

ENROLLED SENATE
BILL NO. 1970

By: Mazzei and Lamb of the
Senate

and

McNiel and Fields of
the House

An Act relating to labor; creating the Shared Work Unemployment Compensation Program; providing short title; defining terms; requiring the Oklahoma Employment Security Commission to establish a voluntary shared work program; authorizing the Oklahoma Employment Security Commission to promulgate certain rules and procedures; requiring reports as a condition for a shared work participation; providing for certain form; authorizing the Commission to approve or deny shared work plans under certain conditions; stating conditions for shared work approval; providing for collective bargaining agreements; denying shared work for certain temporary workers; prohibiting employers with certain percentage in experience rate for certain period of time; stating time period to approve or deny shared work plan; requiring notification to employer upon denial; allowing appeal; providing effective dates for shared work plans; allowing modification of plan effective date; providing for plan expiration; authorizing written employer modification to approved plan; requiring certain written changes to plan; construing effect of modified plan; stating eligibility for unemployment benefits under shared work plan; allowing Oklahoma Employment Security Commission to reevaluate modified plans; establishing eligibility for shared work benefits; prohibiting certain denial of benefits under approved shared work

plan; prohibiting deduction of unemployment benefits under shared work program; providing procedures to determine amount of unemployment benefit under approved shared work plan; requiring employer to file shared work claims for employees; requiring payments in whole dollars; prohibiting benefits in excess of maximum unemployment benefits; authorizing certain extended unemployment benefits; stating basis for benefit wages; requiring employer to be charged benefit amount; allowing the Commission to terminate plan for cause; prohibiting unemployment benefits until certain date; providing for codification; providing an effective date; and declaring an emergency.

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

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

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

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

As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The participating employer regularly employs at least one hundred employees;

2. The shared work plan applies to and identifies a specific affected unit or number of units;

3. The employees in the affected unit are identified by name and social security number;

4. The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than twenty percent (20%) and not more than forty percent (40%);

5. The shared work plan applies to at least ten percent (10%) of the employees in the affected unit and at least fifty employees within the company;

6. The shared work plan maintains the fringe benefits of each employee in the affected unit at the benefit level in effect before the shared work plan is implemented;

7. The employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of temporary layoffs that would affect at least ten percent (10%) of the employees in the affected unit and at least fifty employees within the company, and that would result in an equivalent reduction in work hours; and

8. The employer has filed all reports required to be filed under the Employment Security Act of 1980 for all past and current periods, and has paid all contributions, interest, penalties and fees owing on the employer's account with the Commission.

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

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

D. If any employer that is eligible for a tax rate computation under Sections 3-101 through 3-118 of Title 40 of the Oklahoma Statutes is assigned an experience tax rate of five and four-tenths percent (5.4%) or greater for a calendar year, that employer shall be ineligible to participate in the Shared Work Unemployment Compensation Program provided by this act for that calendar year.

E. The Commission shall approve or deny a shared work plan no later than thirty (30) days after the day the shared work plan is received by the Commission. The Commission shall approve or deny a shared work plan in writing. If the plan is denied, the Commission shall notify the employer of the reasons for the denial.

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

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

A shared work plan is effective on the date it is approved by the Oklahoma Employment Security Commission. For good cause shown, the Commission may designate the effective date to be on any day within a period of fourteen (14) days prior to the date the plan is approved by the Commission. The shared work plan expires on the

last day of the twelfth full calendar month after the effective date of the shared work plan. Shared work benefits shall be paid for a maximum of twenty-six (26) weeks during the twelve (12) consecutive calendar months that the shared work plan is in effect.

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

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

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

A. Notwithstanding any other provisions of the Employment Security Act of 1980, an individual is unemployed and is eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The Oklahoma Employment Security Commission may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of this title that relates to availability for work, active search for work or refusal to apply for or accept work with an employer other than the participating employer. The Oklahoma Employment Security Commission shall not deduct wages paid by the participating employer to the participating employee from the shared

work benefit in any week the shared work plan is being implemented for the participating employee.

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

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

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

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

4. The individual's normal weekly hours of work and wages have been reduced as described in paragraph 3 of this subsection for a waiting period of one (1) week which occurs within the period the shared work plan is in effect, which period includes the week for which the individual is claiming shared work benefits.

C. The participating employer shall be responsible for the filing of the weekly claims for shared work benefits on behalf of the participating employee. The participating employer shall provide the Oklahoma Employment Security Commission with the name and social security number of each participating employee along with any other information necessary to complete the claim. The participating employer shall certify that the participating employee is qualified to receive the shared work benefit.

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

A. The Oklahoma Employment Security Commission shall pay an individual who is eligible for shared work benefits a weekly shared work benefit amount equal to the individual's regular weekly benefit amount, calculated pursuant to Section 2-106 of Title 40 of the Oklahoma Statutes, for a period of total unemployment multiplied by

the nearest full percentage of reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of One Dollar (\$1.00), the Commission shall reduce the amount to the next lowest multiple of One Dollar (\$1.00). All shared work benefits under this act shall be payable from the Unemployment Compensation Fund.

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

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

D. An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year has exhausted his or her benefits and may be entitled to receive extended benefits, if extended benefits are available and if the individual is otherwise eligible.

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

Shared work benefits paid under a shared work plan shall be based on benefit wages of the participating employee and shall be charged to the participating employer as provided in Sections 1-221, 3-105, 3-106 and 3-806 of Title 40 of the Oklahoma Statutes.

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

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-910 of Title 40, unless there is created a duplication in numbering, reads as follows:

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

SECTION 12. This act shall become effective July 1, 2010.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 24th day of May, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2010.

Presiding Officer of the House
of Representatives