



**House
Legislative
Analysis
Section**

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PENALTIES FOR MESC VIOLATIONS

House Bill 6289
Sponsor: Rep. Bill Martin

House Bill 6290
Sponsor: Rep. Nate Jonker

House Bill 6291
Sponsor: Rep. Juanita Watkins

Committee: Labor

Complete to 11-28-90

A SUMMARY OF HOUSE BILLS 6289-6291 AS INTRODUCED 11-14-90

The bills would amend the Michigan Employment Security Act to provide penalties for certain violations and to establish interest rates for unpaid penalties. The bills are tie-barred to each other and to:

— Senate Bills 1159 and 1160, which would amend the act to establish penalties for inciting misrepresentation and for conspiracy to commit a violation of the act, respectively;

— Senate Bill 1161, which would amend the act to conform to the requirements of House Bills 6289 and 6290, and which would extend, from three to six years, the statute of limitations for recovery of improperly paid benefits, and, from two to six years, the suspension period for benefits obtained by misrepresentation;

— House Bill 6292, which would establish that violations of the act would be prosecuted according to penalties prescribed under the act, and not under the Michigan Penal Code.

House Bills 6289 and 6290 would establish penalties for embezzlement and fraud, and would revise current penalties for misrepresentation by either an employing unit or one of its officers or agents, a claimant, a Michigan Employment Security Commission (MESC) employee, or a third party. The penalties would be imposed in addition to any other penalty provided in the act. The penalties would also apply even if the amount embezzled were reported or paid by the embezzler, and whether or not the violation occurred before the effective date of the bill. Amounts recovered would be deposited in the Penalty and Interest Account of the Contingent Fund, and credited annually to the Unemployment Trust Fund.

The penalties would be as follows:

<u>VIOLATION</u>	<u>PENALTY</u>	<u>ADDITIONAL PROSECUTING ATTORNEY ACTION</u>
Embezzlement of less than \$1,000	Commission could recover up to amount embezzled, plus damages equal to 2 times amount embezzled.	

<u>VIOLATION</u>	<u>PENALTY</u>	<u>ADDITIONAL PROSECUTING ATTORNEY ACTION</u>
Embezzlement of \$1,000 or more	Commission could recover up to amount embezzled, plus damages equal to 3 times amount embezzled.	\$1,000 - \$25,000 - up to 1 year in prison or up to 1 year/2,080 hours community service. \$25,000 - \$100,000 - up to 2 years in prison or up to 2 years/4,160 hours community service. \$100,000 or more - up to 5 years in prison or up to 5 years/10,400 hours community service.
Fraud	Commission could recover amount obtained, plus damages equal to 3 times amount obtained.	Less than \$25,000 - up to 1 year in prison or up to 1 year/2,080 hours community service. \$25,000 - \$100,000 - up to 2 years in prison or up to 2 years/4,160 hours community service. \$100,000 or more - up to 5 years in prison or up to 5 years/10,400 hours community service.
Obtaining \$1,000 or less by misrepres- entation	Commission could recover amount obtained, plus damages equal to 2 times amount obtained.	
Obtaining \$1,000 or more by misrepres- entation	Commission could recover amount obtained, plus damages equal to 3 times obtained.	\$1,000 - \$25,000 - up to 1 year in prison or up to 1 year/2,080 hours community service. \$25,000 or more - up to 2 years in prison or up to 2 years/4,160 hours community service.

If a violation involving embezzlement or misrepresentation did not result in a loss to the MESC, then the penalty would be equal to 3 times the amount that would have been obtained by embezzlement, but not less than \$1,000, and, in addition, imprisonment for not more than two years, or the performance of two years or up to 4,160 hours community service.

House Bills 6289 and 6290 would take effect October 1, 1991.

(MCL 421.54)

Currently, under the act, interest on unpaid MESC contributions is calculated at one percent per month, computed on a day-to-day basis for each day of delinquency until payment is received. House Bill 6291 would amend the act to extend this requirement to amounts illegally obtained or previously withheld from payment, and to damages recovered by the commission for the above violations.

(MCL 421.15)