

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED
Committee Substitute for
SENATE BILL NO. 257

(By Mr. *Subbard*)

PASSED *March 8* 1974

In Effect *July 1, 1974* Passage



FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE *3/29/74*

257

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 257

(By MR. HUBBARD, *Original Sponsor*)

[Passed March 8, 1974; in effect July 1, 1974.]

AN ACT to amend and reenact section five, article two; section five, article four; and sections ten and eleven, article six, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation and expenses of the commissioner of employment security and of the members of the board of review of the department of employment security; relating to unemployment compensation; relating to the benefit rate for total unemployment; relating to the annual computation and publication of rates; increasing benefits payable for total unemployment; and relating to computation of benefits payable for partial unemployment.

Be it enacted by the Legislature of West Virginia:

That section five, article two; section five, article four; and sections ten and eleven, article six, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. THE COMMISSIONER OF EMPLOYMENT SECURITY.
§21A-2-5. Compensation; traveling expenses.

1 Notwithstanding the provisions of section two-a, article
2 seven, chapter six of this code, the commissioner of em-

3 ployment security shall receive a yearly salary of twenty-
4 three thousand five hundred dollars and the necessary
5 traveling expenses incident to the performance of his
6 duties. Requisition for traveling expenses shall be ac-
7 companied by a sworn itemized statement which shall be
8 filed with the auditor and preserved as a public record.

ARTICLE 4. BOARD OF REVIEW.

§21A-4-5. Compensation and travel expenses.

1 Notwithstanding the provisions of section two-a, article
2 seven, chapter six of this code, each member of the board
3 shall receive an annual salary of twelve thousand six hun-
4 dred dollars and the necessary traveling expenses in-
5 curred in the performance of his duties.

6 Requisition for traveling expenses shall be accompanied
7 by a sworn and itemized statement which shall be filed
8 with the auditor and preserved as a public record.

9 The salaries and expenses of the members shall be paid
10 from the administration fund.

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.

**§21A-6-10. Benefit rate—Total unemployment; annual com-
putation and publication of rates.**

1 Each eligible individual who is totally unemployed in
2 any week shall be paid benefits with respect to that week
3 at the weekly rate appearing in Column (C) in Table A
4 in this paragraph, on the line on which in Column (A)
5 there is indicated the employee's wage class, except as
6 otherwise provided under the term "total and partial un-
7 employment" in section three, article one of this chapter.
8 The employee's wage class shall be determined by his
9 base period wages as shown in Column (B) in Table A.
10 The right of an employee to receive benefits shall not be
11 prejudiced nor the amount thereof be diminished by rea-
12 son of failure by an employer to pay either the wages
13 earned by the employee or the contribution due on such
14 wages. An individual who is totally unemployed but earns
15 in excess of twenty-five dollars as a result of odd-job or
16 subsidiary work in any benefit week shall be paid benefits
17 for such week in accordance with the provisions of this
18 chapter pertaining to benefits for partial unemployment.

19

TABLE A

Wage Class	Wages in Base Period	Weekly Benefit Rate	Maximum Benefit in Benefit Year for Total and/or Partial Unemployment
(Column A)	(Column B)	(Column C)	(Column D)
20	Under \$ 700.00	Ineligible	-----
21 1	700.00— 799.99	\$ 12.00	\$312.00
22 2	800.00— 899.99	13.00	338.00
23 3	900.00— 999.99	14.00	364.00
24 4	1000.00— 1149.99	15.00	390.00
25 5	1150.00— 1299.99	16.00	416.00
26 6	1300.00— 1449.99	17.00	442.00
27 7	1450.00— 1599.99	18.00	468.00
28 8	1600.00— 1749.99	19.00	494.00
29 9	1750.00— 1899.99	20.00	520.00
30 10	1900.00— 2049.99	21.00	546.00
31 11	2050.00— 2199.99	22.00	572.00
32 12	2200.00— 2349.99	23.00	598.00
33 13	2350.00— 2499.99	24.00	624.00
34 14	2500.00— 2599.99	25.00	650.00
35 15	2600.00— 2699.99	26.00	676.00
36 16	2700.00— 2799.99	27.00	702.00
37 17	2800.00— 2899.99	28.00	728.00
38 18	2900.00— 2999.99	29.00	754.00
39 19	3000.00— 3099.99	30.00	780.00
40 20	3100.00— 3199.99	31.00	806.00
41 21	3200.00— 3349.99	32.00	832.00
42 22	3350.00— 3499.99	33.00	858.00
43 23	3500.00— 3649.99	34.00	884.00
44 24	3650.00— 3799.99	35.00	910.00

45 Notwithstanding any of the foregoing provisions of this
46 section, on and after July one, one thousand nine hundred
47 sixty-seven, the maximum weekly benefit rate shall be
48 forty percent of the average weekly wage in West Vir-
49 ginia.

50 Notwithstanding any of the foregoing provisions of this
51 section, on and after July one, one thousand nine hundred
52 seventy, the maximum weekly benefit rate shall be forty-

53 five percent of the average weekly wage in West Virginia.
54 Notwithstanding any of the foregoing provisions of this
55 section, on and after July one, one thousand nine hun-
56 dred seventy-one, the maximum weekly benefit rate shall
57 be fifty percent of the average weekly wage in West
58 Virginia.

59 Notwithstanding any of the foregoing provisions of
60 this section, on and after July one, one thousand nine
61 hundred seventy-three, the maximum weekly benefit
62 rate shall be fifty-five percent of the average weekly
63 wage in West Virginia.

64 The commissioner, after he has determined the maxi-
65 mum weekly benefit rate upon the basis of the above
66 formula, shall establish as many additional wage classes
67 as are required, increasing the amount of base period
68 wages required for each class by one hundred fifty dol-
69 lars, the weekly benefit rate for each class by one dollar,
70 and the maximum benefit by twenty-six dollars. The
71 maximum weekly benefit rate, when computed by the
72 commissioner, in accordance with the foregoing provisions,
73 shall be rounded to the next higher dollar amount, if the
74 computation exceeds forty-nine percent of a dollar
75 amount. Such rounding off to the next higher dollar
76 amount shall result in one additional wage class, with
77 commensurate base period wage requirement of one
78 hundred fifty dollars over the preceding wage class, and
79 with a maximum benefit increase over the preceding wage
80 class of twenty-six dollars. Such an additional wage
81 class shall be published by the commissioner with the
82 table required to be published by the foregoing provis-
83 ions of this section.

84 Notwithstanding any of the foregoing provisions of this
85 section, including Table A, on and after July one, one
86 thousand nine hundred seventy-four:

87 (1) The maximum weekly benefit rate shall be
88 sixty-six and two-thirds percent of the average weekly
89 wage in West Virginia.

90 (2) The weekly benefit rate [Column (C) of said
91 Table A] in each and every wage class, one through
92 twenty-four, both inclusive [Column (A) of said Table
93 A], shall be increased two dollars, and the maximum

94 benefit in benefit year for total and/or partial unem-
95 ployment [Column (D) of said Table A] in each and
96 every wage class [Column (A) of said Table A], shall
97 be increased fifty-two dollars.

98 (3) The commissioner, after he has determined the
99 maximum weekly benefit rate upon the basis of the
100 formula set forth in subdivision (1) above, shall estab-
101 lish as many additional wage classes as are required,
102 increasing the amount of the base period wages re-
103 quired for each wage class by one hundred fifty dol-
104 lars, establishing the weekly benefit rate for each wage
105 class by rounded dollar amount to be fifty percent of
106 one fifty-second of the median dollar amount of wages
107 in base period for such wage class, and establishing the
108 maximum benefit for each wage class as an amount
109 equal to twenty-six times the weekly benefit rate. The
110 maximum weekly benefit rate, when computed by the
111 commissioner, in accordance with the foregoing pro-
112 visions, shall be rounded to the next higher dollar
113 amount, if the computation exceeds forty-nine percent
114 of a dollar amount. Such rounding off to the next higher
115 dollar amount shall result in one additional wage class,
116 with commensurate base period wage requirement of
117 one hundred fifty dollars over the preceding wage class,
118 and with a maximum benefit increase over the pre-
119 ceding wage class of twenty-six dollars. Such an addi-
120 tional wage class shall be published by the commis-
121 sioner with the table required to be published by the
122 foregoing provisions of this section.

123 After he has established such additional wage classes,
124 the commissioner shall prepare and publish a table set-
125 ting forth such information.

126 Average weekly wage shall be computed by dividing
127 the number of employees in West Virginia earning wages
128 in covered employment into the total wages paid to em-
129 ployees in West Virginia in covered employment, and
130 by further dividing said result by fifty-two, and shall be
131 determined from employer wage and contribution re-
132 ports for the previous calendar year which are furnished
133 to the department on or before June one following such
134 calendar year. The average weekly wage, as determined

135 by the commissioner, shall be rounded to the next high-
136 er dollar.

137 The computation and determination of rates as aforesaid
138 shall be completed annually before July one, and any such
139 new wage class, with its corresponding wages in base
140 period, weekly benefit rate, and maximum benefit in a
141 benefit year established by the commissioner in the fore-
142 going manner effective on a July one, shall apply only
143 to a new claim established by a claimant on and after said
144 July one, and shall not apply to continued claims of a
145 claimant based on his new claim established before said
146 July one.

§21A-6-11. Same—Partial unemployment.

1 An eligible individual who is partially unemployed in
2 any week shall, upon claim therefor filed within such
3 time and in such manner as the commissioner may by
4 regulation prescribe, be paid benefits for such partial un-
5 employment in an amount equal to his weekly benefit
6 rate, as determined in accordance with section ten of
7 this article, less that part of wages from any source pay-
8 able to him with respect to such week which is in excess
9 of twenty-five dollars (notwithstanding the reference to
10 fifteen dollars in the definition of partial unemployment
11 contained in section three, article one of this chapter):
12 *Provided*, That such amount of benefits if not a multiple
13 of one dollar shall be computed to the next higher mul-
14 tiple of one dollar. Such partial benefits shall be paid to
15 such individual for the week for which he is claiming
16 benefits without regard to the provisions of subdivisions
17 one and four of section one of this article.

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

H. David Darby
Chairman Senate Committee

Clarence C. Custer, Jr.
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1974.

Hawaii Carson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

H. P. Bratherton, Jr.
President of the Senate

Lewis J. McManus
Speaker House of Delegates

The within approved this the 26th
day of March, 1974.

Arch A. Shaver, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/14/74

Time 2:15 p.m.