

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2601 Session of
1986

INTRODUCED BY FARGO, L. E. SMITH, MORRIS, COLAFELLA, FOSTER,
JOHNSON, MERRY, LANGTRY, SAURMAN, TIGUE, RAYMOND, BOOK,
HERMAN, NAHILL, DORR, TELEK, BLACK, CARLSON, ARGALL,
GODSHALL, NOYE, BUNT, VROON, GEIST, DISTLER, BURD, G. SNYDER,
CLYMER, McVERRY, HERSHEY, PRESSMANN AND WILSON, JUNE 11, 1986

REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 11, 1986

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," eliminating the
16 additional contribution for interest by employers.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Sections 301(a), (d)(3) and (4) and (e)(2) and
20 301.1(f) of the act of December 5, 1936 (2nd Sp.Sess., 1937
21 P.L.2897, No.1), known as the Unemployment Compensation Law,
22 amended July 21, 1983 (P.L.68, No.30), are amended to read:

23 Section 301. Contributions by Employers and Employes;

1 Successors-In-Interest; Appeals.--

2 (a) (1) Each employer shall pay contributions with respect
3 to the calendar year 1984, and each calendar year thereafter, at
4 a rate equal to five and four-tenths per centum (5.4%) for
5 employers with a zero or credit reserve account balance and
6 eight and five-tenths per centum (8.5%) for 1984, eight and
7 eight-tenths per centum (8.8%) for 1985 and nine and two-tenths
8 per centum (9.2%) for 1986 and thereafter for employers with a
9 debit reserve account balance of wages paid by him for
10 employment: Provided, however, That with respect to employers
11 subject to the provisions of section 301.1(b) of this act, such
12 rate shall be adjusted in accordance with the provisions of
13 sections 301.1[, 301.2 and 301.6] and 301.2 of this act.

14 (2) No employer's rate of contribution for any calendar year
15 shall be less than nine and two-tenths per centum (9.2%) for
16 1984, nine and four-tenths per centum (9.4%) for 1985 and nine
17 and seven-tenths per centum (9.7%) for 1986 and thereafter
18 unless all his contributions due on wages paid to the end of the
19 second calendar quarter of the preceding calendar year, together
20 with interest and penalties due thereon, have been paid by
21 September 15 of such preceding calendar year, except that an
22 employer who has timely filed an appeal as provided in
23 subsection (e) of this section and who has been determined
24 ineligible to receive a reduced rate solely on the basis that he
25 has not paid all contributions, interest and penalties within
26 the time limits as required in this subsection, shall have his
27 rate redetermined and shall not be considered ineligible under
28 this subsection if payment of such delinquent contributions,
29 interest and penalties is made within thirty (30) days after the
30 department has notified the employer of the reason for his

1 ineligibility for rate reduction in response to the appeal filed
2 by the employer under subsection (e).

3 (3) Notwithstanding any other provisions of the act any
4 employer who becomes newly liable for contributions under this
5 act in a calendar year in which it employs individuals in the
6 performance of a contract or subcontract for construction in
7 this Commonwealth of roads, bridges, highways, buildings,
8 factories, housing developments or other construction projects
9 shall be liable for contributions at the rate of nine and two-
10 tenths per centum (9.2%) for 1984, nine and four-tenths per
11 centum (9.4%) for 1985 and nine and seven-tenths per centum
12 (9.7%) for 1986 and thereafter paid by him for employment, until
13 such time as he becomes subject to the provisions of sections
14 301.1[, 301.2 and 301.6] and 301.2 of this act subject to the
15 provisions of section 301.1(g).

16 (4) Notwithstanding the provisions of paragraph (1) of this
17 subsection, any employer who becomes newly liable for
18 contributions under this act, other than an employer subject to
19 the provisions of paragraph (3) of this subsection, shall be
20 liable for contributions at the rate of three and five-tenths
21 per centum (3.5%) of wages paid by him for employment until such
22 time as he shall become classifiable under the provisions of
23 section 301.1 (b) of this act. Thereafter his rate of
24 contributions shall be five and four-tenths per centum (5.4%)
25 for employers with a zero or credit reserve account balance and
26 eight and five-tenths per centum (8.5%) for 1984, eight and
27 eight-tenths per centum (8.8%) for 1985 and nine and two-tenths
28 per centum (9.2%) for 1986 and thereafter for employers with a
29 debit reserve account balance subject to adjustment under the
30 provisions of sections 301.1[, 301.2 and 301.6] and 301.2 of

1 this act.

2 * * *

3 (d) * * *

4 (3) A successor-in-interest who acquires from a preceding
5 employer the whole or a part of a reserve balance which has been
6 adjusted to a negative balance equal to ten per centum (10%), or
7 twenty per centum (20%) in 1987 and thereafter, of his average
8 annual payroll under the provisions of section 302(c) of this
9 act shall be liable for contributions at the maximum rate under
10 the provisions of section 301.1(f) of this act and contributions
11 under the provisions of [sections 301.2 and 301.6] section 301.2
12 of this act in the same manner as the preceding employer with
13 respect to the part of the organization, trade or business
14 transferred. This provision shall not apply if the successor-in-
15 interest as of any computation date has been subject to this act
16 for fourteen or more consecutive calendar quarters, or has been
17 subject to this act for a period as long as or longer than the
18 preceding employer.

19 (4) Notwithstanding the provisions of paragraph (3) of this
20 subsection and section 301.1(f), a successor-in-interest who
21 acquires from a preceding employer the whole or a part of a
22 reserve balance which has been adjusted to a negative balance
23 under the provisions of section 302(c)(2), shall be liable for
24 contributions at the rate determined under the provisions of
25 sections 301.1[, 301.2 and 301.6] and 301.2 in the same manner
26 as the preceding employer with respect to the part of the
27 organization, trade or business transferred. This provision
28 shall not apply if the successor-in-interest, as of any
29 computation date, has been subject to this act for fourteen or
30 more consecutive calendar quarters or has been subject to this

1 act for a period as long as or longer than the preceding
2 employer.

3 (e) * * *

4 (2) The department shall promptly notify each employer of
5 his rate of contribution for the calendar year, determined as
6 provided in this section and sections 301.1[, 301.2 and 301.6]
7 and 301.2 of this act. The determination of the department of
8 the employer's rate of contribution shall become conclusive and
9 binding upon the employer, unless within ninety (90) days after
10 the mailing of notice thereof to the employer's last known post
11 office address the employer files an application for review,
12 setting forth his reasons therefor: Provided, That if the
13 department finds that because of an error of the department it
14 has notified an employer that his rate of contribution is more
15 than the rate to which he is entitled, the department shall,
16 within one year from the date of such notice, adjust the rate of
17 contribution. The department may, if it deems the reasons set
18 forth by the employer insufficient to change the rate of
19 contribution, deny the application, otherwise it shall grant the
20 employer a fair hearing. The employer shall be promptly notified
21 of the denial of his application or of the department's
22 redetermination. In any application for review filed hereunder
23 and in any further appeal taken thereafter, no questions shall
24 be raised with respect to the employer's contribution rate,
25 except such as pertains to the determination of the employer's
26 Benefit Ratio Factor and Reserve Ratio Factor.

27 * * *

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

30 * * *

1 (f) An employer whose reserve account balance is adjusted
2 after January 1, 1980 in accordance with the provisions of
3 section 302(c) of this act shall not be eligible for a reduced
4 rate of contributions under the provisions of this act for the
5 three consecutive calendar years following the computation date
6 with respect to which the application for adjustment was made
7 and shall pay contributions at the maximum rate specified under
8 subsection (a) of this section and [sections 301.2 and 301.6]
9 section 301.2 for three years. In the event an employer shall
10 file one or more subsequent applications for adjustment, the
11 provisions of this subsection shall apply to each such
12 application.

13 * * *

14 Section 2. Section 301.6 of the act is repealed.

15 Section 3. Section 601(a) of the act, amended July 21, 1983
16 (P.L.68, No.30), is amended to read:

17 Section 601. Unemployment Compensation Fund.--(a) There is
18 hereby created a special fund separate and apart from all public
19 moneys or funds of this Commonwealth to be known as the
20 Unemployment Compensation Fund. All contributions paid by
21 employers and employes, together with penalties and interest
22 thereon, received or collected by the department from employers
23 under the provisions of this act, except such penalties and
24 interest which are to be paid into the Special Administration
25 Fund as provided in section 601.1 [and taxes collected under
26 section 301.6 of this act which are to be paid into the Interest
27 Fund as provided in section 601.2], shall be paid into the
28 Unemployment Compensation Fund, and shall be credited by the
29 department to a ledger account to be known as the Employers'
30 Contribution Account. Interest and penalties which are to be

1 credited to the Special Administration Fund [and taxes collected
2 under section 301.6] may be temporarily held in the Employers'
3 Contribution Account solely for clearance purposes prior to
4 transfer to the Special Administration Fund or Interest Fund and
5 while so held in the Employers' Contribution Account shall not
6 be deemed a part of the Unemployment Compensation Fund. All
7 moneys from time to time received and credited to the Employers'
8 Contribution Account (exclusive of refunds made under section
9 311 and interest and penalties transferred as herein provided to
10 the Special Administration Fund and taxes transferred to the
11 Interest Fund) shall be paid promptly by the department into the
12 Unemployment Compensation Fund, except as otherwise provided in
13 section 605 of this act. All moneys credited to this
14 Commonwealth's account in the Unemployment Compensation Fund
15 pursuant to section 903 of the Federal Social Security Act (42
16 U.S.C. § 1103) shall be included in the Unemployment
17 Compensation Fund.

18 * * *

19 Section 4. Section 601.2 of the act is repealed.

20 Section 5. Sections 603, 1103(a) and 1202.1 of the act,
21 amended July 21, 1983 (P.L.68, No.30), are amended to read:

22 Section 603. State Treasurer as Custodian.--The State
23 Treasurer shall be the custodian of the Unemployment
24 Compensation Fund, the Administration Fund[,] and the Special
25 Administration Fund [and the Interest Fund]. He shall give a
26 bond, or bonds, with corporate sureties, conditioned upon the
27 faithful performance of his duties as custodian of such funds in
28 such amount or amounts as shall be determined and fixed by the
29 Executive Board of this Commonwealth. Premiums for such bond or
30 bonds shall be paid by the department out of the moneys in the

1 Administration Fund. All moneys belonging to such funds
2 (exclusive of moneys on deposit in the Unemployment Trust Fund
3 as provided in section 601) shall be deposited by the State
4 Treasurer in any banks or public depositories in which general
5 funds of the Commonwealth may be deposited, but no public
6 deposit insurance charge or premium shall be paid out of moneys
7 in the Unemployment Compensation Fund. Any law to the contrary
8 notwithstanding, all payments from such funds shall be made
9 under such systems of requisitioning and accounting as the
10 Governor, the State Treasurer, and Secretary shall determine.

11 Section 1103. Liability for Contributions.--(a) Any
12 nonprofit organization which is or becomes subject to this act
13 shall pay contributions on remuneration paid by it for
14 employment under the provisions of sections 301, 301.1[, 301.2
15 or 301.6] or 301.2 of this act, as the case may be, unless an
16 election is made to pay on a reimbursement basis as provided in
17 section 1104.

18 * * *

19 Section 1202.1. Liability for Contributions.--Any political
20 subdivision of the Commonwealth or any instrumentality of any
21 one or more thereof, which is or becomes subject to this act
22 shall pay contributions on remuneration paid by it for
23 employment under the provisions of section 301, 301.1[, 301.2 or
24 301.6] or 301.2, as the case may be, unless an election is made
25 to pay on a reimbursement basis as hereinafter provided.

26 Section 6. This act shall take effect July 1, 1986.