

**House Bill 5303 as introduced**  
**First Analysis (11-5-97)**

**Sponsor: Rep. Rose Bogardus**  
**Committee: Labor and Occupational**  
**Safety**

***THE APPARENT PROBLEM:***

Unemployment compensation is an income maintenance program first established in Michigan in 1937. By spreading the cost of unemployment over all geographical areas and industries in the state and over periods of time, the Michigan Employment Security Act provides for insurance against a portion of wage loss when workers lose their jobs. Unemployment insurance is administered entirely by government and benefits to eligible persons are paid from a trust fund that is financed by taxes imposed upon employers.

In 1995, the act was amended to reduce employers' unemployment insurance (UI) taxes, unemployed workers' UI benefits and, in the case of some workers, access to those benefits. These reductions, both in taxes and benefits, were championed as a means of increasing Michigan's economic and employment competitiveness by making Michigan a more attractive place for private investment and job creation. Those who opposed this change in the act argued that the reductions in benefits could severely harm those families that were already suffering the hardships of job loss by reducing their ability to pay for food, clothing, and other necessities. Legislation has been introduced that would re-establish the some of the benefit provisions that were removed in 1995.

***THE CONTENT OF THE BILL:***

Public Act 25 (enrolled Senate Bill 322) of 1995 amended the Michigan Employment Security Act in general to reduce not only employers' unemployment insurance (UI) taxes but also unemployed workers' UI benefits and, in the case of some workers, access to benefits. The bill would restore the UI benefit cuts made by P.A. 25; add several new provisions to the act regarding IRA rollovers, spousal transfer, and worker lockout exemptions to the act's benefit disqualification section; and add "good cause" for late filing (and retroactive benefits) for education employees under certain circumstances.

P.A. 25 UI BENEFIT CUTS

The bill would return the weekly benefit rate to 70 percent of a worker's after tax weekly wage (and, after the conversion to the wage record system, to 4.2 percent of an individual's highest total wages during the base period); return to indexing the maximum weekly benefit to no more than 58 percent of the state average weekly wage (SAWW); return the "credit week multiplier" to 20 times the state minimum hourly wage; return to the benefit reduction/earning offset system that allows full weekly UI benefits so long as a claimant doesn't earn more than half his or her weekly benefit that week; once again allow seasonal workers to qualify for UI benefits during "off season" unemployment and temporary workers to return to their pre-P.A. 25 eligibility status; and remove the requirement that the Michigan Employment Security Agency (formerly the Michigan Employment Security Commission) deny benefits to certain workers when it considered their experience and prior earnings in determining "suitable work."

More specifically, the P.A. 25 of 1995 amendments to the employment security act made the following changes to provisions regarding workers' benefits, all of which the bill would delete:

\*\* Weekly benefit rate. Before enactment of P.A. 25, the Michigan Employment Security Act set the weekly benefit rate (for benefit years beginning before conversion to the wage record system, which P.A. 162 of 1994 set for January 1, 1997, and which P.A. 90 of 1997 changed to July 1, 2001) at 70 percent of an unemployed worker's average after tax weekly wage. P.A. 25 decreased that rate by three percent, to 67 percent; the bill would change the rate back to 70 percent.

For benefit years beginning with the conversion to the wage record system, the act had required that an individual's weekly benefit rate be 4.2 percent of his or her wages paid in the calendar quarter of the base period in which he or she was paid the highest total wages. (For

calendar years beginning after the conversion date, “base period” meant the first four of the last five completed calendar quarters before the first day of the individual’s benefit year.) P.A. 25 lowered the percentage to 4.0 percent (which P.A. 181 of 1995 raised to 4.1 percent to conform with the change from 65 to 67 percent made in the final version of the bill that became P.A. 25). The bill would return the rate to 4.2 percent. [Section 27(b)(1)]

during the normal seasonal work period (and not, as before P.A. 25, for

\*\* Maximum weekly benefit. P.A. 25 completely eliminated the indexing of the maximum weekly benefit that an unemployed worker could receive to the state average weekly wage (SAWW), and instead set the maximum at a flat \$300 per week. The bill would return capping the maximum weekly benefit by indexing it to no more than 58 percent of the SAWW.

Note: Prior to enactment of Public Act 25 of 1995, Public Act 311 of 1993 already had temporarily suspended (for benefit years established between 1994 and 1997) indexing the maximum weekly benefit to 58 percent of the SAWW. Instead, P.A. 311 set the maximum benefit at a flat \$293 per week until on January 5, 1997, at which time the maximum benefit once again would have been indexed to the SAWW (though for 1997 the maximum benefit rate was to be set at 53, not 58 percent, of the SAWW, with the rate rising two percent, to 55 percent of the SAWW, in calendar year 1998). However, P.A. 25 of 1995 eliminated a return to indexing the maximum benefit to the SAWW; at the same time it also increased the flat cap from \$293 per week to \$300 per week. [Section 27(b)(1)]

\*\* Benefit reductions/earnings offsets. Prior to P.A. 25, unemployed workers could receive a full week’s UI benefit if they earned less than 50 percent of their weekly benefit amount. P.A. 25 reduced the weekly benefit amount by 50 cents for each dollar earned by a claimant during a week of unemployment. The bill would delete the 50 cents’ reduction provision and reinstate the former provisions to allow each eligible individual to receive a full weekly benefit rate each week he or she received no pay or pay equal to less than one-half his or her weekly benefit rate, and to receive one-half his or her weekly benefit rate each week he or she received more than half but less than his or her full weekly benefit rate. [27(c)]

\*\* Seasonal and temporary workers. P.A. 25 restricted the ability of seasonal and temporary workers to qualify for UI benefits (though P.A. 181 of 1995 exempted construction workers from these restrictions). The employment security act specifies various conditions that disqualify someone from receiving UI benefits. P.A. 25 disqualified seasonal workers who work for designated “seasonal employers” from eligibility for benefits except for unemployment that occurs only

unemployment during “off season”). P.A. 25 also left it up to employers to decide whether or not to apply to the Michigan Employment Security Agency (MESA, formerly the MESC) for designation as a “seasonal employer,” and up to the MESA to decide which employers could be so designated. P.A. 25 also disqualified from eligibility for UI benefits temporary workers who failed to notify their “temporary help” employer within seven days of completing an employer’s assignment. The bill would remove these restrictions on seasonal [Section 17(o)] and temporary [Section 29(1)(l)] workers’ ability to qualify for benefits.

\*\* “Credit week multiplier.” Prior to P. A. 25, for benefit years established before January 1, 1997, the employment security act had required unemployed workers to have earned wages equal to or greater than 20 times the state minimum hourly wage in order to qualify for UI benefits. P.A. 25 changed this eligibility requirement by increasing the amount of earnings needed to be eligible (the so-called “credit week multiplier”) from 20 to 30 times the state minimum hourly wage for benefit years established before the wage record system conversion date and after January 1, 1996. The bill would return the amount of earnings necessary to qualify for benefits to 20 times the state minimum wage (which was raised by P.A. 1 of 1997 from \$3.35 per hour to \$5.15 per hour on September 1, 1997) for benefit years established before the wage record system conversion date. [Section 50]

\*\* “Suitable work.” Under the employment security act, an unemployed worker is required to accept “suitable work” when it is offered or else lose his or her UI benefits. Prior to enactment of P.A. 25, the act required the Michigan Employment Security Agency to consider a list of certain factors in determining whether or not work was “suitable” for an individual. The list consisted of the following factors:

- (1) The degree of risk involved to the individual’s health, safety, and morals;
- (2) The individual’s physical fitness and prior training;
- (3) His or her experience and prior earnings;
- (4) His or her length of unemployment and prospects for securing local work in his or her customary occupation; and
- (5) The distance of the available work from the individual’s residence.

P.A. 25 put limitations on the “experience and prior earnings” factor, requiring the MESA to deny benefits if an unemployed worker turned down work that paid a

progressively decreasing percentage of his or her prior earnings the longer he or she was unemployed. The bill would delete these limitations on the Michigan Employment Security Agency in considering denial of benefits to an individual based on his or her experience and prior earnings. [Section 29(6)]

#### NEW PROVISIONS

In addition, the bill also would do the following:

\*\* Allow the transfer of an individual’s IRA (or other federally tax qualified retirement account) into another IRA (or other federally tax qualified retirement account) without affecting the individual’s eligibility for UI benefits or the calculation of those benefits [Section 29(f)(1)(a)];

\*\* Give employees (who perform services in other than an instructional, research, or principal administrative capacity) of educational institutions who were promised, and then not given, a job in a subsequent academic year (a) “good cause” for late filing and (b) retroactive benefits for the time they were supposed to have been working [Section 29(l)(4), (5)]

\*\* Allow someone who left a job because his or her spouse had been transferred elsewhere because of the spouse’s job to remain eligible for benefits, and charge the benefits to the nonchargeable benefits account (NBA) [Section 29(13)]; and

\*\* Allow workers whose unemployment was due to a lockout to remain qualified for benefits [Section 29(7)].

Finally, the bill also would delete sections of the act disqualifying certain school bus drivers [Section 27(n)] and school crossing guards [Section 27(p)] for UI benefits. Under the employment security act, school bus drivers are not eligible for benefits during customary school holidays, recesses, and the periods between academic terms and school years. Public Act 535 of 1982, which significantly changed the unemployment security act in light of the severe economic recession of the early 1980s, extended this denial of benefits to bus drivers who work for private employers who contract with educational institutions to provide bus service if 75 percent or more of the driver’s base period wages with that private employer are for services as a bus driver. The bill would delete this provision. Public Act 181 of 1995, which amended the employment security act to exempt construction workers and the construction industry from the definitions (added by P.A. 25) of “seasonal employment” and “seasonal employer,” also excluded school crossing guards (most of whom are municipal rather than school employees) from eligibility for UI benefits during breaks between two successive

academic terms or years if the crossing guard had worked during the first of the academic terms or years and had a "reasonable assurance" that he or she would be employed as a crossing guard in the next academic term or year. The bill would delete this provision.

MCL 421.27, 421.29, and 421.50

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill would have no fiscal impact on state or local governments. However, the bill would result in a reduction in the balance of the unemployment insurance fund. The amount of the reduction is indeterminate, based upon incomplete data available at this time. (11-5-97)

### ***ARGUMENTS:***

#### ***For:***

The benefit reductions initiated in 1995 by P.A. 25 have been a detriment to working class families and 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. The reforms follow a "punish the victim" approach that has further disadvantaged those workers already suffering the hardships of job loss by reducing their ability to pay for food, clothing, and other necessities. Michigan's unemployment benefits should be among the highest in the country. 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 provided income of only about 75 percent of the poverty level for a family of four before the reforms of P.A. 25 took effect. After the changes in the act under P.A. 25, that figure has shrunk to only 71 percent of the poverty level. The reduction of the amount of benefits from 70 percent of after tax wages to 67 percent was harsh and unwarranted, considering the solvency of the fund and the needs of unemployed workers. By restoring unemployment benefits to their previous level, while maintaining the business tax cuts provided in the 1995 changes, the bill will improve the act, making it fairer for workers without interfering with the tax cuts that were provided to businesses.

Further, restoring the indexing of benefit levels as a percentage of the state's average weekly wage would reduce some of the harm done to workers and their families. The maximum benefit level currently was set at \$293 through 1996, under compromise legislation enacted in 1993 that was designed to ensure the solvency of the

UC Fund. Although the Jobs Commission stated, when encouraging the adoption of P.A. 25, that this is the highest maximum benefit level among Michigan's "competitor states", the comparison was 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. The changes made by P.A. 25 not only would require new legislation every few years or so to allow unemployment compensation recipients to catch up with inflation, but also erodes the purchasing power of laid off workers. Restoring the prior indexing framework allows those workers and their families to maintain some minimal degree of economic activity.

Finally, the changes made in 1995 have resulted in significant increases to the fund's balance, so much so that two additional tax cuts for businesses were triggered totaling \$150 million for 1998. Of this amount, \$100 million is attributable to a 10 percent across the board roll back, the third year in a row that the 10 percent cut has been implemented. In addition, another cut was triggered in the Account Building Component of the unemployment tax that will be worth another \$50 million to Michigan businesses. If the fund has enough money to cut the taxes for businesses by \$150 million, it should also have enough to help laid off workers to make ends meet by providing them with fairer levels of benefits and more reasonable access restrictions.

#### ***Against:***

Prior to the changes made in 1995, the cost of the unemployment system had a negative effect on employer profits, leaving less money available for reinvestment, expansion of operations, and creation of jobs. For more than a decade Michigan's unemployment system was allowed to become increasingly uncompetitive with other states. The high unemployment payroll tax hindered the attraction of new businesses and the expansion of existing businesses. According to testimony before the House Committee on Human Resources and Labor presented by the Michigan Chamber of Commerce in 1995, 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 at that time the average UI tax cost per employee was \$446. This situation, which was exacerbated by the generous unemployment compensation benefits provided for in Michigan's UI system, put Michigan at an economic disadvantage compared with other states and hindered the

development of the state's economy, investment in Michigan businesses, and job

creation. The changes initiated in 1995 by P.A. 25 that would be overturned by this bill helped to change all that. As of the end of August 1997, the Michigan Unemployment Trust Fund level was 2.1 billion, and is now felt to be sufficient to survive a mild recession. This is the intent of the fund, that it should build a reserve of money in good economic times to pay benefits during periods of economic downturn. The bill would reverse this by increasing eligibility for benefits and the amount of benefits, thereby decreasing the fund.

Supporters of the bill argue that because employers received tax reductions for two years in a row and are scheduled to receive another in 1998, changes in benefits are warranted. The tax reductions that businesses have received did not eliminate the tax, but merely reduced the amount. As a result, instead of going into the fund or to unemployed workers, the money that employers saved was able to be reinvested and has helped those businesses to grow and expand and has helped the economy as a whole. Further, the tax reduction has encouraged faster growth in the trust fund because the business expansion increased the number of employees, thereby increasing payroll taxes, and helped Michigan attain one of the lowest unemployment rates in the country.

Proponents of the bill often compare the average weekly benefit amount to the national poverty level as support for increasing the benefit level. However, unemployment benefits are not intended to maintain a claimant's current standard of living, but rather are intended to provide some income while the claimant seeks new work. Further, increasing the benefit level is a disincentive for claimants to seek new employment. This is particularly unwarranted given the low unemployment rate and the level at which employers are competing to obtain employees.

Other provisions of the bill are also unwarranted. For example, the seasonal industry provisions are voluntary and used by only a few employers, but allow those employers to remain competitive in Michigan. Furthermore, it should be remembered that the costs of Michigan's unemployment system fall entirely on employers. Employees benefit from the system but do not have to pay any taxes to sustain it.

***POSITIONS:***

The Michigan State AFL-CIO supports the bill. (11-4-97)

The Michigan Federation of Teachers and School Related Personnel supports the bill. (11-4-97)

The UAW Michigan CAP supports the bill. (11-4-97)

The Michigan State Building and Trades Council supports the bill. (11-4-97)

The Capital Area United Way supports the bill. (11-5-97)

The Michigan AFSCME Council 25 supports the bill. (11-5-97)

The Greater Lansing Labor Council supports the bill. (11-5-97)

The Michigan Regional Council of Carpenters indicated support for the bill to the House Labor and Occupational Safety Committee. (11-4-97)

The Communication Workers of America indicated support for the bill to the House Labor and Occupational Safety Committee. (11-4-97)

The Michigan Retailers Association opposes the bill. (11-4-97)

The Department of Consumer and Industry Services opposes the bill. (11-4-97)

The Small Business Association of Michigan opposes the bill. (11-4-97)

The Michigan Manufacturers Association opposes the bill. (11-4-97)

The National Federation of Independent Businesses opposes the bill. (11-4-97)

The Michigan Farm Bureau opposes the bill. (11-4-97)

The Michigan Chamber of Commerce opposes the bill. (11-4-97)

The Employers' Unemployment Compensation Council opposes the bill. (11-4-97)

The Monitor Sugar Company opposes the bill. (11-4-97)

The Michigan Golf Course Owners Association opposes the bill. (11-5-97)

The Michigan Restaurant Association opposes the bill. (11-5-97)

The Greater Detroit Chamber of Commerce opposes the bill. (11-5-97)

The Michigan Grocers Association opposes the bill. (11-5-97)

Analyst: W. Flory/S. Ekstrom

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

