

HOUSE BILL No. 4958

June 29, 1989, Introduced by Rep. Hoffman and referred to the Committee on Labor.

A bill to amend sections 11 and 13 of Act No. 390 of the Public Acts of 1978, entitled as amended

"An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts,"

being sections 408.481 and 408.483 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 11 and 13 of Act No. 390 of the Public
2 Acts of 1978, being sections 408.481 and 408.483 of the Michigan
3 Compiled Laws, are amended to read as follows:

4 Sec. 11. (1) An employee who believes that his or her
5 employer has violated this act may file a written complaint with

1 the department within 12 months after the alleged violation. A
2 complaint filed under section 13(2) shall be filed within 30 days
3 after the alleged violation occurs UNLESS THE EMPLOYEE CAN SHOW
4 THAT HE OR SHE RELIED TO HIS OR HER DETRIMENT ON INFORMATION FUR-
5 NISHED BY THE DEPARTMENT RELATIVE TO THE TIME PERIOD FOR FILING A
6 COMPLAINT UNDER THIS SUBSECTION. Bilingual complaint forms shall
7 be provided by the department in those areas where substantial
8 numbers of non-English speaking employees are employed.

9 (2) Within a reasonable time after a complaint is filed the
10 department shall notify the employer and investigate the claim
11 and shall attempt to informally resolve the dispute.

12 (3) If the department is unable to informally resolve the
13 dispute, the department shall notify the employer and employee
14 within 90 days after the complaint is filed. The notification
15 shall include a determination of the merits of the complaint and
16 shall cite the specific violation, if any, wages and fringe bene-
17 fits due, and specific penalties assessed.

18 (4) The employer or employee may request a review of the
19 department's determination within 14 days after notification is
20 issued. If a request for a review by either the employer or
21 employee is not received by the department within 14 days, in the
22 absence of a showing of good cause for a late request, the
23 department's determination is final.

24 (5) For the purpose of an investigation or proceeding under
25 this act, the director of labor or an authorized representative
26 of the director may administer oaths and affirmations, subpoena
27 witnesses, compel their attendance, take evidence, and require

1 the production of records or other documents which the department
2 considers relevant or material to the inquiry.

3 (6) The employee, employer, and the department shall be par-
4 ties to a proceeding before a hearings officer brought pursuant
5 to this section.

6 (7) The director shall appoint hearings officers to make
7 determinations in proceedings brought pursuant to this section.
8 All proceedings in a hearing shall be conducted pursuant to the
9 procedures applicable to the trial of contested cases under THE
10 ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public
11 Acts of 1969, as amended, being sections 24.201 to ~~24.315~~
12 24.328 of the Michigan Compiled Laws. The hearings officer shall
13 affirm, modify, or rescind the order of the department and may
14 assess costs as provided in section 18(3).

15 (8) The hearings officer shall issue a determination which
16 constitutes a final disposition of the proceedings to each party
17 within 30 days after the conclusion of the hearing. The determi-
18 nation of the hearings officer shall become the final agency
19 order upon receipt by the parties.

20 (9) A party to the proceeding may obtain judicial review of
21 the determination of the hearings officer pursuant to Act No.
22 306 of the Public Acts of 1969, as amended. Venue for an appeal
23 under this act shall only be in the circuit where the employee is
24 a resident, where the employment occurred, or where the employer
25 has a principal place of business.

26 Sec. 13. (1) An employer shall not discharge an employee
27 or discriminate against an employee because the employee filed a

1 complaint, instituted or caused to be instituted a proceeding
2 under or regulated by this act, testified or is about to testify
3 in a proceeding, or because of the exercise by the employee on
4 behalf of an employee or others of a right afforded by this act.

5 (2) An employee who believes that he or she is discharged or
6 otherwise discriminated against by an employer in violation of
7 this section may file a complaint with the department alleging
8 the discrimination within 30 days after the violation occurs
9 UNLESS THE EMPLOYEE CAN SHOW THAT HE OR SHE RELIED TO HIS OR HER
10 DETRIMENT ON INFORMATION FURNISHED BY THE DEPARTMENT RELATIVE TO
11 THE TIME PERIOD FOR FILING A COMPLAINT UNDER THIS SUBSECTION.

12 Upon receipt of the complaint, the department shall cause an
13 investigation to be made. If, upon the investigation, the
14 department determines that this section was violated, the depart-
15 ment shall order the rehiring or reinstatement of an employee to
16 his or her former position with back pay.

17 (3) An employer may seek review of the department's determi-
18 nation by following the procedure provided in section 11(4) to
19 (9).