

Act No. 226
Public Act of 1989
December 28, 1989
Filed by the Secretary of State
December 28, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Reps. Watkins, Varga, Perry Bullard, Martin, Emerson, Sikkema, Ciaramitaro, Muxlow, Ouwinga, Bankes, DeLange, Hoekman, Giese, London, Hertel, Miller, DeBeaussaert, Niederstadt, DeMars, Jonker, Berman and Jaye

ENROLLED HOUSE BILL No. 5223

AN ACT to amend Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make an appropriation for carrying out the provisions of this act; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," as amended, being sections 421.1 to 421.73 of the Michigan Compiled Laws, by adding section 5a.

The People of the State of Michigan enact:

Section 1. Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being sections 421.1 to 421.73 of the Michigan Compiled Laws, is amended by adding section 5a to read as follows:

Sec. 5a. (1) The commission shall develop and implement a program to provide, upon request, claimant and employer advocacy assistance. The purpose of the program shall be to provide information, consultation, and representation to claimants and employers relating to the referee or board of review appeal levels, or both. The program, and its method of implementation, shall be developed and approved by an affirmative majority vote of the members of the commission within 6 months after the effective date of the amendatory act that added this section.

(2) The program shall be funded from the penalty and interest account in the contingent fund. Of the \$5,000,000.00 appropriated for the fiscal year ending September 30, 1990, not more than \$500,000.00 shall be expended. For each of the subsequent 3 fiscal years, the maximum amount of expenditure for the program shall not exceed \$1,500,000.00 per year. The appropriation described in this subsection shall be considered a work project and shall not lapse at the end of the fiscal year but shall continue to be available for expenditure as provided in this section. Three years after the date a claimant or employer first receives advocacy assistance services, the continuation of the program shall require an affirmative vote by a majority of the members of the commission each year to continue the program for that year.

(3) The appropriations shall be used to finance all costs connected with the program. Not to exceed 60% of the maximum expenditure allowed in each fiscal year shall be used for costs related to representation of claimants and not to exceed 40% of the maximum expenditure allowed in each fiscal year shall be used for costs related to representation of employers.

(4) An individual who desires to provide advocacy assistance services shall apply to the commission for approval. The commission shall develop standards for individuals providing advocacy assistance services including standards relating to knowledge of this act and the practices and procedures at the referee and board of review appeal levels. Advocacy assistance services may be provided by individuals other than attorneys. The commission shall develop a schedule for payment of individuals providing advocacy assistance services. Individuals providing advocacy assistance services shall not be active commission or state employees. The only active state or commission employees involved in the program shall be those supervising or coordinating the program but who shall not provide direct advocacy assistance services.

(5) The commission may include in the program standards regarding the provision of advocacy assistance services in precedent setting cases, multclaimant cases, cases without merit, or regarding other cases or factors as determined by the commission.

(6) Individuals who are approved by the commission to provide advocacy assistance services shall contract with the commission that the payments made pursuant to the schedule established by the commission shall be payment in full for all services rendered and expenses incurred and that the claimant or employer who has received the benefit of the services shall not be billed for or be liable for the cost of the services or representation provided. An individual approved by the commission to provide advocacy assistance services shall only receive the fee approved by the commission for these services and shall not receive any other fee for these services from the claimant or the employer.

(7) If either a claimant or an employer receives advocacy assistance services beyond an initial consultation, the other party in the case shall be immediately notified of that fact. The commission shall include in the program provisions to determine the method and the timeliness by which immediate notice shall be provided to the other party. The commission shall not approve the same individual to provide advocacy assistance services for both claimants and employers. The commission shall clearly designate each individual approved to provide services pursuant to this section as representing either claimants or employers. An individual approved by the commission to provide advocacy assistance services shall not be entitled to payment under this section for representing his or her own personal interests. No active state employee shall represent a claimant or an employer under this program at the referee or board of review appeal levels. However, this subsection shall not be construed to prevent an employee of the commission from participating in a case in which the commission is an interested party or if the employee is representing the commission's interest when acting as an administrator for a federal program as required by federal law.

(8) The commission shall make an annual report to the legislature on the operation of the advocacy assistance program. The first report under this subsection shall be due within 60 days after the first anniversary date of the beginning of the program. Each report under this subsection shall include, but not be limited to, the following for the previous 12-month period:

- (a) Number and type of claimants served.
- (b) Number and type of employers served.
- (c) Costs to the program of the claimants served.
- (d) Costs to the program of the employers served.
- (e) An analysis of the impact of the services provided on the appeal system provided by this act.

(9) The advocacy assistance program shall not commence until the payments to employers for excess solvency taxes paid, as authorized by section 10(7), commence.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

- (a) Senate Bill No. 68.
- (b) Senate Bill No. 466.

- (c) Senate Bill No. 640.
- (d) Senate Bill No. 641.
- (e) Senate Bill No. 644.
- (f) Senate Bill No. 645.
- (g) Senate Bill No. 646.
- (h) House Bill No. 4815.
- (i) House Bill No. 5222.
- (j) House Bill No. 5224.
- (k) House Bill No. 5226.
- (l) House Bill No. 5227.
- (m) House Bill No. 5229.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.