

No. 2005-80

AN ACT

HB 163

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 compensation rates.

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

Section 1. Section 404(d) of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, amended October 19, 1988 (P.L.818, No.109), is amended to read:

Section 404. Rate and Amount of Compensation.—Compensation shall be paid to each eligible employe in accordance with the following provisions of this section except that compensation payable with respect to weeks ending in benefit years which begin prior to the first day of January 1989 shall be paid on the basis of the provisions of this section in effect at the beginning of such benefit years.

* * *

(d) (1) Notwithstanding any other provisions of this section each eligible employe who is unemployed with respect to any week ending subsequent to July 1, 1980 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 and (ii) vacation pay, if any, which is in excess of his partial benefit credit, except when paid to an employe who is permanently or indefinitely separated from his employment.

(2) (i) In addition to the deductions provided for in clause (1), for any week with respect to which an individual is receiving a pension, including a governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment, under a plan maintained or contributed to by a base period or chargeable employer, the weekly benefit amount payable to such individual for such week shall be reduced, but not below zero, by the prorated weekly amount of the pension as determined under subclause (ii).

(ii) If the pension is entirely contributed to by the employer, then one hundred per centum (100%) of the pro-rated weekly amount of the pension shall be deducted. [If] *Except as set forth in clause (4), if* the pension is contributed to by the individual, in any amount, then fifty per centum (50%) of the pro-rated weekly amount of the pension shall be deducted.

(iii) No deduction shall be made under this clause by reason of the receipt of a pension if the services performed by the individual during the base period or remuneration received for such services for such employer did not affect the individual's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity or similar payment. [This subclause shall not apply to pensions paid under the Social Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.) or the Railroad Retirement Act of 1974 (Public Law 93-445, 88 Stat. 1305) or the corresponding provisions of prior law. Payments made under such acts shall be treated solely in the manner specified by subclause (i) of this clause.]

(3) The provisions of this subsection shall be applicable whether or not such vacation pay, retirement pension or annuities or wages are legally required to be paid. If such retirement pension or annuity payments deductible under the provisions of this subsection are received on other than a weekly basis, the amount thereof shall be allocated and pro-rated in accordance with the rules and regulations of the department. Vacation pay or other remuneration deductible under the provisions of this subsection shall be pro-rated on the basis of the employe's normal full-time weekly wage and as so pro-rated shall be allocated to such period or periods of unemployment as shall be determined by rules and regulations of the department. Such compensation, if not a multiple of one dollar (\$1), shall be computed to the next lower multiple of one dollar (\$1).

(4) No deductions shall be made under this subsection for pensions paid under the Social Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.), or the Railroad Retirement Act of 1974 (Public Law 93-445, 88 Stat. 1305), if the pension is contributed to by the individual in any amount.

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Section 2. The amendment of section 404(d) of the act shall apply to weeks of unemployment ending on or after the effective date of this section.

Section 3. This act shall take effect immediately.

APPROVED—The 16th day of December, A.D. 2005.

EDWARD G. RENDELL