

1 ENGROSSED SENATE  
2 BILL NO. 1385

By: Wilson of the Senate

3 and

4 Brown of the House

5  
6  
7 [ labor - creating the Shared Work Unemployment

8 Compensation Program - codification - effective

9 date -

10 emergency ]

11

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2-900 of Title 40, unless there  
15 is created a duplication in numbering, reads as follows:

16 This act shall be known and may be cited as the "Shared Work  
17 Unemployment Compensation Program".

18 SECTION 2. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2-901 of Title 40, unless there  
20 is created a duplication in numbering, reads as follows:

21 As used in this act:

22 1. "Affected unit" means a specified department, shift or other  
23 unit of two or more employees that is designated by an employer to  
24 participate in a shared work plan;

1        2. "Fringe benefit" means health insurance, a retirement  
2 benefit received under a pension plan, a paid vacation day, a paid  
3 holiday, sick leave, and any other analogous employee benefit that  
4 is provided by an employer;

5        3. "Fund" means the Unemployment Trust Fund established by  
6 Section 3-605 of Title 40 of the Oklahoma Statutes;

7        4. "Normal weekly hours of work" means the lesser of forty (40)  
8 hours or the average obtained by dividing the total number of hours  
9 worked per week during the preceding twelve-week period by the  
10 number twelve;

11       5. "Participating employee" means an employee who works a  
12 reduced number of hours under a shared work plan;

13       6. "Participating employer" means an employer who has a shared  
14 work plan in effect;

15       7. "Commission" has the same meaning as set out in Section 1-  
16 206 of Title 40 of the Oklahoma Statutes;

17       8. "Shared work benefit" means an unemployment compensation  
18 benefit that is payable to an individual in an affected unit because  
19 the individual works reduced hours under an approved shared work  
20 plan;

21       9. "Shared work plan" means a program for reducing unemployment  
22 under which employees who are members of an affected unit share the  
23 work remaining after a reduction in their normal weekly hours of  
24 work; and

1        10. "Shared Work Unemployment Compensation Program" means a  
2 program designed to reduce unemployment and stabilize the work force  
3 by allowing certain employees to collect unemployment compensation  
4 benefits if the employees share the work remaining after a reduction  
5 in the total number of hours of work and a corresponding reduction  
6 in wages.

7        SECTION 3.        NEW LAW        A new section of law to be codified  
8 in the Oklahoma Statutes as Section 2-902 of Title 40, unless there  
9 is created a duplication in numbering, reads as follows:

10        A. The Oklahoma Employment Security Commission shall establish  
11 a voluntary Shared Work Unemployment Compensation Program as  
12 provided by this act. The Commission may adopt rules and establish  
13 procedures necessary to administer the program.

14        B. An employer who wishes to participate in the Shared Work  
15 Unemployment Compensation Program must submit a written shared work  
16 plan to the Commission for approval. As a condition for approval, a  
17 participating employer must agree to furnish the Commission with  
18 reports relating to the operation of the shared work plan. The  
19 report shall be in a form prescribed by the Commission.

20        SECTION 4.        NEW LAW        A new section of law to be codified  
21 in the Oklahoma Statutes as Section 2-903 of Title 40, unless there  
22 is created a duplication in numbering, reads as follows:

23        A. The Oklahoma Employment Security Commission may approve a  
24 shared work plan if:

- 1        1. The shared work plan applies to and identifies a specific  
2 affected unit or number of units;
- 3        2. The employees in the affected unit are identified by name  
4 and social security number;
- 5        3. The shared work plan reduces the normal weekly hours of work  
6 for an employee in the affected unit by not less than twenty percent  
7 (20%) and not more than forty percent (40%);
- 8        4. The shared work plan applies to at least ten percent (10%)  
9 of the employees in the affected unit;
- 10       5. The shared work plan describes the manner in which the  
11 participating employer treats the fringe benefits of each employee  
12 in the affected unit;
- 13       6. The employer certifies that the implementation of a shared  
14 work plan and the resulting reduction in work hours is in lieu of  
15 temporary layoffs that would affect at least ten percent (10%) of  
16 the employees in the affected unit and that would result in an  
17 equivalent reduction in work hours;
- 18       7. The employer has filed all reports required to be filed  
19 under the Employment Security Act of 1980 for all past and current  
20 periods, and has paid all contributions, interest, penalties and  
21 fees owing on the employer's account with the Commission; and
- 22       8. The employer must be eligible for a tax rate computation  
23 under Sections 3-101 et seq. of Title 40 of the Oklahoma Statutes;  
24 provided, any employer that is assigned the highest experience rate

1 available in a calendar year shall be ineligible to participate in  
2 the Shared Work Unemployment Compensation Program provided by this  
3 act.

4 B. If any of the employees who participate in a shared work  
5 plan pursuant to this act are covered by a collective bargaining  
6 agreement, the shared work plan must be approved in writing by the  
7 collective bargaining agent before approval by the Commission.

8 C. A shared work plan may not be implemented to subsidize  
9 seasonal employers during the off-season or to subsidize employers  
10 who have traditionally employed workers less than thirty-two (32)  
11 hours per week.

12 D. The Commission shall approve or deny a shared work plan no  
13 later than the thirtieth (30th) day after the day the shared work  
14 plan is received by the Commission. The Commission shall approve or  
15 deny a shared work plan in writing. If the plan is denied, the  
16 Commission shall notify the employer of the reasons for the denial.

17 E. The employer may appeal the denial of a shared work plan  
18 pursuant to the provisions of Section 3-115 of Title 40 of the  
19 Oklahoma Statutes.

20 F. Notwithstanding any other provisions of law, an employer who  
21 participates in the Shared Work Unemployment Program pursuant to the  
22 provisions of this act shall not have his or her unemployment tax  
23 rate computation increased based solely upon shared work benefits  
24 paid pursuant to an approved shared work plan; provided, the

1 employer reimburses the actual dollar amount of shared work benefits  
2 paid from the Unemployment Compensation Fund as provided in this  
3 subsection and the employer continues to pay his or her applicable  
4 contributions for all other purposes. The employer shall have a  
5 maximum three-year period to reimburse and repay the total amount of  
6 shared work benefits paid from the Unemployment Compensation Fund in  
7 a previous calendar year. The Shared Work Unemployment Program  
8 requires cumulative reimbursements from participating shared work  
9 employers beginning January 1 in the year following the calendar  
10 year in which shared work benefits are paid from the Fund. If any  
11 employer defaults on repayment of shared work benefits paid on his  
12 or her behalf from the Fund, the defaulted repayment amounts due  
13 each year shall be apportioned between all other participating  
14 shared work employers and charged as an adjustment contribution.  
15 For purposes of this subsection,

16 1. "Cumulative reimbursements" means a participating shared  
17 work employer's reimbursement payment is calculated by taking the  
18 employer's actual dollar amount of shared work benefits paid in a  
19 calendar year, dividing that amount by 3 to represent the minimal  
20 amount of reimbursement due each year during the allowable three-  
21 year period for repayment, subtracting any amount the employer may  
22 have paid in advance toward the total reimbursement due for that  
23 claim year, adding any adjustment contribution required by the  
24 Commission for a given claim year, then adding together each of the

1 employer's reimbursement amounts due for each claim year still  
2 subject to repayment, equaling the employer's shared work  
3 reimbursement amount payable to the Unemployment Compensation Fund  
4 in the given calendar year; and

5           2. "Adjustment contribution" means an assessment calculated  
6 by the rules of the Commission but not to exceed twenty-five percent  
7 (25%) of the total reimbursement amounts due in a given calendar  
8 year by all defaulted shared work employers, which is charged to a  
9 participating shared work employer's reimbursement amount due in the  
10 current calendar year.

11           SECTION 5.           NEW LAW           A new section of law to be codified  
12 in the Oklahoma Statutes as Section 2-904 of Title 40, unless there  
13 is created a duplication in numbering, reads as follows:

14           A shared work plan is effective on the date it is approved by  
15 the Oklahoma Employment Security Commission. For good cause shown,  
16 the Commission may designate the effective date to be on any day  
17 within a period of fourteen (14) days prior to the date the plan is  
18 approved by the Commission. The shared work plan expires on the  
19 last day of the twelfth (12th) full calendar month after the  
20 effective date of the shared work plan.

21           SECTION 6.           NEW LAW           A new section of law to be codified  
22 in the Oklahoma Statutes as Section 2-905 of Title 40, unless there  
23 is created a duplication in numbering, reads as follows:

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1 An employer may modify a shared work plan created pursuant to  
2 this act to meet changed conditions if the modification conforms to  
3 the basic provisions of the shared work plan as approved by the  
4 Oklahoma Employment Security Commission. The employer must report  
5 the changes made to the shared work plan in writing to the  
6 Commission before implementing the changes. If the original shared  
7 work plan is substantially modified, the Commission shall reevaluate  
8 the shared work plan and may approve the modified shared work plan  
9 if it meets the requirements for approval under Section 5 of this  
10 act. The approval of a modified shared work plan does not affect  
11 the expiration date originally set for that shared work plan. If  
12 substantial modifications cause the shared work plan to fail to meet  
13 the requirements for approval, the Commission shall deny approval to  
14 the modifications as provided by subsection D of Section 4 of this  
15 act.

16 SECTION 7. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2-906 of Title 40, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. Notwithstanding any other provisions of the Employment  
20 Security Act of 1980, an individual is unemployed and is eligible  
21 for shared work benefits in any week in which the individual, as an  
22 employee in an affected unit, works for less than the individual's  
23 normal weekly hours of work in accordance with an approved shared  
24 work plan in effect for that week. The Oklahoma Employment Security

1 Commission may not deny shared work benefits for any week to an  
2 otherwise eligible individual by reason of the application of any  
3 provision of this title that relates to availability for work,  
4 active search for work or refusal to apply for or accept work with  
5 an employer other than the participating employer.

6 B. An individual is eligible to receive shared work benefits  
7 with respect to any week in which the Commission finds that:

8 1. The individual is employed as a member of an affected unit  
9 subject to a shared work plan that was approved and is in effect for  
10 that week;

11 2. The individual is able to work and is available for  
12 additional hours of work or full-time work with the participating  
13 employer;

14 3. The individual's normal weekly hours of work have been  
15 reduced by at least twenty percent (20%) but not more than forty  
16 percent (40%) with a corresponding reduction in wages; and

17 4. The individual's normal weekly hours of work and wages have  
18 been reduced as described in paragraph 3 of this subsection for a  
19 waiting period of one week which occurs within the period the shared  
20 work plan is in effect, which period includes the week for which the  
21 individual is claiming shared work benefits.

22 SECTION 8. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2-907 of Title 40, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. The Oklahoma Employment Security Commission shall pay an  
2 individual who is eligible for shared work benefits a weekly shared  
3 work benefit amount equal to the individual's regular weekly benefit  
4 amount for a period of total unemployment multiplied by the nearest  
5 full percentage of reduction of the individual's hours as set forth  
6 in the employer's shared work plan. If the shared benefit amount is  
7 not a multiple of one dollar (\$1.00), the Commission shall reduce  
8 the amount to the next lowest multiple of one dollar (\$1.00). All  
9 shared work benefits under this act shall be payable from the  
10 Unemployment Compensation Fund.

11       B. The Commission may not pay an individual shared work  
12 benefits for any week in which the individual performs paid work for  
13 the participating employer in excess of the reduced hours  
14 established under the shared work plan.

15       C. An individual shall not receive shared work benefits or  
16 regular unemployment compensation benefits or both, in an amount  
17 that exceeds the maximum benefit amount payable to that individual,  
18 pursuant to Section 2-106 of Title 40 of the Oklahoma Statutes, in  
19 the benefit year that shall begin as of the effective date of the  
20 shared work plan.

21       D. An individual who has received all of the shared work  
22 benefits and regular unemployment compensation benefits available in  
23 a benefit year has exhausted his or her benefits and is entitled to  
24

1 receive extended benefits, if extended benefits are available and if  
2 the individual is otherwise eligible.

3 SECTION 9. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2-908 of Title 40, unless there  
5 is created a duplication in numbering, reads as follows:

6 The Oklahoma Employment Security Commission may terminate a  
7 shared work plan for good cause if the Commission determines that  
8 the shared work plan is not being executed according to the terms  
9 and intent of the Shared Work Unemployment Compensation Program.

10 SECTION 10. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 2-909 of Title 40, unless there  
12 is created a duplication in numbering, reads as follows:

13 No shared work benefit payment shall be made under any shared  
14 work plan for any week which commences before January 1, 2011.

15 SECTION 11. This act shall become effective July 1, 2010.

16 SECTION 12. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

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