

HOUSE BILL No. 4195

February 15, 1989, Introduced by Reps. Stacey, Middaugh, DeLange, DeMars, Jaye, Gnodtke, Miller, Willis Bullard, Nye, Runco, Crandall and Sparks and referred to the Committee on Labor.

A bill to amend section 10 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. 247 of the Public Acts of 1983, being section 421.10 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 10 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 247 of the
3 Public Acts of 1983, being section 421.10 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 10. (1) There is hereby created in the state treasury
6 a special fund to be known and designated as the administration
7 fund (Michigan employment security act). Any balances in this
8 fund at the end of any fiscal year of the state shall be carried
9 over as a part of the fund and shall not revert to the general

1 fund of the state. Except as otherwise provided in subsection
2 (3), all money deposited into the administration fund under the
3 provisions of this act ~~are hereby~~ SHALL BE appropriated BY THE
4 LEGISLATURE to the commission to pay the expenses of the adminis-
5 tration of this act.

6 (2) The administration fund shall be credited with all money
7 appropriated to the fund by the legislature, all money received
8 from the United States of America or any agency thereof for such
9 purpose, and all money received by the state for the fund. All
10 money in this fund which is received from the federal government
11 or any agency thereof or which is appropriated by this state for
12 the purposes of this act, except money requisitioned from the
13 account of this state in the unemployment trust fund pursuant to
14 a specific appropriation made by the legislature in accordance
15 with section 903(c)(2) of the federal social security act, as
16 amended, 42 U.S.C. 1103, and with section 17(f) of this act,
17 shall be expended solely for the purposes and in the amounts
18 found necessary by the appropriate agency of the United States of
19 America AND THE LEGISLATURE for the proper and efficient adminis-
20 tration of this act.

21 (3) All money requisitioned from the account of this state
22 in the unemployment trust fund pursuant to a specific appropria-
23 tion made by the legislature in accordance with section 903(c)(2)
24 of the federal social security act, as amended, 42 U.S.C. 1103,
25 and with section 17(f) of this act, shall be deposited in the
26 administration fund. Any such money which remains unexpended at
27 the close of the 2-year period beginning on the date of enactment

1 of a specific appropriation shall be immediately redeposited with
2 the secretary of the treasury of the United States of America to
3 the credit of this state's account in the unemployment trust
4 fund; or any such money which for any reason cannot be expended
5 or is not to be expended for the purpose for which appropriated
6 before the close of this 2-year period shall be so redeposited at
7 the earliest practicable date.

8 (4) If any money received after June 30, 1941, from the
9 appropriate agency of the United States of America under title 3
10 of the social security act, 42 U.S.C. 501 to 504, or any unencum-
11 bered balances in the administration fund (Michigan employment
12 security act) as of that date, or any money granted after that
13 date to this state pursuant to the Wagner-Peyser act, or any
14 money made available by this state or its political subdivisions
15 and matched by money granted to this state pursuant to the
16 Wagner-Peyser act, is found by the appropriate agency of the
17 United States, because of any action or contingency, to have been
18 lost or been expended for purposes other than, or in amounts in
19 excess of, those found necessary by such agency of the United
20 States for the proper administration of this act, it is the
21 policy of this state that the money shall be replaced by money
22 appropriated for that purpose from the general funds of this
23 state to the administration fund (Michigan employment security
24 act) for expenditure as provided in this act. Upon receipt of
25 notice of such a finding by the appropriate agency of the United
26 States, the commission shall promptly report the amount required
27 for such replacement to the governor and the governor shall, at

1 the earliest opportunity, submit to the legislature a request for
2 the appropriation of that amount. This subsection shall not be
3 construed to relieve this state of its obligation with respect to
4 funds received prior to July 1, 1941, pursuant to the provisions
5 of title 3 of the social security act, 42 U.S.C. 501 to 504.

6 (5) If any funds expended or disbursed by the commission are
7 so found by the appropriate agency of the United States to have
8 been lost or expended for purposes other than, or in amounts in
9 excess of, those found necessary by such agency of the United
10 States for the proper administration of this act, and if these
11 funds are replaced as aforesaid by money appropriated for such
12 purpose from the general funds of the state, then those members
13 of the commission who voted for or otherwise approved the expen-
14 diture or disbursement of such funds for such purposes or in such
15 amounts, shall be jointly and severally liable to the state in an
16 amount equal to the sum of money appropriated to replace such
17 funds; and the members of the commission shall be required by the
18 governor to post a proper bond in a sum not less than \$25,000.00
19 to cover their liability as prescribed in this section, the cost
20 of the bond to be paid from the general fund of the state of
21 Michigan.

22 (6) There is hereby created in the state treasury a separate
23 fund to be known as the contingent fund (Michigan employment
24 security act) into which shall be deposited all solvency taxes
25 collected under section 19a and all interest on contributions,
26 penalties and damages collected under this act. All amounts in
27 the contingent fund (Michigan employment security act) and all

1 earnings on those amounts are hereby continuously appropriated
2 without regard to fiscal year for the administration of the com-
3 mission, FOR OTHER PURPOSES AS PROVIDED BY SUBSECTION (7), and
4 for the payment of interest on advances from the federal govern-
5 ment to the unemployment compensation fund under section 1201 of
6 the social security act, 42 U.S.C. 1321, to be expended only when
7 authorized by the commission. Money deposited from the solvency
8 taxes collected pursuant to section 19a shall not be used for the
9 administration of the commission, ~~except for the unemployment~~
10 ~~insurance automation project and~~ except for the repayment of
11 loans from the state treasury and interest on such loans made
12 under section 19a(3). However, an authorization or expenditure
13 shall not be made as a substitution for a grant of federal funds
14 or for any portion of such grant or grants, which, in the absence
15 of an authorization, would be available to the commission, and
16 that immediately upon receipt of administrative grants from the
17 appropriate agency of the United States of America to cover
18 administrative costs for which the commission has authorized and
19 made expenditures from the contingent fund, such grants shall be
20 transferred to the contingent fund to the extent necessary to
21 reimburse the contingent fund for the amount of such
22 expenditures. Amounts needed to refund interest, damages, and
23 penalties erroneously collected shall be withdrawn and expended
24 for such a purpose from the contingent fund upon order of the
25 commission. Any amount authorized to be expended for administra-
26 tion pursuant to this section may be transferred to the
27 administration fund. An amount not needed for the purpose for

1 which authorized shall, upon order of the commission, be returned
2 to the contingent fund. ~~If at anytime the commission determines~~
3 ~~that there are more funds in the contingent fund than are neces-~~
4 ~~sary to pay interest obligations for a reasonable future period,~~
5 ~~the commission may transfer all or part of the excess funds to~~
6 ~~the unemployment compensation fund. Amounts transferred shall be~~
7 ~~credited to the experience accounts of employers as provided in~~
8 ~~section 19a(4).~~ Amounts needed to refund erroneously collected
9 solvency taxes shall be withdrawn and expended for that purpose
10 upon order of the commission.

11 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
12 \$28,400,000.00 SHALL BE PAID TO EMPLOYERS LIABLE FOR THE SOLVENCY
13 TAX FOR 1983, 1984, OR 1985, ON A PRO RATA BASIS. THE PAYMENT
14 SHALL BE MADE TO THESE EMPLOYERS BY SEPTEMBER 30, 1989 FROM
15 EXCESS SOLVENCY TAXES AND INTEREST ON CONTRIBUTIONS, PENALTIES,
16 AND DAMAGES COLLECTED UNDER THIS ACT IN THE CONTINGENT FUND. AS
17 USED IN THIS SUBSECTION, "EXCESS SOLVENCY TAXES" MEANS THE BAL-
18 ANCE OF THE SOLVENCY TAXES IN THE CONTINGENT FUND AS OF
19 SEPTEMBER 30, 1987, PLUS PROJECTED 1985 SOLVENCY TAX REVENUES
20 WHICH HAVE BEEN DEFERRED BY EMPLOYERS UNDER SECTION 19A(3), MINUS
21 1984 AND 1985 FEDERAL INTEREST OBLIGATIONS WHICH HAVE BEEN
22 DEFERRED PURSUANT TO SECTION 1202(b)(8) OF THE SOCIAL SECURITY
23 ACT, 42 U.S.C. 1322, AND WHICH ARE PAYABLE THROUGH 1989. IF
24 PAYMENT OF THE \$28,400,000.00 IS NOT MADE BY SEPTEMBER 30, 1989,
25 THE PAYMENT SHALL BE MADE AS SOON AS POSSIBLE THEREAFTER. IF THE
26 AMOUNT AVAILABLE FOR PAYMENT IS LESS THAN THE AMOUNT OWED AS
27 PROVIDED IN THIS SUBSECTION, PAYMENTS SHALL BE CONTINUOUSLY MADE

1 EACH YEAR, WITHIN 6 MONTHS AFTER THE END OF THE FISCAL YEAR,
2 UNTIL AN AMOUNT EQUAL TO THE ENTIRE AMOUNT OWED HAS BEEN PAID.
3 UNTIL THIS ENTIRE AMOUNT HAS BEEN FULLY PAID, THE COMMISSION MAY
4 NOT USE FUNDS IN THE CONTINGENT FUND FOR ANY PURPOSE OTHER THAN
5 THE PAYMENT OF FEDERAL INTEREST OBLIGATIONS AND REFUNDS OF INTER-
6 EST, DAMAGES, AND PENALTIES ERRONEOUSLY COLLECTED UNDER THIS
7 ACT. FOR PURPOSES OF THIS SUBSECTION, THE TOTAL SOLVENCY TAX
8 LIABILITY FOR 1983, 1984, AND 1985 REPORTED BY EMPLOYERS AS OF
9 JANUARY 25, 1986 SHALL PROVIDE THE BASIS FOR PRORATION OF THE
10 PAYMENTS. THE PAYMENT TO EACH EMPLOYER SHALL BE REDUCED BY ANY
11 DELINQUENT SOLVENCY TAXES OWED AND BY ANY PENALTIES AND INTEREST
12 ON SUCH DELINQUENT AMOUNT. THE AMOUNT OF SUCH REDUCTIONS SHALL
13 BE APPLIED TO THE EMPLOYER'S ACCOUNT. THE PAYMENT TO EACH
14 EMPLOYER MAY NOT EXCEED THE AMOUNT ACTUALLY PAID BY THE EMPLOYER
15 FOR 1983, 1984, AND 1985.