

No. 2013-34

AN ACT

HB 26

Amending the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), entitled "An act establishing a system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons; providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and prescribing penalties," further providing for contributions by employees; establishing the Service and Infrastructure Improvement Fund; and further providing for the Unemployment Compensation Fund.

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

Section 1. Section 301.4 of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, amended June 12, 2012 (P.L.577, No.60), is amended to read:

Section 301.4. Contributions by Employes.—(a) Notwithstanding any other provision of this act, each employe shall pay contributions at a rate of zero per centum (0.0%) for calendar year 1989 and at a rate as set forth in section 301.7 for each calendar year thereafter of all wages paid for "employment" as defined by the act without regard to the limitation specified in section 4(x)(1) of this act.

(b) Each employer subject to this act shall be responsible for withholding and shall withhold, in trust, such contributions from the wages of his employes at the time such wages are paid[,] and shall report and transmit such deductions to the department for deposit into the Unemployment Compensation Fund [and], the Reemployment Fund *and the Service and Infrastructure Improvement Fund* pursuant to the allocation prescribed in subsection (e), in accordance with rules and procedures established by the department.

(c) Any employer who is an individual, or any officer or agent of any employer, who violates the trust provision of this section, fails to withhold, hold in trust or fails to transmit to the department all contributions withheld from the wages of his employes in accordance with the rules and procedure established by the department shall be subject to the provisions of clause (2) of subsection (a) of section 301 and sections 308, 308.1, 308.2, 308.3 and 309 of this act.

(d) This section shall not be deemed to affect or impair the operation of any State statute or ordinance or resolution of a political subdivision which levies or collects any wage tax or similar tax. Contributions made pursuant

to this section are not intended to reduce or otherwise affect any tax on wages or similar tax.

(e) Contributions paid under this section shall be allocated by the department **[between] among** the Unemployment Compensation Fund **[and]**, the Reemployment Fund *and the Service and Infrastructure Improvement Fund* as follows:

(1) **[Ninety-five per centum (95%)] *Five per centum (5%)*** of the contributions on wages paid from January 1, 2013, through September 30, 2017, shall be deposited into the **[Unemployment Compensation Fund and five per centum (5%) of such contributions shall be deposited into the]** Reemployment Fund to the extent the contributions are paid on or before December 31, 2017.

(2) **[One hundred per centum (100%) of the contributions on wages paid from January 1, 2013, through September 30, 2017, shall be deposited into the Unemployment Compensation Fund to the extent the contributions are paid on or after January 1, 2018.]** *During each calendar year from 2013 through 2016, an amount determined by the secretary with the approval of the Governor shall be deposited into the Service and Infrastructure Improvement Fund. For calendar year 2013, the amount determined under this clause may not exceed forty million dollars (\$40,000,000). For calendar year 2014, the amount determined under this clause may not exceed thirty million dollars (\$30,000,000). For calendar years 2015 and 2016, the amount determined under this clause for each calendar year may not exceed one hundred ninety million dollars (\$190,000,000) adjusted by the increase in the Bureau of Labor Statistics Consumer Price Index for the period from May 2013 through January of the calendar year less the amount of Federal administrative funding for the preceding Federal fiscal year.*

(3) **[One hundred per centum (100%) of the contributions on wages paid on or after October 1, 2017, shall be deposited into the Unemployment Compensation Fund.]** *The remaining contributions shall be deposited into the Unemployment Compensation Fund.*

(4) *The department may deposit contributions in accordance with clause (2) before depositing contributions in accordance with clauses (1) and (3).*

Section 2. The act is amended by adding a section to read:

Section 301.9. Service and Infrastructure Improvement Fund.—(a) There is established a restricted account in the State Treasury to be known as the Service and Infrastructure Improvement Fund.

(b) Moneys in the Service and Infrastructure Improvement Fund shall consist of contributions deposited into the fund pursuant to section 301.4(e)(2).

(c) Moneys in the Service and Infrastructure Improvement Fund are appropriated on a continuing basis, upon approval of the Governor, to the department to be prioritized for the following purposes:

(1) To improve the quality, efficiency and timeliness of services provided by the service center system to individuals claiming compensation under this act, including claim filing, claim administration, adjudication services and staffing and training of system employees.

(2) Expenditures for information management technology, communications technology and other infrastructure components that the secretary determines are likely to result in significant and lasting improvements to the unemployment compensation system.

(3) To pay the costs of collecting the contributions deposited into the Service and Infrastructure Improvement Fund pursuant to section 301.4(e)(2).

(d) Consistent with the merit staffing requirement of section 303(a)(1) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 503(a)(1)), no moneys in the Service and Infrastructure Improvement Fund may be expended or obligated to a third party to perform unemployment compensation services of the department, except services relating to technology and infrastructure components deemed necessary by the secretary under subsection (c)(2).

(e) Any moneys in the Service and Infrastructure Improvement Fund that are not expended or obligated as of December 31, 2018, shall be transferred to the Unemployment Compensation Fund under section 601.

(f) Moneys in the Service and Infrastructure Improvement Fund shall not lapse at any time nor be transferred to any other fund except as provided in subsection (e).

(g) No later than June 30 of each calendar year from 2014 through 2019, the department shall provide a report to the Governor and the General Assembly, through the Secretary-Parliamentarian of the Senate and the Chief Clerk of the House of Representatives, regarding the Service and Infrastructure Improvement Fund, which report shall include an accounting for the contributions deposited into the fund, the expenditures and transfers from the fund during the prior year and a description of the purposes for which expenditures from the fund were made in the prior year.

Section 3. Section 601(a) of the act, amended June 12, 2012 (P.L.577, No.60), is amended to read:

Section 601. Unemployment Compensation Fund.—(a) There is hereby created a special fund separate and apart from all public moneys or funds of this Commonwealth to be known as the Unemployment Compensation Fund. All contributions paid by employers and employees, together with penalties and interest thereon, received or collected by the department from employers under the provisions of this act, except contributions which are to be paid into the Reemployment Fund *and the Service and Infrastructure Improvement Fund* as provided in section 301.4(e), such penalties and interest which are to be paid into the Special Administration Fund as provided in section 601.1 and taxes collected under section 301.6 of this act which are to be paid into the Debt Service Fund as provided in section 601.2, shall be paid into the Unemployment Compensation Fund, and shall be credited by the department to a ledger account to be known as the Employers' Contribution Account. Contributions which are to be paid into the Reemployment Fund *and the Service and Infrastructure Improvement Fund* as provided in section 301.4(e), interest and penalties which are to be credited to the Special Administration Fund and taxes collected under section 301.6 may be temporarily held in the Employers' Contribution Account solely for clearance purposes prior to transfer to the Reemployment

Fund, *the Service and Infrastructure Improvement Fund*, the Special Administration Fund or the Debt Service Fund and while so held in the Employers' Contribution Account shall not be deemed a part of the Unemployment Compensation Fund. All moneys from time to time received and credited to the Employers' Contribution Account (exclusive of refunds made under section 311, contributions transferred to the Reemployment Fund *and the Service and Infrastructure Improvement Fund* pursuant to section 301.4(e) and interest and penalties transferred as herein provided to the Special Administration Fund and taxes transferred to the Debt Service Fund) shall be paid promptly by the department into the Unemployment Compensation Fund, except as otherwise provided in section 605 of this act. All moneys credited to this Commonwealth's account in the Unemployment Compensation Fund pursuant to section 903 of the Federal Social Security Act (42 U.S.C. § 1103) shall be included in the Unemployment Compensation Fund.

* * *

Section 4. This act shall take effect immediately.

APPROVED—The 2nd day of July, A.D. 2013

TOM CORBETT