

HOUSE BILL NO. 6136

September 01, 2020, Introduced by Rep. Hall 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 44 (MCL 421.44), as amended by 2015 PA 240.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 44. (1) "Remuneration" means all compensation paid for
2 personal services, including commissions and bonuses, and except
3 for agricultural and domestic services, the cash value of all
4 compensation payable in a medium other than cash. Any remuneration



1 payable to an individual that has not been actually received by
2 that individual within 21 days after the end of the pay period in
3 which the remuneration was earned, shall, for the purposes of
4 subsections (2) to (5) and section 46, be considered to have been
5 paid on the twenty-first day after the end of that pay period. If
6 back pay is awarded to an individual and is allocated by an
7 employer or legal authority to a period of weeks within 1 or more
8 calendar quarters, the back pay shall be considered paid in that
9 calendar quarter or those calendar quarters for purposes of section
10 46. The reasonable cash value of compensation payable in a medium
11 other than cash shall be estimated and determined in accordance
12 with rules promulgated by the unemployment agency. Remuneration
13 includes tips actually reported to an employer under section
14 6053(a) of the internal revenue code **of 1986**, 26 USC 6053(a), by an
15 employee who receives tip income. Remuneration does not include
16 either of the following:

17 (a) Money paid an individual by a unit of government for
18 services rendered as a member of the National Guard of this state,
19 or for similar services to another state or the United States.

20 (b) Money paid by an employer to a worker under a supplemental
21 unemployment benefit plan consistent with the criteria for a
22 supplemental unemployment benefit plan as described in Internal
23 Revenue Service ~~publication~~ **Publication** 15-A, ~~employer's~~
24 ~~supplemental tax guide~~, **Employer's Supplemental Tax Guide**,
25 regardless of whether the benefits are paid from a trust or by the
26 employer.

27 (2) "Wages", subject to subsections (3) to (5), means
28 remuneration paid by employers for employment and includes tips
29 actually reported to an employer under section 6053(a) of the



1 internal revenue code **of 1986**, 26 USC 6053(a), by an employee who
2 receives tip income. If any provision of this subsection prevents
3 this state from qualifying for any federal interest relief
4 provisions provided under section 1202 of title XII of the social
5 security act, 42 USC 1322, or prevents employers in this state from
6 qualifying for the limitation on the reduction of federal
7 unemployment tax act credits as provided under section 3302(f) of
8 the federal unemployment tax act, 26 USC 3302, that provision is
9 invalid to the extent necessary to maintain qualification for the
10 interest relief provisions and federal unemployment tax credits.

11 (3) For the purpose of determining the amount of contributions
12 due from an employer under this act, wages are limited by the
13 taxable wage limit applicable under subsection (4). For this
14 purpose, wages exclude all remuneration an employing unit pays to
15 an individual that exceeds the taxable wage limit on which
16 unemployment taxes were paid or were payable in this state and in
17 any other states for that employee by the employing unit within
18 that year. If a successor employing unit becomes a transferee
19 during a calendar year in a transfer of business, as defined in
20 section 22, of a predecessor employing unit and immediately after
21 the transfer employs in his or her trade or business an individual
22 who immediately before the transfer was employed in the trade or
23 business of the predecessor, then for the purpose of determining
24 whether the successor has paid remuneration with respect to
25 employment equal to the taxable wage limit to that individual
26 during the calendar year, any remuneration with respect to
27 employment paid to that individual by the predecessor during the
28 calendar year and before the transfer shall be considered as having
29 been paid by the successor.



1 (4) The taxable wage limit for each calendar year is \$9,500.00
2 in the calendar years 1986 through 2002, and \$9,000.00 for calendar
3 years after 2002 and before 2012, or the maximum amount of
4 remuneration paid within a calendar year by an employer subject to
5 the federal unemployment tax act, 26 USC 3301 to 3311, to an
6 individual with respect to employment as defined in that act that
7 is subject to tax under that act during that year for each calendar
8 year, whichever is greater. For calendar years beginning 2012, the
9 taxable wage limit is \$9,500.00, but if at the beginning of a
10 calendar quarter the balance in the unemployment compensation fund
11 equals or exceeds \$2,500,000,000.00 and the **unemployment** agency
12 projects that the balance will remain at or above \$2,500,000,000.00
13 for the remainder of the calendar quarter and for the entire
14 succeeding calendar quarter, the taxable wage limit for that
15 calendar quarter and the succeeding calendar quarter is \$9,000.00
16 for an employer that is not delinquent in the payment of
17 unemployment contributions, penalties, or interest. For calendar
18 years beginning 2016, if on June 30 of the preceding year the
19 balance in the unemployment compensation fund equals or exceeds
20 \$2,500,000,000.00 and the **unemployment** agency projects that the
21 balance will remain at or above \$2,500,000,000.00 for the
22 succeeding calendar quarter, the taxable wage limit for the
23 calendar year is reduced to \$9,000.00 for an employer that is not
24 delinquent in the payment of unemployment contributions, penalties,
25 or interest. If the unemployment compensation fund balance on June
26 30 **of the preceding year** or the **unemployment** agency projection does
27 not meet these conditions, the \$9,500.00 taxable wage limit applies
28 to all employers in the next calendar year. **However, the \$9,500.00**
29 **taxable wage limit does not apply if the unemployment compensation**



1 fund balance on June 30 of the preceding year or the unemployment
2 agency projection does not meet these conditions as a result of a
3 state of emergency declared under 1945 PA 302, MCL 10.31 to 10.33,
4 or the emergency management act, 1976 PA 390, MCL 30.401 to 30.421,
5 that requires any contributing employer to close or limit its
6 business operations for any period of time. For purposes of this
7 subsection, an employer is delinquent in the payment of
8 unemployment contribution, penalties, or interest if the employer
9 has a quarterly unpaid balance of \$25.00 or more, unless 1 or more
10 of the following apply:

11 (a) The employer has filed a timely protest or appeal of the
12 notice of assessment and the assessment has not become final.

13 (b) Within 45 days after the beginning of the first calendar
14 quarter in which the reduced taxable wage base limit takes effect
15 for nondelinquent employers, all outstanding balances owed to the
16 unemployment agency are paid in full.

17 (c) If the employer is a domestic employer, all applicable
18 contributions, interest, and penalties are paid on or before the
19 date specified by the **unemployment** agency under section 13(1).

20 (5) For the purposes of this act, the term "wages" does not
21 include any of the following:

22 (a) The amount of a payment, including an amount paid by an
23 employer for insurance or annuities or into a fund, to provide for
24 such a payment, made to, or on behalf of, an employee or any of the
25 employee's dependents under a plan or system established by an
26 employer that makes provision for the employer's employees
27 generally, or for the employer's employees generally and their
28 dependents, or for a class or classes of the employer's employees,
29 or for a class or classes of the employer's employees and their



1 dependents, on account of retirement, sickness or accident
2 disability, medical or hospitalization expenses in connection with
3 sickness or accident disability, or death.

4 (b) A payment made to an employee, including an amount paid by
5 an employer for insurance or annuities, or into a fund, to provide
6 for such a payment, on account of retirement.

7 (c) A payment on account of sickness or accident disability,
8 or medical or hospitalization expenses in connection with sickness
9 or accident disability, made by an employer to, or on behalf of, an
10 employee after the expiration of 6 calendar months following the
11 last calendar month in which the employee worked for the employer.

12 (d) A payment made to, or on behalf of, an employee or the
13 employee's beneficiary from or to a trust described in section
14 401(a) of the internal revenue code of 1986, 26 USC 401(a), that is
15 exempt from tax under section 501(a) of the internal revenue code
16 of 1986, 26 USC 501(a), at the time of the payment, unless the
17 payment is made to an employee of the trust as remuneration for
18 services rendered as an employee and not as a beneficiary of the
19 trust, or under or to an annuity plan which, at the time of the
20 payment, is a plan described in section 403(a) of the internal
21 revenue code of 1986, 26 USC 403(a), or under or to a bond purchase
22 plan that at the time of the payment, is a qualified bond purchase
23 plan described in former section 405(a) of the internal revenue
24 code **of 1986.**

25 (e) The payment by an employer, without deduction from the
26 remuneration of the employee, of the tax imposed upon an employee
27 under section 3101 of the federal insurance contributions act, 26
28 USC 3101.

29 (f) Remuneration paid in any medium other than cash to an



1 employee for service not in the course of the employer's trade or
2 business.

3 (g) A payment, other than vacation or sick pay, made to an
4 employee after the month in which the employee attains the age of
5 65, if the employee did not work for the employer in the period for
6 which the payment is made.

7 (h) Remuneration paid to or on behalf of an employee as moving
8 expenses if, and to the extent that, at the time of payment of the
9 remuneration it is reasonable to believe that a corresponding
10 deduction is allowable under section 217 of the internal revenue
11 code of 1986, 26 USC 217.

