

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 591 Session of
2001

INTRODUCED BY EGOLF, BENNINGHOFF, DeLUCA, T. ARMSTRONG,
READSHAW, NAILOR, ALLEN, LYNCH, CALTAGIRONE, GEIST, CORRIGAN,
GRUCELA, PHILLIPS, HERMAN, GODSHALL, M. BAKER, M. WRIGHT,
TRAVAGLIO, VANCE, SOLOBAY, FEESE, TULLI, HALUSKA, ORIE,
BIRMELIN, FLICK, WOJNAROSKI, ZUG, WILT, YEWIC, HERSHEY,
STABACK, WOGAN, TIGUE, DALLY, BEBKO-JONES, FRANKEL, SHANER,
JADLOWIEC, FAIRCHILD, FORCIER, CLARK, S. MILLER, MAITLAND,
FICHTER, WANSACZ, SCHULER, PISTELLA, B. SMITH, BASTIAN,
CASORIO, E. Z. TAYLOR, WALKO, LEH, ROHRER, MARSICO,
C. WILLIAMS, SATHER, CIVERA, J. TAYLOR, McNAUGHTON, ROSS,
T. STEVENSON, BARRAR, RUBLEY, METCALFE, HUTCHINSON, ADOLPH,
STERN, HESS, CLYMER, SCRIMENTI, MICHLOVIC, PETRARCA, FREEMAN,
COSTA, BROWNE, HORSEY, SEMMEL, STEELMAN AND McCALL,
FEBRUARY 8, 2001

SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, NOVEMBER 26, 2002

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 REFERRAL <—
16 TO EMPLOYMENT OFFICES AND FOR RELIEF FROM CERTAIN EMPLOYER <—
17 CHARGES; AND further providing FOR ESTABLISHMENT AND <—
18 MAINTENANCE OF EMPLOYER'S ACCOUNTS, for QUALIFICATIONS <—
19 REQUIRED TO SECURE COMPENSATION, FOR INELIGIBILITY FOR <—
20 COMPENSATION, AND FOR ineligibility of incarcerated

employees.

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

~~Section 1. Section 402.6 of the act of December 5, 1936 (2nd
Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
Compensation Law, added October 30, 1996 (P.L.738, No.133), is
amended to read:~~

SECTION 1. THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937
P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT COMPENSATION LAW, IS
AMENDED BY ADDING A SECTION SECTIONS TO READ:

SECTION 212. REFERRAL TO EMPLOYMENT OFFICES.--THE DEPARTMENT
SHALL REFER ALL CLAIMANTS ELIGIBLE FOR COMPENSATION TO
EMPLOYMENT OFFICES FOR REEMPLOYMENT SERVICES.

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

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

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

(B) AN EMPLOYER'S SOLVENCY FEE FOR A CALENDAR YEAR SHALL BE
THE MONETARY AMOUNT DETERMINED BY MULTIPLYING THE SOLVENCY FEE

1 RATE FOR THE YEAR BY THE AMOUNT OF WAGES PAID, WITHOUT REGARD TO
2 THE EXCLUSION IN SECTION 4(X)(1), BY THE EMPLOYER IN THE FOUR
3 CONSECUTIVE CALENDAR QUARTERS ENDING ON JUNE 30 OF THE PRECEDING
4 CALENDAR YEAR: PROVIDED, THAT AN EMPLOYER'S SOLVENCY FEE FOR A
5 YEAR SHALL NOT BE LESS THAN TWENTY-FIVE DOLLARS (\$25).

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

8 (2) IN 2005 THE SECRETARY SHALL REDETERMINE THE SOLVENCY FEE
9 RATE. THE SECRETARY SHALL REDETERMINE THE RATE SO THAT THE
10 UNROUNDED RATE YIELDS SOLVENCY FEES APPROXIMATELY EQUAL TO THE
11 AMOUNT OF COMPENSATION FOR WHICH CHARGES ARE RELIEVED UNDER THIS
12 SECTION. FOR PURPOSES OF REDETERMINING THE RATE, THE SECRETARY
13 SHALL USE THE AMOUNT OF COMPENSATION FOR WHICH CHARGES ARE
14 RELIEVED UNDER THIS SECTION PAID DURING 2003 AND 2004 AND THE
15 AMOUNT OF WAGES PAID, WITHOUT REGARD TO THE EXCLUSION IN SECTION
16 4(X)(1), DURING THE SAME TIME PERIOD BY EMPLOYERS WHO PAID A
17 SOLVENCY FEE UNDER THIS SECTION. THE RATE AS REDETERMINED SHALL
18 TAKE EFFECT FOR THE NEXT CALENDAR YEAR AND SHALL REMAIN IN
19 EFFECT FOR THREE YEARS.

20 (3) BEGINNING IN 2008 AND EACH FIFTH YEAR THEREAFTER, THE
21 SECRETARY SHALL REDETERMINE THE SOLVENCY FEE RATE. THE SECRETARY
22 SHALL REDETERMINE THE RATE SO THAT THE UNROUNDED RATE YIELDS
23 SOLVENCY FEES APPROXIMATELY EQUAL TO THE AMOUNT OF COMPENSATION
24 FOR WHICH CHARGES ARE RELIEVED UNDER THIS SECTION. FOR PURPOSES
25 OF REDETERMINING THE RATE, THE SECRETARY SHALL USE THE AMOUNT OF
26 COMPENSATION FOR WHICH CHARGES ARE RELIEVED UNDER THIS SECTION
27 PAID DURING THE FIVE CALENDAR YEARS IMMEDIATELY PRECEDING THE
28 YEAR IN WHICH THE REDETERMINATION OCCURS AND THE AMOUNT OF WAGES
29 PAID, WITHOUT REGARD TO THE EXCLUSION IN SECTION 4(X)(1), DURING
30 THE SAME TIME PERIOD BY EMPLOYERS WHO PAID A SOLVENCY FEE UNDER

1 THIS SECTION. THE RATE AS REDETERMINED SHALL TAKE EFFECT FOR THE
2 NEXT CALENDAR YEAR AND SHALL REMAIN IN EFFECT FOR FIVE YEARS.

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

7 (C) SOLVENCY FEES PAID BY EMPLOYERS UNDER THIS SECTION SHALL
8 BE DEPOSITED IN THE UNEMPLOYMENT COMPENSATION FUND. COMPENSATION
9 FOR WHICH CHARGES ARE RELIEVED UNDER THIS SECTION SHALL NOT BE
10 USED IN THE CALCULATION OF THE STATE ADJUSTMENT FACTOR UNDER
11 SECTION 301.1(E).

12 (D) THE PROVISIONS OF THIS SECTION SHALL CONSTITUTE THE
13 EXCLUSIVE MEANS BY WHICH AN EMPLOYER WHO MAKES PAYMENTS IN LIEU
14 OF CONTRIBUTIONS PURSUANT TO ARTICLE X, XI OR XII MAY BE EXCUSED
15 FROM REIMBURSING THE UNEMPLOYMENT COMPENSATION FUND FOR
16 COMPENSATION PAID TO AN INDIVIDUAL THAT IS BASED ON WAGES PAID
17 BY THE EMPLOYER OR THAT PORTION OF THE INDIVIDUAL'S COMPENSATION
18 DETERMINED IN ACCORDANCE WITH SECTION 1108.

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

21 SECTION 1.1. SECTION 302(A)(1) OF THE ACT, AMENDED JULY 21,
22 1983 (P.L.68, NO.30), IS AMENDED TO READ:

23 SECTION 302. ESTABLISHMENT AND MAINTENANCE OF EMPLOYER'S
24 RESERVE ACCOUNTS.--THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN
25 FOR EACH EMPLOYER A SEPARATE EMPLOYER'S RESERVE ACCOUNT IN THE
26 FOLLOWING MANNER:

27 (A) (1) SUCH ACCOUNT SHALL BE CREDITED WITH ALL
28 CONTRIBUTIONS PAID BY SUCH EMPLOYER FOR PERIODS SUBSEQUENT TO
29 JUNE THIRTIETH, ONE THOUSAND NINE HUNDRED FORTY-EIGHT. SUCH
30 ACCOUNT SHALL BE CHARGED WITH AN AMOUNT DETERMINED BY

1 MULTIPLYING THE WAGES OF COMPENSATED EMPLOYEES OF SUCH EMPLOYER
2 FOR THE TWELVE MONTH PERIOD ENDED JUNE THIRTIETH, ONE THOUSAND
3 NINE HUNDRED FORTY-NINE, BY THE STATE EXPERIENCE HERETOFORE USED
4 IN DETERMINING RATES OF CONTRIBUTIONS FOR THE YEAR ONE THOUSAND
5 NINE HUNDRED FORTY-NINE. SUBSEQUENT TO JANUARY 1, 1984, SUCH
6 ACCOUNT SHALL BE CHARGED WITH ALL COMPENSATION, INCLUDING
7 DEPENDENTS' ALLOWANCES, PAID TO EACH INDIVIDUAL WHO RECEIVED
8 FROM SUCH EMPLOYER WAGE CREDITS CONSTITUTING THE BASE OF SUCH
9 COMPENSATION, IN THE PROPORTION THAT SUCH WAGE CREDITS WITH SUCH
10 EMPLOYER BEARS TO THE TOTAL WAGE CREDITS RECEIVED BY SUCH
11 INDIVIDUAL FROM ALL EMPLOYERS: PROVIDED, THAT IF THE DEPARTMENT
12 FINDS THAT SUCH INDIVIDUAL WAS SEPARATED FROM HIS MOST RECENT
13 WORK FOR SUCH EMPLOYER DUE TO BEING DISCHARGED FOR WILLFUL
14 MISCONDUCT CONNECTED WITH SUCH WORK, OR DUE TO HIS LEAVING SUCH
15 WORK WITHOUT GOOD CAUSE ATTRIBUTABLE TO HIS EMPLOYMENT, OR DUE
16 TO HIS BEING SEPARATED FROM SUCH WORK UNDER CONDITIONS WHICH
17 WOULD RESULT IN DISQUALIFICATION FOR BENEFITS UNDER THE
18 PROVISIONS OF SECTION 3 OR SECTION 402(E.1), THEREAFTER NO
19 COMPENSATION PAID TO SUCH INDIVIDUAL WITH RESPECT TO ANY WEEK OF
20 UNEMPLOYMENT OCCURRING SUBSEQUENT TO SUCH SEPARATION, WHICH IS
21 BASED UPON WAGES PAID BY SUCH EMPLOYER WITH RESPECT TO
22 EMPLOYMENT PRIOR TO SUCH SEPARATION, SHALL BE CHARGED TO SUCH
23 EMPLOYER'S ACCOUNT UNDER THE PROVISIONS OF THIS SUBSECTION (A);
24 PROVIDED, SUCH EMPLOYER HAS FILED A NOTICE WITH THE DEPARTMENT
25 IN ACCORDANCE WITH ITS RULES AND REGULATIONS AND WITHIN THE TIME
26 LIMITS PRESCRIBED THEREIN; AND PROVIDED IF THE DEPARTMENT FINDS
27 THAT SUCH INDIVIDUAL'S UNEMPLOYMENT IS DIRECTLY CAUSED BY A
28 MAJOR NATURAL DISASTER DECLARED BY THE PRESIDENT PURSUANT TO
29 SECTION 102(1) OF THE DISASTER RELIEF ACT OF 1970 (P.L.91-606)
30 AND SUCH INDIVIDUAL WOULD HAVE BEEN ELIGIBLE FOR DISASTER

1 UNEMPLOYMENT ASSISTANCE AS PROVIDED IN SECTION 240 OF THAT ACT
2 WITH RESPECT TO SUCH UNEMPLOYMENT BUT FOR THE RECEIPT OF
3 UNEMPLOYMENT COMPENSATION, NO COMPENSATION PAID TO SUCH
4 INDIVIDUAL WITH RESPECT TO ANY WEEK OF UNEMPLOYMENT OCCURRING
5 DUE TO SUCH NATURAL DISASTER, TO A MAXIMUM OF THE EIGHT WEEKS
6 IMMEDIATELY FOLLOWING THE PRESIDENT'S DECLARATION OF EMERGENCY,
7 SHALL BE CHARGED TO THE EMPLOYER'S ACCOUNT UNDER THE PROVISIONS
8 OF THIS SUBSECTION.

9 * * *

10 SECTION 2. SECTION 401(F) OF THE ACT, AMENDED SEPTEMBER 27, <—
11 1971 (P.L.460, NO.108), IS AMENDED TO READ:

12 SECTION 401. QUALIFICATIONS REQUIRED TO SECURE
13 COMPENSATION.--COMPENSATION SHALL BE PAYABLE TO ANY EMPLOYEE WHO
14 IS OR BECOMES UNEMPLOYED, AND WHO--

15 * * *

16 (F) HAS EARNED, SUBSEQUENT TO HIS SEPARATION FROM WORK UNDER
17 CIRCUMSTANCES WHICH ARE DISQUALIFYING UNDER THE PROVISIONS OF
18 SUBSECTIONS 402(B), 402(E), 402(E.1) AND 402(H) OF THIS ACT,
19 REMUNERATION FOR SERVICES IN AN AMOUNT EQUAL TO OR IN EXCESS OF
20 SIX (6) TIMES HIS WEEKLY BENEFIT RATE IRRESPECTIVE OF WHETHER OR
21 NOT SUCH SERVICES WERE IN "EMPLOYMENT" AS DEFINED IN THIS ACT.
22 THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO A
23 SUSPENSION OF WORK BY AN INDIVIDUAL PURSUANT TO A LEAVE OF
24 ABSENCE GRANTED BY HIS LAST EMPLOYER, PROVIDED SUCH INDIVIDUAL
25 HAS MADE A REASONABLE EFFORT TO RETURN TO WORK WITH SUCH
26 EMPLOYER UPON THE EXPIRATION OF HIS LEAVE OF ABSENCE.

27 * * *

28 SECTION ~~2~~ 3. SECTION 402 OF THE ACT IS AMENDED BY ADDING A <—
29 SUBSECTION TO READ:

30 SECTION 402. INELIGIBILITY FOR COMPENSATION.--AN EMPLOYEE

1 SHALL BE INELIGIBLE FOR COMPENSATION FOR ANY WEEK--

2 * * *

3 (E.1) IN WHICH HIS UNEMPLOYMENT IS DUE TO DISCHARGE OR
4 TEMPORARY SUSPENSION FROM WORK DUE TO FAILURE TO SUBMIT AND/OR
5 PASS A DRUG TEST CONDUCTED PURSUANT TO AN EMPLOYER'S ESTABLISHED
6 SUBSTANCE ABUSE POLICY, PROVIDED THAT THE DRUG TEST IS NOT
7 REQUESTED OR IMPLEMENTED IN VIOLATION OF THE LAW OR OF A
8 COLLECTIVE BARGAINING AGREEMENT.

9 * * *

10 SECTION ~~3~~ 4. SECTION 402.6 OF THE ACT, ADDED OCTOBER 30, <—
11 1996 (P.L.738, NO.133), IS AMENDED TO READ:

12 Section 402.6. Ineligibility of Incarcerated Employee.--
13 [Nothing in this act] An employe shall [require] not be eligible
14 for payment of unemployment compensation benefits for any weeks
15 of unemployment during which the employe is incarcerated after a
16 conviction.

17 Section ~~2-4~~ 5. The amendment of section 402.6 of the act <—
18 shall apply to compensation for weeks ending on or after the
19 effective date of this act.

20 SECTION 6. THE ADDITION OF SECTION 213 OF THE ACT SHALL BE <—
21 APPLICABLE TO CALENDAR YEARS BEGINNING AFTER DECEMBER 31, 2002,
22 AND TO COMPENSATION PAID ON APPLICATIONS FOR BENEFITS EFFECTIVE
23 AFTER DECEMBER 31, 2002.

24 Section ~~3-5~~ 7. This act shall take effect immediately. <—