

# HOUSE BILL No. 5223

October 24, 1989, Introduced by Reps. Watkins, Varga, Perry Bullard, Martin, Emerson, Sikkema, Ciaramitaro, Muxlow, Ouwinga, Banks, DeLange, Hoekman, Giese, London, Hertel, Miller, DeBeaussiaert, Niederstadt, DeMars, Jonker, Berman and Jaye and referred to the Committee on Labor.

A bill to amend Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security 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:

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

5       SEC. 5A. (1) THE COMMISSION SHALL DEVELOP AND IMPLEMENT A  
6 PROGRAM TO PROVIDE, UPON REQUEST, CLAIMANT AND EMPLOYER ADVOCACY  
7 ASSISTANCE. THE PURPOSE OF THE PROGRAM SHALL BE TO PROVIDE  
8 INFORMATION, CONSULTATION, AND REPRESENTATION TO CLAIMANTS AND  
9 EMPLOYERS RELATING TO THE REFEREE OR BOARD OF REVIEW APPEAL

1 LEVELS, OR BOTH. THE PROGRAM, AND ITS METHOD OF IMPLEMENTATION,  
2 SHALL BE DEVELOPED AND APPROVED BY AN AFFIRMATIVE MAJORITY VOTE  
3 OF THE MEMBERS OF THE COMMISSION WITHIN 6 MONTHS AFTER THE EFFEC-  
4 TIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

5 (2) THE PROGRAM SHALL BE FUNDED FROM THE CONTINGENT FUND  
6 FROM INTEREST ON CONTRIBUTIONS AS WELL AS PENALTIES AND DAMAGES  
7 COLLECTED UNDER THIS ACT. FOR THE FISCAL YEAR ENDING  
8 SEPTEMBER 30, 1990, \$5,000,000.00 SHALL BE APPROPRIATED FOR THE  
9 PROGRAM, OF WHICH NOT MORE THAN \$500,000.00 SHALL BE EXPENDED.  
10 FOR EACH OF THE SUBSEQUENT 3 FISCAL YEARS, THE MAXIMUM AMOUNT OF  
11 EXPENDITURE FOR THE PROGRAM SHALL NOT EXCEED \$1,500,000.00 PER  
12 YEAR. THE APPROPRIATION DESCRIBED IN THIS SUBSECTION SHALL BE  
13 CONSIDERED A WORK PROJECT AND SHALL NOT LAPSE AT THE END OF THE  
14 FISCAL YEAR BUT SHALL CONTINUE TO BE AVAILABLE FOR EXPENDITURE  
15 UNTIL THE PROJECT IS COMPLETED. THREE YEARS AFTER THE DATE A  
16 CLAIMANT OR EMPLOYER FIRST RECEIVES ADVOCACY ASSISTANCE SERVICES,  
17 THE CONTINUATION OF THE PROGRAM SHALL REQUIRE AN AFFIRMATIVE VOTE  
18 BY A MAJORITY OF THE MEMBERS OF THE COMMISSION EACH YEAR TO CON-  
19 TINUE THE PROGRAM FOR THAT YEAR. THE APPROPRIATIONS SHALL BE  
20 USED TO FINANCE ALL COSTS CONNECTED WITH THE PROGRAM. NOT TO  
21 EXCEED 60% OF THE APPROPRIATIONS SHALL BE USED FOR COSTS RELATED  
22 TO REPRESENTATION OF CLAIMANTS AND NOT TO EXCEED 40% OF THE  
23 APPROPRIATIONS SHALL BE USED FOR COSTS RELATED TO REPRESENTATION  
24 OF EMPLOYERS.

25 (3) AN INDIVIDUAL WHO DESIRES TO PROVIDE ADVOCACY ASSISTANCE  
26 SERVICES SHALL APPLY TO THE COMMISSION FOR APPROVAL. THE  
27 COMMISSION SHALL DEVELOP STANDARDS FOR INDIVIDUALS PROVIDING

1 ADVOCACY ASSISTANCE SERVICES INCLUDING STANDARDS RELATING TO  
2 KNOWLEDGE OF THIS ACT AND THE PRACTICES AND PROCEDURES AT THE  
3 REFEREE AND BOARD OF REVIEW APPEAL LEVELS. ADVOCACY ASSISTANCE  
4 SERVICES MAY BE PROVIDED BY INDIVIDUALS OTHER THAN ATTORNEYS.  
5 THE COMMISSION SHALL DEVELOP A SCHEDULE FOR PAYMENT OF INDIVIDU-  
6 ALS PROVIDING ADVOCACY ASSISTANCE SERVICES. INDIVIDUALS PROVID-  
7 ING ADVOCACY ASSISTANCE SERVICES SHALL NOT BE ACTIVE COMMISSION  
8 OR STATE EMPLOYEES. THE ONLY ACTIVE STATE OR COMMISSION EMPLOY-  
9 EES INVOLVED IN THE PROGRAM SHALL BE THOSE SUPERVISING OR COORDI-  
10 NATING THE PROGRAM BUT WHO SHALL NOT PROVIDE DIRECT ADVOCACY  
11 ASSISTANCE SERVICES.

12 (4) THE COMMISSION MAY INCLUDE IN THE PROGRAM STANDARDS  
13 REGARDING THE PROVISION OF ADVOCACY ASSISTANCE SERVICES IN PRECE-  
14 DENT SETTING CASES, MULTICLAIMANT CASES, CASES WITHOUT MERIT, OR  
15 OTHER CASES OR FACTORS AS DETERMINED BY THE COMMISSION.

16 (5) INDIVIDUALS WHO ARE APPROVED BY THE COMMISSION TO PRO-  
17 VIDE ADVOCACY ASSISTANCE SERVICES SHALL CONTRACT WITH THE COMMIS-  
18 SION THAT THE PAYMENTS MADE PURSUANT TO THE SCHEDULE ESTABLISHED  
19 BY THE COMMISSION SHALL BE PAYMENT IN FULL FOR ALL SERVICES  
20 RENDERED AND EXPENSES INCURRED AND THAT THE CLAIMANT OR EMPLOYER  
21 WHO HAS RECEIVED THE BENEFIT OF THE SERVICES SHALL NOT BE BILLED  
22 FOR OR BE LIABLE FOR THE COST OF THE SERVICES OR REPRESENTATION  
23 PROVIDED. AN INDIVIDUAL APPROVED BY THE COMMISSION TO PROVIDE  
24 ADVOCACY ASSISTANCE SERVICES SHALL ONLY RECEIVE THE FEE APPROVED  
25 BY THE COMMISSION FOR THESE SERVICES AND SHALL NOT RECEIVE ANY  
26 OTHER FEE FOR THESE SERVICES FROM THE CLAIMANT OR THE EMPLOYER.

1       (6) IF EITHER A CLAIMANT OR AN EMPLOYER RECEIVES ADVOCACY  
2 ASSISTANCE SERVICES BEYOND AN INITIAL CONSULTATION, THE OTHER  
3 PARTY IN THE CASE SHALL BE IMMEDIATELY NOTIFIED OF THAT FACT.  
4 THE COMMISSION SHALL INCLUDE IN THE PROGRAM PROVISIONS TO DETER-  
5 MINE THE METHOD AND THE TIMELINESS BY WHICH IMMEDIATE NOTICE  
6 SHALL BE PROVIDED TO THE OTHER PARTY. THE COMMISSION SHALL NOT  
7 APPROVE THE SAME INDIVIDUAL TO PROVIDE ADVOCACY ASSISTANCE SERV-  
8 ICES FOR BOTH CLAIMANTS AND EMPLOYERS. THE COMMISSION SHALL  
9 CLEARLY DESIGNATE EACH INDIVIDUAL APPROVED TO PROVIDE SERVICES  
10 PURSUANT TO THIS SECTION AS REPRESENTING EITHER CLAIMANTS OR  
11 EMPLOYERS. AN INDIVIDUAL APPROVED BY THE COMMISSION TO PROVIDE  
12 ADVOCACY ASSISTANCE SERVICES SHALL NOT BE ENTITLED TO PAYMENT  
13 UNDER THIS SECTION FOR REPRESENTING HIS OR HER OWN PERSONAL  
14 INTERESTS. NO ACTIVE STATE EMPLOYEE SHALL REPRESENT A CLAIMANT  
15 OR AN EMPLOYER UNDER THIS PROGRAM AT THE REFEREE OR BOARD OF  
16 REVIEW APPEAL LEVELS. HOWEVER, THIS SUBSECTION SHALL NOT BE CON-  
17 STRUED TO PREVENT AN EMPLOYEE OF THE COMMISSION FROM PARTICIPAT-  
18 ING IN A CASE IN WHICH THE COMMISSION IS AN INTERESTED PARTY OR  
19 IF THE EMPLOYEE IS REPRESENTING THE COMMISSION'S INTEREST WHEN  
20 ACTING AS AN ADMINISTRATOR FOR A FEDERAL PROGRAM AS REQUIRED BY  
21 FEDERAL LAW.

22       (7) THE COMMISSION SHALL MAKE AN ANNUAL REPORT TO THE LEGIS-  
23 LATURE ON THE OPERATION OF THE ADVOCACY ASSISTANCE PROGRAM. THE  
24 FIRST REPORT UNDER THIS SUBSECTION SHALL BE DUE WITHIN 60 DAYS  
25 AFTER THE FIRST ANNIVERSARY DATE OF THE BEGINNING OF THE  
26 PROGRAM. EACH REPORT UNDER THIS SUBSECTION SHALL INCLUDE, BUT

1 NOT BE LIMITED TO, THE FOLLOWING FOR THE PREVIOUS 12-MONTH  
2 PERIOD:

3 (A) NUMBER AND TYPE OF CLAIMANTS SERVED.

4 (B) NUMBER AND TYPE OF EMPLOYERS SERVED.

5 (C) COSTS TO THE PROGRAM OF THE CLAIMANTS SERVED.

6 (D) COSTS TO THE PROGRAM OF THE EMPLOYERS SERVED.

7 (E) AN ANALYSIS OF THE IMPACT OF THE SERVICES PROVIDED ON  
8 THE APPEAL SYSTEM PROVIDED BY THIS ACT.

9 (8) THE ADVOCACY ASSISTANCE PROGRAM SHALL NOT COMMENCE UNTIL  
10 THE PAYMENTS TO EMPLOYERS FOR EXCESS SOLVENCY TAXES PAID AUTHO-  
11 RIZED BY SECTION 10(7) COMMENCE.

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

15 (a) House Bill No. 4815.

16 (b) Senate Bill No. 466.

17 (c) Senate Bill No. 68.

18 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 5224 (request  
19 no. 04204'89\*).

20 (e) Senate Bill No. \_\_\_\_\_ or House Bill No. 5221 (request  
21 no. 04205'89\*).

22 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. 5228 (request  
23 no. 04206'89\*).

24 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. 5222 (request  
25 no. 04207'89\*).

26 (h) Senate Bill No. \_\_\_\_\_ or House Bill No. 5229 (request  
27 no. 04208'89\*).

- 1 (i) Senate Bill No. \_\_\_\_\_ or House Bill No. 5226 (request  
2 no. 04209'89\*)<sup>\*</sup>.
- 3 (j) Senate Bill No. \_\_\_\_\_ or House Bill No. 5230 (request  
4 no. 04210'89\*).
- 5 (k) Senate Bill No. \_\_\_\_\_ or House Bill No. 5225 (request  
6 no. 04211'89\*)<sup>\*</sup>.
- 7 (l) Senate Bill No. \_\_\_\_\_ or House Bill No. 5231 (request  
8 no. 04212'89\*)<sup>\*</sup><sup>\*</sup>.
- 9 (m) Senate Bill No. \_\_\_\_\_ or House Bill No. 5227 (request  
10 no. 04216'89\*).