

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1267 Session of
1976

INTRODUCED BY ARLENE AND NOLAN, FEBRUARY 2, 1976

AS AMENDED ON THIRD CONSIDERATION, APRIL 5, 1976

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 a
16 movable base year; eliminating the word "private" from
17 certain pension plans; providing for a percentage of benefits
18 to be charged against certain employers; ~~providing for the~~ <—
19 ~~prompt payment of claims;~~
20 bonds and making editorial corrections.

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

23 Section 1. Subsection (b) of section 301.1, act of December
24 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
25 "Unemployment Compensation Law," amended December 17, 1959
26 (P.L.1893, No.693), is amended to read:

27 Section 301.1. Determination of Contribution Rate;

1 Experience Rating.--

2 * * *

3 (b) For the purpose of determining an employer's eligibility
4 for an adjusted rate for the calendar year beginning January
5 one, one thousand nine hundred sixty, and each calendar year
6 thereafter, employers shall be grouped as follows:

7 Group 1 shall consist of those employers who have paid
8 contributions under this act for one or more quarters in the
9 twelve-month period ending on the computation date for the year
10 for which the rate is applicable and have also paid
11 contributions under this act for one or more of the [first] four
12 [of the last five] completed calendar quarters immediately
13 preceding such twelve-month period.

14 Group 2 shall consist of employers who have paid
15 contributions under this act for one or more quarters in each of
16 the two twelve-month periods ending on the computation date for
17 the year for which the rate is applicable and have also paid
18 contributions under this act for one or more of the [first] four
19 [of the last five] completed calendar quarters immediately
20 preceding such two twelve-month periods.

21 Group 3 shall consist of employers who have paid
22 contributions under this act for one or more quarters in each of
23 the three twelve-month periods ending on the computation date
24 for the year for which the rate is applicable and have also paid
25 contributions under this act for one or more of the [first] four
26 [of the last five] completed calendar quarters immediately
27 preceding such three twelve-month periods.

28 In no event shall those employers who have sufficient
29 employer experience to be classified in Group 3 be classified in
30 either Group 1 or Group 2, nor shall those employers who have

1 sufficient employer experience to be classified in Group 2 be
2 classified in Group 1.

3 * * *

4 Section 2. Subsection (b) of section 401 of the act, amended
5 September 29, 1951 (P.L.1580, No.408), is amended to read:

6 Section 401. Qualifications Required to Secure
7 Compensation.--Compensation shall be payable to any employe who
8 is or becomes unemployed, and who--

9 * * *

10 (b) Has registered for work at, and thereafter continued to
11 report [at,] to an employment office in accordance with such
12 regulations as the secretary may prescribe, except that the
13 secretary may by regulation waive or alter either or both of the
14 requirements of this clause as to individuals attached to
15 regular jobs and as to such other types of cases or situations
16 with respect to which he finds that compliance with such
17 requirements would be oppressive or would be inconsistent with
18 the purposes of the act: Provided, however, That no such
19 regulation shall conflict with section four hundred and one (c)
20 of this act;

21 * * *

22 Section 3. Subsection (d) of section 404 of the act, amended
23 December 5, 1974 (P.L.771, No.262), is amended to read:

24 Section 404. Rate and Amount of Compensation.--Compensation
25 shall be paid to each eligible employe in accordance with the
26 following provisions of this section except that compensation
27 payable with respect to weeks ending in benefit years which
28 begin prior to the first day of October, one thousand nine
29 hundred seventy-one shall be paid on the basis of the provisions
30 of this section in effect at the beginning of such benefit

1 years.

2 * * *

3 (d) Notwithstanding any other provisions of this section
4 each eligible employee who is unemployed with respect to any week
5 ending subsequent to the first day of July, one thousand nine
6 hundred seventy-four, shall be paid, with respect to such week,
7 compensation in an amount equal to his weekly benefit rate less
8 the total of (i) the remuneration, if any, paid or payable to
9 him with respect to such week for services performed which is in
10 excess of his partial benefit credit; (ii) vacation pay, if any,
11 which is in excess of his partial benefit credit, except when
12 paid to an employee who is permanently or indefinitely separated
13 from his employment and (iii) that part of a retirement pension
14 or annuity, if any, received by him under a [private] pension
15 plan to which a base-year employer of such employee has
16 contributed which is in excess of forty dollars (\$40) per week.
17 Retirement pension or annuity payments received by the employee
18 under the Federal OASI program, the Federal Railroad Retirement
19 program or under any [private] retirement plan to which the
20 employee was the sole contributor, shall not be considered a
21 deductible retirement pension or annuity payment for the purpose
22 of this subsection. The provisions of this subsection shall be
23 applicable whether or not such vacation pay, retirement pension
24 or annuities, or wages are legally required to be paid. If such
25 retirement pension or annuity payments deductible under the
26 provisions of this subsection are received on other than a
27 weekly basis, the amount thereof shall be allocated and pro-
28 rated in accordance with the rules and regulations of the
29 department. Vacation pay, or other remuneration deductible under
30 the provisions of this subsection shall be pro-rated on the

1 basis of the employee's normal full-time weekly wage and as so
2 pro-rated shall be allocated to such period or periods of
3 unemployment as shall be determined by rules and regulations of
4 the department. Such compensation, if not a multiple of one
5 dollar (\$1.00), shall be computed to the next higher multiple of
6 one dollar (\$1.00).

7 * * *

8 Section 4. Section 407-A of the act, added February 9, 1971
9 (P.L.1, No.1), is amended to read:

10 Section 407-A. Benefit Charges.--Notwithstanding any other
11 provisions of this act, none of the benefits paid under the
12 provisions of this article shall be charged to the reserve
13 account of the claimant's base year employer and fifty (50) per
14 centum of the benefits paid under the provisions of this article
15 shall be charged to the account of the claimant's base year
16 employer who is liable for payments in lieu of contributions.
17 Provided further, no employer's experience rating account shall
18 be charged, and no employer shall be liable for payments in lieu
19 of contributions, with respect to extended benefit payments
20 which are wholly reimbursed to the State by the Federal
21 Government.

22 ~~Section 5. The act is amended by adding a section to read:~~ <—

23 ~~Section 509.1. Prompt payment of claims. (a)~~

24 ~~Notwithstanding any provision in this article, benefits shall be~~
25 ~~paid promptly in accordance with a determination or~~
26 ~~redetermination under section 501, or the decision of a referee,~~
27 ~~the Board of Review or the Commonwealth Court under sections~~
28 ~~502, 504, and 510 upon the issuance of such determination,~~
29 ~~redetermination or decision (regardless of the pendency of the~~
30 ~~period to apply for reconsideration, file an appeal, or petition~~

~~for judicial review that is provided with respect thereto in this article, or the pendency of any such application, filing, or petition), unless and until such determination, redetermination, or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modifying or reversing redetermination or decision.~~

~~(b) If a determination or redetermination allowing benefits is affirmed in any amount by a referee, or by the Board of Review, or if a decision of a referee allowing benefits is affirmed in any amount by the Board of Review, such benefits shall be paid promptly regardless of any further appeal or the disposition of such appeal and no injunction, supersedeas, stay or other writ or process suspending the payment of such benefits shall be issued by the board or any court; but if such decision is finally modified or reversed to deny benefits, benefits shall not be paid for any weeks of unemployment involved in such modification or reversal that begin after such final decision.~~

~~(c) Provided that nothing contained in this section 509.1 shall be construed to prohibit a court of competent jurisdiction from enjoining the payment of compensation pending an appeal contesting such payment where the unemployment in issue is due to a stoppage of work because of a labor dispute, except that where two decisions directing the payment of compensation have been rendered, one of which is the initial decision of the department, no injunction restraining payments shall be issued or remain in effect thereafter.~~

~~Section 6-~~ 5. Subsection (d) of section 1106 and subsection (c) of section 1202, added September 27, 1971 (P.L.460, No.108),

1 are amended to read:

2 Section 1106. Reimbursement Payments.--Payments in lieu of
3 contributions shall be made in accordance with the following
4 provisions of this section.

5 * * *

6 (d) Any nonprofit organization that elects to become liable
7 for payments in lieu of contributions shall be required within
8 thirty (30) days after the effective date of its election, to
9 execute and file with the department a surety bond approved by
10 the department or it may elect instead to deposit with the
11 department money or securities of equal present monetary value.

12 The amount of the bond or deposit required by the department
13 shall be set at one per centum of the organization's [total]
14 taxable wages for the most recent four calendar quarters prior
15 to such election. If an organization did not pay wages
16 throughout the specific four calendar quarters, the amount of
17 the bond or deposit shall be set by the department. Refunds of
18 deposits shall be made by the department according to
19 appropriate rules and regulations developed by the department
20 relative to termination of election for payments in lieu of
21 contributions or as to delinquencies in payments due.

22 Section 1202. Contributions.--* * *

23 (c) Any political subdivision or instrumentality thereof
24 that elects to become liable for payments in lieu of
25 contributions shall be required within thirty (30) days after
26 the effective date of its election, to execute and file with the
27 department a surety bond approved by the department or it may
28 elect instead to deposit with the department money or securities
29 of equal present monetary value.

30 The amount of the bond or deposit required by the department

1 shall be set at one per centum of the organization's [total]
2 taxable wages for the most recent four calendar quarters prior
3 to such election. If an organization did not pay wages
4 throughout the specific four calendar quarters, the amount of
5 the bond or deposit shall be set by the department. Refunds of
6 deposits shall be made by the department according to
7 appropriate rules and regulations developed by the department
8 relative to termination of election for payments in lieu of
9 contributions or as to delinquencies in payments due.