

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2733 Session of 2012

INTRODUCED BY W. KELLER, TAYLOR, BRENNAN, BROWNLEE, COHEN,  
DePASQUALE, FRANKEL, GEORGE, HANNA, HARKINS, JAMES, MANN,  
McGEEHAN, M. O'BRIEN, PARKER, PASHINSKI, SABATINA, THOMAS AND  
READSHAW, NOVEMBER 13, 2012

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, NOVEMBER 13, 2012

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," further providing for  
16 contributions by employees and for trigger rate  
17 redeterminations; and providing for regular contributions by  
18 employees.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 Section 1. Sections 301.4 and 301.8(b) of the act of  
22 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as  
23 the Unemployment Compensation Law, amended June 12, 2012  
24 (P.L.577, No.60), are amended to read:

25 Section 301.4. Contributions by Employes.--(a)

1 Notwithstanding any other provision of this act, each employe  
2 shall pay contributions at a rate of zero per centum (0.0%) for  
3 calendar year 1989 and at a rate as set forth in section 301.7  
4 for each calendar year thereafter of all wages paid for  
5 "employment" as defined by the act without regard to the  
6 limitation specified in section 4(x)(1) of this act.

7 (b) Each employer subject to this act shall be responsible  
8 for withholding and shall withhold, in trust, such contributions  
9 from the wages of his employes at the time such wages are paid,  
10 and shall report and transmit such deductions to the department  
11 for deposit into the Unemployment Compensation Fund [and], the  
12 Reemployment Fund and the Administration Fund pursuant to the  
13 allocation prescribed in subsection (e), in accordance with  
14 rules and procedures established by the department.

15 (c) Any employer who is an individual, or any officer or  
16 agent of any employer, who violates the trust provision of this  
17 section, fails to withhold, hold in trust or fails to transmit  
18 to the department all contributions withheld from the wages of  
19 his employes in accordance with the rules and procedure  
20 established by the department shall be subject to the provisions  
21 of clause (2) of subsection (a) of section 301 and sections 308,  
22 308.1, 308.2, 308.3 and 309 of this act.

23 (d) This section shall not be deemed to affect or impair the  
24 operation of any State statute or ordinance or resolution of a  
25 political subdivision which levies or collects any wage tax or  
26 similar tax. Contributions made pursuant to this section are not  
27 intended to reduce or otherwise affect any tax on wages or  
28 similar tax.

29 (e) Contributions paid under this section shall be  
30 allocated by the department between the Unemployment

1 Compensation Fund [and], the Reemployment Fund and the  
2 Administration Fund as follows:

3 [(1) Ninety-five per centum (95%) of the contributions on  
4 wages paid from January 1, 2013, through September 30, 2017,  
5 shall be deposited into the Unemployment Compensation Fund and  
6 five per centum (5%) of such contributions shall be deposited  
7 into the Reemployment Fund to the extent the contributions are  
8 paid on or before December 31, 2017.

9 (2) One hundred per centum (100%) of the contributions on  
10 wages paid from January 1, 2013, through September 30, 2017,  
11 shall be deposited into the Unemployment Compensation Fund to  
12 the extent the contributions are paid on or after January 1,  
13 2018.

14 (3) One hundred per centum (100%) of the contributions on  
15 wages paid on or after October 1, 2017, shall be deposited into  
16 the Unemployment Compensation Fund.]

17 (1) Ninety-five per centum (95%) of the contributions shall  
18 be deposited into the Unemployment Compensation Fund.

19 (2) Five per centum (5%) of such contributions shall be  
20 deposited as follows:

21 (i) Not less than five million dollars (\$5,000,000) shall  
22 annually be deposited into the Administration Fund with the  
23 remaining contributions deposited into the Reemployment Fund to  
24 the extent that contributions are paid on or before December 31,  
25 2017.

26 (ii) Commencing January 1, 2018, the contributions shall be  
27 deposited into the Administration Fund to the extent that such  
28 contributions are paid on or after January 1, 2018.

29 Section 301.8. Trigger Rate Redeterminations.--\* \* \*

30 (b) (1) For calendar years 2013 through the year determined

under paragraph (4), if the trigger percentage as of July 1 of the preceding calendar year is less than two hundred fifty per centum (250%), the rates determined under paragraph (2) shall apply. For calendar years following the year determined under paragraph (4), if the trigger percentage as of July 1 of the preceding calendar year is less than two hundred fifty per centum (250%), the rates determined under paragraph (3) shall apply.

(2) (i) The secretary shall redetermine the rates such that the surcharge assessed under section 301.5 shall yield one hundred million dollars (\$100,000,000), the additional contribution under section 301.2 shall yield two hundred twenty-five million dollars (\$225,000,000), the employe tax under section 301.4 shall yield one hundred sixty-six million six hundred sixty-six thousand six hundred sixty-six dollars (\$166,666,666), and the benefit reduction under section 404(e) (4) shall yield fifty-two million dollars (\$52,000,000).

(ii) For calendar years 2018 through the year determined under paragraph (4), notwithstanding the dollar limitation in subparagraph (i), the employe tax rate applicable under section 301.4 and redetermined under this paragraph shall not be set at a rate less than eight-hundredths of one per centum (0.08%).

(3) (i) The secretary shall redetermine the rates such that the surcharge assessed under section 301.5 shall yield one hundred thirty-eight million dollars (\$138,000,000), the additional contribution under section 301.2 shall yield the sum of three hundred ten million dollars (\$310,000,000) plus the amount determined under paragraph (5), the employe tax under section 301.4 shall yield two hundred thirty million dollars (\$230,000,000), and the benefit reduction under section 404(e)

(4) shall yield seventy-two million dollars (\$72,000,000).

(ii) Notwithstanding the dollar limitation in subparagraph (i), the employee tax rate applicable under section 301.4 and redetermined under this paragraph shall not be set at a rate less than eight-hundredths of one per centum (0.08%).

(4) The calendar year determined under this paragraph shall be the earliest calendar year subsequent to 2012 on December 31 of which all of the following apply:

(i) There is no unpaid balance of Federal advances under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321, et seq.) or interest thereon.

(ii) There are no outstanding bond obligations under Article XIV of this act and no bond administrative expenses under Article XIV of this act and no such obligations and no such expenses will be due in the following year.

(5) The amount determined under this paragraph shall be the sum of:

(i) twenty per centum (20%) of the amount paid from the Unemployment Compensation Fund pursuant to section 1407(c) during the sixty (60) consecutive calendar months ending on June 30 of the year in which the redetermination occurs, plus

(ii) twenty per centum (20%) of that portion of the amount paid from the Unemployment Compensation Fund pursuant to section 1407(c) during the immediately preceding sixty (60) consecutive calendar months that is not recovered by additional contributions paid for calendar years through the calendar year in which the redetermination occurs.

\* \* \*

Section 2. The act is amended by adding a section to read:

Section 301.9. Regular Contributions by Employees.--(a)

1 Notwithstanding any other provision of this act, for every  
2 calendar year in which the employe tax under section 301.4 is  
3 not effective, each employe shall contribute eight-hundredths of  
4 one percent (0.08%) of all wages paid for employment without  
5 regard to the limitation specified in section 4(x)(1).

6 (b) Each employer subject to this act shall be responsible  
7 for withholding and shall withhold, in trust, such contributions  
8 from the wages of his employes at the time such wages are paid,  
9 and shall report and transmit such deductions to the department  
10 for deposit into the Unemployment Compensation Fund and the  
11 Administration Fund pursuant to the allocation prescribed in  
12 subsection (e), in accordance with rules and procedures  
13 established by the department.

14 (c) Any employer who is an individual, or any officer or  
15 agent of any employer, who violates the trust provision of this  
16 section, fails to withhold, hold in trust or fails to transmit  
17 to the department all contributions withheld from the wages of  
18 an employer's employes in accordance with the rules and  
19 procedure established by the department shall be subject to the  
20 provisions of sections 301(a)(2), 308, 308.1, 308.2, 308.3 and  
21 309.

22 (d) This section shall not be deemed to affect or impair the  
23 operation of any State statute or ordinance or resolution of a  
24 political subdivision which levies or collects any wage tax or  
25 similar tax. Contributions made pursuant to this section are not  
26 intended to reduce or otherwise affect any tax on wages or  
27 similar tax.

28 (e) Contributions paid under this section shall be allocated  
29 by the department between the Unemployment Compensation Fund and  
30 the Administration Fund as follows:

1     (1) Sixty per centum (60%) of the contributions shall be  
2     deposited into the Unemployment Compensation Fund.

3     (2) Forty per centum (40%) of such contributions shall be  
4     deposited into the Administration Fund. This money shall be  
5     prioritized for costs to improve the efficiency of the  
6     unemployment compensation service center system, including costs  
7     of increased staffing, training for temporary or intermittent  
8     positions to ensure a ready work force as needed, and necessary  
9     upgrades to telephone and electronic service center and claims  
10    filing systems.

11     Section 3. This act applies as follows:

12     (1) The amendment of section 301.4 of the act shall apply to  
13     contributions on wages paid on or after January 1, 2013.

14     (2) The amendment of section 301.8(b) of the act shall apply  
15     to the redetermination of employee contribution rates to occur  
16     under section 301.8 beginning in 2017 and each fifth year  
17     thereafter for purposes of contribution rates for calendar year  
18     2018 and thereafter, respectively.

19     Section 4. This act shall take effect immediately.