

SENATE BILL No. 1106

May 1, 2012, Introduced by Senators CASWELL, NOFS and GREEN and referred to the Committee on Reforms, Restructuring and Reinventing.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 46 (MCL 421.46), as amended by 2011 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 46. (a) Subject to subsections (d) through ~~(g)~~, **(F)**, for
2 benefit years beginning before ~~the conversion date prescribed in~~
3 ~~section 75, OCTOBER 1, 2000~~, "benefit year" means the period of 52
4 consecutive calendar weeks beginning the first calendar week in
5 which an individual files a claim in accordance with section 32 and
6 meets all of the following conditions:

7 (1) The individual has earned 20 credit weeks in the 52
8 consecutive calendar weeks before the week he or she files the
9 claim for benefits.

1 (2) The individual is unemployed and meets all requirements of
2 section 28 for the week for which he or she files a claim for
3 benefits.

4 (3) Except for a disqualification under section 29 (8)
5 involving a labor dispute during the individual's most recent
6 period of employment with the most recent employer with whom the
7 individual earned a credit week, the individual is not disqualified
8 or subject to disqualification for the week for which he or she
9 files a claim.

10 (4) The individual does not have a benefit year already in
11 effect at the time of the claim.

12 (b) For benefit years beginning on or after October 1, 2000,
13 "benefit year" means the period of 52 consecutive calendar weeks
14 beginning the first calendar week in which an individual files a
15 claim in accordance with section 32. However, a benefit year shall
16 not be established unless the individual meets either of the
17 following conditions:

18 (1) The total wages paid to the individual in the base period
19 of the claim equals not less than 1.5 times the wages paid to the
20 individual in the calendar quarter of the base period in which the
21 individual was paid the highest wages.

22 (2) The individual was paid wages in 2 or more calendar
23 quarters of the base period totaling at least 20 times the state
24 average weekly wage as determined by the unemployment agency.

25 (c) For benefit years beginning after October 1, 2000, the
26 state average weekly wage for a calendar year shall be computed on
27 the basis of the 12 months ending the June 30 preceding that

1 calendar year. A benefit year shall not be established if the
2 individual was not paid wages of at least the state minimum hourly
3 wage multiplied by 388.06 rounded down to the nearest dollar in at
4 least 1 calendar quarter of the base period. A benefit year shall
5 not be established based on base period wages previously used to
6 establish a benefit year that resulted in the payment of benefits.
7 However, if a calendar quarter of the base period contains wages
8 that were previously used to establish a benefit year that resulted
9 in the payment of benefits, a claimant may establish a benefit year
10 using the wages in the remaining calendar quarters from among the
11 first 4 of the last 5 completed calendar quarters, or if a benefit
12 year cannot be established using those quarters, then by using
13 wages from among the last 4 completed calendar quarters. A benefit
14 year shall not be established unless, after the beginning of the
15 immediately preceding benefit year during which the individual
16 received benefits, the individual worked and received remuneration
17 in an amount equal to at least 5 times the individual's most recent
18 state weekly benefit rate in effect during the individual's
19 immediately preceding benefit year. If a quarterly wage report has
20 not been submitted in a timely manner by the employer as provided
21 in section 13 for any of the quarters of the base period, or if
22 wage information is not available for use by the unemployment
23 agency for the most recent completed calendar quarter, the
24 unemployment agency shall obtain and use the claimant's statement
25 of wages paid during the calendar quarters for which the wage
26 reports are missing to establish a benefit year. However, the
27 claimant's statement of wages shall only be used to establish a

1 benefit year if the claimant also provides to the unemployment
2 agency documentary or other evidence of those wages that is
3 satisfactory to the unemployment agency. A determination based on
4 the claimant's statement of wages paid during any of these calendar
5 quarters shall be redetermined if the quarterly wage report from
6 the employer is later received and would result in a change in the
7 claimant's weekly benefit amount or duration, or both, or if the
8 quarterly wage report from the employer later becomes available for
9 use by the unemployment agency and would result in a change in the
10 claimant's benefit amount or duration, or both. If the
11 redetermination results from the employer's failure to submit the
12 quarterly wage report in a timely manner, the redetermination shall
13 be effective as to benefits payable for weeks beginning after the
14 receipt of information not previously submitted by the employer.

15 (d) If an individual files a claim for a 7-day period under
16 section 27(c), his or her benefit year begins the calendar week
17 containing the first day of that 7-day period.

18 (e) If all or part of a claimant's right to benefits during
19 his or her benefit year is canceled under section 62(b), the
20 benefit year is terminated on the effective date of the
21 cancellation.

22 (f) An individual may request a redetermination of his or her
23 benefit rights and cancellation of a previously established benefit
24 year if he or she has not completed a compensable period. Under
25 circumstances described in this subsection, the benefit year begins
26 the first day of the first week in which the request for
27 redetermination of benefit rights is duly filed.

1 ~~—— (g) Notwithstanding subsection (a), for services performed on~~
2 ~~or after January 2, 1983, and with respect to benefit years~~
3 ~~established before October 1, 2000, an individual is not entitled~~
4 ~~to establish a benefit year based in whole or in part on credit~~
5 ~~weeks for service in the employ of an employing unit, not otherwise~~
6 ~~excluded under section 43(g), in which more than 50% of the~~
7 ~~proprietary interest is owned by the individual or his or her son,~~
8 ~~daughter, or spouse, or any combination of these individuals, or in~~
9 ~~which more than 50% of the proprietary interest is owned by the~~
10 ~~mother or father of a child under the age of 18, or mother and~~
11 ~~father combined, unless both the individual and the employer notify~~
12 ~~the commission, in response to the commission's request for~~
13 ~~information, of the individual's relationship to the owners of the~~
14 ~~proprietary interest in the employing unit. Upon timely~~
15 ~~notification to the commission, a benefit year may be established~~
16 ~~for the individual, if the individual meets all of the following~~
17 ~~conditions: (1) has earned 20 credit weeks in the 52 consecutive~~
18 ~~calendar weeks preceding the week with respect to which the~~
19 ~~individual filed an application for benefits; (2) with respect to~~
20 ~~the week for which the individual is filing an application for~~
21 ~~benefits is unemployed, and meets all of the other requirements of~~
22 ~~section 28; (3) with respect to the week for which the individual~~
23 ~~is filing an application for benefits the individual is not~~
24 ~~disqualified nor subject to disqualification, except in case of a~~
25 ~~labor dispute under section 29(8), with respect to the most recent~~
26 ~~period of employment with the most recent employer with whom the~~
27 ~~individual earned a credit week. If an individual files an~~

1 ~~application for a 7 day period as provided in section 27(c), the~~
2 ~~benefit year with respect to the individual shall begin with the~~
3 ~~calendar week which contains the first day of that 7 day period.~~
4 ~~—— (h) For benefit years established on or after July 1, 1983,~~
5 ~~not more than 10 credit weeks based on services shall be used to~~
6 ~~pay benefits. For the purpose of calculating the individual's~~
7 ~~average weekly wage, all base period wages and credit weeks shall~~
8 ~~be used. With respect to benefit years beginning on or after~~
9 ~~October 1, 2000, and notwithstanding subsection (b), an individual~~
10 ~~is not entitled to establish a benefit year based in whole or in~~
11 ~~part on wages earned in service, not otherwise excluded under~~
12 ~~section 43(g), in the employ of an employing unit in which more~~
13 ~~than 50% of the proprietary interest is owned by the individual or~~
14 ~~his or her son, daughter, spouse, or any combination of these~~
15 ~~individuals, or in which more than 50% of the proprietary interest~~
16 ~~is owned by the mother or father of a child under the age of 18, or~~
17 ~~mother and father combined, unless both the individual and the~~
18 ~~employer notify the commission, in response to the commission's~~
19 ~~request for information, of the individual's relationship to the~~
20 ~~owners of the proprietary interest in the employing unit. Upon~~
21 ~~timely notification to the commission, a benefit year may be~~
22 ~~established for the individual if the individual meets the~~
23 ~~requirements of subsection (b). If wages in an individual's base~~
24 ~~period were earned in service in the employ of such an employing~~
25 ~~unit, the individual's weekly benefit rate shall be calculated in~~
26 ~~accordance with section 27(b)(1) but the portion of the benefit~~
27 ~~rate attributable to this service shall be payable for not more~~

1 ~~than 7 weeks. The weekly benefit payment shall be reduced~~
2 ~~thereafter by the percentage of charge attributable to service with~~
3 ~~this employer, in accordance with section 20.~~