

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2496 Session of
1978

INTRODUCED BY MADIGAN, M. H. GEORGE, ARTHURS, NOYE, MOWERY AND
WEIDNER, MAY 31, 1978

REFERRED TO COMMITTEE ON LABOR RELATIONS, MAY 31, 1978

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," changing provisions
16 relating to pensions.

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

19 Section 1. Subsection (c) of section 404, act of December 5,
20 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
21 "Unemployment Compensation Law," is amended by adding a
22 paragraph to read:

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

1 payable with respect to weeks ending in benefit years which
2 begin prior to the first day of October, one thousand nine
3 hundred seventy-one shall be paid on the basis of the provisions
4 of this section in effect at the beginning of such benefit
5 years.

6 * * *

7 (c) * * *

8 (1.1) Whenever, upon or subsequent to separation from his
9 employment, an employe who at the time of such separation has
10 attained or thereafter attains the age at which he would be
11 entitled to receive old age benefits under the provisions of the
12 Federal OASI program or the Federal Railroad Retirement program,
13 receives retirement pension or annuity payments based upon his
14 employment the amount of benefits payable to such employe under
15 the provisions of this act, during any benefit year, shall be
16 reduced by an amount, disregarding all fractions of a dollar,
17 determined as follows:

18
$$\text{Ba/Wbr} \times \text{Wpr} = \text{Ra}$$

19 in which factor "Ba" is the maximum benefit amount determined
20 under the provisions of paragraph (1): Provided, That if at the
21 time of such separation or entitlement or attainment of age as
22 aforesaid, the employe is in a current benefit year, factor "Ba"
23 for such year shall be the balance in the employe's benefit
24 account at the time of separation of entitlement or attainment
25 of age as aforesaid, whichever is the later. Factor "Wbr" is the
26 employe's weekly benefit rate as established under subsection
27 (a) and factor "Wpr" is the employe's weekly retirement pension
28 or annuity rate. Factor "Ra" is the reduction amount. If the
29 retirement pension or annuity payments are payable under a plan,
30 public or private, to which the employe has contributed, the

1 amount otherwise deductible under this paragraph shall be
2 reduced by fifty per centum (50%). Retirement pension or annuity
3 payments received by the employe under any private retirement
4 plan to which the employe was the sole contributor, shall not be
5 considered a deductible retirement pension or annuity payment
6 for the purposes of this paragraph. If such retirement pension
7 or annuity payments are payable on other than a weekly basis,
8 the amount thereof shall be pro-rated by the department to such
9 basis disregarding all fractions of a dollar. If, during the
10 course of a benefit year the amount of a retirement pension or
11 annuity is either increased or decreased, the department shall
12 redetermine the amount of reduction provided for under this
13 paragraph for the remainder of such benefit year of the
14 effective date of such increase or decrease.

15 * * *

16 Section 2. Subsection (d) of section 404 of the act, amended
17 July 9, 1976 (P.L.842, No.147), is amended to read:

18 Section 404. Rate and Amount of Compensation.--Compensation
19 shall be paid to each eligible employe in accordance with the
20 following provisions of this section except that compensation
21 payable with respect to weeks ending in benefit years which
22 begin prior to the first day of October, one thousand nine
23 hundred seventy-one shall be paid on the basis of the provisions
24 of this section in effect at the beginning of such benefit
25 years.

26 * * *

27 (d) (1) Notwithstanding any other provisions of this
28 section each eligible employe who is unemployed with respect to
29 any week ending subsequent to the first day of July, one
30 thousand nine hundred seventy-four, shall be paid, with respect

1 to such week, compensation in an amount equal to his weekly
2 benefit rate less the total of (i) the remuneration, if any,
3 paid or payable to him with respect to such week for services
4 performed which is in excess of his partial benefit credit; (ii)
5 vacation pay, if any, which is in excess of his partial benefit
6 credit, except when paid to an employee who is permanently or
7 indefinitely separated from his employment and [(iii) that part
8 of a retirement pension or annuity, if any, received by him
9 under a pension plan to which a base-year employer of such
10 employee has contributed which is in excess of forty dollars
11 (\$40) per week. Retirement pension or annuity payments received
12 by the employee under the Federal OASI program, the Federal
13 Railroad Retirement program or under any] in addition thereto,
14 with respect to an employee who has attained the age at which he
15 would be entitled to receive old age benefits under the
16 provisions of the Federal OASI program or the Federal Railroad
17 Retirement program; (iii) the amount of a retirement pension or
18 annuity, if any, (A) which upon application would be payable to
19 him without diminution on account of age under a public or
20 private pension plan to which only an employer or employers of
21 such employee has contributed; and (iv) one-half of the amount of
22 a retirement pension or annuity, if any, (A) paid or (B) which
23 upon application would be payable to him without diminution on
24 account of age under a public or private pension plan to which
25 both the employee and an employer or employers of such employee
26 has contributed. Any retirement plan to which the employee was
27 the sole contributor, shall not be considered a deductible
28 retirement pension or annuity payment for the purpose of this
29 subsection. The provisions of this subsection shall be
30 applicable whether or not such vacation pay, retirement pension

1 or annuities, or wages are legally required to be paid. If such
2 retirement pension or annuity payments deductible under the
3 provisions of this subsection are received on other than a
4 weekly basis, the amount thereof shall be allocated and pro-
5 rated in accordance with the rules and regulations of the
6 department. Vacation pay, or other remuneration deductible under
7 the provisions of this subsection shall be pro-rated on the
8 basis of the employee's normal full-time weekly wage and as so
9 pro-rated shall be allocated to such period or periods of
10 unemployment as shall be determined by rules and regulations of
11 the department. Such compensation, if not a multiple of one
12 dollar (\$1.00), shall be computed to the next higher multiple of
13 one dollar (\$1.00).

14 (1.1) The provisions of subsection (c)(1.1) and subsection
15 (d)(1) shall not be applicable if, subsequent to the date as of
16 which he commences to receive a pension, the employee has earned
17 base year wages in "employment" as defined in this act
18 sufficient to qualify him for compensation solely on the basis
19 of such wages and he claims compensation solely on such wages,
20 in which event wages earned prior to the aforesaid age or date
21 shall not be considered base year wages within the meaning of
22 this paragraph and section 401(a): Provided, however, That such
23 employee may also elect to claim compensation on wages which
24 include earnings prior to the aforesaid age or date but in that
25 event, the provisions of subsection (c)(1.1) and subsection
26 (d)(1) with regard to the reduction of his weekly amount of
27 benefits and maximum amount of benefits shall be applicable.

28 (1.2) Any other provisions of this act to the contrary,
29 notwithstanding the weekly amount of benefits and the maximum
30 amount of benefits to which an employee who is not subject to the

1 provisions of clauses (ii) and (iv) of paragraph (1) would
2 otherwise be entitled shall be reduced by the amount by which
3 the aggregate amount of the retirement pensions and annuities
4 computed under said clauses exceed the maximum weekly benefit
5 rate, provided for under subsection (e): Provided, however, That
6 the balance in the employee's compensation account shall be
7 reduced by his weekly benefit amount without regard to such
8 pension deduction.

9 (1.3) Periodical payments, not including lump sum payments,
10 received by an employee under a pension plan which are not
11 deductible from his compensation as retirement pension or
12 annuity payments under clauses (iii) and (iv) of paragraph (1)
13 shall not be deemed deductible under any other provisions of
14 this act.

15 * * *

16 Section 3. This act shall take effect in 60 days.