

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1970

By: Mazzei

4
5
6 AS INTRODUCED

7 An Act relating to labor; creating the Shared Work
8 Unemployment Compensation Program; providing short
9 title; defining terms; directing the Oklahoma
10 Employment Security Commission to promulgate certain
11 rules and procedures; requiring employer written
12 plan; authorizing the Commission to approve or deny
13 shared work plans; stating criteria for plan
14 approval; providing effective dates for shared work
15 plans; allowing modification of plan effective date;
16 providing for plan expiration; authorizing written
17 employer modification to approved plan; construing
18 effect of modified plan; stating eligibility for
19 unemployment benefits under shared work plan;
20 prohibiting certain denial of benefits under approved
21 shared work plan; providing procedures to determine
22 amount of unemployment benefit under approved shared
23 work plan; requiring payments in whole dollars;
24 prohibiting benefits in excess of maximum
unemployment benefits; authorizing certain extended
unemployment benefits; 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:

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

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

6 As used in this act:

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

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

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

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

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

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

24

1 7. "Commission" has the same meaning as set out in Section 1-
2 206 of Title 40 of the Oklahoma Statutes;

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

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

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

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

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

24

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

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

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

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

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

16 3. The shared work plan reduces the normal weekly hours of work
17 for an employee in the affected unit by not less than twenty percent
18 (20%) and not more than forty percent (40%);

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

21 5. The shared work plan describes the manner in which the
22 participating employer treats the fringe benefits of each employee
23 in the affected unit;

24

1 6. The employer certifies that the implementation of a shared
2 work plan and the resulting reduction in work hours is in lieu of
3 temporary layoffs that would affect at least ten percent (10%) of
4 the employees in the affected unit and that would result in an
5 equivalent reduction in work hours;

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

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

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

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

1 D. The Commission shall approve or deny a shared work plan no
2 later than the thirtieth (30th) day after the day the shared work
3 plan is received by the Commission. The Commission shall approve or
4 deny a shared work plan in writing. If the plan is denied, the
5 Commission shall notify the employer of the reasons for the denial.

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

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

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

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

22 An employer may modify a shared work plan created pursuant to
23 this act to meet changed conditions if the modification conforms to
24 the basic provisions of the shared work plan as approved by the

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

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

16 A. Notwithstanding any other provisions of the Employment
17 Security Act of 1980, an individual is unemployed and is eligible
18 for shared work benefits in any week in which the individual, as an
19 employee in an affected unit, works for less than the individual's
20 normal weekly hours of work in accordance with an approved shared
21 work plan in effect for that week. The Oklahoma Employment Security
22 Commission may not deny shared work benefits for any week to an
23 otherwise eligible individual by reason of the application of any
24 provision of this title that relates to availability for work,

1 active search for work or refusal to apply for or accept work with
2 an employer other than the participating employer.

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

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

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

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

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

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

22 A. The Oklahoma Employment Security Commission shall pay an
23 individual who is eligible for shared work benefits a weekly shared
24 work benefit amount equal to the individual's regular weekly benefit

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

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

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

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

23

24

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

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

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

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

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

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

18
19 52-2-2391 NP 2/3/2010 7:14:31 PM

20
21
22
23
24