

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2859 Session of  
2004

INTRODUCED BY DENLINGER, ARMSTRONG AND STEIL, SEPTEMBER 28, 2004

REFERRED TO COMMITTEE ON LABOR RELATIONS, SEPTEMBER 28, 2004

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," creating a wage option  
16 program to provide job training, work force attachment and  
17 wages higher than unemployment compensation benefits to  
18 eligible, participating unemployment compensation claimants  
19 through subsidized employment.

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

22 Section 1. The act of December 5, 1936 (2nd Sp.Sess., 1937  
23 P.L.2897, No.1), known as the Unemployment Compensation Law, is  
24 amended by adding an article to read:

25 ARTICLE XIV

26 WAGE OPTION PROGRAM

27 Section 1401. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Claimant participant." An individual who is eligible to receive unemployment compensation and who is enrolled in the Wage Option Program.

"Employer participant." An eligible employer who is enrolled in the Wage Option Program.

Section 1402. Intent.

The General Assembly recognizes that early return-to-work strategies increase income for claimants, productive output for the economy of this Commonwealth and funding for the State's Unemployment Compensation Trust Fund. The General Assembly also acknowledges that the longer a person is unemployed, the more difficult it is to find a job and that on-the-job training is a highly effective means of training in the work force. It is therefore the intent of the General Assembly to promote work and the benefits of work by:

(1) Increasing opportunities unemployed citizens of this Commonwealth have to increase their employability by gaining new skills, more experience and a more recent work history through on-the-job training.

(2) Invigorating the public-private work force partnership through development of jobs with both public and private employers.

(3) Expeditiously placing claimant participants in subsidized and unsubsidized employment.

Section 1403. Creation.

The Wage Option Program is hereby created within the department as a program in which individuals shall, in lieu of

receiving unemployment compensation benefits, be provided jobs,  
training and a regular wage.

Section 1404. Duties of department.

(a) General rule.--The department shall develop guidelines  
and procedures necessary to implement the Wage Option Program.

These shall include:

(1) The process for referring eligible claimant  
participants to available wage option positions, as described  
in section 1407.

(2) The forms and agreements necessary to carry out the  
intent of the program.

(b) Responsibilities regarding employer participants.--

(1) The department shall implement measures to recruit  
and enroll employers for the Wage Option Program. These  
measures may include mailings to unemployment compensation  
offices, contributing or reimbursing employers and outreach  
efforts to specific labor-intensive industries.

(2) The department shall develop training and education  
materials for participating employers explaining the  
requirements of the program and any necessary forms or  
agreements required for participating employers.

(3) The department shall ensure that jobs made available  
to program participants shall be in conformity with Federal  
law.

(4) The department shall implement procedures to  
reimburse participating employers for specified wages paid,  
as provided under section 1409.

(c) Responsibilities regarding claimant participants.--

(1) The department shall develop informational material  
about the Wage Option Program for potential claimant

1 participants describing the benefits of the program and  
2 claimant enrollment procedures.

3 (2) The department shall develop screening procedures to  
4 identify claimants who may be eligible for the Wage Option  
5 Program as described in section 1405. In doing so, the  
6 department shall utilize and expand existing claimant  
7 screening procedures to meet the criteria for the Wage Option  
8 Program.

9 (3) The department shall develop an employment  
10 development plan to be utilized for each claimant participant  
11 identified during the screening process. The plan shall  
12 identify the employment goals of the claimant recipient and  
13 methods for achieving those goals. Each claimant participant  
14 shall assist in the development of his or her employment  
15 development plan.

16 (4) The department shall refer eligible claimant  
17 participants to employer participants with available wage  
18 option positions. The department shall try to match the  
19 employment development plan of each employee participant with  
20 the needs of an employer when assigning a claimant to a wage  
21 option position. Notwithstanding the provisions of Article IV  
22 regarding suitability of work for an individual, the  
23 department may refer claimants to wage option jobs for which  
24 the claimant does not have adequate skills or experience when  
25 the wage option job is likely to result in an upgrade in the  
26 claimant's skills or experience.

27 Section 1405. Claimant eligibility.

28 (a) General rule.--Unemployment compensation claimants  
29 eligible for benefits under Article IV shall be eligible for  
30 referral to the Wage Option Program.

1     (b) Limitation.--Unemployment compensation recipients may  
2 participate in the Wage Option Program for no more than 13  
3 weeks, unless the department determines that one additional  
4 period of participation in the program of up to 13 weeks is  
5 appropriate.

6 Section 1406. Employer eligibility.

7     (a) Voluntary participation.--Employer participation in the  
8 Wage Option Program shall be voluntary and all employers,  
9 including public and private sector employers within this  
10 Commonwealth, are eligible to participate in the Wage Option  
11 Program.

12     (b) Maximum number of positions.--The maximum number of wage  
13 option positions that any employer is authorized to have at any  
14 one time shall not be more than 20% of the total number of the  
15 employer's employees. Employers with fewer than five employees  
16 are eligible for one wage option position. In special  
17 circumstances to accomplish Wage Option Program objectives, the  
18 department may waive the limit on the number of wage option  
19 positions an employer participant may have.

20     (c) Layoff.--A wage option position may not be available due  
21 to a layoff of an employee during the preceding six months.

22     (d) Training position.--Employer participants who do not  
23 have a permanent position to offer at the end of a wage option  
24 placement may hire the claimant participant for a training  
25 position, but must inform the participant that the experience  
26 will likely not culminate in a permanent job with the employer,  
27 but will instead serve as training for employment with other  
28 employers.

29     (e) Requirements.--Wage Option Program employers shall:

30         (1) Endeavor to make the program placements positive

1 learning and training experiences and provide on-the-job  
2 training to the degree necessary for claimant participants to  
3 perform their duties.

4 (2) Recruit volunteer mentors from among their regular  
5 employees to assist claimant participants in becoming  
6 oriented.

7 (3) Provide workers' compensation coverage for each  
8 claimant participant.

9 (4) Not require claimant participants to work more than  
10 40 hours per week unless approved by the department.

11 (5) Sign an agreement, provided by the department, to  
12 abide by all requirements of the program.

13 (f) Claimant status.--The employer shall consider all  
14 claimant participants to be temporary employees and entitled  
15 only to benefits that conform to the individual employer's rules  
16 for temporary employees.

17 (g) Job search activities.--If after ten weeks in a  
18 placement a claimant participant has not been hired for an  
19 unsubsidized position, the employer participant shall allow the  
20 worker to undertake five hours of job search activities per  
21 week.

22 Section 1407. Referral procedures.

23 (a) General rule.--The department shall refer unemployment  
24 compensation claimants to wage option jobs as follows:

25 (1) If the department determines during the screening  
26 process described in section 1404(c) that the claimant is  
27 likely to exhaust the claimant's unemployment compensation  
28 claim without finding an unsubsidized job, the department  
29 shall refer the claimant to the Wage Option Program within  
30 four weeks after the claimant has filed a claim for

1 unemployment compensation. Claimants who are determined to be  
2 likely to exhaust their unemployment compensation benefits  
3 shall receive priority placements in the program.

4 (2) For claimants not deemed eligible for the program  
5 under paragraph (1), at eight weeks after claimants apply for  
6 unemployment compensation benefits, the department will  
7 reassess the reemployability of the claimants, and at its  
8 discretion, refer claimants to the Wage Option Program as  
9 appropriate. To ensure a continued focus on early and cost-  
10 effective placements into the program, placements made  
11 pursuant to this paragraph shall not be more than 10% of the  
12 total placements made into the Wage Option Program.

13 (3) Claimants may not be placed into the Wage Option  
14 Program at any time after the claimant has received more than  
15 ten weeks of unemployment compensation benefits.

16 (b) Refusal by claimant.--If a claimant refuses a referral  
17 to a wage option position, the department shall investigate the  
18 refusal and decide all issues arising from the refusal,  
19 including suspension of benefits, in accordance with the  
20 Commonwealth's normal procedures for assessing a recipient's  
21 availability and willingness to work.

22 (c) Failure to hire.--If a claimant participant is not hired  
23 into an unsubsidized position at the end of a wage option  
24 placement, the department shall reassess the participant's  
25 employment development plan and, if it is the participant's  
26 first placement in the Wage Option Program during the claim, the  
27 department may make up to one more placement for the participant  
28 into a wage option job, if appropriate.

29 Section 1408. Temporary employment agencies.

30 (a) Professional placement services included in program.--

1 For purposes of the Wage Option Program, the term "employer"  
2 shall include professional placement services, professional  
3 employment organizations and temporary employment agencies.

4 (b) Exception.--The limitation on number of wage option  
5 positions enumerated in section 1406(b) shall not apply to the  
6 professional placement services, professional employment  
7 organizations and temporary employment agencies as a limit on  
8 the number of wage option positions they may place with clients.

9 (c) Eligibility.--Clients of professional placement  
10 services, professional employment organizations and temporary  
11 employment agencies shall comply with the provisions of section  
12 1406.

13 (d) Three-party agreement required.--When a professional  
14 placement service, professional employment organization or  
15 temporary employment agency is acting as an employer under the  
16 Wage Option Program, a three-party agreement shall be required  
17 between the professional placement service, professional  
18 employment organization or temporary employment agency, the  
19 organization where the participant has been placed to perform  
20 services and the department. The three-party agreement shall  
21 include provisions requiring that all wage option reimbursements  
22 received by the professional placement service, professional  
23 employment organization or temporary employment agency, as  
24 described in section 1409, be credited to the organization where  
25 the participant has been placed to perform services.

26 Section 1409. Wages and benefits.

27 (a) General rule.--Employer participants shall pay assigned  
28 claimant participants not less than the hourly rate of the State  
29 minimum wage and a wage that is substantially equivalent to  
30 wages paid for similar jobs in the local economy with



1 appropriate adjustments for experience and training.

2 (b) Reimbursement.--The department shall reimburse employer  
3 participants the amount of the claimant's normal weekly benefit  
4 check for the time that the claimant and the employer  
5 participated in the Wage Option Program, up to a maximum of 40-  
6 hours-per-week for 13 weeks.

7 (c) Taxes.--Claimant participant wages shall be subject to  
8 Federal and State income taxes, Social Security taxes and  
9 unemployment compensation tax or reimbursement as applicable,  
10 which shall be withheld and paid in accordance with Federal and  
11 State law. Additionally, claimant participant benefits shall be  
12 subject to deductions, withholdings and recoupments as required  
13 by this act.

14 (d) Limitation.--The combined duration of participation in  
15 the Wage Option Program and receipt of regular unemployment  
16 compensation benefits shall not be more than the benefit year  
17 limitations defined by this act. In no case shall the department  
18 provide unemployment compensation benefits and wage option  
19 reimbursements for a claimant participant that are more than the  
20 amount which would have been received under regular unemployment  
21 compensation for the benefit year.

22 Section 1410. Termination of placements and job search.

23 Either the employer participant or the claimant participant  
24 may terminate the assignment by contacting the department or  
25 local Unemployment Compensation Service Center. In such event,  
26 the department shall reassess the needs of the claimant  
27 participant, assign the claimant participant to another wage  
28 option position if feasible and, at the employer participant's  
29 request, assign another claimant participant to the wage option  
30 position.

1 Section 1411. Violations of Wage Option Program requirements.

2 (a) Criteria.--The department shall establish, as necessary,  
3 criteria for excluding employers from participation for failure  
4 to abide by Wage Option Program requirements, showing a pattern  
5 of terminating participants prior to the completion of training  
6 without cause or other demonstrated unwillingness to comply with  
7 the stated intent of the program.

8 (b) Violation of rules.--If the department finds that an  
9 employer has violated any of the rules of the Wage Option  
10 Program, it may do any of the following:

11 (1) Withhold any amounts due to employers under the Wage  
12 Option Program.

13 (2) Seek repayment of any amounts paid to employers  
14 under the Wage Option Program.

15 (3) Bar employers from the Wage Option Program for up to  
16 two years.

17 Section 1412. Partnering for job placement.

18 The department shall explore contracting for job procurement  
19 and placement services with private job placement institutions  
20 for wage option positions. If contracting is deemed beneficial,  
21 the department is encouraged to and shall have the authority to  
22 contract with private placement firms.

23 Section 1413. Annual report on Wage Option Program.

24 The department shall submit an annual written report to the  
25 Governor and the General Assembly containing a full and complete  
26 analysis of the Wage Option Program. The report shall include:

27 (1) The number of days participants received benefits  
28 prior to placement in the program.

29 (2) Average profile score of participants compared to  
30 all other unemployment compensation claimants.

- 1           (3) Number of placements compared to annual goal.
- 2           (4) Goal for the next year for number of placements.
- 3           (5) Efforts and results of partnering with the private
- 4           sector employers and placement agencies.
- 5           Section 2. This act shall take effect in 60 days.