

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 916 Session of 2011

INTRODUCED BY PERRY, AUMENT, BAKER, BLOOM, BOYD, CLYMER, COX, CREIGHTON, CUTLER, EVANKOVICH, EVERETT, FLECK, GABLER, GILLEN, GRELL, GROVE, HESS, HICKERNELL, KAUFFMAN, KNOWLES, METCALFE, MILLER, MOUL, PICKETT, ROCK, STERN, QUINN, DENLINGER, FARRY AND BEAR, MARCH 3, 2011

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 10, 2011

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 definitions, FOR RELIEF FROM CHARGES FROM CERTAIN EMPLOYERS ←
17 and for establishment and maintenance of employer's reserve
18 accounts; providing for relief from charges; further
19 providing for qualifications required to secure compensation,
20 for ineligibility for compensation and for rate and amount of
21 compensation; providing for effect of severance pay on
22 ~~benefits~~ WAGES; further providing FOR EXTENDED BENEFITS ←
23 PROGRAM DEFINITIONS AND for rules of procedure; and providing
24 for applicability.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 ~~Section 1. Section 4(g.1) of the act of December 5, 1936~~ ←

1 ~~(2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment~~
2 ~~Compensation Law, added July 10, 1980 (P.L.521, No.108), is~~
3 ~~amended to read:~~

4 SECTION 1. SECTION 4(G.1) AND (W) (2) OF THE ACT OF DECEMBER ←
5 5, 1936 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE
6 UNEMPLOYMENT COMPENSATION LAW, AMENDED OR ADDED SEPTEMBER 27,
7 1971 (P.L.460, NO.108) AND JULY 10, 1980 (P.L.521, NO.108), ARE
8 AMENDED TO READ:

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

12 * * *

13 (g.1) "Credit week" means any calendar week in an
14 individual's base year with respect to which he was paid in
15 employment as defined in this act, remuneration of not less than
16 [fifty dollars (\$50)] sixteen (16) times the minimum hourly wage
17 required by the act of January 17, 1968 (P.L.11, No.5), known as
18 The Minimum Wage Act of 1968. Only one credit week can be
19 established with respect to any one calendar week.

20 * * *

21 (W) * * * ←

22 (2) AN APPLICATION FOR BENEFITS FILED AFTER THE TERMINATION
23 OF A PRECEDING BENEFIT YEAR BY AN INDIVIDUAL SHALL NOT BE
24 CONSIDERED A VALID APPLICATION FOR BENEFITS WITHIN THE MEANING
25 OF THIS SUBSECTION, UNLESS SUCH INDIVIDUAL HAS, SUBSEQUENT TO
26 THE BEGINNING OF SUCH PRECEDING BENEFIT YEAR AND PRIOR TO THE
27 FILING OF SUCH APPLICATION, WORKED AND EARNED WAGES[, WHETHER OR
28 NOT SUCH WORK IS] IN "EMPLOYMENT" AS DEFINED IN THIS ACT IN AN
29 AMOUNT EQUAL TO OR IN EXCESS OF [SIX (6)] TEN (10) TIMES HIS
30 WEEKLY BENEFIT RATE IN EFFECT DURING SUCH PRECEDING BENEFIT

1 YEAR.

2 * * *

3 SECTION 1.1. SECTION 213(A) OF THE ACT, ADDED DECEMBER 9,
4 2002 (P.L.1330, NO.156), IS AMENDED TO READ:

5 SECTION 213. RELIEF FROM CHARGES FOR CERTAIN EMPLOYERS.-- (A)
6 AN EMPLOYER THAT MAKES PAYMENTS IN LIEU OF CONTRIBUTIONS
7 PURSUANT TO ARTICLE X, XI OR XII SHALL BE RELIEVED OF CHARGES IN
8 ACCORDANCE WITH SECTION [302(A)] 302.1 AND REGULATIONS OF THE
9 DEPARTMENT, FOR COMPENSATION PAID ON APPLICATIONS FOR BENEFITS
10 EFFECTIVE DURING A CALENDAR YEAR, IF THE EMPLOYER SATISFIES THE
11 FOLLOWING REQUIREMENTS:

12 (1) THE EMPLOYER PAYS A NONREFUNDABLE SOLVENCY FEE UNDER
13 SUBSECTION (B) FOR THE CALENDAR YEAR WITHIN THIRTY (30) DAYS
14 AFTER NOTICE OF THE FEE IS SENT TO THE EMPLOYER'S LAST KNOWN
15 ADDRESS. THE DEPARTMENT MAY FOR GOOD CAUSE EXTEND THE PERIOD
16 WITHIN WHICH THE FEE MUST BE PAID.

17 (2) ALL REPORTS REQUIRED BY THIS ACT AND REGULATIONS OF THE
18 DEPARTMENT FOR CALENDAR QUARTERS THROUGH THE SECOND CALENDAR
19 QUARTER OF THE PRECEDING CALENDAR YEAR ARE FILED.

20 * * *

21 Section 2. Section 302 of the act, amended or added March
22 24, 1964 (Sp.Sess., P.L.53, No.1), July 6, 1977 (P.L.41, No.22),
23 July 21, 1983 (P.L.68, No.30), December 19, 1996 (P.L.1476,
24 No.189) and December 9, 2002 (P.L.1330, No.156), is amended to
25 read:

26 Section 302. Establishment and Maintenance of Employer's
27 Reserve Accounts.--The department shall establish and maintain
28 for each employer a separate employer's reserve account in the
29 following manner:

30 (a) [(1) Such account shall be credited with all

1 contributions paid by such employer for periods subsequent to
2 June thirtieth, one thousand nine hundred forty-eight. Such
3 account shall be charged with an amount determined by
4 multiplying the wages of compensated employes of such employer
5 for the twelve month period ended June thirtieth, one thousand
6 nine hundred forty-nine, by the state experience heretofore used
7 in determining rates of contributions for the year one thousand
8 nine hundred forty-nine. Subsequent to January 1, 1984, such] An
9 employer's account shall be charged with all compensation,
10 including dependents' allowances, paid to each individual who
11 received from such employer wage credits constituting the base
12 of such compensation, in the proportion that such wage credits
13 with such employer bears to the total wage credits received by
14 such individual from all employers[: Provided, That if the
15 department finds that such individual was separated from his
16 most recent work for such employer due to being discharged for
17 [willful] misconduct connected with such work, or due to his
18 leaving such work without good cause attributable to his
19 employment, or due to his being separated from such work under
20 conditions which would result in disqualification for benefits
21 under the provisions of section 3 or section 402(e.1),
22 thereafter no compensation paid to such individual with respect
23 to any week of unemployment occurring subsequent to such
24 separation, which is based upon wages paid by such employer with
25 respect to employment prior to such separation, shall be charged
26 to such employer's account under the provisions of this
27 subsection (a); provided, such employer has filed a notice with
28 the department in accordance with its rules and regulations and
29 within the time limits prescribed therein; and provided if the
30 department finds that such individual's unemployment is directly

1 caused by a major natural disaster declared by the President
2 pursuant to section 102(1) of the Disaster Relief Act of 1970
3 (P.L.91-606) and such individual would have been eligible for
4 disaster unemployment assistance as provided in section 240 of
5 that act with respect to such unemployment but for the receipt
6 of unemployment compensation, no compensation paid to such
7 individual with respect to any week of unemployment occurring
8 due to such natural disaster, to a maximum of the eight weeks
9 immediately following the President's declaration of emergency,
10 shall be charged to the employer's account under the provisions
11 of this subsection.

12 (2) Notwithstanding the provisions of paragraph (1) of this
13 subsection, if the department finds that an individual
14 subsequent to separation from his work is engaged in part-time
15 work for a base year employer, other than a base year employer
16 from whom he has separated, compensation paid to such individual
17 with respect to any week of unemployment occurring subsequent to
18 such separation and while such part-time work continues without
19 material change, shall not be charged to the account of such
20 part-time employer; provided, such part-time employer has filed
21 a notice with the department in accordance with its rules and
22 regulations and within the time limits prescribed therein.

23 (2.1) Notwithstanding the provisions of paragraph (1) of
24 this subsection, if the department finds that an individual was
25 separated from his most recent work for such employer due to a
26 cessation of business of eighteen months or less caused by a
27 disaster, compensation paid to such individual with respect to
28 any week of unemployment occurring subsequent to such separation
29 shall not be charged to the account of such employer; provided,
30 such employer has filed a notice with the department in

1 accordance with its rules and regulations and within the time
2 limits prescribed therein.

3 (3) The findings and determinations of the department under
4 this subsection (a) shall be subject to appeal in the manner
5 provided in this act for appeals from determinations of
6 compensation: Provided, That where the individual's eligibility
7 for compensation has been finally determined under the
8 provisions of Article V of this act, such determination shall
9 not be subject to attack in proceedings under this section.

10 (4) The reserve account of any employer who pays
11 contributions under this section shall not be charged with
12 respect to benefits paid to any individual whose base period
13 wages include wages for previously uncovered services as defined
14 in section 401(g) to the extent that the unemployment insurance
15 fund is reimbursed for such benefits pursuant to section 121 of
16 Public Law 94-566].

17 (b) Any employer, at any time, may voluntarily pay into the
18 Unemployment Compensation Fund an amount in excess of the
19 contributions required to be paid under the provisions of this
20 act, and such amount shall be forthwith credited to his reserve
21 account. His rate of contribution shall be computed or
22 recomputed, as the case may be, with such amount included in the
23 calculation. To affect such employer's rate of contribution for
24 any year, such amount shall be paid not later than thirty days
25 following the mailing of notice of his rate of contribution for
26 such year: Provided, That for good cause, such time may be
27 extended by the department: And provided further, That such
28 amount, when paid as aforesaid, shall not be refunded or used as
29 a credit in the payment of contributions in whole or in part.
30 In no event shall any such amount be included in the computation

1 or recomputation for any year unless it is paid within one
2 hundred twenty days after the beginning of such year.

3 (c) (1) For the purpose of determining any employer's rate
4 of contribution for any year, the phrase "balance in an
5 employer's reserve account" as used in sections 301, 301.1 and
6 301.2 of this act shall mean the amount ascertained as of the
7 computation date by subtracting the amounts charged to his
8 reserve account from the amounts credited thereto including
9 voluntary contributions. If, as of the computation date, the
10 amounts charged to his reserve account exceed the amounts
11 credited by an amount equivalent to more than twenty per centum
12 (20%) of his average annual payroll, the employer may elect,
13 subject to the provisions of section 301.1(f) of this act to
14 have his reserve account balance adjusted to a negative balance
15 equal to twenty per centum (20%) of his average annual payroll.
16 This subsection as amended shall apply to elections made after
17 December 31, 1986.

18 (2) Notwithstanding the provisions of section 301.1(f) and
19 paragraph (1) of this subsection, for elections made on or after
20 January 1, 1984 and before May 1, 1986, if the amounts charged
21 to the employer's reserve account exceed the amounts credited by
22 an amount equivalent to more than ten per centum (10%) of his
23 average annual payroll, the department, after determining his
24 Reserve Ratio Factor shall, upon the election of the employer,
25 adjust his reserve account balance to a negative balance equal
26 to ten per centum (10%) of his average annual payroll. With
27 respect to future adjustments of negative balance accounts, the
28 secretary shall, upon the election of the employer, make
29 adjustments as follows:

30 (i) In relation to adjustments made for the second time

1 after January 1, 1984 and before May 1, 1986, if the amounts
2 charged to his reserve account exceed the amounts credited by an
3 amount equivalent to more than fifteen per centum (15%) of his
4 average annual payroll, the department shall, upon the election
5 of the employer, adjust the reserve account balance to a
6 negative balance equal to fifteen per centum (15%) of his
7 average annual payroll.

8 (ii) In relation to adjustments made for the third time
9 after January 1, 1984 and before May 1, 1986, if the amounts
10 charged to his reserve account exceed the amounts credited by an
11 amount equivalent to more than twenty per centum (20%) of his
12 average annual payroll, the department shall, upon the election
13 of the employer, adjust his reserve account balance to a
14 negative balance equal to twenty per centum (20%) of his average
15 annual payroll.

16 (d) The department shall terminate the reserve account of
17 any employer who has not paid contributions for a period of four
18 consecutive twelve month periods, ending June thirtieth in any
19 year.

20 (e) Nothing contained in this act shall be construed to
21 grant to any employer any claim or right of withdrawal with
22 respect to any amount allocated to him from, or paid by him
23 into, the Unemployment Compensation Fund, except as provided in
24 section three hundred eleven hereof.

25 Section 3. The act is amended by adding a section to read:

26 Section 302.1. Relief from Charges.--Notwithstanding any
27 other provisions of this act assigning charges for compensation
28 paid to employes, the department shall relieve an employer of
29 charges for compensation in accordance with this section and
30 section 213 of this act.

1 (a) Circumstances allowing relief:

2 (1) If an individual was separated from his most recent work
3 for an employer due to being discharged for misconduct connected
4 with that work, or due to his leaving that work without good
5 cause attributable to his employment, or due to his being
6 separated from such work under conditions which would result in
7 disqualification for benefits under the provisions of section 3
8 or section 402(e.1), the employer shall be relieved of charges
9 for compensation paid to the individual with respect to any week
10 of unemployment occurring subsequent to such separation. Relief
11 from charges under this paragraph terminates if the employe
12 returns to work for the employer.

13 (2) If an individual's unemployment is directly caused by a
14 major natural disaster declared by the President of the United
15 States pursuant to section 102(1) of the Disaster Relief Act of
16 1970 (Public Law 91-606, 42 U.S.C. § 4401 et seq.) and the
17 individual would have been eligible for disaster unemployment
18 assistance as provided in section 240 of the Disaster Relief Act
19 of 1970 with respect to that unemployment but for the receipt of
20 unemployment compensation, an employer shall be relieved of
21 charges for compensation paid to such individual with respect to
22 any week of unemployment occurring due to the natural disaster,
23 to a maximum of the eight weeks immediately following the
24 declaration of emergency by the President of the United States.

25 (3) If an individual subsequent to separation from his work
26 is engaged in part-time work for a base year employer, other
27 than a base year employer from whom he has separated, the part-
28 time employer shall be relieved of charges for compensation paid
29 to the individual with respect to any week of unemployment
30 occurring subsequent to the separation and while such part-time

1 work continues without material change.

2 (4) If the department finds that an individual was separated
3 from his most recent work for an employer due to a cessation of
4 business of eighteen months or less caused by a disaster, the
5 employer may be relieved of charges for compensation paid to
6 such individual with respect to any week of unemployment
7 occurring subsequent to that separation. Relief from charges
8 under this paragraph terminates if the employe returns to work
9 for the employer.

10 (b) Requests for relief from charges:

11 (1) Except as provided in subsection (c), in order to be
12 granted relief from charges for compensation an employer must
13 file a request with the department in the manner provided, and
14 containing all information required, by the department's
15 regulations.

16 (2) If an employer is requesting relief from charges on the
17 basis of a separation that occurs on or before the date the
18 claimant files an application for benefits or on the basis of
19 continuing part-time work, the following shall apply:

20 (i) If the request is filed within thirty (30) days after
21 the date of the earliest notice issued by the department under
22 section 501(a) indicating that the claimant is eligible under
23 section 401(a) and relief is granted, relief will begin with the
24 earliest week for which the claimant is eligible for benefits
25 pursuant to the claimant's application for benefits.

26 (ii) If the request is not filed within the time period
27 provided in subparagraph (i), relief, if granted by the
28 department, will begin with the earliest week ending fifteen
29 (15) or more days subsequent to the date the request is filed.

30 (3) If an employer is requesting relief from charges on the

1 basis of a separation that occurs after the claimant files an
2 application for benefits, the following shall apply:

3 (i) If the request is filed within thirty (30) days after
4 the date of the earliest notice issued by the department
5 indicating that the claimant is claiming benefits subsequent to
6 the separation and relief is granted, relief will begin with the
7 earliest week for which the claimant is eligible for benefits
8 following the last day worked.

9 (ii) If the request is not filed within the time period
10 provided in subparagraph (i), relief, if granted by the
11 department, will begin with the earliest week ending fifteen
12 (15) or more days subsequent to the date the request is filed.

13 (c) Relief from charges without a request:

14 (1) If a claimant is determined ineligible for benefits
15 under section 3 or section 402(b), (e) or (e.1) pursuant to a
16 notice of determination that has become final, the department
17 will grant relief from charges in accordance with subsection (a)
18 (1) to the employer from whom the claimant was separated,
19 beginning with the earliest week for which the claimant is
20 eligible for benefits following the week or weeks governed by
21 the notice of determination.

22 (2) If a claimant is determined eligible for benefits under
23 section 402(b) pursuant to a notice of determination that has
24 become final, the department will grant or deny relief from
25 charges in accordance with subsection (a)(1) to the employer
26 from whom the claimant was separated, beginning with the
27 earliest week governed by the notice of determination, in
28 accordance with the following:

29 (i) The department will grant relief from charges if the
30 claimant left work for the employer without good cause

1 attributable to the claimant's employment.

2 (ii) The department will deny relief from charges if the
3 claimant left work for the employer with good cause attributable
4 to the claimant's employment.

5 (3) Relief from charges granted to an employer remains in
6 effect for the purpose of benefits paid to the claimant pursuant
7 to a subsequent application for benefits if the relief has not
8 terminated in accordance with the provisions of this section.

9 (d) Employer information:

10 (1) An employer that is granted relief from charges on the
11 basis of a claimant's separation from employment shall notify
12 the department within fifteen (15) days if the claimant returns
13 to work for the employer. The employer shall include with the
14 notification the claimant's name and Social Security number, the
15 employer's name and account number and the date when
16 reemployment commenced.

17 (2) An employer that is granted relief from charges on the
18 basis of continuing part-time work shall notify the department
19 within fifteen (15) days if the employment situation of the
20 claimant changes. The employer shall include with the
21 notification the claimant's name and Social Security number and
22 the employer's name and account number.

23 (e) General provisions:

24 (1) Where the individual's eligibility for compensation has
25 been finally determined under the provisions of Article V, such
26 determination shall not be subject to attack in proceedings
27 under this section.

28 (2) The findings and determinations of the department under
29 this section shall be subject to appeal in the manner provided
30 in this act for appeals from determinations of compensation.

1 Section 4. Section 401(b) and (f) of the act, amended July
2 9, 1976 (P.L.842, No.147) and December 9, 2002 (P.L.1330,
3 No.156), are amended to read:

4 Section 401. Qualifications Required to Secure
5 Compensation.--Compensation shall be payable to any employe who
6 is or becomes unemployed, and who--

7 * * *

8 (b) [Has registered for work at, and thereafter continued to
9 report to an employment office in accordance with such
10 regulations as the secretary may prescribe, except that the
11 secretary may by regulation waive or alter either or both of the
12 requirements of this clause as to individuals attached to
13 regular jobs and as to such other types of cases or situations
14 with respect to which he finds that compliance with such
15 requirements would be oppressive or would be inconsistent with
16 the purposes of the act: Provided, however, That no such
17 regulation shall conflict with section four hundred and one (c)
18 of this act;] (1) Is making an active search for suitable
19 employment. The requirements for "active search" shall be
20 established by the department, and shall include, at a minimum,
21 all the following:

22 (i) Registration by a claimant for employment search
23 services offered by the Pennsylvania CareerLink system within
24 thirty (30) days after initial application for benefits.

25 (ii) Posting a resume on the system's data base, unless the
26 claimant is seeking work in an employment sector in which
27 resumes are not commonly used.

28 (iii) Applying for positions that offer employment and wages
29 similar to those the claimant had prior to his unemployment and
30 which are within a forty-five (45) minute commuting distance.

1 (2) The PA CareerLink system shall provide documentation, as
2 the secretary deems appropriate, to the Pennsylvania
3 Unemployment Compensation Service Center system so the system
4 can conduct the necessary cross reference checks.

5 (3) For the purposes of paragraph (1), the department may
6 determine that a claimant has made an active search for suitable
7 work if the claimant's efforts include actions comparable to
8 those traditional actions in their trade or occupation by which
9 jobs have been found by others in the community and labor market
10 in which the claimant is seeking employment.

11 (4) The requirements of this subsection do not apply to any
12 week in which the claimant is in training approved under section
13 236(a)(1) of the Trade Act of 1974 (Public Law 93-618, 19 U.S.C.
14 § 2101 et. seq.) or any week in which the claimant is required
15 to participate in reemployment services under section 402(j).

16 (5) The requirements of this subsection shall not apply to a
17 claimant who is laid off for lack of work and advised by the
18 employer of the date on which the claimant will return to work.

19 (6) The department may waive or alter the requirements of
20 this subsection in cases or situations with respect to which the
21 secretary finds that compliance with such requirements would be
22 oppressive or which would be inconsistent with the purposes of
23 the act.

24 * * *

25 (f) Has earned, subsequent to his separation from work under
26 circumstances which are disqualifying under the provisions of
27 subsections 402(b), 402(e), 402(e.1) and 402(h) of this act,
28 remuneration for services in an amount equal to or in excess of
29 [six (6)] ten (10) times his weekly benefit rate [irrespective
30 of whether or not such services were] in "employment" as defined

1 in this act[.] and earned wages for "employment" as defined in
2 this act, in ten (10) separate "weeks." The provisions of this
3 subsection shall not apply to a suspension of work by an
4 individual pursuant to a leave of absence granted by his last
5 employer, provided such individual has made a reasonable effort
6 to return to work with such employer upon the expiration of his
7 leave of absence.

8 * * *

9 Section 5. Section 402(b) and (e) of the act, amended August
10 24, 1953 (P.L.1397, No.396) and October 22, 1981 (P.L.301,
11 No.106), are amended to read:

12 Section 402. Ineligibility for Compensation.--An employe
13 shall be ineligible for compensation for any week--

14 * * *

15 (b) In which his unemployment is due to voluntarily leaving
16 work without cause of a necessitous and compelling nature
17 attributable to his employment, irrespective of whether or not
18 such work is in "employment" as defined in this act: Provided,
19 That a voluntary leaving work because of a work-related
20 disability if the employer is able to provide other suitable
21 work, shall be deemed not a cause of a necessitous and

22 compelling nature attributable to his employment: AND PROVIDED ←
23 FURTHER, THAT NO EMPLOYE SHALL BE DEEMED TO BE INELIGIBLE UNDER
24 THIS SUBSECTION WHERE THE FEDERAL UNEMPLOYMENT TAX ACT REQUIRES
25 ELIGIBILITY, AND PROVIDED THAT NO EMPLOYE SHALL BE DEEMED
26 INELIGIBLE UNDER THIS SUBSECTION IF THE EMPLOYE IS A SPOUSE OF A
27 FULL-TIME MEMBER OF THE UNITED STATES ARMED FORCES AND THE
28 EMPLOYE IS LEAVING EMPLOYMENT DUE TO THE REASSIGNMENT OF THE
29 MILITARY MEMBER TO A DIFFERENT GEOGRAPHICAL LOCATION: And
30 provided further, That no employe shall be deemed to be

1 ineligible under this subsection where as a condition of
2 continuing in employment such employe would be required to join
3 or remain a member of a company union or to resign from or
4 refrain from joining any bona fide labor organization, or to
5 accept wages, hours or conditions of employment not desired by a
6 majority of the employes in the establishment or the occupation,
7 or would be denied the right of collective bargaining under
8 generally prevailing conditions, and that in determining whether
9 or not an employe has left his work voluntarily without cause of
10 a necessitous and compelling nature attributable to his
11 employment, the department shall give consideration to the same
12 factors, insofar as they are applicable, provided, with respect
13 to the determination of suitable work under section four (t):
14 And provided further, That the provisions of this subsection
15 shall not apply in the event of a stoppage of work which exists
16 because of a labor dispute within the meaning of subsection (d).
17 Provided further, That no otherwise eligible claimant shall be
18 denied benefits for any week in which his unemployment is due to
19 exercising the option of accepting a layoff, from an available
20 position pursuant to a labor-management contract agreement, or
21 pursuant to an established employer plan, program or policy:
22 Provided further, That a claimant shall not be disqualified for
23 voluntarily leaving work, which is not suitable employment to
24 enter training approved under section 236(a)(1) of the Trade Act
25 of 1974. For purposes of this subsection the term "suitable
26 employment" means with respect to a claimant, work of a
27 substantially equal or higher skill level than the claimant's
28 past "adversely affected employment" (as defined in section 247
29 of the Trade Act of 1974), and wages for such work at not less
30 than eighty per centum of the worker's "average weekly wage" (as

1 defined in section 247 of the Trade Act of 1974).

2 * * *

3 (e) In which his unemployment is due to his discharge or
4 temporary suspension from work for [willful] misconduct
5 connected with his work, irrespective of whether or not such
6 work is "employment" as defined in this act[; and]. For purposes
7 of this subsection, the term "misconduct" shall include, BUT IS ←
8 NOT LIMITED TO, the violation of any reasonable workplace rule
9 or work-related government regulation or law of which the
10 employe was aware; failure to maintain a valid license or
11 certificate that has been issued by a Federal or Commonwealth
12 agency or political subdivision and which is a requirement of
13 employment; the deliberate damage to property of the employer or
14 another employe or the theft of an employer's or another
15 employe's property; reporting to work in possession of or under ←
16 the influence of ILLEGAL drugs or alcohol; threatening a ←
17 coworker or supervisor with physical harm or threatening to harm
18 the interests of the employer; disregard of supervisor's
19 reasonable directives or orders and acts of negligence or an act
20 of negligence which indicates substantial disregard for
21 employer's interests.

22 * * *

23 Section 6. Section 404 introductory paragraph, (a), (B), (c) ←
24 and (e) (2), amended or added MAY 14, 1949 (P.L.1355, NO.404), ←
25 March 24, 1964 (Sp.Sess., P.L.53, No.1), January 17, 1968
26 (P.L.21, No.6), July 10, 1980 (P.L.521, No.108), July 21, 1983
27 (P.L.68, No.30) and October 19, 1988 (P.L.818, No.109), are
28 amended to read:

29 Section 404. Rate and Amount of Compensation.--Compensation
30 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] ~~2012 2013~~ shall ←
4 be paid on the basis of the provisions of this section in effect
5 at the beginning of such benefit years.

6 (a) (1) The employe's weekly benefit rate shall be computed
7 as (1) the amount appearing in Part B of the Table Specified for
8 the Determination of Rate and Amount of Benefits on the line on
9 which in Part A there appears ~~the average of the two quarters~~ ←
10 ~~during his base year period in which he earned~~ his "highest
11 quarterly wage," or (2) fifty per centum (50%) of his full-time
12 weekly wage, whichever is greater, ~~provided the employe's base~~ ←
13 ~~year wages are sufficient to qualify for the minimum weekly~~
14 ~~benefit rate of seventy dollars (\$70). NOTWITHSTANDING ANY OTHER~~ ←
15 ~~PROVISION OF THIS ACT, IF AN EMPLOYE'S WEEKLY BENEFIT RATE, AS~~
16 ~~CALCULATED UNDER THIS PARAGRAPH, IS LESS THAN \$70, HE SHALL BE~~
17 ~~INELIGIBLE TO RECEIVE ANY AMOUNT OF COMPENSATION. If the~~
18 ~~employe's weekly benefit rate is not a multiple of one dollar~~
19 ~~(\$1), it shall be rounded to the next lower multiple of one~~
20 ~~dollar (\$1).~~

21 (2) If the base year wages of an employe whose weekly
22 benefit rate has been determined under clause (2) of paragraph
23 (1) of this subsection are insufficient to qualify him under
24 subsection (c) of this section, his weekly benefit rate shall be
25 redetermined under clause (1) of paragraph (1) of this
26 subsection.

27 (3) If the base year wages of an employe whose weekly
28 benefit rate has been determined under clause (1) of paragraph
29 (1) of this subsection, or redetermined under paragraph (2) of
30 this subsection, as the case may be, are insufficient to qualify

1 him under subsection (c) of this section but are sufficient to
2 qualify him for any one of the next three lower weekly benefit
3 rates, his weekly benefit rate shall be redetermined at the
4 highest of such next lower rates.

5 * * *



6 (B) THE "HIGHEST QUARTERLY WAGES" OF AN EMPLOYEE SHALL BE THE
7 [TOTAL] AVERAGE OF THE THREE QUARTERS DURING HIS BASE YEAR IN
8 WHICH HE WAS PAID HIS HIGHEST AMOUNT OF WAGES (COMPUTED TO THE
9 NEAREST DOLLAR) [WHICH WERE PAID TO SUCH EMPLOYEE IN THAT
10 CALENDAR QUARTER IN WHICH SUCH TOTAL WAGES WERE HIGHEST] DURING
11 THE BASE YEAR.



12 (c) [Any] The total amount of benefits to which an otherwise
13 eligible employee who has base year wages in an amount equal to,
14 or in excess, of the amount of qualifying wages appearing in
15 Part C of the Table Specified for the Determination of Rate and
16 Amount of Benefits on the line on which in Part B there appears
17 his weekly benefit rate, as determined under subsection (a) of
18 this section, shall be entitled during his benefit year to the
19 amount appearing in Part [D] B on said line multiplied by the
20 number of qualifying credit weeks during his base year, up to a
21 maximum of twenty-six (26): Provided he had eighteen (18) or
22 more "credit weeks" during his base year [or Part E provided he
23 had sixteen (16) or seventeen (17) "credit weeks" during his
24 base year]. Notwithstanding any other provision of this act, any
25 employe with less than [sixteen (16)] eighteen (18) "credit
26 weeks" during the employe's base year shall be ineligible to
27 receive any amount of compensation.



28 * * *

29 (e) * * *

30 (2) (i) The Table Specified for the Determination of Rate

1 and Amount of Benefits shall be extended or contracted annually,
2 automatically by regulations promulgated by the secretary in
3 accordance with the following procedure: for calendar year one
4 thousand nine hundred seventy-two and for all subsequent
5 calendar years, to a point where the maximum weekly benefit rate
6 [equals] shall equal sixty-six and two-thirds per centum of the
7 average weekly wage for the [twelve-month] thirty-six-month
8 period ending June 30 preceding each calendar year. If the
9 maximum weekly benefit rate is not a multiple of one dollar
10 (\$1), it shall be [increased by one dollar (\$1) and then]
11 rounded to the next lower multiple of one dollar (\$1): Provided,
12 however, That effective with benefit years beginning the first
13 Sunday at least thirty days after the effective date of this
14 amendatory act, the per centum stated in this paragraph for
15 establishing the maximum weekly benefit rate shall be sixty-two
16 and two-thirds per centum for the remainder of calendar year one
17 thousand nine hundred seventy-four, sixty-four and two-thirds
18 per centum for the calendar year one thousand nine hundred
19 seventy-five, and sixty-six and two-thirds per centum for the
20 calendar year one thousand nine hundred seventy-six and for all
21 subsequent calendar years.

22 The Table Specified for the Determination of Rate and Amount
23 of Benefits as so extended or contracted shall be effective only
24 for those claimants whose benefit years begin on or after the
25 first day of January of such calendar year.

26 (ii) For the purpose of determining the maximum weekly
27 benefit rate, the Pennsylvania average weekly wage in covered
28 employment shall be computed on the basis of the AVERAGE ANNUAL ←
29 total wages reported (irrespective of the limit on the amount of
30 wages subject to contributions) for the [twelve-month] thirty-



1 six-month period ending June 30 (DETERMINED BY DIVIDING THE
 2 TOTAL WAGES REPORTED FOR THE THIRTY-SIX-MONTH PERIOD BY 3) and
 3 this amount shall be divided by the average monthly number of
 4 covered workers (determined by dividing the total covered
 5 employment reported for the same [fiscal year by twelve] thirty-
 6 six-month period by thirty-six) to determine the average annual
 7 wage. The average annual wage thus obtained shall be divided by
 8 fifty-two and the average weekly wage thus determined rounded to
 9 the nearest cent. If the maximum weekly benefit rate as
 10 determined under subparagraph (i) is less than the maximum
 11 weekly benefit rate established for calendar year 2011, the
 12 maximum weekly benefit rate will be frozen until the calendar
 13 year in which the new maximum weekly benefit rate as determined
 14 under subparagraph (i) exceeds the maximum weekly benefit rate
 15 for calendar year 2011.

16 * * *

17 Section 7. The act is amended by adding a section to read:

18 Section 404.2. Effect of Severance Pay on Wages.--(a)
 19 Severance pay that is paid to an employe who has been determined
 20 to be eligible for benefits shall be treated in the same manner
 21 as remuneration received while working is treated under section
 22 404(d)(1) of this act.

23 (A.1) SEVERANCE PAY IS ATTRIBUTED TO THE DAY, DAYS, WEEK OR
 24 WEEKS IMMEDIATELY FOLLOWING THE EMPLOYE'S SEPARATION.



25 (b) The number of days or weeks to which severance pay is
 26 attributed is determined by dividing the total amount of
 27 severance pay by the regular full-time daily or weekly wage of
 28 the claimant.

29 (c) The amount of severance pay attributed to each day or
 30 week equals the regular full-time daily or weekly wage of the

1 claimant.

2 (d) When the attribution of severance pay is made on the
3 basis of the number of days, the pay shall be attributed to the
4 customary working days in the calendar week.

5 (e) For the purposes of this section, the term "severance
6 pay" shall mean one or more payments made by an employer to an
7 employee on account of separation from the service of the
8 employer, regardless of whether the employer is legally bound by
9 contract, statute or otherwise to make such payments. The term
10 does not include payments for pension, retirement or accrued
11 leave or payments of supplemental unemployment benefits.

12 SECTION 8. SECTION 401-A(B) AND (C) OF THE ACT, AMENDED
13 AUGUST 4, 2009 (P.L.114, NO.30), ARE AMENDED TO READ:



14 SECTION 401-A. DEFINITIONS.--AS USED IN THIS ARTICLE:

15 * * *

16 (B) (1) THERE IS A "STATE 'ON' INDICATOR" FOR THIS STATE
17 FOR A WEEK IF THE SECRETARY OF LABOR AND INDUSTRY DETERMINES IN
18 ACCORDANCE WITH THE REGULATIONS OF THE UNITED STATES SECRETARY
19 OF LABOR, THAT FOR THE PERIOD CONSISTING OF SUCH WEEK AND THE
20 IMMEDIATELY PRECEDING TWELVE WEEKS, THE RATE OF INSURED
21 UNEMPLOYMENT (NOT SEASONALLY ADJUSTED) UNDER THIS ACT:

22 (I) (A) EQUALED OR EXCEEDED ONE HUNDRED TWENTY PER CENTUM
23 OF THE AVERAGE OF SUCH RATES FOR THE CORRESPONDING THIRTEEN-WEEK
24 PERIOD ENDING IN EACH OF THE PRECEDING TWO CALENDAR YEARS, OR

25 (B) WITH RESPECT TO COMPENSATION FOR WEEKS OF UNEMPLOYMENT
26 BEGINNING AFTER DECEMBER 17, 2010, AND ENDING ON OR BEFORE
27 DECEMBER 31, 2011, EQUALED OR EXCEEDED ONE HUNDRED TWENTY PER
28 CENTUM OF THE AVERAGE OF SUCH RATES FOR THE CORRESPONDING
29 THIRTEEN-WEEK PERIOD ENDING IN EACH OF THE PRECEDING THREE
30 CALENDAR YEARS, AND

1 (II) EQUALED OR EXCEEDED FIVE PER CENTUM: PROVIDED, THAT
2 WITH RESPECT TO BENEFITS FOR WEEKS OF UNEMPLOYMENT BEGINNING
3 WITH THE PASSAGE OF THIS AMENDMENT BUT NO EARLIER THAN APRIL 3,
4 1977, THE DETERMINATION OF WHETHER THERE HAS BEEN A STATE "ON"
5 OR "OFF" INDICATOR BEGINNING OR ENDING ANY EXTENDED BENEFIT
6 PERIOD SHALL BE MADE UNDER THIS PARAGRAPH AS IF (A) THIS
7 PARAGRAPH DID NOT CONTAIN SUBPARAGRAPH (I) THEREOF, AND (B) THE
8 PER CENTUM RATE INDICATED IN THIS PARAGRAPH WERE SIX, EXCEPT
9 THAT, NOTWITHSTANDING ANY SUCH PROVISION OF THIS PARAGRAPH, ANY
10 WEEK FOR WHICH THERE WOULD OTHERWISE BE A STATE "ON" INDICATOR
11 SHALL CONTINUE TO BE SUCH A WEEK AND SHALL NOT BE DETERMINED TO
12 BE A WEEK FOR WHICH THERE IS A STATE "OFF" INDICATOR.

13 (2) THERE IS A "STATE 'OFF' INDICATOR" FOR THIS STATE FOR A
14 WEEK IF THE SECRETARY OF LABOR AND INDUSTRY DETERMINES IN
15 ACCORDANCE WITH THE REGULATIONS OF THE UNITED STATES SECRETARY
16 OF LABOR, THAT FOR THE PERIOD CONSISTING OF SUCH WEEK AND THE
17 IMMEDIATELY PRECEDING TWELVE WEEKS, THE RATE OF INSURED
18 UNEMPLOYMENT (NOT SEASONALLY ADJUSTED) UNDER THIS ACT:

19 (I) WAS LESS THAN ONE HUNDRED TWENTY PER CENTUM OF THE
20 AVERAGE OF SUCH RATES FOR THE CORRESPONDING THIRTEEN-WEEK PERIOD
21 ENDING IN EACH OF THE PRECEDING TWO CALENDAR YEARS, IF PARAGRAPH
22 (1) (I) (A) APPLIES OR, THE PRECEDING THREE CALENDAR YEARS, IF
23 PARAGRAPH (1) (I) (B) APPLIES, OR

24 (II) WAS LESS THAN FIVE PER CENTUM.

25 (3) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, ANY
26 WEEK FOR WHICH THERE WOULD OTHERWISE BE A STATE "ON" INDICATOR
27 SHALL CONTINUE TO BE SUCH A WEEK AND SHALL NOT BE DETERMINED TO
28 BE A WEEK FOR WHICH THERE IS A STATE "OFF" INDICATOR.

29 (C) (1) THERE IS A "STATE 'ON' INDICATOR" FOR THIS STATE
30 FOR A WEEK IF:

1 (I) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN THIS STATE,
2 SEASONALLY ADJUSTED, FOR THE PERIOD CONSISTING OF THE MOST
3 RECENT THREE MONTHS FOR WHICH DATA FOR ALL STATES ARE PUBLISHED
4 BEFORE THE CLOSE OF SUCH WEEK EQUALS OR EXCEEDS SIX AND ONE-HALF
5 PER CENTUM; AND

6 (II) (A) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN THIS
7 STATE, SEASONALLY ADJUSTED, FOR THE THREE-MONTH PERIOD REFERRED
8 TO IN SUBPARAGRAPH (I) EQUALS OR EXCEEDS ONE HUNDRED TEN PER
9 CENTUM OF SUCH AVERAGE RATE FOR EITHER, OR BOTH, OF THE
10 CORRESPONDING THREE-MONTH PERIODS ENDING IN THE TWO PRECEDING
11 CALENDAR YEARS, OR

12 (B) WITH RESPECT TO COMPENSATION FOR WEEKS OF UNEMPLOYMENT
13 BEGINNING AFTER DECEMBER 17, 2010, AND ENDING ON OR BEFORE
14 DECEMBER 31, 2011, THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN
15 THIS STATE, SEASONALLY ADJUSTED, FOR THE THREE-MONTH PERIOD
16 REFERRED TO IN SUBPARAGRAPH (I) EQUALS OR EXCEEDS ONE HUNDRED
17 TEN PER CENTUM OF SUCH AVERAGE RATE FOR ANY, OR ALL, OF THE
18 CORRESPONDING THREE-MONTH PERIODS ENDING IN THE THREE PRECEDING
19 CALENDAR YEARS.

20 (2) THERE IS A STATE "OFF" INDICATOR FOR THIS STATE FOR A
21 WEEK IF THE REQUIREMENTS OF PARAGRAPH (1) (I) OR (II) ARE NOT
22 SATISFIED.

23 (3) THIS SUBSECTION SHALL BE APPLICABLE ONLY WITH RESPECT TO
24 WEEKS OF UNEMPLOYMENT FOR WHICH ONE HUNDRED PER CENTUM FEDERAL
25 SHARING OF EXTENDED BENEFITS IS AVAILABLE UNDER SECTION 2005 (A)
26 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (PUBLIC
27 LAW 111-5, 123 STAT. 115), WITHOUT REGARD TO THE EXTENSION OF
28 FEDERAL SHARING FOR CERTAIN CLAIMS AS PROVIDED UNDER SECTION
29 2005 (C) OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,
30 OR UNDER A SUBSEQUENTLY ENACTED PROVISION OF FEDERAL LAW.

1 (4) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, ANY
2 WEEK FOR WHICH THERE WOULD OTHERWISE BE A STATE "ON" INDICATOR
3 SHALL CONTINUE TO BE SUCH A WEEK AND SHALL NOT BE DETERMINED TO
4 BE A WEEK FOR WHICH THERE IS A STATE "OFF" INDICATOR.

5 (5) FOR PURPOSES OF THIS SUBSECTION, DETERMINATIONS OF THE
6 RATE OF TOTAL UNEMPLOYMENT FOR ANY PERIOD, AND OF ANY SEASONAL
7 ADJUSTMENT, SHALL BE MADE BY THE UNITED STATES SECRETARY OF
8 LABOR.

9 * * *

10 Section & 9. Section 505 of the act, amended April 23, 1942 ←
11 (Sp. Sess., P.L.60, No.23), is amended to read:

12 Section 505. Rules of Procedure.--The manner in which
13 appeals shall be taken, the reports thereon required from the
14 department, the claimant and employers, and the conduct of
15 hearings and appeals, shall be in accordance with rules of
16 procedure prescribed by the board whether or not such rules
17 conform to common law or statutory rules of evidence and other
18 technical rules of procedure. Rules established by the board
19 shall permit either party to a hearing to testify via telephone,
20 without regard to distance of hearing location from either
21 party.

22 When the same or substantially similar evidence is relevant
23 and material to the matter in issue in applications and claims
24 filed by more than one individual or in multiple applications
25 and claims filed by a single individual the same time and place
26 for considering each such application and claim may be fixed,
27 hearings thereon jointly conducted, a single record of the
28 proceedings made and evidence introduced with respect to any
29 application or claim considered as introduced with respect to
30 all of such applications or claims: Provided, That in the

1 judgment of the board or referee having jurisdiction of the
2 proceeding such consideration will not be prejudicial to any
3 party.

4 Section ~~9~~ 10. This act shall apply as follows: ←

5 (1) THE AMENDMENT OF SECTION 4(G.1) OF THE ACT SHALL ←
6 APPLY TO INITIAL CLAIMS FILED ON OR AFTER JULY 1, 2012.

7 ~~(1)~~ (2) The amendment of ~~sections 4(g.1) and~~ SECTION ←
8 401(f) OF THE ACT shall apply to initial claims filed on or ←
9 after January 1, 2012.

10 ~~(2)~~ (3) The amendment of sections 302, 401(b) and 402(b) ←
11 and (e) OF THE ACT are applicable to initial claims filed on ←
12 or after January 1, 2012.

13 ~~(3)~~ (4) The addition of section 302.1 OF THE ACT shall ←
14 apply to initial claims filed on or after January 1, 2012.

15 ~~(4)~~ (5) The addition of section 404.2 OF THE ACT shall ←
16 apply to claims filed on or after January 1, 2013.

17 (6) THE AMENDMENT OF SECTION 401-A(B) AND (C) OF THE ACT ←
18 SHALL APPLY RETROACTIVELY TO DECEMBER 18, 2010.

19 Section ~~10~~ 11. This act shall take effect as follows: ←

20 (1) This section AND SECTION 10(6) shall take effect ←
21 immediately.

22 (2) The amendment of section 404 introductory paragraph ←
23 and (a)(1) OF THE ACT shall take effect January 1, 2013.

24 (3) THE AMENDMENT OF SECTION 401-A(B) AND (C) OF THE ACT ←
25 SHALL TAKE EFFECT IMMEDIATELY.

26 ~~(3)~~ (4) The remainder of this act shall take effect in ←
27 60 days.