

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1537 Session of 2019

INTRODUCED BY HARKINS, COX, SCHLOSSBERG, BIZZARRO, GROVE, MILLARD, HILL-EVANS, MARKOSEK, DeLUCA, FREEMAN, GALLOWAY AND T. DAVIS, MAY 30, 2019

SENATOR BARTOLOTTA, LABOR AND INDUSTRY, IN SENATE, AS AMENDED, OCTOBER 29, 2019

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," IN ADMINISTRATION OF <--
16 ACT, FURTHER PROVIDING FOR RECORDS OF AND REPORTS BY
17 EMPLOYERS; in contributions by employers and employees,
18 further providing for contributions by employees-; IN <--
19 COMPENSATION, FURTHER PROVIDING FOR QUALIFICATIONS REQUIRED
20 TO SECURE COMPENSATION AND FOR RATE AND AMOUNT OF
21 COMPENSATION; IN DETERMINATION OF COMPENSATION, APPEALS,
22 REVIEWS AND PROCEDURE, FURTHER PROVIDING FOR DETERMINATION OF
23 COMPENSATION APPEALS AND FOR DECISION OF REFEREE AND FURTHER
24 APPEALS AND REVIEWS; AND, IN SHARED-WORK PROGRAM, FURTHER
25 PROVIDING FOR PARTICIPATING EMPLOYER RESPONSIBILITIES.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. Section 301.4(h)(1), (2) and (3) of the act of <--

1 ~~December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as~~
2 ~~the Unemployment Compensation Law, are amended and the~~
3 ~~subsection is amended by adding a clause to read:~~

4 SECTION 1. SECTION 206(A) OF THE ACT OF DECEMBER 5, 1936 <--
5 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT
6 COMPENSATION LAW, IS AMENDED TO READ:

7 SECTION 206. RECORDS OF AND REPORTS BY EMPLOYERS.--(A) EACH
8 EMPLOYER (WHETHER OR NOT LIABLE FOR THE PAYMENT OF CONTRIBUTIONS
9 UNDER THIS ACT) SHALL KEEP ACCURATE EMPLOYMENT RECORDS
10 CONTAINING SUCH INFORMATION, AS MAY BE PRESCRIBED BY THE RULES
11 AND REGULATIONS ADOPTED BY THE DEPARTMENT. SUCH RECORDS SHALL BE
12 OPEN TO INSPECTION BY THE DEPARTMENT AND ITS AGENTS AT ANY
13 REASONABLE TIME, AND AS OFTEN AS MAY BE DEEMED NECESSARY, BUT
14 EMPLOYERS NEED NOT RETAIN SUCH RECORDS MORE THAN [FOUR (4)] SIX
15 (6) YEARS AFTER CONTRIBUTIONS RELATING TO SUCH RECORDS HAVE BEEN
16 PAID. THE DEPARTMENT MAY REQUIRE FROM SUCH EMPLOYERS SUCH
17 REPORTS AS IT DEEMS NECESSARY, WHICH SHALL BE SWORN TO, IF
18 REQUIRED BY THE DEPARTMENT.

19 * * *

20 SECTION 2. SECTION 301.4(H) (1), (2) AND (3) OF THE ACT ARE
21 AMENDED AND THE SUBSECTION IS AMENDED BY ADDING A CLAUSE TO
22 READ:

23 Section 301.4. Contributions by Employes.--* * *

24 (h) In addition to the amounts allowed under subsection (e),
25 an amount determined by the secretary, with the approval of the
26 Governor, shall be deposited into the Service and Infrastructure
27 Improvement Fund for costs related to the procurement and
28 implementation of technological upgrades to the delivery system
29 for unemployment compensation benefits, consistent with costs
30 reported to the General Assembly under section 301.9(i) (3). The

1 following shall apply:

2 (1) For [costs incurred in] calendar year 2017, the amount
3 determined under this subsection may not exceed five million
4 dollars (\$5,000,000). For [costs incurred in] calendar year
5 2018, the amount determined under this subsection may not exceed
6 seven million two hundred thousand dollars (\$7,200,000). [For
7 costs incurred in calendar year 2019, the amount determined
8 under this subsection may not exceed twelve million one hundred
9 thousand dollars (\$12,100,000). For costs incurred in calendar
10 year 2020, the amount determined under this subsection may not
11 exceed five million nine hundred thousand dollars (\$5,900,000).]
12 For calendar years 2019 and 2020, the combined total amount
13 determined under this subsection for both years may not exceed
14 eighteen million dollars (\$18,000,000).

15 (2) [Beginning January 1, 2018, the department may deposit
16 into the Service and Infrastructure Improvement Fund an amount
17 authorized by this subsection for actual costs incurred during
18 calendar year 2017. Each quarter thereafter, the department may
19 deposit an amount equal to actual costs incurred in the prior
20 quarter, subject to the annual limits in clause (1).] Subject to
21 the limitation under clause (1), the secretary may deposit funds
22 into the Service and Infrastructure Improvement Fund in
23 accordance with the following:

24 (i) Within thirty (30) days after the effective date of this
25 subclause, an amount authorized by this subsection for actual
26 costs incurred prior to the effective date of this subclause,
27 for which deposits had not been made, including the amount of
28 funds withheld to ensure the performance of the contractor
29 responsible for the implementation of the technological
30 upgrades.

1 (ii) Each quarter after the period under subclause (i), an
2 amount authorized by this subsection for actual costs incurred
3 in the prior quarter, including the amount of funds withheld to
4 ensure the performance of the contractor responsible for the
5 implementation of the technological upgrades.

6 (iii) No later than December 31, 2020, an amount authorized
7 by this subsection for future costs that the department
8 anticipates it will incur for implementation of the
9 technological upgrades to the delivery system.

10 (2.1) Funds authorized by this subsection shall only be
11 disbursed to the contractor when the department determines that
12 the appropriate contract benchmarks have been met.

13 (3) Prior to each deposit of funds under this subsection the
14 secretary shall certify to the Governor [that]:

15 (i) that the progress of the implementation and deployment
16 of technological upgrades to the delivery system for
17 unemployment compensation benefits is consistent with the
18 progress benchmarks provided in each relevant contract;

19 (ii) that the total cost of the technological upgrades will
20 not exceed the total amount of contract costs reported to the
21 General Assembly under section 301.9(i)(3); [and]

22 (iii) that the Benefit Modernization Advisory Committee
23 established under clause (6) has been regularly consulted with
24 regard to the implementation and deployment of the technological
25 upgrades[.]; and

26 (iv) the amount of funds withheld, if any, to ensure the
27 performance of the contractor responsible for the implementation
28 of the technological upgrades, the anticipated timeline for
29 disbursal of these funds and the anticipated date of the
30 completion of the implementation and deployment of the

1 technological upgrades.

2 * * *

3 SECTION 3. SECTION 401(A) (2) OF THE ACT IS AMENDED TO READ: <--

4 SECTION 401. QUALIFICATIONS REQUIRED TO SECURE

5 COMPENSATION.--COMPENSATION SHALL BE PAYABLE TO ANY EMPLOYEE WHO

6 IS OR BECOMES UNEMPLOYED, AND WHO--

7 (A) SATISFIES BOTH OF THE FOLLOWING REQUIREMENTS:

8 * * *

9 (2) EXCEPT AS PROVIDED IN SECTION 404(A) (3) AND [(E) (1) AND

10 (2)] (E) (2) (V), NOT LESS THAN THIRTY-SEVEN PER CENTUM (37%) OF

11 THE EMPLOYEE'S TOTAL BASE YEAR WAGES HAVE BEEN PAID IN ONE OR

12 MORE QUARTERS, OTHER THAN THE HIGHEST QUARTER IN SUCH EMPLOYEE'S

13 BASE YEAR.

14 * * *

15 SECTION 4. SECTION 404(E) (2) (I) (B) (I) AND (IV) (A) AND (C) OF

16 THE ACT ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A

17 PARAGRAPH TO READ:

18 SECTION 404. RATE AND AMOUNT OF COMPENSATION.--COMPENSATION

19 SHALL BE PAID TO EACH ELIGIBLE EMPLOYEE IN ACCORDANCE WITH THE

20 FOLLOWING PROVISIONS OF THIS SECTION EXCEPT THAT COMPENSATION

21 PAYABLE WITH RESPECT TO WEEKS ENDING IN BENEFIT YEARS WHICH

22 BEGIN PRIOR TO THE FIRST DAY OF JANUARY 1989 SHALL BE PAID ON

23 THE BASIS OF THE PROVISIONS OF THIS SECTION IN EFFECT AT THE

24 BEGINNING OF SUCH BENEFIT YEARS.

25 * * *

26 (E) * * *

27 (2) (I) THE TABLE SPECIFIED FOR THE DETERMINATION OF RATE

28 AND AMOUNT OF BENEFITS SHALL BE EXTENDED OR CONTRACTED ANNUALLY,

29 AUTOMATICALLY BY REGULATIONS PROMULGATED BY THE SECRETARY. THE

30 TABLE SHALL BE EXTENDED OR CONTRACTED IN ACCORDANCE WITH THE

1 FOLLOWING:

2 * * *

3 (B) WHEN IT IS NECESSARY TO EXTEND THE TABLE, IT SHALL BE
4 DONE IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:

5 (I) THE WORDS "OR MORE" SHALL BE DELETED FROM THE LAST LINE
6 UNDER PART A, AND AN AMOUNT TWENTY-FOUR DOLLARS (\$24) GREATER
7 THAN THE FIRST ENTRY IN THAT LINE SHALL BE SUBSTITUTED THEREFOR.
8 THE WORDS "AMOUNT REQUIRED UNDER SECTION 401(A)(2)" SHALL BE
9 DELETED FROM THE LAST LINE UNDER PART C.

10 * * *

11 (IV) PART C SHALL BE EXTENDED TO THE POINT WHERE, UNDER PART
12 B, THE AMOUNT IS EQUAL TO SIXTY-SIX AND TWO-THIRDS PER CENTUM
13 (66 2/3%) OF THE AVERAGE WEEKLY WAGE.

14 (A) THE AMOUNT ON EACH LINE IN PART C, OTHER THAN THE LAST
15 LINE, SHALL BE DERIVED FROM THE FIRST ENTRY ON THE SAME LINE IN
16 PART A, IN ACCORDANCE WITH THE FOLLOWING FORMULA:

17 (FIRST ENTRY IN PART A PLUS TWENTY-FOUR DOLLARS (\$24)) X 100
18 DIVIDED BY SIXTY-THREE (63)

19 IF THE AMOUNT DETERMINED BY THIS FORMULA IS NOT AN EVEN
20 MULTIPLE OF ONE DOLLAR (\$1), IT SHALL BE ROUNDED TO THE NEXT
21 HIGHER MULTIPLE OF ONE DOLLAR (\$1).

22 (B.1) THE LAST LINE IN PART C SHALL CONTAIN THE WORDS
23 "AMOUNT REQUIRED UNDER SECTION 401(A)(2)."

24 (C) WHEN IT IS NECESSARY TO CONTRACT THE TABLE, IT SHALL BE
25 DONE BY DELETING ALL LINES FOLLOWING THAT IN WHICH THE AMOUNT IN
26 PART B IS SIXTY-SIX AND TWO-THIRDS PER CENTUM (66 2/3%) OF THE
27 AVERAGE WEEKLY WAGE AND SUBSTITUTING THE WORDS "OR MORE" FOR THE
28 HIGHER AMOUNT UNDER PART A ON THAT LINE AND SUBSTITUTING THE
29 WORDS "AMOUNT REQUIRED UNDER SECTION 401(A)(2)" FOR THE AMOUNT
30 UNDER PART C ON THAT LINE.

1 * * *

2 SECTION 5. SECTION 501(C) (4) AND (5) AND (E) OF THE ACT ARE
3 AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
4 READ:

5 SECTION 501. DETERMINATION OF COMPENSATION APPEALS.--* * *

6 (C) * * *

7 (4) IF AN EMPLOYER FILES WITH THE DEPARTMENT SUCH
8 INFORMATION [WITHIN] NO LATER THAN FIFTEEN DAYS AFTER THE
9 "DETERMINATION DATE" PROVIDED ON THE NOTICE REQUIRED UNDER
10 SECTION FIVE HUNDRED ONE (A) OR THE "NOTICE DATE" PROVIDED ON
11 THE NOTICE REQUIRED UNDER SECTION FIVE HUNDRED ONE (B) [WAS
12 DELIVERED TO HIM PERSONALLY, OR WAS MAILED TO HIS LAST KNOWN
13 POST OFFICE ADDRESS], THE DEPARTMENT SHALL ISSUE TO SUCH
14 EMPLOYER (I) A NOTICE IN WRITING OF ITS DETERMINATION WITH
15 RESPECT TO EACH CLAIM WHICH IS FILED BY THE CLAIMANT FOR A WEEK,
16 THE FIRST DAY OF WHICH IS ON OR BEFORE THE DATE ON WHICH SUCH
17 INFORMATION IS FILED, AND (II) A NOTICE IN WRITING OF ITS
18 DETERMINATION WITH RESPECT TO THE FIRST VALID CLAIM WHICH IS
19 FILED BY THE CLAIMANT DURING THE CLAIMANT'S BENEFIT YEAR FOR A
20 WEEK, THE LAST DAY OF WHICH IS SUBSEQUENT TO THE DATE ON WHICH
21 SUCH INFORMATION IS FILED.

22 (5) IF AN EMPLOYER FILES WITH THE DEPARTMENT SUCH
23 INFORMATION MORE THAN FIFTEEN DAYS AFTER THE "DETERMINATION
24 DATE" PROVIDED ON THE NOTICE REQUIRED UNDER SECTION FIVE HUNDRED
25 ONE (A) OR THE "NOTICE DATE" PROVIDED ON THE NOTICE REQUIRED
26 UNDER SECTION FIVE HUNDRED ONE (B) [WAS DELIVERED TO HIM
27 PERSONALLY, OR WAS MAILED TO HIS LAST KNOWN POST OFFICE
28 ADDRESS], THE DEPARTMENT SHALL ONLY ISSUE TO SUCH EMPLOYER (I) A
29 NOTICE IN WRITING OF ITS DETERMINATION WITH RESPECT TO EACH
30 CLAIM WHICH IS FILED BY THE CLAIMANT FOR A WEEK, THE FIRST DAY

1 OF WHICH IS WITHIN THE THIRTY-DAY PERIOD WHICH IMMEDIATELY
2 PRECEDES THE DATE ON WHICH SUCH INFORMATION IS FILED, AND (II) A
3 NOTICE IN WRITING OF ITS DETERMINATION WITH RESPECT TO THE FIRST
4 VALID CLAIM WHICH IS FILED BY THE CLAIMANT DURING THE CLAIMANT'S
5 BENEFIT YEAR FOR A WEEK, THE LAST DAY OF WHICH IS SUBSEQUENT TO
6 THE DATE ON WHICH SUCH INFORMATION IS FILED.

7 * * *

8 (E) UNLESS THE CLAIMANT OR LAST EMPLOYER OR BASE-YEAR
9 EMPLOYER OF THE CLAIMANT FILES AN APPEAL WITH THE BOARD, FROM
10 THE DETERMINATION CONTAINED IN ANY NOTICE REQUIRED TO BE
11 FURNISHED BY THE DEPARTMENT UNDER SECTION FIVE HUNDRED AND ONE
12 (A), (C) AND (D), [WITHIN] NO LATER THAN FIFTEEN CALENDAR DAYS
13 AFTER THE "DETERMINATION DATE" PROVIDED ON SUCH NOTICE [WAS
14 DELIVERED TO HIM PERSONALLY, OR WAS MAILED TO HIS LAST KNOWN
15 POST OFFICE ADDRESS], AND APPLIES FOR A HEARING, SUCH
16 DETERMINATION OF THE DEPARTMENT, WITH RESPECT TO THE PARTICULAR
17 FACTS SET FORTH IN SUCH NOTICE, SHALL BE FINAL AND COMPENSATION
18 SHALL BE PAID OR DENIED IN ACCORDANCE THEREWITH.

19 (F) A NOTICE OR A DETERMINATION TO A CLAIMANT OR EMPLOYER
20 UNDER THIS SECTION SHALL BE MAILED TO HIS LAST KNOWN POST OFFICE
21 ADDRESS OR TRANSMITTED ELECTRONICALLY, AS DESIGNATED BY THE
22 RECIPIENT.

23 SECTION 6. SECTIONS 502 AND 1307(A) OF THE ACT ARE AMENDED
24 TO READ:

25 SECTION 502. DECISION OF REFEREE; FURTHER APPEALS AND
26 REVIEWS.--WHERE AN APPEAL FROM THE DETERMINATION OR REVISED
27 DETERMINATION, AS THE CASE MAY BE, OF THE DEPARTMENT IS TAKEN, A
28 REFEREE SHALL, AFTER AFFORDING THE PARTIES AND THE DEPARTMENT
29 REASONABLE OPPORTUNITY FOR A FAIR HEARING, AFFIRM, MODIFY, OR
30 REVERSE SUCH FINDINGS OF FACT AND THE DETERMINATION OR REVISED

1 DETERMINATION, AS THE CASE MAY BE, OF THE DEPARTMENT AS TO HIM
2 SHALL APPEAR JUST AND PROPER. THE PARTIES AND THEIR ATTORNEYS OR
3 OTHER REPRESENTATIVES OF RECORD AND THE DEPARTMENT SHALL BE DULY
4 NOTIFIED OF THE TIME AND PLACE OF A REFEREE'S HEARING AND OF THE
5 REFEREE'S DECISION, AND THE REASONS THEREFOR, WHICH SHALL BE
6 DEEMED THE FINAL DECISION OF THE BOARD, UNLESS AN APPEAL IS
7 FILED THEREFROM, [WITHIN] NO LATER THAN FIFTEEN DAYS AFTER THE
8 [DATE OF] "DECISION DATE" PROVIDED ON SUCH DECISION OR THE BOARD
9 ACTS ON ITS OWN MOTION, TO REVIEW THE DECISION OF THE REFEREE.
10 THE TESTIMONY AT ANY HEARING BEFORE A REFEREE SHALL BE TAKEN BY
11 A RECORDING DEVICE AND BE PRESERVED FOR A PERIOD OF NINETY DAYS
12 FOLLOWING EXPIRATION OF THE PERIOD FOR FILING AN APPEAL FROM THE
13 FINAL DECISION RENDERED IN THE CASE. AN UNABRIDGED TRANSCRIPT
14 AND AUDIO RECORDING OF THE TESTIMONY SHALL BE MADE AVAILABLE, AT
15 COST IF NOT USED FOR UNEMPLOYMENT COMPENSATION PURPOSES OR A
16 SUBSEQUENT APPEAL, TO THE PARTIES AND THEIR ATTORNEYS OR OTHER
17 REPRESENTATIVES UPON WRITTEN REQUEST TO THE REFEREE. A DECISION
18 TO A PARTY UNDER THIS SECTION SHALL BE MAILED TO HIS LAST KNOWN
19 POST OFFICE ADDRESS OR TRANSMITTED ELECTRONICALLY, AS DESIGNATED
20 BY THE PARTY.

21 SECTION 1307. PARTICIPATING EMPLOYER RESPONSIBILITIES.

22 (A) FILING CLAIMS.--THE DEPARTMENT SHALL ESTABLISH A
23 SCHEDULE [OF CONSECUTIVE TWO-WEEK PERIODS] CONSISTENT WITH THE
24 RULES AND REGULATIONS OF THE DEPARTMENT WITHIN THE EFFECTIVE
25 PERIOD OF THE SHARED-WORK PLAN. [THE DEPARTMENT MAY, AS
26 NECESSARY, INCLUDE ONE-WEEK PERIODS IN THE SCHEDULE AND REVISE
27 THE SCHEDULE.] AT THE END OF EACH SCHEDULED PERIOD, THE
28 PARTICIPATING EMPLOYER SHALL FILE CLAIMS FOR COMPENSATION FOR
29 THE WEEK OR WEEKS WITHIN THE PERIOD ON BEHALF OF THE
30 PARTICIPATING EMPLOYEES. THE CLAIMS SHALL BE FILED NO LATER THAN

1 THE LAST DAY OF THE WEEK IMMEDIATELY FOLLOWING THE PERIOD,
2 UNLESS AN EXTENSION OF TIME IS GRANTED BY THE DEPARTMENT FOR
3 GOOD CAUSE. THE CLAIMS SHALL BE FILED IN THE MANNER PRESCRIBED
4 BY THE DEPARTMENT AND SHALL CONTAIN ALL INFORMATION REQUIRED BY
5 THE DEPARTMENT TO DETERMINE THE ELIGIBILITY OF THE PARTICIPATING
6 EMPLOYEES FOR COMPENSATION.

7 * * *

8 SECTION 7. THE SECRETARY OF LABOR AND INDUSTRY SHALL
9 TRANSMIT NOTICE TO THE LEGISLATIVE REFERENCE BUREAU FOR
10 PUBLICATION IN THE PENNSYLVANIA BULLETIN WITHIN 30 DAYS OF
11 COMPLETION OF IMPLEMENTATION OF THE TECHNOLOGICAL UPGRADES TO
12 THE DELIVERY SYSTEM FOR UNEMPLOYMENT COMPENSATION BENEFITS.

13 SECTION 8. THE ADDITION OF SECTIONS 501, 502 AND 1307 OF THE
14 ACT SHALL APPLY TO BENEFIT YEARS THAT BEGIN ON OR AFTER THE
15 PUBLICATION OF THE NOTICE REQUIRED UNDER SECTION 7.

16 Section ~~2~~ 9. This act shall take effect ~~immediately~~. AS <--
17 FOLLOWS:

18 (1) THE AMENDMENT OF SECTION 301.4 OF THE ACT, SECTIONS
19 7 AND 8 OF THIS ACT AND THIS SECTION SHALL TAKE EFFECT
20 IMMEDIATELY.

21 (2) THE AMENDMENT OF SECTIONS 501, 502 AND 1307 OF THE
22 ACT SHALL TAKE EFFECT UPON PUBLICATION OF THE NOTICE UNDER
23 SECTION 7 OF THIS ACT.

24 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JANUARY
25 1, 2020, OR IMMEDIATELY, WHICHEVER IS LATER.