

HOUSE BILL No. 4786

May 10, 1989, Introduced by Rep. Watkins and referred to the Committee on Labor.

A bill to amend section 11 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 197 of the Public Acts of 1985, being section 421.11 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 11 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 197 of the
3 Public Acts of 1985, being section 421.11 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 11. (a) In the administration of this act, the commis-
6 sion shall cooperate with the appropriate agency of the United
7 States under the social security act. The commission shall make
8 reports, in a form and containing information as the appropriate
9 agency of the United States may from time to time require, and

1 shall comply with such provisions as the appropriate agency of
2 the United States may from time to time prescribe to assure the
3 correctness and verification of the reports. The commission,
4 subject to this act, shall comply with the regulations prescribed
5 by the appropriate agency of the United States relating to the
6 receipt or expenditure of such sums as may be allotted and paid
7 to this state for the purpose of assisting in the administration
8 of this act. As used in this section, "social security act"
9 means the social security act, chapter 531, 49 Stat. 620.

10 (b) (1) Information obtained from any employing unit or
11 individual pursuant to the administration of this act, and deter-
12 minations as to the benefit rights of any individual shall be
13 held confidential and shall not be disclosed or open to public
14 inspection other than to public employees in the performance of
15 their official duties pursuant to this act in any manner reveal-
16 ing the individual's or the employing unit's identity. However,
17 any information in the commission's possession that may affect a
18 claim for benefits or a charge to an employer's rating account
19 shall be available to interested parties. Except as provided in
20 this act, such information and determinations shall not be used
21 in any action or proceeding before any court or administrative
22 tribunal unless the commission is a party to or a complainant in
23 the action or proceeding, or unless used for the prosecution of
24 fraud, civil proceeding, or other legal proceeding pursuant to
25 subdivision (2). Any report or statement, written or verbal,
26 made by any person to the commission, any member of the
27 commission, or to any person engaged in administering this law

1 shall be a privileged communication, and a person, firm, or
2 corporation shall not be held liable for slander or libel on
3 account of a report or statement. Such records and reports in
4 the custody of the commission shall be available for examination
5 by the employer or employee affected.

6 Subject to restrictions as the commission may by rule pre-
7 scribe, such information may be made available to any agency of
8 this or any other state, or any federal agency, charged with the
9 administration of an unemployment compensation law or the mainte-
10 nance of a system of public employment offices; the bureau of
11 internal revenue of the United States department of the treasury;
12 or the social security administration of the United States
13 department of health and human services. Information obtained in
14 connection with the administration of the employment service may
15 be made available to persons or agencies for purposes appropriate
16 to the operation of a public employment service. Subject to such
17 restrictions as the commission may by rule prescribe, the commis-
18 sion may also make such information available to agencies of
19 other states which are responsible for the administration of
20 public assistance to unemployed workers, and to the departments
21 of this state. Information so released shall be used only for
22 purposes not inconsistent with the purposes of this act. THE
23 COMMISSION MAY MAKE AVAILABLE TO THE DEPARTMENT OF TREASURY
24 INFORMATION COLLECTED FOR THE INCOME ELIGIBILITY AND VERIFICATION
25 SYSTEM BEGUN ON OCTOBER 1, 1988 FOR THE PURPOSE OF DETECTION OF
26 POTENTIAL TAX FRAUD IN OTHER AREAS.

1 Upon request, the commission shall furnish to any agency of
2 the United States charged with the administration of public works
3 or assistance through public employment, and may furnish to any
4 state agency similarly charged, the name, address, ordinary occu-
5 pation, and employment status of each recipient of benefits and
6 the recipient's rights to further benefits under this act.

7 Subject to restrictions as the commission may prescribe, by
8 rule or otherwise, the commission may also make such information
9 available to colleges, universities, and public agencies of this
10 state for use in connection with research projects of a public
11 service nature. A person associated with such institutions or
12 agencies shall not disclose the information in any manner which
13 would reveal the identity of any individual or employing unit
14 from or concerning whom the information was obtained by the
15 commission.

16 The commission may request the comptroller of the currency
17 of the United States to cause an examination of the correctness
18 of any return or report of any national banking association
19 rendered pursuant to this act, and may, in connection with the
20 request, transmit the report or return to the comptroller of the
21 currency of the United States as provided in section 3305(c) of
22 the internal revenue code.

23 (2) The commission shall disclose to qualified requesting
24 agencies, upon request, with respect to an identified individual,
25 information in its records pertaining to the individual's name;
26 social security number; gross wages paid during each quarter; the
27 name, address, and federal and state employer identification

1 number of the individual's employer; any other wage information;
2 whether an individual is receiving, has received, or has applied
3 for unemployment benefits; the amount of unemployment benefits
4 the individual is receiving or is entitled to receive; the
5 individual's current or most recent home address; whether the
6 individual has refused an offer of work and if so a description
7 of the job offered including the terms, conditions, and rate of
8 pay; and any other information which the qualified requesting
9 agency considers useful in verifying eligibility for, and the
10 amount of, benefits. For purposes of this subdivision,
11 "qualified requesting agency" means any state or local child sup-
12 port enforcement agency responsible for enforcing child support
13 obligations under a plan approved under part d of Title IV of the
14 social security act, 42 U.S.C. 651 to 667; the United States
15 department of health and human services for purposes of estab-
16 lishing or verifying eligibility or benefit amounts under Titles
17 II and XVI of the social security act, 42 U.S.C. 401 to 433 and
18 42 U.S.C. 1381 to 1383c; the United States department of agricul-
19 ture for the purposes of determining eligibility for, and amount
20 of, benefits under the food stamp program established under the
21 food stamp act of 1977, U.S.C. 2011 to 2027; and any other state
22 or local agency of this or any other state responsible for admin-
23 istering the following programs:

24 (i) The aid to families with dependent children program
25 under part a of Title IV of the social security act, 42
26 U.S.C. 601 to 615.

1 (ii) The medicaid program under Title XIX of the social
2 security act, 42 U.S.C. 1396 to 1396q.

3 (iii) The unemployment compensation program under section
4 3304 of the internal revenue code of 1954, 26 U.S.C. 3304.

5 (iv) The food stamp program under the food stamp act of
6 1977, 7 U.S.C. 2011 to 2029.

7 (v) Any state program under a plan approved under Title I,
8 X, XIV, or XVI of the social security act, 42 U.S.C. 301 to 306,
9 42 U.S.C. 1201 to 1206, 42 U.S.C. 1351 to 1355, and 42
10 U.S.C. 1381 to 1383c.

11 (vi) Any program administered under the social welfare act,
12 Act No. 280 of the Public Acts of 1939, being sections 400.1 to
13 400.121 of the Michigan Compiled Laws.

14 The information shall be disclosed only if the qualified
15 requesting agency has executed an agreement with the commission
16 to obtain such information and if the information is requested
17 for the purpose of determining the eligibility of applicants for
18 benefits, or the type and amount of benefits for which applicants
19 are eligible, under any of the programs listed above or under
20 Titles II and XVI of the social security act; for establishing
21 and collecting child support obligations from, and locating indi-
22 viduals owing such obligations which are being enforced pursuant
23 to a plan described in section 454 of the social security act, 42
24 U.S.C. 654; or for investigating or prosecuting alleged fraud
25 under any of these programs.

26 The commission shall cooperate with the department of social
27 services in establishing the computer data matching system

1 authorized in section 83 of Act No. 280 of the Public Acts of
2 1939, being section 400.83 of the Michigan Compiled Laws, to
3 transmit the information requested on at least a quarterly
4 basis. The information shall not be released unless the quali-
5 fied requesting agency agrees to reimburse the commission for the
6 costs incurred in furnishing the information.

7 In addition to the requirements of this section, except as
8 later provided in this subdivision, all other requirements with
9 respect to confidentiality of information obtained in the admin-
10 istration of this act shall apply to the use of the information
11 by the officers and employees of the qualified requesting agen-
12 cies, and the sanctions imposed under this act for improper dis-
13 closure of the information shall be applicable to such officers
14 and employees. A qualified requesting agency may redisclose
15 information only to the following individuals or agencies: (1)
16 the individual who is the subject of the information, (2) an
17 attorney or other duly authorized agent representing the individ-
18 ual if the information is needed in connection with a claim for
19 benefits against the requesting agency, or (3) any criminal or
20 civil prosecuting authorities acting for or on behalf of the
21 requesting agency.

22 The commission is authorized to enter into an agreement with
23 any qualified requesting agency for the purposes described in
24 this subdivision. Such agreement or agreements must comply with
25 all federal laws and regulations applicable to such agreements.

26 (3) THE COMMISSION SHALL DISCLOSE TO THE UNITED STATES
27 DEPARTMENT OF HEALTH AND HUMAN SERVICES ANY WAGE AND UNEMPLOYMENT

1 BENEFIT CLAIMS INFORMATION, INCLUDING ANY INFORMATION THAT MIGHT
2 BE USEFUL IN LOCATING AN ABSENT PARENT OR AN ABSENT PARENT'S
3 EMPLOYER, FOR PURPOSES OF SECTION 453 OF THE SOCIAL SECURITY ACT,
4 42 U.S.C. 653, IN CARRYING OUT THE CHILD SUPPORT ENFORCEMENT PRO-
5 GRAM UNDER TITLE IV. THE INFORMATION SHALL NOT BE RELEASED
6 UNLESS THE REQUESTING AGENCY AGREES TO REIMBURSE THE COMMISSION
7 FOR THE COSTS INCURRED IN FURNISHING THE INFORMATION.

8 (4) UPON REQUEST ACCOMPANIED BY PRESENTATION OF A CONSENT TO
9 THE RELEASE OF INFORMATION SIGNED BY A CLAIMANT, THE COMMISSION
10 SHALL DISCLOSE TO THE UNITED STATES DEPARTMENT OF HOUSING AND
11 URBAN DEVELOPMENT AND ANY STATE OR LOCAL PUBLIC HOUSING AGENCY
12 RESPONSIBLE FOR VERIFYING AN APPLICANT'S OR PARTICIPANT'S ELIGI-
13 BILITY FOR, OR LEVEL OF BENEFITS IN, ANY HOUSING ASSISTANCE PRO-
14 GRAM ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
15 URBAN DEVELOPMENT, THE NAME, ADDRESS, WAGE INFORMATION, WHETHER
16 AN INDIVIDUAL IS RECEIVING, HAS RECEIVED, OR HAS MADE APPLICATION
17 FOR UNEMPLOYMENT BENEFITS, AND THE AMOUNT OF UNEMPLOYMENT BENE-
18 FITS THE INDIVIDUAL IS RECEIVING OR IS ENTITLED TO RECEIVE UNDER
19 THIS ACT. THIS INFORMATION SHALL BE USED ONLY TO DETERMINE AN
20 INDIVIDUAL'S ELIGIBILITY FOR BENEFITS OR THE AMOUNT OF BENEFITS
21 TO WHICH AN INDIVIDUAL IS ENTITLED UNDER A HOUSING ASSISTANCE
22 PROGRAM OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
23 DEVELOPMENT. THE INFORMATION SHALL NOT BE RELEASED UNLESS THE
24 REQUESTING AGENCY AGREES TO REIMBURSE THE COMMISSION FOR THE
25 COSTS INCURRED IN FURNISHING THE INFORMATION. FOR PURPOSES OF
26 THIS SUBSECTION, "PUBLIC HOUSING AGENCY" MEANS AN AGENCY

1 DESCRIBED IN SECTION 3(B)(6) OF THE UNITED STATES HOUSING ACT OF
2 1937, 42 U.S.C. 1437a.

3 (c) The commission is authorized to enter into agreements
4 with the appropriate agencies of other states or the federal gov-
5 ernment whereby potential rights to benefits accumulated under
6 the unemployment compensation laws of other states or such a law
7 of the federal government, or both, may constitute the basis for
8 the payment of benefits through a single appropriate agency under
9 plans which the commission finds will be fair and reasonable as
10 to all affected interests and will not result in substantial loss
11 to the unemployment compensation fund.

12 (d) (1) The commission is authorized to enter into recipro-
13 cal agreements with the appropriate agencies of other states or
14 of the federal government adjusting the collection and payment of
15 contributions by employers with respect to employment not local-
16 ized within this state.

17 (2) The commission is authorized to enter into reciprocal
18 agreements with agencies of other states administering unemploy-
19 ment compensation, whereby contributions paid by an employer to
20 any other state may be received by the other state as an agent
21 acting for and on behalf of this state to the same extent as if
22 the contributions had been paid directly to this state if the
23 payment is remitted to this state. Contributions so received by
24 another state shall be deemed contributions, required and paid
25 under this act as of the date the contributions were received by
26 the other state. The commission may collect contributions in a
27 like manner for agencies of other states administering

1 unemployment compensation and remit the contributions to the
2 agencies under the terms of the reciprocal agreements.

3 (e) The commission may make the state's records relating to
4 the administration of this act available and may furnish to the
5 railroad retirement board or any other state or federal agency
6 administering an unemployment compensation law, at the expense of
7 that board, state, or agency, copies of the records as the rail-
8 road retirement board deems necessary for its purpose.

9 (f) The commission may cooperate with or enter into agree-
10 ments with any agency of another state or of the United States
11 charged with the administration of any unemployment insurance or
12 public employment service law.

13 The commission is authorized to make investigations, secure
14 and transmit information, make available services and facilities,
15 and exercise other powers provided in this act with respect to
16 the administration of this act as it deems necessary or appropri-
17 ate to facilitate the administration of any unemployment compen-
18 sation or public employment service law, and in like manner, to
19 accept and utilize information, services, and facilities made
20 available to this state by the agency charged with the adminis-
21 tration of any other unemployment compensation or public employ-
22 ment service law.

23 On request of an agency which administers an employment
24 security law of another state or foreign government and which has
25 found, in accordance with that law, that a claimant is liable to
26 repay benefits received under that law, the commission may

1 collect the amount of the benefits from the claimant to be
2 refunded to the agency.

3 In any case in which under this subsection a claimant is
4 liable to repay any amount to the agency of another state or for-
5 eign government, the amount may be collected by civil action in
6 the name of the commission acting as agent for the agency. Court.
7 costs shall be paid or guaranteed by the agency.

8 To the extent permissible under the laws and constitution of
9 the United States, the commission is authorized to enter into or
10 cooperate in arrangements whereby facilities and services pro-
11 vided under this act and facilities and services provided under
12 the unemployment compensation law of the Dominion of Canada may
13 be utilized for the taking of claims and the payment of benefits
14 under the unemployment compensation law of this state or under a
15 similar law of the Dominion of Canada.

16 Any employer who is not a resident of this state and who
17 exercises the privilege of having 1 or more individuals perform
18 service for him or her within this state, and any resident
19 employer who exercises that privilege and thereafter leaves this
20 state, shall be deemed thereby to appoint the secretary of state
21 as his or her agent and attorney for the acceptance of process in
22 any civil action under this act. In instituting such an action
23 against any employer, the commission shall cause such process or
24 notice to be filed with the secretary of state, and such service
25 shall be sufficient and shall be of the same force and validity
26 as if served upon the employer personally within this state. The
27 commission immediately shall send notice of the service of

1 process or notice, together with a copy thereof, by registered
2 mail, return receipt requested, to the employer at his or her
3 last known address. The return receipt, the commission's affida-
4 vit of compliance with this section, and a copy of the notice of
5 service shall be attached to the original of the process filed in
6 the court in which the civil action is pending.

7 The courts of this state shall recognize and enforce liabil-
8 ities, as provided in this act, for unemployment compensation
9 contributions, penalties, and interest imposed by other states
10 which extend a like comity to this state.

11 The attorney general is empowered to commence action in the
12 appropriate court of any other state or any other jurisdiction of
13 the United States by and in the name of the commission to collect
14 unemployment compensation contributions, penalties, and interest
15 finally determined, redetermined, or decided under this act to be
16 legally due this state. The officials of other states which
17 extend a like comity to this state are empowered to sue in the
18 courts of this state for the collection of unemployment compensa-
19 tion contributions, penalties, and interest, the liability for
20 which has been similarly established under the laws of the other
21 state or jurisdiction. A certificate by the secretary of another
22 state under the great seal of that state attesting the authority
23 of the official or officials to collect unemployment compensation
24 contributions, penalties, and interest shall be conclusive evi-
25 dence of that authority.

26 The attorney general is authorized to commence action in
27 this state as agent for or on behalf of any other state to

1 enforce judgments and established liabilities for unemployment
2 compensation taxes or contributions, penalties, and interest due
3 the other state if the other state extends a like comity to this
4 state.

5 (g) The commission is also authorized to enter into recipro-
6 cal agreements with the appropriate and authorized agencies of
7 other states or of the federal government (1) whereby remunera-
8 tion and services, upon the basis of which an individual may
9 become entitled to benefits under the unemployment compensation
10 law of another state or of the federal government, shall be
11 deemed to be wages and employment for the purposes of sections 27
12 and 46, if the other state agency or agency of the federal gov-
13 ernment has agreed to reimburse the fund for that portion of ben-
14 efits paid under this act upon the basis of the remuneration and
15 services as the commission finds will be fair and reasonable as
16 to all affected interests, and wages and employment, on the basis
17 of which an individual may become entitled to benefits under this
18 act, shall be deemed to be wages or services on the basis of
19 which unemployment compensation under the law of another state or
20 of the federal government is payable, and (2) whereby services
21 performed by an individual for a single employing unit for which
22 services are customarily performed by the individual in more than
23 1 state shall be deemed to be services performed entirely within
24 any 1 of the states (a) in which any part of the individual's
25 service is performed, (b) in which the individual has his or her
26 residence, or (c) in which the employing unit maintains a place
27 of business, provided there is, in effect as to such services, an

1 election approved by the agency charged with the administration
2 of the state's unemployment compensation law, pursuant to which
3 all the services performed by the individual for the employing
4 unit are deemed to be performed entirely within the state, and
5 (3) whereby the commission will reimburse other state or federal
6 agencies charged with the administration of unemployment compen-
7 sation laws with such reasonable portion of benefits, paid under
8 the law of any other state or of the federal government upon the
9 basis of employment and wages, as the commission finds will be
10 fair and reasonable as to all affected interests. Reimbursements
11 so payable shall be deemed to be benefits for the purpose of lim-
12 iting duration of benefits and for the purposes of sections 20a
13 and 26, and the payments shall be charged to the contributing
14 employer's rating account for the purposes of sections 17, 18,
15 19, and 20, or the reimbursing employer's account under section
16 13c or 13g, as applicable. Benefits paid under a combined wage
17 plan shall be allocated and charged to each employer involved in
18 the quarter in which the paying state requires reimbursement.
19 Benefits charged to this state shall be allocated to each
20 employer of this state who has employed the claimant during the
21 base period of the paying state in the same ratio that the wages
22 earned by the claimant during the base period of the paying state
23 in the employ of the employer bears to the total amount of wages
24 earned by the claimant in the base period of the paying state in
25 the employ of all employers of the state. The commission is
26 authorized to make to other state or federal agencies and receive
27 from other state or federal agencies reimbursements from or to

1 the fund, in accordance with arrangements made pursuant to this
2 section.

3 (h) The commission is authorized and directed to enter into
4 any agreement necessary in order that it may cooperate with any
5 agency of the United States charged with the administration of
6 any program for the payment of primary or supplemental benefits
7 to individuals recently discharged from the military services of
8 the United States, and to assist in the establishing of eligibil-
9 ity and in the payments of benefits thereunder, and for those
10 purposes may accept and administer funds made available by the
11 federal government and may accept and exercise any delegated
12 function as may be provided thereunder. The commission shall not
13 have power to enter into any agreement providing for, or exercise
14 any function connected with, the disbursement of the state's
15 unemployment trust fund for purposes not authorized by this act.

16 (i) The commission may enter into agreements with the appro-
17 priate agency of the United States whereby, in accordance with
18 the laws of the United States, the commission, as agent of the
19 United States, or from funds provided by the United States, shall
20 provide for the payment of unemployment compensation or unemploy-
21 ment allowances of any kind, including the payment of any bene-
22 fits and allowances that are made available for manpower develop-
23 ment, training, retraining, readjustment, and relocation. The
24 commission may receive and disburse funds from the United States
25 or any appropriate agency of the United States in accordance with
26 any such agreements.

1 If the federal enactment providing for unemployment
2 compensation, training allowance, or relocation payments requires
3 joint federal-state financing of such payments, the commission
4 may participate in the programs by using funds appropriated by
5 the legislature to the extent provided by the legislature for
6 such programs.

7 (j) The commission shall participate in any arrangement
8 which provides for the payment of compensation on the basis of
9 combining an individual's wages and employment covered under this
10 act with his or her wages and employment covered under the unem-
11 ployment compensation laws of other states, if the arrangement is
12 approved by the United States secretary of labor in consultation
13 with the state unemployment compensation agencies as reasonably
14 calculated to assure the prompt and full payment of
15 compensation. An arrangement shall include provisions for both
16 of the following:

17 (i) Applying the base period of a single state law to a
18 claim involving the combining of an individual's wages and
19 employment covered under 2 or more state unemployment compensa-
20 tion laws.

21 (ii) Avoiding the duplicate use of wages and employment as a
22 result of the combining.

23 (k) In a proceeding before any court, the commission and the
24 state shall be represented by the attorney general of this state
25 or attorneys designated by the attorney general. Only the attor-
26 ney general or other attorneys designated by the attorney general
27 shall act as legal counsel for the commission.