THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1127 Session of 2013

INTRODUCED BY B. BOYLE, K. BOYLE, CALTAGIRONE, PASHINSKI, THOMAS, HARKINS, FABRIZIO, D. COSTA, KULA AND MOLCHANY, APRIL 8, 2013

REFERRED TO COMMITEE ON LABOR AND INDUSTRY, APRIL 8, 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   relief from charges and for recovery and recoupment of
17   compensation.

18   The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20   Section 1. Section 302.1(e) of the act of December 5, 1936

21 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment

22 Compensation Law, added June 20, 2011 (P.L.16, No.6), is amended

23 to read:

24   Section 302.1. Relief from Charges.--Notwithstanding any

25 other provisions of this act assigning charges for compensation

1 paid to employes, the department shall relieve an employer of

2 charges for compensation in accordance with this section and

3 section 213 of this act.

4 * * *

5 (e) General provisions:

6 (1) Where the individual's eligibility for compensation has

7 been finally determined under the provisions of Article V of

8 this act, such determination shall not be subject to attack in

9 proceedings under this section.

10 (2) The findings and determinations of the department under

11 this section shall be subject to appeal in the manner provided

12 in this act for appeals from determinations of compensation.

13 (3) Notwithstanding any other provisions of this section, no

14 employer shall be relieved of charges with respect to benefits

15 that are subsequently determined to be overpaid if the employer

16 or agent of the employer failed without good cause to respond

17 adequately or timely to a department request for information

18 with respect to the claim for such benefits. For purposes of

19 this section, the employer has responded timely to a request for

20 information if it responds within fifteen calendar days of the

21 mailing of the request for information to its last known post

22 office box.

23 Section 2. Section 804(b) of the act, amended July 10, 1980

24 (P.L.521, No.108), is amended to read:

25 Section 804. Recovery and Recoupment of Compensation.--* * *

26 (b) (1) Any person who other than by reason of his fault

27 has received with respect to a benefit year any sum as

28 compensation under this act to which he was not entitled shall

29 not be liable to repay such sum but shall be liable to have such

30 sum deducted from any future compensation payable to him with

1 respect to such benefit year, or the three-year period
2 immediately following such benefit year: Provided, That with
3 respect to overpayments of one hundred dollars or more,
4 recoupment from such future compensation shall not exceed one-
5 third of the maximum benefit amount to which such person is
6 entitled during any such subsequent benefit year nor one-third
7 of the weekly benefit amount to which such person may be
8 entitled for any particular week. In the absence of
9 misrepresentation or non-disclosure of a material fact, no
10 recoupment shall be had if such overpayment is created by reason
11 of (i) a subsequent reversal of two decisions of eligibility
12 under the provisions of section five hundred one (e) of this
13 act, or (ii) the subsequent receipt of holiday pay, vacation pay
14 or the like of which the person had no knowledge, [or] (iii) a
15 subsequent determination that the person's base year wages were
16 not earned in employment as defined in this act, (iv) the
17 employer has been denied relief from charges under section
18 302.1(e)(3) because of its failure without good cause to respond
19 adequately or timely to a department request for information, or
20 (v) recoupment would defeat the purpose of the benefits or would
21 be against equity and good conscience. No provision of this
22 subsection shall be construed to prevent or prohibit the
23 voluntary repayment of compensation by such person or the
24 maintenance of records of overpayments by the department.
25   (2) The claimant and other affected parties shall be
26 notified in writing of the department's determination to deduct
27 any sum from future compensation under this section, and such
28 determination shall be subject to appeal in the manner provided
29 in this act for appeals from determinations of compensation.
30   (3) Notwithstanding any other provisions of this subsection,

1 any person who has received or employer who has made a back wage
2 payment pursuant to an award of a labor relations board
3 arbitrator or the like without deduction for unemployment
4 compensation benefits received during the period to which such
5 wages are allocated shall notify the department immediately of
6 the receipt or payment of such back wage award. The recipient of
7 such back wage award, made without deduction for unemployment
8 compensation benefits received during the period, shall be
9 liable to pay into the Unemployment Compensation Fund an amount
10 equal to the amount of such unemployment compensation benefits
11 received.
12   * * *
13   Section 3. This act shall take effect in 60 days.