

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

SENATE BILL No. 263

(By Mr. Paul)



PASSED March 8 1937

In Effect final Passage

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ENROLLED
Senate Bill No. 263

(BY MR. PAULL) (by request)

[Passed March 8, 1937; in effect from passage.]

AN ACT to amend and reenact section three, article one, sections six, seven, fourteen, seventeen and eighteen, article two, sections three, four, five, seven, ten, eleven, twelve and nineteen, article five, sections one, two, three, four, eight, ten, eleven, twelve and thirteen, article six, sections two, four, six and eight, article seven, sections five and nine, article eight, and section four, article ten, to add section six-a to article two; to repeal section eight, article five, and sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, article six; all of chapter one, acts of the Legislature of

West Virginia, second extraordinary session, one thousand nine hundred thirty-six, relating to unemployment compensation.

Be it enacted by the Legislature of West Virginia:

That section eight, article five, and sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, article six, chapter one, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-six, be, and they are hereby, repealed; that section three, article one, sections six, seven, fourteen, seventeen and eighteen, article two, sections three, four, five, seven, ten, eleven, twelve and nineteen, article five, sections one, two, three, four, eight, ten, eleven, twelve and thirteen, article six, sections two, four, six and eight, article seven, sections five and nine, article eight and section four, article ten of said chapter one be amended and reenacted; and that article two of said chapter one be amended by adding thereto a new section to be numbered section six-a; all to read as follows:

ARTICLE I

Section 3. As used in this chapter, unless the context clearly requires otherwise:

3 "Administration fund" means the unemployment com-
4 pensation administration fund, from which the administra-
5 tive expenses under this chapter shall be paid.

6 "Annual payroll" means the total amount of wages pay-
7 able by an employer (regardless of the time of payment)
8 for employment during one year.

9 "Average annual payroll" means the average of the
9a annual payrolls of an employer for the last three or five
10 preceding years, whichever is the higher.

11 "Base period" means the period beginning with the first
12 day of the nine completed calendar quarters immediately
13 preceding the first day of an individual's benefit year and
14 ending with the last day of the next to the last completed
15 calendar quarter immediately preceding any week with re-
16 spect to which benefits are payable.

17 "Benefit year" with respect to any individual, means the
18 fifty-two consecutive week period beginning with the first
19 day of the week with respect to which benefits are first
20 payable to him, and thereafter the fifty-two consecutive
21 week period beginning with the first day of the first week
22 with respect to which benefits are next payable to him

23 after the termination of his last preceding benefit year.

24 "Benefits" means the money payable to an individual
25 with respect to his unemployment.

26 "Board" means board of review.

27 "Calendar quarter" means the period of three consecutive
28 calendar months ending on March thirty-one, June thirty,
29 September thirty, or December thirty-one, excluding, how-
30 ever, any calendar quarter or portion thereof which occurs
31 prior to January one, one thousand nine hundred thirty-
32 seven, or the equivalent thereof as the director may by
33 regulation prescribe.

34 "Director" means the unemployment compensation
35 director.

36 "Employing unit" means an individual, or type of organ-
37 ization, including any partnership, association, trust, estate,
38 joint stock company, insurance company, corporation
39 (domestic or foreign), or the receivership, trustee in bank-
40 ruptcy, trustee or successor thereof, or the legal represen-
41 tative of a deceased person which has on January one,
42 one thousand nine hundred thirty-five, or subsequent there-

43 to, had in its employ one or more individuals performing
44 service within this state.

45 "Employer" means an employing unit which for some
46 portion of a day, not necessarily simultaneously, in each of
47 twenty different weeks, which weeks need not be consecutive,
48 within either the current year or the preceding year, has
49 had in employment eight or more individuals (irrespective
50 of whether the same individuals were or were not employed
51 on each of such days).

52 "Employment," subject to the other provisions of this
53 subsection, means:

54 (1) Service, including service in interstate commerce,
55 performed for wages or under any contract of hire, written
56 or oral, express or implied.

57 (2) The term "employment" shall include an individual's
58 entire service, performed within or both within and with-
59 out this state if: (a) The service is localized in this state;
60 or (b) The service is not localized in any state but some
61 of the service is performed in this state and (i) the base
62 of operations, or, if there is no base of operations, then
63 the place from which such service is directed or controlled,

64 is in this state; or (ii) the base of operations or place
65 from which such service is directed or controlled is not
66 in any state in which some part of the service is per-
67 formed but the individual's residence is in this state.

68 (3) Service not covered under paragraph (2) of this sub-
69 section and performed entirely without this state, with re-
70 spect to no part of which contributions are required and
71 paid under an unemployment compensation law of any
72 other state or of the federal government, shall be deemed
73 to be employment subject to this act if the individual per-
74 forming such services is a resident of this state and the
75 director approves the election of the employing unit for
76 whom such services are performed that the entire service
77 of such individual shall be deemed to be employment sub-
78 ject to this act.

79 (4) Service shall be deemed to be localized within a
80 state if: (a) The service is performed entirely within
81 such state; or (b) the service is performed both within
82 and without such state, but the service performed without
83 such state is incidental to the individual's service within

84 the state: For example, is temporary or transitory in
85 nature or consists of isolated transactions.

86 (5) Services performed by an individual for wages shall
87 be deemed to be employment subject to this act unless
88 and until it is shown to the satisfaction of the director
89 that: (a) Such individual has been and will continue to
90 be free from control or direction over the performance
91 of such services, both under his contract of service and
92 in fact; and (b) such service is either outside the usual
93 course of the business for which such service is performed
94 or that such service is performed outside of all the places
95 of business of the enterprise for which such service is per-
96 formed; and (c) such individual is customarily engaged in
97 an independently established trade, occupation, profession,
98 or business.

99 The term "employment" shall not include:

100 (1) Services performed in the employ of this state or
101 any political subdivision thereof, or any instrumentality
102 of this state or its subdivisions.

103 (2) Service performed in the employ of another state,

104 its political subdivisions or an instrumentality of that state
105 or its subdivisions.

106 (3) Service performed in the employ of the United States
107 or an instrumentality of the United States.

108 (4) Service with respect to which unemployment com-
109 pensation is payable under an unemployment compensation
110 system established by an act of congress. The director
111 may enter into agreements with the proper agency estab-
112 lished under such act of congress to provide reciprocal
113 treatment to individuals who, after acquiring potential
114 rights to benefits under this chapter, have acquired rights
115 to unemployment compensation under an act of congress,
116 or who have, after acquiring potential rights to unemploy-
117 ment compensation under an act of congress, acquired rights
118 to benefits under this chapter. Such agreements shall be-
119 come effective ten days after such publication as complies
120 with the general rules of the department.

121 (5) Agricultural labor.

122 (6) Domestic service in a private home.

123 (7) Service performed as an officer or member of a crew
124 of a vessel on the navigable waters of the United States.

125 (8) Service performed by an individual in the employ
126 of his son, daughter, or spouse.

127 (9) Service performed by a child under the age of twenty-
128 one years in the employ of his father or mother.

129 (10) Service performed in the employ of an employing
130 unit organized and operated exclusively for religious, charit-
131 able, scientific, literary, or educational purpose or for pre-
132 vention of cruelty to children or animals, no part of the
133 net earnings of which inure to the benefit of any private
134-135 shareholder or individual.

136 "Employment office" means a free employment office or
137 branch thereof, operated by this state or maintained as a
138 part of a state-controlled system of public employment
139 offices.

140 "Fund" means the unemployment compensation fund
141 established by this chapter.

142 "Payments" means the money required to be paid into
143 the state unemployment compensation fund as provided by
144 article five of this chapter.

145 "State" includes in addition to the states of the United

146 States, Alaska, Hawaii, and the District of Columbia.

147 "Total and partial unemployment":

148 (1) An individual shall be deemed "totally unemployed"
149 in any week during which he performs no services and
150 with respect to which no wages are payable to him.

151 (2) An individual shall be deemed "partially unem-
152 ployed" in any week of less than full time work if the
153 wages payable to him for such week are less than six-fifths
154 of the weekly benefit amount he should be entitled to re-
155 ceive if totally unemployed and eligible.

156 (3) As used in this subsection, the term "wages" shall
157 include only that part of remuneration for odd jobs or
158 subsidiary work, or both, which is in excess of three dollars
159 in any one week, and the term "services" shall not include
160 that part of odd jobs or subsidiary work, or both, for
161 which remuneration equal to or less than three dollars
162 in any one week is payable.

163 (4) An individual's week of unemployment shall be
164 deemed to commence only after his registration at an em-
165 ployment office, except as the director may by regulation
166 otherwise prescribe.

167 "Wages" means all remuneration payable for personal
168 services, including commissions and bonuses and the cash
169 value of all remuneration payable in any medium other
170 than cash. Gratuities customarily received by an individual
171 in the course of his employment from persons other than
172 his employing unit shall be treated as wages paid by his
173 employing unit.

174 The reasonable cash value of remuneration payable in
175 any medium other than cash, and the reasonable amount
176 of gratuities shall be estimated and determined in accord-
177 ance with rules prescribed by the director.

178 "Week" means a calendar week, ending at midnight
179 Saturday, or the equivalent thereof, as determined in accord-
180 ance with the regulations prescribed by the director.

181 "Weekly benefit amount." means the amount of benefit an
182 individual would be entitled to receive for one week of
183 total unemployment.

184 "Year" means a calendar year, or the equivalent there-
185 of as determined by the director.

ARTICLE II

Section 6. The director shall be the executive and admin-

2 administrative head of the department and shall have the power

3 2a and duty to:

4 (1) Exercise general supervision of and make regulations
5 for the government of the department.

6 (2) Prescribe uniform rules pertaining to investigations,
7 departmental hearings, and promulgate rules and regula-
8 tions.

9 (3) Supervise fiscal affairs and responsibilities of the
10 department.

11 (4) Prescribe the qualifications of, appoint, remove, and
12 fix the compensation of the officers and employees of the
13 department.

14 (5) Organize and administer the department so as to
15 comply with the requirements of this chapter and to satisfy
16 any conditions established in applicable federal legislation.

17 (6) Make reports in such form and containing such in-
18 formation as the federal social security board may from
19 time to time require, and comply with such provisions as
20 the federal social security board may from time to time find
21 necessary to assure the correctness and verification of such
22 reports.

22 (7) Make available to any agency of the United States
23 charged with the administration of public works or assist-
24 ance through public employment, upon its request, the
25 name, address, ordinary occupation and employment status
26 of each recipient of unemployment compensation, and a
27 statement of the recipient's rights to further compensation
28 under this chapter.

29 (8) Keep an accurate and complete record of all depart-
30 mental proceedings; record and file all bonds and contracts
31 and assume responsibility for the custody and preservation
32 of all papers and documents of the department.

33 (9) Sign and execute in the name of the state, by "The
34 state department of unemployment compensation," any con-
35 tract or agreement with the federal government, its agencies,
36 other states, their subdivisions, or private persons.

37 (10) Prescribe a salary scale to govern compensation of
38 appointees and employees of the department.

39 (11) Make the original determination of right in claims
40 for benefits.

41 (12) Make recommendations, and an annual report to

42 the governor concerning the condition, operation, and func-
43 tioning of the department.

44 (13) Invoke any legal, equitable or special remedy for the
45 the enforcement of orders or the provisions of this chap-
46 ter.

47 (14) Exercise any other power necessary to standardize
48 administration, expedite departmental business, assure the
49 establishment of fair rules and regulations and promote the
50 efficiency of the service.

Sec. 6a. The director is hereby authorized to enter into
2 arrangements with the appropriate agencies of other states
3 or the federal government whereby individuals performing
4 services in this and other states for a single employing unit
5 under circumstances not specifically provided for in section
6 three, article one, of this act, or under similar provisions in
7 the unemployment compensation laws of such other states,
8 shall be deemed to be engaged in employment performed
9 entirely within this state or within one of such other states,
10 and whereby potential rights to benefits accumulated under
11 the unemployment compensation laws of several states or
12 under such a law of the federal government, or both, may

13 constitute the basis for the payment of benefits through
14 a single appropriate agency under terms which the direc-
15 tor finds will be fair and reasonable as to all affected in-
16 terests and will not result in any substantial loss to the fund.

Sec. 7. The director shall establish within the depart-
2 ment the division of unemployment compensation, and the
3 division of employment service and such other divisions as
4 will promote efficiency and economy in administration. Each
5 division shall be a separate administrative division with re-
6 spect to personnel, budget and duties, except insofar as the
7 director may find that such separation is impracticable.

Sec. 14. For the original determination of benefit claims,
2 the director shall appoint a necessary number of deputies as
3 his representatives.

Sec. 17. The head of the employment service division
2 shall have all powers and duties necessary to secure to the
3 state the benefits of congressional action for the promotion
4 and maintenance of a system of public employment offices.
5 To this end the provisions of the act referred to in the pre-
6 ceding section and such additional congressional action con-
7 sistent with the above act are accepted by the state and the

8 state pledges its observance and compliance therewith.
9 The state employment service division is designated the
10 agent of this state for the purpose of compliance with the
11 act of Congress entitled "An act to provide for the estab-
12 lishment of a national employment system and for co-opera-
13 tion with states in the promotion of such system, and for
14 other purposes," approved June six, one thousand nine
15 hundred thirty-three, as amended. The director shall ap-
16 point the head of the service and all appointees and em-
17 ployees in accordance with the regulations prescribed by
18 the director of the United States employment service.

Sec. 18. All moneys received by this state under the said
2 act of Congress, as amended, shall be paid into the employ-
3 ment service account, to be expended as provided by this
4 act and by said act of Congress. For the purpose of estab-
5 lishing and maintaining free public employment offices, the
6 director may enter into agreements with any political sub-
7 division of the state or with any private nonprofit organiza-
8 tion, and as part of such an agreement the director may ac-
9 cept money, services, or quarters as a contribution to the
10 employment service account.

ARTICLE V

Section 3. (1) An employing unit, not otherwise subject to this act, which files with the director its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the director, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January, it has filed with the director a written notice to that effect.

(2) Any employing unit for which services that do not constitute employment as defined in this act are performed, may file with the director a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this act for not less than two calendar years. Upon the written approval of such election by the director, such services shall be deemed to constitute employment subject to this

21 act from and after the date stated in such approval. Such
22 services shall cease to be deemed employment subject hereto
23 as of January first of any calendar year subsequent to such
24 two calendar years, only if at least thirty days prior to such
25 first day of January such employing unit has filed with the
26 director a written notice to that effect.

27 (3) Any employing unit which is or becomes an em-
28 ployer subject to this act within any calendar year shall be
29 subject to this act during the whole of such calendar year.

Sec. 4. On and after January first, one thousand nine
2 hundred thirty-six, an employer shall be liable for pay-
3 ments in respect to wages payable for employment occur-
4 ring during each year in which he is subject to this act.

Sec. 5. An employer shall make payments to the unem-
2 ployment compensation fund equal to the following per-
3 centages of wages payable by him with respect to employ-
4 ment as follows:

5 Nine-tenths of one per cent with respect to employment
6 during the year one thousand nine hundred thirty-six.

7 One and eight-tenths per cent with respect to employ-

8 ment during the year one thousand nine hundred thirty-
9 seven.

10 Two and seven-tenths per cent with respect to employ-
11 ment during the years one thousand nine hundred thirty-
12 eight, one thousand nine hundred thirty-nine and one thou-
13 sand nine hundred forty; and thereafter, the percentage
14 shall be determined by sections eight to thirteen of this ar-
15 ticle.

Sec. 7. (1) The director shall maintain a separate ac-
2 count for each employer, and shall credit his account with
3 all the contributions paid on his own behalf in excess of one
4 per centum of his annual pay roll for each calendar year.
5 But nothing in this act shall be construed to grant any
6 employer or individuals in his service prior claims or rights
7 to the amounts paid by him into the fund either on his own
8 behalf or on behalf of such individuals. Benefits paid to an
9 eligible individual shall be charged, in the amount herein-
10 after provided, against the account of his most recent em-
11 ployer, except that if such individual had not earned within
12 the completed calendar quarter and the expired portion of
13 the uncompleted calendar quarter immediately preceding

14 the first week of any continuous period of unemployment,
15 wages for employment by such most recent employer equal
16 to more than twelve times his weekly benefit amount, such
17 benefits may also be charged against the account of his
18 next most recent employer, in the inverse chronological or-
19 der in which the employment of such individual occurred.
20 The maximum amount so charged against the account of any
21 employer shall not exceed one-sixth of the wages payable to
22 such individual by each such employer for employment
23 which occurs on and after the first day of such individ-
24 ual's base period, and shall not exceed sixty-five dollars per
25 completed calendar quarter or portion thereof, which oc-
26 curs within such base period. The director shall by general
27 rules prescribe the manner in which benefits shall be
28 charged against the accounts of several employers for whom
29 an individual performed employment at the same time.

30 (2) The director may prescribe regulations for the estab-
31 lishment, maintenance, and dissolution of joint accounts by
32 two or more employers, and shall, in accordance with such
33 regulations and upon application by two or more employers
34 to establish such an account, or to merge their several indi-

35 vidual accounts in a joint account, maintain such joint ac-
36 count as if it constituted a single employer's account.

37 (3) The director shall, for the year one thousand nine
38 hundred forty-one and for each calendar year thereafter,
39 classify employers in accordance with their actual experience
40 in the payment of contributions on their own behalf and
41 with respect to benefits charged against their accounts, with
42 a view to fixing such contribution rates as will reflect such
43 experience.

Sec. 10. After the requirements of section nine have been
2 complied with, an employer's payment shall remain two and
3 seven-tenths per cent, until:

4 (1) There have elapsed three years throughout which an
5 individual in his employ could have received benefits if un-
6 employed and eligible.

7 (2) His payments credited to his account for all past years
8 exceed the benefits charged to his account by an amount
9 equal to at least seven and one-half per cent of his average
10 annual payroll, in which case his rate shall be one and eight-
11 tenths per cent.

12 (3) His payments credited to his account for all past
13 years exceed the benefits charged to his account by an
14 amount equal to at least ten per cent of his average annual
15 payroll, in which case his rate shall be nine-tenths of one
16 per cent.

17 The director shall determine an employer's compliance
18 with these requirements.

Sec. 11. If the total payments credited to an employer's
2 account for all past periods or the last sixty consecutive
3 calendar months (whichever period is the more advantage-
4 ous to the employer) are less than the total benefits charged
5 against his account during the same period, his rate shall be
6 three and six-tenths per cent, unless he shows to the satis-
7 faction of the director that such experience is due to an act
8 of God, fire, or other catastrophe, or act of civil or mili-
9 tary authority, directly affecting the place in which indi-
10 viduals were employed by him, in which case the rate shall
11 be two and seven-tenths per cent.

Sec. 12. If the director determines that the above rates
2 work inequities and hardships upon particular individuals
3 or industries he may hold an investigation after proper

4 notice and hearing and establish other rates more in con-
5 sonance with the risk of each employer and more nearly
6 calculated to increase stabilization of employment. Rates
7 fixed by the director shall be subject to the following lim-
8 itations:

9 (1) The combined rates of all employers shall be calcu-
10 lated to yield approximately two and seven-tenths per cent
11 of the total annual payrolls.

12 (2) The rate for a particular employer shall not be less
13 than two and seven-tenths per cent until there has been
14 three years throughout which an individual in his employ
15 could have received benefits if unemployed and eligible.

Sec. 19. Within one year after the date on which payment
2 or interest thereon is due, an employer, who has paid such
3 payment or interest, may make application for :

4 (1) An adjustment thereof in connection with subsequent
5 payments.

6 (2) A refund thereof if adjustment cannot be made.

7 If the director determines that payments and interest
8 were erroneously collected, he shall make the adjustment
9 without interest, in connection with subsequent payments

10 of the employer, or if such adjustment cannot be made, re-
11 fund the amount without interest from the clearing account
12 of the unemployment compensation fund.

13 For like cause and within the same period the director, on
14 his own initiative, may make an adjustment or refund.

ARTICLE VI

Section 1. An unemployed individual shall be eligible to
2 receive benefits, only if the director finds that:

3 (1) He has registered for work at and thereafter con-
4 tinues to report at an employment office in accordance
5 with the regulations of the director.

6 (2) He has made a claim for benefits in accordance with
7 the provisions of article seven of this chapter.

8 (3) He is able to work, and is available for work.

9 (4) He has been totally unemployed for a waiting period
10 of two weeks prior to the week for which he claims benefits
11 for total unemployment (and for the purposes of this sub-
12 section, two weeks of partial unemployment shall be deemed
13 to be equivalent to one week of total unemployment).

14 (5) He has within the first three out of the last four
15 completed calendar quarters immediately preceding the first

16 day of his benefit year, earned wages for employment by
17 employers equal to not less than twelve times his weekly
18 benefit amount.

Sec. 2. The waiting period of two weeks need not be
2 consecutive but may be accumulated during the thirteen
3 consecutive weeks preceding the week for which benefits are
4 claimed. This requirement shall not interrupt the payment
5 of benefits for consecutive weeks of unemployment; but the
6 waiting period must occur after benefits could first become
7 payable to an individual under this chapter; and provided
8 further that no individual shall be required to accumulate
9 more than five waiting period weeks during any sixty-five
10 consecutive week period.

11 During the waiting period the individual must be eligible
12 in all respect except for the requirements of subsections
13 two and five, section one of this article.

14 No week shall be counted toward the waiting period if
15 benefits have been paid with respect thereto.

Sec. 3. If the director finds that during the qualifying
2 period specified by subsection (5) of section one of this
3 article, an individual has been:

4 (1) Incapable of work because of some physical or mental
5 disability; (2) engaged in self-employment; or (3) engaged
6 in the performance of services not subject to this chapter;
7 the qualifying period shall be extended by the duration of
8 the incapacity, self-employment or services. No such ex-
9 tensions shall exceed four additional calendar quarters.

Sec. 4. Upon the determination of the facts by the
2 director, an individual shall be disqualified for benefits:

3 (1) For the week in which he left work voluntarily with-
4 out good cause and for not less than one nor more than
5 five weeks which immediately follow.

6 (2) For the week in which he has been discharged for
7 misconduct connected with his work and for not less than
8 one nor more than nine weeks which immediately follow.

9 (3) For the week in which he failed without good cause,
10 to apply for available suitable work, accept suitable work
11 when offered, or return to his customary self employment
12 when directed to do so by the director and for not less
13 than one nor more than five weeks which immediately
14 follow.

15 (4) For a week in which his total or partial unemploy-
16 ment is due to a stoppage of work which exists because
17 of a labor dispute at the factory, establishment, or other
18 premises at which he was last employed, unless the director
19 is satisfied that he was not (one) participating, financing,
20 or directly interested in such dispute, and (two) did not
21 belong to a grade or class of workers who were participating,
22 financing, or directly interested in the labor dispute which
23 resulted in the stoppage of work.

24 (5) For a week with respect to which he is receiving or
25 has received:

26 (a) Wages in lieu of notice; (b) compensation for tempo-
27 rary partial disability under the workmen's compensation
28 law of any state or under a similar law of the United States;
29 (c) old age benefits under title II of the social security
30 act or similar payments under any act of congress.

Sec. 8. Benefits shall become payable from the fund
2 twenty-four months after the first day when payments first
3 accrue.

4 Benefits shall be payable only with respect to unemploy-
5 ment occurring after expiration of such twenty-four months.

Sec. 10. Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the rate of fifty per cent of his full time weekly wage, but no more than fifteen dollars per week nor less than five dollars or three-fourths of his full time weekly wage, whichever is the lesser.

Sec. 11. An eligible individual who is partially unemployed in any week shall be paid with respect to such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his weekly benefit amount and five-sixths of his wages (as used in the definition of "total and partial unemployment" in section three, article one of this act) for such week.

If such partial benefit for any week equal less than two dollars it shall not be payable unless and until the accumulated total of such partial benefits with respect to weeks occurring within the thirteen preceding weeks equal two dollars or more.

Sec. 12. (1) The full time weekly wage of any individual means the weekly wages that such individual would receive if he were employed at the most recent wage rate earned

4 by him for employment by an employer during the period
5 prescribed pursuant to paragraph (3) of this subsection,
6 and for the customary scheduled full time weekly hours
7 prevailing for his occupation in the enterprise in which he
8 last earned wages for employment by an employer during
9 the same period.

10 (2) If the director finds that the full time weekly wage,
11 as above defined, would be unreasonable or arbitrary or not
12 readily determinable with respect to any individual, the
13 full time weekly wage of such individual shall be deemed
14 to be one-thirteenth of his total wages for employment by
15 employers during that quarter in which such total wages
16 were highest during the period prescribed pursuant to
17 paragraph (3) of this section.

18 (3) The full time weekly wage of any individual shall
19 be determined and redetermined at such reasonable times
20 as the director may find necessary to administer this act
21 and may by regulations prescribe. The period hereinabove
22 referred to shall consist of the next to the last completed
23 calendar quarter immediately preceding the date with re-
24 spect to which an individual's full time weekly wage is

25 determined, and such of the seven immediately preceding
26 consecutive calendar quarters as the director may by regula-
27 tion prescribe.

Sec. 13. The director shall compute wage credits for
2 each individual by crediting him with the wages earned by
3 him for employment by employers during each quarter, or
4 three hundred ninety dollars, whichever is the lesser. Bene-
5 fits paid to any eligible individual shall be charged, in the
6 same chronological order as such wages were earned, against
7 one-sixth of his wage credits which are based upon wages
8 earned during his base period and which have not been
9 previously charged hereunder. The maximum total amount
10 of benefits payable to any eligible individual during any
11 benefit year shall not exceed whichever is the lesser of (1)
12 twelve times his weekly benefit amount, and (2) one-sixth
13 of such uncharged wage credits with respect to his base
14 period.

ARTICLE VII

Sec. 2. An employer shall post and maintain in places
2 readily accessible to individuals in his service the claim pro-
3 cedure regulations prescribed by the director. At the time

4 any such individual becomes unemployed, an employer shall
5 furnish such individual with a copy of the regulations. The
6 director shall provide an employer copies of the regulations
7 without cost.

Sec. 4. A deputy shall promptly investigate a claim and
2 shall, after the establishment of the facts, determine whether
3 or not such claim is valid; and, if valid, shall determine:

4 (1) The week with respect to which benefits will com-
5 mence.

6 (2) The amount of benefit.

7 (3) The maximum duration of benefits.

8 The deputy, then, shall promptly notify the claimant and
9 interested parties of his findings and decisions.

Sec. 6. The board shall follow the same procedure in re-
2 ferred cases as in disputed cases. The board shall upon
3 such findings and such additional evidence as it may procure
4 make and transmit to the deputy a decision, which shall
5 be deemed the decision of the deputy.

6 The deputy shall promptly notify the claimant and inter-
7 ested parties of the findings and decisions.

Sec. 8. Upon reference by the board, or a deputy, or upon

2 appeal from the determination of a deputy, an individual
3 shall be entitled to a fair hearing and reasonable opportu-
4 nity to be heard before an appeal tribunal as provided in
5 section seven of this article.

6 Upon a consideration of all the evidence the appeal tribu-
7 nal shall make a decision, and shall notify the parties of its
8 findings and decision.

ARTICLE VIII

Sec. 5. Upon the receipt of payments and other moneys
2 payable into the fund under this chapter, the director shall
3 immediately deposit them in the clearing account. Refunds
4 payable under section nineteen, article five shall be made
5 from the clearing account. Such refunds shall be made upon
6 warrants issued by the director.

Sec. 9. Except as otherwise provided in this article money
2 in the clearing and benefit accounts shall be deposited by
3 the director, with the consent of the governor, in any bank
4 or public depository in which public funds of the state may
5 be deposited. No public deposit insurance charge or prem-
6 ium shall be paid out of the unemployment compensation
7 fund.

ARTICLE X

Sec. 4. An employing unit shall keep true and accurate
2 work records containing such information as the director
3 may prescribe. The record shall be open to inspection and
4 be subject to being copied by the director or his authorized
5 representatives at any reasonable time.

6 This act shall take effect as of January first, one thousand
7 nine hundred thirty-seven.

8 The provisions of this act shall be construed as severable,
9 and should any provision be held unconstitutional, or for
10 any other reason invalid, the remaining provisions shall not
11 be affected thereby.

12 Acts or parts of acts in conflict with or superseded by the
13 provisions of this act are hereby repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carl B. Guthrie
.....
Chairman Senate Committee

Wm. B. Baker
.....
Chairman House Committee

Originated in the.....

Takes effect..... passage.

Chambers
.....
Clerk of the Senate

Mo. S. Hall
.....
Clerk of the House of Delegates

Chas. E. Hays
.....
President of the Senate

J. K. Thomas
.....
Speaker House of Delegates

The within *Approved*..... this the *19th*.....

day of *March*....., 1937.

Frank A. Tolson
.....
Governor

Filed in the office of the Secretary of State of West Virginia. **MAR 19 1937**
Wm. S. O'BRIEN,
Secretary of State