

SENATE BILL No. 445

April 21, 2009, Introduced by Senators HUNTER, PRUSI, BRATER, SCOTT, OLSHOVE, GLEASON, CLARK-COLEMAN, WHITMER, JACOBS, SWITALSKI, CLARKE and CHERRY and referred to the Committee on Commerce and Tourism.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 28 (MCL 421.28), as amended by 1994 PA 422.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28. (1) An unemployed individual ~~shall be~~ **IS** eligible to
2 receive benefits with respect to any week only if the commission
3 finds that:

4 (a) For benefit years established before ~~the conversion date~~
5 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the individual has
6 registered for work at and thereafter has continued to report at an
7 employment office in accordance with ~~such~~ **THE** rules as ~~THAT~~ the
8 commission ~~may prescribe~~ **PRESCRIBES** and is seeking work. The
9 requirements that the individual must report at an employment

1 office, must register for work, must be available to perform
2 suitable full-time work, and must seek work may be waived by the
3 commission if the individual is laid off and the employer who laid
4 the individual off notifies the commission in writing or by
5 computerized data exchange that the layoff is temporary and that
6 work is expected to be available for the individual within a
7 declared number of days, not to exceed 45 calendar days following
8 the last day the individual worked. This waiver ~~shall not be~~ **IS NOT**
9 effective unless the notification from the employer has been
10 received by the commission before the individual has completed his
11 or her first compensable week following layoff. If the individual
12 is not recalled within the specified period, the waiver shall cease
13 to be operative with respect to that layoff. Except for a period of
14 disqualification, the requirement that the individual ~~shall seek~~
15 work may be waived by the commission ~~where~~ **IF** it finds that
16 suitable work is unavailable both in the locality where the
17 individual resides and in those localities in which the individual
18 has earned base period credit weeks. This waiver ~~shall~~ **DOES** not
19 apply, for weeks of unemployment beginning on or after March 1,
20 1981, to a claimant enrolled and attending classes as a full-time
21 student. An individual ~~shall have~~ **HAS** satisfied the requirement of
22 personal reporting at an employment office, as applied to a week in
23 a period during which the requirements of registration and seeking
24 work have been waived by the commission pursuant to this
25 subdivision, if the individual has satisfied the personal reporting
26 requirement with respect to a preceding week in that period and the
27 individual has reported with respect to the week by mail in

1 accordance with the rules promulgated by the commission. For
2 benefit years established ~~after the conversion date prescribed in~~
3 ~~section 75~~ **ON OR AFTER OCTOBER 1, 2000**, the individual has
4 registered for work and has continued to report in accordance with
5 ~~such~~ **THE** rules ~~as the commission may prescribe~~ **PRESCRIBES** and is
6 seeking work. The requirements that the individual must report,
7 must register for work, must be available to perform suitable full-
8 time work, and must seek work may be waived by the commission if
9 the individual is laid off and the employer who laid the individual
10 off notifies the commission in writing or by computerized data
11 exchange that the layoff is temporary and that work is expected to
12 be available for the individual within a declared number of days,
13 not to exceed 45 calendar days following the last day the
14 individual worked. This waiver ~~shall not be~~ **IS NOT** effective unless
15 the notification from the employer has been received by the
16 commission before the individual has completed his or her first
17 compensable week following layoff. If the individual is not
18 recalled within the specified period, the waiver shall cease to be
19 operative with respect to that layoff. Except for a period of
20 disqualification, the requirement that the individual ~~shall seek~~
21 work may be waived by the commission ~~where~~ **IF** it finds that
22 suitable work is unavailable both in the locality where the
23 individual resides and in those localities in which the individual
24 has earned wages during or after the base period. This waiver shall
25 not apply to a claimant enrolled **IN** and attending classes as a
26 full-time student. An individual ~~shall be~~ **IS** considered to have
27 satisfied the requirement of personal reporting at an employment

1 office, as applied to a week in a period during which the
2 requirements of registration and seeking work have been waived by
3 the commission pursuant to this subdivision, if the individual has
4 satisfied the personal reporting requirement with respect to a
5 preceding week in that period and the individual has reported with
6 respect to the week by mail in accordance with the rules
7 promulgated by the commission.

8 (b) The individual has made a claim for benefits in accordance
9 with section 32 and has provided the commission with his or her
10 social security number.

11 (c) The individual is able and available to perform suitable
12 full-time work of a character ~~which~~**THAT** the individual is
13 qualified to perform by past experience or training; ~~which~~ is of
14 a character generally similar to work for which the individual has
15 previously received wages; ~~and~~, **EXCEPT AS PROVIDED IN SUBSECTION**
16 **(6)**, for which the individual is available, full time, either at a
17 locality at which the individual earned wages for insured work
18 during his or her base period or at a locality where it is found by
19 the commission that such work is available.

20 (d) In the event of the death of an individual's immediate
21 family member, the eligibility requirements of availability and
22 reporting shall be waived for the day of the death and for 4
23 consecutive calendar days thereafter. As used in this subdivision,
24 "immediate family member" means a spouse, child, stepchild, adopted
25 child, grandchild, parent, grandparent, brother, or sister of the
26 individual or his or her spouse. It shall also include the spouse
27 of any of the persons specified in the previous sentence.

1 (e) The individual participates in reemployment services, such
2 as job search assistance services, if the individual has been
3 determined or redetermined by the commission to be likely to
4 exhaust regular benefits and need reemployment services pursuant to
5 a profiling system established by the commission.

6 (2) The commission may authorize an individual with an
7 unexpired benefit year to pursue vocational training or retraining
8 only if the commission finds that:

9 (a) Reasonable opportunities for employment in occupations for
10 which the individual is fitted by training and experience do not
11 exist in the locality in which the individual is claiming benefits.

12 (b) The vocational training course relates to an occupation or
13 skill for which there are, or are expected to be in the immediate
14 future, reasonable employment opportunities.

15 (c) The training course has been approved by a local advisory
16 council on which both management and labor are represented, or if
17 there is no local advisory council, by the commission.

18 (d) The individual has the required qualifications and
19 aptitudes to complete the course successfully.

20 (e) The vocational training course has been approved by the
21 state board of education and is maintained by a public or private
22 school or by the commission.

23 (3) Notwithstanding any other provision of this act, an
24 otherwise eligible individual shall not be ineligible for benefits
25 because he or she is participating in training with the approval of
26 the commission. For each week that the commission finds that an
27 individual who is claiming benefits under this act and who is

1 participating in training with the approval of the commission, is
2 satisfactorily pursuing an approved course of vocational training,
3 it shall waive the requirements that he or she be available for
4 work and be seeking work as prescribed in subsection (1)(a) and
5 (c), and it shall find good cause for his or her failure to apply
6 for suitable work, report to a former employer for an interview
7 concerning suitable work, or accept suitable work as required in
8 section 29(1)(c), (d), and (e).

9 (4) The waiver of the requirement that a claimant seek work,
10 as provided in subsection (1)(a), ~~shall not be applicable~~ **DOES NOT**
11 **APPLY** to weeks of unemployment for which the claimant is claiming
12 extended benefits if section ~~64(8)(a)(ii)~~ **64(7)(A)(ii)** is in effect,
13 unless the individual is participating in training approved by the
14 commission.

15 (5) Notwithstanding any other provisions of this act, an
16 otherwise eligible individual shall not be denied benefits for any
17 week beginning after October 30, 1982 solely because the individual
18 is in training approved under section 236(a)(1) of the trade act of
19 1974, as amended, 19 U.S.C.—**USC** 2296, nor shall the individual be
20 denied benefits by reason of leaving work to enter ~~such~~ **THAT**
21 training if the work left is not suitable employment. Furthermore,
22 an otherwise eligible individual shall not be denied benefits
23 because of the application to any such week in training of
24 provisions of this act, or any applicable federal unemployment
25 compensation law, relating to availability for work, active search
26 for work, or refusal to accept work. For purposes of this
27 subsection, "suitable employment" means, with respect to an

1 individual, work of a substantially equal or higher skill level
2 than the individual's past adversely affected employment, as
3 defined for purposes of the trade act of 1974, 19 ~~U.S.C.~~ **USC** 2101
4 to 2495, and wages for that work at not less than 80% of the
5 individual's average weekly wage as determined for the purposes of
6 the trade act of 1974.

7 (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, FOR
8 BENEFIT YEARS BEGINNING AFTER JANUARY 1, 2011, IF A MAJORITY OF THE
9 WEEKS OF WORK IN AN INDIVIDUAL'S BASE PERIOD INCLUDE PART-TIME
10 WORK, AN OTHERWISE ELIGIBLE INDIVIDUAL SHALL NOT BE DENIED BENEFITS
11 FOR ANY WEEK SOLELY BECAUSE OF 1 OR MORE OF THE FOLLOWING:

12 (A) THE INDIVIDUAL IS AVAILABLE ONLY FOR PART-TIME WORK.

13 (B) THE INDIVIDUAL IS SEEKING ONLY PART-TIME WORK.

14 (C) THE INDIVIDUAL REFUSES AN OFFER OF FULL-TIME WORK.

15 (7) SUBSECTION (6) DOES NOT REMOVE THE DISQUALIFICATION FOR
16 BENEFITS THAT APPLIES UNDER SECTION 29(1) IF A PERSON VOLUNTARILY
17 LEAVES PART-TIME WORK.

18 (8) FOR PURPOSES OF THIS SECTION, DURING AN INDIVIDUAL'S BASE
19 PERIOD "PART-TIME WORK" MEANS WORK THAT IS LESS THAN 40 HOURS IN A
20 CALENDAR WEEK. DURING AN INDIVIDUAL'S BENEFIT YEAR, "PART-TIME
21 WORK" MEANS WORK THAT IS NOT LESS THAN 16 HOURS BUT NOT MORE THAN
22 40 HOURS IN A CALENDAR WEEK AND IS COMPARABLE IN THE NUMBER OF
23 HOURS IN A CALENDAR WEEK TO THE NUMBER OF HOURS OF WORK IN A
24 MAJORITY OF CALENDAR WEEKS OF WORK IN THE INDIVIDUAL'S BASE PERIOD.