

SECOND REGULAR SESSION

HOUSE BILL NO. 1987

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHOELLER.

4907L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 288.500, RSMo, and to enact in lieu thereof one new section relating to employment security.

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Section A. Section 288.500, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.500, to read as follows: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 pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer;

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

45 (6) The shared work plan describes the manner in which the participating employer treats
46 the fringe benefits of each employee in the affected unit; and

47 (7) The employer certifies that the implementation of a shared work plan and the
48 resulting reduction in work hours is in lieu of temporary layoffs that would affect at least ten
49 percent of the employees in the affected unit and that would result in an equivalent reduction in
50 work hours.

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

54 6. No shared work plan which will subsidize seasonal employers during the off-season
55 or subsidize employers, at least fifty percent of the employees of which have normal weekly
56 hours of work equaling thirty-two hours or less, shall be approved by the division. No shared
57 work plan benefits will be initiated when the reduced hours coincide with holiday earnings
58 already committed to be paid by the employer. Shared work plan benefits may not be denied in
59 any week containing a holiday for which holiday earnings are committed to be paid by the
60 employer unless the shared work benefits to be paid are for the same hours in the same day as
61 the holiday earnings.

62 7. The division shall approve or deny a shared work plan not later than the thirtieth day
63 after the day on which the shared work plan is received by the division. The division shall
64 approve or deny a plan in writing. If the division denies a plan, the division shall notify the
65 employer of the reasons for the denial. Approval or denial of a plan by the division shall be final
66 and such determination shall be subject to review in the manner otherwise provided by law. If
67 approval of a plan is denied by the division, the employer may submit a new plan to the division
68 for consideration no sooner than forty-five calendar days following the date on which the
69 division disapproved the employer's previously submitted plan.

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

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

79 10. An employer may modify a shared work plan created under this section to meet
80 changed conditions if the modification conforms to the basic provisions of the shared work plan
81 as originally approved by the division. The employer shall report the changes made to the plan
82 in writing to the division at least seven days before implementing such changes. The division
83 shall reevaluate the shared work plan and may approve the modified shared work plan if it meets
84 the requirements for approval under subsection 4 of this section. The approval of a modified
85 shared work plan shall not, under any circumstances, affect the expiration date originally set for
86 the shared work plan. If modifications cause the shared work plan to fail to meet the
87 requirements for approval, the division shall deny approval of the modifications as provided in
88 subsection 7 of this section.

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

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

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

98 (2) Notwithstanding the provisions of subdivision (2) of subsection 1 of section 288.040,
99 the individual is able to work, available for work and works all available hours with the
100 participating employer;

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

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

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

111 14. The division shall not deny shared work benefits for any week to an otherwise
112 eligible individual by reason of the application of any provision of this chapter that relates to
113 availability for work, active search for work, or refusal to apply for or accept work with an
114 employer other than the participating employer under the plan.

115 15. The division shall pay an individual who is eligible for shared work benefits under
116 this section a weekly shared work benefit amount equal to the individual's regular weekly benefit
117 amount for a period of total unemployment less any deductible amounts under this chapter except
118 wages received from any employer, multiplied by the full percentage of reduction in the
119 individual's hours as set forth in the employer's shared work plan. If the shared work benefit
120 amount calculated under this subsection is not a multiple of one dollar, the division shall round
121 the amount so calculated to the next lowest multiple of one dollar. An individual shall be
122 ineligible for shared work benefits for any week in which the individual performs paid work for
123 the participating employer in excess of the reduced hours established under the shared work plan.

124 16. An individual shall not be entitled to receive shared work benefits and regular
125 unemployment compensation benefits in an aggregate amount which exceeds the maximum total
126 amount of benefits payable to that individual in a benefit year as provided under section 288.038.
127 Notwithstanding any other provisions of this chapter, an individual shall not be eligible to
128 receive shared work benefits for more than [twenty-six] **fifty-two** calendar weeks during the
129 twelve-month period of the shared work plan. No week shall be counted as a week of
130 unemployment for the purposes of this subsection unless it occurs within the twelve-month
131 period of the shared work plan.

132 17. Notwithstanding any other provision of this chapter, all benefits paid under a shared
133 work plan which are chargeable to the participating employer or any other base period employer
134 of a participating employee shall be charged to the account of the participating employer under
135 the plan.

136 18. An individual who has received all of the shared work benefits and regular
137 unemployment compensation benefits available in a benefit year is an exhaustee under section
138 288.062 and is entitled to receive extended benefits under section 288.062 if the individual is
139 otherwise eligible under that section.

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