

## No. 147

## AN ACT

## SB 1267

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," providing for a movable base year; eliminating the word "private" from certain pension plans; providing for a percentage of benefits to be charged against certain employers; reducing the amount of certain bonds and making editorial corrections.

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

Section 1. Subsection (b) of section 301.1, act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the "Unemployment Compensation Law," added December 17, 1959 (P.L.1893, No.693), is amended to read:

Section 301.1. Determination of Contribution Rate; Experience Rating.—

\* \* \*

(b) For the purpose of determining an employer's eligibility for an adjusted rate for the calendar year beginning January one, one thousand nine hundred sixty, and each calendar year thereafter, employers shall be grouped as follows:

Group 1 shall consist of those employers who have paid contributions under this act for one or more quarters in the twelve-month period ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the **[first] four [of the last five] completed** calendar quarters immediately preceding such twelve-month period.

Group 2 shall consist of employers who have paid contributions under this act for one or more quarters in each of the two twelve-month periods ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the **[first] four [of the last five] completed** calendar quarters immediately preceding such two twelve-month periods.

Group 3 shall consist of employers who have paid contributions under this act for one or more quarters in each of the three twelve-month periods ending on the computation date for the year for which the rate is applicable

and have also paid contributions under this act for one or more of the **[first]** four **[of the last five]** *completed* calendar quarters immediately preceding such three twelve-month periods.

In no event shall those employers who have sufficient employer experience to be classified in Group 3 be classified in either Group 1 or Group 2, nor shall those employers who have sufficient employer experience to be classified in Group 2 be classified in Group 1.

\* \* \*

Section 2. Subsection (b) of section 401 of the act, amended September 29, 1951 (P.L.1580, No.408), is amended to read:

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

\* \* \*

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

\* \* \*

Section 3. Subsection (d) of section 404 of the act, amended December 5, 1974 (P.L.771, No.262), is amended to read:

Section 404. Rate and Amount of Compensation.—Compensation shall be paid to each eligible employe in accordance with the following provisions of this section except that compensation payable with respect to weeks ending in benefit years which begin prior to the first day of October, one thousand nine hundred seventy-one shall be paid on the basis of the provisions of this section in effect at the beginning of such benefit years.

\* \* \*

(d) Notwithstanding any other provisions of this section each eligible employe who is unemployed with respect to any week ending subsequent to the first day of July, one thousand nine hundred seventy-four, shall be paid, with respect to such week, compensation in an amount equal to his weekly benefit rate less the total of (i) the remuneration, if any, paid or payable to him with respect to such week for services performed which is in excess of his partial benefit credit; (ii) vacation pay, if any, which is in excess of his partial benefit credit, except when paid to an employe who is permanently or indefinitely separated from his employment and (iii) that part of a retirement pension or annuity, if any, received by him under a **[private]** pension plan to which a base-year employer of such employe has contributed which is in excess of forty dollars (\$40) per week. Retirement pension or annuity payments received by the employe under the Federal

OASI program, the Federal Railroad Retirement program or under any **[private]** retirement plan to which the employe was the sole contributor, shall not be considered a deductible retirement pension or annuity payment for the purpose of this subsection. The provisions of this subsection shall be applicable whether or not such vacation pay, retirement pension or annuities, or wages are legally required to be paid. If such retirement pension or annuity payments deductible under the provisions of this subsection are received on other than a weekly basis, the amount thereof shall be allocated and pro-rated in accordance with the rules and regulations of the department. Vacation pay, or other remuneration deductible under the provisions of this subsection shall be pro-rated on the basis of the employe's normal full-time weekly wage and as so pro-rated shall be allocated to such period or periods of unemployment as shall be determined by rules and regulations of the department. Such compensation, if not a multiple of one dollar (\$1.00), shall be computed to the next higher multiple of one dollar (\$1.00).

\* \* \*

Section 4. Section 407-A of the act, added February 9, 1971 (P.L.1, No.1), is amended to read:

Section 407-A. Benefit Charges.—Notwithstanding any other provisions of this act, none of the benefits paid under the provisions of this article shall be charged to the reserve account of the claimant's base year employer *and fifty (50) per centum of the benefits paid under the provisions of this article shall be charged to the account of the claimant's base year employer who is liable for payments in lieu of contributions to the extent that such benefit is attributable to service in the employ of such nonprofit organization. Provided further, no employer's experience rating account shall be charged, and no employer shall be liable for payments in lieu of contributions, with respect to extended benefit payments which are wholly reimbursed to the State by the Federal Government.*

Section 5. Subsection (d) of section 1106 and subsection (c) of section 1202, added September 27, 1971 (P.L.460, No.108), are amended to read:

Section 1106. Reimbursement Payments.—Payments in lieu of contributions shall be made in accordance with the following provisions of this section.

\* \* \*

(d) Any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within thirty (30) days after the effective date of its election, to execute and file with the department a surety bond approved by the department or it may elect instead to deposit with the department money or securities of equal present monetary value.

The amount of the bond or deposit required by the department shall be set at one per centum of the organization's **[total] taxable** wages for the most recent four calendar quarters prior to such election. If an organization did not pay wages throughout the specific four calendar

quarters, the amount of the bond or deposit shall be set by the department. Refunds of deposits shall be made by the department according to appropriate rules and regulations developed by the department relative to termination of election for payments in lieu of contributions or as to delinquencies in payments due.

Section 1202. Contributions.—\* \* \*

(c) Any political subdivision or instrumentality thereof that elects to become liable for payments in lieu of contributions shall be required within thirty (30) days after the effective date of its election, to execute and file with the department a surety bond approved by the department or it may elect instead to deposit with the department money or securities of equal present monetary value.

The amount of the bond or deposit required by the department shall be set at one per centum of the organization's **[total] taxable** wages for the most recent four calendar quarters prior to such election. If an organization did not pay wages throughout the specific four calendar quarters, the amount of the bond or deposit shall be set by the department. Refunds of deposits shall be made by the department according to appropriate rules and regulations developed by the department relative to termination of election for payments in lieu of contributions or as to delinquencies in payments due.

APPROVED—The 9th day of July, A. D. 1976.

MILTON J. SHAPP