

No. 108

AN ACT

HB 980

Amending the act of December 5, 1936 (1937 P.L.2897), 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," by extending coverage to additional employes, providing alternate methods for payment of contributions by certain employers, reducing the basic rate of contributions, modifying the Funding and State Adjustment Factors, modifying qualifications to secure compensation, increasing compensation benefits and adding dependency allowances, modifying the administrative powers of the Board of Review and providing for interstate and Federal cooperation in the payment of compensation.

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

Section 1. Subsection (a) of section 4, act of December 5, 1936 (1937 P.L.2897), known as the "Unemployment Compensation Law," amended May 23, 1949 (P.L.1738), is amended to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

(a) (1) "Base year" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(2) *Notwithstanding the provisions of paragraph (1), an individual who does not meet the monetary requirements of section 401 (a) of this act by reason of insufficient wage credits in his base year as so defined, may elect to have his base year consist of the first four of the completed calendar quarters immediately preceding the first day of his benefit year. The quarters included in such an election may not be used at any time thereafter in the calculation of benefits for any subsequent benefit year.*

* * *

Section 1.1. Subsection (l) of section 4 of the act is amended by adding a paragraph to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

* * *

(l) * * *

(2) The term "Employment" shall include an individual's entire service performed within or both within and without this Commonwealth, if—

* * *

(C) *The term "Employment" shall include an individual's services wherever performed within the United States, the Virgin Islands or Canada if—(i) such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada, and (ii) the place from which the service is directed or controlled is in this Commonwealth.*

* * *

Section 2. Subparagraph (C) of paragraph (3) of subsection (l) of section 4 of the act, amended May 23, 1949 (P.L.1738), is amended and three subparagraphs added to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

* * *

(l) * * *

(3) "Employment" shall also include—

* * *

(C) Notwithstanding any other provisions of section (4) (l), an individual's entire service as an officer or member of a crew of an American vessel *on or in connection with such vessel*, wherever performed, and whether in intrastate or interstate or foreign commerce, if the employer maintains within this State the operating office from which the operations of the American vessel, in respect to which such services are performed, are ordinarily and regularly managed, supervised, *directed* and controlled.

(D) *Service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands), after December 31, 1971 in the employ of an American employer (other than service which is deemed "employment" under the provisions of paragraph (2) of this subsection or the parallel provisions of another state's law), if:*

(a) *the employer's principal place of business in the United States is located in this State; or*

(b) *the employer has no place of business in the United States, but (i) the employer is an individual who is a resident of this State; or (ii) the employer is a corporation which is organized under the laws of this State; or (iii) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any one other state; or*

(c) *none of the criteria of divisions (a) and (b) of this subparagraph*

is met but the employer has elected coverage in this State, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under this act.

(d) an "American employer" for purposes of this subparagraph, means a person who is (i) an individual who is a resident of the United States; or (ii) a partnership if two-thirds or more of the partners are residents of the United States; or (iii) a trust, if all of the trustees are residents of the United States; or (iv) a corporation organized under the laws of the United States or of any state.

(E) Service by an individual other than one who is an employe under paragraphs (1) and (2) of this subsection who performs services for remuneration for any person—

(a) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(b) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations:

Provided, That for the purposes of this subparagraph, the term "employment" shall include services described in (a) and (b) above performed after December 31, 1971 only if: (i) the contract of service contemplates that substantially all of the services are to be performed personally by such individual; (ii) the individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and (iii) the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(F) Services performed after December 31, 1971 by an individual as defined under the provisions of Articles X, XI and XII of this act except for services excluded from employment pursuant to such articles.

* * *

Section 3. Subparagraphs (1), (8) and (10) of paragraph (4) of subsection (l) of section 4 of the act, amended May 23, 1949 (P.L.1738) and June 22, 1964 (P.L.112), are amended to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

* * *

(l) * * *

(4) The word "employment" shall not include—

(1) Agricultural labor which shall include all services performed—

(a) On a farm in the employ of any person in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife.

(b) In the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(c) In connection with the production or harvesting of [~~maple syrup or maple sugar or any agricultural commodity or in connection with the raising or harvesting of mushrooms or in connection with the hatching of poultry~~] *any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, sec. 3: 12 U.S.C.A. 1141j)*, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways *not owned or operated for profit*, used exclusively for supplying and storing water for farming purposes.

(d) **[In] (1) *In the employ of the operator of a farm*** in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market *in its unmanufactured state*, any agricultural or horticultural commodity, but only if [~~such service is performed as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption~~] *such operator produced more than one-half of the commodity with respect to which such service is performed.*

(2) *In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in (d) (1) above, but only if such operators produced more than one-half of the commodity with respect to which such service is performed.*

(3) *The provisions of (d) (1) and (d) (2) above shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.*

(e) *On a farm operated for profit if such service is not in the course*

of the employer's trade or business or is domestic service in a private home of the employer.

(f) As used in this [subsection] subparagraph the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

* * *

(8) [Service performed in the employ of a religious, charitable, educational or other organization described in section 501 (c) (3) of the Federal Internal Revenue Code of 1954, as amended, which is exempt from income tax under section 501 (a) of said code.] *(a) Service performed in the employ of (i) a church or convention or association of churches or (ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches; or*

(b) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(c) in the employ of a school which is not an institution of higher education; or

(d) in a facility conducted for the purpose of carrying out a program of (i) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or (ii) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(e) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training; or

(f) for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution.

* * *

(10) (A) Service performed in any calendar quarter in the employ of an organization exempt from income tax under section 501 (a) of the Federal Internal Revenue Code of 1954, as amended, (other than an organization described in section 401 (a) of said code) or under section 521 of said code if the remuneration for such service is less than fifty dollars; or

(B) Service performed in the employ of a school, college or university if such service is performed *(i)* by a student who is enrolled and is regularly

¹"animals," in original.

attending classes at [a] *such* school, college or university or (ii) *by the spouse of such a student if such spouse is advised at the time such spouse commences to perform such service that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college or university and (ii) such employment will not be covered by any program of unemployment insurance; or*

(C) *Service performed by an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution which combines academic instruction with work experience, if such service is an integral part of such program and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers; or*

(D) *Service performed in the employ of a hospital, if such service is performed by a patient of the hospital as defined in ¹section 4 (m.1) of this act.*

Section 3.1. Paragraph (6) of subsection (l) of section 4 of the act, amended May 23, 1949 (P.L.1738), is amended to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

* * *

(l) * * *

(6) Notwithstanding any of the other provisions of section 4 (l), services shall be deemed to be in employment, if with respect to such services a tax is required to be paid under any Federal law imposing a tax, against which credit may be taken for contributions required to be paid into a State Unemployment Compensation Fund *or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act are required to be covered under this act.*

* * *

Section 4. Section 4 of the act is amended by adding, after subsection (m), two subsections to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

* * *

(m.1) *“Hospital” means an institution which has been licensed,*

¹“paragraph” in original.

certified or approved by the Department of Public Welfare of the Commonwealth of Pennsylvania as a hospital.

(m.2) "Institution of higher education" means an educational institution which—

(1) admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate;

(2) is legally authorized in this Commonwealth to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies or a program of training to prepare students for gainful employment in a recognized occupation; and

(4) is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this Commonwealth are institutions of higher education for purposes of this act.

* * *

Section 5. Subsection (m.1) of section 4 of the act, added December 17, 1959 (P.L.1893), is amended to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

* * *

[m.1] *(m.3) "Partial Benefit Credit" means that part of the remuneration, if any paid or payable to an individual with respect to a week for which benefits are claimed under the provisions of this act, which is not in excess of [thirty per centum (30%)] forty per centum (40%) of the individual's weekly benefit rate or six dollars whichever is the greater. Such partial benefit credit if not a multiple of one dollar (\$1) shall be computed to the next higher multiple of one dollar (\$1).*

* * *

Section 6. Paragraph (2) of subsection (w) of section 4 of the act, amended March 24, 1964 (P.L.53), is amended to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

* * *

(w) * * *

(2) An application for benefits filed **[within ninety-five (95) days]** after the termination of a preceding benefit year by an individual shall not be considered a Valid Application for Benefits within the meaning of this subsection, unless such individual has, subsequent to the beginning of such preceding benefit year and prior to the filing of such application, worked and earned wages, whether or

not such work is in "employment" as defined in this act in an amount equal to or in excess of **[ten (10)] six (6)** times his weekly benefit rate in effect during such preceding benefit year.

* * *

Section 7. The introductory paragraph and paragraphs (1) and (6) of subsection (x) of section 4 of the act, amended September 29, 1951 (P.L.1580) and March 24, 1964 (P.L.53), are amended to read:

Section 4. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise:

* * *

(x) "Wages" means all remuneration, (including the cash value of mediums of payment other than cash), paid by an employer to an individual with respect to his employment except that the term "wages" *for the purpose of paying contributions* shall not include:

(1) That part of the remuneration which is in excess of the first **[three thousand six hundred dollars (\$3,600)] four thousand two hundred dollars (\$4,200)** paid to an individual by each of his employers during a calendar year: Provided, That an employer may take credit under this subsection for remuneration which his predecessor-in-interest has paid to an individual during the same calendar year with respect to employment; and provided also, that an employer may take credit under this subsection for remuneration which he or his predecessor-in-interest has paid to an individual in the same calendar year on which contributions have been required and paid by such employer under an unemployment compensation law of another state, but no such credit may be taken for remuneration which has been paid by another employer to such individual, whether or not contributions have been paid thereon by such other employer under this act or under any state unemployment compensation law.

[Remuneration paid by an employer in excess of the amount on which contributions are required to be paid may not be considered in determining the compensation rights of an individual under this act. Remuneration paid by an employer on which contributions are required to be paid shall be considered in determining the compensation rights of an individual and for such purposes may be allocated in accordance with rules and regulations of the department to any calendar quarter in which the individual earned remuneration from such employer: Provided, That the sum of the allocation and the earnings reported with respect to any calendar quarter shall not exceed the remuneration paid for such quarter.]

* * *

(6) Notwithstanding any other provisions of this subsection, wages shall include all remuneration for services with respect to which a tax is required to be paid under any Federal law imposing a tax against which credit may be taken for contributions to be paid into a state unemployment fund *or which as a*

condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act are required to be included under this act.

* * *

Section 8. Paragraph (10) of subsection (x) of section 4 of the act, amended June 22, 1964 (P.L.112) is repealed.

Section 9. Subsections (b) and (e) of section 203 of the act, amended September 29, 1951 (P.L.1580), are amended to read:

Section 203. Unemployment Compensation Board of Review.—* * *

(b) The **[board]** *secretary* may appoint a secretary *to the board* to hold office at **[its]** *his* pleasure. Such secretary, if appointed, shall have such powers and perform such duties, not contrary to law, as the board shall prescribe, and shall receive such compensation as the **[board]** *secretary*, with the approval of the Governor, shall determine.

* * *

(e) The **[Governor]** *secretary* shall appoint and fix the compensation of such referees as may be deemed necessary with power to take testimony in any appeals coming before the board. Such appointment shall be subject to the provisions of the act, approved the fifth day of August, one thousand nine hundred and forty-one (Pamphlet Laws 752): Provided, That any person who, on the first day of July, one thousand nine hundred fifty-one, was employed as a referee and as of said date shall have completed one or more years of satisfactory service in such position, may make application to the Civil Service Commission, prior to the first day of October, one thousand nine hundred fifty-one, for appointment as a referee under the regular classified service and, notwithstanding any provisions of said act or any other act to the contrary, upon finding by said commission that he or she possesses the minimum qualifications therefor, shall be so appointed. It shall be the duty of a referee, under the supervision, direction and administrative control of the board, to hear and decide disputes in accordance with the provisions of this act and to conduct such other and further hearings in connection with the foregoing as may be required by the board.

* * *

Section 10. Subsection (a) of section 207 of the act amended April 23, 1942 (P.L.60) is amended to read:

Section 207. Cooperation with Social Security Board and Other Agencies.—(a) **[In the administration of this act, the department shall cooperate to the fullest extent, consistent with the provisions of this act, with the Social Security Board. It shall make such reports in such form and containing such information as the Social Security Board may, from time to time, require, and shall comply with such provisions as the Social Security Board may, from time to time, find necessary to assure the correctness and verification of such reports.]**

(1) In the administration of this act, the secretary shall cooperate with the Department of Labor to the fullest extent consistent with the provisions of this act, and shall take such action through the adoption

of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this Commonwealth and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner-Peyser Act and the Federal-State Extended Unemployment Compensation Act of 1970.

(2) In the administration of the provisions of Article IV-A of this act which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the secretary shall take such action as may be necessary (i) to ensure that the provisions are so interpreted and applied as to meet the requirements of such Federal Act as interpreted by the United States Department of Labor and (ii) to secure to this Commonwealth the full reimbursement of the Federal share of extended and regular benefits paid under this act that are reimbursable under the Federal Act.

* * *

Section 11. Subsection (a) of section 301 of the act is amended by adding a paragraph and subsection (c) of said section, amended March 24, 1964 (P.L.53), is amended to read:

Section 301. Contributions by Employers; Successors-in-Interest; Appeals.—

(a) * * *

(4) Notwithstanding the provisions of paragraph (1) of this subsection, any employer who becomes newly liable for contributions under this act on or after the first day of January, one thousand nine hundred seventy-two, other than an employer subject to the provisions of paragraph (3) of this subsection, shall be liable for contributions at the rate of one per centum of wages paid by him for employment until such time as he shall become classifiable under the provisions of section 301.1 (b) of this act. Thereafter his rate of contributions shall be two and seven-tenths per centum subject to adjustment under the provisions of section 301.1 of this act.

* * *

(c) Each employer with respect to any period prior to the first day of January, one thousand nine hundred [sixty-four] *seventy-two*, shall be liable for contributions in accordance with the provisions of this act applicable to each period in effect prior to such date, and for these purposes such provisions shall remain in *full* force and effect.

* * *

Section 12. Paragraph (2) of subsection (e) of section 301 of the act, amended December 17, 1959 (P.L.1893), subsection (f) of said section amended June 22, 1964 (P.L.112), subsection (c) of section 304 of the act amended May 23, 1949 (P.L.1738) and subsection (d) of said section added April 23, 1942 (P.L.60), are amended to read:

Section 301. Contributions by Employers; Successors-in-Interest; Appeals.—

* * *

(e) (2) The department shall promptly notify each employer of his rate of contribution for the calendar year, determined as provided in this section and section three hundred one point one (301.1) of this act. The determination of the department of the employer's rate of contribution shall become conclusive and binding upon the employer, unless within ninety (90) days after the mailing of notice thereof to the employer's last known post office address the employer files an application for review, setting forth his reasons therefor: Provided, That if the department finds that because of an error of the department it has notified an employer that his rate of ¹contribution is more than the rate to which he is entitled, the department shall, within one year from the date of such notice, adjust the rate of contribution. The department may, if it deems the reasons set forth by the employer insufficient to change the rate of contribution, deny the application, otherwise it shall grant the employer a fair hearing. The employer shall be promptly notified of the denial of his application or of the department's redetermination, both of which shall become final and conclusive within thirty days after the mailing of notice thereof to the employer's last known post office address, unless the employer shall appeal by petition from the action of the department to the **[Court of Common Pleas of Dauphin County] Commonwealth Court** within such time. In any application for review filed hereunder and in any further appeal taken thereafter, as herein provided, no questions shall be raised with respect to the employer's contribution rate for the calendar year one thousand nine hundred sixty and any calendar year thereafter, except such as pertains to the determination of either the employer's Funding Factor, his Experience Factor, or both.

(f) If the application for redetermination be denied, such denial shall become final and conclusive within thirty days after the mailing of notice thereof to the employer's last known post office address, unless the employer shall appeal by petition from the action of the department to the **[Court of Common Pleas of Dauphin County] Commonwealth Court** within such time. The petition filed in the **[Court of Common Pleas of Dauphin County] Commonwealth Court** shall set forth the reasons why the employer deems the rate of contribution determined by the department is incorrect. No question shall be raised in any such petition, except such as were set forth in the application for review and redetermination by the department. A copy of the petition shall be served on the secretary or his deputy. The court shall fix a time for hearing the petition, and after hearing shall enter such order affirming or changing the rate of contribution determined by the department as to it appears just and proper. From the decision of the court an appeal may be taken by the

¹"contributions" in original.

department or the employer to the Superior Court as in appeals taken under the provisions of Article V of this act.

* * *

Section 304. Reports by Employers; Assessments.—* * *

(c) Any petitioner dissatisfied with the action of the department on his petition for re-assessment may appeal therefrom to the [Court of Common Pleas of Dauphin County] *Commonwealth Court* within thirty days after being notified of the action of the department. Such appeal to the court shall be by petition verified by oath and shall specify all the objections to such assessment or re-assessment and any objections not specified in the petition shall not be considered by the Court. A copy of such petition shall be served on the secretary or his deputy.

(d) As to any employer who fails to petition for re-assessments, or, having petitioned after due notice of hearing, fails to appear and be heard, or, in the case of a re-assessment, to appeal to the [Court of Common Pleas of Dauphin County] *Commonwealth Court* within the time and in the manner herein provided, such assessment or re-assessment of the department shall then become final, and the contributions and interest assessed or re-assessed by the department become forthwith due and payable, and no defense which might have been determined by the department or in the event of an appeal from re-assessment by the court shall be available to any employer in any suit or proceeding brought by the Commonwealth in the name of the fund for the recovery of such contribution based on such assessment or re-assessment.

* * *

Section 13. Subsection (a) of section 301.1 of the act, amended March 24, 1964 (P.L.53), and subsection (e) of said section, amended June 22, 1964 (P.L.112), are amended to read:

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

(a) The rate of contribution payable by an employer eligible for an adjusted rate with respect to the calendar year beginning January one, one thousand nine hundred [sixty-four] *seventy-two*, and each calendar year thereafter, shall be adjusted between a minimum rate of [zero] *three-tenths of one* per centum and a maximum rate of four per centum which shall be the aggregate of three factors:

(A) A Funding Factor.

(B) An Experience Factor.

(C) A State Adjustment Factor.

Provided, however, That for any employer eligible for an adjusted rate, such employer shall pay contributions in an amount equal to eighty-five per centum of his computed liability for the calendar year 1972; ninety per centum of his computed liability for the calendar year 1973; ninety-five per centum of his computed liability for the calendar year 1974; and one hundred per centum of his computed liability for the calendar year 1975 and each calendar year thereafter.

* * *

(e) The State Adjustment Factor for the calendar year beginning January one, one thousand nine hundred sixty, shall be six-tenths of one per centum and for the year beginning January one, one thousand nine hundred sixty-one, and for each calendar year thereafter, shall be computed as of the computation date for such year to a tenth of a per centum, rounding all fractional parts of a tenth of a per centum to the next higher tenth of a per centum, but in no event *less than zero nor* in excess of one per centum, according to the following formula:

$$\frac{\text{Bdr} - \text{Dcr}}{\text{Wt}} \times 100 = \text{State Adjustment Factor}$$

in which factor "Bdr" equals the aggregate of (A) all benefits paid but not charged to employers' accounts, plus, (B) all benefits paid and charged to inactive and terminated employers' accounts, plus, (C) all benefits paid and charged to accounts of active employers who were assigned the maximum Experience Factor for the preceding calendar year to the extent such benefits exceed the amount of contributions payable by such employers on the basis of such factor. Factor "Dcr" equals the aggregate of (A) interest credited to the Unemployment Compensation Fund, plus, (B) amounts transferred from the Special Administration Fund to the Unemployment Compensation Fund, plus, (C) refunds of benefits unlawfully paid, plus, (D) amounts credited to the Unemployment Compensation Fund by the Federal Government other than by loan; and factor "Wt" equals the wages paid by all employers. Each item in each factor shall be computed with respect to the twelve-month period ending on the computation date: Provided, That should the computed State Adjustment Factor for calendar year one thousand nine hundred sixty-two, and any year thereafter exceed one per centum, such excess over one per centum shall be added to the computed State Adjustment Factor for the following year *or years*.

* * *

Section 14. Section 312 of the act is amended by adding a subsection to read:

Section 312. Reciprocal Agreements.—The department is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the Federal Government, or both, whereby—

* * *

(f) The secretary shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this act with his wages and employment covered under the unemployment compensation laws of other states which are approved by the United States Secretary of Labor

in consultation with the State unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for:

(1) Applying the base period of a single State law to a claim involving the combining of an individual's wages and employment covered under two or more State unemployment compensation laws; and

(2) Avoiding the duplicate use of wages and employment by reason of such combining.

Section 15. Subsections (a), (d) and (f) of section 401 of the act, amended March 24, 1964 (P.L.53), are amended to read:

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

(a) Has, within his base year, been paid wages for employment as required by section 404 (c) of this act: Provided, however, That (1) not less than twenty per centum (20%) of the employe's total base year wages have been paid in one or more quarters, other than the highest quarter in such employe's base year, *and* (2) an employe whose base year wages are less than six hundred dollars (\$600.00) shall not be eligible under the provisions of this subsection unless such wages were earned during eighteen (18) different weeks within such base year, which weeks need not be consecutive. [and (3) wages earned by a full-time day student in temporary employment during holidays or periods of vacation, or in employment which is an integrated part of a cooperative educational curriculum, shall not be considered base year wages within the meaning of this subsection and section four hundred four of this act.]

* * *

(d) Is able to work and available for suitable work: Provided, That (1) [a claimant who is attending a training or retraining course approved by the department as meeting a suitable and realistic employment or reemployment objective of the employe shall be deemed to be able to work and available for suitable work if the claimant is otherwise in fact able and available,] *no otherwise eligible claimant shall be denied benefits for any week because he is in training with the approval of the secretary nor shall such individual be denied benefits with respect to any week in which he is in training with the approval of the secretary by reason of the application of the provisions of this subsection relating to availability for work or the provisions of section 402 (a) of this act relating to failure to apply for or a refusal to accept suitable work; and* (2) a pregnant claimant not disqualified under the provisions of subsection 402 (b) (1) or *subsection* 402 (f) of this act shall be conclusively presumed to be unavailable for work and ineligible for benefits under the provisions of this act with respect to the period beginning thirty days prior to anticipated *date* of birth and ending thirty days after birth of the child [, and (3) the

claimant is actively seeking suitable work in accordance with such rules and regulations as the secretary may prescribe. This means that the claimant is demonstrating a bona fide attachment to the labor force by making an active search for work in a locality or localities where suitable work is normally available. Such rules and regulations shall consider the claimant's prospects of returning to work, the methods by which he normally obtains work, the past and probable future duration of his unemployment, the conditions of employment and unemployment prevailing in the locality and such other factors as the secretary considers pertinent. The secretary may waive the requirement of this paragraph and accept the claimant's registration at a public employment office in lieu thereof where he finds that compliance with such requirement would be inconsistent with the purposes of this act].

* * *

(f) [(1) Has earned, subsequent to his separation from work under circumstances which are disqualifying under the provisions of subsections 402 (b), [and] 402 (e) and 402 (h) of this act, remuneration for services in an amount equal to or in excess of [eight (8)] six (6) times his weekly benefit rate [, or (2) with respect to an individual subject to the provisions of subsection 401 (d) (2) or subsection 402 (f) of this act, or on leave of absence for reasons of pregnancy has earned remuneration for services performed subsequent to the expiration of the thirty (30) day period following childbirth as set forth therein, or termination of leave of absence as the case may be, in an amount equal to or in excess of four (4) times her weekly benefit rate] irrespective of whether or not such services were in "employment" as defined in this act [: Provided, however, That the provisions of this clause (2) shall not be applicable if the claimant (a) is unable to resume her employment, subsequent to the expiration of such thirty (30) day period or leave of absence, with the employer by whom she was laid off for lack of work or by reason of pregnancy or from whom she obtained a leave of absence, as the case may be, because of a reduction in force or because the business of such employer is closed down for reasons other than vacation or (b) having become re-employed by such employer is laid off by reason of reduction in force or plant shutdown for reasons other than vacation]. The provisions of this subsection shall not apply to a suspension of work by an individual pursuant to a leave of absence [other than leave of absence for pregnancy] granted by his last employer, provided such individual has made a reasonable effort to return to work with such employer upon the expiration of his leave of absence.

Section 16. Subsection (e) of section 401 of the act, amended December 17, 1959 (P.L.1893), 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—

* * *

(e) Has been unemployed for a waiting period of one week, unless the Governor upon the occurrence of a disaster declares that a state of emergency exists, in which event the department may suspend the waiting week requirement with respect to unemployment resulting directly from such disaster.

No week shall be counted as a week of unemployment for the purposes of this subsection, (1) unless it occurs within the benefit year which includes the week with respect to which such employe claims compensation, or (2) if compensation has been paid or is payable with respect thereto, or (3) which includes any part of a benefit year extended under the provisions of subsection 4 (b) of this act, or (4) unless the employe was eligible for compensation with respect thereto under all other provisions of this section and was not disqualified with respect thereto under section 402 (a), (b), (d), (e), (f), (g), and (h) **[and]: *Provided, notwithstanding any other provision of this subsection, That when an individual has been paid benefits in his current benefit year equal to four times his weekly benefit amount, he shall be eligible to receive benefits on his waiting period claim in accordance with the terms of this act.***

* * *

Section 17. Section 402 of the act is amended by adding a subsection to read:

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

* * *

(i) Which is based on service covered pursuant to Articles X and XI or pursuant to an election under Article XII of this act in an instructional, research or principal administrative capacity in an institution of higher education, and begins during the period between two successive academic years or during a similar period between two regular terms whether or not successive or during a period of paid sabbatical leave provided for in the individual's contract if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms.

Section 18. The introductory paragraph, paragraph (3) of subsection (a), paragraph (1) of subsection (c), paragraph (1) of subsection (d) and subsection (e) of section 404 of the act, amended March 24, 1964 (P.L.53), and January 17, 1968 (Act No. 6), are amended and said section is amended by adding a subsection 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 **[January] *October***, one thousand nine hundred **[sixty-eight] *seventy-one*** shall be paid on the basis of the provisions of this section in effect at the beginning of such benefit years.

(a) * * *

(3) If the base year wages of an employe whose weekly benefit rate has been determined under clause (1) of paragraph (1) of this subsection

or redetermined under paragraph (2) of this subsection, as the case may be, are insufficient to qualify him under subsection (c) of this section but are sufficient to qualify him for *any one of* the next *four* lower weekly benefit [rate] rates, his weekly benefit rate shall be redetermined at *the highest of* such next lower [rate] rates.

* * *

(c) (1) Any otherwise eligible employe who has base year wages in an amount equal to, or in excess, of the amount of qualifying wages appearing in Part C of the Table Specified for the Determination of Rate and Amount of Benefits on the line on which in Part B there appears his weekly benefit rate, as determined under subsection (a) of this section, shall be entitled during his benefit year [(a)] to the amount appearing in Part D on said line [, but not in excess of fifty per centum of his total base year wages disregarding all fractions of a dollar or (b) to an amount equal to eighteen times his weekly benefit rate whichever is the greater].

* * *

(d) [(1)] 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 [January] *October*, one thousand nine hundred [sixty-eight] *seventy-one*, 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, *except when paid to an employe who is permanently or indefinitely separated from his employment* [(iii) severance or separation allowances or dismissal wages and similar payments, the payment of or eligibility for which is made or conditioned upon a temporary, indefinite or permanent separation from employment except payments made pursuant to a private plan the actual and declared purpose of which is to provide benefits in addition to the compensation provided by this act and so found by the department and in addition thereto with respect to an employe who has attained the age at which he would be entitled to receive old age benefits under the provisions of Title II of the Federal Social Security Act, as amended (iv) the amount of a retirement pension or annuity, if any, (a) paid or (b) which upon application would be payable to him without diminution on account of age under a public or private pension plan to which only an employer or employers of such employe has contributed, (v) one-half of the amount of a retirement pension or annuity, if any, (a) paid or (b) which upon application would be payable to him without diminution on account of age under a public or private pension plan to which both the employe and an employer or employers of such employe have contributed] *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, [payments, allowances] 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, [severance or separation allowances, dismissal wages] 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. [Retirement pension or annuity payments received by the employe 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 purposes of this subsection.] Such compensation, if not a multiple of one dollar (\$1.00), shall be computed to the next higher multiple of one dollar (\$1.00).

* * *

(e) (1) Table Specified for the Determination of
Rate and Amount of Benefits

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C [Minimum] Qualifying Wages	Part D [Maximum] Amount of Compensation
\$ 120-262	[11] \$12	[\$360] \$440	[\$330] \$360
263-287	[12] 13	[396] 480	[360] 390
288-312	[13] 14	[432] 520	[390] 420
313-337	[14] 15	[468] 560	[420] 450
338-362	[15] 16	[504] 600	[450] 480
363-387	[16] 17	[540] 640	[480] 510
388-412	[17] 18	[576] 680	[510] 540
413-437	[18] 19	[612] 720	[540] 570
438-462	[19] 20	[648] 760	[570] 600
463-487	[20] 21	[684] 800	[600] 630
488-512	[21] 22	[720] 840	[630] 660
513-537	[22] 23	[756] 880	[660] 690
538-562	[23] 24	[792] 920	[690] 720
563-587	[24] 25	[828] 960	[720] 750
588-612	[25] 26	[864] 1000	[750] 780
613-637	[26] 27	[900] 1040	[780] 810

638-662	[27]	28	[936]	1080	[810]	840
663-687	[28]	29	[972]	1120	[840]	870
688-712	[29]	30	[1008]	1160	[870]	900
713-737	[30]	31	[1044]	1200	[900]	930
738-762	[31]	32	[1080]	1240	[930]	960
763-787	[32]	33	[1116]	1280	[960]	990
788-812	[33]	34	[1152]	1320	[990]	1020
813-837	[34]	35	[1188]	1360	[1020]	1050
838-862	[35]	36	[1224]	1400	[1050]	1080
863-887	[36]	37	[1260]	1440	[1080]	1110
888-912	[37]	38	[1296]	1480	[1110]	1140
913-937	[38]	39	[1332]	1520	[1140]	1170
938-962	[39]	40	[1368]	1560	[1170]	1200
963-987	[40]	41	[1404]	1600	[1200]	1230
988-1012	[41]	42	[1440]	1640	[1230]	1260
1013-1037	[42]	43	[1476]	1680	[1260]	1290
1038-1062	[43]	44	[1512]	1720	[1290]	1320
1063-1087	[44]	45	[1548]	1760	[1320]	1350
1088-1112	[45]	46	[1584]	1800	[1350]	1380
1113-1162	[46]	47	[1656]	1840	[1380]	1410
1163-1187	[47]	48	[1692]	1880	[1410]	1440
1188-1212	[48]	49	[1728]	1920	[1440]	1470
1213-1237	[49]	50	[1764]	1960	[1470]	1500
1238-1262	[50]	51	[1800]	2000	[1500]	1530
1263-1287	[51]	52	[1836]	2040	[1530]	1560
¹ 1288-1312	[52]	53	[1872]	2080	[1560]	1590
1313-1337	[53]	54	[1908]	2120	[1590]	1620
1338-1362	[54]	55	[1944]	2160	[1620]	1650
1363-1387	[55]	56	[1980]	2200	[1650]	1680
1388-1412	[56]	57	[2016]	2240	[1680]	1710
1413-1437	[57]	58	[2052]	2280	[1710]	1740
1438-1462	[58]	59	[2088]	2320	[1740]	1770
1463-1487	[59]	60	[2124]	2360	[1770]	1800
1488 [or more]- 1512	[60]	61	[*2160]	2400	[1800]	1830
1513-1537		62		2440		1860
1538-1562		63		2480		1890
1563-1587		64		2520		1920
1588-1612		65		2560		1950

¹ "1289" in original.

1613-1637	66	2600	1980
1638-1662	67	2640	2010
1663-1687	68	2680	2040
1688-1712	69	2720	2070
1713-1737	70	2760	2100
1738-1762	71	2800	2130
1763-1787	72	2840	2160
1788-1812	73	2880	2190
1813-1837	74	2920	2220
1838-1862	75	*2960	2250
1863-1887	76	3000	2280
1888-1912	77	3040	2310
1913-1937	78	3080	2340
1938-1962	79	3120	2370
1963-1987	80	3160	2400
1988 or more	81	*3200	2430

* (this figure subject to section 401 (a) (1)).

(2) *The Table Specified for the Determination of Rate and Amount of Benefits shall be extended or contracted annually, automatically by regulations promulgated by the secretary in accordance with the following procedure: for calendar year one thousand nine hundred seventy-two and for all subsequent calendar years, to a point where the maximum weekly benefit rate equals sixty per centum of the average weekly wage for the twelve-month period ending June 30 preceding each calendar year. If the maximum weekly benefit rate is not a multiple of one dollar (\$1), it shall be rounded to the next higher multiple of one dollar (\$1).*

The Table Specified for the Determination of Rate and Amount of Benefits as so extended or contracted shall be effective only for those claimants whose benefit years begin on or after the first day of January of such calendar year.

For the purpose of determining the maximum weekly benefit rate, the Pennsylvania average weekly wage in covered employment shall be computed on the basis of the total wages reported (irrespective of the limit on the amount of wages subject to contributions) for the twelve-month period ending June 30 and this amount shall be divided by the average monthly number of covered workers (determined by dividing the total covered employment reported for the same fiscal year by twelve) to determine the average annual wage. The average annual wage thus obtained shall be divided by fifty-two and the average weekly wage thus determined rounded to the nearest cent.

(3) *In addition to the weekly benefit rate as hereinbefore set out,*

each eligible employe shall be paid for each week that he is entitled to benefits, the sum of five dollars (\$5) for a dependent spouse or a dependent child if such eligible employe has no spouse, plus three dollars (\$3) for one other dependent child, but in no event shall such additional allowance exceed eight dollars (\$8) for any one week or the total number of such allowance payments exceed the claimant's maximum weeks of entitlement, determined by dividing his total amount of compensation by his weekly benefit rate.

As used in this paragraph the term "dependent child" means any child or stepchild of the eligible employe in question who, at the beginning of such individual's current benefit year, was under eighteen years of age and was being wholly or chiefly supported by such eligible employe.

As used in this paragraph the term "dependent spouse" means any legally married wife or husband of the eligible employe in question who, at the beginning of such individual's current benefit year was living with and being wholly or chiefly supported by such individual. If both a husband and wife qualify for benefit rights with overlapping benefit years, only one of them shall be entitled to the additional allowances provided in this paragraph.

* * *

(g) Benefits based on employment covered by the provisions of Articles X, XI and XII of this act shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act.

Section 19. Paragraph (2) of subsection (c) and paragraphs (2), (3) and (4) of subsection (d) of section 404 of the act are repealed.

Section 19.1. Subsection (e) of section 501 of the act, amended June 22, 1964 (P.L.112), is amended to read:

Section 501. Determination of Compensation Appeals.—

* * *

(e) Unless the claimant or last employer or base-year employer of the claimant files an appeal with the board, from the determination contained in any notice required to be furnished by the department under section five hundred and one (a), (c) and (d), within ten (10) calendar days after such notice was delivered to him personally, or was mailed to his last known post office address, and applies for a hearing, such determination of the department, with respect to the particular facts set forth in such notice, shall be final and compensation shall be paid or denied in accordance therewith. **[In the event that an appeal is filed with the board, the payment of any contested amount of compensation shall be withheld pending determination of the claim, but any uncontested amount of compensation allowed in any decision shall be paid notwithstanding any appeal which may thereafter be taken.]**

Section 20. The act is amended by adding three articles to read:

ARTICLE X
BENEFITS TO EMPLOYES OF THE COMMONWEALTH

Section 1001. State Employees.—Notwithstanding any other provisions of this act, the Commonwealth of Pennsylvania and all its departments, bureaus, boards, agencies, commissions and authorities shall be deemed to be an employer and services performed in the employ of the Commonwealth and all its departments, bureaus, boards, agencies, commissions and authorities shall be deemed to constitute State employment subject to this act with the exceptions hereinafter set forth in section 1002. Except as herein provided, all other provisions of this act shall continue to be applicable in connection herewith.

Section 1002. Services Excluded from "Employment."— Except for services performed in the employ of a hospital or institution of higher education not otherwise excluded in this act, for the purposes of this article the term "employment" shall not include services performed by:

- (1) Elected officials.*
- (2) Consultants and officials paid on a fee basis.*
- (3) Physicians, dentists or student nurses in institutions or attached to governmental agencies who are employed part-time or any other professional specialists employed on a part-time basis.*
- (4) Inmates of institutions who receive compensation for services rendered therein.*
- (5) All department heads and members of boards and commissions, appointed by the Governor with or without the consent of one or both branches of the General Assembly.*
- (6) All justices of courts and judges.*
- (7) Individuals employed on any work-relief or job-training project undertaken by the Commonwealth or its instrumentalities.*
- (8) Individuals in the military service or under military control of the government.*
- (9) Students employed while on vacation or in connection with any cooperative plan of employment while enrolled in any institution of higher education.*

Section 1003. Contributions.—(a) In lieu of contributions required to be paid by employers under this act, the Commonwealth of Pennsylvania shall pay into the Unemployment Compensation Fund an amount equivalent to the amount of compensation paid to claimants and charged to its account in accordance with the provisions of section 302 (a) of this act.

(b) The amount which the Commonwealth shall pay into the Unemployment Compensation Fund, as hereinabove set forth, shall be computed by the department and reported quarterly to the State Treasurer who shall thereupon pay such amount from the General Fund

of the Commonwealth, upon approval thereof in accordance with the law then in effect, except that to the extent that compensation is paid on the basis of wages paid by an authority of the Commonwealth from its funds such authority shall pay such amount into the Unemployment Compensation Fund from its own funds.

ARTICLE XI EMPLOYES OF NONPROFIT ORGANIZATIONS

Section 1101. Nonprofit Organization Defined.—A nonprofit organization is a religious, charitable, educational or other organization or group of such organizations described in section 501 (c) (3) of the Federal Internal Revenue Code of 1954, as amended, which is exempt from income tax under section 501 (a) of said code.

Section 1102. Employment by Nonprofit Organizations.—Service performed by an individual in the employ of a nonprofit organization shall constitute “employment” for all purposes of this act unless excluded by the provisions of section 4 (l), (4) ¹(8) of this act. Remuneration received therefor shall constitute “wages” subject to the contribution provisions of this act.

Section 1103. Liability for Contributions.—Any nonprofit organization which is or becomes subject to this act shall pay contributions on remuneration paid by it for employment under the provisions of section 301 or section 301.1 of this act, as the case may be, unless an election is made to pay on a reimbursement basis as hereinafter provided.

Section 1104. Election of Reimbursement.—(a) Any nonprofit organization which, on or after January 1, 1972, is or becomes liable to the contribution provisions of this act may, in lieu of payment of such contributions, elect to pay to the department for the Unemployment Compensation Fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(b) Such election shall be for a period of not less than two taxable years unless sooner terminated by the department as hereinafter provided.

Section 1105. Method of Election.—(a) Any nonprofit organization which is or becomes subject to this act on January 1, 1972 may exercise its election under the provisions of section 1104 of this act by filing with the department a written notice of such election within the thirty-day period following such date.

¹“and” in original.

(b) Any nonprofit organization which becomes subject to this act subsequent to January 1, 1972, may exercise its election under section 1104 of this act by filing a written notice thereof with the department within the thirty-day period immediately following the date of the determination of such subjectivity by the department.

(c) Any nonprofit organization paying contributions under this act for a period subsequent to January 1, 1972, may exercise its election under section 1104 of this act by filing a written notice thereof with the department not later than thirty days prior to the beginning of any taxable year.

(d) The department may for good cause extend the period within which a notice of election or a notice of termination must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971.

(e) The department, in accordance with such regulations as it may prescribe, shall notify each nonprofit organization of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review as provided in section 301 of this act.

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

(a) At the end of each calendar quarter or at the end of any other period as determined by the department, the department shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for the amount of benefits charged to its account during such quarter or other prescribed period that is attributable to service in the employ of such organization.

(b) Payment of any bill rendered under subsection (a) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination under section 301 of this act.

(c) Past due payments of amounts in lieu of contributions, or reports with respect thereto, shall be subject to the same interest and penalties that, pursuant to section 308 of this act apply to past due contributions and section 206 of this act apply to past due reports.

(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 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 1107. Termination of Elections.—(a) Any nonprofit organization which has made an election pursuant to the provisions of section 1104 and section 1105 may terminate such election by filing with the department a written notice thereof not later than thirty days prior to the beginning of the taxable year for which such termination notice is to be effective. Such action shall be approved by the department only if all payments and reports have been made by such terminating organization as required by the provisions of this act.

(b) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under section 1106 of this act, the department may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year and such termination shall be effective for that and the next taxable year.

Section 1108. Allocation of Benefit Costs.—If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the Unemployment Compensation Fund by each employer that is liable for such payments shall be determined in accordance with the provisions of this section.

(a) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-year wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(b) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

Section 1109. Group Accounts.—Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of section 1104 of this act, may file a joint application with the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each application shall identify and authorize a group representative to act as the group's agent for the purposes of this section. Upon its approval of the application, the department shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the department or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for services performed in the employ of all members of the group. The department shall prescribe such regulations as it deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this section, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this section by members of the group and the time and manner of such payments.

Section 1110. No Offset of Benefits.—Payments made by any nonprofit organization under the provisions of this article shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

ARTICLE XII EMPLOYEES OF POLITICAL SUBDIVISIONS

Section 1201. Election of Coverage.—(a) Notwithstanding any other provisions of this act, any political subdivision of the Commonwealth may, for itself and any instrumentality thereof, elect to cover under this act, service performed by employes in all of the hospitals and institutions of higher education, as defined in section 4 (m.1) and section 4 (m.2) of this act, operated by such political subdivisions or instrumentalities. The election may exclude services described in section 4 (l), (4)¹ (8) of this act.

¹"and" in original.

(b) Such election shall be made by submitting notice thereof to the department in writing, signed by the authority or authorities legally entitled to give notice of such election. Upon receipt of such election by the department, such services shall be deemed to constitute employment subject to this act for all the purposes thereof from and after the date specified in such election and for not less than two calendar years following the year in which such election was made. Thereafter, such services shall cease to be deemed employment as of the first day of January of any calendar year subsequent to such two calendar years only if, at least thirty days prior to such first day of January, notice in writing to that effect is received by the department of withdrawal of such election signed by the authority or authorities legally entitled to give such notice.

Section 1202. Contributions.—(a) In lieu of contributions required to be paid by employers under the provisions of section 301 (a) and section 301.1 of this act, any political subdivision or instrumentality thereof which has elected to become subject to this act under the provisions of section 1201 as hereinabove set forth, shall pay to the department for the Unemployment Compensation Fund an amount equivalent to the amount of regular benefits and one-half of any extended benefits paid that is attributable to service in the employ of such political subdivision or instrumentality to individuals for weeks of unemployment which begin during the effective period of such election.

(b) The department shall compute the amount which any such political subdivision or instrumentality thereof shall pay into the Unemployment Compensation Fund and shall report such amount quarterly to the financial authorities thereof who shall pay the required amount into the fund in accordance with the regulations of the department.

(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 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 1203. Allocation; Group Accounts.—The provisions of section 1108 and section 1109 of this act are applicable to payments made by political subdivisions or instrumentalities thereof.

Section 1204. No Offset of Benefits.—Payments made by a political subdivision or instrumentality thereof under the provisions of this article shall not be deducted in whole or in part from the remuneration of individuals in the employ of the political subdivision or instrumentality.

Section 21. The provisions of sections 1.1, 2, 3, 4, 7, 8, 11, 13, 17 and 20 of this act, shall be effective and applied with respect to services performed on or after the taxable years beginning January 1, 1972. The provisions of sections 1, 6, the amendments to section 401, (sections 15 and 16) and to section 404 (a) (3), 404 (c) (1) and 404 (e) (section 18) shall be effective and applicable to benefit years beginning on or after October 1, 1971. The provisions of section 5, the amendments to section 401 (d), section 401 (f) (section 15), the amendments to section 404 (d) (section 18) and the provisions of section 19 shall be effective and applicable to compensable weeks ending on or after October 1, 1971. All other provisions of this act shall be effective immediately.

APPROVED—The 27th day of September, A. D. 1971.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 108.



Secretary of the Commonwealth.