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Amendments to the Pennsylvania Unemployment Compensation Law

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LEGISLATION

AMENDMENTS TO THE PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

The following column-by-column comparison of sections of the Pennsylvania Unemployment Compensation Law¹ as amended and as prior to amendment by House Bill 1480² of the 1951 Session of the General Assembly is presented for reference use by industry, labor, and public interests.

Several of the amendments serve to bring about improved administration of the Law, and these are of limited interest to other than Bureau personnel.

However, significant and important amendments were also made, and these are of direct interest to industry and labor. Industry was granted substantial savings in the contribution or tax structure, as well as selective elimination of charges to their experience-rating accounts.

Essentially, rates of contribution will be reduced retroactive to January 1, 1951, and will average out at about 1.0 percent of covered taxable wages as compared to a 2.1 percent rate in effect for 1951 under the previous rate schedule. Furthermore, if the Fund balance goes up to \$670 million by the end of any calendar quarter, even lower rates will prevail; as low as 0.3 percent for employers with preferred experience-rating history.

Labor obtained a substantial upward revision of benefit allowances, based on workers' wage earnings prior to unemployment, as well as longer duration of benefits during unemployment. New minimum weekly-benefit amount of \$10 replaces the old \$8 amount, maximum weekly-benefit amount goes up to \$30 from a previous, \$25 limit. Duration of benefits obtainable in any one benefit year become 13 weeks minimum and 26 weeks maximum vs. the past 9 week minimum and 24 week maximum. Partial earnings allowance during unemployment was increased. However, some new restrictions were placed on claimant eligibility and on benefits allowable when pensions are involved.

In general, the amended Law has moved the program in Pennsylvania in the direction of a more stable set of rates for employers to pay from year to year to fund the program. It provides a more adequate set of benefit allowances to replace the wages lost by workers through unemployment.

¹ 1936 P.L. (1937) P.L. 2897.

² Approved: September 29, 1951 Effective Date: October 1, 1951.

LAW AS AMENDED IN 1951

LAW PREVIOUS TO
AMENDMENT*Section 4(u) Unemployment*

Claimant who performs work for which no wages are paid or payable is deemed unemployed.

The weeks to which vacation pay, separation allowances, etc., shall be allocated for purposes of determining claimant eligibility may be determined by the Department.

A claimant was not "unemployed" if he performed some work even though no wages were paid or payable.

Vacation pay, separation allowances, etc., were deemed payable with respect to the weeks for which such payments were made.

Section 4(w) Application for Benefits

The claimant will be further required to be unemployed; otherwise, his application will not be "valid" and he can not establish a benefit year.

An "Application for Benefits" was valid when the claimant had earned sufficient wages during his benefit year to qualify for compensation.

Section 4(x) Wages

Effective January 1, 1951, such credit can be secured. Thus, if the predecessor has paid an employe \$2,000 previous to the transfer, the successor will be required to pay contributions only on the first \$1,000 paid in wages to the same employe during the same calendar year.

A successor could not, in computing the tax base of \$3,000, take credit for contributions paid to the same employe by his predecessor in the calendar year in which the transfer occurred.

Effective January 1, 1951, this limitation is removed, so that payments made by an employer on account of death, will be treated in the same manner as all other designated payments are now considered, that is, they will not be deemed to be taxable wages.

Payments made by an employer under a plan or system for group insurance on account of retirement, sickness or accident disability, medical and hospital expenses or death were not deemed to be taxable wages. However, in regard to death benefits, payments were considered to be "wages" if the plan gave certain options to the employe in lieu of receiving such death benefits.

Effective January 1, 1952, this exclusion will be eliminated.

Dismissal payments were excluded from the term "wages".

Effective January 1, 1951, such payments are excluded from the term

No provision was made to exclude from the term "wages" retirement in-

"wages".

Effective January 1, 1951, payments made by an employer in connection with sickness and hospital expenses of an employe more than 6 months after the employe last performed services for the employer are excluded from the term "wages".

Excluded from the term "wages" also are payments made by an employer to or from a trust fund exempt under Section 165(a) of the Internal Revenue Code which exempts from tax certain trust funds established by employers for the exclusive benefits of their employes and their beneficiaries. Payments made to employes as remuneration for service performed for the trust are not excluded.

All the foregoing amendments under Section 4(x) are designed to put the Act in conformity with the Federal Unemployment Tax Act.

Section 4 (z.5) "Average Annual Payroll"

Is redefined as the average of the last three, or five, of such payrolls, whichever is the lesser.

This change is designed to diminish the increase in tax rate which now results when an employer has an expanding payroll.

Section 201 General Powers & Duties of Department

Imposes an additional duty on the Department by requiring annual reports on the solvency of the Fund and its recommendations thereon.

Section 203 U. C. Board of Review

Would "blanket in" under civil service any referee who on July 1, 1951 had completed one or more years of

insurance payments, other than group insurance.

The law had no provisions similar to those which are summarized in the two paragraphs in the adjoining column.

satisfactory service as a referee and who made application to the Civil Service Commission prior to October 1, 1951.

Also makes all referees administratively responsible to the Board of Review.

Section 209 Obsolete Files, Records, Etc.

Authorizes the Department to make transcripts of certain records and to photostat such transcripts as well as original records, with such photostats becoming admissible as evidence in all courts.

Further authorizes the Department to destroy all records which it deems to be obsolete, except that contribution reports shall be retained for two years from date of filing.

The Department was required to secure approval of the Executive Board before it could destroy obsolete files and records.

Section 210 Reciprocal Arrangements with Foreign Governments

Provides a new section designed to substantiate the current practice of including Canada under the interstate-benefit arrangement.

Section 301 Contributions by Employers: Experience Rating

Amendment eliminates state percentage as a factor in determining the schedule of rates and uses instead only the Fund balance.

The line or schedule of the rate table applicable to any particular year depended upon the state percentage which was determined as the ratio between the amount in the Fund and the total state payroll. (This was on the theory that a large payroll is a potential cause of future unemployment and should be considered in determining rates.)

Amendment provides for the quarterly redetermination of employer rates, depending upon the amount in the Fund at the time (end) of the preceding calendar quarter.

Rates are determined only once a year for each employer.

Amendment provides for 5 rate schedules, each containing rates applic-

The contribution rate table had 15 horizontal lines, each line containing

able to designated Fund balances.

If the Fund reaches \$670 million, rates may go as low as 0.3 percent. If the Fund falls as low as \$250 million, the maximum rate of 2.7 percent will become applicable to all employers. (The balance in the Fund as of September 30, 1951 was \$606 million, but for calculation of official Fund balance the figure will be higher, approximately \$614 million.

Provides 14 vertical columns of the same nature, at intervals of 0.5 percent ranging from "10 percent or more" to "less than 4 percent".

The interpolation of the 0.5 percent columns will in many cases improve the rate position of many employers by several tenths of a point, as well as reducing the amount of the voluntary contribution they will have to pay to secure a lower tax rate.

The interpolation of the 0.5 percent columns will also naturally increase the number of instances in which employers will make voluntary contributions to secure lower rates.

Section 301(d) Successors-in-Interest

Will require all applications of successors-in-interest to be filed prior to the end of the calendar year subsequent to the calendar year in which the transfer occurred.

Permits such transfer only when all contributions owing by the predecessor have been paid.

Will not permit the predecessor to retain for purposes of rate computa-

rates applicable to designated "state percentages" with an interval of 0.2 per cent between each line.

The contribution table had 7 vertical columns, each column containing rates available to employers with designated "employer percentages", at intervals of 1 percent, ranging from "9 percent or more" to "less than 4 percent".

Provided that upon application, a successor-in-interest might secure the experience of his predecessor.

tions in subsequent years, the experience which has been transferred.

Section 301(e)(1) Notice of Charges

Provides that where notice has been given as provided by law regarding the payment of benefits to an individual, that notice will be final. Where such notice has not been given, the charge statement will serve as such notice and the decision granting benefits will become final within 120 days, unless the employer files an appeal.

Provided that the Department should, at least once each calendar quarter, furnish each employer a statement of the charges which were made to his account during the preceding quarter.

Section 301(e)(2) Notice of Rate Determinations

Extends the appeal period from 30 days to 120 days, or to the end of the taxable year, whichever is the greater period.

Provided that rates become final within 30 days, unless the employer filed an appeal.

Will permit the Department, however, to revise rates downward within a 4-year period, when it finds that a rate has been erroneously determined.

Section 301(i) Service in Armed Forces

Extends this credit to cover periods spent in the armed services during the Korean emergency (June 24, 1950 is the date on which the emergency is deemed to have commenced).

Provided that an employer should receive credit, in computing the period for which he had paid contributions, for the time spent in the armed services during World War II.

Section 301(j) Revised Rate Determinations

Limits the period in which rates may be increased to the taxable year.

Authorized the Department to increase rates within one year after the taxable year when the original rate was erroneously determined.

Section 302(f) Charges Against Employers' Accounts

Eliminates subsequent to September 30, 1951, all charges to an employer which are based on benefits paid to an employe who (1) left his employment with such employer without good cause attributable to his employment or (2) who was discharged for wilful

Provided that all compensation paid to an employe should be charged to the account of each of his base-year employers in the proportion that the base-year wages paid by each such employer bore to the total wages paid by all employers.

misconduct connected with his work for such employer.

Section 309.1 Compromises

Extends such compromises with respect to a deceased employer for whom an executor or administrator has been designated.

Authorized the Department, with the approval of the Attorney General, to compromise delinquent contributions owing by an employer that had been adjudged bankrupt or for whom a receiver had been appointed.

Section 309.2 Limitations Upon Enforcement of Payment of Contributions

Eliminates the cancellation of debt feature by providing only that no legal action can be taken after 4 years.

Provided that contributions, interest and penalties should not be deemed to be due and payable more than 4 years after the end of the calendar year in which liability was originally created.

This amendment will still require the payment of all delinquent contributions, even though not collectible, before the employer may be entitled to a reduced rate.

Section 310 Priorities under Legal Distributions

A new provision has been added requiring notices to be filed with the Department within 10 days before any sale of property of a delinquent employer by a sheriff, trustee, assignee, or any other officer.

Section 311 Refunds and Adjustments

Will make the 4-year period run from the "due date", rather than the last day of the reporting period.

Provided that refunds or adjustments of contributions erroneously paid could be made within 4 years from the last day of the reported period for which such contributions were paid.

Provides that contributions paid under a rate notice which has become final shall not be deemed to have been erroneously paid.

*Section 401 (f) Qualifications Required to Secure Compensation.
Able to and Available for Work*

A new eligibility requirement has been added to this section whereby a claimant who has (1) voluntarily left work without good cause or who had (2) been discharged for wilful misconduct connected with his work, will be required to earn at least 8 times his weekly-benefit rate before he can re-establish his eligibility.

Section 404 Rate and Amount of Compensation

Qualifying formula unchanged; must still earn 30 times his weekly-benefit amount to qualify.

For benefit years beginning subsequent to September 30, 1951, the minimum rate is \$10 which will require base-year earnings of at least \$300 and high-quarter earnings of \$120-\$262.

Weekly-benefit amount remains 1/25th of high-quarter wages, but with maximum rate \$30, which will require base-year earnings of \$900 and high-quarter earnings of at least \$738.

New maximum duration is 26 weeks.

New minimum is 13 weeks.

New ratio will average approximately 37 percent.

This "incentive" is increased to \$5.

Pension and retirement payments from funds financed in whole or in part by a base-year employer are deducted from benefits.

Section 407 Compensation to Members of Armed Forces

Will extend the same rights under the same conditions to individuals serv-

To qualify, a claimant must have had base-year wages of 30 times his weekly-benefit amount.

The minimum rate was \$8 which required base-year earnings of at least \$240 and high-quarter earnings of \$60-\$212.

Weekly benefit amount was 1/25th of high-quarter wages, with maximum rate \$25 which required base-year earnings of at least \$750 and high-quarter wages of \$613 or more.

Maximum duration of benefits for total unemployment was 24 weeks.

Minimum duration was 9 weeks.

Ratio of potential benefits to qualifying wages was 28.6 percent.

For partial unemployment, the claimant was paid the difference between his weekly compensation rate and his earnings, plus \$3.

No deduction for pensions.

Provision was made for payment of benefits to individuals who served in

ing in the Korean War.

Further provides that no charge based on such payments shall be made to any employer.

Sections 502, 504, 510, 601.1 and 702 Further Appeals and Reviews

Makes the Department an interested party. It thus will have the right to appeal from decisions of referees and of the Board (Section 510).

Will also eliminate all appeal fees now required to be paid by appellant employers.

World War II and who worked in covered employment within one year previous to induction.

Gave appeal rights to interested parties.

Section 801 False Statements

Extends the penalty to false statements made in connection with compensation claims filed under the law of any other state or of the Federal Government.

Provided penalty for making false statement in connection with compensation claims filed under the Act.

Section 804 Recovery and Recoupment of Compensation

Provides for a 6 years Statute of Limitations on administrative or legal proceedings for collection of any sum paid as compensation to a person unentitled to it by reason of his fault. Period is reckoned from the end of the benefit year with respect to which the sum was paid.

Provides that the claimant's financial worth shall not be considered in determining whether recoupment from future compensation would be inequitable or unconscionable where a person received compensation to which he was not entitled other than by reason of his fault.

William F. Higie