

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 329 Session of
2005

INTRODUCED BY LAVALLE, TARTAGLIONE, FERLO, ERICKSON, KASUNIC,
KITCHEN, COSTA, WOZNIAK, STACK, C. WILLIAMS, BOSCOLA, LOGAN,
MUSTO, STOUT AND O'PAKE, FEBRUARY 18, 2005

REFERRED TO LABOR AND INDUSTRY, FEBRUARY 18, 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 compensation rates.

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

19 Section 1. Section 404(d) of the act of December 5, 1936
20 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
21 Compensation Law, amended October 19, 1988 (P.L.818, No.109), is
22 amended to read:

23 Section 404. Rate and Amount of Compensation.--Compensation
24 shall be paid to each eligible employe in accordance with the

1 following provisions of this section except that compensation
2 payable with respect to weeks ending in benefit years which
3 begin prior to the first day of January 1989 shall be paid on
4 the basis of the provisions of this section in effect at the
5 beginning of such benefit years.

6 * * *

7 (d) (1) Notwithstanding any other provisions of this
8 section each eligible employe who is unemployed with respect to
9 any week ending subsequent to July 1, 1980 shall be paid, with
10 respect to such week, compensation in an amount equal to his
11 weekly benefit rate less the total of (i) the remuneration, if
12 any, paid or payable to him with respect to such week for
13 services performed which is in excess of his partial benefit
14 credit and (ii) vacation pay, if any, which is in excess of his
15 partial benefit credit, except when paid to an employe who is
16 permanently or indefinitely separated from his employment.

17 (2) (i) In addition to the deductions provided for in
18 clause (1), for any week with respect to which an individual is
19 receiving a pension, including a governmental or other pension,
20 retirement or retired pay, annuity or any other similar periodic
21 payment, under a plan maintained or contributed to by a base
22 period or chargeable employer, the weekly benefit amount payable
23 to such individual for such week shall be reduced, but not below
24 zero, by the pro-rated weekly amount of the pension as
25 determined under subclause (ii).

26 (ii) If the pension is entirely contributed to by the
27 employer, then one hundred per centum (100%) of the pro-rated
28 weekly amount of the pension shall be deducted. [If] Except as
29 set forth in clause (4), if the pension is contributed to by the
30 individual, in any amount, then fifty per centum (50%) of the

1 pro-rated weekly amount of the pension shall be deducted.

2 (iii) No deduction shall be made under this clause by reason
3 of the receipt of a pension if the services performed by the
4 individual during the base period or remuneration received for
5 such services for such employer did not affect the individual's
6 eligibility for, or increase the amount of, such pension,
7 retirement or retired pay, annuity or similar payment. This
8 subclause shall not apply to pensions paid under [the Social
9 Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.) or]
10 the Railroad Retirement Act of 1974 (Public Law 93-445, 88 Stat.
11 1305) or the corresponding provisions of prior law. Payments
12 made under such acts shall be treated solely in the manner
13 specified by subclause (i) of this clause.

14 (3) The provisions of this subsection shall be applicable
15 whether or not such vacation pay, retirement pension or
16 annuities or wages are legally required to be paid. If such
17 retirement pension or annuity payments deductible under the
18 provisions of this subsection are received on other than a
19 weekly basis, the amount thereof shall be allocated and pro-
20 rated in accordance with the rules and regulations of the
21 department. Vacation pay or other remuneration deductible under
22 the provisions of this subsection shall be pro-rated on the
23 basis of the employe's normal full-time weekly wage and as so
24 pro-rated shall be allocated to such period or periods of
25 unemployment as shall be determined by rules and regulations of
26 the department. Such compensation, if not a multiple of one
27 dollar (\$1), shall be computed to the next lower multiple of one
28 dollar (\$1).

29 (4) No deductions shall be made under this subsection for a
30 pension paid under the Social Security Act (49 Stat. 620, 42

1 U.S.C. § 301 et seq.) or for any other pension which is based
2 upon an individual's previous employment.

3 * * *

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