

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 778 Session of
2001

INTRODUCED BY YUDICHAK, COSTA, MANN, SOLOBAY, McCALL, GEORGE,
DeWEESE, M. COHEN, BELARDI, ORIE, RUFFING, COY, B. SMITH,
LAUGHLIN, COLAFELLA, FRANKEL, WOJNAROSKI, ROBERTS, TIGUE,
CALTAGIRONE, CORRIGAN, PRESTON, FREEMAN, HENNESSEY, TRELLO,
BUTKOVITZ, HORSEY, STABACK, HASAY, SAINATO, MICHLOVIC,
PETRARCA, SHANER, GRUCELA, MELIO, PISTELLA, LUCYK,
WASHINGTON, HARHAI, ROONEY, BROWNE, CURRY, THOMAS, J.
WILLIAMS AND BELFANTI, FEBRUARY 14, 2001

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 12, 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," further providing for
16 ~~administration; and abrogating a regulation.~~ COMPENSATION <—
17 RATES.

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

20 ~~Section 1. Section 201 of the act of December 5, 1936 (2nd <—~~
21 ~~Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment~~
22 ~~Compensation Law, amended May 17, 1957 (P.L.153, No.72) and July~~

1 ~~1, 1985 (P.L.96, No.30), is amended to read:~~

2 ~~Section 201. General Powers and Duties of Department. (a)~~
3 ~~It shall be the duty of the department to administer and enforce~~
4 ~~this act through such employment service and public employment~~
5 ~~offices as have been or may be constituted in accordance with~~
6 ~~the provisions of this act and existing laws. It shall have~~
7 ~~power and authority to adopt, amend, and rescind such rules and~~
8 ~~regulations, require such reports from employers, employes, the~~
9 ~~board and from any other person deemed by the department to be~~
10 ~~affected by this act, make such investigations, and take such~~
11 ~~other action as it deems necessary or suitable. Such rules and~~
12 ~~regulations shall not be inconsistent with the provisions of~~
13 ~~this act. No regulation shall require or permit the department~~
14 ~~to offset, in calculating unemployment compensation, Social~~
15 ~~Security retirement pensions, railroad retirement pensions, or~~
16 ~~other Federal pensions, which are based upon an individual's~~
17 ~~previous work or self employment, or both. The department shall~~
18 ~~submit to the Governor and the General Assembly a biennial~~
19 ~~report covering the administration and operation of this act and~~
20 ~~shall make such recommendations for amendments to this act as it~~
21 ~~deems proper. In the discharge of the duties imposed by this~~
22 ~~act, the Secretary and any agent duly authorized in writing by~~
23 ~~him shall have the power to administer oaths and affirmations,~~
24 ~~take depositions, and certify to official acts. The department~~
25 ~~shall have the power to issue subpoenas to compel the attendance~~
26 ~~of witnesses and the production of books, papers,~~
27 ~~correspondence, memoranda and other records deemed necessary in~~
28 ~~the administration of this act.~~

29 ~~(b) The department and the Department of Property and~~
30 ~~Supplies are hereby authorized to acquire land and buildings or~~

1 ~~to use land in or in the immediate vicinity of the City of~~
2 ~~Harrisburg, now owned by the Commonwealth, deemed necessary by~~
3 ~~the Secretary of Labor and Industry, with the approval of the~~
4 ~~Governor, and in the case of the use of land now owned by the~~
5 ~~Commonwealth, the approval of the board or other agency of the~~
6 ~~Commonwealth having jurisdiction over the same, for the~~
7 ~~administration of this act.~~

8 ~~As all property acquired under the provisions of this~~
9 ~~subsection shall be used exclusively for the performance of~~
10 ~~essential governmental functions, no taxes shall be required to~~
11 ~~be paid or assessments made upon any such property from the time~~
12 ~~that the Commonwealth actually takes title to such property in~~
13 ~~the event of outright purchase, or from the time that the~~
14 ~~Commonwealth takes possession of such property under a lease-~~
15 ~~purchase agreement as provided herein.~~

16 ~~Section 2. The provisions of 34 Pa.Code § 65.102(d) are~~
17 ~~abrogated.~~

18 ~~Section 3. This act shall apply retroactively to individuals~~
19 ~~who are receiving unemployment compensation on the effective~~
20 ~~date of this act.~~

21 ~~Section 4. This act shall take effect in 60 days.~~

22 SECTION 1. SECTION 404(D) OF THE ACT OF DECEMBER 5, 1936 <—
23 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT
24 COMPENSATION LAW, AMENDED OCTOBER 19, 1988 (P.L.818, NO.109), IS
25 AMENDED TO READ:

26 SECTION 404. RATE AND AMOUNT OF COMPENSATION.--COMPENSATION
27 SHALL BE PAID TO EACH ELIGIBLE EMPLOYE IN ACCORDANCE WITH THE
28 FOLLOWING PROVISIONS OF THIS SECTION EXCEPT THAT COMPENSATION
29 PAYABLE WITH RESPECT TO WEEKS ENDING IN BENEFIT YEARS WHICH
30 BEGIN PRIOR TO THE FIRST DAY OF JANUARY 1989 SHALL BE PAID ON

1 THE BASIS OF THE PROVISIONS OF THIS SECTION IN EFFECT AT THE
2 BEGINNING OF SUCH BENEFIT YEARS.

3 * * *

4 (D) (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
5 SECTION EACH ELIGIBLE EMPLOYEE WHO IS UNEMPLOYED WITH RESPECT TO
6 ANY WEEK ENDING SUBSEQUENT TO JULY 1, 1980 SHALL BE PAID, WITH
7 RESPECT TO SUCH WEEK, COMPENSATION IN AN AMOUNT EQUAL TO HIS
8 WEEKLY BENEFIT RATE LESS THE TOTAL OF (I) THE REMUNERATION, IF
9 ANY, PAID OR PAYABLE TO HIM WITH RESPECT TO SUCH WEEK FOR
10 SERVICES PERFORMED WHICH IS IN EXCESS OF HIS PARTIAL BENEFIT
11 CREDIT AND (II) VACATION PAY, IF ANY, WHICH IS IN EXCESS OF HIS
12 PARTIAL BENEFIT CREDIT, EXCEPT WHEN PAID TO AN EMPLOYEE WHO IS
13 PERMANENTLY OR INDEFINITELY SEPARATED FROM HIS EMPLOYMENT.

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

23 (II) IF THE PENSION IS ENTIRELY CONTRIBUTED TO BY THE
24 EMPLOYER, THEN ONE HUNDRED PER CENTUM (100%) OF THE PRO-RATED
25 WEEKLY AMOUNT OF THE PENSION SHALL BE DEDUCTED. [IF] EXCEPT AS
26 SET FORTH IN CLAUSE (4), IF THE PENSION IS CONTRIBUTED TO BY THE
27 INDIVIDUAL, IN ANY AMOUNT, THEN FIFTY PER CENTUM (50%) OF THE
28 PRO-RATED WEEKLY AMOUNT OF THE PENSION SHALL BE DEDUCTED.

29 (III) NO DEDUCTION SHALL BE MADE UNDER THIS CLAUSE BY REASON
30 OF THE RECEIPT OF A PENSION IF THE SERVICES PERFORMED BY THE

1 INDIVIDUAL DURING THE BASE PERIOD OR REMUNERATION RECEIVED FOR
2 SUCH SERVICES FOR SUCH EMPLOYER DID NOT AFFECT THE INDIVIDUAL'S
3 ELIGIBILITY FOR, OR INCREASE THE AMOUNT OF, SUCH PENSION,
4 RETIREMENT OR RETIRED PAY, ANNUITY OR SIMILAR PAYMENT. THIS
5 SUBCLAUSE SHALL NOT APPLY TO PENSIONS PAID UNDER THE SOCIAL
6 SECURITY ACT (PUBLIC LAW 74-271, 42 U.S.C. § 301 ET SEQ.) [OR
7 THE RAILROAD RETIREMENT ACT OF 1974 (PUBLIC LAW 93-445, 88 STAT.
8 1305) OR THE CORRESPONDING PROVISIONS OF PRIOR LAW. PAYMENTS
9 MADE UNDER SUCH ACTS SHALL BE TREATED SOLELY IN THE MANNER
10 SPECIFIED BY SUBCLAUSE (I) OF THIS CLAUSE].

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

26 (4) NO DEDUCTIONS SHALL BE MADE UNDER THIS SUBSECTION FOR
27 PENSIONS PAID UNDER THE RAILROAD RETIREMENT ACT OF 1974 (PUBLIC
28 LAW 93-445, 88 STAT. 1305) OR OTHER FEDERAL PENSIONS, WHICH ARE
29 BASED UPON AN INDIVIDUAL'S PREVIOUS WORK OR SELF-EMPLOYMENT, OR
30 BOTH.

1 * * *

2 SECTION 2. THIS ACT SHALL APPLY TO INDIVIDUALS WHO RECEIVE
3 UNEMPLOYMENT COMPENSATION ON OR AFTER THE EFFECTIVE DATE OF THIS
4 ACT.

5 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.