

No. 1995-64

AN ACT

HB 2078

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 records of and reports by employers, for contributions and appeals and for ineligibility for compensation; and providing for voluntary Federal income tax withholding.

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

Section 1. Sections 206(d) and 301(a)(2) and (3) of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, amended July 21, 1983 (P.L.68, No.30), are amended to read:

Section 206. Records of and Reports by Employers.—* * *

(d) Any employer who has been determined by the department to be subject to the reporting provisions of this act and has been so notified, and who neglects or refuses to file or to complete in such manner as the department may prescribe either the periodic report required by the department to establish the amount of such contributions or the periodic report required by the department showing the amount of wages paid to each employe, or both, on or before the date such reports are required to be filed, shall pay a penalty of [one hundred per centum (100%)] *ten per centum (10%)* of the total amount of contributions paid or payable by the employer or employe as the case may be for the period: Provided, That such penalty shall be not less than [one dollar (\$1)] *twenty-five dollars (\$25)* or more than [one hundred dollars (\$100)] *two hundred and fifty dollars (\$250)*. Such penalty shall apply to the reports for each period with respect to which such reports are required to be filed: Provided, That such penalty shall not apply to reports for any period with respect to which the last day for filing such reports is prior to a date on which the department has notified the employer that he has been determined an employer subject to the reporting provisions of this act, unless the reports for such prior periods are not filed within thirty

(30) days after the employer has been so notified. The penalties provided by this section shall be in addition to all other penalties provided for in this act.

Section 301. Contributions by Employers and Employees; Successors-In-Interest; Appeals.—

(a) * * *

(2) No employer's rate of contribution for any calendar year shall be less than nine and two-tenths per centum (9.2%) for 1984, nine and four-tenths per centum (9.4%) for 1985 [and], nine and seven-tenths per centum (9.7%) for 1986 *through 1995* and [thereafter] *the sum of three per centum (3%) plus his rate of contribution as determined without regard to this paragraph for 1996 and thereafter* unless all his reports required by this act and regulations of the department for calendar quarters through the second calendar quarter of the preceding calendar year and all his contributions due on wages paid to the end of the second calendar quarter of the preceding calendar year, together with interest and penalties due thereon, have been *filed and* paid by September [15] 30 of such preceding calendar year, except that an employer who has timely filed an appeal as provided in subsection (e) of this section and who has been determined ineligible to receive a reduced rate solely on the basis that he has not *filed all reports and* paid all contributions, interest and penalties within the time limits as required in this subsection, shall have his rate redetermined and shall not be considered ineligible under this subsection if *such delinquent reports are filed and* payment of such delinquent contributions, interest and penalties is made within thirty (30) days after the department has notified the employer of the reason for his ineligibility for rate reduction in response to the appeal filed by the employer under subsection (e)[.] *or, if the employer executes and files with the department, no later than the end of the thirty (30) days, a deferred payment plan, which is accepted by the department as filed or modified, for such delinquent contributions, interest and penalties. If the employer fails to comply with the deferred payment plan, the reduced rate granted shall be revoked and, notwithstanding sections 301(j) and 309.2, additional contributions shall be due as a result of the rate increase and shall bear interest from the due date of the corresponding report or reports.*

(3) Notwithstanding any other provisions of the act *except paragraph (2) of this subsection*, any employer who becomes newly liable for contributions under this act in a calendar year in which it employs individuals in the performance of a contract or subcontract for construction in this Commonwealth of roads, bridges, highways, buildings, factories, housing developments or other construction projects shall be liable for contributions at the rate of nine and two-tenths per centum (9.2%) for 1984, nine and four-tenths per centum (9.4%) for 1985 and nine and seven-tenths per centum (9.7%) for 1986 and thereafter paid by him for employment, until such time as he becomes subject to the provisions of sections 301.1, 301.2 and 301.6 of this act subject to the provisions of section 301.1(g).

* * *

Section 2. Section 402 of the act, amended May 23, 1949 (P.L.1738, No.530), is amended by adding a subsection to read:

Section 402. Ineligibility for Compensation.—An employe shall be ineligible for compensation for any week—

* * *

(j) In which the employe fails to participate in reemployment services, such as job search assistance services, if it has been determined that the employe is likely to exhaust regular benefits and to need reemployment service pursuant to a profiling system established by the department, unless the department determines that (1) the employe has completed such services or (2) there is justifiable cause for the employe's failure to participate in such services.

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

Section 703.2. Voluntary Federal Income Tax Withholding.—(a) With respect to all payments of unemployment compensation made after December 31, 1996:

(1) An individual filing a new application for unemployment compensation shall, at the time of filing the application, be advised that:

(i) Unemployment compensation is subject to Federal income tax.

(ii) Requirements exist pertaining to estimated tax payments.

(iii) The individual may elect to have Federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

(iv) The individual shall be permitted to change previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation shall remain in the Unemployment Compensation Fund until transferred to the Federal taxing authority as a payment of income tax.

(3) The secretary shall follow all procedures specified by the United States Department of Labor and the Internal Revenue Service pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayment of unemployment compensation, child support obligations and any other amounts authorized to be deducted and withheld under Federal or State law.

(b) This section is effective notwithstanding any other provisions of this or any other act.

Section 4. The amendment of section 206(d) of the act shall apply to delinquent reports filed after April 30, 1996.

Section 5. This act shall take effect as follows:

(1) The amendment of sections 301(a)(2) and (3) and 402 of the act shall take effect January 1, 1996.

- (2) The addition of section 703.2 of the act shall take effect January 1, 1997.
- (3) This section shall take effect immediately.
- (4) The remainder of this act shall take effect in 60 days.

APPROVED—The 17th day of November, A.D. 1995.

THOMAS J. RIDGE