

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 421 Session of 2013

INTRODUCED BY C. HARRIS, BENNINGHOFF, MILLARD, TALLMAN, CAUSER, LAWRENCE, MACKENZIE, AUMENT, F. KELLER, METCALFE, CUTLER, TOEPEL, BLOOM, SWANGER, SAYLOR, O'NEILL, GROVE, M. K. KELLER, FLECK, HICKERNELL, TRUITT, ROSS, EVERETT, CLYMER, DENLINGER, MATZIE, COX, GIBBONS, MOUL, R. MILLER, MILNE, GRELL, ENGLISH, BROOKS AND MAHER, JANUARY 30, 2013

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS AMENDED, SEPTEMBER 23, 2013

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937
2 P.L.2897, No.1), entitled "An act establishing a system of
3 unemployment compensation to be administered by the
4 Department of Labor and Industry and its existing and newly
5 created agencies with personnel (with certain exceptions)
6 selected on a civil service basis; requiring employers to
7 keep records and make reports, and certain employers to pay
8 contributions based on payrolls to provide moneys for the
9 payment of compensation to certain unemployed persons;
10 providing procedure and administrative details for the
11 determination, payment and collection of such contributions
12 and the payment of such compensation; providing for
13 cooperation with the Federal Government and its agencies;
14 creating certain special funds in the custody of the State
15 Treasurer; and prescribing penalties," ~~further providing for~~ <--
16 IN PRELIMINARY PROVISIONS, FURTHER PROVIDING FOR DEFINITIONS; <--
17 IN CONTRIBUTIONS, FURTHER PROVIDING FOR ESTABLISHMENT AND
18 MAINTENANCE OF EMPLOYER'S RESERVE ACCOUNTS, FOR RELIEF FROM
19 CHARGES AND FOR RECIPROCAL AGREEMENTS; IN COMPENSATION,
20 FURTHER PROVIDING FOR qualifications required to secure
21 compensation and for ineligibility for compensation; IN <--
22 PENALTIES, FURTHER PROVIDING FOR FALSE STATEMENTS AND
23 REPRESENTATIONS TO OBTAIN OR INCREASE COMPENSATION; AND, IN
24 SHARED-WORK PROGRAM, FURTHER PROVIDING FOR DEFINITIONS, FOR
25 APPLICATION TO APPROVE SHARED-WORK PLAN, FOR SHARED-WORK PLAN
26 REQUIREMENTS AND FOR EXPIRATION.

27 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. Section 401(f) of the act of December 5, 1936~~ <--  
3 ~~(2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment~~  
4 ~~Compensation Law, amended June 12, 2012 (P.L.577, No.60), is~~  
5 ~~amended to read:~~

6 SECTION 1. SECTION 4(L) (4) OF THE ACT OF DECEMBER 5, 1936 <--  
7 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT  
8 COMPENSATION LAW, IS AMENDED BY ADDING A SUBPARAGRAPH TO READ:

9 SECTION 4. DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES, AS  
10 USED IN THIS ACT, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE  
11 CONTEXT CLEARLY REQUIRES OTHERWISE.

12 \* \* \*

13 (L) \* \* \*

14 (4) THE WORD "EMPLOYMENT" SHALL NOT INCLUDE--

15 \* \* \*

16 (21) SERVICES PERFORMED BY A FULL-TIME STUDENT IN THE EMPLOY  
17 OF AN ORGANIZED CAMP IF:

18 (A) THE CAMP DID NOT OPERATE FOR MORE THAN SEVEN MONTHS IN  
19 THE CALENDAR YEAR AND DID NOT OPERATE FOR MORE THAN SEVEN MONTHS  
20 IN THE PRECEDING CALENDAR YEAR; OR HAD AVERAGE GROSS RECEIPTS  
21 FOR ANY SIX MONTHS IN THE PRECEDING CALENDAR YEAR WHICH WERE NOT  
22 MORE THAN THIRTY-THREE AND ONE-THIRD PER CENTUM (33 1/3%) OF ITS  
23 AVERAGE GROSS RECEIPTS FOR THE OTHER SIX MONTHS IN THE PRECEDING  
24 CALENDAR YEAR; AND

25 (B) THE FULL-TIME STUDENT PERFORMS SERVICES IN THE EMPLOY OF  
26 THE CAMP FOR LESS THAN THIRTEEN CALENDAR WEEKS IN ANY SUCH YEAR.

27 (C) FOR PURPOSES OF THIS SUBPARAGRAPH, AN INDIVIDUAL SHALL  
28 BE TREATED AS A FULL-TIME STUDENT FOR ANY PERIOD DURING WHICH  
29 THE INDIVIDUAL IS ENROLLED AS A FULL-TIME STUDENT AT AN  
30 EDUCATIONAL INSTITUTION; OR WHICH IS BETWEEN ACADEMIC YEARS OR

1 TERMS IF THE INDIVIDUAL WAS ENROLLED AS A FULL-TIME STUDENT AT  
2 AN EDUCATIONAL INSTITUTION FOR THE IMMEDIATELY PRECEDING  
3 ACADEMIC YEAR OR TERM AND THERE IS A REASONABLE ASSURANCE THAT  
4 THE INDIVIDUAL WILL BE SO ENROLLED FOR THE IMMEDIATELY  
5 SUCCEEDING ACADEMIC YEAR OR TERM.

6 (D) FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "EDUCATIONAL  
7 INSTITUTION" SHALL MEAN ANY EDUCATIONAL INSTITUTION OF  
8 SECONDARY, HIGHER EDUCATIONAL, PROFESSIONAL OR VOCATIONAL  
9 EDUCATIONAL TRAINING.

10 (E) FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "CAMP" SHALL  
11 MEAN A CHILDREN'S OVERNIGHT CAMP OR A SUMMER DAY CAMP OF ANY  
12 VARIETY.

13 \* \* \*

14 SECTION 2. SECTIONS 302(A) AND 302.1 INTRODUCTORY PARAGRAPH  
15 OF THE ACT, AMENDED OR ADDED JUNE 17, 2011 (P.L.16, NO.6), ARE  
16 AMENDED TO READ:

17 SECTION 302. ESTABLISHMENT AND MAINTENANCE OF EMPLOYER'S  
18 RESERVE ACCOUNTS.--THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN  
19 FOR EACH EMPLOYER A SEPARATE EMPLOYER'S RESERVE ACCOUNT IN THE  
20 FOLLOWING MANNER:

21 (A) AN EMPLOYER'S ACCOUNT SHALL BE CHARGED WITH ALL  
22 COMPENSATION, INCLUDING DEPENDENTS' ALLOWANCES, PAID TO EACH  
23 INDIVIDUAL WHO RECEIVED FROM SUCH EMPLOYER WAGE CREDITS  
24 CONSTITUTING THE BASE OF SUCH COMPENSATION, IN [THE PROPORTION  
25 THAT SUCH WAGE CREDITS WITH SUCH EMPLOYER BEARS TO THE TOTAL  
26 WAGE CREDITS RECEIVED BY SUCH INDIVIDUAL FROM ALL EMPLOYERS]  
27 ACCORDANCE WITH THIS SUBSECTION.

28 (1) AN EMPLOYER'S ACCOUNT SHALL BE CHARGED WITH COMPENSATION  
29 PAID TO AN INDIVIDUAL FOR WHICH AN OVERPAYMENT UNDER SECTION 804  
30 OF THIS ACT IS NOT ESTABLISHED AGAINST THE INDIVIDUAL.

1       (2) IN ADDITION TO CHARGES ASSIGNED UNDER PARAGRAPH (1), AN  
2 EMPLOYER'S ACCOUNT SHALL BE CHARGED WITH COMPENSATION PAID TO AN  
3 INDIVIDUAL FOR WHICH AN OVERPAYMENT UNDER SECTION 804 IS  
4 ESTABLISHED AGAINST THE INDIVIDUAL IF THE COMPENSATION IS PAID  
5 BECAUSE THE EMPLOYER OR AN AGENT OF THE EMPLOYER RESPONDS  
6 UNTIMELY OR INADEQUATELY OR FAILS TO RESPOND TO A REQUEST BY THE  
7 DEPARTMENT FOR INFORMATION REGARDING THE INDIVIDUAL'S  
8 ELIGIBILITY FOR COMPENSATION. FOR THE PURPOSES OF THIS  
9 PARAGRAPH, THE FOLLOWING SHALL APPLY:

10       (I) A REQUEST BY THE DEPARTMENT FOR INFORMATION REGARDING AN  
11 INDIVIDUAL'S ELIGIBILITY SHALL:

12       (A) INDICATE THE NAME AND SOCIAL SECURITY NUMBER OF THE  
13 INDIVIDUAL.

14       (B) CONTAIN SPECIFIC INQUIRIES, INDICATE THE TYPE OF  
15 INFORMATION SOUGHT, OR BOTH.

16       (C) BE MAILED TO THE EMPLOYER'S OR AGENT'S LAST KNOWN  
17 ADDRESS OR BE TRANSMITTED ELECTRONICALLY TO THE EMPLOYER'S OR  
18 AGENT'S ELECTRONIC MAIL ADDRESS IF THE EMPLOYER OR AGENT HAS  
19 DESIGNATED AN ELECTRONIC MAIL ADDRESS.

20       (D) INDICATE THE DATE THE REQUEST IS MAILED OR TRANSMITTED  
21 ELECTRONICALLY.

22       (E) INDICATE A MAILING ADDRESS, AN ELECTRONIC MAIL ADDRESS,  
23 OR BOTH, WHERE A RESPONSE SHALL BE FILED.

24       (II) AN EMPLOYER'S OR AGENT'S RESPONSE TO A REQUEST BY THE  
25 DEPARTMENT FOR INFORMATION SHALL BE UNTIMELY IF THE RESPONSE IS  
26 FILED MORE THAN SEVEN DAYS AFTER THE DEPARTMENT'S REQUEST FOR  
27 INFORMATION IS MAILED OR TRANSMITTED ELECTRONICALLY TO THE  
28 EMPLOYER OR AGENT. THE FILING DATE OF A RESPONSE SHALL BE  
29 DETERMINED IN ACCORDANCE WITH 34 PA. CODE § 63.25 (RELATING TO  
30 FILING METHODS).

1 (III) AN EMPLOYER'S OR AGENT'S RESPONSE SHALL BE INADEQUATE  
2 IF THE RESPONSE MISREPRESENTS OR OMITTS FACTS THAT, IF  
3 REPRESENTED ACCURATELY OR DISCLOSED, WOULD HAVE BEEN A BASIS FOR  
4 THE DEPARTMENT TO DISQUALIFY THE INDIVIDUAL FROM RECEIVING  
5 COMPENSATION, EITHER ALONE OR IN CONJUNCTION WITH OTHER FACTS  
6 KNOWN TO THE DEPARTMENT.

7 (IV) A DETERMINATION BY THE DEPARTMENT ASSIGNING CHARGES  
8 UNDER THIS PARAGRAPH MAY BE APPEALED AS PROVIDED IN ARTICLE V OF  
9 THIS ACT FOR APPEALS FROM DETERMINATIONS REGARDING AN  
10 INDIVIDUAL'S ELIGIBILITY FOR COMPENSATION.

11 (3) AN EMPLOYER'S ACCOUNT SHALL BE CHARGED WITH COMPENSATION  
12 PAID TO AN INDIVIDUAL IN THE PROPORTION THAT THE INDIVIDUAL'S  
13 WAGE CREDITS WITH THE EMPLOYER BEAR TO THE TOTAL WAGE CREDITS  
14 RECEIVED BY THE INDIVIDUAL FROM ALL EMPLOYERS.

15 \* \* \*

16 SECTION 302.1. RELIEF FROM CHARGES.--NOTWITHSTANDING ANY  
17 OTHER PROVISIONS OF THIS ACT ASSIGNING CHARGES FOR COMPENSATION  
18 PAID TO EMPLOYEES, EXCEPT FOR SECTION 302(A)(2), THE DEPARTMENT  
19 SHALL RELIEVE AN EMPLOYER OF CHARGES FOR COMPENSATION IN  
20 ACCORDANCE WITH THIS SECTION AND SECTION 213 OF THIS ACT.

21 \* \* \*

22 SECTION 3. SECTION 312 OF THE ACT IS AMENDED BY ADDING A  
23 SUBSECTION TO READ:

24 SECTION 312. RECIPROCAL AGREEMENTS.--THE DEPARTMENT IS  
25 HEREBY AUTHORIZED TO ENTER INTO RECIPROCAL ARRANGEMENTS WITH  
26 APPROPRIATE AND DULY AUTHORIZED AGENCIES OF OTHER STATES OR OF  
27 THE FEDERAL GOVERNMENT, OR BOTH, WHEREBY--

28 \* \* \*

29 (G) OVERPAYMENTS OF COMPENSATION UNDER THIS ACT SHALL BE  
30 DEDUCTED FROM COMPENSATION PAYABLE UNDER AN UNEMPLOYMENT BENEFIT

1 PROGRAM OF THE UNITED STATES OR ANOTHER STATE AND OVERPAYMENTS  
2 OF COMPENSATION UNDER AN UNEMPLOYMENT BENEFIT PROGRAM OF THE  
3 UNITED STATES OR ANOTHER STATE SHALL BE DEDUCTED FROM  
4 COMPENSATION PAYABLE UNDER THIS ACT OR COMPENSATION PAID BY THE  
5 COMMONWEALTH PURSUANT TO AN UNEMPLOYMENT BENEFIT PROGRAM OF THE  
6 UNITED STATES. A RECIPROCAL AGREEMENT UNDER THIS SUBSECTION  
7 SHALL BE CONSISTENT WITH THE REQUIREMENTS OF SECTION 303(G) OF  
8 THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. § 301 ET SEQ.)  
9 AND THE REGULATIONS AND INSTRUCTIONS OF THE UNITED STATES  
10 DEPARTMENT OF LABOR.

11 SECTION 3.1. SECTION 401(F) OF THE ACT, AMENDED JUNE 12,  
12 2012 (P.L.577, NO.60), IS AMENDED TO READ:

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

16 \* \* \*

17 (f) Has earned, subsequent to his separation from work under  
18 circumstances which are disqualifying under the provisions of  
19 subsections 402(b), 402(e), 402(e.1) [and 402(h)], 402(h) and  
20 402(k) of this act, remuneration for services in an amount equal  
21 to or in excess of six (6) times his weekly benefit rate in  
22 "employment" as defined in this act. The provisions of this  
23 subsection shall not apply to a suspension of work by an  
24 individual pursuant to a leave of absence granted by his last  
25 employer, provided such individual has made a reasonable effort  
26 to return to work with such employer upon the expiration of his  
27 leave of absence.

28 \* \* \*

29 ~~Section 2. Section 402 of the act is amended by adding a~~  
30 ~~subsection to read:~~

<--

1 SECTION 4. SECTIONS 402 AND 801 OF THE ACT ARE AMENDED BY <--  
2 ADDING SUBSECTIONS TO READ:

3 Section 402. Ineligibility for Compensation.--An employe  
4 shall be ineligible for compensation for any week--

5 \* \* \*

6 (k) In which the employe's unemployment is due to a  
7 separation from work initiated by the employe or the employer in  
8 order to preserve the employe's existing entitlement to a  
9 pension, including a governmental or other pension, retirement  
10 or retired pay, annuity or any other similar periodic payments.

11 SECTION 801. FALSE STATEMENTS AND REPRESENTATIONS TO OBTAIN <--  
12 OR INCREASE COMPENSATION.--\* \* \*

13 (C) WHOEVER MAKES A FALSE STATEMENT KNOWING IT TO BE FALSE,  
14 OR KNOWINGLY FAILS TO DISCLOSE A MATERIAL FACT TO OBTAIN OR  
15 INCREASE COMPENSATION OR OTHER PAYMENT UNDER THIS ACT OR UNDER  
16 AN EMPLOYMENT SECURITY LAW OF THE FEDERAL GOVERNMENT AND AS A  
17 RESULT RECEIVES COMPENSATION TO WHICH HE IS NOT ENTITLED SHALL  
18 BE LIABLE TO PAY TO THE UNEMPLOYMENT COMPENSATION FUND A SUM  
19 EQUAL TO FIFTEEN PER CENTUM (15%) OF THE AMOUNT OF THE  
20 COMPENSATION. THE SUM SHALL BE COLLECTIBLE IN THE MANNER  
21 PROVIDED IN SECTION 308.1 OR 309 FOR THE COLLECTION OF PAST DUE  
22 CONTRIBUTIONS AND BY ANY OTHER MEANS AVAILABLE UNDER FEDERAL OR  
23 STATE LAW. NO ADMINISTRATIVE OR LEGAL PROCEEDING FOR THE  
24 COLLECTION OF THE SUM MAY BE INSTITUTED AFTER THE EXPIRATION OF  
25 TEN YEARS FOLLOWING THE END OF THE BENEFIT YEAR WITH RESPECT TO  
26 WHICH THE SUM WAS PAID.

27 SECTION 5. SECTIONS 1301, 1302, 1303 AND 1313 OF THE ACT,  
28 ADDED JUNE 17, 2011 (P.L.16, NO.6), ARE AMENDED TO READ:

29 SECTION 1301. DEFINITIONS.

30 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL

1 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
2 CONTEXT CLEARLY INDICATES OTHERWISE:

3 "AFFECTED UNIT." A DEPARTMENT, SHIFT OR OTHER ORGANIZATIONAL  
4 UNIT OF TWO OR MORE EMPLOYEES THAT IS DESIGNATED BY AN EMPLOYER  
5 TO PARTICIPATE IN A SHARED-WORK PLAN.

6 "APPROVED SHARED-WORK PLAN." AN EMPLOYER'S SHARED-WORK PLAN  
7 WHICH MEETS THE REQUIREMENTS OF SECTION 1303 AND WHICH THE  
8 DEPARTMENT APPROVES IN WRITING.

9 ["FRINGE BENEFIT." HEALTH INSURANCE, A RETIREMENT BENEFIT  
10 RECEIVED UNDER A PENSION PLAN, A PAID VACATION DAY, A PAID  
11 HOLIDAY, SICK LEAVE AND ANY OTHER SIMILAR EMPLOYEE BENEFIT  
12 PROVIDED BY AN EMPLOYER.]

13 "PARTICIPATING EMPLOYEE." AN EMPLOYEE IN THE AFFECTED UNIT  
14 WHOSE HOURS OF WORK ARE REDUCED BY THE REDUCTION PERCENTAGE  
15 UNDER THE SHARED-WORK PLAN.

16 "PARTICIPATING EMPLOYER." AN EMPLOYER WHO HAS A SHARED-WORK  
17 PLAN IN EFFECT.

18 "REDUCTION PERCENTAGE." THE PERCENTAGE BY WHICH EACH  
19 PARTICIPATING EMPLOYEE'S NORMAL WEEKLY HOURS OF WORK ARE REDUCED  
20 UNDER A SHARED-WORK PLAN IN ACCORDANCE WITH SECTION 1303(B).

21 "SHARED-WORK PLAN." A PLAN FOR REDUCING UNEMPLOYMENT UNDER  
22 WHICH PARTICIPATING EMPLOYEES OF AN AFFECTED UNIT SHARE THE WORK  
23 REMAINING AFTER REDUCTION IN THEIR NORMAL WEEKLY HOURS OF WORK.  
24 SECTION 1302. APPLICATION TO APPROVE SHARED-WORK PLAN.

25 (A) REQUIREMENTS.--AN EMPLOYER THAT MEETS ALL OF THE  
26 FOLLOWING REQUIREMENTS MAY APPLY TO THE DEPARTMENT FOR APPROVAL  
27 OF A SHARED-WORK PLAN:

28 (1) THE EMPLOYER HAS FILED ALL QUARTERLY REPORTS AND  
29 OTHER REPORTS REQUIRED UNDER THIS ACT AND HAS PAID ALL  
30 CONTRIBUTION, REIMBURSEMENT, INTEREST AND PENALTY DUE THROUGH

1 THE DATE OF THE EMPLOYER'S APPLICATION.

2 (2) IF THE EMPLOYER IS CONTRIBUTORY, THE EMPLOYER'S  
3 RESERVE ACCOUNT BALANCE AS OF THE MOST RECENT COMPUTATION  
4 DATE PRECEDING THE DATE OF THE EMPLOYER'S APPLICATION IS A  
5 POSITIVE NUMBER.

6 (3) THE EMPLOYER HAS PAID WAGES FOR THE 12 CONSECUTIVE  
7 CALENDAR QUARTERS PRECEDING THE DATE OF THE EMPLOYER'S  
8 APPLICATION.

9 (B) APPLICATION.--AN APPLICATION UNDER THIS SECTION SHALL BE  
10 MADE IN THE MANNER PRESCRIBED BY THE DEPARTMENT AND CONTAIN ALL  
11 INFORMATION REQUIRED BY THE DEPARTMENT, INCLUDING THE FOLLOWING:

12 (1) THE EMPLOYER'S WRITTEN PLAN, DESCRIBING THE MANNER  
13 IN WHICH THE REQUIREMENTS OF THIS ARTICLE WILL BE  
14 IMPLEMENTED, INCLUDING A PLAN FOR GIVING ADVANCE NOTICE,  
15 WHERE FEASIBLE, TO PARTICIPATING EMPLOYEES WHOSE HOURS OF  
16 WORK ARE REDUCED, AN ESTIMATE OF THE NUMBER OF LAYOFFS THAT  
17 WOULD HAVE OCCURRED IN THE ABSENCE OF THE EMPLOYER'S SHARED-  
18 WORK PLAN AND OTHER INFORMATION REQUIRED BY THE DEPARTMENT  
19 AND THE UNITED STATES DEPARTMENT OF LABOR.

20 [(1)] (1.1) THE EMPLOYER'S ASSURANCE THAT IT WILL  
21 PROVIDE REPORTS TO THE DEPARTMENT RELATING TO THE OPERATION  
22 OF ITS SHARED-WORK PLAN AT THE TIMES AND IN THE MANNER  
23 PRESCRIBED BY THE DEPARTMENT AND CONTAINING ALL INFORMATION  
24 REQUIRED BY THE DEPARTMENT, INCLUDING THE NUMBER OF HOURS  
25 WORKED EACH WEEK BY PARTICIPATING EMPLOYEES.

26 (2) THE EMPLOYER'S ASSURANCE THAT IT WILL NOT HIRE NEW  
27 EMPLOYEES IN OR TRANSFER EMPLOYEES TO THE AFFECTED UNIT  
28 DURING THE EFFECTIVE PERIOD OF THE SHARED-WORK PLAN.

29 (3) THE EMPLOYER'S ASSURANCE THAT IT WILL NOT LAY OFF  
30 PARTICIPATING EMPLOYEES DURING THE EFFECTIVE PERIOD OF THE

1 SHARED-WORK PLAN, OR REDUCE PARTICIPATING EMPLOYEES' HOURS OF  
2 WORK BY MORE THAN THE REDUCTION PERCENTAGE DURING THE  
3 EFFECTIVE PERIOD OF THE SHARED-WORK PLAN, EXCEPT IN CASES OF  
4 HOLIDAYS, DESIGNATED VACATION PERIODS, EQUIPMENT MAINTENANCE  
5 OR SIMILAR CIRCUMSTANCES.

6 (4) A LIST OF THE WEEK OR WEEKS WITHIN THE REQUESTED  
7 EFFECTIVE PERIOD OF THE SHARED-WORK PLAN DURING WHICH  
8 PARTICIPATING EMPLOYEES ARE ANTICIPATED TO WORK FEWER HOURS  
9 THAN THE NUMBER OF HOURS DETERMINED UNDER SECTION 1303(A) (5)  
10 DUE TO CIRCUMSTANCES INCLUDED IN PARAGRAPH (3).

11 (5) THE EMPLOYER'S CERTIFICATION THAT THE IMPLEMENTATION  
12 OF A SHARED-WORK PLAN IS IN LIEU OF [TEMPORARY] LAYOFFS THAT  
13 WOULD AFFECT AT LEAST 10% OF THE EMPLOYEES IN THE AFFECTED  
14 UNIT AND WOULD RESULT IN AN EQUIVALENT REDUCTION IN WORK  
15 HOURS.

16 (6) THE EMPLOYER'S ASSURANCE THAT IT WILL ABIDE BY ALL  
17 TERMS AND CONDITIONS OF THIS ARTICLE.

18 (7) THE EMPLOYER'S ATTESTATION THAT ITS IMPLEMENTATION  
19 OF THE SHARED-WORK PLAN IS CONSISTENT WITH THE EMPLOYER'S  
20 OBLIGATIONS UNDER FEDERAL AND STATE LAW.

21 (8) IF THE EMPLOYER PROVIDES HEALTH BENEFITS AND  
22 RETIREMENT BENEFITS UNDER A DEFINED BENEFIT PLAN AS DEFINED  
23 IN SECTION 414(J) OF THE INTERNAL REVENUE CODE OF 1986  
24 (PUBLIC LAW 99-514, 26 U.S.C. § 414(J)), OR CONTRIBUTIONS  
25 UNDER A DEFINED CONTRIBUTION PLAN AS DEFINED IN SECTION  
26 414(I) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-  
27 514, 26 U.S.C. § 414(I), TO A PARTICIPATING EMPLOYEE WHOSE  
28 HOURS OF WORK ARE REDUCED UNDER THE SHARED-WORK PLAN, THE  
29 EMPLOYER'S CERTIFICATION THAT THE BENEFITS WILL CONTINUE TO  
30 BE PROVIDED TO PARTICIPATING EMPLOYEES UNDER THE SAME TERMS

1 AND CONDITIONS AS THOUGH THE HOURS OF WORK OF THE EMPLOYEES  
2 HAD NOT BEEN REDUCED OR TO THE SAME EXTENT AS OTHER EMPLOYEES  
3 NOT PARTICIPATING IN THE SHARED-WORK PLAN.

4 (C) MULTIPLE SHARED-WORK PLANS.--AN EMPLOYER MAY APPLY TO  
5 THE DEPARTMENT FOR APPROVAL OF MORE THAN ONE SHARED-WORK PLAN.  
6 SECTION 1303. SHARED-WORK PLAN REQUIREMENTS.

7 (A) GENERAL RULE.--THE DEPARTMENT MAY APPROVE A SHARED-WORK  
8 PLAN ONLY IF THE PLAN MEETS ALL OF THE FOLLOWING REQUIREMENTS:

9 (1) THE SHARED-WORK PLAN APPLIES TO ONE AFFECTED UNIT.

10 (2) ALL EMPLOYEES IN THE AFFECTED UNIT ARE PARTICIPATING  
11 EMPLOYEES, EXCEPT THAT THE FOLLOWING EMPLOYEES MAY NOT BE  
12 PARTICIPATING EMPLOYEES:

13 (I) AN EMPLOYEE WHO HAS BEEN EMPLOYED IN THE  
14 AFFECTED UNIT FOR LESS THAN THREE MONTHS PRIOR TO THE  
15 DATE THE EMPLOYER APPLIES FOR APPROVAL OF THE SHARED-WORK  
16 PLAN.

17 (I.1) AN EMPLOYEE IN THE AFFECTED UNIT WHO IS  
18 EMPLOYED ON A SEASONAL, TEMPORARY OR INTERMITTENT BASIS.

19 (II) AN EMPLOYEE WHOSE HOURS OF WORK PER WEEK  
20 DETERMINED UNDER PARAGRAPH (5) IS 40 OR MORE HOURS.

21 (3) THERE ARE NO FEWER THAN TWO PARTICIPATING EMPLOYEES,  
22 DETERMINED WITHOUT REGARD TO CORPORATE OFFICERS.

23 (4) THE PARTICIPATING EMPLOYEES ARE IDENTIFIED BY NAME  
24 AND SOCIAL SECURITY NUMBER.

25 (5) THE NUMBER OF HOURS A PARTICIPATING EMPLOYEE WILL  
26 WORK EACH WEEK DURING THE EFFECTIVE PERIOD OF THE SHARED-WORK  
27 PLAN IS DETERMINED BY THE FOLLOWING FORMULA:

28 EMPLOYEE'S NORMAL WEEKLY HOURS OF  
29 WORK X (100% - REDUCTION PERCENTAGE)

30 (6) AS A RESULT OF A DECREASE IN THE NUMBER OF HOURS

1 WORKED BY EACH PARTICIPATING EMPLOYEE, THERE IS A  
2 CORRESPONDING REDUCTION IN WAGES.

3 (7) IF ANY PARTICIPATING EMPLOYEE IS COVERED BY A  
4 COLLECTIVE BARGAINING AGREEMENT, THE SHARED-WORK PLAN IS  
5 APPROVED IN WRITING BY THE COLLECTIVE BARGAINING  
6 REPRESENTATIVE.

7 [(8) THE SHARED-WORK PLAN DOES NOT AFFECT THE FRINGE  
8 BENEFITS OF ANY PARTICIPATING EMPLOYEE NOT COVERED BY A  
9 COLLECTIVE BARGAINING AGREEMENT.]

10 (9) THE EFFECTIVE PERIOD OF THE SHARED-WORK PLAN IS NOT  
11 MORE THAN 52 CONSECUTIVE WEEKS.

12 (10) THE EFFECTIVE PERIOD OF THE SHARED-WORK PLAN  
13 COMBINED WITH EFFECTIVE PERIODS OF THE PARTICIPATING  
14 EMPLOYER'S PRIOR SHARED-WORK PLANS DOES NOT EQUAL MORE THAN  
15 104 WEEKS OUT OF A 156-WEEK PERIOD.

16 (11) THE REDUCTION PERCENTAGE SATISFIES THE REQUIREMENTS  
17 OF SUBSECTION (B).

18 (B) REDUCTION PERCENTAGE.--THE REDUCTION PERCENTAGE UNDER AN  
19 APPROVED SHARED-WORK PLAN SHALL MEET ALL OF THE FOLLOWING  
20 REQUIREMENTS:

21 (1) THE REDUCTION PERCENTAGE SHALL BE NO LESS THAN 20%  
22 AND NO MORE THAN 40%.

23 (2) THE REDUCTION PERCENTAGE SHALL BE THE SAME FOR ALL  
24 PARTICIPATING EMPLOYEES.

25 (3) THE REDUCTION PERCENTAGE SHALL NOT CHANGE DURING THE  
26 PERIOD OF THE SHARED-WORK PLAN UNLESS THE PLAN IS MODIFIED IN  
27 ACCORDANCE WITH SECTION 1308.

28 [SECTION 1313. EXPIRATION.

29 THIS ARTICLE SHALL EXPIRE FIVE YEARS FROM ITS EFFECTIVE DATE.]

30 Section 3 6. The provisions of this act shall apply to

<--

1 ~~initial claims~~ BENEFIT YEARS filed on or after the effective <--  
2 date of this section.  
3 Section 4 7. This act shall take effect in 60 days. <--