



## **HB 5165-5172: House Bipartisan Legislative Package on Unemployment Insurance Fraud**

*Status:* 11/8/17 unanimously passed House  
Referred to Senate Oversight Committee

*Position:* SUPPORT

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### ***Background***

Beginning in March 2017, a bipartisan workgroup comprised of elected officials, legislative staff, business community representatives, claimant advocates and Unemployment Insurance Agency (UIA) leadership began meeting to identify legislative solutions to a number of problems plaguing the UIA.

MMA was appointed to the workgroup by Speaker Tom Leonard to represent the interests of Michigan's manufacturing sector. MMA fought for strong reforms to curb the proliferation of imposter claims within Michigan's UI system, to prevent fraud and to ensure fair treatment of employers with regard to noncompliance determinations.

Over the course of 7 months, the group came to agreement on a comprehensive package of bills incorporating both employer and claimant priorities for the reform of Michigan's unemployment system.

### ***Bill Analysis***

*HB 5168 (Rep. Diana Farrington, R-Utica): Preventing Imposter Claims*

Identity thieves have used worker data to file thousands of imposter claims for unemployment benefits. These imposter claims hurt employers and employees alike. It is imperative that the UIA have strong security processes in place to prevent benefits being issued to these criminals.

HB 5168 would dramatically strengthen the UIA's identity verification processes. The UIA would be armed with greater information, including driver's license or state identification numbers, I-9 documentation and employer federal ID number, with which to verify a claimant's identity. Under the bill, the UIA would have to verify a claimant's identity before making a payment on the claim.

*HB 5165 (Rep. Joe Graves, R-Linden): Imposter Claim Reporting Process*

In response to the upsurge of imposter claims, employers and employees struggled to make contact with the UIA to prevent payments going out to ID thieves. Those who called the UIA to report imposter fraud received no confirmation or any update on the investigation. In many cases, benefits were paid despite confirmation of identity theft.

HB 5165 will require the UIA to establish a prompt and thorough process for handling imposter claim reports. An employer will be able to file a report about the imposter claim that will begin a UIA investigation. Alternatively, an affected employee will be able to file an affidavit attesting that they did not file the claim and that action would initiate a UIA investigation. If both an employer report and an affected employee affidavit are submitted on the same claim, the UIA would be able to stop all payments and nullify the claim. All of the interested parties would be kept informed throughout the process.

HB 5165 would establish a statutorily-required position at the UIA to tackle imposter fraud, as well as work to improve the integrity and accountability of the UIA through improved administrative policies, practices and procedures. Additionally, the UIA would have to report annually to the Legislature regarding the extent of the imposter claim problem in Michigan and their efforts to combat it.

*HB 5170 (Rep. Joe Bellino, R-Monroe): Improving the Section 20(a) Employer Noncompliance Process*

Beginning in 2016, thousands of employers were accused by the UIA of failing to respond to inquiries in a timely or adequate manner. The process for protesting these “non-compliance” determinations, which in many cases were completely inaccurate, was unclear and time-consuming.

HB 5170 clearly defines how the UIA will administer the Employer Noncompliance process, utilizing statutorily defined terms and a consistent communication method. Employers will be notified each time the UIA believes that they failed to respond, rather than wait for the consolidated annual determination to be issued the following year. HB 5170 would also allow an employer to establish good cause for failure to respond. If good cause is established, the employer would not be penalized for the failure to respond.

*HB 5166 (Rep. Kevin Hertel, D-St. Clair Shores): Unemployment Fraud Penalties*

Michigan is the only state in the nation to apply a 400% penalty to unemployment fraud. This extreme penalty is uncollectible in almost all cases and serves to deter individuals from even attempting to repay the judgement.

HB 5166 would instead apply a 100% penalty for a first offense, 150% penalty for subsequent offense and 400% penalty for fraud involving identity theft. Under HB 5166, Michigan will continue to have one of the strongest fraud penalties in the nation that will serve as an effective deterrent but will reasonably allow individuals to pay for their crimes.

*HB 5169 (Rep. Beau LaFave, R-Iron Mountain): Interest Applied to Unemployment Overpayment*

In the case of overpayments that do not include fraud, Michigan’s current 1% monthly interest charge tends to deter repayment of UI restitution. To encourage prompt repayment of overpayments and to prevent punitive treatment in the case of UIA errors, HB 5169 would provide for:

- No interest to be assessed in cases of UIA error
- In cases not involving fraud, interest would begin accruing 1 year after the restitution order is final.
- In cases of fraud, the current 1% monthly interest would be applied as it is today.

*HB 5167 (Rep. Wendell Byrd, D-Detroit): Access to Advocacy Program*

Current law requires the UIA to provide assistance to employers and claimants at hearings at no cost. Agency policy restricts those who have been accused of fraud from taking part in the program.

Subject to available funding, HB 5167 would prohibit the UIA from excluding someone from an advocacy program for being accused of fraud. However, if it is finally determined that the person committed fraud, they would have to repay the program for representation fees relating to their case.

*HB 5172 (Rep. Martin Howrylak, R-Troy): Ensure Notice to Claimant*

In the wake of tens of thousands of false claimant fraud determinations issued from 2013 to 2015 when the UIA initiated the use of the MiDAS computer system, it has been brought to light that many claimants received no notice of the fraud determination.

HB 5172 would allow a claimant to request a reconsideration within 1 year of the original determination, or within 3 years if the case involved fraud, if they can produce evidence that notice was sent to an incorrect address. Further, if a determination includes a finding of fraud, the UIA would have to seek out all known addresses from other government agencies and send the determination to the most recent address. HB 5172 also recognizes the responsibility of the claimant to notify the UIA if he or she moves during a benefit year.

*HB 5171 (Rep. Phil Phelps, D-Flushing): Clarifying the Hardship Waiver*

Current law allows restitution and interest to be waived if repayment would be contrary to equity and good conscience. However, the statute provides little detail on how the UIA should determine if a person qualifies for the waiver.

Under HB 5171, a person's average net household income and household cash assets exclusive of social welfare benefits would have to be at or below 150% of the federal poverty limit to qualify for a hardship waiver. Further, a person could only apply for a waiver once every six months. The UIA will have to submit an annual report to the Legislature on the use of the hardship waiver.