



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**UNEMPLOYMENT INSURANCE
AMENDMENTS**

**House Bill 4745 as enrolled
Public Act 142 of 1995
Sponsor: Rep. Alvin Kukuk**

**House Bill 4746 as enrolled
Public Act 181 of 1995
Sponsor: Rep. Michael Goschka**

**House Committee: Human Resources
and Labor
Senate Committee: Human Resources,
Labor, and Veterans Affairs**

Second Analysis (3-27-96)

THE APPARENT PROBLEM:

Public Act 25 (enrolled Senate Bill 322) of 1995 generally amended the Michigan Employment Security Act to reduce unemployment insurance (UI) taxes on employers and to reduce benefits to unemployed workers. In part, P.A. 25 added provisions that restricted unemployment benefits for "seasonal workers" working in "seasonal employment" for "seasonal employers" (all of which terms are defined in the 1995 amendatory act). Under these new provisions, employers may ask to be classified as "seasonal employers," and, once they become so designated, won't have to pay unemployment benefits to unemployed seasonal workers for unemployment outside of the employer's normal work season. Legislation has been introduced that would amend some of the changes made by P.A. 25, as well as cleanup legislation to amend some inconsistencies in recent amendments to the act.

THE CONTENT OF THE BILLS:

House Bill 4745 would amend the section of the Michigan Employment Security Act dealing with the nonchargeable benefits component (NBC) tax rate charged to employers (MCL 421.19). The section limits a 50 percent reduction in the maximum one percent NBC rate (that is, to one-half of one percent) to employers who, between the years 1993 and 1996, have no benefits charged to their accounts for the preceding five years (60 months). The bill would delete the 1996 date (changed by P.A. 25 from 1999), so that the 50 percent reduction would apply to all employers who, after 1993, had had no benefit charges to their accounts for five years.

The bill also would eliminate the use (implemented by P.A. 25) of the new alternate method (using a CBC rate of less than two-tenths of one percent) for determining reductions of the one percent NBC rate; instead, the bill would apply this alternate method only to employers with no benefit charges for five years.

House Bill 4746 would amend the section of the Michigan Employment Security Act (MCL 421.27) that regulates benefits paid to unemployed workers to exempt the construction industry and employers in the construction industry from the definitions of "seasonal employment," and "seasonal employer," thereby exempting construction workers from the act's restrictions on unemployment benefits otherwise placed on seasonal workers. The bill also would expand the definition of "construction industry" (added by P.A. 25 to this section of the act) to include "major subgroup 17" in addition to subgroups 15 and 16 of the 1987 federal Standard Industrial Classification Manual (see BACKGROUND INFORMATION), and would revise a provision in the definition of "seasonal employment" to refer to regularly recurring periods of 26, rather than 40, weeks or less.

The bill also would do the following:

- * Exclude school crossing guards from eligibility for unemployment benefits during breaks between two successive academic terms or years if the crossing guard had worked during the first of the academic terms or years and had a "reasonable assurance" that he or she

House Bills 4745 and 4746 (3-27-96)

would be employed as a crossing guard in the next academic term or year;

* Reinstated the payment of partial benefits by deleting a January 7, 1996, cutoff for such benefits added by P.A. 25;

* Raise (from 4.0 to 4.1) the percentage used in this section of the act to calculate unemployed workers' benefits in order to conform with the change (from 65 to 67 percent) made in the percentage of a worker's after-tax wages that also are used to determine unemployment benefits, and add a provision specifically capping the maximum at \$300;

* Eliminate virtually duplicative language in the act regarding the 67 percent after-tax weekly wage figure and the \$300 cap for the period between January 1, 1996, and July 1, 1997.

BACKGROUND INFORMATION:

Definition of "construction industry." Public Act 25 of 1995 defined the term "construction industry" to mean "the work activity designated in major groups 15 and 16 of the standard industrial classification manual, United State Office of Management and Budget, 1987 edition." The federal Office of Management and Budget's Standard Industrial Classification Manual lists three broad types of construction activity: (a) "Major Group 15," which covers building construction by general contractors or by operative builders; (2) "Major Group 16," which covers heavy construction other than building by general contractors and special trade contractors; and (3) "Major Group 17," which covers construction activity by other special trade contractors (who engage primarily in specialized construction activities, such as plumbing, painting, and electrical work, and work for general contractors under subcontract or directly for property owners).

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency with regard to House Bill 4745, governmental employers that did not have any benefit charges to their unemployment benefit accounts could have a 50 percent reduction in the nonchargeable benefits component of their unemployment taxes. All other governmental entities would not be affected by this bill. (5-30-95)

According to the House Fiscal Agency, House Bill 4746 would have no fiscal implications. (9-27-95)

ARGUMENTS:

For:

Under the employment security act, the yearly tax on employers is made up of three "components" -- the chargeable benefits component (CBC), the account building component (ABC), and the nonchargeable benefits component (NBC) -- which are computed separately (according to a formula specified in the act) and then added together. The maximum NBC charged to employers is one percent of a figure determined by a formula specified in the act.

Before passage of Public Act 25 earlier in this legislative session, the only reduction in this maximum one percent NBC tax was a temporary 50 percent reduction (to one-half of one percent) available only to employers who, between the years of 1993 and 1999, had no benefit charges against their accounts for five years (60 months). P.A. 25 changed the 1999 date to 1996, thereby specifying that after 1996, this one-half of one percent maximum would no longer be available to employers who had had no benefit charges to their accounts for five years. P.A. 25 also added additional reductions -- beginning after 1995 -- to the maximum NBC rate (down to a minimum of one-tenth of one percent), as well as two ways to qualify for these additional deductions.

Under P.A. 25, beginning after the years 1995 through 1998, an employer's maximum NBC rate basically will be reduced by one-tenth of one percent for each additional year (a) that an employer goes without benefit charges to his or her account or (b) that an employer's chargeable benefits component (CBC) is less than two-tenths of one percent for that period. Thus, after 1995 employers without benefit charges for six years -- or a CBC less than two-tenths of one percent for six years -- will have a maximum NBC rate of four-tenths of one percent; after 1996, employers without benefit charges for seven years (or a CBC rate of less than two-tenths of one percent for seven years) will have a maximum NBC rate of three-tenths of one percent; after 1997, employers with no benefit charges for eight years (or the alternate CBC rate for eight years) will have an NBC rate of two-tenths of one percent; and after 1998, employers with no benefit charges for nine years (or the alternate CBC rate for that period) will have an NBC rate of one-tenth of one percent.

Thus P.A. 25 eliminated the temporary 50 percent reduction in the maximum one percent NBC rate for employers with five-year periods of no benefit charges,

while enacting permanent new reductions (beginning at four-tenths of one percent) for employers with six- to nine-year periods of no benefit charges. By eliminating the 1996 cutoff, House Bill 4745 would reinstate the 50 percent reduction for employers with no benefit charges for five years.

For:

The restriction on benefits for seasonal employment implemented by P.A. 25 of 1995 could have devastating effects on Michigan's construction industry, which employs highly skilled workers at relatively high wages. Because much construction work cannot be carried out during the winter months, construction work, by its very nature, is "seasonal." And yet, if construction workers were unable to receive unemployment benefits during the winter, they would be forced to leave the state -- which would effectively gut Michigan's valuable pool of construction labor. House Bill 4746 would preserve this vital state economic resource by explicitly exempting the construction industry from the act's new definitions of "seasonal employment" and "seasonal employer."

In addition, the bill would restore the provisions for partial unemployment benefits, which otherwise would be eliminated after January 7, 1996. Public Act 25 of 1995 amended the employment security act, in part, to reduce unemployed workers' partial benefits. But the act also apparently inadvertently added a date after which no partial benefits would be available to unemployed workers. The bill would remove this date, thereby reinstating the newly revised partial unemployment benefits.

The bill also would correct a technical oversight made in P.A. 25. The act reduced the percentage (from 70 to 67) of an unemployed worker's after-tax weekly wages used to set his or her weekly unemployment benefit rate and set a flat \$300 maximum cap (instead of a percentage of the state average weekly wage) on benefits. P.A. 25 additionally reduced (from 4.2 percent to 4.0 percent) the percentage in a formula used to calculate unemployed workers' benefit rates. The bill would change the percentage used in the calculation to 4.1 percent, which is necessary to carry out the legislature's intent that unemployment benefits be 67 percent of after-tax weekly earnings, while reiterating that the maximum benefit would be capped at \$300.

Finally, in keeping with the act's newly-adopted seasonal employment provisions, the bill would specify that school crossing guards wouldn't be eligible for unemployment benefits during those times of year when school wasn't in session.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.