
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 178 Session of
2021

INTRODUCED BY JAMES, CAUSER, CIRESI, HILL-EVANS, JOZWIAK,
KAUFFMAN, MIZGORSKI, NEILSON, OWLETT, PISCIOTTANO, ROTHMAN,
RYAN, SANCHEZ, THOMAS, WEBSTER, WHEELAND, D. WILLIAMS,
ZIMMERMAN AND GILLEN, JANUARY 15, 2021

SENATOR BARTOLOTTA, LABOR AND INDUSTRY, IN SENATE, AS AMENDED,
APRIL 27, 2021

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937
2 P.L.2897, No.1), entitled "An act establishing a system of
3 unemployment compensation to be administered by the
4 Department of Labor and Industry and its existing and newly
5 created agencies with personnel (with certain exceptions)
6 selected on a civil service basis; requiring employers to
7 keep records and make reports, and certain employers to pay
8 contributions based on payrolls to provide moneys for the
9 payment of compensation to certain unemployed persons;
10 providing procedure and administrative details for the
11 determination, payment and collection of such contributions
12 and the payment of such compensation; providing for
13 cooperation with the Federal Government and its agencies;
14 creating certain special funds in the custody of the State
15 Treasurer; and prescribing penalties," ~~in determination of~~ <--
16 ~~compensation, appeals, reviews and procedure, further~~
17 ~~providing for determination of compensation appeals and for~~
18 ~~decision of referee and further appeals and reviews.~~ IN <--
19 ADMINISTRATION OF ACT, FURTHER PROVIDING FOR RECORDS OF AND
20 REPORTS BY EMPLOYERS; IN COMPENSATION, FURTHER PROVIDING FOR
21 QUALIFICATIONS REQUIRED TO SECURE COMPENSATION AND FOR RATE
22 AND AMOUNT OF COMPENSATION; IN DETERMINATION OF COMPENSATION,
23 APPEALS, REVIEWS AND PROCEDURE, FURTHER PROVIDING FOR
24 DETERMINATION OF COMPENSATION APPEALS AND FOR DECISION OF
25 REFEREE AND FURTHER APPEALS AND REVIEWS; AND, IN SHARED-WORK
26 PROGRAM, FURTHER PROVIDING FOR PARTICIPATING EMPLOYER
27 RESPONSIBILITIES.

28 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. Sections 501(e) and 502 of the act of December 5, <--~~
3 ~~1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the~~
4 ~~Unemployment Compensation Law, are amended to read:~~

5 ~~Section 501. Determination of Compensation Appeals. * * *~~

6 ~~(e) Unless the claimant or last employer or base year~~
7 ~~employer of the claimant files an appeal with the board, from~~
8 ~~the determination contained in any notice required to be~~
9 ~~furnished by the department under section five hundred and one~~
10 ~~(a), (c) and (d), within [fifteen] twenty one calendar days~~
11 ~~after such notice was delivered to him personally, or was mailed~~
12 ~~to his last known post office address, and applies for a~~
13 ~~hearing, such determination of the department, with respect to~~
14 ~~the particular facts set forth in such notice, shall be final~~
15 ~~and compensation shall be paid or denied in accordance~~
16 ~~therewith.~~

17 ~~Section 502. Decision of Referee; Further Appeals and~~
18 ~~Reviews. Where an appeal from the determination or revised~~
19 ~~determination, as the case may be, of the department is taken, a~~
20 ~~referee shall, after affording the parties and the department~~
21 ~~reasonable opportunity for a fair hearing, affirm, modify, or~~
22 ~~reverse such findings of fact and the determination or revised~~
23 ~~determination, as the case may be, of the department as to him~~
24 ~~shall appear just and proper. The parties and their attorneys or~~
25 ~~other representatives of record and the department shall be duly~~
26 ~~notified of the time and place of a referee's hearing and of the~~
27 ~~referee's decision, and the reasons therefor, which shall be~~
28 ~~deemed the final decision of the board, unless an appeal is~~
29 ~~filed therefrom, within [fifteen] twenty one days after the date~~
30 ~~of such decision the board acts on its own motion, to review the~~

~~1 decision of the referee. The testimony at any hearing before a
2 referee shall be taken by a recording device and be preserved
3 for a period of ninety days following expiration of the period
4 for filing an appeal from the final decision rendered in the
5 case. An unabridged transcript and audio recording of the
6 testimony shall be made available, at cost if not used for
7 unemployment compensation purposes or a subsequent appeal, to
8 the parties and their attorneys or other representatives upon
9 written request to the referee.~~

~~10 Section 2. The amendment of sections 501(e) and 502 of the
11 act shall apply to determinations issued under section 501(e)
12 and decisions issued under section 502 on or after the
13 publication of the notice under section 3 of this act.~~

14 SECTION 1. SECTIONS 206(A) AND 401(A) (2) OF THE ACT OF <--
15 DECEMBER 5, 1936 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS
16 THE UNEMPLOYMENT COMPENSATION LAW, ARE AMENDED TO READ:

17 SECTION 206. RECORDS OF AND REPORTS BY EMPLOYERS.-- (A) EACH
18 EMPLOYER (WHETHER OR NOT LIABLE FOR THE PAYMENT OF CONTRIBUTIONS
19 UNDER THIS ACT) SHALL KEEP ACCURATE EMPLOYMENT RECORDS
20 CONTAINING SUCH INFORMATION, AS MAY BE PRESCRIBED BY THE RULES
21 AND REGULATIONS ADOPTED BY THE DEPARTMENT. SUCH RECORDS SHALL BE
22 OPEN TO INSPECTION BY THE DEPARTMENT AND ITS AGENTS AT ANY
23 REASONABLE TIME, AND AS OFTEN AS MAY BE DEEMED NECESSARY, BUT
24 EMPLOYERS NEED NOT RETAIN SUCH RECORDS MORE THAN [FOUR (4)] SIX
25 (6) YEARS AFTER CONTRIBUTIONS RELATING TO SUCH RECORDS HAVE BEEN
26 PAID. THE DEPARTMENT MAY REQUIRE FROM SUCH EMPLOYERS SUCH
27 REPORTS AS IT DEEMS NECESSARY, WHICH SHALL BE SWORN TO, IF
28 REQUIRED BY THE DEPARTMENT.

29 * * *

30 SECTION 401. QUALIFICATIONS REQUIRED TO SECURE

1 COMPENSATION.--COMPENSATION SHALL BE PAYABLE TO ANY EMPLOYEE WHO
2 IS OR BECOMES UNEMPLOYED, AND WHO--

3 (A) SATISFIES BOTH OF THE FOLLOWING REQUIREMENTS:

4 * * *

5 (2) EXCEPT AS PROVIDED IN SECTION 404(A)(3) AND [(E)(1) AND
6 (2)] (E)(2)(V), NOT LESS THAN THIRTY-SEVEN PER CENTUM (37%) OF
7 THE EMPLOYEE'S TOTAL BASE YEAR WAGES HAVE BEEN PAID IN ONE OR
8 MORE QUARTERS, OTHER THAN THE HIGHEST QUARTER IN SUCH EMPLOYEE'S
9 BASE YEAR.

10 * * *

11 SECTION 2. SECTION 404(E)(2)(I)(B)(I) AND (IV)(A) AND (C) OF
12 THE ACT ARE AMENDED AND SUBSECTION (E)(2)(I)(B)(IV) IS AMENDED
13 BY ADDING A UNIT TO READ:

14 SECTION 404. RATE AND AMOUNT OF COMPENSATION.--COMPENSATION
15 SHALL BE PAID TO EACH ELIGIBLE EMPLOYEE IN ACCORDANCE WITH THE
16 FOLLOWING PROVISIONS OF THIS SECTION EXCEPT THAT COMPENSATION
17 PAYABLE WITH RESPECT TO WEEKS ENDING IN BENEFIT YEARS WHICH
18 BEGIN PRIOR TO THE FIRST DAY OF JANUARY 1989 SHALL BE PAID ON
19 THE BASIS OF THE PROVISIONS OF THIS SECTION IN EFFECT AT THE
20 BEGINNING OF SUCH BENEFIT YEARS.

21 * * *

22 (E) * * *

23 (2) (I) THE TABLE SPECIFIED FOR THE DETERMINATION OF RATE
24 AND AMOUNT OF BENEFITS SHALL BE EXTENDED OR CONTRACTED ANNUALLY,
25 AUTOMATICALLY BY REGULATIONS PROMULGATED BY THE SECRETARY. THE
26 TABLE SHALL BE EXTENDED OR CONTRACTED IN ACCORDANCE WITH THE
27 FOLLOWING:

28 * * *

29 (B) WHEN IT IS NECESSARY TO EXTEND THE TABLE, IT SHALL BE
30 DONE IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:

1 (I) THE WORDS "OR MORE" SHALL BE DELETED FROM THE LAST LINE
2 UNDER PART A, AND AN AMOUNT TWENTY-FOUR DOLLARS (\$24) GREATER
3 THAN THE FIRST ENTRY IN THAT LINE SHALL BE SUBSTITUTED THEREFOR.
4 THE WORDS "AMOUNT REQUIRED UNDER SECTION 401(A)(2)" SHALL BE
5 DELETED FROM THE LAST LINE UNDER PART C.

6 * * *

7 (IV) PART C SHALL BE EXTENDED TO THE POINT WHERE, UNDER PART
8 B, THE AMOUNT IS EQUAL TO SIXTY-SIX AND TWO-THIRDS PER CENTUM
9 (66 2/3%) OF THE AVERAGE WEEKLY WAGE.

10 (A) THE AMOUNT ON EACH LINE IN PART C, OTHER THAN THE LAST
11 LINE, SHALL BE DERIVED FROM THE FIRST ENTRY ON THE SAME LINE IN
12 PART A, IN ACCORDANCE WITH THE FOLLOWING FORMULA:

13 (FIRST ENTRY IN PART A PLUS TWENTY-FOUR DOLLARS (\$24)) X 100
14 DIVIDED BY SIXTY-THREE (63)

15 IF THE AMOUNT DETERMINED BY THIS FORMULA IS NOT AN EVEN
16 MULTIPLE OF ONE DOLLAR (\$1), IT SHALL BE ROUNDED TO THE NEXT
17 HIGHER MULTIPLE OF ONE DOLLAR (\$1).

18 (B.1) THE LAST LINE IN PART C SHALL CONTAIN THE WORDS
19 "AMOUNT REQUIRED UNDER SECTION 401(A)(2)."

20 (C) WHEN IT IS NECESSARY TO CONTRACT THE TABLE, IT SHALL BE
21 DONE BY DELETING ALL LINES FOLLOWING THAT IN WHICH THE AMOUNT IN
22 PART B IS SIXTY-SIX AND TWO-THIRDS PER CENTUM (66 2/3%) OF THE
23 AVERAGE WEEKLY WAGE AND SUBSTITUTING THE WORDS "OR MORE" FOR THE
24 HIGHER AMOUNT UNDER PART A ON THAT LINE AND SUBSTITUTING THE
25 WORDS "AMOUNT REQUIRED UNDER SECTION 401(A)(2)" FOR THE AMOUNT
26 UNDER PART C ON THAT LINE.

27 * * *

28 SECTION 3. SECTION 501(C)(4) AND (5) AND (E) OF THE ACT ARE
29 AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
30 READ:

1 SECTION 501. DETERMINATION OF COMPENSATION APPEALS.--* * *

2 (C) * * *

3 (4) IF AN EMPLOYER FILES WITH THE DEPARTMENT SUCH
4 INFORMATION [WITHIN FIFTEEN] NO LATER THAN TWENTY-ONE DAYS AFTER
5 THE "DETERMINATION DATE" PROVIDED ON THE NOTICE REQUIRED UNDER
6 SECTION FIVE HUNDRED ONE (A) OR THE "NOTICE DATE" PROVIDED ON
7 THE NOTICE REQUIRED UNDER SECTION FIVE HUNDRED ONE (B) [WAS
8 DELIVERED TO HIM PERSONALLY, OR WAS MAILED TO HIS LAST KNOWN
9 POST OFFICE ADDRESS], THE DEPARTMENT SHALL ISSUE TO SUCH
10 EMPLOYER (I) A NOTICE IN WRITING OF ITS DETERMINATION WITH
11 RESPECT TO EACH CLAIM WHICH IS FILED BY THE CLAIMANT FOR A WEEK,
12 THE FIRST DAY OF WHICH IS ON OR BEFORE THE DATE ON WHICH SUCH
13 INFORMATION IS FILED, AND (II) A NOTICE IN WRITING OF ITS
14 DETERMINATION WITH RESPECT TO THE FIRST VALID CLAIM WHICH IS
15 FILED BY THE CLAIMANT DURING THE CLAIMANT'S BENEFIT YEAR FOR A
16 WEEK, THE LAST DAY OF WHICH IS SUBSEQUENT TO THE DATE ON WHICH
17 SUCH INFORMATION IS FILED.

18 (5) IF AN EMPLOYER FILES WITH THE DEPARTMENT SUCH
19 INFORMATION MORE THAN [FIFTEEN] TWENTY-ONE DAYS AFTER THE
20 "DETERMINATION DATE" PROVIDED ON THE NOTICE REQUIRED UNDER
21 SECTION FIVE HUNDRED ONE (A) OR THE "NOTICE DATE" PROVIDED ON
22 THE NOTICE REQUIRED UNDER SECTION FIVE HUNDRED ONE (B) [WAS
23 DELIVERED TO HIM PERSONALLY, OR WAS MAILED TO HIS LAST KNOWN
24 POST OFFICE ADDRESS], THE DEPARTMENT SHALL ONLY ISSUE TO SUCH
25 EMPLOYER (I) A NOTICE IN WRITING OF ITS DETERMINATION WITH
26 RESPECT TO EACH CLAIM WHICH IS FILED BY THE CLAIMANT FOR A WEEK,
27 THE FIRST DAY OF WHICH IS WITHIN THE THIRTY-DAY PERIOD WHICH
28 IMMEDIATELY PRECEDES THE DATE ON WHICH SUCH INFORMATION IS
29 FILED, AND (II) A NOTICE IN WRITING OF ITS DETERMINATION WITH
30 RESPECT TO THE FIRST VALID CLAIM WHICH IS FILED BY THE CLAIMANT

1 DURING THE CLAIMANT'S BENEFIT YEAR FOR A WEEK, THE LAST DAY OF
2 WHICH IS SUBSEQUENT TO THE DATE ON WHICH SUCH INFORMATION IS
3 FILED.

4 * * *

5 (E) UNLESS THE CLAIMANT OR LAST EMPLOYER OR BASE-YEAR
6 EMPLOYER OF THE CLAIMANT FILES AN APPEAL WITH THE BOARD, FROM
7 THE DETERMINATION CONTAINED IN ANY NOTICE REQUIRED TO BE
8 FURNISHED BY THE DEPARTMENT UNDER SECTION FIVE HUNDRED AND ONE
9 (A), (C) AND (D), [WITHIN FIFTEEN] NO LATER THAN TWENTY-ONE
10 CALENDAR DAYS AFTER THE "DETERMINATION DATE" PROVIDED ON SUCH
11 NOTICE [WAS DELIVERED TO HIM PERSONALLY, OR WAS MAILED TO HIS
12 LAST KNOWN POST OFFICE ADDRESS], AND APPLIES FOR A HEARING, SUCH
13 DETERMINATION OF THE DEPARTMENT, WITH RESPECT TO THE PARTICULAR
14 FACTS SET FORTH IN SUCH NOTICE, SHALL BE FINAL AND COMPENSATION
15 SHALL BE PAID OR DENIED IN ACCORDANCE THEREWITH.

16 (F) A NOTICE OR A DETERMINATION TO A CLAIMANT OR EMPLOYER
17 UNDER THIS SECTION SHALL BE MAILED TO THE CLAIMANT'S OR
18 EMPLOYER'S LAST KNOWN POST OFFICE ADDRESS OR TRANSMITTED
19 ELECTRONICALLY, AS DESIGNATED BY THE RECIPIENT.

20 SECTION 4. SECTIONS 502 AND 1307(A) OF THE ACT ARE AMENDED
21 TO READ:

22 SECTION 502. DECISION OF REFEREE; FURTHER APPEALS AND
23 REVIEWS.--(A) WHERE AN APPEAL FROM THE DETERMINATION OR REVISED
24 DETERMINATION, AS THE CASE MAY BE, OF THE DEPARTMENT IS TAKEN, A
25 REFEREE SHALL, AFTER AFFORDING THE PARTIES AND THE DEPARTMENT
26 REASONABLE OPPORTUNITY FOR A FAIR HEARING, AFFIRM, MODIFY, OR
27 REVERSE SUCH FINDINGS OF FACT AND THE DETERMINATION OR REVISED
28 DETERMINATION, AS THE CASE MAY BE, OF THE DEPARTMENT AS TO HIM
29 SHALL APPEAR JUST AND PROPER. THE PARTIES AND THEIR ATTORNEYS OR
30 OTHER REPRESENTATIVES OF RECORD AND THE DEPARTMENT SHALL BE DULY

1 NOTIFIED OF THE TIME AND PLACE OF A REFEREE'S HEARING AND OF THE
2 REFEREE'S DECISION, AND THE REASONS THEREFOR, WHICH SHALL BE
3 DEEMED THE FINAL DECISION OF THE BOARD, UNLESS AN APPEAL IS
4 FILED THEREFROM, [WITHIN FIFTEEN] NO LATER THAN TWENTY-ONE DAYS
5 AFTER THE [DATE OF] "DECISION DATE" PROVIDED ON SUCH DECISION OR
6 THE BOARD ACTS ON ITS OWN MOTION, TO REVIEW THE DECISION OF THE
7 REFEREE. THE TESTIMONY AT ANY HEARING BEFORE A REFEREE SHALL BE
8 TAKEN BY A RECORDING DEVICE AND BE PRESERVED FOR A PERIOD OF
9 NINETY DAYS FOLLOWING EXPIRATION OF THE PERIOD FOR FILING AN
10 APPEAL FROM THE FINAL DECISION RENDERED IN THE CASE. AN
11 UNABRIDGED TRANSCRIPT AND AUDIO RECORDING OF THE TESTIMONY SHALL
12 BE MADE AVAILABLE, AT COST IF NOT USED FOR UNEMPLOYMENT
13 COMPENSATION PURPOSES OR A SUBSEQUENT APPEAL, TO THE PARTIES AND
14 THEIR ATTORNEYS OR OTHER REPRESENTATIVES UPON WRITTEN REQUEST TO
15 THE REFEREE.

16 (B) A DECISION UNDER SUBSECTION (A) SHALL BE MAILED TO EACH
17 RELEVANT PARTY'S LAST KNOWN POST OFFICE ADDRESS OR TRANSMITTED
18 ELECTRONICALLY, AS DESIGNATED BY THE PARTY.

19 SECTION 1307. PARTICIPATING EMPLOYER RESPONSIBILITIES.

20 (A) FILING CLAIMS.--THE DEPARTMENT SHALL ESTABLISH A
21 SCHEDULE [OF CONSECUTIVE TWO-WEEK PERIODS] CONSISTENT WITH THE
22 RULES AND REGULATIONS OF THE DEPARTMENT WITHIN THE EFFECTIVE
23 PERIOD OF THE SHARED-WORK PLAN. [THE DEPARTMENT MAY, AS
24 NECESSARY, INCLUDE ONE-WEEK PERIODS IN THE SCHEDULE AND REVISE
25 THE SCHEDULE.] AT THE END OF EACH SCHEDULED PERIOD, THE
26 PARTICIPATING EMPLOYER SHALL FILE CLAIMS FOR COMPENSATION FOR
27 THE WEEK OR WEEKS WITHIN THE PERIOD ON BEHALF OF THE
28 PARTICIPATING EMPLOYEES. THE CLAIMS SHALL BE FILED NO LATER THAN
29 THE LAST DAY OF THE WEEK IMMEDIATELY FOLLOWING THE PERIOD,
30 UNLESS AN EXTENSION OF TIME IS GRANTED BY THE DEPARTMENT FOR

1 GOOD CAUSE. THE CLAIMS SHALL BE FILED IN THE MANNER PRESCRIBED
2 BY THE DEPARTMENT AND SHALL CONTAIN ALL INFORMATION REQUIRED BY
3 THE DEPARTMENT TO DETERMINE THE ELIGIBILITY OF THE PARTICIPATING
4 EMPLOYEES FOR COMPENSATION.

5 * * *

6 SECTION 5. THIS ACT SHALL APPLY AS FOLLOWS:

7 (1) THE AMENDMENT OF SECTION 206 OF THE ACT SHALL APPLY
8 TO EMPLOYER RECORDS GENERATED ON OR AFTER THE PUBLICATION OF
9 NOTICE UNDER SECTION 6 OF THIS ACT.

10 (2) THE AMENDMENTS OF SECTIONS 401, 404, 501 AND 1307 OF
11 THE ACT SHALL APPLY TO DETERMINATIONS ISSUED UNDER SECTIONS
12 401, 404, 501 AND 1307 ISSUED ON OR AFTER THE PUBLICATION OF
13 NOTICE UNDER SECTION 6 OF THIS ACT.

14 (3) THE AMENDMENT OF SECTION 502 OF THE ACT SHALL APPLY
15 TO DECISIONS ISSUED UNDER SECTION 502 ON OR AFTER THE
16 PUBLICATION OF NOTICE UNDER SECTION 6 OF THIS ACT.

17 Section ~~3~~ 6. The Secretary of Labor and Industry shall <--
18 transmit notice to the Legislative Reference Bureau for
19 publication in the Pennsylvania Bulletin upon completion of
20 modifications to the delivery system for unemployment
21 compensation benefits implementing the amendment of sections
22 ~~501(e) and 502~~ 206(A), 401(A) (2), 404(E) (2) (I) (B) (I) AND (IV) (A) <--
23 AND (C), 501(C) (4) AND (5) AND (E), 502 AND 1307(A) of the act.

24 Section ~~4~~ 7. This act shall take effect as follows: <--

25 (1) ~~The following shall take effect immediately:~~ <--

26 ~~(i) This section.~~

27 ~~(ii) Sections 2 and 3 of this act.~~ THIS SECTION <--

28 SHALL TAKE EFFECT IMMEDIATELY.

29 (2) The remainder of this act shall take effect upon
30 publication of the notice under section ~~3~~ 6 of this act. <--