

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1030 Session of 2011

INTRODUCED BY GORDNER, APRIL 28, 2011

SENATOR GORDNER, LABOR AND INDUSTRY, AS AMENDED, MAY 10, 2011

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 relief from charges AND FOR ESTABLISHMENT AND MAINTENANCE OF
17 EMPLOYER'S RESERVE ACCOUNTS; PROVIDING FOR AUTOMATIC RELIEF
18 FROM CHARGES; FURTHER PROVIDING FOR QUALIFICATIONS REQUIRED
19 TO SECURE COMPENSATION, FOR RATE AND AMOUNT OF COMPENSATION,
20 FOR DEFINITIONS AND FOR RULES OF PROCEDURE; AND PROVIDING FOR
21 SHARED-WORK PROGRAM AND FOR APPLICABILITY.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 ~~Section 1. The act of December 5, 1936 (2nd Sp.Sess., 1937~~
25 ~~P.L.2897, No.1), known as the Unemployment Compensation Law, is~~
26 ~~amended by adding a section to read:~~

27 SECTION 1. SECTION 213 OF THE ACT OF DECEMBER 5, 1936 (2ND
28 SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT

1 COMPENSATION LAW, ADDED DECEMBER 9, 2002 (P.L.1330, NO.156), IS
2 AMENDED TO READ:

3 SECTION 213. RELIEF FROM CHARGES FOR CERTAIN EMPLOYERS.-- (A)
4 AN EMPLOYER THAT MAKES PAYMENTS IN LIEU OF CONTRIBUTIONS
5 PURSUANT TO ARTICLE X, XI OR XII SHALL BE RELIEVED OF CHARGES IN
6 ACCORDANCE WITH SECTION [302(A)] 302.1 AND REGULATIONS OF THE
7 DEPARTMENT, FOR COMPENSATION PAID ON APPLICATIONS FOR BENEFITS
8 EFFECTIVE DURING A CALENDAR YEAR, IF THE EMPLOYER SATISFIES THE
9 FOLLOWING REQUIREMENTS:

10 (1) THE EMPLOYER PAYS A NONREFUNDABLE SOLVENCY FEE UNDER
11 SUBSECTION (B) FOR THE CALENDAR YEAR WITHIN THIRTY (30) DAYS
12 AFTER NOTICE OF THE FEE IS SENT TO THE EMPLOYER'S LAST KNOWN
13 ADDRESS. THE DEPARTMENT MAY FOR GOOD CAUSE EXTEND THE PERIOD
14 WITHIN WHICH THE FEE MUST BE PAID.

15 (2) ALL REPORTS REQUIRED BY THIS ACT AND REGULATIONS OF THE
16 DEPARTMENT FOR CALENDAR QUARTERS THROUGH THE SECOND CALENDAR
17 QUARTER OF THE PRECEDING CALENDAR YEAR ARE FILED.

18 (B) AN EMPLOYER'S SOLVENCY FEE FOR A CALENDAR YEAR SHALL BE
19 THE MONETARY AMOUNT DETERMINED BY MULTIPLYING THE SOLVENCY FEE
20 RATE FOR THE YEAR BY THE AMOUNT OF WAGES PAID, WITHOUT REGARD TO
21 THE EXCLUSION IN SECTION 4(X)(1), BY THE EMPLOYER IN THE FOUR
22 CONSECUTIVE CALENDAR QUARTERS ENDING ON JUNE 30 OF THE PRECEDING
23 CALENDAR YEAR, PROVIDED THAT AN EMPLOYER'S SOLVENCY FEE FOR A
24 YEAR SHALL NOT BE LESS THAN TWENTY-FIVE DOLLARS (\$25).

25 (1) FOR CALENDAR YEARS 2003, 2004 AND 2005, THE SOLVENCY FEE
26 RATE SHALL BE THREE TEN THOUSANDTHS (.0003).

27 (2) IN 2005 THE SECRETARY SHALL REDETERMINE THE SOLVENCY FEE
28 RATE. THE SECRETARY SHALL REDETERMINE THE RATE SO THAT THE
29 UNROUNDED RATE YIELDS SOLVENCY FEES APPROXIMATELY EQUAL TO THE
30 AMOUNT OF COMPENSATION FOR WHICH CHARGES ARE RELIEVED UNDER THIS

1 SECTION. FOR PURPOSES OF REDETERMINING THE RATE, THE SECRETARY
2 SHALL USE THE AMOUNT OF COMPENSATION FOR WHICH CHARGES ARE
3 RELIEVED UNDER THIS SECTION PAID DURING 2003 AND 2004 AND THE
4 AMOUNT OF WAGES PAID, WITHOUT REGARD TO THE EXCLUSION IN SECTION
5 4(X)(1), DURING THE SAME TIME PERIOD BY EMPLOYERS WHO PAID A
6 SOLVENCY FEE UNDER THIS SECTION. THE RATE AS REDETERMINED SHALL
7 TAKE EFFECT FOR THE NEXT CALENDAR YEAR AND SHALL REMAIN IN
8 EFFECT FOR THREE YEARS.

9 (3) BEGINNING IN 2008 AND EACH FIFTH YEAR THEREAFTER, THE
10 SECRETARY SHALL REDETERMINE THE SOLVENCY FEE RATE. THE SECRETARY
11 SHALL REDETERMINE THE RATE SO THAT THE UNROUNDED RATE YIELDS
12 SOLVENCY FEES APPROXIMATELY EQUAL TO THE AMOUNT OF COMPENSATION
13 FOR WHICH CHARGES ARE RELIEVED UNDER THIS SECTION. FOR PURPOSES
14 OF REDETERMINING THE RATE, THE SECRETARY SHALL USE THE AMOUNT OF
15 COMPENSATION FOR WHICH CHARGES ARE RELIEVED UNDER THIS SECTION
16 PAID DURING THE FIVE CALENDAR YEARS IMMEDIATELY PRECEDING THE
17 YEAR IN WHICH THE REDETERMINATION OCCURS AND THE AMOUNT OF WAGES
18 PAID, WITHOUT REGARD TO THE EXCLUSION IN SECTION 4(X)(1), DURING
19 THE SAME TIME PERIOD BY EMPLOYERS WHO PAID A SOLVENCY FEE UNDER
20 THIS SECTION. THE RATE AS REDETERMINED SHALL TAKE EFFECT FOR THE
21 NEXT CALENDAR YEAR AND SHALL REMAIN IN EFFECT FOR FIVE YEARS.

22 (4) IF THE SOLVENCY FEE RATE REDETERMINED UNDER PARAGRAPHS
23 (2) AND (3) IS NOT A MULTIPLE OF ONE-HUNDREDTH OF ONE PER CENT,
24 IT SHALL BE ROUNDED TO THE NEXT HIGHER MULTIPLE OF ONE-HUNDREDTH
25 OF ONE PER CENT.

26 (C) SOLVENCY FEES PAID BY EMPLOYERS UNDER THIS SECTION SHALL
27 BE DEPOSITED IN THE UNEMPLOYMENT COMPENSATION FUND. COMPENSATION
28 FOR WHICH CHARGES ARE RELIEVED UNDER THIS SECTION SHALL NOT BE
29 USED IN THE CALCULATION OF THE STATE ADJUSTMENT FACTOR UNDER
30 SECTION 301.1(E).

1 (D) THE PROVISIONS OF THIS SECTION SHALL CONSTITUTE THE
2 EXCLUSIVE MEANS BY WHICH AN EMPLOYER WHO MAKES PAYMENTS IN LIEU
3 OF CONTRIBUTIONS PURSUANT TO ARTICLE X, XI OR XII MAY BE EXCUSED
4 FROM REIMBURSING THE UNEMPLOYMENT COMPENSATION FUND FOR
5 COMPENSATION PAID TO AN INDIVIDUAL THAT IS BASED ON WAGES PAID
6 BY THE EMPLOYER OR THAT PORTION OF THE INDIVIDUAL'S COMPENSATION
7 DETERMINED IN ACCORDANCE WITH SECTION 1108.

8 (E) A GROUP ACCOUNT UNDER SECTION 1109 SHALL CONSTITUTE AN
9 EMPLOYER FOR PURPOSES OF THIS SECTION.

10 SECTION 2. SECTION 302 OF THE ACT, AMENDED MARCH 24, 1964
11 (SP.SESS., P.L.53, NO.1), JULY 6, 1977 (P.L.41, NO.22), JULY 21,
12 1983 (P.L.68, NO.30), DECEMBER 19, 1996 (P.L.1476, NO.189) AND
13 DECEMBER 9, 2002 (P.L.1330, NO.156), IS AMENDED TO READ:

14 SECTION 302. ESTABLISHMENT AND MAINTENANCE OF EMPLOYER'S
15 RESERVE ACCOUNTS.--THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN
16 FOR EACH EMPLOYER A SEPARATE EMPLOYER'S RESERVE ACCOUNT IN THE
17 FOLLOWING MANNER:

18 (A) [(1) SUCH ACCOUNT SHALL BE CREDITED WITH ALL
19 CONTRIBUTIONS PAID BY SUCH EMPLOYER FOR PERIODS SUBSEQUENT TO
20 JUNE THIRTIETH, ONE THOUSAND NINE HUNDRED FORTY-EIGHT. SUCH
21 ACCOUNT SHALL BE CHARGED WITH AN AMOUNT DETERMINED BY
22 MULTIPLYING THE WAGES OF COMPENSATED EMPLOYEES OF SUCH EMPLOYER
23 FOR THE TWELVE MONTH PERIOD ENDED JUNE THIRTIETH, ONE THOUSAND
24 NINE HUNDRED FORTY-NINE, BY THE STATE EXPERIENCE HERETOFORE USED
25 IN DETERMINING RATES OF CONTRIBUTIONS FOR THE YEAR ONE THOUSAND
26 NINE HUNDRED FORTY-NINE. SUBSEQUENT TO JANUARY 1, 1984, SUCH] AN
27 EMPLOYER'S ACCOUNT SHALL BE CHARGED WITH ALL COMPENSATION,
28 INCLUDING DEPENDENTS' ALLOWANCES, PAID TO EACH INDIVIDUAL WHO
29 RECEIVED FROM SUCH EMPLOYER WAGE CREDITS CONSTITUTING THE BASE
30 OF SUCH COMPENSATION, IN THE PROPORTION THAT SUCH WAGE CREDITS

1 WITH SUCH EMPLOYER BEARS TO THE TOTAL WAGE CREDITS RECEIVED BY
2 SUCH INDIVIDUAL FROM ALL EMPLOYERS[: PROVIDED, THAT IF THE
3 DEPARTMENT FINDS THAT SUCH INDIVIDUAL WAS SEPARATED FROM HIS
4 MOST RECENT WORK FOR SUCH EMPLOYER DUE TO BEING DISCHARGED FOR
5 WILLFUL MISCONDUCT CONNECTED WITH SUCH WORK, OR DUE TO HIS
6 LEAVING SUCH WORK WITHOUT GOOD CAUSE ATTRIBUTABLE TO HIS
7 EMPLOYMENT, OR DUE TO HIS BEING SEPARATED FROM SUCH WORK UNDER
8 CONDITIONS WHICH WOULD RESULT IN DISQUALIFICATION FOR BENEFITS
9 UNDER THE PROVISIONS OF SECTION 3 OR SECTION 402(E.1),
10 THEREAFTER NO COMPENSATION PAID TO SUCH INDIVIDUAL WITH RESPECT
11 TO ANY WEEK OF UNEMPLOYMENT OCCURRING SUBSEQUENT TO SUCH
12 SEPARATION, WHICH IS BASED UPON WAGES PAID BY SUCH EMPLOYER WITH
13 RESPECT TO EMPLOYMENT PRIOR TO SUCH SEPARATION, SHALL BE CHARGED
14 TO SUCH EMPLOYER'S ACCOUNT UNDER THE PROVISIONS OF THIS
15 SUBSECTION (A); PROVIDED, SUCH EMPLOYER HAS FILED A NOTICE WITH
16 THE DEPARTMENT IN ACCORDANCE WITH ITS RULES AND REGULATIONS AND
17 WITHIN THE TIME LIMITS PRESCRIBED THEREIN; AND PROVIDED IF THE
18 DEPARTMENT FINDS THAT SUCH INDIVIDUAL'S UNEMPLOYMENT IS DIRECTLY
19 CAUSED BY A MAJOR NATURAL DISASTER DECLARED BY THE PRESIDENT
20 PURSUANT TO SECTION 102(1) OF THE DISASTER RELIEF ACT OF 1970
21 (P.L.91-606) AND SUCH INDIVIDUAL WOULD HAVE BEEN ELIGIBLE FOR
22 DISASTER UNEMPLOYMENT ASSISTANCE AS PROVIDED IN SECTION 240 OF
23 THAT ACT WITH RESPECT TO SUCH UNEMPLOYMENT BUT FOR THE RECEIPT
24 OF UNEMPLOYMENT COMPENSATION, NO COMPENSATION PAID TO SUCH
25 INDIVIDUAL WITH RESPECT TO ANY WEEK OF UNEMPLOYMENT OCCURRING
26 DUE TO SUCH NATURAL DISASTER, TO A MAXIMUM OF THE EIGHT WEEKS
27 IMMEDIATELY FOLLOWING THE PRESIDENT'S DECLARATION OF EMERGENCY,
28 SHALL BE CHARGED TO THE EMPLOYER'S ACCOUNT UNDER THE PROVISIONS
29 OF THIS SUBSECTION.

30 (2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS

1 SUBSECTION, IF THE DEPARTMENT FINDS THAT AN INDIVIDUAL
2 SUBSEQUENT TO SEPARATION FROM HIS WORK IS ENGAGED IN PART-TIME
3 WORK FOR A BASE YEAR EMPLOYER, OTHER THAN A BASE YEAR EMPLOYER
4 FROM WHOM HE HAS SEPARATED, COMPENSATION PAID TO SUCH INDIVIDUAL
5 WITH RESPECT TO ANY WEEK OF UNEMPLOYMENT OCCURRING SUBSEQUENT TO
6 SUCH SEPARATION AND WHILE SUCH PART-TIME WORK CONTINUES WITHOUT
7 MATERIAL CHANGE, SHALL NOT BE CHARGED TO THE ACCOUNT OF SUCH
8 PART-TIME EMPLOYER; PROVIDED, SUCH PART-TIME EMPLOYER HAS FILED
9 A NOTICE WITH THE DEPARTMENT IN ACCORDANCE WITH ITS RULES AND
10 REGULATIONS AND WITHIN THE TIME LIMITS PRESCRIBED THEREIN.

11 (2.1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF
12 THIS SUBSECTION, IF THE DEPARTMENT FINDS THAT AN INDIVIDUAL WAS
13 SEPARATED FROM HIS MOST RECENT WORK FOR SUCH EMPLOYER DUE TO A
14 CESSATION OF BUSINESS OF EIGHTEEN MONTHS OR LESS CAUSED BY A
15 DISASTER, COMPENSATION PAID TO SUCH INDIVIDUAL WITH RESPECT TO
16 ANY WEEK OF UNEMPLOYMENT OCCURRING SUBSEQUENT TO SUCH SEPARATION
17 SHALL NOT BE CHARGED TO THE ACCOUNT OF SUCH EMPLOYER; PROVIDED,
18 SUCH EMPLOYER HAS FILED A NOTICE WITH THE DEPARTMENT IN
19 ACCORDANCE WITH ITS RULES AND REGULATIONS AND WITHIN THE TIME
20 LIMITS PRESCRIBED THEREIN.

21 (3) THE FINDINGS AND DETERMINATIONS OF THE DEPARTMENT UNDER
22 THIS SUBSECTION (A) SHALL BE SUBJECT TO APPEAL IN THE MANNER
23 PROVIDED IN THIS ACT FOR APPEALS FROM DETERMINATIONS OF
24 COMPENSATION: PROVIDED, THAT WHERE THE INDIVIDUAL'S ELIGIBILITY
25 FOR COMPENSATION HAS BEEN FINALLY DETERMINED UNDER THE
26 PROVISIONS OF ARTICLE V OF THIS ACT, SUCH DETERMINATION SHALL
27 NOT BE SUBJECT TO ATTACK IN PROCEEDINGS UNDER THIS SECTION.

28 (4) THE RESERVE ACCOUNT OF ANY EMPLOYER WHO PAYS
29 CONTRIBUTIONS UNDER THIS SECTION SHALL NOT BE CHARGED WITH
30 RESPECT TO BENEFITS PAID TO ANY INDIVIDUAL WHOSE BASE PERIOD

1 WAGES INCLUDE WAGES FOR PREVIOUSLY UNCOVERED SERVICES AS DEFINED
2 IN SECTION 401(G) TO THE EXTENT THAT THE UNEMPLOYMENT INSURANCE
3 FUND IS REIMBURSED FOR SUCH BENEFITS PURSUANT TO SECTION 121 OF
4 PUBLIC LAW 94-566].

5 (B) ANY EMPLOYER, AT ANY TIME, MAY VOLUNTARILY PAY INTO THE
6 UNEMPLOYMENT COMPENSATION FUND AN AMOUNT IN EXCESS OF THE
7 CONTRIBUTIONS REQUIRED TO BE PAID UNDER THE PROVISIONS OF THIS
8 ACT, AND SUCH AMOUNT SHALL BE FORTHWITH CREDITED TO HIS RESERVE
9 ACCOUNT. HIS RATE OF CONTRIBUTION SHALL BE COMPUTED OR
10 RECOMPUTED, AS THE CASE MAY BE, WITH SUCH AMOUNT INCLUDED IN THE
11 CALCULATION. TO AFFECT SUCH EMPLOYER'S RATE OF CONTRIBUTION FOR
12 ANY YEAR, SUCH AMOUNT SHALL BE PAID NOT LATER THAN THIRTY DAYS
13 FOLLOWING THE MAILING OF NOTICE OF HIS RATE OF CONTRIBUTION FOR
14 SUCH YEAR: PROVIDED, THAT FOR GOOD CAUSE, SUCH TIME MAY BE
15 EXTENDED BY THE DEPARTMENT: AND PROVIDED FURTHER, THAT SUCH
16 AMOUNT, WHEN PAID AS AFORESAID, SHALL NOT BE REFUNDED OR USED AS
17 A CREDIT IN THE PAYMENT OF CONTRIBUTIONS IN WHOLE OR IN PART.
18 IN NO EVENT SHALL ANY SUCH AMOUNT BE INCLUDED IN THE COMPUTATION
19 OR RECOMPUTATION FOR ANY YEAR UNLESS IT IS PAID WITHIN ONE
20 HUNDRED TWENTY DAYS AFTER THE BEGINNING OF SUCH YEAR.

21 (C) (1) FOR THE PURPOSE OF DETERMINING ANY EMPLOYER'S RATE
22 OF CONTRIBUTION FOR ANY YEAR, THE PHRASE "BALANCE IN AN
23 EMPLOYER'S RESERVE ACCOUNT" AS USED IN SECTIONS 301, 301.1 AND
24 301.2 OF THIS ACT SHALL MEAN THE AMOUNT ASCERTAINED AS OF THE
25 COMPUTATION DATE BY SUBTRACTING THE AMOUNTS CHARGED TO HIS
26 RESERVE ACCOUNT FROM THE AMOUNTS CREDITED THERETO INCLUDING
27 VOLUNTARY CONTRIBUTIONS. IF, AS OF THE COMPUTATION DATE, THE
28 AMOUNTS CHARGED TO HIS RESERVE ACCOUNT EXCEED THE AMOUNTS
29 CREDITED BY AN AMOUNT EQUIVALENT TO MORE THAN TWENTY PER CENTUM
30 (20%) OF HIS AVERAGE ANNUAL PAYROLL, THE EMPLOYER MAY ELECT,

1 SUBJECT TO THE PROVISIONS OF SECTION 301.1(F) OF THIS ACT TO
2 HAVE HIS RESERVE ACCOUNT BALANCE ADJUSTED TO A NEGATIVE BALANCE
3 EQUAL TO TWENTY PER CENTUM (20%) OF HIS AVERAGE ANNUAL PAYROLL.
4 THIS SUBSECTION AS AMENDED SHALL APPLY TO ELECTIONS MADE AFTER
5 DECEMBER 31, 1986.

6 (2) NOTWITHSTANDING THE PROVISIONS OF SECTION 301.1(F) AND
7 PARAGRAPH (1) OF THIS SUBSECTION, FOR ELECTIONS MADE ON OR AFTER
8 JANUARY 1, 1984 AND BEFORE MAY 1, 1986, IF THE AMOUNTS CHARGED
9 TO THE EMPLOYER'S RESERVE ACCOUNT EXCEED THE AMOUNTS CREDITED BY
10 AN AMOUNT EQUIVALENT TO MORE THAN TEN PER CENTUM (10%) OF HIS
11 AVERAGE ANNUAL PAYROLL, THE DEPARTMENT, AFTER DETERMINING HIS
12 RESERVE RATIO FACTOR SHALL, UPON THE ELECTION OF THE EMPLOYER,
13 ADJUST HIS RESERVE ACCOUNT BALANCE TO A NEGATIVE BALANCE EQUAL
14 TO TEN PER CENTUM (10%) OF HIS AVERAGE ANNUAL PAYROLL. WITH
15 RESPECT TO FUTURE ADJUSTMENTS OF NEGATIVE BALANCE ACCOUNTS, THE
16 SECRETARY SHALL, UPON THE ELECTION OF THE EMPLOYER, MAKE
17 ADJUSTMENTS AS FOLLOWS:

18 (I) IN RELATION TO ADJUSTMENTS MADE FOR THE SECOND TIME
19 AFTER JANUARY 1, 1984 AND BEFORE MAY 1, 1986, IF THE AMOUNTS
20 CHARGED TO HIS RESERVE ACCOUNT EXCEED THE AMOUNTS CREDITED BY AN
21 AMOUNT EQUIVALENT TO MORE THAN FIFTEEN PER CENTUM (15%) OF HIS
22 AVERAGE ANNUAL PAYROLL, THE DEPARTMENT SHALL, UPON THE ELECTION
23 OF THE EMPLOYER, ADJUST THE RESERVE ACCOUNT BALANCE TO A
24 NEGATIVE BALANCE EQUAL TO FIFTEEN PER CENTUM (15%) OF HIS
25 AVERAGE ANNUAL PAYROLL.

26 (II) IN RELATION TO ADJUSTMENTS MADE FOR THE THIRD TIME
27 AFTER JANUARY 1, 1984 AND BEFORE MAY 1, 1986, IF THE AMOUNTS
28 CHARGED TO HIS RESERVE ACCOUNT EXCEED THE AMOUNTS CREDITED BY AN
29 AMOUNT EQUIVALENT TO MORE THAN TWENTY PER CENTUM (20%) OF HIS
30 AVERAGE ANNUAL PAYROLL, THE DEPARTMENT SHALL, UPON THE ELECTION

1 OF THE EMPLOYER, ADJUST HIS RESERVE ACCOUNT BALANCE TO A
2 NEGATIVE BALANCE EQUAL TO TWENTY PER CENTUM (20%) OF HIS AVERAGE
3 ANNUAL PAYROLL.

4 (D) THE DEPARTMENT SHALL TERMINATE THE RESERVE ACCOUNT OF
5 ANY EMPLOYER WHO HAS NOT PAID CONTRIBUTIONS FOR A PERIOD OF FOUR
6 CONSECUTIVE TWELVE MONTH PERIODS, ENDING JUNE THIRTIETH IN ANY
7 YEAR.

8 (E) NOTHING CONTAINED IN THIS ACT SHALL BE CONSTRUED TO
9 GRANT TO ANY EMPLOYER ANY CLAIM OR RIGHT OF WITHDRAWAL WITH
10 RESPECT TO ANY AMOUNT ALLOCATED TO HIM FROM, OR PAID BY HIM
11 INTO, THE UNEMPLOYMENT COMPENSATION FUND, EXCEPT AS PROVIDED IN
12 SECTION THREE HUNDRED ELEVEN HEREOF.

13 SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

14 Section 302.1. Relief from Charges.--Notwithstanding any
15 other provisions of this act assigning charges for compensation
16 paid to employes, the department shall relieve an employer of
17 charges for compensation in accordance with this section and
18 section 213 of this act.

19 (a) Circumstances allowing relief:

20 (1) If an individual was separated from his most recent work
21 for an employer due to being discharged for willful misconduct
22 connected with that work, or due to his leaving that work
23 without good cause attributable to his employment, or due to his
24 being separated from such work under conditions which would
25 result in disqualification for benefits under the provisions of
26 section 3 or section 402(e.1), the employer shall be relieved of
27 charges for compensation paid to the individual with respect to
28 any week of unemployment occurring subsequent to such
29 separation. Relief from charges under this paragraph terminates
30 if the employe returns to work for the employer.

1 (2) If an individual's unemployment is directly caused by a
2 major natural disaster declared by the President of the United
3 States pursuant to section 102(1) of the Disaster Relief Act of
4 1970 (Public Law 91-606, 42 U.S.C. § 4401 et seq.) and the
5 individual would have been eligible for disaster unemployment
6 assistance as provided in section 240 of the Disaster Relief Act
7 of 1970 with respect to that unemployment but for the receipt of
8 unemployment compensation, an employer shall be relieved of
9 charges for compensation paid to such individual with respect to
10 any week of unemployment occurring due to the natural disaster,
11 to a maximum of the eight weeks immediately following the
12 declaration of emergency by the President of the United States.

13 (3) If an individual subsequent to separation from his work
14 is engaged in part-time work for a base year employer, other
15 than a base year employer from whom he has separated, the part-
16 time employer shall be relieved of charges for compensation paid
17 to the individual with respect to any week of unemployment
18 occurring subsequent to the separation and while such part-time
19 work continues without material change.

20 (4) If the department finds that an individual was separated
21 from his most recent work for an employer due to a cessation of
22 business of eighteen months or less caused by a disaster, the
23 employer may be relieved of charges for compensation paid to
24 such individual with respect to any week of unemployment
25 occurring subsequent to that separation. Relief from charges
26 under this paragraph terminates if the employe returns to work
27 for the employer.

28 (b) Requests for relief from charges:

29 (1) Except as provided in subsection (c), in order to be
30 granted relief from charges for compensation an employer must

1 file a request with the department in the manner provided, and
2 containing all information required, by the department's
3 regulations.

4 (2) If an employer is requesting relief from charges on the
5 basis of a separation that occurs on or before the date the
6 claimant files an application for benefits or on the basis of
7 continuing part-time work, the following shall apply:

8 (i) If the request is filed within ~~thirty (30)~~ FIFTEEN (15) ←
9 days after the date of the earliest notice issued by the
10 department under section 501(a) indicating that the claimant is
11 eligible under section 401(a) and relief is granted, relief
12 shall begin with the earliest week for which the claimant is
13 eligible for benefits pursuant to the claimant's application for
14 benefits.

15 (ii) If the request is not filed within the time period
16 provided in subparagraph (i), relief, if granted by the
17 department, shall begin with the earliest week ending fifteen
18 (15) or more days subsequent to the date the request is filed.

19 (3) If an employer is requesting relief from charges on the
20 basis of a separation that occurs after the claimant files an
21 application for benefits, the following shall apply:

22 (i) If the request is filed within ~~thirty (30)~~ FIFTEEN (15) ←
23 days after the date of the earliest notice issued by the
24 department indicating that the claimant is claiming benefits
25 subsequent to the separation and relief is granted, relief shall
26 begin with the earliest week for which the claimant is eligible
27 for benefits following the last day worked.

28 (ii) If the request is not filed within the time period
29 provided in subparagraph (i), relief, if granted by the
30 department, shall begin with the earliest week ending fifteen

1 (15) or more days subsequent to the date the request is filed.

2 (c) Relief from charges without a request:

3 (1) If a claimant is determined ineligible for benefits
4 under section 3 or section 402(b), (e) or (e.1) pursuant to a
5 notice of determination that has become final, the department
6 shall grant relief from charges in accordance with subsection
7 (a)(1) to the employer from whom the claimant was separated,
8 beginning with the earliest week for which the claimant is
9 eligible for benefits following the week or weeks governed by
10 the notice of determination.

11 (2) If a claimant is determined eligible for benefits under
12 section 402(b) pursuant to a notice of determination that has
13 become final, the department shall grant or deny relief from
14 charges in accordance with subsection (a)(1) to the employer
15 from whom the claimant was separated, beginning with the
16 earliest week governed by the notice of determination, in
17 accordance with the following:

18 (i) The department shall grant relief from charges if the
19 claimant left work for the employer without good cause
20 attributable to the claimant's employment.

21 (ii) The department shall deny relief from charges if the
22 claimant left work for the employer with good cause attributable
23 to the claimant's employment.

24 (3) Relief from charges granted to an employer remains in
25 effect for the purpose of benefits paid to the claimant pursuant
26 to a subsequent application for benefits if the relief has not
27 terminated in accordance with the provisions of this section.

28 (d) Employer information:

29 (1) An employer that is granted relief from charges on the
30 basis of a claimant's separation from employment shall notify

1 the department within fifteen (15) days if the claimant returns
2 to work for the employer. The employer shall include with the
3 notification the claimant's name and Social Security number, the
4 employer's name and account number and the date when
5 reemployment commenced.

6 (2) An employer that is granted relief from charges on the
7 basis of continuing part-time work shall notify the department
8 within fifteen (15) days if the employment situation of the
9 claimant changes. The employer shall include with the
10 notification the claimant's name and Social Security number and
11 the employer's name and account number.

12 (e) General provisions:

13 (1) Where the individual's eligibility for compensation has
14 been finally determined under the provisions of Article V, such
15 determination shall not be subject to attack in proceedings
16 under this section.

17 (2) The findings and determinations of the department under
18 this section shall be subject to appeal in the manner provided
19 in this act for appeals from determinations of compensation.

20 ~~Section 2. The addition of section 302.1 of the act shall~~ ←
21 ~~apply to initial claims filed on or after January 1, 2012.~~

22 ~~Section 3. This act shall take effect in 60 days.~~

23 SECTION 4. SECTION 401(B) OF THE ACT, AMENDED JULY 9, 1976 ←
24 (P.L.842, NO.147), IS AMENDED TO READ:

25 SECTION 401. QUALIFICATIONS REQUIRED TO SECURE
26 COMPENSATION.--COMPENSATION SHALL BE PAYABLE TO ANY EMPLOYE WHO
27 IS OR BECOMES UNEMPLOYED, AND WHO--

28 * * *

29 (B) [HAS REGISTERED FOR WORK AT, AND THEREAFTER CONTINUED TO
30 REPORT TO AN EMPLOYMENT OFFICE IN ACCORDANCE WITH SUCH

1 REGULATIONS AS THE SECRETARY MAY PRESCRIBE, EXCEPT THAT THE
2 SECRETARY MAY BY REGULATION WAIVE OR ALTER EITHER OR BOTH OF THE
3 REQUIREMENTS OF THIS CLAUSE AS TO INDIVIDUALS ATTACHED TO
4 REGULAR JOBS AND AS TO SUCH OTHER TYPES OF CASES OR SITUATIONS
5 WITH RESPECT TO WHICH HE FINDS THAT COMPLIANCE WITH SUCH
6 REQUIREMENTS WOULD BE OPPRESSIVE OR WOULD BE INCONSISTENT WITH
7 THE PURPOSES OF THE ACT: PROVIDED, HOWEVER, THAT NO SUCH
8 REGULATION SHALL CONFLICT WITH SECTION FOUR HUNDRED AND ONE (C)
9 OF THIS ACT;] (1) IS MAKING AN ACTIVE SEARCH FOR SUITABLE

10 EMPLOYMENT. THE REQUIREMENTS FOR "ACTIVE SEARCH" SHALL BE
11 ESTABLISHED BY THE DEPARTMENT AND SHALL INCLUDE, AT A MINIMUM,
12 ALL OF THE FOLLOWING:

13 (I) REGISTRATION BY A CLAIMANT FOR EMPLOYMENT SEARCH
14 SERVICES OFFERED BY THE PENNSYLVANIA CAREERLINK SYSTEM OR ITS
15 SUCCESSOR AGENCY WITHIN THIRTY (30) DAYS AFTER INITIAL
16 APPLICATION FOR BENEFITS.

17 (II) POSTING A RESUME ON THE SYSTEM'S DATABASE, UNLESS THE
18 CLAIMANT IS SEEKING WORK IN AN EMPLOYMENT SECTOR IN WHICH
19 RESUMES ARE NOT COMMONLY USED.

20 (III) APPLYING FOR POSITIONS THAT OFFER EMPLOYMENT AND WAGES
21 SIMILAR TO THOSE THE CLAIMANT HAD PRIOR TO HIS UNEMPLOYMENT AND
22 WHICH ARE WITHIN A FORTY-FIVE (45) MINUTE COMMUTING DISTANCE.

23 (2) THE PENNSYLVANIA CAREERLINK SYSTEM OR ITS SUCCESSOR
24 AGENCY SHALL PROVIDE DOCUMENTATION, AS THE SECRETARY DEEMS
25 APPROPRIATE, TO THE PENNSYLVANIA UNEMPLOYMENT COMPENSATION
26 SERVICE CENTER SYSTEM SO THE SYSTEM CAN CONDUCT THE NECESSARY
27 CROSS REFERENCE CHECKS.

28 (3) FOR THE PURPOSES OF PARAGRAPH (1), THE DEPARTMENT MAY
29 DETERMINE THAT A CLAIMANT HAS MADE AN ACTIVE SEARCH FOR SUITABLE
30 WORK IF THE CLAIMANT'S EFFORTS INCLUDE ACTIONS COMPARABLE TO

1 THOSE TRADITIONAL ACTIONS IN THEIR TRADE OR OCCUPATION BY WHICH
2 JOBS HAVE BEEN FOUND BY OTHERS IN THE COMMUNITY AND LABOR MARKET
3 IN WHICH THE CLAIMANT IS SEEKING EMPLOYMENT.

4 (4) THE REQUIREMENTS OF THIS SUBSECTION DO NOT APPLY TO ANY
5 WEEK IN WHICH THE CLAIMANT IS IN TRAINING APPROVED UNDER SECTION
6 236(A) (1) OF THE TRADE ACT OF 1974 (PUBLIC LAW 93-618, 19 U.S.C.
7 § 2101 ET SEQ.) OR ANY WEEK IN WHICH THE CLAIMANT IS REQUIRED TO
8 PARTICIPATE IN REEMPLOYMENT SERVICES UNDER SECTION 402(J).

9 (5) THE REQUIREMENTS OF THIS SUBSECTION SHALL NOT APPLY TO A
10 CLAIMANT WHO IS LAID OFF FOR LACK OF WORK AND ADVISED BY THE
11 EMPLOYER OF THE DATE ON WHICH THE CLAIMANT WILL RETURN TO WORK.

12 (6) THE DEPARTMENT MAY WAIVE OR ALTER THE REQUIREMENTS OF
13 THIS SUBSECTION IN CASES OR SITUATIONS WITH RESPECT TO WHICH THE
14 SECRETARY FINDS THAT COMPLIANCE WITH SUCH REQUIREMENTS WOULD BE
15 OPPRESSIVE OR WHICH WOULD BE INCONSISTENT WITH THE PURPOSES OF
16 THIS ACT.

17 * * *

18 SECTION 5. SECTION 404 INTRODUCTORY PARAGRAPH, (D) AND (E)
19 (2) OF THE ACT, AMENDED OCTOBER 19, 1988 (P.L.818, NO.109) AND
20 DECEMBER 16, 2005 (P.L.437, NO.80), ARE AMENDED TO READ:

21 SECTION 404. RATE AND AMOUNT OF COMPENSATION.--COMPENSATION
22 SHALL BE PAID TO EACH ELIGIBLE EMPLOYEE IN ACCORDANCE WITH THE
23 FOLLOWING PROVISIONS OF THIS SECTION EXCEPT THAT COMPENSATION
24 PAYABLE WITH RESPECT TO WEEKS ENDING IN BENEFIT YEARS WHICH
25 BEGIN PRIOR TO THE FIRST DAY OF JANUARY [1989] 2012 SHALL BE
26 PAID ON THE BASIS OF THE PROVISIONS OF THIS SECTION IN EFFECT AT
27 THE BEGINNING OF SUCH BENEFIT YEARS.

28 * * *

29 (D) (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
30 SECTION EACH ELIGIBLE EMPLOYEE WHO IS UNEMPLOYED WITH RESPECT TO

1 ANY WEEK ENDING SUBSEQUENT TO JULY 1, 1980 SHALL BE PAID, WITH
2 RESPECT TO SUCH WEEK, COMPENSATION IN AN AMOUNT EQUAL TO HIS
3 WEEKLY BENEFIT RATE LESS THE TOTAL OF (I) THE REMUNERATION, IF
4 ANY, PAID OR PAYABLE TO HIM WITH RESPECT TO SUCH WEEK FOR
5 SERVICES PERFORMED WHICH IS IN EXCESS OF HIS PARTIAL BENEFIT
6 CREDIT [AND] (II) VACATION PAY, IF ANY, WHICH IS IN EXCESS OF
7 HIS PARTIAL BENEFIT CREDIT, EXCEPT WHEN PAID TO AN EMPLOYEE WHO
8 IS PERMANENTLY OR INDEFINITELY SEPARATED FROM HIS EMPLOYMENT[.]
9 AND (III) THE AMOUNT OF SEVERANCE PAY THAT IS ATTRIBUTED TO THE
10 WEEK.

11 (1.1) FOR PURPOSES OF CLAUSE (1) (III), ALL OF THE FOLLOWING
12 APPLY:

13 (I) "SEVERANCE PAY" MEANS ONE OR MORE PAYMENTS MADE BY AN
14 EMPLOYER TO AN EMPLOYEE ON ACCOUNT OF SEPARATION FROM THE SERVICE
15 OF THE EMPLOYER, REGARDLESS OF WHETHER THE EMPLOYER IS LEGALLY
16 BOUND BY CONTRACT, STATUTE OR OTHERWISE TO MAKE SUCH PAYMENTS.
17 THE TERM DOES NOT INCLUDE PAYMENTS FOR PENSION, RETIREMENT OR
18 ACCRUED LEAVE OR PAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT BENEFITS.

19 (II) THE AMOUNT OF SEVERANCE PAY ATTRIBUTED PURSUANT TO
20 SUBCLAUSE (III) SHALL BE AN AMOUNT NOT LESS THAN ZERO DETERMINED
21 BY SUBTRACTING ONE-HALF OF THE AVERAGE ANNUAL WAGE AS CALCULATED
22 UNDER SUBSECTION (E) AS OF JUNE 30 IMMEDIATELY PRECEDING THE
23 CALENDAR YEAR IN WHICH THE CLAIMANT'S BENEFIT YEAR BEGINS FROM
24 THE TOTAL AMOUNT OF SEVERANCE PAY PAID OR PAYABLE TO THE
25 CLAIMANT BY THE EMPLOYER.

26 (III) SEVERANCE PAY IS ATTRIBUTED AS FOLLOWS:

27 (A) SEVERANCE PAY IS ATTRIBUTED TO THE DAY, DAYS, WEEK OR
28 WEEKS IMMEDIATELY FOLLOWING THE EMPLOYEE'S SEPARATION.

29 (B) THE NUMBER OF DAYS OR WEEKS TO WHICH SEVERANCE PAY IS
30 ATTRIBUTED IS DETERMINED BY DIVIDING THE TOTAL AMOUNT OF

1 SEVERANCE PAY BY THE REGULAR FULL-TIME DAILY OR WEEKLY WAGE OF
2 THE CLAIMANT.

3 (C) THE AMOUNT OF SEVERANCE PAY ATTRIBUTED TO EACH DAY OR
4 WEEK EQUALS THE REGULAR FULL-TIME DAILY OR WEEKLY WAGE OF THE
5 CLAIMANT.

6 (D) WHEN THE ATTRIBUTION OF SEVERANCE PAY IS MADE ON THE
7 BASIS OF THE NUMBER OF DAYS, THE PAY SHALL BE ATTRIBUTED TO THE
8 CUSTOMARY WORKING DAYS IN THE CALENDAR WEEK.

9 (2) (I) IN ADDITION TO THE DEDUCTIONS PROVIDED FOR IN
10 CLAUSE (1), FOR ANY WEEK WITH RESPECT TO WHICH AN INDIVIDUAL IS
11 RECEIVING A PENSION, INCLUDING A GOVERNMENTAL OR OTHER PENSION,
12 RETIREMENT OR RETIRED PAY, ANNUITY OR ANY OTHER SIMILAR PERIODIC
13 PAYMENT, UNDER A PLAN MAINTAINED OR CONTRIBUTED TO BY A BASE
14 PERIOD OR CHARGEABLE EMPLOYER, THE WEEKLY BENEFIT AMOUNT PAYABLE
15 TO SUCH INDIVIDUAL FOR SUCH WEEK SHALL BE REDUCED, BUT NOT BELOW
16 ZERO, BY THE PRO-RATED WEEKLY AMOUNT OF THE PENSION AS
17 DETERMINED UNDER SUBCLAUSE (II).

18 (II) IF THE PENSION IS ENTIRELY CONTRIBUTED TO BY THE
19 EMPLOYER, THEN ONE HUNDRED PER CENTUM (100%) OF THE PRO-RATED
20 WEEKLY AMOUNT OF THE PENSION SHALL BE DEDUCTED. EXCEPT AS SET
21 FORTH IN CLAUSE (4), IF THE PENSION IS CONTRIBUTED TO BY THE
22 INDIVIDUAL, IN ANY AMOUNT, THEN FIFTY PER CENTUM (50%) OF THE
23 PRO-RATED WEEKLY AMOUNT OF THE PENSION SHALL BE DEDUCTED.

24 (III) NO DEDUCTION SHALL BE MADE UNDER THIS CLAUSE BY REASON
25 OF THE RECEIPT OF A PENSION IF THE SERVICES PERFORMED BY THE
26 INDIVIDUAL DURING THE BASE PERIOD OR REMUNERATION RECEIVED FOR
27 SUCH SERVICES FOR SUCH EMPLOYER DID NOT AFFECT THE INDIVIDUAL'S
28 ELIGIBILITY FOR, OR INCREASE THE AMOUNT OF, SUCH PENSION,
29 RETIREMENT OR RETIRED PAY, ANNUITY OR SIMILAR PAYMENT.

30 (3) THE PROVISIONS OF THIS SUBSECTION SHALL BE APPLICABLE

1 WHETHER OR NOT SUCH VACATION PAY, RETIREMENT PENSION OR
2 ANNUITIES OR WAGES ARE LEGALLY REQUIRED TO BE PAID. IF SUCH
3 RETIREMENT PENSION OR ANNUITY PAYMENTS DEDUCTIBLE UNDER THE
4 PROVISIONS OF THIS SUBSECTION ARE RECEIVED ON OTHER THAN A
5 WEEKLY BASIS, THE AMOUNT THEREOF SHALL BE ALLOCATED AND PRO-
6 RATED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE
7 DEPARTMENT. VACATION PAY OR OTHER REMUNERATION DEDUCTIBLE UNDER
8 THE PROVISIONS OF THIS SUBSECTION SHALL BE PRO-RATED ON THE
9 BASIS OF THE EMPLOYEE'S NORMAL FULL-TIME WEEKLY WAGE AND AS SO
10 PRO-RATED SHALL BE ALLOCATED TO SUCH PERIOD OR PERIODS OF
11 UNEMPLOYMENT AS SHALL BE DETERMINED BY RULES AND REGULATIONS OF
12 THE DEPARTMENT. SUCH COMPENSATION, IF NOT A MULTIPLE OF ONE
13 DOLLAR (\$1), SHALL BE COMPUTED TO THE NEXT LOWER MULTIPLE OF ONE
14 DOLLAR (\$1).

15 (4) NO DEDUCTIONS SHALL BE MADE UNDER THIS SUBSECTION FOR
16 PENSIONS PAID UNDER THE SOCIAL SECURITY ACT (PUBLIC LAW 74-271,
17 42 U.S.C. § 301 ET SEQ.), OR THE RAILROAD RETIREMENT ACT OF 1974
18 (PUBLIC LAW 93-445, 88 STAT. 1305), IF THE PENSION IS
19 CONTRIBUTED TO BY THE INDIVIDUAL IN ANY AMOUNT.

20 (E) * * *

21 (2) (1) THE TABLE SPECIFIED FOR THE DETERMINATION OF RATE
22 AND AMOUNT OF BENEFITS SHALL BE EXTENDED OR CONTRACTED ANNUALLY,
23 AUTOMATICALLY BY REGULATIONS PROMULGATED BY THE SECRETARY IN
24 ACCORDANCE WITH THE FOLLOWING PROCEDURE: FOR CALENDAR YEAR ONE
25 THOUSAND NINE HUNDRED SEVENTY-TWO AND FOR ALL SUBSEQUENT
26 CALENDAR YEARS, TO A POINT WHERE THE MAXIMUM WEEKLY BENEFIT RATE
27 [EQUALS] SHALL EQUAL SIXTY-SIX AND TWO-THIRDS PER CENTUM OF THE
28 AVERAGE WEEKLY WAGE FOR THE [TWELVE-MONTH] THIRTY-SIX-MONTH
29 PERIOD ENDING JUNE 30 PRECEDING EACH CALENDAR YEAR. IF THE
30 MAXIMUM WEEKLY BENEFIT RATE IS NOT A MULTIPLE OF ONE DOLLAR

1 (\$1), IT SHALL BE [INCREASED BY ONE DOLLAR (\$1) AND THEN]
2 ROUNDED TO THE NEXT LOWER MULTIPLE OF ONE DOLLAR (\$1): PROVIDED,
3 HOWEVER, THAT EFFECTIVE WITH BENEFIT YEARS BEGINNING THE FIRST
4 SUNDAY AT LEAST THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS
5 AMENDATORY ACT, THE PER CENTUM STATED IN THIS PARAGRAPH FOR
6 ESTABLISHING THE MAXIMUM WEEKLY BENEFIT RATE SHALL BE SIXTY-TWO
7 AND TWO-THIRDS PER CENTUM FOR THE REMAINDER OF CALENDAR YEAR ONE
8 THOUSAND NINE HUNDRED SEVENTY-FOUR, SIXTY-FOUR AND TWO-THIRDS
9 PER CENTUM FOR THE CALENDAR YEAR ONE THOUSAND NINE HUNDRED
10 SEVENTY-FIVE, AND SIXTY-SIX AND TWO-THIRDS PER CENTUM FOR THE
11 CALENDAR YEAR ONE THOUSAND NINE HUNDRED SEVENTY-SIX AND FOR ALL
12 SUBSEQUENT CALENDAR YEARS.

13 THE TABLE SPECIFIED FOR THE DETERMINATION OF RATE AND AMOUNT
14 OF BENEFITS AS SO EXTENDED OR CONTRACTED SHALL BE EFFECTIVE ONLY
15 FOR THOSE CLAIMANTS WHOSE BENEFIT YEARS BEGIN ON OR AFTER THE
16 FIRST DAY OF JANUARY OF SUCH CALENDAR YEAR.

17 (II) FOR THE PURPOSE OF DETERMINING THE MAXIMUM WEEKLY
18 BENEFIT RATE, THE PENNSYLVANIA AVERAGE WEEKLY WAGE IN COVERED
19 EMPLOYMENT SHALL BE COMPUTED ON THE BASIS OF THE TOTAL WAGES
20 REPORTED (IRRESPECTIVE OF THE LIMIT ON THE AMOUNT OF WAGES
21 SUBJECT TO CONTRIBUTIONS) FOR THE [TWELVE-MONTH] THIRTY-SIX-
22 MONTH PERIOD ENDING JUNE 30 AND THIS AMOUNT SHALL BE DIVIDED BY
23 THE AVERAGE MONTHLY NUMBER OF COVERED WORKERS (DETERMINED BY
24 DIVIDING THE TOTAL COVERED EMPLOYMENT REPORTED FOR THE SAME
25 [FISCAL YEAR BY TWELVE] THIRTY-SIX-MONTH PERIOD BY THIRTY-SIX)
26 TO DETERMINE THE AVERAGE ANNUAL WAGE. THE AVERAGE ANNUAL WAGE
27 THUS OBTAINED SHALL BE DIVIDED BY FIFTY-TWO AND THE AVERAGE
28 WEEKLY WAGE THUS DETERMINED ROUNDED TO THE NEAREST CENT. IF THE
29 MAXIMUM WEEKLY BENEFIT RATE AS DETERMINED UNDER SUBCLAUSE (I) IS
30 LESS THAN THE MAXIMUM WEEKLY BENEFIT RATE ESTABLISHED FOR

1 CALENDAR YEAR 2011, THE MAXIMUM WEEKLY BENEFIT RATE WILL BE
2 FROZEN UNTIL THE CALENDAR YEAR IN WHICH THE NEW MAXIMUM WEEKLY
3 BENEFIT RATE AS DETERMINED UNDER SUBCLAUSE (I) EXCEEDS THE
4 MAXIMUM WEEKLY BENEFIT RATE FOR CALENDAR YEAR 2011.

5 * * *

6 SECTION 6. SECTION 401-A(B) AND (C) OF THE ACT, AMENDED
7 AUGUST 4, 2009 (P.L.114, NO.30), ARE AMENDED TO READ:

8 SECTION 401-A. DEFINITIONS.--AS USED IN THIS ARTICLE:

9 * * *

10 (B) (1) THERE IS A "STATE 'ON' INDICATOR" FOR THIS STATE
11 FOR A WEEK IF THE SECRETARY OF LABOR AND INDUSTRY DETERMINES IN
12 ACCORDANCE WITH THE REGULATIONS OF THE UNITED STATES SECRETARY
13 OF LABOR, THAT FOR THE PERIOD CONSISTING OF SUCH WEEK AND THE
14 IMMEDIATELY PRECEDING TWELVE WEEKS, THE RATE OF INSURED
15 UNEMPLOYMENT (NOT SEASONALLY ADJUSTED) UNDER THIS ACT:

16 (I) (A) EQUALED OR EXCEEDED ONE HUNDRED TWENTY PER CENTUM
17 OF THE AVERAGE OF SUCH RATES FOR THE CORRESPONDING THIRTEEN-WEEK
18 PERIOD ENDING IN EACH OF THE PRECEDING TWO CALENDAR YEARS, OR

19 (B) WITH RESPECT TO COMPENSATION FOR WEEKS OF UNEMPLOYMENT
20 BEGINNING AFTER DECEMBER 17, 2010, AND ENDING ON OR BEFORE
21 DECEMBER 31, 2011, EQUALED OR EXCEEDED ONE HUNDRED TWENTY PER
22 CENTUM OF THE AVERAGE OF SUCH RATES FOR THE CORRESPONDING
23 THIRTEEN-WEEK PERIOD ENDING IN EACH OF THE PRECEDING THREE
24 CALENDAR YEARS, AND

25 (II) EQUALED OR EXCEEDED FIVE PER CENTUM: PROVIDED, THAT
26 WITH RESPECT TO BENEFITS FOR WEEKS OF UNEMPLOYMENT BEGINNING
27 WITH THE PASSAGE OF THIS AMENDMENT BUT NO EARLIER THAN APRIL 3,
28 1977, THE DETERMINATION OF WHETHER THERE HAS BEEN A STATE "ON"
29 OR "OFF" INDICATOR BEGINNING OR ENDING ANY EXTENDED BENEFIT
30 PERIOD SHALL BE MADE UNDER THIS PARAGRAPH AS IF (A) THIS

1 PARAGRAPH DID NOT CONTAIN SUBPARAGRAPH (I) THEREOF, AND (B) THE
2 PER CENTUM RATE INDICATED IN THIS PARAGRAPH WERE SIX, EXCEPT
3 THAT, NOTWITHSTANDING ANY SUCH PROVISION OF THIS PARAGRAPH, ANY
4 WEEK FOR WHICH THERE WOULD OTHERWISE BE A STATE "ON" INDICATOR
5 SHALL CONTINUE TO BE SUCH A WEEK AND SHALL NOT BE DETERMINED TO
6 BE A WEEK FOR WHICH THERE IS A STATE "OFF" INDICATOR.

7 (2) THERE IS A "STATE 'OFF' INDICATOR" FOR THIS STATE FOR A
8 WEEK IF THE SECRETARY OF LABOR AND INDUSTRY DETERMINES IN
9 ACCORDANCE WITH THE REGULATIONS OF THE UNITED STATES SECRETARY
10 OF LABOR, THAT FOR THE PERIOD CONSISTING OF SUCH WEEK AND THE
11 IMMEDIATELY PRECEDING TWELVE WEEKS, THE RATE OF INSURED
12 UNEMPLOYMENT (NOT SEASONALLY ADJUSTED) UNDER THIS ACT:

13 (I) WAS LESS THAN ONE HUNDRED TWENTY PER CENTUM OF THE
14 AVERAGE OF SUCH RATES FOR THE CORRESPONDING THIRTEEN-WEEK PERIOD
15 ENDING IN EACH OF THE PRECEDING TWO CALENDAR YEARS, IF PARAGRAPH
16 (1) (I) (A) APPLIES OR, THE PRECEDING THREE CALENDAR YEARS, IF
17 PARAGRAPH (1) (I) (B) APPLIES, OR

18 (II) WAS LESS THAN FIVE PER CENTUM.

19 (3) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, ANY
20 WEEK FOR WHICH THERE WOULD OTHERWISE BE A STATE "ON" INDICATOR
21 SHALL CONTINUE TO BE SUCH A WEEK AND SHALL NOT BE DETERMINED TO
22 BE A WEEK FOR WHICH THERE IS A STATE "OFF" INDICATOR.

23 (C) (1) THERE IS A "STATE 'ON' INDICATOR" FOR THIS STATE
24 FOR A WEEK IF:

25 (I) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN THIS STATE,
26 SEASONALLY ADJUSTED, FOR THE PERIOD CONSISTING OF THE MOST
27 RECENT THREE MONTHS FOR WHICH DATA FOR ALL STATES ARE PUBLISHED
28 BEFORE THE CLOSE OF SUCH WEEK EQUALS OR EXCEEDS SIX AND ONE-HALF
29 PER CENTUM; AND

30 (II) (A) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN THIS

1 STATE, SEASONALLY ADJUSTED, FOR THE THREE-MONTH PERIOD REFERRED
2 TO IN SUBPARAGRAPH (I) EQUALS OR EXCEEDS ONE HUNDRED TEN PER
3 CENTUM OF SUCH AVERAGE RATE FOR EITHER, OR BOTH, OF THE
4 CORRESPONDING THREE-MONTH PERIODS ENDING IN THE TWO PRECEDING
5 CALENDAR YEARS, OR

6 (B) WITH RESPECT TO COMPENSATION FOR WEEKS OF UNEMPLOYMENT
7 BEGINNING AFTER DECEMBER 17, 2010, AND ENDING ON OR BEFORE
8 DECEMBER 31, 2011, THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN
9 THIS STATE, SEASONALLY ADJUSTED, FOR THE THREE-MONTH PERIOD
10 REFERRED TO IN SUBPARAGRAPH (I) EQUALS OR EXCEEDS ONE HUNDRED
11 TEN PER CENTUM OF SUCH AVERAGE RATE FOR ANY, OR ALL, OF THE
12 CORRESPONDING THREE-MONTH PERIODS ENDING IN THE THREE PRECEDING
13 CALENDAR YEARS.

14 (2) THERE IS A STATE "OFF" INDICATOR FOR THIS STATE FOR A
15 WEEK IF THE REQUIREMENTS OF PARAGRAPH (1) (I) OR (II) ARE NOT
16 SATISFIED.

17 (3) THIS SUBSECTION SHALL BE APPLICABLE ONLY WITH RESPECT TO
18 WEEKS OF UNEMPLOYMENT FOR WHICH ONE HUNDRED PER CENTUM FEDERAL
19 SHARING OF EXTENDED BENEFITS IS AVAILABLE UNDER SECTION 2005 (A)
20 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (PUBLIC
21 LAW 111-5, 123 STAT. 115), WITHOUT REGARD TO THE EXTENSION OF
22 FEDERAL SHARING FOR CERTAIN CLAIMS AS PROVIDED UNDER SECTION
23 2005 (C) OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,
24 OR UNDER A SUBSEQUENTLY ENACTED PROVISION OF FEDERAL LAW.

25 (4) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, ANY
26 WEEK FOR WHICH THERE WOULD OTHERWISE BE A STATE "ON" INDICATOR
27 SHALL CONTINUE TO BE SUCH A WEEK AND SHALL NOT BE DETERMINED TO
28 BE A WEEK FOR WHICH THERE IS A STATE "OFF" INDICATOR.

29 (5) FOR PURPOSES OF THIS SUBSECTION, DETERMINATIONS OF THE
30 RATE OF TOTAL UNEMPLOYMENT FOR ANY PERIOD, AND OF ANY SEASONAL

1 ADJUSTMENT, SHALL BE MADE BY THE UNITED STATES SECRETARY OF
2 LABOR.

3 * * *

4 SECTION 7. SECTION 505 OF THE ACT, AMENDED APRIL 23, 1942
5 (SP.SESS., P.L.60, NO.23), IS AMENDED TO READ:

6 SECTION 505. RULES OF PROCEDURE.--THE MANNER IN WHICH
7 APPEALS SHALL BE TAKEN, THE REPORTS THEREON REQUIRED FROM THE
8 DEPARTMENT, THE CLAIMANT AND EMPLOYERS, AND THE CONDUCT OF
9 HEARINGS AND APPEALS, SHALL BE IN ACCORDANCE WITH RULES OF
10 PROCEDURE PRESCRIBED BY THE BOARD WHETHER OR NOT SUCH RULES
11 CONFORM TO COMMON LAW OR STATUTORY RULES OF EVIDENCE AND OTHER
12 TECHNICAL RULES OF PROCEDURE. RULES ESTABLISHED BY THE BOARD
13 SHALL PERMIT EITHER PARTY TO A HEARING TO TESTIFY VIA TELEPHONE,
14 WITHOUT REGARD TO DISTANCE OF HEARING LOCATION FROM EITHER
15 PARTY.

16 WHEN THE SAME OR SUBSTANTIALLY SIMILAR EVIDENCE IS RELEVANT
17 AND MATERIAL TO THE MATTER IN ISSUE IN APPLICATIONS AND CLAIMS
18 FILED BY MORE THAN ONE INDIVIDUAL OR IN MULTIPLE APPLICATIONS
19 AND CLAIMS FILED BY A SINGLE INDIVIDUAL THE SAME TIME AND PLACE
20 FOR CONSIDERING EACH SUCH APPLICATION AND CLAIM MAY BE FIXED,
21 HEARINGS THEREON JOINTLY CONDUCTED, A SINGLE RECORD OF THE
22 PROCEEDINGS MADE AND EVIDENCE INTRODUCED WITH RESPECT TO ANY
23 APPLICATION OR CLAIM CONSIDERED AS INTRODUCED WITH RESPECT TO
24 ALL OF SUCH APPLICATIONS OR CLAIMS: PROVIDED, THAT IN THE
25 JUDGMENT OF THE BOARD OR REFEREE HAVING JURISDICTION OF THE
26 PROCEEDING SUCH CONSIDERATION WILL NOT BE PREJUDICIAL TO ANY
27 PARTY.

28 SECTION 8. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

29 ARTICLE XIII
30 SHARED-WORK PROGRAM

1 SECTION 1301. DEFINITIONS.

2 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
3 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
4 CONTEXT CLEARLY INDICATES OTHERWISE:

5 "AFFECTED UNIT." A DEPARTMENT, SHIFT OR OTHER ORGANIZATIONAL
6 UNIT OF TWO OR MORE EMPLOYEES THAT IS DESIGNATED BY AN EMPLOYER
7 TO PARTICIPATE IN A SHARED-WORK PLAN.

8 "APPROVED SHARED-WORK PLAN." AN EMPLOYER'S SHARED-WORK PLAN
9 WHICH MEETS THE REQUIREMENTS OF SECTION 1303 AND WHICH THE
10 DEPARTMENT APPROVES IN WRITING.

11 "FRINGE BENEFIT." HEALTH INSURANCE, A RETIREMENT BENEFIT
12 RECEIVED UNDER A PENSION PLAN, A PAID VACATION DAY, A PAID
13 HOLIDAY, SICK LEAVE AND ANY OTHER SIMILAR EMPLOYEE BENEFIT
14 PROVIDED BY AN EMPLOYER.

15 "PARTICIPATING EMPLOYEE." AN EMPLOYEE IN THE AFFECTED UNIT
16 WHOSE HOURS OF WORK ARE REDUCED BY THE REDUCTION PERCENTAGE
17 UNDER THE SHARED-WORK PLAN.

18 "PARTICIPATING EMPLOYER." AN EMPLOYER WHO HAS A SHARED-WORK
19 PLAN IN EFFECT.

20 "REDUCTION PERCENTAGE." THE PERCENTAGE BY WHICH EACH
21 PARTICIPATING EMPLOYEE'S NORMAL WEEKLY HOURS OF WORK ARE REDUCED
22 UNDER A SHARED-WORK PLAN IN ACCORDANCE WITH SECTION 1303(B).

23 "SHARED-WORK PLAN." A PLAN FOR REDUCING UNEMPLOYMENT UNDER
24 WHICH PARTICIPATING EMPLOYEES OF AN AFFECTED UNIT SHARE THE WORK
25 REMAINING AFTER REDUCTION IN THEIR NORMAL WEEKLY HOURS OF WORK.

26 SECTION 1302. APPLICATION TO APPROVE PLAN.

27 (A) REQUIREMENTS.--AN EMPLOYER THAT MEETS ALL OF THE
28 FOLLOWING REQUIREMENTS MAY APPLY TO THE DEPARTMENT FOR APPROVAL
29 OF A SHARED-WORK PLAN:

30 (1) THE EMPLOYER HAS FILED ALL QUARTERLY REPORTS AND

1 OTHER REPORTS REQUIRED UNDER THIS ACT AND HAS PAID ALL
2 CONTRIBUTION, REIMBURSEMENT, INTEREST AND PENALTY DUE THROUGH
3 THE DATE OF THE EMPLOYER'S APPLICATION.

4 (2) IF THE EMPLOYER IS CONTRIBUTORY, THE EMPLOYER'S
5 RESERVE ACCOUNT BALANCE AS OF THE MOST RECENT COMPUTATION
6 DATE PRECEDING THE DATE OF THE EMPLOYER'S APPLICATION IS A
7 POSITIVE NUMBER.

8 (3) THE EMPLOYER HAS PAID WAGES FOR THE 12 CONSECUTIVE
9 CALENDAR QUARTERS PRECEDING THE DATE OF THE EMPLOYER'S
10 APPLICATION.

11 (B) APPLICATION.--AN APPLICATION UNDER THIS SECTION SHALL BE
12 MADE IN THE MANNER PRESCRIBED BY THE DEPARTMENT AND CONTAIN ALL
13 INFORMATION REQUIRED BY THE DEPARTMENT, INCLUDING THE FOLLOWING:

14 (1) THE EMPLOYER'S ASSURANCE THAT IT WILL PROVIDE
15 REPORTS TO THE DEPARTMENT RELATING TO THE OPERATION OF ITS
16 SHARED-WORK PLAN AT THE TIMES AND IN THE MANNER PRESCRIBED BY
17 THE DEPARTMENT AND CONTAINING ALL INFORMATION REQUIRED BY THE
18 DEPARTMENT, INCLUDING THE NUMBER OF HOURS WORKED EACH WEEK BY
19 PARTICIPATING EMPLOYEES.

20 (2) THE EMPLOYER'S ASSURANCE THAT IT WILL NOT HIRE NEW
21 EMPLOYEES IN, OR TRANSFER EMPLOYEES TO, THE AFFECTED UNIT
22 DURING THE EFFECTIVE PERIOD OF THE SHARED-WORK PLAN.

23 (3) THE EMPLOYER'S ASSURANCE THAT IT WILL NOT LAY OFF
24 PARTICIPATING EMPLOYEES DURING THE EFFECTIVE PERIOD OF THE
25 SHARED-WORK PLAN, OR REDUCE PARTICIPATING EMPLOYEES' HOURS OF
26 WORK BY MORE THAN THE REDUCTION PERCENTAGE DURING THE
27 EFFECTIVE PERIOD OF THE SHARED-WORK PLAN, EXCEPT IN CASES OF
28 HOLIDAYS, DESIGNATED VACATION PERIODS, EQUIPMENT MAINTENANCE
29 OR SIMILAR CIRCUMSTANCES.

30 (4) A LIST OF THE WEEK OR WEEKS WITHIN THE REQUESTED

1 EFFECTIVE PERIOD OF THE PLAN DURING WHICH PARTICIPATING
2 EMPLOYEES ARE ANTICIPATED TO WORK FEWER HOURS THAN THE NUMBER
3 OF HOURS DETERMINED UNDER SECTION 1303(A) (5) DUE TO
4 CIRCUMSTANCES INCLUDED IN PARAGRAPH (3).

5 (5) THE EMPLOYER'S CERTIFICATION THAT THE IMPLEMENTATION
6 OF A SHARED-WORK PLAN IS IN LIEU OF TEMPORARY LAYOFFS THAT
7 WOULD AFFECT AT LEAST 10% OF THE EMPLOYEES IN THE AFFECTED
8 UNIT AND WOULD RESULT IN AN EQUIVALENT REDUCTION IN WORK
9 HOURS.

10 (6) THE EMPLOYER'S ASSURANCE THAT IT WILL ABIDE BY ALL
11 TERMS AND CONDITIONS OF THIS ARTICLE.

12 (C) MULTIPLE PLANS.--AN EMPLOYER MAY APPLY TO THE DEPARTMENT
13 FOR APPROVAL OF MORE THAN ONE SHARED-WORK PLAN.

14 SECTION 1303. PLAN REQUIREMENTS.

15 (A) GENERAL RULE.--THE DEPARTMENT MAY APPROVE A SHARED-WORK
16 PLAN ONLY IF THE PLAN MEETS ALL OF THE FOLLOWING REQUIREMENTS:

17 (1) THE SHARED-WORK PLAN APPLIES TO ONE AFFECTED UNIT.

18 (2) ALL EMPLOYEES IN THE AFFECTED UNIT ARE PARTICIPATING
19 EMPLOYEES, EXCEPT THAT THE FOLLOWING EMPLOYEES MAY NOT BE
20 PARTICIPATING EMPLOYEES:

21 (I) AN EMPLOYEE WHO HAS BEEN EMPLOYED IN THE
22 AFFECTED UNIT FOR LESS THAN THREE MONTHS PRIOR TO THE
23 DATE THE EMPLOYER APPLIES FOR APPROVAL OF THE SHARED-WORK
24 PLAN.

25 (II) AN EMPLOYEE WHOSE HOURS OF WORK PER WEEK
26 DETERMINED UNDER PARAGRAPH (5) IS 40 OR MORE HOURS.

27 (3) THERE ARE NO FEWER THAN TWO PARTICIPATING EMPLOYEES,
28 DETERMINED WITHOUT REGARD TO CORPORATE OFFICERS.

29 (4) THE PARTICIPATING EMPLOYEES ARE IDENTIFIED BY NAME
30 AND SOCIAL SECURITY NUMBER.

1 (5) THE NUMBER OF HOURS A PARTICIPATING EMPLOYEE WILL
2 WORK EACH WEEK DURING THE EFFECTIVE PERIOD OF THE PLAN IS
3 DETERMINED BY THE FOLLOWING FORMULA:

4 EMPLOYEE'S NORMAL WEEKLY HOURS OF
5 WORK X (100% - REDUCTION PERCENTAGE)

6 (6) AS A RESULT OF A DECREASE IN THE NUMBER OF HOURS
7 WORKED BY EACH PARTICIPATING EMPLOYEE, THERE IS A
8 CORRESPONDING REDUCTION IN WAGES.

9 (7) IF ANY PARTICIPATING EMPLOYEE IS COVERED BY A
10 COLLECTIVE BARGAINING AGREEMENT, THE PLAN IS APPROVED IN
11 WRITING BY THE COLLECTIVE BARGAINING REPRESENTATIVE.

12 (8) THE PLAN DOES NOT AFFECT THE FRINGE BENEFITS OF ANY
13 PARTICIPATING EMPLOYEE NOT COVERED BY A COLLECTIVE BARGAINING
14 AGREEMENT.

15 (9) THE EFFECTIVE PERIOD OF THE PLAN IS NOT MORE THAN 52
16 CONSECUTIVE WEEKS.

17 (10) THE EFFECTIVE PERIOD OF THE PLAN COMBINED WITH
18 EFFECTIVE PERIODS OF THE PARTICIPATING EMPLOYER'S PRIOR PLANS
19 DOES NOT EQUAL MORE THAN 104 WEEKS OUT OF A 156-WEEK PERIOD.

20 (11) THE REDUCTION PERCENTAGE SATISFIES THE REQUIREMENTS
21 OF SUBSECTION (B).

22 (B) REDUCTION PERCENTAGE.--THE REDUCTION PERCENTAGE UNDER AN
23 APPROVED SHARED-WORK PLAN SHALL MEET ALL OF THE FOLLOWING
24 REQUIREMENTS:

25 (1) THE REDUCTION PERCENTAGE SHALL BE NO LESS THAN 20%
26 AND NO MORE THAN 40%.

27 (2) THE REDUCTION PERCENTAGE SHALL BE THE SAME FOR ALL
28 PARTICIPATING EMPLOYEES.

29 (3) THE REDUCTION PERCENTAGE SHALL NOT CHANGE DURING THE
30 PERIOD OF THE SHARED-WORK PLAN UNLESS THE PLAN IS MODIFIED IN

1 ACCORDANCE WITH SECTION 1308.

2 SECTION 1304. APPROVAL OR DISAPPROVAL OF SHARED-WORK PLAN.

3 THE DEPARTMENT SHALL APPROVE OR DISAPPROVE A SHARED-WORK PLAN
4 NO LATER THAN 15 DAYS AFTER THE DATE THE EMPLOYER'S SHARED-WORK
5 PLAN APPLICATION THAT MEETS THE REQUIREMENTS OF SECTION 1302 (B)
6 IS RECEIVED BY THE DEPARTMENT. THE DEPARTMENT'S DECISION SHALL
7 BE MADE IN WRITING AND, IF THE SHARED-WORK PLAN IS DISAPPROVED,
8 SHALL INCLUDE THE REASONS FOR THE DISAPPROVAL.

9 SECTION 1305. EFFECTIVE PERIOD OF PLAN.

10 (A) NUMBER OF WEEKS.--A SHARED-WORK PLAN IS EFFECTIVE FOR
11 THE NUMBER OF CONSECUTIVE WEEKS INDICATED IN THE EMPLOYER'S
12 APPLICATION, OR A LESSER NUMBER OF WEEKS AS APPROVED BY THE
13 DEPARTMENT, UNLESS SOONER TERMINATED IN ACCORDANCE WITH SECTION
14 1309.

15 (B) START DATE.--THE EFFECTIVE PERIOD OF THE SHARED-WORK
16 PLAN SHALL BEGIN WITH THE FIRST CALENDAR WEEK FOLLOWING THE DATE
17 ON WHICH THE DEPARTMENT APPROVES THE PLAN.

18 SECTION 1306. CRITERIA FOR COMPENSATION.

19 (A) GENERAL RULE.--COMPENSATION SHALL BE PAYABLE TO A
20 PARTICIPATING EMPLOYEE FOR A WEEK WITHIN THE EFFECTIVE PERIOD OF
21 AN APPROVED SHARED-WORK PLAN DURING WHICH THE EMPLOYEE WORKS THE
22 NUMBER OF HOURS DETERMINED UNDER SECTION 1303 (A) (5) FOR THE
23 PARTICIPATING EMPLOYER ON THE SAME TERMS, IN THE SAME AMOUNT AND
24 SUBJECT TO THE SAME CONDITIONS THAT WOULD APPLY TO THE
25 PARTICIPATING EMPLOYEE WITHOUT REGARD TO THIS ARTICLE, EXCEPT AS
26 FOLLOWS:

27 (1) A PARTICIPATING EMPLOYEE SHALL NOT BE REQUIRED TO BE
28 UNEMPLOYED WITHIN THE MEANING OF SECTION 4 (U) OR FILE CLAIMS
29 FOR COMPENSATION UNDER SECTION 401 (C).

30 (2) NOTWITHSTANDING SECTION 404 (D) (1), A PARTICIPATING

1 EMPLOYEE SHALL BE PAID COMPENSATION IN AN AMOUNT EQUAL TO THE
2 PRODUCT OF HIS WEEKLY BENEFIT RATE AND THE REDUCTION
3 PERCENTAGE, ROUNDED TO THE NEXT LOWER WHOLE DOLLAR AMOUNT.

4 (3) THE DEPARTMENT SHALL NOT DENY COMPENSATION TO A
5 PARTICIPATING EMPLOYEE FOR ANY WEEK DURING THE EFFECTIVE
6 PERIOD OF THE SHARED-WORK PLAN BY REASON OF THE APPLICATION
7 OF ANY PROVISION OF THIS ACT RELATING TO ACTIVE SEARCH FOR
8 WORK OR REFUSAL TO APPLY FOR OR ACCEPT WORK OTHER THAN WORK
9 OFFERED BY THE PARTICIPATING EMPLOYER.

10 (4) A PARTICIPATING EMPLOYEE SATISFIES THE REQUIREMENTS
11 OF SECTION 401(D) (1) IF THE EMPLOYEE IS ABLE TO WORK AND IS
12 AVAILABLE FOR THE EMPLOYEE'S NORMAL WEEKLY HOURS OF WORK WITH
13 THE PARTICIPATING EMPLOYER.

14 (B) EQUIVALENT REMUNERATION.--FOR PURPOSES OF SUBSECTION
15 (A), IF A PARTICIPATING EMPLOYEE WORKS FEWER HOURS THAN THE
16 NUMBER OF HOURS DETERMINED UNDER SECTION 1303(A) (5) FOR THE
17 PARTICIPATING EMPLOYER DURING A WEEK WITHIN THE EFFECTIVE PERIOD
18 OF THE APPROVED SHARED-WORK PLAN, BUT RECEIVES REMUNERATION
19 EQUAL TO REMUNERATION THE EMPLOYEE WOULD HAVE RECEIVED IF THE
20 EMPLOYEE HAD WORKED THE NUMBER OF HOURS DETERMINED UNDER SECTION
21 1303(A) (5), THE EMPLOYEE WILL BE DEEMED TO HAVE WORKED THE
22 NUMBER OF HOURS DETERMINED UNDER SECTION 1303(A) (5) DURING THAT
23 WEEK.

24 (C) INAPPLICABILITY OF ARTICLE.--A PARTICIPATING EMPLOYEE'S
25 ELIGIBILITY FOR COMPENSATION FOR A WEEK WITHIN THE EFFECTIVE
26 PERIOD OF AN APPROVED SHARED-WORK PLAN SHALL BE DETERMINED
27 WITHOUT REGARD TO THIS ARTICLE UNDER ANY OF THE FOLLOWING
28 CIRCUMSTANCES:

29 (1) THE EMPLOYEE WORKS FEWER HOURS THAN THE NUMBER OF
30 HOURS DETERMINED UNDER SECTION 1303(A) (5) FOR THE

1 PARTICIPATING EMPLOYER DURING THE WEEK AND SUBSECTION (B)
2 DOES NOT APPLY.

3 (2) THE EMPLOYEE WORKS MORE HOURS THAN THE NUMBER OF
4 HOURS DETERMINED UNDER SECTION 1303(A) (5) FOR THE
5 PARTICIPATING EMPLOYER DURING THE WEEK.

6 (3) THE EMPLOYEE RECEIVES REMUNERATION FOR THE WEEK FROM
7 THE PARTICIPATING EMPLOYER FOR HOURS IN EXCESS OF THE NUMBER
8 OF HOURS DETERMINED UNDER SECTION 1303(A) (5).

9 SECTION 1307. PARTICIPATING EMPLOYER RESPONSIBILITIES.

10 (A) FILING CLAIMS.--THE DEPARTMENT SHALL ESTABLISH A
11 SCHEDULE OF CONSECUTIVE TWO-WEEK PERIODS WITHIN THE EFFECTIVE
12 PERIOD OF THE SHARED-WORK PLAN. THE DEPARTMENT MAY, AS
13 NECESSARY, INCLUDE ONE-WEEK PERIODS IN THE SCHEDULE AND REVISE
14 THE SCHEDULE. AT THE END OF EACH SCHEDULED PERIOD, THE
15 PARTICIPATING EMPLOYER SHALL FILE CLAIMS FOR COMPENSATION FOR
16 THE WEEK OR WEEKS WITHIN THE PERIOD ON BEHALF OF THE
17 PARTICIPATING EMPLOYEES. THE CLAIMS SHALL BE FILED NO LATER THAN
18 THE LAST DAY OF THE WEEK IMMEDIATELY FOLLOWING THE PERIOD,
19 UNLESS AN EXTENSION OF TIME IS GRANTED BY THE DEPARTMENT FOR
20 GOOD CAUSE. THE CLAIMS SHALL BE FILED IN THE MANNER PRESCRIBED
21 BY THE DEPARTMENT AND SHALL CONTAIN ALL INFORMATION REQUIRED BY
22 THE DEPARTMENT TO DETERMINE THE ELIGIBILITY OF THE PARTICIPATING
23 EMPLOYEES FOR COMPENSATION.

24 (B) BENEFIT CHARGES.--NOTWITHSTANDING ANY OTHER PROVISION OF
25 THIS ACT, COMPENSATION PAID TO PARTICIPATING EMPLOYEES FOR WEEKS
26 WITHIN THE EFFECTIVE PERIOD OF AN APPROVED SHARED-WORK PLAN WILL
27 BE CHARGED TO THE PARTICIPATING EMPLOYER.

28 SECTION 1308. MODIFICATION OF PLAN.

29 AN EMPLOYER MAY APPLY TO THE DEPARTMENT FOR APPROVAL TO
30 MODIFY A SHARED-WORK PLAN TO MEET CHANGED CONDITIONS. THE

1 DEPARTMENT SHALL REEVALUATE THE PLAN AND MAY APPROVE THE
2 MODIFIED PLAN IF IT MEETS THE REQUIREMENTS FOR APPROVAL UNDER
3 SECTION 1304. IF THE MODIFICATIONS CAUSE THE SHARED-WORK PLAN TO
4 FAIL TO MEET THE REQUIREMENTS FOR APPROVAL, THE DEPARTMENT SHALL
5 DISAPPROVE THE PROPOSED MODIFICATIONS.

6 SECTION 1309. TERMINATION OF PLAN.

7 (A) GENERAL RULE.--THE SECRETARY MAY TERMINATE A SHARED-WORK
8 PLAN FOR GOOD CAUSE.

9 (B) GOOD CAUSE.--FOR PURPOSES OF SUBSECTION (A), GOOD CAUSE
10 INCLUDES ANY OF THE FOLLOWING:

11 (1) THE PLAN IS NOT BEING EXECUTED ACCORDING TO ITS
12 APPROVED TERMS AND CONDITIONS.

13 (2) THE PARTICIPATING EMPLOYER FAILS TO COMPLY WITH THE
14 ASSURANCES GIVEN IN THE PLAN.

15 (3) THE PARTICIPATING EMPLOYER OR A PARTICIPATING
16 EMPLOYEE VIOLATES ANY CRITERIA ON WHICH APPROVAL OF THE PLAN
17 WAS BASED.

18 (C) TERMINATION BY EMPLOYER.--THE EMPLOYER MAY TERMINATE A
19 SHARED-WORK PLAN BY WRITTEN NOTICE TO THE DEPARTMENT.

20 SECTION 1310. DEPARTMENT DISCRETION.

21 THE DECISION TO APPROVE OR DISAPPROVE A SHARED-WORK PLAN, TO
22 APPROVE OR DISAPPROVE A MODIFICATION OF A SHARED-WORK PLAN OR TO
23 TERMINATE A SHARED-WORK PLAN WILL BE MADE WITHIN THE
24 DEPARTMENT'S DISCRETION. SUCH DECISIONS ARE NOT SUBJECT TO THE
25 APPEAL PROVISIONS OF ARTICLE V.

26 SECTION 1311. PUBLICATION OF NOTICE.

27 THE DEPARTMENT SHALL TRANSMIT TO THE LEGISLATIVE REFERENCE
28 BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN NOTICE THAT
29 THE PROVISIONS OF THIS ARTICLE HAVE BEEN APPROVED BY THE
30 DEPARTMENT AS REQUIRED UNDER SECTION 3304 (A) (4) (E) OF THE

1 FEDERAL UNEMPLOYMENT TAX ACT (PUBLIC LAW 86-778, 26 U.S.C. §
2 3304(A)(4)(E)) AND SECTION 303(A)(5) OF THE SOCIAL SECURITY ACT
3 (49 STAT. 620, 42 U.S.C. § 503(A)(5)).

4 SECTION 1312. SEVERABILITY.

5 NOTWITHSTANDING ANY OTHER SECTION OF THIS ACT, IF ANY
6 PROVISION OR PROVISIONS OF THIS ARTICLE CAUSE THE DEPARTMENT TO
7 WITHHOLD APPROVAL OF THIS ARTICLE AS REQUIRED UNDER SECTION
8 3304(A)(4)(E) OF THE FEDERAL UNEMPLOYMENT TAX ACT (PUBLIC LAW
9 86-778, 26 U.S.C. § 3304(A)(4)(E)) AND SECTION 303(A)(5) OF THE
10 SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. § 503(A)(5)), THE
11 DEPARTMENT IS AUTHORIZED TO PERMANENTLY SUSPEND THE PROVISION OR
12 PROVISIONS.

13 SECTION 1313. EXPIRATION.

14 THIS ARTICLE SHALL EXPIRE FIVE YEARS FROM ITS EFFECTIVE DATE.

15 SECTION 9. THIS ACT SHALL APPLY AS FOLLOWS:

16 (1) THE AMENDMENT OR ADDITION OF SECTIONS 213, 302 AND
17 302.1, OTHER THAN SECTION 302.1(C), SHALL APPLY TO CHARGES
18 FOR COMPENSATION CORRESPONDING TO BENEFIT YEARS THAT BEGIN ON
19 AND AFTER THE EFFECTIVE DATE OF SECTIONS 213, 302 AND 302.1
20 OF THE ACT.

21 (2) THE ADDITION OF SECTION 302.1(C)(1) AND (2) OF THE
22 ACT SHALL APPLY TO NOTICES OF DETERMINATION REGARDING
23 ELIGIBILITY FOR BENEFITS THAT ARE ISSUED ON OR AFTER THE DATE
24 OF IMPLEMENTATION OF THE DEPARTMENT OF LABOR AND INDUSTRY'S
25 SYSTEM TO PROVIDE RELIEF FROM CHARGES WITHOUT AN EMPLOYER
26 REQUEST, AS ANNOUNCED BY THE SECRETARY OF LABOR AND INDUSTRY
27 IN A NOTICE PUBLISHED IN THE PENNSYLVANIA BULLETIN. THE
28 ADDITION OF SECTION 302.1(C)(3) SHALL APPLY TO RELIEF FROM
29 CHARGES THAT IS GRANTED ON OR AFTER SUCH IMPLEMENTATION DATE.

30 (3) THE AMENDMENT OF SECTION 401(B) SHALL APPLY TO

1 BENEFIT YEARS THAT BEGIN ON AFTER JANUARY 1, 2012.

2 (4) THE AMENDMENT OF SECTION 404, OTHER THAN THE
3 AMENDMENT OF SECTION 404(D)(1) AND THE ADDITION OF SECTION
4 404(D)(1.1), SHALL APPLY TO THE DETERMINATION OF THE MAXIMUM
5 WEEKLY BENEFIT RATE FOR BENEFIT YEARS THAT BEGIN ON OR AFTER
6 JANUARY 1, 2012.

7 (5) THE AMENDMENT OR ADDITION OF SECTION 404(D)(1) AND
8 (1.1) SHALL APPLY TO BENEFIT YEARS THAT BEGIN ON OR AFTER THE
9 EFFECTIVE DATE OF SECTION 404(D)(1) AND (1.1).

10 SECTION 10. THE AMENDMENT OF SECTION 401-A(B) AND (C) SHALL
11 APPLY RETROACTIVELY TO DECEMBER 18, 2010.

12 SECTION 11. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

13 (1) THE AMENDMENT OF SECTION 401(B) SHALL TAKE EFFECT
14 JANUARY 1, 2012.

15 (2) THE AMENDMENT OF SECTION 404 INTRODUCTORY PARAGRAPH
16 AND SUBSECTION (E)(2) SHALL TAKE EFFECT IMMEDIATELY.

17 (3) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

18 (4) THE ADDITION OF ARTICLE XIII OF THE ACT SHALL TAKE
19 EFFECT UPON PUBLICATION IN THE PENNSYLVANIA BULLETIN OF THE
20 NOTICE REQUIRED UNDER SECTION 1311 OF THE ACT OR JULY 1,
21 2011, WHICHEVER OCCURS LATER.

22 (5) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
23 DAYS.