

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 430

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INTRODUCED BY D. R. WRIGHT, ITKIN, COHEN, BELFANTI, DeLUCA,  
LEVDANSKY, VEON, BALDWIN, CAWLEY, COWELL, DAWIDA, KUKOVICH,  
LLOYD, MICHLOVIC, MORRIS, OLASZ, PISTELLA, PRESSMANN, RITTER,  
RUDY, RYBAK, SEVENTY, SWEET, F. TAYLOR, TIGUE, TRELLO,  
WOZNIAK, YANDRISEVITS, CARLSON, JOHNSON AND J. L. WRIGHT,  
FEBRUARY 25, 1987

REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 25, 1987

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937  
2 P.L.2897, No.1), entitled "An act establishing a system of  
3 unemployment compensation to be administered by the  
4 Department of Labor and Industry and its existing and newly  
5 created agencies with personnel (with certain exceptions)  
6 selected on a civil service basis; requiring employers to  
7 keep records and make reports, and certain employers to pay  
8 contributions based on payrolls to provide moneys for the  
9 payment of compensation to certain unemployed persons;  
10 providing procedure and administrative details for the  
11 determination, payment and collection of such contributions  
12 and the payment of such compensation; providing for  
13 cooperation with the Federal Government and its agencies;  
14 creating certain special funds in the custody of the State  
15 Treasurer; and prescribing penalties," providing for shared  
16 work programs, for further duties of the Department of Labor  
17 and Industry, and for eligibility and benefits.

18 It is hereby declared to be the policy of the Commonwealth to  
19 encourage and stabilize employment wherever possible. Market  
20 forces often cause cyclical periods of unemployment beyond the  
21 control of either the employer or the worker. Resulting layoffs  
22 cause workers lost income, benefits and self-esteem, affecting  
23 not only the worker, but also his family and the community.

1 Cyclical layoffs are equally damaging to the employer, who loses  
2 skilled workers, disrupts his work force and is less able to  
3 respond appropriately to changes in customer demand. The regular  
4 unemployment insurance program is designed to lessen the impact  
5 of layoff on both the worker and the community by providing a  
6 temporary wage replacement to the laid-off individual worker. In  
7 certain situations, where employment demands potentially may  
8 return, it is appropriate to use unemployment insurance to  
9 sustain the employment of a group of workers.

10 It is therefore declared to be the policy of the Commonwealth  
11 to encourage the use of and provide an alternative to full-time  
12 employment insurance benefits through a shared work compensation  
13 program in order to help sustain employment. A shared work  
14 program is a voluntary program for both public and private  
15 employers and workers which allows unemployment insurance  
16 benefits to be paid to a group of workers who work a reduced  
17 number of hours instead of a portion of that group of workers  
18 being laid off on a full-time basis. Shared work compensation  
19 reduces the impact of layoffs while allowing employers to keep a  
20 trained, skilled work force capable of responding to changes in  
21 demand.

22 It is further the policy of the Commonwealth to encourage the  
23 maximum degree of flexibility for employers and employees to  
24 design a work sharing plan compatible with needs of the  
25 individual workplace and to administer shared work compensation  
26 with a minimum of administrative obstacles while promoting the  
27 use of shared work compensation as a voluntary alternative to  
28 full-time layoff.

29 The General Assembly of the Commonwealth of Pennsylvania  
30 hereby enacts as follows:

1 Section 1. The act of December 5, 1936 (2nd Sp.Sess., 1937  
2 P.L.2897, No.1), known as the Unemployment Compensation Law, is  
3 amended by adding an article to read:

4 ARTICLE XIII

5 SHARED WORK PROGRAM

6 Section 1301. Definitions.--The following words and phrases,  
7 as used in this article, shall have the following meanings  
8 unless the context clearly requires otherwise.

9 (a) "Employer" includes both public and private employers.

10 (b) "Full-time hours" means the normal full-time hours of  
11 the employer but not more than forty hours per week, and not  
12 including overtime as defined in the Fair Labor Standards Act of  
13 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.).

14 (c) "Shared work program" means a program to stabilize the  
15 work force during times of reduced work load, otherwise  
16 resulting in layoffs, by the sharing of the work remaining after  
17 a reduction in the total hours of work and a corresponding  
18 reduction in employees' wages.

19 (d) "Work force" means the total work force or a definable  
20 unit or shift thereof. The department shall encourage  
21 flexibility by accepting, as a "definable unit," a unit of  
22 workers as agreed to by the employer and the collective  
23 bargaining agent for the employees.

24 Section 1302. Application of Article.--This article shall  
25 apply to claimants and their employers whose application to  
26 participate in a shared work program has been approved by the  
27 department. The other provisions of this act shall apply to such  
28 claimants and their employers to the extent that they are not  
29 inconsistent with this article. The claimant shall not, however,  
30 be required to be available for work, search for work, apply for

1 or accept work with any other employer.

2 Section 1303. Qualified Employers.--(a) An employer who has  
3 at least three full-time employees may apply to participate in a  
4 shared work program. The application shall be made according to  
5 such forms and procedures as the department may specify and  
6 shall include a plan by the employer to implement a shared work  
7 program, as well as any information the department may require.  
8 In determining whether to approve such application, the  
9 department shall take into account the nature and size of the  
10 enterprise, its frequency of personnel turnover, the local  
11 unemployment rate, or any other factors which may affect the  
12 efficiency and utility of the shared work program.

13 (b) (1) The department shall not approve such application  
14 unless the employer:

15 (i) Agrees that, for the duration of the program, the  
16 employer will consider the work force as continuing on full-time  
17 status for fringe benefits.

18 (ii) Supplies a certification from the collective bargaining  
19 agent or agents for the employees, if any, attesting agreement to  
20 participate in the program.

21 (iii) Will reduce or restrict the claimant's weekly full-  
22 time hours of work, or has rehired a claimant previously laid  
23 off and reduced his weekly hours of work from those previously  
24 worked, in accordance with the plan submitted by the employer to  
25 implement a shared work program, provided the program requires  
26 not less than a ten per centum nor more than a forty per centum  
27 reduction in hours among the work force.

28 (iv) Certifies that the shared work program shall not exceed  
29 twenty-six consecutive weeks and that, if not for the shared  
30 work program to be initiated, the employer would reduce or would

1 have reduced its work force to a degree equivalent to the total  
2 number of working hours proposed to be reduced or restricted for  
3 all included employees in the specified unit.

4 (v) Certifies that the employer will not hire additional  
5 part-time or full-time employees for the affected work force  
6 while the program is in operation without prior approval of the  
7 department and the employee bargaining agent, if any.

8 (2) In addition, the department shall not approve an  
9 application if it is apparent that the reduction in work force  
10 is permanent in nature, unless the employer demonstrates that  
11 such permanent reduction in the work force can be accomplished  
12 through other means, including attrition during the time in  
13 which the employer is participating in a shared work program;  
14 nor shall the department approve any application if the effect  
15 of that employer's shared work plan is to deny to employees the  
16 benefits provided under section 1306(a).

17 (c) The department shall take steps necessary to facilitate  
18 the use of the shared work program, including, but not limited  
19 to:

20 (1) Establishment of such reasonable guidelines and  
21 procedures deemed necessary to expedite approval of shared work  
22 plans.

23 (2) Approval or disapproval of employer proposals within  
24 fifteen days of receipt of the proposal by the department; and  
25 the department shall notify the employer of the reasons for a  
26 denial of a shared work plan within ten days after such  
27 determination. Should the department fail to notify the employer  
28 of denial of application within thirty-five days, such  
29 application shall be presumed approved.

30 (3) Establishment of a form for weekly submission by the

1 employer of those employees who are deemed eligible for a weekly  
2 shared work benefit. This form shall include the week's  
3 percentage reduction in full-time hours and shall be mailed to  
4 the department no later than seven days following the work  
5 sharing week. Such form shall be considered a submission for  
6 benefits by the employee and shall eliminate any requirement for  
7 the employee to report to the department.

8 (d) Approval by the department of a shared work plan shall  
9 be valid for twenty-six weeks, at which time the employer may  
10 submit another application for renewal. Should the department  
11 fail to act on the renewal application within fifteen days of  
12 receipt, the renewal application shall be presumed approved.

13 Section 1304. Revocation of Approval.--(a) For good cause,  
14 the department may, in its discretion, revoke approval of an  
15 employer's application previously granted. Good cause may  
16 include, but shall not be limited to, failure to comply with the  
17 assurances and certifications required under section 1303,  
18 failure to supply information requested relative to the  
19 operation of a shared work program, unreasonable revision of  
20 productivity standards for the work force, or other conduct or  
21 occurrences tending to defeat the purposes, intent and effective  
22 operation of a shared work program.

23 (b) The employer or the employee bargaining agent may  
24 withdraw from a shared work program at any time during the  
25 approved period; however, this withdrawal shall be effective two  
26 weeks after it is sent to the department.

27 Section 1305. Eligibility Conditions.--(a) A claimant shall  
28 be eligible for benefits under this article if he:

29 (1) Would otherwise be eligible under this act.

30 (2) Works less than his normal full-time hours in a week for

1 his customary employer under an approved shared work program.

2 (b) No individual who receives any benefits under this  
3 article during any benefit week shall be eligible for or receive  
4 any benefits under Article IV-A.

5 Section 1306. Benefit Amounts.--(a) An eligible claimant  
6 shall be deemed eligible for benefits, for any week, equal to  
7 his weekly benefit rate multiplied by the per centum of  
8 reduction of his hours resulting from a reduction in the  
9 employee's full-time hours of work, but only if such per centum  
10 is no less than twenty per centum and no more than forty per  
11 centum. The employer shall submit on forms provided the names  
12 and per centum of reduction of each employee affected weekly.

13 (b) Except wages payable by the regular employer not in  
14 excess of wages payable for reduced hours of work assigned an  
15 individual by the regular employer under a shared work plan, any  
16 amount payable under this article shall be reduced by the amount  
17 of any and all compensation payable for personal services,  
18 whether performed as an employee or an independent contractor.  
19 The employee shall certify by means determined by the department  
20 whether or not such compensation was received during a week that  
21 a shared work benefit was payable. In cases where a shared work  
22 benefit should have been reduced by other wages, such  
23 overpayment shall be deducted from the next payments made under  
24 this act. However, an allowance shall be made for the partial  
25 benefit credit provided for in section 404(d) calculated on the  
26 basis of the benefit amount as determined under subsection (a)  
27 of this section.

28 (c) The department shall establish a procedure which allows  
29 claimants to report earnings and meet the other eligibility  
30 requirements of the shared work program through the mail or

1 through some manner equally convenient to the claimant.

2 Section 1307. Maximum Payments.--In no event shall total  
3 benefits paid in any benefit year under this article and any  
4 other provisions under this act exceed the maximum amount for  
5 which a claimant would be eligible under Article IV.

6 Section 1308. Commencement.--A shared work program and  
7 payment of benefits to claimants thereunder shall begin with the  
8 first week following approval of an application by the  
9 department or the first week specified by the employer,  
10 whichever is later, and with regard to any waiting week  
11 requirements imposed by law.

12 Section 1309. Reimbursement.--Employers with a negative  
13 reserve account balance as of the computation date shall pay  
14 reimbursement to the Unemployment Compensation Fund equal to the  
15 amount of benefits paid from the fund for their shared work  
16 program. This reimbursement shall be made on a quarterly basis  
17 under regulations of the department.

18 Section 1310. Report to General Assembly.--During the third  
19 year that the program is in operation, the department shall  
20 submit a report to the General Assembly on the use and operation  
21 of the program. The department shall include in its report the  
22 numbers and types of employers utilizing this program, the  
23 effect of the program on the fund and the number of employers  
24 affected plus any other information the department deems  
25 relevant.

26 Section 2. This act shall expire four years from the  
27 effective date hereof.

28 Section 3. The department shall submit this act, along with  
29 any relevant supporting data, to the United States Department of  
30 Labor in order to receive a determination from that department



1 as to whether or not the implementation hereof would adversely  
2 affect Pennsylvania's ability to qualify for Federal incentives  
3 under section 3302(f) of the Internal Revenue Code of 1954 (68A  
4 Stat. 3, 26 U.S.C. § 3302(f)).

5 Section 4. This act shall take effect as follows:

6 (1) Section 3 of this act shall take effect immediately.

7 (2) The remainder of this act shall take effect upon the  
8 date of publication in the Pennsylvania Bulletin, by the  
9 Department of Labor and Industry, of either of the following,  
10 whichever occurs first:

11 (i) Confirmation received from the United States  
12 Department of Labor that implementation of this act would  
13 not adversely affect Pennsylvania's ability to qualify  
14 for Federal incentives under section 3302(f) of the  
15 Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. §  
16 3302(f)).

17 (ii) Confirmation by the United States Department of  
18 Labor that the outstanding balance on all loans under  
19 Title XII of the Social Security Act (Public Law 74-271,  
20 42 U.S.C. § 301 et seq.) has been fully repaid.