

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 144 Session of
2005

INTRODUCED BY SOLOBAY, BELFANTI, CALTAGIRONE, CAWLEY, DeWEESE,
FABRIZIO, GOODMAN, GRUCELA, MELIO, SAINATO, SATHER, SHANER,
WASHINGTON, YOUNGBLOOD AND YUDICHAK, JANUARY 31, 2005

REFERRED TO COMMITTEE ON LABOR RELATIONS, JANUARY 31, 2005

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 benefits based on service for educational institutions.

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

19 Section 1. Section 402.1 of the act of December 5, 1936 (2nd
20 Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
21 Compensation Law, amended or added December 12, 1979 (P.L.503,
22 No.108) and July 21, 1983 (P.L.68, No.30), is amended to read:

23 Section 402.1. Benefits Based on Service for Educational
24 Institutions.--Benefits based on service for educational

1 institutions pursuant to Article X, XI or XII shall as
2 hereinafter provided be payable in the same amount, on the same
3 terms and subject to the same conditions as outlined in section
4 404(g); except that:

5 (1) With respect to service performed after December 31,
6 1977, in an instructional, research, or principal administrative
7 capacity for an educational institution, benefits shall not be
8 paid based on such services for any week of unemployment
9 commencing during the period between two successive academic
10 years, or during a similar period between two regular terms
11 whether or not successive or during a period of paid sabbatical
12 leave provided for in the individual's contract, to any
13 individual if such individual performs such services in the
14 first of such academic years or terms and if there is a contract
15 or a reasonable assurance that such individual will perform
16 services in any such capacity for any educational institution in
17 the second of such academic years or terms.

18 (2) With respect to services performed after October 31,
19 1983, in any other capacity for an educational institution,
20 except in an ancillary administrative capacity as described in
21 clause (3), benefits shall not be paid on the basis of such
22 services to any individual for any week which commences during a
23 period between two successive academic years or terms if such
24 individual performs such services in the first of such academic
25 years or terms and there is a reasonable assurance that such
26 individual will perform such services in the second of such
27 academic years or terms.

28 (3) (i) With respect to any services described in clause
29 (1) or (2), benefits payable on the basis of such services shall
30 be denied to any individual for any week which commences during

1 an established and customary vacation period or holiday recess
2 if such individual performed such services in the period
3 immediately before such vacation period or holiday recess, and
4 there is a reasonable assurance that such individual will
5 perform such services in the period immediately following such
6 vacation period or holiday recess.

7 (ii) This clause shall not apply to service performed in an
8 ancillary administrative capacity during a period between two
9 successive academic years.

10 (iii) For purposes of clause (2) and this clause, the term
11 "service performed in an ancillary administrative capacity"
12 means service rendered by a substitute teacher who does not have
13 a contract with an educational institution for an academic year,
14 semester or specific portion thereof, and service involving
15 primarily, noneducational or nonprofessional, administrative
16 duties that are subject to supervision or control by
17 instructional, research or principal administrative personnel,
18 including, but not limited to, service as a cafeteria worker,
19 school bus operator, janitor or security guard.

20 (4) (i) With respect to weeks of unemployment beginning
21 after January 1, 1979, benefits shall be denied to an individual
22 who performed services in or near an educational institution
23 while in the employ of an educational service agency for any
24 week which commences during a period described in clauses (1),
25 (2) and (3) if such individual performs any services described
26 in clause (1) or (2) in the first of such periods, as specified
27 in the applicable clause, and there is a contract or a
28 reasonable assurance, as applicable in the appropriate clause,
29 that such individual will perform such services in the second of
30 such periods, as applicable in the appropriate clause.

1 (ii) For purposes of this clause the term "educational
2 service agency" means a governmental agency or governmental
3 entity which is established and operated exclusively for the
4 purposes of providing such services to one or more educational
5 institutions. A political subdivision or an intermediate unit
6 may establish and operate such an educational service agency.

7 (iii) Nothing contained in this section shall be construed
8 to modify existing collective bargaining units organized under
9 the provisions of the act of July 23, 1970 (P.L.563, No.195),
10 known as the "Public Employe Relations Act," unless specifically
11 agreed to by both the employer and employe representatives.

12 (5) With respect to an individual who performs services
13 described in clause (2) [of this section] and who pursuant to
14 clause (2) or (4) [of this section] is denied benefits for the
15 period between academic years or terms, such individual if [he
16 is] not offered an opportunity to perform such service in the
17 second of such academic years or terms shall be paid benefits
18 for the period which commences with the first week [he] such
19 individual was denied benefits solely by the reason of clause
20 (2) or (4) [of this section], provided [he] such individual had
21 filed timely claims for benefits throughout the denial period
22 and was otherwise eligible for benefits.

23 Section 2. This act shall take effect in 60 days.