

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1713

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LAUER (Sponsor), ZERR AND HOSKINS (Co-sponsors).

5756H.01P

D. ADAM CRUMBLISS, ChiefClerk

AN ACT

To repeal section 288.500, RSMo, and to enact in lieu thereof one new section relating to the shared work unemployment compensation program, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 288.500, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.500, to read as follows:

288.500. 1. There is created under this section a voluntary "Shared Work Unemployment Compensation Program". In connection therewith, the division may adopt rules and establish procedures, not inconsistent with this section, which are necessary to administer this program.

2. As used in this section, the following terms mean:

(1) "Affected unit", a specified department, shift, or other unit of three or more employees which is designated by an employer to participate in a shared work plan;

(2) "Division", the division of employment security;

(3) "Fringe benefit", health insurance, a retirement benefit received under a **defined benefit pension plan as defined in section 414(j) of the Internal Revenue Code or contributions under a defined contribution plan as defined in section 414(i) of the Internal Revenue Code**, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (4) "Normal weekly hours of work", as to any individual, the lesser of forty hours or the
15 average obtained by dividing the total number of hours worked per week in the preceding
16 twelve-week period by the number twelve;

17 (5) "Participating employee", an employee who works a reduced number of hours under
18 a shared work plan;

19 (6) "Participating employer", an employer who has a shared work plan in effect;

20 (7) "Shared work benefit", an unemployment compensation benefit that is payable to an
21 individual in an affected unit because the individual works reduced hours under an approved
22 shared work plan;

23 (8) "Shared work plan", a program for reducing unemployment under which employees
24 who are members of an affected unit share the work remaining after a reduction in their normal
25 weekly hours of work;

26 (9) "Shared work unemployment compensation program", a program designed to reduce
27 unemployment and stabilize the work force by allowing certain employees to collect
28 unemployment compensation benefits if the employees share the work remaining after a
29 reduction in the total number of hours of work and a corresponding reduction in wages.

30 3. An employer who wishes to participate in the shared work unemployment
31 compensation program established under this section shall submit a written shared work plan in
32 a form acceptable to the division for approval. As a condition for approval by the division, a
33 participating employer shall agree to furnish the division with reports relating to the operation
34 of the shared work plan as requested by the division. The employer shall monitor and evaluate
35 the operation of the established shared work plan as requested by the division and shall report
36 the findings to the division.

37 4. The division may approve a shared work plan if:

38 (1) The employer has filed all reports required to be filed under this chapter for all past
39 and current periods and has paid all contributions due for all past and current periods;

40 (2) The shared work plan applies to and identifies a specified affected unit;

41 (3) The employees in the affected unit are identified by name and Social Security
42 number;

43 (4) The shared work plan reduces the normal weekly hours of work for an employee in
44 the affected unit by not less than [twenty] **ten** percent and not more than [forty] **sixty** percent;

45 (5) The shared work plan applies to at least ten percent of the employees in the affected
46 unit;

47 (6) The [shared work plan] **employer must certify that, if** [describes the manner in
48 which] the participating employer [treats the] **provides** fringe benefits, **as defined in this**
49 **section, to any** [of each] employee in the affected unit, **such benefits will continue to be**

50 **provided to employees participating in the shared work unemployment compensation**
51 **program under the same terms and conditions as though the normal weekly hours of work**
52 **had not been reduced or to the same extent as other employees not participating in the**
53 **shared work unemployment compensation program; [and]**

54 (7) The employer certifies that the implementation of a shared work plan and the
55 resulting reduction in work hours is in lieu of [temporary] layoffs that would affect at least ten
56 percent of the employees in the affected unit and that would result in an equivalent reduction in
57 work hours;

58 (8) **The shared work plan includes an estimate of the number of employees who**
59 **would be laid off if the employer does not participate in the shared work unemployment**
60 **compensation program;**

61 (9) **The shared work plan describes the manner in which employees in the affected**
62 **unit will be notified of the employer's participation in the shared work unemployment**
63 **compensation program. If the employer will not provide advance notice to the employees**
64 **in the affected unit, the shared work plan must contain a statement explaining why it is not**
65 **feasible to provide advance notice;**

66 (10) **The employer certifies that participation in the shared work plan and its**
67 **implementation is consistent with the employer's obligation under applicable federal and**
68 **state laws; and**

69 (11) **Any other provision that the United States Secretary of Labor determines to**
70 **be appropriate for the purpose of a shared work unemployment compensation program.**

71 5. If any of the employees who participate in a shared work plan under this section are
72 covered by a collective bargaining agreement, the shared work plan shall be approved in writing
73 by the collective bargaining agent.

74 6. No shared work plan which will subsidize seasonal employers during the off-season
75 [or subsidize employers, at least fifty percent of the employees of which have normal weekly
76 hours of work equaling thirty-two hours or less,] shall be approved by the division. No shared
77 work plan benefits will be initiated when the reduced hours coincide with holiday earnings
78 already committed to be paid by the employer. Shared work plan benefits may not be denied in
79 any week containing a holiday for which holiday earnings are committed to be paid by the
80 employer unless the shared work benefits to be paid are for the same hours in the same day as
81 the holiday earnings.

82 7. The division shall approve or deny a shared work plan not later than the thirtieth day
83 after the day on which the shared work plan is received by the division. The division shall
84 approve or deny a plan in writing. If the division denies a plan, the division shall notify the
85 employer of the reasons for the denial. Approval or denial of a plan by the division shall be final

86 and such determination shall be subject to review in the manner otherwise provided by law. If
87 approval of a plan is denied by the division, the employer may submit a new plan to the division
88 for consideration no sooner than forty-five calendar days following the date on which the
89 division disapproved the employer's previously submitted plan.

90 8. The division may revoke approval of a shared work plan and terminate the plan if it
91 determines that the shared work plan is not being executed according to the terms and intent of
92 the shared work unemployment compensation program, or if it is determined by the division that
93 the approval of the shared work plan was based, in whole or in part, upon information contained
94 in the plan which was either false or substantially misleading.

95 9. Each shared work plan approved by the division shall become effective on the first
96 day of the week in which it is approved by the division or on a later date as specified in the
97 shared work plan. Each shared work plan approved by the division shall expire on the last day
98 of the twelfth full calendar month after the effective date of such shared work plan.

99 10. An employer may modify a shared work plan created under this section to meet
100 changed conditions if the modification conforms to the basic provisions of the shared work plan
101 as originally approved by the division. The employer shall report the changes made to the plan
102 in writing to the division at least seven days before implementing such changes. The division
103 shall reevaluate the shared work plan and may approve the modified shared work plan if it meets
104 the requirements for approval under subsection 4 of this section. The approval of a modified
105 shared work plan shall not, under any circumstances, affect the expiration date originally set for
106 the shared work plan. If modifications cause the shared work plan to fail to meet the
107 requirements for approval, the division shall deny approval of the modifications as provided in
108 subsection 7 of this section.

109 11. Notwithstanding any other provisions of this chapter, an individual is unemployed
110 for the purposes of this section in any week in which the individual, as an employee in an
111 affected unit, works less than his normal weekly hours of work in accordance with an approved
112 shared work plan in effect for that week.

113 12. An individual who is otherwise entitled to receive regular unemployment insurance
114 benefits under this chapter shall be eligible to receive shared work benefits with respect to any
115 week in which the division finds that:

116 (1) The individual is employed as a member of an affected unit subject to a shared work
117 plan that was approved before the week in question and is in effect for that week;

118 (2) Notwithstanding the provisions of subdivision (2) of subsection 1 of section 288.040,
119 the individual is able to work[,] **and** available for [work and works all available] **his or her**
120 **normal hours of work** with the participating employer;

121 (3) The individual's normal weekly hours of work have been reduced by at least [twenty]
122 **ten** percent but not more than [forty] **sixty** percent, with a corresponding reduction in wages; and

123 (4) The individual has served a waiting week as defined in section 288.030.

124 13. A waiting week served under the provisions of subdivision (3) of subsection 1 of
125 section 288.040 shall serve to meet the requirements of subdivision (4) of subsection 12 of this
126 section and a waiting week served under the provisions of subdivision (4) of subsection 12 of
127 this section shall serve to meet the requirements of section 288.040. Notwithstanding any other
128 provisions of this chapter, an individual who files a new initial claim during the pendency of the
129 twelve-month period in which a shared work plan is in effect shall serve a waiting week whether
130 or not the individual has served a waiting week under this subsection.

131 14. The division shall not deny shared work benefits for any week to an otherwise
132 eligible individual by reason of the application of any provision of this chapter that relates to
133 availability for work, active search for work, [or] refusal to apply for or accept work with an
134 employer other than the participating employer under the plan, **or training that is approved by**
135 **the director, as provided in section 288.055, such as employer-sponsored training or**
136 **training funded under the Workforce Investment Act of 1998.**

137 15. The division shall pay an individual who is eligible for shared work benefits under
138 this section a weekly shared work benefit amount equal to the individual's regular weekly benefit
139 amount for a period of total unemployment less any deductible amounts under this chapter except
140 wages received from any employer, multiplied by the full percentage of reduction in the
141 individual's hours as set forth in the employer's shared work plan. If the shared work benefit
142 amount calculated under this subsection is not a multiple of one dollar, the division shall round
143 the amount so calculated to the next lowest multiple of one dollar. [An individual shall be
144 ineligible for shared work benefits for any week in which the individual performs paid work for
145 the participating employer in excess of the reduced hours established under the shared work
146 plan.]

147 16. An individual shall not be entitled to receive shared work benefits and regular
148 unemployment compensation benefits in an aggregate amount which exceeds the maximum total
149 amount of benefits payable to that individual in a benefit year as provided under section
150 [288.038] **288.060**. Notwithstanding any other provisions of this chapter, an individual shall not
151 be eligible to receive shared work benefits for more than fifty-two calendar weeks during the
152 twelve-month period of the shared work plan. No week shall be counted as a week of
153 unemployment for the purposes of this subsection unless it occurs within the twelve-month
154 period of the shared work plan.

155 17. [Notwithstanding any other provision of this chapter, all benefits paid under a shared
156 work plan which are chargeable to the participating employer or any other base period employer

157 of a participating employee shall be charged to the account of the participating employer under
158 the plan.

159 18.] An individual who has received all of the shared work benefits and regular
160 unemployment compensation benefits available in a benefit year is an exhaustee under section
161 288.062 and is entitled to receive extended benefits under section 288.062 if the individual is
162 otherwise eligible under that section.

163 **18. If the United States Secretary of Labor determines that any provision of this**
164 **section is not in compliance with federal law, the non-compliant provision shall not affect**
165 **the validity of the remaining provisions of this section.**

Section B. Because immediate action is necessary to ensure the state is compliant with
2 federal mandates the repeal and reenactment of section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and the repeal and reenactment
5 of section A of this act shall be in full force and effect on August 1, 2014, or upon its passage
6 and approval, whichever occurs later.

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