

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1030 Session of 2011

INTRODUCED BY GORDNER, APRIL 28, 2011

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 7, 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 AND FOR relief from charges and for establishment ←
17 and maintenance of employer's reserve accounts; providing for
18 automatic relief from charges; further providing for ←
19 qualifications required to secure compensation, FOR
20 INELIGIBILITY FOR COMPENSATION, for rate and amount of
21 compensation, for definitions and for rules of procedure; and
22 providing for shared-work program and for applicability.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 ~~Section 1. Section 213 of the act of December 5, 1936 (2nd ←~~
26 ~~Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment~~
27 ~~Compensation Law, added December 9, 2002 (P.L.1330, No.156), is~~

1 ~~amended to read:~~

2 SECTION 1. SECTION 4(G.1) OF THE ACT OF DECEMBER 5, 1936
3 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT
4 COMPENSATION LAW, ADDED JULY 10, 1980 (P.L.521, NO.108), IS
5 AMENDED TO READ:

6 SECTION 4. DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES, AS
7 USED IN THIS ACT, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE
8 CONTEXT CLEARLY REQUIRES OTHERWISE.

9 * * *

10 (G.1) "CREDIT WEEK" MEANS ANY CALENDAR WEEK IN AN
11 INDIVIDUAL'S BASE YEAR WITH RESPECT TO WHICH HE WAS PAID IN
12 EMPLOYMENT AS DEFINED IN THIS ACT, REMUNERATION OF NOT LESS THAN
13 [FIFTY DOLLARS (\$50)] SIXTEEN (16) TIMES THE MINIMUM HOURLY WAGE
14 REQUIRED BY THE ACT OF JANUARY 17, 1968 (P.L.11, NO.5), KNOWN AS
15 THE MINIMUM WAGE ACT OF 1968. ONLY ONE CREDIT WEEK CAN BE
16 ESTABLISHED WITH RESPECT TO ANY ONE CALENDAR WEEK.

17 * * *

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

20 Section 213. Relief from Charges for Certain Employers.--(a)
21 An employer that makes payments in lieu of contributions
22 pursuant to Article X, XI or XII shall be relieved of charges in
23 accordance with section [302(a)] 302.1 and regulations of the
24 department, for compensation paid on applications for benefits
25 effective during a calendar year, if the employer satisfies the
26 following requirements:

27 (1) The employer pays a nonrefundable solvency fee under
28 subsection (b) for the calendar year within thirty (30) days
29 after notice of the fee is sent to the employer's last known
30 address. The department may for good cause extend the period

1 within which the fee must be paid.

2 (2) All reports required by this act and regulations of the
3 department for calendar quarters through the second calendar
4 quarter of the preceding calendar year are filed.

5 (b) An employer's solvency fee for a calendar year shall be
6 the monetary amount determined by multiplying the solvency fee
7 rate for the year by the amount of wages paid, without regard to
8 the exclusion in section 4(x)(1), by the employer in the four
9 consecutive calendar quarters ending on June 30 of the preceding
10 calendar year, provided that an employer's solvency fee for a
11 year shall not be less than twenty-five dollars (\$25).

12 (1) For calendar years 2003, 2004 and 2005, the solvency fee
13 rate shall be three ten thousandths (.0003).

14 (2) In 2005 the secretary shall redetermine the solvency fee
15 rate. The secretary shall redetermine the rate so that the
16 unrounded rate yields solvency fees approximately equal to the
17 amount of compensation for which charges are relieved under this
18 section. For purposes of redetermining the rate, the secretary
19 shall use the amount of compensation for which charges are
20 relieved under this section paid during 2003 and 2004 and the
21 amount of wages paid, without regard to the exclusion in section
22 4(x)(1), during the same time period by employers who paid a
23 solvency fee under this section. The rate as redetermined shall
24 take effect for the next calendar year and shall remain in
25 effect for three years.

26 (3) Beginning in 2008 and each fifth year thereafter, the
27 secretary shall redetermine the solvency fee rate. The secretary
28 shall redetermine the rate so that the unrounded rate yields
29 solvency fees approximately equal to the amount of compensation
30 for which charges are relieved under this section. For purposes

1 of redetermining the rate, the secretary shall use the amount of
2 compensation for which charges are relieved under this section
3 paid during the five calendar years immediately preceding the
4 year in which the redetermination occurs and the amount of wages
5 paid, without regard to the exclusion in section 4(x)(1), during
6 the same time period by employers who paid a solvency fee under
7 this section. The rate as redetermined shall take effect for the
8 next calendar year and shall remain in effect for five years.

9 (4) If the solvency fee rate redetermined under paragraphs
10 (2) and (3) is not a multiple of one-hundredth of one per cent,
11 it shall be rounded to the next higher multiple of one-hundredth
12 of one per cent.

13 (c) Solvency fees paid by employers under this section shall
14 be deposited in the Unemployment Compensation Fund. Compensation
15 for which charges are relieved under this section shall not be
16 used in the calculation of the State adjustment factor under
17 section 301.1(e).

18 (d) The provisions of this section shall constitute the
19 exclusive means by which an employer who makes payments in lieu
20 of contributions pursuant to Article X, XI or XII may be excused
21 from reimbursing the Unemployment Compensation Fund for
22 compensation paid to an individual that is based on wages paid
23 by the employer or that portion of the individual's compensation
24 determined in accordance with section 1108.

25 (e) A group account under section 1109 shall constitute an
26 employer for purposes of this section.

27 Section 2. Section 302 of the act, amended March 24, 1964
28 (Sp.Sess., P.L.53, No.1), July 6, 1977 (P.L.41, No.22), July 21,
29 1983 (P.L.68, No.30), December 19, 1996 (P.L.1476, No.189) and
30 December 9, 2002 (P.L.1330, No.156), is amended to read:

1 Section 302. Establishment and Maintenance of Employer's
2 Reserve Accounts.--The department shall establish and maintain
3 for each employer a separate employer's reserve account in the
4 following manner:

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

1 to such employer's account under the provisions of this
2 subsection (a); provided, such employer has filed a notice with
3 the department in accordance with its rules and regulations and
4 within the time limits prescribed therein; and provided if the
5 department finds that such individual's unemployment is directly
6 caused by a major natural disaster declared by the President
7 pursuant to section 102(1) of the Disaster Relief Act of 1970
8 (P.L.91-606) and such individual would have been eligible for
9 disaster unemployment assistance as provided in section 240 of
10 that act with respect to such unemployment but for the receipt
11 of unemployment compensation, no compensation paid to such
12 individual with respect to any week of unemployment occurring
13 due to such natural disaster, to a maximum of the eight weeks
14 immediately following the President's declaration of emergency,
15 shall be charged to the employer's account under the provisions
16 of this subsection.

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

28 (2.1) Notwithstanding the provisions of paragraph (1) of
29 this subsection, if the department finds that an individual was
30 separated from his most recent work for such employer due to a

1 cessation of business of eighteen months or less caused by a
2 disaster, compensation paid to such individual with respect to
3 any week of unemployment occurring subsequent to such separation
4 shall not be charged to the account of such employer; provided,
5 such employer has filed a notice with the department in
6 accordance with its rules and regulations and within the time
7 limits prescribed therein.

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

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

22 (b) Any employer, at any time, may voluntarily pay into the
23 Unemployment Compensation Fund an amount in excess of the
24 contributions required to be paid under the provisions of this
25 act, and such amount shall be forthwith credited to his reserve
26 account. His rate of contribution shall be computed or
27 recomputed, as the case may be, with such amount included in the
28 calculation. To affect such employer's rate of contribution for
29 any year, such amount shall be paid not later than thirty days
30 following the mailing of notice of his rate of contribution for

1 such year: Provided, That for good cause, such time may be
2 extended by the department: And provided further, That such
3 amount, when paid as aforesaid, shall not be refunded or used as
4 a credit in the payment of contributions in whole or in part. In
5 no event shall any such amount be included in the computation or
6 recomputation for any year unless it is paid within one hundred
7 twenty days after the beginning of such year.

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

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

1 to ten per centum (10%) of his average annual payroll. With
2 respect to future adjustments of negative balance accounts, the
3 secretary shall, upon the election of the employer, make
4 adjustments as follows:

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

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

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

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

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

1 Section 302.1. Relief from Charges.--Notwithstanding any
2 other provisions of this act assigning charges for compensation
3 paid to employes, the department shall relieve an employer of
4 charges for compensation in accordance with this section and
5 section 213 of this act.

6 (a) Circumstances allowing relief:

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

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

30 (3) If an individual subsequent to separation from his work

1 is engaged in part-time work for a base year employer, other
2 than a base year employer from whom he has separated, the part-
3 time employer shall be relieved of charges for compensation paid
4 to the individual with respect to any week of unemployment
5 occurring subsequent to the separation and while such part-time
6 work continues without material change.

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

15 (b) Requests for relief from charges:

16 (1) Except as provided in subsection (c), in order to be
17 granted relief from charges for compensation an employer must
18 file a request with the department in the manner provided, and
19 containing all information required, by the department's
20 regulations.

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

25 (i) If the request is filed within fifteen (15) days after
26 the date of the earliest notice issued by the department under
27 section 501(a) indicating that the claimant is eligible under
28 section 401(a) and relief is granted, relief shall begin with
29 the earliest week for which the claimant is eligible for
30 benefits pursuant to the claimant's application for benefits.

1 (ii) If the request is not filed within the time period
2 provided in subparagraph (i), relief, if granted by the
3 department, shall begin with the earliest week ending fifteen
4 (15) or more days subsequent to the date the request is filed.

5 (3) If an employer is requesting relief from charges on the
6 basis of a separation that occurs after the claimant files an
7 application for benefits, the following shall apply:

8 (i) If the request is filed within fifteen (15) days after
9 the date of the earliest notice issued by the department
10 indicating that the claimant is claiming benefits subsequent to
11 the separation and relief is granted, relief shall begin with
12 the earliest week for which the claimant is eligible for
13 benefits following the last day worked.

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

18 (c) Relief from charges without a request:

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

27 (2) If a claimant is determined eligible for benefits under
28 section 402(b) pursuant to a notice of determination that has
29 become final, the department shall grant or deny relief from
30 charges in accordance with subsection (a)(1) to the employer

1 from whom the claimant was separated, beginning with the
2 earliest week governed by the notice of determination, in
3 accordance with the following:

4 (i) The department shall grant relief from charges if the
5 claimant left work for the employer without good cause
6 attributable to the claimant's employment.

7 (ii) The department shall deny relief from charges if the
8 claimant left work for the employer with good cause attributable
9 to the claimant's employment.

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

14 (d) Employer information:

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

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

28 (e) General provisions:

29 (1) Where the individual's eligibility for compensation has
30 been finally determined under the provisions of Article V, such

1 determination shall not be subject to attack in proceedings
2 under this section.

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

6 Section 4. Section 401(b) of the act, amended July 9, 1976
7 (P.L.842, No.147), is amended to read:

8 Section 401. Qualifications Required to Secure
9 Compensation.--Compensation shall be payable to any employe who
10 is or becomes unemployed, and who--

11 * * *

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

23 (1) Is making an active search for suitable employment. The
24 requirements for "active search" shall be established by the
25 department and shall include, at a minimum, all of the
26 following:

27 (i) Registration by a claimant for employment search
28 services offered by the Pennsylvania CareerLink system or its
29 successor agency within thirty (30) days after initial
30 application for benefits.

1 (ii) Posting a resume on the system's database, unless the
2 claimant is seeking work in an employment sector in which
3 resumes are not commonly used.

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

7 (2) The Pennsylvania CareerLink system or its successor
8 agency shall provide documentation, on a quarterly basis or more
9 frequently, as the secretary deems appropriate, to the
10 Pennsylvania Unemployment Compensation Service Center system so
11 the system can conduct the necessary cross reference checks.

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

18 (4) The requirements of this subsection do not apply to any
19 week in which the claimant is in training approved under section
20 236(a) (1) of the Trade Act of 1974 (Public Law 93-618, 19 U.S.C.
21 § 2101 et seq.) or any week in which the claimant is required to
22 participate in reemployment services under section 402(j).

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

26 (6) The department may waive or alter the requirements of
27 this subsection in cases or situations with respect to which the
28 secretary finds that compliance with such requirements would be
29 oppressive or which would be inconsistent with the purposes of
30 this act.

1 * * *

2 SECTION 4.1. SECTION 402(B) AND (E) OF THE ACT, AMENDED
3 AUGUST 24, 1953 (P.L.1397, NO.396) AND OCTOBER 22, 1981
4 (P.L.301, NO.106), ARE AMENDED TO READ:

5 SECTION 402. INELIGIBILITY FOR COMPENSATION.--AN EMPLOYE
6 SHALL BE INELIGIBLE FOR COMPENSATION FOR ANY WEEK--

7 * * *

8 (B) IN WHICH HIS UNEMPLOYMENT IS DUE TO VOLUNTARILY LEAVING
9 WORK WITHOUT CAUSE OF A NECESSITOUS AND COMPELLING NATURE
10 ATTRIBUTABLE TO HIS EMPLOYMENT, IRRESPECTIVE OF WHETHER OR NOT
11 SUCH WORK IS IN "EMPLOYMENT" AS DEFINED IN THIS ACT: PROVIDED,
12 THAT A VOLUNTARY LEAVING WORK BECAUSE OF A WORK-RELATED
13 DISABILITY IF THE EMPLOYER IS ABLE TO PROVIDE OTHER SUITABLE
14 WORK, SHALL BE DEEMED NOT A CAUSE OF A NECESSITOUS AND
15 COMPELLING NATURE ATTRIBUTABLE TO HIS EMPLOYMENT: AND PROVIDED
16 FURTHER, THAT NO EMPLOYE SHALL BE DEEMED TO BE INELIGIBLE UNDER
17 THIS SUBSECTION WHERE THE FEDERAL UNEMPLOYMENT TAX ACT REQUIRES
18 ELIGIBILITY, AND PROVIDED THAT NO EMPLOYE SHALL BE DEEMED
19 INELIGIBLE UNDER THIS SUBSECTION IF THE EMPLOYE IS A SPOUSE OF A
20 FULL-TIME MEMBER OF THE UNITED STATES ARMED FORCES OR A FULL-
21 TIME MEMBER OF ANY OF ITS RESERVE COMPONENTS, INCLUDING THE
22 PENNSYLVANIA NATIONAL GUARD, AND THE EMPLOYE IS LEAVING
23 EMPLOYMENT DUE TO THE REASSIGNMENT OF THE MILITARY MEMBER TO A
24 DIFFERENT GEOGRAPHICAL LOCATION: AND PROVIDED FURTHER, THAT NO
25 EMPLOYE SHALL BE DEEMED TO BE INELIGIBLE UNDER THIS SUBSECTION
26 WHERE AS A CONDITION OF CONTINUING IN EMPLOYMENT SUCH EMPLOYE
27 WOULD BE REQUIRED TO JOIN OR REMAIN A MEMBER OF A COMPANY UNION
28 OR TO RESIGN FROM OR REFRAIN FROM JOINING ANY BONA FIDE LABOR
29 ORGANIZATION, OR TO ACCEPT WAGES, HOURS OR CONDITIONS OF
30 EMPLOYMENT NOT DESIRED BY A MAJORITY OF THE EMPLOYEES IN THE

1 ESTABLISHMENT OR THE OCCUPATION, OR WOULD BE DENIED THE RIGHT OF
2 COLLECTIVE BARGAINING UNDER GENERALLY PREVAILING CONDITIONS, AND
3 THAT IN DETERMINING WHETHER OR NOT AN EMPLOYEE HAS LEFT HIS WORK
4 VOLUNTARILY WITHOUT CAUSE OF A NECESSITOUS AND COMPELLING NATURE
5 ATTRIBUTABLE TO HIS EMPLOYMENT, THE DEPARTMENT SHALL GIVE
6 CONSIDERATION TO THE SAME FACTORS, INSOFAR AS THEY ARE
7 APPLICABLE, PROVIDED, WITH RESPECT TO THE DETERMINATION OF
8 SUITABLE WORK UNDER SECTION FOUR (T): AND PROVIDED FURTHER, THAT
9 THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY IN THE EVENT
10 OF A STOPPAGE OF WORK WHICH EXISTS BECAUSE OF A LABOR DISPUTE
11 WITHIN THE MEANING OF SUBSECTION (D). PROVIDED FURTHER, THAT NO
12 OTHERWISE ELIGIBLE CLAIMANT SHALL BE DENIED BENEFITS FOR ANY
13 WEEK IN WHICH HIS UNEMPLOYMENT IS DUE TO EXERCISING THE OPTION
14 OF ACCEPTING A LAYOFF, FROM AN AVAILABLE POSITION PURSUANT TO A
15 LABOR-MANAGEMENT CONTRACT AGREEMENT, OR PURSUANT TO AN
16 ESTABLISHED EMPLOYER PLAN, PROGRAM OR POLICY: PROVIDED FURTHER,
17 THAT A CLAIMANT SHALL NOT BE DISQUALIFIED FOR VOLUNTARILY
18 LEAVING WORK, WHICH IS NOT SUITABLE EMPLOYMENT TO ENTER TRAINING
19 APPROVED UNDER SECTION 236(A)(1) OF THE TRADE ACT OF 1974. FOR
20 PURPOSES OF THIS SUBSECTION THE TERM "SUITABLE EMPLOYMENT" MEANS
21 WITH RESPECT TO A CLAIMANT, WORK OF A SUBSTANTIALLY EQUAL OR
22 HIGHER SKILL LEVEL THAN THE CLAIMANT'S PAST "ADVERSELY AFFECTED
23 EMPLOYMENT" (AS DEFINED IN SECTION 247 OF THE TRADE ACT OF
24 1974), AND WAGES FOR SUCH WORK AT NOT LESS THAN EIGHTY PER
25 CENTUM OF THE WORKER'S "AVERAGE WEEKLY WAGE" (AS DEFINED IN
26 SECTION 247 OF THE TRADE ACT OF 1974).

27 * * *

28 (E) IN WHICH HIS UNEMPLOYMENT IS DUE TO HIS DISCHARGE OR
29 TEMPORARY SUSPENSION FROM WORK FOR WILLFUL MISCONDUCT CONNECTED
30 WITH HIS WORK, IRRESPECTIVE OF WHETHER OR NOT SUCH WORK IS

1 "EMPLOYMENT" AS DEFINED IN THIS ACT[; AND]. FOR PURPOSES OF THIS
2 SUBSECTION, THE TERM "WILLFUL MISCONDUCT" SHALL INCLUDE, BUT IS
3 NOT LIMITED TO, THE VIOLATION OF ANY REASONABLE WORKPLACE RULE
4 OR WORK-RELATED GOVERNMENT REGULATION OR LAW OF WHICH THE
5 EMPLOYE WAS AWARE; FAILURE TO MAINTAIN A VALID LICENSE OR
6 CERTIFICATE THAT HAS BEEN ISSUED BY A FEDERAL OR COMMONWEALTH
7 AGENCY OR POLITICAL SUBDIVISION AND WHICH IS A REQUIREMENT OF
8 EMPLOYMENT; THE DELIBERATE DAMAGE TO PROPERTY OF THE EMPLOYER OR
9 ANOTHER EMPLOYE OR THE THEFT OF AN EMPLOYER'S OR ANOTHER
10 EMPLOYE'S PROPERTY; REPORTING TO WORK UNDER THE INFLUENCE OF
11 ILLEGAL DRUGS OR ALCOHOL; THREATENING A COWORKER OR SUPERVISOR
12 WITH PHYSICAL HARM OR THREATENING TO HARM THE INTERESTS OF THE
13 EMPLOYER; DISREGARD OF SUPERVISOR'S REASONABLE DIRECTIVES OR
14 ORDERS AND ACTS OF NEGLIGENCE OR AN ACT OF NEGLIGENCE WHICH
15 INDICATES SUBSTANTIAL DISREGARD FOR EMPLOYER'S INTERESTS.

16 * * *

17 Section 5. Section 404 introductory paragraph, (A), (C), (d) ←
18 and (e) (2) of the act, amended MARCH 24, 1964 (1ST SP. SESS. ←
19 P.L.53, NO.1), JANUARY 17, 1968 (P.L.21, NO.6), JULY 10, 1980
20 (P.L.521, NO.108), JULY 21, 1983 (P.L.68, NO.30), October 19,
21 1988 (P.L.818, No.109) and December 16, 2005 (P.L.437, No.80),
22 are amended 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
26 payable with respect to weeks ending in benefit years which
27 begin prior to the first day of January [1989] 2013 shall be
28 paid on the basis of the provisions of this section in effect at
29 the beginning of such benefit years.

30 * * *



1 (A) (1) THE EMPLOYE'S WEEKLY BENEFIT RATE SHALL BE COMPUTED
2 AS (1) THE AMOUNT APPEARING IN PART B OF THE TABLE SPECIFIED FOR
3 THE DETERMINATION OF RATE AND AMOUNT OF BENEFITS ON THE LINE ON
4 WHICH IN PART A THERE APPEARS HIS "HIGHEST QUARTERLY WAGE," OR
5 (2) FIFTY PER CENTUM (50%) OF HIS FULL-TIME WEEKLY WAGE,
6 WHICHEVER IS GREATER. NOTWITHSTANDING ANY OTHER PROVISION OF
7 THIS ACT, IF AN EMPLOYE'S WEEKLY BENEFIT RATE, AS CALCULATED
8 UNDER THIS PARAGRAPH, IS LESS THAN \$70, HE SHALL BE INELIGIBLE
9 TO RECEIVE ANY AMOUNT OF COMPENSATION. IF THE EMPLOYE'S WEEKLY
10 BENEFIT RATE IS NOT A MULTIPLE OF ONE DOLLAR (\$1), IT SHALL BE
11 ROUNDED TO THE NEXT LOWER MULTIPLE OF ONE DOLLAR (\$1).

12 (2) IF THE BASE YEAR WAGES OF AN EMPLOYE WHOSE WEEKLY
13 BENEFIT RATE HAS BEEN DETERMINED UNDER CLAUSE (2) OF PARAGRAPH
14 (1) OF THIS SUBSECTION ARE INSUFFICIENT TO QUALIFY HIM UNDER
15 SUBSECTION (C) OF THIS SECTION, HIS WEEKLY BENEFIT RATE SHALL BE
16 REDETERMINED UNDER CLAUSE (1) OF PARAGRAPH (1) OF THIS
17 SUBSECTION.

18 (3) IF THE BASE YEAR WAGES OF AN EMPLOYE WHOSE WEEKLY
19 BENEFIT RATE HAS BEEN DETERMINED UNDER CLAUSE (1) OF PARAGRAPH
20 (1) OF THIS SUBSECTION, OR REDETERMINED UNDER PARAGRAPH (2) OF
21 THIS SUBSECTION, AS THE CASE MAY BE, ARE INSUFFICIENT TO QUALIFY
22 HIM UNDER SUBSECTION (C) OF THIS SECTION BUT ARE SUFFICIENT TO
23 QUALIFY HIM FOR ANY ONE OF THE NEXT THREE LOWER WEEKLY BENEFIT
24 RATES, HIS WEEKLY BENEFIT RATE SHALL BE REDETERMINED AT THE
25 HIGHEST OF SUCH NEXT LOWER RATES.

26 * * *

27 (C) [ANY] THE TOTAL AMOUNT OF BENEFITS TO WHICH AN OTHERWISE
28 ELIGIBLE EMPLOYE WHO HAS BASE YEAR WAGES IN AN AMOUNT EQUAL TO,
29 OR IN EXCESS, OF THE AMOUNT OF QUALIFYING WAGES APPEARING IN
30 PART C OF THE TABLE SPECIFIED FOR THE DETERMINATION OF RATE AND

1 AMOUNT OF BENEFITS ON THE LINE ON WHICH IN PART B THERE APPEARS
2 HIS WEEKLY BENEFIT RATE, AS DETERMINED UNDER SUBSECTION (A) OF
3 THIS SECTION, SHALL BE ENTITLED DURING HIS BENEFIT YEAR TO THE
4 AMOUNT APPEARING IN PART [D] B ON SAID LINE MULTIPLIED BY THE
5 NUMBER OF QUALIFYING CREDIT WEEKS DURING HIS BASE YEAR, UP TO A
6 MAXIMUM OF TWENTY-SIX (26): PROVIDED HE HAD EIGHTEEN (18) OR
7 MORE "CREDIT WEEKS" DURING HIS BASE YEAR [OR PART E PROVIDED HE
8 HAD SIXTEEN (16) OR SEVENTEEN (17) "CREDIT WEEKS" DURING HIS
9 BASE YEAR]. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, ANY
10 EMPLOYE WITH LESS THAN [SIXTEEN (16)] EIGHTEEN (18) "CREDIT
11 WEEKS" DURING THE EMPLOYEE'S BASE YEAR SHALL BE INELIGIBLE TO
12 RECEIVE ANY AMOUNT OF COMPENSATION.

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

25 (1.1) For purposes of clause (1)(iii), all of the following
26 apply:

27 (i) "Severance pay" means one or more payments made by an
28 employer to an employe on account of separation from the service
29 of the employer, regardless of whether the employer is legally
30 bound by contract, statute or otherwise to make such payments.

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

3 (ii) The amount of severance pay attributed pursuant to
4 subclause (iii) shall be an amount not less than zero determined
5 by subtracting ~~one-half~~ ONE-FOURTH of the average annual wage as ←
6 calculated under subsection (e) as of June 30 immediately
7 preceding the calendar year in which the claimant's benefit year
8 begins from the total amount of severance pay paid or payable to
9 the claimant by the employer.

10 (iii) Severance pay is attributed as follows:

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

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

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

20 (D) When the attribution of severance pay is made on the
21 basis of the number of days, the pay shall be attributed to the
22 customary working days in the calendar week.

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

1 determined under subclause (ii).

2 (ii) If the pension is entirely contributed to by the
3 employer, then one hundred per centum (100%) of the pro-rated
4 weekly amount of the pension shall be deducted. Except as set
5 forth in clause (4), if the pension is contributed to by the
6 individual, in any amount, then fifty per centum (50%) of the
7 pro-rated weekly amount of the pension shall be deducted.

8 (iii) No deduction shall be made under this clause by reason
9 of the receipt of a pension if the services performed by the
10 individual during the base period or remuneration received for
11 such services for such employer did not affect the individual's
12 eligibility for, or increase the amount of, such pension,
13 retirement or retired pay, annuity or similar payment.

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
30 pensions paid under the Social Security Act (Public Law 74-271,

1 42 U.S.C. § 301 et seq.), or the Railroad Retirement Act of 1974
2 (Public Law 93-445, 88 Stat. 1305), if the pension is
3 contributed to by the individual in any amount.

4 (e) * * *

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

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

1 (ii) For the purpose of determining the maximum weekly
2 benefit rate, the Pennsylvania average weekly wage in covered
3 employment shall be computed on the basis of the average annual
4 total wages reported (irrespective of the limit on the amount of
5 wages subject to contributions) for the [twelve-month] thirty-
6 six-month period ending June 30 (determined by dividing the
7 total wages reported for the thirty-six-month period by three)
8 and this amount shall be divided by the average monthly number
9 of covered workers (determined by dividing the total covered
10 employment reported for the same [fiscal year by twelve] thirty-
11 six-month period by thirty-six) to determine the average annual
12 wage. The average annual wage thus obtained shall be divided by
13 fifty-two and the average weekly wage thus determined rounded to
14 the nearest cent. If the maximum weekly benefit rate as
15 determined under subclause (i) is less than the maximum weekly
16 benefit rate established for calendar year 2012, the maximum
17 weekly benefit rate will be frozen until the calendar year in
18 which the new maximum weekly benefit rate as determined under
19 subclause (i) exceeds the maximum weekly benefit rate for
20 calendar year 2012.

21 * * *

22 Section 6. Section 401-A(b) and (c) of the act, amended
23 August 4, 2009 (P.L.114, No.30), are amended to read:

24 Section 401-A. Definitions.--As used in this article:

25 * * *

26 (b) (1) There is a "State 'on' indicator" for this State
27 for a week if the Secretary of Labor and Industry determines in
28 accordance with the regulations of the United States Secretary
29 of Labor, that for the period consisting of such week and the
30 immediately preceding twelve weeks, the rate of insured

1 unemployment (not seasonally adjusted) under this act:

2 (i) (A) equaled or exceeded one hundred twenty per centum
3 of the average of such rates for the corresponding thirteen-week
4 period ending in each of the preceding two calendar years, or

5 (B) with respect to compensation for weeks of unemployment
6 beginning after December 17, 2010, and ending on or before
7 December 31, 2011, equaled or exceeded one hundred twenty per
8 centum of the average of such rates for the corresponding
9 thirteen-week period ending in each of the preceding three
10 calendar years, and

11 (ii) equaled or exceeded five per centum: Provided, That
12 with respect to benefits for weeks of unemployment beginning
13 with the passage of this amendment but no earlier than April 3,
14 1977, the determination of whether there has been a State "on"
15 or "off" indicator beginning or ending any extended benefit
16 period shall be made under this paragraph as if (A) this
17 paragraph did not contain subparagraph (i) thereof, and (B) the
18 per centum rate indicated in this paragraph were six, except
19 that, notwithstanding any such provision of this paragraph, any
20 week for which there would otherwise be a State "on" indicator
21 shall continue to be such a week and shall not be determined to
22 be a week for which there is a State "off" indicator.

23 (2) There is a "State 'off' indicator" for this State for a
24 week if the Secretary of Labor and Industry determines in
25 accordance with the regulations of the United States Secretary
26 of Labor, that for the period consisting of such week and the
27 immediately preceding twelve weeks, the rate of insured
28 unemployment (not seasonally adjusted) under this act:

29 (i) was less than one hundred twenty per centum of the
30 average of such rates for the corresponding thirteen-week period

1 ending in each of the preceding two calendar years, if paragraph
2 (1) (i) (A) applies or, the preceding three calendar years, if
3 paragraph (1) (i) (B) applies, or

4 (ii) was less than five per centum.

5 (3) Notwithstanding the provisions of this subsection, any
6 week for which there would otherwise be a State "on" indicator
7 shall continue to be such a week and shall not be determined to
8 be a week for which there is a State "off" indicator.

9 (c) (1) There is a "State 'on' indicator" for this State
10 for a week if:

11 (i) the average rate of total unemployment in this State,
12 seasonally adjusted, for the period consisting of the most
13 recent three months for which data for all states are published
14 before the close of such week equals or exceeds six and one-half
15 per centum; and

16 (ii) (A) the average rate of total unemployment in this
17 State, seasonally adjusted, for the three-month period referred
18 to in subparagraph (i) equals or exceeds one hundred ten per
19 centum of such average rate for either, or both, of the
20 corresponding three-month periods ending in the two preceding
21 calendar years, or

22 (B) with respect to compensation for weeks of unemployment
23 beginning after December 17, 2010, and ending on or before
24 December 31, 2011, the average rate of total unemployment in
25 this State, seasonally adjusted, for the three-month period
26 referred to in subparagraph (i) equals or exceeds one hundred
27 ten per centum of such average rate for any, or all, of the
28 corresponding three-month periods ending in the three preceding
29 calendar years.

30 (2) There is a State "off" indicator for this State for a

1 week if the requirements of paragraph (1)(i) or (ii) are not
2 satisfied.

3 (3) This subsection shall be applicable only with respect to
4 weeks of unemployment for which one hundred per centum Federal
5 sharing of extended benefits is available under section 2005(a)
6 of the American Recovery and Reinvestment Act of 2009 (Public
7 Law 111-5, 123 Stat. 115), without regard to the extension of
8 Federal sharing for certain claims as provided under section
9 2005(c) of the American Recovery and Reinvestment Act of 2009,
10 or under a subsequently enacted provision of Federal law.

11 (4) Notwithstanding the provisions of this subsection, any
12 week for which there would otherwise be a State "on" indicator
13 shall continue to be such a week and shall not be determined to
14 be a week for which there is a State "off" indicator.

15 (5) For purposes of this subsection, determinations of the
16 rate of total unemployment for any period, and of any seasonal
17 adjustment, shall be made by the United States Secretary of
18 Labor.

19 * * *

20 Section 7. Section 505 of the act, amended April 23, 1942
21 (Sp.Sess., P.L.60, No.23), is amended to read:

22 Section 505. Rules of Procedure.--The manner in which
23 appeals shall be taken, the reports thereon required from the
24 department, the claimant and employers, and the conduct of
25 hearings and appeals, shall be in accordance with rules of
26 procedure prescribed by the board whether or not such rules
27 conform to common law or statutory rules of evidence and other
28 technical rules of procedure. Rules established by the board
29 shall permit either party to a hearing to testify via telephone,
30 without regard to distance of hearing location from either

1 party.

2 When the same or substantially similar evidence is relevant
3 and material to the matter in issue in applications and claims
4 filed by more than one individual or in multiple applications
5 and claims filed by a single individual the same time and place
6 for considering each such application and claim may be fixed,
7 hearings thereon jointly conducted, a single record of the
8 proceedings made and evidence introduced with respect to any
9 application or claim considered as introduced with respect to
10 all of such applications or claims: Provided, That in the
11 judgment of the board or referee having jurisdiction of the
12 proceeding such consideration will not be prejudicial to any
13 party.

14 Section 8. The act is amended by adding an article to read:

15 ARTICLE XIII

16 SHARED-WORK PROGRAM

17 Section 1301. Definitions.

18 The following words and phrases when used in this act shall
19 have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Affected unit." A department, shift or other organizational
22 unit of two or more employees that is designated by an employer
23 to participate in a shared-work plan.

24 "Approved shared-work plan." An employer's shared-work plan
25 which meets the requirements of section 1303 and which the
26 department approves in writing.

27 "Fringe benefit." Health insurance, a retirement benefit
28 received under a pension plan, a paid vacation day, a paid
29 holiday, sick leave and any other similar employee benefit
30 provided by an employer.

1 "Participating employee." An employee in the affected unit
2 whose hours of work are reduced by the reduction percentage
3 under the shared-work plan.

4 "Participating employer." An employer who has a shared-work
5 plan in effect.

6 "Reduction percentage." The percentage by which each
7 participating employee's normal weekly hours of work are reduced
8 under a shared-work plan in accordance with section 1303(b).

9 "Shared-work plan." A plan for reducing unemployment under
10 which participating employees of an affected unit share the work
11 remaining after reduction in their normal weekly hours of work.
12 Section 1302. Application to approve a shared-work plan.

13 (a) Requirements.--An employer that meets all of the
14 following requirements may apply to the department for approval
15 of a shared-work plan:

16 (1) The employer has filed all quarterly reports and
17 other reports required under this act and has paid all
18 contribution, reimbursement, interest and penalty due through
19 the date of the employer's application.

20 (2) If the employer is contributory, the employer's
21 reserve account balance as of the most recent computation
22 date preceding the date of the employer's application is a
23 positive number.

24 (3) The employer has paid wages for the 12 consecutive
25 calendar quarters preceding the date of the employer's
26 application.

27 (b) Application.--An application under this section shall be
28 made in the manner prescribed by the department and contain all
29 information required by the department, including the following:

30 (1) The employer's assurance that it will provide

1 reports to the department relating to the operation of its
2 shared-work plan at the times and in the manner prescribed by
3 the department and containing all information required by the
4 department, including the number of hours worked each week by
5 participating employees.

6 (2) The employer's assurance that it will not hire new
7 employees in, or transfer employees to, the affected unit
8 during the effective period of the shared-work plan.

9 (3) The employer's assurance that it will not lay off
10 participating employees during the effective period of the
11 shared-work plan, or reduce participating employees' hours of
12 work by more than the reduction percentage during the
13 effective period of the shared-work plan, except in cases of
14 holidays, designated vacation periods, equipment maintenance
15 or similar circumstances.

16 (4) A list of the week or weeks within the requested
17 effective period of the shared-work plan during which
18 participating employees are anticipated to work fewer hours
19 than the number of hours determined under section 1303(a)(5)
20 due to circumstances included in paragraph (3).

21 (5) The employer's certification that the implementation
22 of a shared-work plan is in lieu of temporary layoffs that
23 would affect at least 10% of the employees in the affected
24 unit and would result in an equivalent reduction in work
25 hours.

26 (6) The employer's assurance that it will abide by all
27 terms and conditions of this article.

28 (c) Multiple shared-work plans.--An employer may apply to
29 the department for approval of more than one shared-work plan.
30 Section 1303. Shared-work plan requirements.

1 (a) General rule.--The department may approve a shared-work
2 plan only if the plan meets all of the following requirements:

3 (1) The shared-work plan applies to one affected unit.

4 (2) All employees in the affected unit are participating
5 employees, except that the following employees may not be
6 participating employees:

7 (i) An employee who has been employed in the
8 affected unit for less than three months prior to the
9 date the employer applies for approval of the shared-work
10 plan.

11 (ii) An employee whose hours of work per week
12 determined under paragraph (5) is 40 or more hours.

13 (3) There are no fewer than two participating employees,
14 determined without regard to corporate officers.

15 (4) The participating employees are identified by name
16 and Social Security number.

17 (5) The number of hours a participating employee will
18 work each week during the effective period of the shared-work
19 plan is determined by the following formula:

20 employee's normal weekly hours of
21 work x (100% - reduction percentage)

22 (6) As a result of a decrease in the number of hours
23 worked by each participating employee, there is a
24 corresponding reduction in wages.

25 (7) If any participating employee is covered by a
26 collective bargaining agreement, the shared-work plan is
27 approved in writing by the collective bargaining
28 representative.

29 (8) The shared-work plan does not affect the fringe
30 benefits of any participating employee not covered by a

1 collective bargaining agreement.

2 (9) The effective period of the shared-work plan is not
3 more than 52 consecutive weeks.

4 (10) The effective period of the shared-work plan
5 combined with effective periods of the participating
6 employer's prior shared-work plans does not equal more than
7 104 weeks out of a 156-week period.

8 (11) The reduction percentage satisfies the requirements
9 of subsection (b).

10 (b) Reduction percentage.--The reduction percentage under an
11 approved shared-work plan shall meet all of the following
12 requirements:

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

15 (2) The reduction percentage shall be the same for all
16 participating employees.

17 (3) The reduction percentage shall not change during the
18 period of the shared-work plan unless the plan is modified in
19 accordance with section 1308.

20 Section 1304. Approval or disapproval of shared-work plan.

21 The department shall approve or disapprove a shared-work plan
22 no later than 15 days after the date the employer's shared-work
23 plan application that meets the requirements of section 1302(b)
24 is received by the department. The department's decision shall
25 be made in writing and, if the shared-work plan is disapproved,
26 shall include the reasons for the disapproval.

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

28 (a) Number of weeks.--A shared-work plan is effective for
29 the number of consecutive weeks indicated in the employer's
30 application, or a lesser number of weeks as approved by the

1 department, unless sooner terminated in accordance with section
2 1309.

3 (b) Start date.--The effective period of the shared-work
4 plan shall begin with the first calendar week following the date
5 on which the department approves the plan.

6 Section 1306. Criteria for compensation.

7 (a) General rule.--Compensation shall be payable to a
8 participating employee for a week within the effective period of
9 an approved shared-work plan during which the employee works the
10 number of hours determined under section 1303(a)(5) for the
11 participating employer on the same terms, in the same amount and
12 subject to the same conditions that would apply to the
13 participating employee without regard to this article, except as
14 follows:

15 (1) A participating employee shall not be required to be
16 unemployed within the meaning of section 4(u) or file claims
17 for compensation under section 401(c).

18 (2) Notwithstanding section 404(d)(1), a participating
19 employee shall be paid compensation in an amount equal to the
20 product of his weekly benefit rate and the reduction
21 percentage, rounded to the next lower whole dollar amount.

22 (3) The department shall not deny compensation to a
23 participating employee for any week during the effective
24 period of the shared-work plan by reason of the application
25 of any provision of this act relating to active search for
26 work or refusal to apply for or accept work other than work
27 offered by the participating employer.

28 (4) A participating employee satisfies the requirements
29 of section 401(d)(1) if the employee is able to work and is
30 available for the employee's normal weekly hours of work with

1 the participating employer.

2 (b) Equivalent remuneration.--For purposes of subsection
3 (a), if a participating employee works fewer hours than the
4 number of hours determined under section 1303(a) (5) for the
5 participating employer during a week within the effective period
6 of the approved shared-work plan, but receives remuneration
7 equal to remuneration the employee would have received if the
8 employee had worked the number of hours determined under section
9 1303(a) (5), the employee will be deemed to have worked the
10 number of hours determined under section 1303(a) (5) during that
11 week.

12 (c) Inapplicability of article.--A participating employee's
13 eligibility for compensation for a week within the effective
14 period of an approved shared-work plan shall be determined
15 without regard to this article under any of the following
16 circumstances:

17 (1) The employee works fewer hours than the number of
18 hours determined under section 1303(a) (5) for the
19 participating employer during the week and subsection (b)
20 does not apply.

21 (2) The employee works more hours than the number of
22 hours determined under section 1303(a) (5) for the
23 participating employer during the week.

24 (3) The employee receives remuneration for the week from
25 the participating employer for hours in excess of the number
26 of hours determined under section 1303(a) (5).

27 Section 1307. Participating employer responsibilities.

28 (a) Filing claims.--The department shall establish a
29 schedule of consecutive two-week periods within the effective
30 period of the shared-work plan. The department may, as

1 necessary, include one-week periods in the schedule and revise
2 the schedule. At the end of each scheduled period, the
3 participating employer shall file claims for compensation for
4 the week or weeks within the period on behalf of the
5 participating employees. The claims shall be filed no later than
6 the last day of the week immediately following the period,
7 unless an extension of time is granted by the department for
8 good cause. The claims shall be filed in the manner prescribed
9 by the department and shall contain all information required by
10 the department to determine the eligibility of the participating
11 employees for compensation.

12 (b) Benefit charges.--Notwithstanding any other provision of
13 this act, compensation paid to participating employees for weeks
14 within the effective period of an approved shared-work plan will
15 be charged to the participating employer.

16 Section 1308. Modification of an approved shared-work plan.

17 An employer may apply to the department for approval to
18 modify an approved shared-work plan to meet changed conditions.
19 The department shall reevaluate the plan and may approve the
20 modified plan if it meets the requirements for approval under
21 section 1303. If the modifications cause the shared-work plan to
22 fail to meet the requirements for approval, the department shall
23 disapprove the proposed modifications.

24 Section 1309. Termination of an approved shared-work plan.

25 (a) General rule.--The secretary may terminate an approved
26 shared-work plan for good cause.

27 (b) Good cause.--For purposes of subsection (a), good cause
28 includes any of the following:

29 (1) The approved shared-work plan is not being executed
30 according to its approved terms and conditions.

1 (2) The participating employer fails to comply with the
2 assurances given in the approved shared-work plan.

3 (3) The participating employer or a participating
4 employee violates any criteria on which approval of the
5 shared-work plan was based.

6 (c) Termination by employer.--The employer may terminate an
7 approved shared-work plan by written notice to the department.
8 Section 1310. Department discretion.

9 The decision to approve or disapprove a shared-work plan, to
10 approve or disapprove a modification of an approved shared-work
11 plan or to terminate an approved shared-work plan will be made
12 within the department's discretion. Such decisions are not
13 subject to the appeal provisions of Article V.

14 Section 1311. Publication of notice.

15 The department shall transmit to the Legislative Reference
16 Bureau for publication in the Pennsylvania Bulletin notice that
17 the provisions of this article have been approved by the United
18 States Department of Labor as required under section 3304(a) (4)
19 (E) of the Federal Unemployment Tax Act (Public Law 86-778, 26
20 U.S.C. § 3304(a) (4) (E)) and section 303(a) (5) of the Social
21 Security Act (49 Stat. 620, 42 U.S.C. § 503(a) (5)).

22 Section 1312. Severability.

23 Notwithstanding any other section of this act, if any
24 provision or provisions of this article cause the United States
25 Department of Labor to withhold approval of this article as
26 required under section 3304(a) (4) (E) of the Federal Unemployment
27 Tax Act (Public Law 86-778, 26 U.S.C. § 3304(a) (4) (E)) and
28 section 303(a) (5) of the Social Security Act (49 Stat. 620, 42
29 U.S.C. § 503(a) (5)), the department is authorized to permanently
30 suspend the provision or provisions.

1 Section 1313. Expiration.

2 This article shall expire five years from its effective date.

3 Section 9. This act shall apply as follows:

4 (1) The amendment or addition of sections 213, 302 and
5 302.1, other than section 302.1(c) OF THE ACT, shall apply to ←
6 charges for compensation corresponding to benefit years that
7 begin on and after the effective date of sections 213, 302
8 and 302.1 of the act.

9 (2) The addition of section 302.1(c) (1) and (2) of the
10 act shall apply to notices of determination regarding
11 eligibility for benefits that are issued on or after the date
12 of implementation of the Department of Labor and Industry's
13 system to provide relief from charges without an employer
14 request, as announced by the Secretary of Labor and Industry
15 in a notice published in the Pennsylvania Bulletin. The
16 addition of section 302.1(c) (3) shall apply to relief from
17 charges that is granted on or after such implementation date.

18 (3) The amendment of section 401(b) OF THE ACT shall ←
19 apply to benefit years that begin on after January 1, 2012.

20 (4) The amendment of section 404, other than the
21 amendment of section ~~404(d)(1)~~ 404(C) AND (D) (1) and the ←
22 addition of section 404(d) (1.1) OF THE ACT, shall apply to ←
23 the determination of the maximum weekly benefit rate for
24 benefit years that begin on or after January 1, 2013.

25 (5) The amendment or addition of section 404(d) (1) and
26 (1.1) OF THE ACT shall apply to benefit years that begin on ←
27 or after the effective date of section 404(d) (1) and (1.1).

28 (6) THE AMENDMENT OR ADDITION OF SECTION 404(D) (1) AND ←
29 (1.1) OF THE ACT SHALL NOT APPLY TO SEVERANCE PAY AGREEMENTS
30 THAT WERE AGREED TO BY AN EMPLOYER AND EMPLOYEE PRIOR TO THE

1 EFFECTIVE DATE OF THIS SECTION.

2 (7) THE AMENDMENT OF SECTION 4(G.1) AND 404(A) OF THE
3 ACT SHALL APPLY TO BENEFIT YEARS THAT BEGIN ON OR AFTER JULY
4 1, 2012.

5 (8) THE AMENDMENT OF SECTION 404 (C) OF THE ACT SHALL
6 APPLY TO BENEFIT YEARS THAT BEGIN ON OR AFTER JANUARY 1,
7 2013.

8 (9) THE AMENDMENT OF SECTION 402(B) AND (E) OF THE ACT
9 ARE APPLICABLE TO INITIAL CLAIMS FILED ON OR AFTER JANUARY 1,
10 2012.

11 Section 10. The amendment of section 401-A(b) and (c) OF THE ←
12 ACT shall apply retroactively to December 18, 2010.

13 Section 11. This act shall take effect as follows:

14 (1) The amendment of section 401(b) OF THE ACT shall ←
15 take effect January 1, 2012.

16 (1.1) THE AMENDMENT OF SECTIONS 4(G.1) AND 404(A) OF THE ←
17 ACT SHALL TAKE EFFECT JULY 1, 2012.

18 (2) The amendment of section 404 introductory paragraph
19 and ~~subsection~~ SUBSECTIONS (C) AND (e)(2) OF THE ACT shall ←
20 take effect January 1, 2013.

21 (3) This section shall take effect immediately.

22 (4) The addition of Article XIII of the act shall take
23 effect upon publication in the Pennsylvania Bulletin of the
24 notice required under section 1311 of the act or July 1,
25 2011, whichever occurs later.

26 (5) The remainder of this act shall take effect in 60
27 days.