

SENATE BILL No. 1107

May 1, 2012, Introduced by Senator BRANDENBURG and referred to the Committee on Reforms, Restructuring and Reinventing.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 13m (MCL 421.13m), as amended by 2011 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13m. (1) A professional employer organization that has
2 not previously filed shall file a report with the agency in
3 accordance with R 421.121 and R 421.190 of the Michigan
4 administrative code for a determination of its status as a liable
5 employing unit and employer under this act. A PEO determined to be
6 a liable employer shall complete an electronic employer
7 registration in the manner approved by the agency to register its
8 employer liability.

9 (2) Except as provided in subdivision (b), a PEO that is a
10 liable employer shall use the following method for reporting wages
11 and paying unemployment contributions under this act:

1 (a) The PEO shall comply with all requirements of this act
2 that apply to a contributing employer. The PEO shall file a single
3 quarterly wage report and unemployment contribution report and pay
4 contributions of its client employers based on the account
5 information of each client employer. The unemployment agency shall
6 convert a reimbursing employer to a contributing employer beginning
7 with the calendar quarter in which the employer becomes a client
8 employer of a PEO. The PEO shall file reports required under R
9 421.121 of the Michigan administrative code and make contribution
10 payments by electronic reporting and payment methods approved by
11 the agency. The PEO shall notify the agency within 30 days after
12 any employer becomes its client employer and within 30 days after
13 any client employer discontinues its association with the PEO. All
14 of the following apply to a rate calculation for client employers
15 of the PEO:

16 (i) For a client employer that is a contributing employer and
17 was a client employer of the PEO on the date that the PEO changed
18 to the reporting method provided in this subdivision, the following
19 rates apply:

20 (A) Except as provided in sub-subparagraphs (B) and (C), if
21 the client employer reported no employees or no payroll to the
22 agency for ~~12-8~~ or more **CALENDAR** quarters **OR, BEGINNING JANUARY 1,**
23 **2014, FOR 12 OR MORE CALENDAR QUARTERS,** the client employer's
24 unemployment tax rate will be the new employer tax rate.

25 (B) If the client employer was a client employer of the PEO
26 for less than ~~12-full-8~~ calendar quarters **OR, BEGINNING JANUARY 1,**
27 **2014, FOR LESS THAN 12 CALENDAR QUARTERS,** the client employer's

1 unemployment tax rate will be based on the client employer's prior
2 account and experience.

3 (C) If the client employer's account has been terminated for
4 more than 1 year or if the client employer never previously
5 registered with the agency, the client shall be separately
6 registered using a method approved by the agency within 30 days
7 after the employer becomes a client employer of the PEO. The client
8 employer shall be assigned the new employer unemployment tax rate.

9 (ii) A business entity that is a contributing employer and
10 becomes a client employer of the PEO on or after January 1, ~~2011~~
11 **2014** shall retain its existing unemployment tax rate or establish a
12 new rate as provided in section 19.

13 (b) A PEO that is a liable employer and that was operating in
14 this state before January 1, 2011 may elect and use the reporting
15 method in subdivision (a) before January 1, 2014, but shall report
16 using the method in subdivision (a) on and after January 1, 2014.

17 (3) A PEO that is a liable employer is the employer for
18 purposes of claims management and hearings under this act on behalf
19 of the client employer.

20 (4) A PEO that reports under subsection (2)(a) shall confirm
21 the mailing address of the client employer, which may be stated as
22 that of the PEO or of the client employer. The PEO shall disclose
23 the business address of the client employer, which shall be the
24 physical address of the client employer, to the agency.

25 (5) Either the PEO that reports under subsection (2)(a) or the
26 PEO's client employers, but not both, shall file a quarterly wage
27 detail report electronically, and shall file a quarterly

1 contribution payment in a manner approved by the agency. If a
2 client entity of a PEO leases some of its employees from the PEO
3 but retains the remainder of its employees, the leased employees
4 shall be reported by the PEO under the client entity's unemployment
5 insurance agency account number and the retained employees shall be
6 reported by the client entity under an agency-assigned subaccount
7 number of the client entity's account number.

8 (6) The agency shall issue a FUTA certification in accordance
9 with the internal revenue code of 1986, 26 USC 1 to 9834, and
10 regulations, rulings, instructions, and directives of the internal
11 revenue service.

12 (7) The requirements of this section do not preclude the
13 agency from enforcing any provision of this act based on any act or
14 omission by a PEO that occurred before January 1, 2011.

15 (8) As used in this section, "professional employer
16 organization" or "PEO" means that term as defined in R
17 421.190(1)(d) of the Michigan administrative code.