may warrant offering UI tax breaks to employers, those conditions do not suggest that it is necessary at this time to reduce unemployment compensation benefit levels. Indeed, in the past, concern about the vulnerability of the UC Fund has been posed as a reason why benefits should be cut; that situation does not exist today and is not expected to arise in the near future. The benefit reductions proposed by the bill would only be a detriment to working class families and actually could have a negative effect on the State's burgeoning economy, because fewer temporarily unemployed workers would receive benefits and those who did would have less purchasing power to buy the products of the State's employers.

Supporting Argument

Workers dismissed for cause, such as for failing a drug test or stealing or destroying property, regardless of the value of that property, should be disqualified from receiving UI benefits. While stealing or destroying property currently disqualifies a dismissed worker for benefits, it is easier under the Act to requalify if the value of the property is $25 or less. The bill would recognize the seriousness of theft and vandalism by removing this value distinction and subjecting all employees fired for these reasons to the higher requalification standard. In addition, dismissal for drug use should be listed as a disqualifying factor.

Response: The $25 threshold for the requalification standard discourages abuse by employers. If a worker inadvertently walks out of a workplace with a pen or a pair of gloves that belongs to the employer, for example, that worker should not be treated the same as someone who steals a computer. The Act currently sets a requalifying standard of six weeks' employment, even for amounts below the threshold, which is stringent enough. As for drug use, if disqualification were to apply, it should be limited to drug use that occurred on the job or affected job performance, and any drug test should have to be administered pursuant to a written policy of which the employee had prior notice.

Opposing Argument

The benefit reductions proposed by the bill could be devastating to Michigan's working families. The proposed reforms follow a "punish the victim" approach that would further disadvantage those workers already suffering the hardships of job loss by reducing their ability to pay for food, clothing, and other necessities. Although Michigan's unemployment benefits are among the highest in the country, it stands to reason that that should be true, because benefits are based on wages paid, and Michigan enjoys some of the highest wages in the country. Despite their relatively high ranking compared with other states, however, unemployment compensation benefits in Michigan reportedly provide income of only about 75% of the poverty level for a family of four, yet the bill would mandate an across-the-board cut of about 4.3% by lowering the benefit rate to 67% of average after tax income, make it more difficult to qualify for benefits in the first place, and eliminate inflationary increases of benefit levels. Reducing the benefit rate from 70% of average after tax wages, to 67% is harsh and unwarranted, considering the solvency of the UC Fund and the needs of unemployed workers.

Stiffening the unemployment compensation qualifying standard to 30 times the State minimum wage would hit hardest two groups that already have great financial difficulty: low wage and part-time workers. While proponents of the bill may argue that the dollar figure to qualify for benefit eligibility under the current criterion (20 times the State minimum wage) is unreasonably low, that problem exists, at least in part, because the State's minimum wage is still $3.35 per hour, or 26% less than the Federal minimum rate. Rather than penalizing low income workers by raising the qualifying multiplier, the State should increase the minimum wage to a more realistic level. In addition, the premise that it is too easy to qualify for unemployment compensation in Michigan is a faulty one. Reportedly, only 26% of Michigan's unemployed workers qualify for benefits under the current eligibility criteria.

Further, eliminating the indexing of maximum benefit levels as a percentage of the State's average weekly wage would compound the bill's detrimental effect on workers and their families. The maximum benefit level currently is set at $293 through 1996, pursuant to compromise legislation enacted in 1993 that was designed to ensure the solvency of the UC Fund. Although the MJC claims that this is the highest maximum benefit level among Michigan's "competitor states", the comparison is to a curious group that includes Kentucky, Alabama, North Carolina, and South Carolina. Other organizations contend that, nationally, Michigan's maximum UI benefit level is not even in the top 10 and is actually less than the maximum benefit in five of the other seven Great Lakes states. The Fund is now solvent and balances are projected to grow at least through the

year 2000. Even though the bill would increase the maximum benefit level by $7, permanently eliminating indexing would require new legislation every few years or so to allow unemployment compensation recipients to catch up with inflation. Removing indexing also would erode the purchasing power of laid-off workers; indexing allows those workers and their families to maintain some minimal degree of economic activity.

Response: Michigan's benefit rates are among the highest in the nation, and lowering the benefit ratio to 67% would provide some reasonable balance and competitiveness to Michigan's UI system. The Act's qualifying standard for unemployment compensation benefits simply is too low. In Michigan, an unreasonably high number (74%) of UI claims are approved; in comparison, 70% of claims reportedly are approved in Ohio, 67% in Indiana, and 63% in Illinois. Further, indexing UI benefits acts as a constant strain on the UC Fund. While the 1993 legislation that froze the maximum benefit rate helped ensure the health of the UC Fund, that temporary measure should be made permanent in order to protect the Fund's long-term integrity.

Opposing Argument

Restricting seasonal and temporary workers' eligibility for benefits would deny many workers whose job security is uncertain the ability to provide for themselves and their families during down times. The bill's seasonal employment provisions would not necessarily accommodate these workers, because they not only would have to meet the Act's 20-week working requirement, but also would have to rely on an employer's applying for designation as a seasonal employer and setting "normal seasonal work periods". In addition, a seasonal worker who was assured of work in a future seasonal work period, then was not hired, could receive his or her employment benefits only retroactively; the worker could not receive benefits during the actual intervening period of unemployment.

Response: Since some occupations are seasonal by their very nature, UI benefits should not be available to workers in those occupations during periods when they naturally would not be employed. The bill would continue to allow benefits to be available in periods of unemployment during the normal working season and for workers whose employer did not request a seasonal employer designation. In addition, there have been reports nationwide of employees of temporary work firms taking advantage of UI systems by filing unemployment compensation benefit claims after fulfilling a temporary assignment, without notifying the "temp" firm that they had completed an assignment and were prepared to accept another. By requiring these employees to notify the temporary work firm, the bill would close that loophole.

Opposing Argument

The bill should include reimplementation of a waiting week for collection of benefits (which had been part of Michigan's UI system until 1974), as it did when it was reported from the Senate committee. By alleviating some of the liability of employers who pay into the UI system, the waiting week would help to reduce the long-term growth in Michigan employers' UI contribution rates. In addition, many insurance policies include, as a check on benefits, deductible provisions or co-pay requirements. The unemployment compensation system is an insurance policy for covered workers and the waiting week merely would be an insurance deductible or co-pay for those who collect on the policy.

Response: The so-called "waiting week" actually would be a "no-benefits week" for most unemployed workers. Although it is true that an unemployed worker who exhausted his or her 26 weeks of benefits would receive the payment for the lost week at the end of that period, the fact is that more than 70% of unemployment compensation benefit recipients do not exhaust their benefits. Since these workers would never reach a 27th week, they would not receive the foregone compensation for the first week of unemployment. The "waiting week", in effect, would be just another benefit cut.

Opposing Argument

The Act includes a provision commonly referred to as the alternative earnings qualifier (AEQ), under which an individual who is not otherwise able to establish a benefit year because of insufficient credit weeks may establish a benefit year if he or she has at least 14 credit weeks in his or her base period, and has base period wages in excess of 20 times the State average weekly wage applicable to the calendar year in which his or her benefit year is established. Like the qualifying criterion of 20 times the State minimum wage (which the bill would increase to 30), the AEQ contributes to Michigan's low eligibility standard to qualify for unemployment compensation benefits, which, in turn, places a burden upon the State's employers. The AEQ apparently is used mainly by construction workers, whose employment often is seasonal. Since the bill would provide a method for those involved in seasonal employment to qualify for benefits, the AEQ is not needed. The

bill should repeal the AEQ, as it would have when it was reported from the Senate committee.

Response: Construction workers usually do not work regularly scheduled shifts for single employers; they generally work for many different employers on an irregular basis over uncertain periods of time. They are not paid during the usually short lapses between jobs and often cannot meet the Act's 20-week qualifier for unemployment compensation benefits. The AEQ specifically accommodates this type of highly skilled, high-wage worker with little or no job security. By earning the equivalent of 20 weeks' worth of wages over a 14-week period, these workers can qualify under the AEQ to receive deserved benefits. The bill's seasonal employment provisions would be an inadequate alternative to the AEQ because, if an employer did not seek MESC designation as a seasonal employer, no one who worked for that employer would be eligible for benefits under those provisions of the bill. In effect, employers could opt-out of the UI system by employing workers for short periods, but not seeking seasonal employment designation. Without the AEQ, these unemployed workers would have no means of providing for their families during down times. Further, Michigan has been an attractive location for highly skilled construction workers to live and work due in part to the availability of the AEQ. Without this benefit, the State could see a depletion in the ranks of the building and construction trades, which could have a compounding negative economic effect.

Opposing Argument

The bill has caused confusion on several fronts and these issues should be addressed before it is signed into law. It has been widely reported that a provision exempting construction trades from the seasonal employment restrictions was inadvertently left out of the bill. In addition, by limiting the temporary maximum nonchargeable benefits component (.5 of 1%) of an employer's contribution rate to calendar years before 1996, the bill, in effect, would raise that rate to 1% in 1996. (The Act currently sets the lower maximum rate for calendar years before 1999, for employers who had no benefit charges for 60 months; the Senate-passed version of the bill would have set .5 of 1% as the maximum level for all calendar years after 1993.) Further, the bill's provisions pertaining to benefit reductions for partial remuneration would apply only before January 7, 1996, while the bill likely would not take effect until after that date. Also, it appears that those provisions would discourage unemployment benefit recipients from accepting work, because for each week that a reduction resulted in a benefit rate greater than zero (i.e., any benefit at all), one week would be reduced from the claimant's balance of weeks of benefit payments. These confusing issues should be cleared up before the bill is enacted.

Response: Remaining issues could be addressed in another bill, which could be enacted before Senate Bill 322 took effect.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The tax reduction provisions of the bill would lower the contribution requirements of State and local governmental units. The actual savings of Federal unemployment taxes also would be determined by the level of benefits paid to past employees and by the number of part-time individuals who have been and would be employed in seasonal positions. Actual savings would vary according to the benefit experience of each governmental unit.

These changes would reduce the amount contributed into the trust fund. The enrolled version of this bill would decrease the after tax earnings percentage from 70% to 67% of the individual's after tax weekly wage and the maximum benefit level would be increased to $300 from $293. These two changes would result in a net benefit reduction of $354,000,000, according to the Michigan Employment Security Commission. Michigan employers could realize a net tax savings of $748,000,000 during the expected five-year economic cycle, 1996-2000.

The combined effect of the benefit and tax rate changes on the Federal Unemployment Trust Fund balance could be as much as $394,000,000 during this same six-year period. The estimated Trust Fund balance at the end of FY 1993-94 was $1,039,011,000.

Fiscal Analyst: K. Lindquist

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