

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 848

Session of
1979

INTRODUCED BY MADIGAN, MOWERY, GRIECO, SPENCER, BURD, PETERSON
AND WEIDNER, MARCH 27, 1979

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 27, 1979

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," changing provisions
16 relating to base year, providing for an alternate tax factor,
17 adding provisions relating to a waiting week, further
18 providing for the rate and duration of benefits, and for
19 pensions, vacation and separation pay.

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

22 Section 1. Subsection (a) of section 4, act of December 5,
23 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
24 "Unemployment Compensation Law," amended September 27, 1971
25 (P.L.460, No.108), is amended to read:

26 Section 4. Definitions.--The following words and phrases, as

used in this act, shall have the following meanings, unless the context clearly requires otherwise.

(a) [(1)] "Base year" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

[(2)] Notwithstanding the provisions of paragraph (1), an individual who does not meet the monetary requirements of section 401(a) of this act by reason of insufficient wage credits in his base year as so defined, may elect to have his base year consist of the first four of the completed calendar quarters immediately preceding the first day of his benefit year. The quarters included in such an election may not be used at any time thereafter in the calculation of benefits for any subsequent benefit year.]

* * *

Section 2. Section 301.1 of the act is amended by adding a subsection to read:

Section 301.1. Determination of Contribution Rate;
Experience Rating.--

* * *

(g) (1) The rates of contribution, as provided in subsection (a), shall apply for the succeeding calendar year when the fund balance on the computation date equals or exceeds three per centum of the total taxable wages paid by all employers covered by this act for the immediately preceding calendar year. For any calendar year when the fund balance on the computation date is less than three per centum of such total taxable wages for the immediately preceding calendar year, the rates of contribution payable by employers shall be increased as shown in the table of alternate tax factors set forth below.

(2) For purposes of this paragraph, the term "fund balance" means the total amount available for benefits in the Unemployment Insurance Fund, including amounts receivable by the fund as Federal reimbursements for sharable benefits under the Federal-State Extended Unemployment Compensation Act of 1970 and all amounts receivable from any eligible employer who elects to reimburse the fund for benefit charges to his account in lieu of contributions, reduced by the amount of outstanding loans from the Federal Government.

SCHEDULE OF ALTERNATE TAX FACTORS

<u>When Ratio Between Fund Balance</u>	<u>An Employer's Alternate Tax</u>
<u>on Computation Date and Total</u>	<u>Factor Shall Be -</u>
<u>Taxable Wages for Prior Calendar</u>	
<u>Year Is -</u>	

<u>3.0% and over</u>	<u>0.0%</u>
<u>2.5% but less than 3.0%</u>	<u>0.2%</u>
<u>2.0% but less than 2.5%</u>	<u>0.4%</u>
<u>1.5% but less than 2.0%</u>	<u>0.6%</u>
<u>1.0% but less than 1.5%</u>	<u>0.8%</u>
<u>Less than 1.0%</u>	<u>1.0%</u>

As used in the foregoing table the alternate tax factor is in addition to the rate of contribution otherwise payable.

(3) If for any calendar year the tax credits allowed an employer under the Federal Unemployment Tax Act are reduced for any reason, the alternate tax factor for that calendar year shall be reduced (but not below zero) by the reduction in the tax credits under the Federal Unemployment Tax Act.

Section 3. The act is amended by adding a section to read:

Section 301.2. Federal Debt Payoff.--An amount equal to the lesser of:

1 (1) one-half of one per centum of taxable wages; or
2 (2) the excess of the annual of employers' contributions
3 over the annual benefit payout shall be specifically earmarked
4 to pay off the debt owed to the Federal Government by the fund.

5 Section 4. Subsection (e) of section 401 of the act, amended
6 June 6, 1975 (P.L.5, No.3), is amended to read:

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

10 * * *

11 (e) (1) Has been unemployed for a waiting period of one
12 week, unless the Governor upon the occurrence of a disaster
13 declares that a state of emergency exists, in which event the
14 department may suspend the waiting week requirement with respect
15 to unemployment resulting directly from such disaster.

16 (2) No week shall be counted as a week of unemployment for
17 the purposes of this section, [(1)] (i) unless it occurs within
18 the benefit year which includes the week with respect to which
19 such employe claims compensation, or [(2)] (ii) if compensation
20 has been paid or is payable with respect thereto, or [(3)] (iii)
21 unless the employe was eligible for compensation with respect
22 thereto under all other provisions of this section and was not
23 disqualified with respect thereto under section 402(a), (b),
24 (d), (e), [(f),] (g), (h) and (i).

25 * * *

26 Section 5. Section 402 of the act is amended by adding a
27 subsection to read:

28 Section 402. Ineligibility for Compensation.--An employe
29 shall be ineligible for compensation for any week--

30 * * *

1 (j) In which his unemployment, subsequent to the receipt of
2 benefits for thirteen weeks, is due to a refusal to accept
3 employment paying at least the Federal or State minimum wage, or
4 one hundred twenty per centum of his weekly benefit amount,
5 whichever is greater.

6 Section 6. Clause (3) of subsection (a), subsections (c) and
7 (d) and paragraph (2) of subsection (e) of section 404 of the
8 act, clause (3) of subsection (a) and subsection (c) amended
9 September 27, 1971 (P.L.460, No.108), subsection (d) amended
10 July 9, 1976 (P.L.842, No.147) and paragraph (2) of subsection
11 (e) amended December 5, 1974 (P.L.771, No.262), are amended to
12 read:

13 Section 404. Rate and Amount of Compensation.--Compensation
14 shall be paid to each eligible employe in accordance with the
15 following provisions of this section except that compensation
16 payable with respect to weeks ending in benefit years which
17 begin prior to the first day of October, one thousand nine
18 hundred seventy-one shall be paid on the basis of the provisions
19 of this section in effect at the beginning of such benefit
20 years.

21 (a) * * *

22 (3) If the base year wages of an employe whose weekly
23 benefit rate has been determined under clause (1) of paragraph
24 (1) of this subsection, or redetermined under paragraph (2) of
25 this subsection, as the case may be, are insufficient to qualify
26 him under subsection (c) of this section but are sufficient to
27 qualify him for [any one of] the next [four] lower weekly
28 benefit [rates] rate, his weekly benefit rate shall be
29 redetermined at [the highest of such next lower rates] such next
30 lower rate.

1 * * *

2 (c) (1) Any otherwise eligible employee who has base year
3 wages in an amount equal to, or in excess, of the amount of
4 qualifying wages appearing in Part C of the Table Specified for
5 the Determination of Rate and Amount of Benefits on the line on
6 which in Part B there appears his weekly benefit rate, as
7 determined under subsection (a) of this section, shall be
8 entitled during his benefit year to the amount appearing in Part
9 D on said line, but not in excess of fifty per centum of his
10 total base year wages disregarding all fractions of a dollar or
11 to an amount equal to eighteen times his weekly benefit rate,
12 whichever is the greater.

13 (1.1) Whenever, upon or subsequent to separation from his
14 employment, an employee who at the time of such separation has
15 attained or thereafter attains the age at which he would be
16 entitled to receive old age benefits under the provisions of the
17 Federal OASI program or the Federal Railroad Retirement program,
18 receives retirement pension or annuity payments based upon his
19 employment the amount of benefits payable to such employee under
20 the provisions of this act, during any benefit year, shall be
21 reduced by an amount, disregarding all fractions of a dollar,
22 determined as follows:

23
$$\text{Ba/Wbr} \times \text{Wpr} = \text{Ra}$$

24 in which factor "Ba" is the maximum benefit amount determined
25 under the provisions of paragraph (1): Provided, That if at the
26 time of such separation or entitlement or attainment of age as
27 aforesaid, the employee is in a current benefit year, factor "Ba"
28 for such year shall be the balance in the employee's benefit
29 account at the time of separation or entitlement or attainment
30 of age as aforesaid, whichever is the later. Factor "Wbr" is the

1 employee's weekly benefit rate as established under subsection
2 (a) and factor "Wpr" is the employee's weekly retirement pension
3 or annuity rate. Factor "Ra" is the reduction amount. If the
4 retirement pension or annuity payments are payable under a plan,
5 public or private, to which the employee has contributed, the
6 amount otherwise deductible under this paragraph shall be
7 reduced by fifty per centum. Retirement pension or annuity
8 payments received by the employee under any private retirement
9 plan to which the employee was the sole contributor, shall not be
10 considered a deductible retirement pension or annuity payment
11 for the purposes of this paragraph. If such retirement pension
12 or annuity payments are payable on other than a weekly basis,
13 the amount thereof shall be pro-rated by the department to such
14 basis disregarding all fractions of a dollar. If during the
15 course of a benefit year the amount of a retirement pension or
16 annuity is either increased or decreased, the department shall
17 redetermine the amount of reduction provided for under this
18 paragraph for the remainder of such benefit year of the
19 effective date of such increase or decrease.

20 (d) (1) Notwithstanding any other provisions of this
21 section each eligible employee who is unemployed with respect to
22 any week ending subsequent to the first day of July, one
23 thousand nine hundred seventy-four, shall be paid, with respect
24 to such week, compensation in an amount equal to his weekly
25 benefit rate less the total of (i) the remuneration, if any,
26 paid or payable to him with respect to such week for services
27 performed which is in excess of his partial benefit credit; (ii)
28 vacation pay, if any, [which is in excess of his partial benefit
29 credit, except when paid to an employee who is permanently or
30 indefinitely separated from his employment] and (iii) [that part

1 of a retirement pension or annuity, if any, received by him
2 under a pension plan to which a base-year employer of such
3 employe has contributed which is in excess of forty dollars
4 (\$40) per week. Retirement pension or annuity payments received
5 by the employe under the Federal OASI program, the Federal
6 Railroad Retirement program or under any] severance or
7 separation allowances or dismissal wages and similar payments,
8 the payment of or eligibility for which is made or conditioned
9 upon a temporary, indefinite or permanent separation from
10 employment except payments made pursuant to a private plan the
11 actual and declared purpose of which is to provide benefits in
12 addition to the compensation provided by this act and so found
13 by the department and in addition thereto, with respect to an
14 employe who has attained the age at which he would be entitled
15 to receive old age benefits under the provisions of the Federal
16 OASI program or the Federal Railroad Retirement program; (iv)
17 the amount of a retirement pension or annuity, if any, which
18 upon application would be payable to him without diminution on
19 account of age under a public or private pension plan to which
20 only an employer or employers of such employe has contributed;
21 and (v) one-half of the amount of a retirement pension or
22 annuity, if any, (A) paid, or (B) which upon application would
23 be payable to him without diminution on account of age under a
24 public or private pension plan to which both the employe and an
25 employer or employers of such employe has contributed. Any
26 retirement plan to which the employe was the sole contributor,
27 shall not be considered a deductible retirement pension or
28 annuity payment for the purpose of this subsection. The
29 provisions of this subsection shall be applicable whether or not
30 such vacation pay, retirement pension or annuities, payments,

1 allowances or wages are legally required to be paid. If such
2 retirement pension or annuity payments deductible under the
3 provisions of this subsection are received on other than a
4 weekly basis, the amount thereof shall be allocated and pro-
5 rated in accordance with the rules and regulations of the
6 department. Vacation pay, severance or separation allowances,
7 dismissal wages or other remuneration deductible under the
8 provisions of this subsection shall be pro-rated on the basis of
9 the employee's normal full-time weekly wage and as so pro-rated
10 shall be allocated to such period or periods of unemployment as
11 shall be determined by rules and regulations of the department.
12 Such compensation, if not a multiple of one dollar (\$1.00),
13 shall be computed to the next higher multiple of one dollar
14 (\$1.00).

15 (2) The provisions of subsection (c)(1.1) and subsection
16 (d)(1) shall not be applicable if, subsequent to the date as of
17 which he commences to receive a pension, the employee has earned
18 base year wages in "employment" as defined in this act
19 sufficient to qualify him for compensation solely on the basis
20 of such wages and he claims compensation solely on such wages,
21 in which event wages earned prior to the aforesaid age or date
22 shall not be considered base year wages within the meaning of
23 this paragraph and section 401(a): Provided, however, That such
24 employee may also elect to claim compensation on wages which
25 include earnings prior to the aforesaid age or date but in that
26 event, the provisions of subsection (c)(1.1) and subsection
27 (d)(1) with regard to the reduction of his weekly amount of
28 benefits and maximum amount of benefits shall be applicable.

29 (3) Any other provisions of this act to the contrary,
30 notwithstanding the weekly amount of benefits and the maximum

1 amount of benefits to which an employe who is not subject to the
2 provisions of clauses (ii) and (iv) of paragraph (1) would
3 otherwise be entitled shall be reduced by the amount by which
4 the aggregate amount of the retirement pensions and annuities
5 computed under said clauses exceed the maximum weekly benefit
6 rate, provided for under subsection (e): Provided, however, That
7 the balance in the employe's compensation account shall be
8 reduced by his weekly benefit amount without regard to such
9 pension deduction.

10 (4) Periodical payments, not including lump sum payments,
11 received by an employe under a pension plan which are not
12 deductible from his compensation as retirement pension or
13 annuity payments under clauses (iii) and (iv) of paragraph (1)
14 shall not be deemed deductible under any other provisions of
15 this act.

16 (e) * * *

17 (2) [The Table Specified for the Determination of Rate and
18 Amount of Benefits shall be extended or contracted annually,
19 automatically by regulations promulgated by the secretary in
20 accordance with the following procedure: for calendar year one
21 thousand nine hundred seventy-two and for all subsequent
22 calendar years, to a point where the maximum weekly benefit rate
23 equals sixty-six and two thirds per centum of the average weekly
24 wage for the twelve-month period ending June 30 preceding each
25 calendar year. If the maximum weekly benefit rate is not a
26 multiple of one dollar (\$1), it shall be rounded to the next
27 higher multiple of one dollar (\$1). Provided, however, That
28 effective with benefit years beginning the first Sunday at least
29 thirty days after the effective date of this amendatory act, the
30 per centum stated in this paragraph for establishing the maximum

1 weekly benefit rate shall be sixty-two and two-thirds per centum
2 for the remainder of calendar year one thousand nine hundred
3 seventy-four, sixty-four and two-thirds per centum for the
4 calendar year one thousand nine hundred seventy-five, and sixty-
5 six and two-thirds per centum for the calendar year one thousand
6 nine hundred seventy-six and for all subsequent calendar years.

7 The Table Specified for the Determination of Rate and Amount
8 of Benefits as so extended or contracted shall be effective only
9 for those claimants whose benefit years begin on or after the
10 first day of January of such calendar year.

11 For the purpose of determining the maximum weekly benefit
12 rate, the Pennsylvania average weekly wage in covered employment
13 shall be computed on the basis of the total wages reported
14 (irrespective of the limit on the amount of wages subject to
15 contributions) for the twelve-month period ending June 30 and
16 this amount shall be divided by the average monthly number of
17 covered workers (determined by dividing the total covered
18 employment reported for the same fiscal year by twelve) to
19 determine the average annual wage. The average annual wage thus
20 obtained shall be divided by fifty-two and the average weekly
21 wage thus determined rounded to the nearest cent.] The maximum
22 weekly benefit rate for calendar year one thousand nine hundred
23 and eighty and for subsequent calendar years shall be one
24 hundred fifty-two dollars (\$152) and the Table Specified for the
25 Determination of Rate and Amount of Benefits contained in
26 paragraph (1) shall not be adjusted from that which reflects
27 this maximum weekly benefit rate unless by law such rate is
28 changed.

29 * * *

30 Section 7. This act shall take effect January 1, 1980 and

1 shall apply to benefit years beginning on and after that date.