

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 129 Session of
2021

INTRODUCED BY COX, GLEIM, JOZWIAK, MILLARD, MIZGORSKI, MOUL,
RYAN, STRUZZI, THOMAS, ZIMMERMAN AND WHEELAND,
FEBRUARY 11, 2021

SENATOR BARTOLOTTA, LABOR AND INDUSTRY, IN SENATE, AS AMENDED,
FEBRUARY 8, 2022

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," in determination of
16 compensation, appeals, reviews and procedure, further
17 providing for rules of procedure and for place of hearing.

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

20 Section 1. Sections 505 and 505.1 of the act of December 5,
21 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
22 Unemployment Compensation Law, are amended to read:

23 Section 505. Rules of Procedure.--(a) The manner in which
24 appeals shall be taken, the reports thereon required from the

1 department, the claimant and employers, and the conduct of
2 hearings and appeals, shall be in accordance with rules of
3 procedure prescribed by the board whether or not such rules
4 conform to common law or statutory rules of evidence and other
5 technical rules of procedure. [Rules established by the board
6 shall permit either party to a hearing to testify via telephone,
7 without regard to distance of hearing location from either
8 party.] The following shall apply:

9 (1) The board shall review and revise its rules to modernize
10 the methods by which hearings are conducted. Revised rules
11 shall:

12 (i) Provide for a transition from in-person and telephone
13 hearings to hearings conducted primarily via videoconference no
14 later than the effective date of the regulations promulgated in
15 accordance with paragraph (2) (v).

16 (ii) Allow parties and witnesses to participate IN PERSON, <--
17 by telephone or other electronic means when videoconferencing is
18 not available.

19 (III) PROVIDE FOR THE CONTENTS OF THE APPEAL ACKNOWLEDGMENT, <--
20 INCLUDING INSTRUCTIONS FOR HOW A PARTY MAY REQUEST AN IN-PERSON
21 HEARING WHEN SUBMITTING AN APPEAL.

22 ~~(iii)~~ (IV) Provide for the contents of the hearing notice, <--
23 including information on how to access the hearing and how to
24 request an in-person hearing for good cause. <--

25 ~~(iv)~~ (V) Provide for the procedures for parties to submit <--
26 evidence and for the distribution of evidence during hearing
27 preparation, including methods to electronically submit and
28 distribute evidence.

29 ~~(v)~~ Require (VI) ALLOW parties and witnesses to access a <--
30 hearing according to instructions provided by the board or a

1 referee, without the need for the board or referee to initiate
2 contact.

3 ~~(vi)~~ (VII) Provide for identity confirmation for parties and <--
4 witnesses, including the sworn affirmation of identity, subject
5 to 18 Pa.C.S. § 4903 (relating to false swearing), for
6 individuals participating by videoconference, telephone or other
7 electronic means.

8 ~~(vii)~~ (VIII) Allow notices of hearings to be provided <--
9 electronically to parties and communications related to the
10 scheduling of and access to hearings to be made by telephone,
11 email or other electronic means, if the party has agreed to
12 receive notices and other communications by these means, and
13 ~~require~~ ALLOW notices of decisions and other documents that are <--
14 required to be sent by mail to also be sent by email or other
15 electronic means whenever possible.

16 ~~(viii)~~ Allow a party or witness in an in person hearing to <--
17 participate in the hearing by videoconference, telephone or
18 other electronic means, unless good cause under paragraph (4)
19 necessitates that the party or witness appear in person.

20 (IX) FOR HEARINGS IN WHICH A PARTY REQUESTS AN IN-PERSON <--
21 HEARING, ALLOW OTHER PARTIES OR WITNESSES IN THE HEARING TO
22 PARTICIPATE BY VIDEOCONFERENCE, TELEPHONE OR OTHER ELECTRONIC
23 MEANS, UNLESS THE REFEREE DETERMINES THAT ALL PARTIES MUST
24 PARTICIPATE IN PERSON TO ENSURE A FAIR HEARING.

25 (2) The board shall implement revised rules as follows:

26 (i) The board shall solicit public comments on the creation
27 of temporary rules for hearings. The public comment period shall
28 be at least fifteen days and not more than thirty days. Within
29 thirty days of the effective date of this paragraph, the board
30 shall submit notice of the public comment period to the

1 Legislative Reference Bureau for publication in the Pennsylvania
2 Bulletin.

3 (ii) Within six months of the effective date of this
4 paragraph, the board shall submit notice of temporary rules,
5 created in accordance with paragraph (1) to the Legislative
6 Reference Bureau for publication in the Pennsylvania Bulletin.

7 (iii) Temporary rules shall take effect no later than thirty
8 days after the publication of notice under subparagraph (ii).

9 (iv) The board shall propose regulations to revise rules
10 under paragraph (1) no later than one year after the effective
11 date of this paragraph.

12 (v) The board shall promulgate regulations to revise rules
13 under paragraph (1) no later than three years after the
14 effective date of this paragraph.

15 (vi) Temporary rules shall remain in effect until the
16 effective date of regulations promulgated under subparagraph
17 (v).

18 (3) Hearings shall be conducted via telephone,
19 videoconference or other electronic means unless the referee <--
20 determines that good cause exists to hold an in person hearing.

21 ~~(4) A party may request an in person hearing for good~~
22 ~~cause. The hearing notice shall include notice of the procedure~~
23 ~~to request an in person hearing.~~

24 ~~(5) For the purposes of this subsection, good cause shall~~
25 ~~include any of the following circumstances:~~

26 ~~(i) A party to the hearing or a witness has a physical,~~
27 ~~mental or intellectual disability, which would impose an undue~~
28 ~~hardship on the individual if the hearing is conducted via~~
29 ~~telephone, videoconference or other electronic means.~~

30 ~~(ii) A party to the hearing or a witness requires an~~

1 ~~interpreter, and the department cannot reasonably provide~~
2 ~~interpretation services via telephone, videoconference or other~~
3 ~~electronic means.~~

4 ~~(iii) A party to the hearing offers compelling evidence that~~
5 ~~conducting the hearing via telephone, videoconference or other~~
6 ~~electronic means would create a significant advantage for an~~
7 ~~opposing party.~~

8 ~~(iv) A party to the hearing affirms, subject to 18 Pa.C.S. §~~
9 ~~4904 (relating to unsworn falsification to authorities), that~~
10 ~~the party is unable to participate in the hearing via telephone,~~
11 ~~videoconference or other electronic means. A PARTY REQUESTS AN <--~~
12 ~~IN-PERSON HEARING. THE REFEREE SHALL GRANT ALL REQUESTS BY A~~
13 ~~PARTY TO PARTICIPATE IN A HEARING IN PERSON.~~

14 ~~(6) (4) The department shall, wherever possible, make <--~~
15 ~~attempts to assist the board in facilitating access to hearings~~
16 ~~held via telephone, videoconference or other electronic means~~
17 ~~for parties and witnesses who request assistance in gaining~~
18 ~~access to the technology necessary to participate in a hearing.~~

19 ~~(7) (5) The following shall apply: <--~~

20 ~~(i) Any provision of 34 Pa. Code Ch. 101 (relating to~~
21 ~~general requirements) that is inconsistent with this subsection,~~
22 ~~or with temporary rules or regulations promulgated under~~
23 ~~paragraph (2), is abrogated.~~

24 ~~(ii) Temporary rules for hearings issued under paragraph (2)~~
25 ~~shall not be subject to any of the following:~~

26 ~~(A) Section 612 of the act of April 9, 1929 (P.L.177,~~
27 ~~No.175), known as "The Administrative Code of 1929."~~

28 ~~(B) Sections 201, 202, 203, 204 and 205 of the act of July~~
29 ~~31, 1968 (P.L.769, No.240), referred to as the "Commonwealth~~
30 ~~Documents Law."~~

1 (C) Sections 204(b) and 301(10) of the act of October 15,
2 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys
3 Act."

4 (D) The act of June 25, 1982 (P.L.633, No.181), known as the
5 "Regulatory Review Act."

6 (b) When the same or substantially similar evidence is
7 relevant and material to the matter in issue in applications and
8 claims filed by more than one individual or in multiple
9 applications and claims filed by a single individual the same
10 time and place for considering each such application and claim
11 may be fixed, hearings thereon jointly conducted, a single
12 record of the proceedings made and evidence introduced with
13 respect to any application or claim considered as introduced
14 with respect to all of such applications or claims: Provided,
15 That in the judgment of the board or referee having jurisdiction
16 of the proceeding such consideration will not be prejudicial to
17 any party.

18 Section 505.1. Place of Hearing.--[Hearings] In-person
19 hearings on appeals shall be held within the county in which the
20 employe regularly reports for work. Such hearings may be held at
21 the county seat or at such other suitable place or places within
22 the county as the board shall designate, and when all of the
23 parties to any appeal and the board agree, such hearings may be
24 held at any suitable place.

25 Section 2. This act shall take effect in 60 days.