

SENATE BILL No. 697

September 16, 2003, Introduced by Senator LELAND and referred to the Committee on
Commerce and Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 34 (MCL 421.34), as amended by 1983 PA 164.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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1 Sec. 34. (1) An interested party has the right to an appeal
2 to the board of review from the findings of fact and decision of
3 the referee or from a denial by the referee of a motion for a
4 rehearing or reopening. ~~—, shall be a matter of right by an~~
5 ~~interested party.~~ The board of review, on the basis of evidence
6 previously submitted, ~~and~~ on any additional evidence ~~as~~ it
7 requires, and after an oral hearing if subsection (2) is met,
8 shall affirm, modify, set aside, or reverse the findings of fact
9 and decision of the referee or a denial by the referee of a
10 motion for rehearing or reopening.

11 (2) The board of review shall conduct an oral hearing in ~~a~~

1 ~~matter before the board only after~~ an **appeal described in**
2 **subsection (1) only if a written** application for the hearing is
3 made by an interested party and ~~the~~ **any of the following**
4 **conditions are met:**

5 (a) **The written** application is approved by 2 or more members
6 of the board assigned to review the appeal.

7 (b) **The written application for an oral hearing is submitted**
8 **by an interested party requesting that the board uphold the**
9 **decision of the referee.**

10 (3) If an application for an oral hearing is not approved,
11 the board shall not consider a written argument unless all
12 parties are represented **by legal counsel** or all parties agree
13 that **the board should consider the** written argument. ~~should be~~
14 ~~considered.~~ **If an oral argument is held, the board of review**
15 **shall allow each interested party an opportunity to be heard,**
16 **either in person or by legal counsel.** If neither an oral hearing
17 is held nor written argument considered, the board **of review**
18 shall decide the case on the referee record.

19 (4) The board **of review** shall notify each interested party of
20 its decision or order within 60 days after the date of the last
21 board of review hearing on a contested matter. ~~The board, in~~
22 **In its discretion, the board of review** may omit the giving of
23 reasons ~~in cases where~~ **if it affirms** the decision of a referee
24 ~~is affirmed~~ without alteration or modification.

25 (5) If ~~the~~ **an** appellant fails to appear, the board of
26 review may dismiss the proceedings or take other action ~~as~~ it
27 ~~may deem advisable~~ **considers appropriate.** ~~The board of review~~

1 ~~may, either upon~~

2 **(6) Upon** application by an interested party for rehearing, or
3 on its own motion, **the board of review may** proceed to rehear,
4 affirm, modify, set aside, or reverse a prior decision on the
5 basis of the evidence previously submitted in that case, or on
6 the basis of additional evidence if the application or motion is
7 made within 30 days after the date of mailing of the prior
8 decision. The board of review may, for good cause, reopen and
9 review a prior decision of the board of review and issue a new
10 decision after the 30-day appeal period has expired, but ~~a~~ **the**
11 **board of** review shall not ~~be made~~ **reopen and review a prior**
12 **decision** unless the request is filed with the board, or review is
13 initiated by the board with notice to the interested parties,
14 within 1 year after the date of mailing of the prior decision.

15 **(7)** Unless an interested party, within 30 days after mailing
16 of a copy of a decision of the board of review or of a denial of
17 a motion for a rehearing, files an appeal from the decision or
18 denial, or seeks judicial review as provided in section 38, the
19 decision ~~shall be~~ **is** final.