

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 549 Session of 2021

INTRODUCED BY MULLERY, HANBIDGE, D. WILLIAMS, SANCHEZ, ZABEL, HILL-EVANS, FIEDLER, ISAACSON, A. DAVIS, McNEILL, FREEMAN, T. DAVIS, SNYDER, MADDEN, NEILSON, HOWARD, GALLOWAY, O'MARA, WEBSTER, SCHWEYER, DRISCOLL, DELLOSO, WARREN, PISCIOTTANO, MALAGARI, BENHAM AND KINKEAD, FEBRUARY 17, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 17, 2021

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," in preliminary  
 16 provisions, further providing for definitions; in  
 17 contributions by employers and employees, further providing  
 18 for trigger determinations and for trigger rate  
 19 redeterminations; in compensation, further providing for  
 20 qualifications required to secure compensation, for  
 21 ineligibility for compensation and for rate and amount of  
 22 compensation; in determination of compensation, appeals,  
 23 reviews and procedure, further providing for determination of  
 24 compensation appeals; in shared-work program, further  
 25 providing for shared-work plan requirements, for effective  
 26 period of shared-work plan and for participating employer  
 27 responsibilities; in Unemployment Compensation Amnesty  
 28 Program, further providing for definitions; and, in amnesty  
 29 program, further providing for definitions.

30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Sections 4(g.1), 301.7(a), 301.8(b)(1), 401(e)  
3 (1), 402(a), 404(c), (d)(1) and (1.1) and (e)(2)(iv), (v) and  
4 (vi), 501(c)(1), 1303(b), 1305(b) and 1307(b) of the act of  
5 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as  
6 the Unemployment Compensation Law, are amended to read:

7 Section 4. Definitions.--The following words and phrases, as  
8 used in this act, shall have the following meanings, unless the  
9 context clearly requires otherwise.

10 \* \* \*

11 [(g.1) "Credit week" means any calendar week in an  
12 individual's base year with respect to which he was paid in  
13 employment as defined in this act, remuneration of not less  
14 than:

15 (1) One hundred dollars (\$100). This paragraph shall expire  
16 December 31, 2014.

17 (2) Sixteen (16) times the minimum hourly wage required by  
18 the act of January 17, 1968 (P.L.11, No.5), known as "The  
19 Minimum Wage Act of 1968." This paragraph shall take effect  
20 January 1, 2015.

21 Only one credit week can be established with respect to any one  
22 calendar week.]

23 \* \* \*

24 Section 301.7. Trigger Determination.--(a) On July 1 of  
25 every year, the secretary shall calculate the trigger percentage  
26 to be used in setting surcharge and contribution rates for the  
27 contributions required under sections 301.2, 301.4 and 301.5 and  
28 in setting the benefit reduction required under section 404(e)  
29 (4) for the following calendar year. The secretary shall[:

30 (1) add the principal amount of outstanding bonds under

1 Article XIV and the amount of outstanding advances under Title  
2 XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321  
3 et seq.) and subtract that sum from the balance in the  
4 Unemployment Compensation Fund;

5 (2) determine the average of the benefit costs for the three  
6 immediately preceding fiscal years; and

7 (3) calculate the percentage that the amount determined  
8 under paragraph (1) represents of the average of the benefit  
9 costs.] determine the average high cost multiple for the  
10 preceding calendar year in accordance with 20 CFR 606.3  
11 (relating to definitions). The trigger percentage shall be the  
12 percentage determined by the ratio of the average high cost  
13 multiple over one.

14 \* \* \*

15 Section 301.8. Trigger Rate Redeterminations.--\* \* \*

16 (b) (1) For calendar years 2013 through the year determined  
17 under paragraph (4), if the trigger percentage as of July 1 of  
18 the preceding calendar year is less than [two hundred fifty per  
19 centum (250%)] one hundred per centum (100%), the rates  
20 determined under paragraph (2) shall apply. For calendar years  
21 following the year determined under paragraph (4), if the  
22 trigger percentage as of July 1 of the preceding calendar year  
23 is less than [two hundred fifty per centum (250%)] one hundred  
24 per centum (100%), the rates determined under paragraph (3)  
25 shall apply.

26 \* \* \*

27 Section 401. Qualifications Required to Secure  
28 Compensation.--Compensation shall be payable to any employe who  
29 is or becomes unemployed, and who--

30 \* \* \*

1 (e) (1) [Has been unemployed for a waiting period of one  
2 week.] (Reserved).

3 \* \* \*

4 Section 402. Ineligibility for Compensation.--An employe  
5 shall be ineligible for compensation for any week--

6 (a) In which his unemployment is due to failure, without  
7 good cause, either to apply for suitable work at such time and  
8 in such manner as the department may prescribe, or to accept  
9 suitable work when offered to him by the employment office or by  
10 any employer, irrespective of whether or not such work is in  
11 "employment" as defined in this act: Provided, That such  
12 employer notifies the employment office of such offer within  
13 seven (7) days after the making thereof; however this subsection  
14 shall not cause a disqualification of [a waiting week or]  
15 benefits under the following circumstances: when work is offered  
16 by his employer and he is not required to accept the offer  
17 pursuant to the terms of the labor-management contract or  
18 agreement, or pursuant to an established employer plan, program  
19 or policy: Provided further, That a claimant shall not be  
20 disqualified for refusing suitable work when he is in training  
21 approved under section 236(a) (1) of the Trade Act of 1974.

22 \* \* \*

23 Section 404. Rate and Amount of Compensation.--Compensation  
24 shall be paid to each eligible employe in accordance with the  
25 following provisions of this section except that compensation  
26 payable with respect to weeks ending in benefit years which  
27 begin prior to the first day of January 1989 shall be paid on  
28 the basis of the provisions of this section in effect at the  
29 beginning of such benefit years.

30 \* \* \*

1 (c) If an otherwise eligible employe has base year wages in  
2 an amount equal to or in excess of the amount of qualifying  
3 wages appearing in Part C of the Table Specified for the  
4 Determination of Rate and Amount of Benefits on the line on  
5 which in Part B there appears his weekly benefit rate, as  
6 determined under subsection (a) of this section, [and had  
7 eighteen (18) or more credit weeks during his base year,] he  
8 shall be entitled during his benefit year to the amount  
9 appearing in Part B on said line multiplied by the number of  
10 [credit weeks during his base year] weeks for which a claim for  
11 unemployment benefits is filed, up to a maximum of twenty-six  
12 (26). Notwithstanding any other provision of this act, any  
13 employe [with less than eighteen (18) credit weeks] without  
14 wages in at least two (2) quarters during the employe's base  
15 year shall be ineligible to receive any amount of compensation.

16 (d) (1) Notwithstanding any other provisions of this  
17 section each eligible employe who is unemployed with respect to  
18 any week ending subsequent to July 1, 1980 shall be paid, with  
19 respect to such week, compensation in an amount equal to his  
20 weekly benefit rate less the total of (i) the remuneration, if  
21 any, paid or payable to him with respect to such week for  
22 services performed which is in excess of his partial benefit  
23 credit[, ] and (ii) vacation pay, if any, which is in excess of  
24 his partial benefit credit, except when paid to an employe who  
25 is permanently or indefinitely separated from his employment.  
26 [and (iii) the amount of severance pay that is attributed to the  
27 week.]

28 (1.1) For purposes of clause (1)(iii), all of the following  
29 apply:

30 (i) "Severance pay" means one or more payments made by an

1 employer to an employe on account of separation from the service  
2 of the employer, regardless of whether the employer is legally  
3 bound by contract, statute or otherwise to make such payments.

4 The term does not include payments for pension, retirement or  
5 accrued leave or payments of supplemental unemployment benefits.

6 (ii) The amount of severance pay attributed pursuant to  
7 subclause (iii) shall be an amount not less than zero (0)  
8 determined by subtracting forty per centum (40%) of the average  
9 annual wage as calculated under subsection (e) as of June 30  
10 immediately preceding the calendar year in which the claimant's  
11 benefit year begins from the total amount of severance pay paid  
12 or payable to the claimant by the employer.

13 (iii) Severance pay is attributed as follows:

14 (A) Severance pay is attributed to the day, days, week or  
15 weeks immediately following the employe's separation.

16 (B) The number of days or weeks to which severance pay is  
17 attributed is determined by dividing the total amount of  
18 severance pay by the regular full-time daily or weekly wage of  
19 the claimant.

20 (C) The amount of severance pay attributed to each day or  
21 week equals the regular full-time daily or weekly wage of the  
22 claimant.

23 (D) When the attribution of severance pay is made on the  
24 basis of the number of days, the pay shall be attributed to the  
25 customary working days in the calendar week.]

26 \* \* \*

27 (e) \* \* \*

28 (2) \* \* \*

29 (iv) In addition to the limitations set forth in subclause  
30 (iii), the following shall apply:

1 (A) Notwithstanding the provisions of subclause (iii)(B),  
2 for calendar years 2020 through 2023, the maximum weekly benefit  
3 rate shall not increase if the trigger percentage determined  
4 under section 301.7(a) is less than one hundred ten per centum  
5 (110%) as of July 1, 2019.

6 (B) Notwithstanding the provisions of subclause (iii)(B.1),  
7 for calendar year 2024, the maximum weekly benefit rate may not  
8 increase from the preceding year if the trigger percentage  
9 determined under section 301.7(a) is less than [two hundred  
10 fifteen per centum (215%)] eighty-six per centum (86%) as of  
11 July 1, 2023.

12 (C) If the maximum weekly benefit rate does not increase  
13 under subparagraph (B), it may not increase until the year  
14 following a July 1 determination under section 301.7(a) that the  
15 trigger percentage is at least [two hundred fifty per centum  
16 (250%)] one hundred per centum (100%).

17 (D) If the conditions of subparagraph (C) are met, for the  
18 purpose of determining the maximum weekly benefit, subclause  
19 (iii) shall apply.

20 (v) If, on July 1, 2025, the trigger percentage determined  
21 under section 301.7(a) is less than [two hundred fifty per  
22 centum (250%)] one hundred per centum (100%), the following  
23 shall apply:

24 (A) Notwithstanding the definition of "highest quarterly  
25 wages" in subsection (b), but subject to subclause (vi),  
26 "highest quarterly wages" for purposes of this section for  
27 calendar years 2026 and thereafter shall be the average of the  
28 total wages (computed to the nearest dollar), which were paid to  
29 the employe computed as follows:

30 (I) The wages paid to the employe in that calendar quarter

1 in which such total wages were highest during the base year  
2 shall be calculated.

3 (II) The amount calculated under division (I) shall be added  
4 to an amount equal to one hundred thirty per centum (130%) of  
5 the wages paid to the employe in the calendar quarter in which  
6 such total wages were the second highest of any calendar quarter  
7 during the base year, provided that the amount added under this  
8 division (II) may not be greater than the wages paid to the  
9 employe during the highest calendar quarter under division (I).

10 (III) The sum calculated under division (II) shall be  
11 divided by two.

12 (B) Notwithstanding section 401(a)(2), and except as  
13 provided in subsections (a)(3) and (e)(1) and (2), section  
14 401(a) shall require that the second entry in Part A of the  
15 table for the determination of rate and amount of benefits, on  
16 the line on which there appears the employe's weekly benefit  
17 rate, does not exceed sixty-three per centum (63%) of the  
18 employe's total base year wages.

19 (vi) Notwithstanding the provisions of subsection (b) and  
20 subclause (v) if, on July 1, 2026, or July 1 of any subsequent  
21 year, the trigger percentage determined under section 301.7(a)  
22 is at least [two hundred fifty per centum (250%)] one hundred  
23 per centum (100%), the following shall apply:

24 (A) "Highest quarterly wages" for the subsequent calendar  
25 year and thereafter shall be determined as provided in  
26 subsection (b) and not as provided in subclause (v).

27 (B) Section 401(a)(2) shall apply and not subclause (v)(B).

28 \* \* \*

29 Section 501. Determination of Compensation Appeals.--\* \* \*

30 (c) (1) The department shall promptly examine each claim

1 for [waiting week credit and each claim for] compensation and on  
2 the basis of the facts found by it shall determine whether or  
3 not the claim is valid.

4 \* \* \*

5 Section 1303. Shared-work plan requirements.

6 \* \* \*

7 (b) Reduction percentage.--The reduction percentage under an  
8 approved shared-work plan shall meet all of the following  
9 requirements:

10 (1) The reduction percentage shall be no less than 20%  
11 and no more than 40%.

12 (2) The reduction percentage shall be the same for all  
13 participating employees.

14 [(3) The reduction percentage shall not change during  
15 the period of the shared-work plan unless the plan is  
16 modified in accordance with section 1308.]

17 Section 1305. Effective period of shared-work plan.

18 \* \* \*

19 (b) Start date.--The effective period of [the] an approved  
20 shared-work plan shall begin with the first calendar week  
21 following the date on which the [department approves the plan.]  
22 employer submits the plan to the department or on the first  
23 calendar week following the date the employer provided in the  
24 plan, whichever is later.

25 Section 1307. Participating employer responsibilities.

26 \* \* \*

27 [(b) Benefit charges.--Notwithstanding any other provision  
28 of this act, compensation paid to participating employees for  
29 weeks within the effective period of an approved shared-work  
30 plan will be charged to the participating employer.]

1 Section 2. The definitions of "employee information" in  
2 sections 1501 and 1501-A of the act are amended to read:

3 Section 1501. Definitions.

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

7 \* \* \*

8 "Employee information." The name and Social Security number  
9 of each employee[, ] and the amount of wages paid to each  
10 employee [and the number of credit weeks for each employee] in  
11 each calendar quarter.

12 \* \* \*

13 Section 1501-A. Definitions.

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

17 \* \* \*

18 "Employee information." The name and Social Security number  
19 of each employee[, ] and the amount of wages paid to each  
20 employee [and the number of credit weeks for each employee] in  
21 each calendar quarter.

22 \* \* \*

23 Section 3. The Secretary of Labor and Industry shall  
24 transmit notice to the Legislative Reference Bureau for  
25 publication in the Pennsylvania Bulletin upon completion of  
26 implementation of the technological upgrades to the delivery  
27 system for unemployment compensation benefits.

28 Section 4. This act shall take effect as follows:

29 (1) The following shall take effect immediately:

30 (i) This section.

1                   (ii) Section 3 of this act.

2                   (2) The amendment of sections 301.7(a), 301.8(b)(1) and  
3                   404(e)(2)(iv), (v) and (vi) of the act shall take effect July  
4                   1, 2021.

5                   (3) The amendment of sections 1303(b), 1305(b) and  
6                   1307(b) of the act shall take effect in 30 days.

7                   (4) The remainder of this act shall take effect upon  
8                   publication of the notice under section 3 of this act.