

SENATE BILL No. 1001

May 31, 2016, Introduced by Senators WARREN, ANANICH, HOOD, BIEDA and KNEZEK and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 62 (MCL 421.62), as amended by 2013 PA 147.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 62. (a) If the unemployment agency determines that a
2 person has obtained benefits to which that person is not entitled,
3 or a subsequent determination by the agency or a decision of an
4 appellate authority reverses a prior qualification for benefits,
5 the agency may recover a sum equal to the amount received plus
6 interest by 1 or more of the following methods: deduction from
7 benefits or wages payable to the individual, payment by the
8 individual in cash, or deduction from a tax refund payable to the
9 individual as provided under section 30a of 1941 PA 122, MCL
10 205.30a. Deduction from benefits or wages payable to the individual

1 is limited to not more than 50% of each payment due the claimant.
2 The unemployment agency shall issue a determination requiring
3 restitution within 3 years after the date of finality of a
4 determination, redetermination, or decision reversing a previous
5 finding of benefit entitlement. The unemployment agency shall not
6 initiate administrative or court action to recover improperly paid
7 benefits from an individual more than 3 years after the date that
8 the last determination, redetermination, or decision establishing
9 restitution is final. The unemployment agency shall issue a
10 determination on an issue within 3 years from the date the claimant
11 first received benefits in the benefit year in which the issue
12 arose, or in the case of an issue of intentional false statement,
13 misrepresentation, or concealment of material information in
14 violation of section 54(a) or (b) or sections 54a to 54c, within 6
15 years after the receipt of the improperly paid benefits unless the
16 unemployment agency filed a civil action in a court within the 3-
17 year or 6-year period; the individual made an intentional false
18 statement, misrepresentation, or concealment of material
19 information to obtain the benefits; or the unemployment agency
20 issued a determination requiring restitution within the 3-year or
21 6-year period. Except in a case of an intentional false statement,
22 misrepresentation, or concealment of material information, the
23 unemployment agency shall waive recovery of an improperly paid
24 benefit if the payment was not the fault of the individual and if
25 repayment would be contrary to equity and good conscience and shall
26 waive any interest. If the agency or an appellate authority waives
27 collection of restitution and interest, except as provided in

1 subdivision (ii), the waiver is prospective and does not apply to
2 restitution and interest payments already made by the individual.
3 As used in this subsection, "contrary to equity and good
4 conscience" means any of the following:

5 (i) The claimant provided incorrect wage information without
6 the intent to misrepresent, and the employer provided either no
7 wage information upon request or provided inaccurate wage
8 information that resulted in the overpayment.

9 (ii) The claimant's disposable household income, exclusive of
10 social welfare benefits, is at or below the annual update of the
11 poverty guidelines most recently published in the federal register
12 by the United States department of health and human services under
13 the authority of 42 USC 9902(2), and the claimant has applied for a
14 waiver under this subsection. A waiver granted under the conditions
15 described in this subdivision applies from the date the application
16 is filed.

17 (iii) The improper payments resulted from an administrative or
18 clerical error by the unemployment agency. A requirement to repay
19 benefits as the result of a change in judgment at any level of
20 administrative adjudication or court decision concerning the facts
21 or application of law to a claim adjudication is not an
22 administrative or clerical error for purposes of this subdivision.

23 (b) For benefit years beginning on or after October 1, 2000,
24 if the unemployment agency determines that a person has
25 intentionally made a false statement or misrepresentation or has
26 concealed material information to obtain benefits, whether or not
27 the person obtains benefits by or because of the intentional false

1 statement, misrepresentation, or concealment of material
2 information, the person shall, in addition to any other applicable
3 interest and penalties, have his or her rights to benefits for the
4 benefit year in which the act occurred canceled as of the date the
5 claimant made the false statement or misrepresentation or concealed
6 material information, and wages used to establish that benefit year
7 shall not be used to establish another benefit year. A chargeable
8 employer may protest a claim filed after October 1, 2014 to
9 establish a successive benefit year under section 46(c), if there
10 was a determination by the unemployment agency or decision of a
11 court or administrative tribunal finding that the claimant made a
12 false statement, made a misrepresentation, or concealed material
13 information related to his or her report of earnings for a
14 preceding benefit year claim. If a protest is made, any unreported
15 earnings from the preceding benefit year that were falsely stated,
16 misrepresented, or concealed shall not be used to establish a
17 benefit year for a successive claim. Before receiving benefits in a
18 benefit year established within 4 years after cancellation of
19 rights to benefits under this subsection, the individual ~~, in~~
20 ~~addition to making~~ **MUST MAKE** the restitution of benefits
21 established under subsection (a), ~~may be liable for an additional~~
22 ~~amount as otherwise determined by the unemployment agency under~~
23 ~~this act,~~ which may be paid by cash, deduction from benefits, or
24 deduction from a tax refund. ~~The individual is liable for any fee~~
25 ~~the federal government imposes with respect to instituting a~~
26 ~~deduction from a federal tax refund. Restitution resulting from the~~
27 ~~intentional false statement, misrepresentation, or concealment of~~

1 ~~material information is not subject to the 50% limitation provided~~
2 ~~in subsection (a).~~

3 (c) Any determination made by the unemployment agency under
4 this section is final unless an application for a redetermination
5 is filed in accordance with section 32a.

6 (d) The unemployment agency shall take the action necessary to
7 recover all benefits improperly obtained or paid under this act,
8 and to enforce all interest and penalties under subsection (b), **BUT**
9 **SHALL NOT SEEK OR COLLECT RESTITUTION OF OR INTEREST ON**
10 **UNEMPLOYMENT BENEFITS THAT THE UNEMPLOYMENT AGENCY DID NOT PAY.** The
11 unemployment agency may conduct an amnesty program for a designated
12 period under which penalties and interest assessed against an
13 individual owing restitution for improperly paid benefits may be
14 waived if the individual pays the full amount of restitution owing
15 within the period specified by the agency.

16 (e) Interest recovered under this section shall be deposited
17 in the contingent fund.

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.

20 Enacting section 2. This amendatory act does not take effect
21 unless all of the following bills of the 98th Legislature are
22 enacted into law:

23 (a) Senate Bill No. 1002.

24

25 (b) Senate Bill No. 1003.

26

27 (c) Senate Bill No. 1000.