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THE STATE SENATE
Thursday, February 18, 2010

Senate Bill No. 1970
As Amended

SENATE BILL NO. 1970 - By: Mazzei of the Senate and McNiell of the House.

[labor - creating the Shared Work Unemployment Compensation Program - codification - effective date - 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

1 holiday, sick leave, and any other analogous employee benefit that
2 is provided by an employer;

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

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

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

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

13 7. "Commission" has the same meaning as set out in Section 1-
14 206 of Title 40 of the Oklahoma Statutes;

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

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

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

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

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

7 3. The shared work plan reduces the normal weekly hours of work
8 for an employee in the affected unit by not less than twenty percent
9 (20%) and not more than forty percent (40%);

10 4. The shared work plan applies to at least ten percent (10%)
11 of the employees in the affected unit;

12 5. The shared work plan describes the manner in which the
13 participating employer treats the fringe benefits of each employee
14 in the affected unit;

15 6. The employer certifies that the implementation of a shared
16 work plan and the resulting reduction in work hours is in lieu of
17 temporary layoffs that would affect at least ten percent (10%) of
18 the employees in the affected unit and that would result in an
19 equivalent reduction in work hours;

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

1 8. The employer must be eligible for a tax rate computation
2 under Sections 3-101 et seq. of Title 40 of the Oklahoma Statutes;
3 provided any employer that is assigned the highest experience rate
4 available in a calendar year shall be ineligible to participate in
5 the Shared Work Unemployment Compensation Program provided by this
6 act.

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

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

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

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

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

4 A shared work plan is effective on the date it is approved by
5 the Oklahoma Employment Security Commission. For good cause shown,
6 the Commission may designate the effective date to be on any day
7 within a period of fourteen (14) days prior to the date the plan is
8 approved by the Commission. The shared work plan expires on the
9 last day of the twelfth (12th) full calendar month after the
10 effective date of the shared work plan.

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

14 An employer may modify a shared work plan created pursuant to
15 this act to meet changed conditions if the modification conforms to
16 the basic provisions of the shared work plan as approved by the
17 Oklahoma Employment Security Commission. The employer must report
18 the changes made to the shared work plan in writing to the
19 Commission before implementing the changes. If the original shared
20 work plan is substantially modified, the Commission shall reevaluate
21 the shared work plan and may approve the modified shared work plan
22 if it meets the requirements for approval under Section 5 of this
23 act. The approval of a modified shared work plan does not affect

1 the expiration date originally set for that shared work plan. If
2 substantial modifications cause the shared work plan to fail to meet
3 the requirements for approval, the Commission shall deny approval to
4 the modifications as provided by subsection D of Section 4 of this
5 act.

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

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

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

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

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

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

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

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

18 A. The Oklahoma Employment Security Commission shall pay an
19 individual who is eligible for shared work benefits a weekly shared
20 work benefit amount equal to the individual's regular weekly benefit
21 amount for a period of total unemployment multiplied by the nearest
22 full percentage of reduction of the individual's hours as set forth
23 in the employer's shared work plan. If the shared benefit amount is

1 not a multiple of one dollar (\$1.00), the Commission shall reduce
2 the amount to the next lowest multiple of one dollar (\$1.00). All
3 shared work benefits under this act shall be payable from the
4 Unemployment Compensation Fund.

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

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

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

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

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

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

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-15-10 -
16 DO PASS, As Amended and Coauthored.