



107TH DISTRICT  
STATE CAPITOL  
P.O. BOX 30014  
LANSING, MI 48909-7514  
PHONE: (517) 373-2629  
FAX: (517) 373-8429  
E-MAIL: frankfooster@house.mi.gov

MICHIGAN HOUSE OF REPRESENTATIVES

**FRANK D. FOSTER**  
STATE REPRESENTATIVE

September 25, 2013

Testimony before the House Commerce Committee  
HB 4958

Thank you Mr. Chairman and members of the committee for the opportunity to talk to you today regarding House Bill 4958, which alters the way that Michigan employees operating under a J-1 or H-2B visa are treated by the Unemployment Insurance Agency.

Specifically, this legislation would mirror both federal FUTA standards and surrounding states such as Wisconsin, Ohio, and Washington by waiving the requirement for employers to pay unemployment insurance taxes on these specific employees.

As we have previously discussed in this committee, the UI Trust Fund is financed 100% by employer contributions to potential unemployment benefits of employees that can conceivably collect them. Each employer's contribution rate is determined largely on the likelihood that the Fund will be obligated to make payments to claimants who used to work for that employer. With that in mind, it's important to explore the circumstances that non-residents present to both employers and the Fund.

As part of both the J-1 and H-2B visa programs, a non-resident alien can only travel to the United States to work if they have been sponsored by an employer, and must maintain their job for the duration of their stay in the United States. At the successful completion of their program, they are granted a 31 day grace period to leave the country – during that time, however, they are forbidden from securing other employment, obviously in violation of the “suitable for work” standard required to receive UI benefits in Michigan.

If they are in any way terminated or leave their employment early, they are required to immediately leave the country, which has practically translated in to 3-5 days. Again, the “suitable for work” standard is not met. In discussions with UIA, they are unable to determine a single case where a J-1 or H-2B worker has collected unemployment benefits in Michigan, nor can we determine a practical situation when such a benefit payment would take place.

Despite the inability of these employees to collect UI benefits, Michigan remains unique in our region by continuing to require employers to pay unemployment insurance tax. If the purpose of the payments is to maintain solvency of the UI trust fund based on an aggregate estimated demand, and there is no potential for these employees to ever collect from the fund, it is nonsensical to require UI tax payments to be made for these employees by our local businesses.

Passage of this legislation will have a minimal impact on the UIA trust fund. In a fund that has a revenue fluctuation of hundreds of millions of dollars per year – revenues in 2012 were over \$1.6 billion - we are discussing a loss of revenue in the realm of approximately \$1-3 million per year, or less than 0.2%. At the same time, we are helping small local businesses, many of which rely on seasonal income and very small profit margins, maintain a healthy business and provide quality service to their customers.

As Michigan competes at a national level for jobs, businesses, and the emerging 21<sup>st</sup> century economy, we must continue to identify and eliminate the bureaucratic red tape that makes us unique among our peers. This is one more step to make Michigan a competitive and attractive place to do business, and I appreciate your support of this legislation. I look forward to answering any questions the committee might have.

Regards,

A handwritten signature in black ink, appearing to read 'Frank D. Foster', is written over a faint, light-colored signature line.

Frank D. Foster  
State Representative