



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1289

Introduced 02/09/11, by Rep. Lisa M. Dugan

SYNOPSIS AS INTRODUCED:

820 ILCS 405/407.5 new

Amends the Unemployment Insurance Act. Provides for the creation of a program of shared work benefits, under which an employee retained at reduced hours instead of being laid off may receive payment of unemployment insurance benefits reduced proportionately by the employee's weekly hours worked. An employer wishing to participate in this program must submit to the Director of Employment Security a shared work compensation plan in writing identifying specific employees for participation. This application must be done once for each 12-month period of participation in the program. The Director shall approve or reject a plan in writing within 15 days of its receipt. The Director may also revoke the approval of a shared work compensation plan for good cause. Effective July 1, 2011.

LRB097 08400 AEK 48527 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 adding Section 407.5 as follows:

6 (820 ILCS 405/407.5 new)

7 Sec. 407.5. Shared Work Benefits.

8 A. In order to provide an economic climate conducive to the
9 retention of skilled workers in industries adversely affected
10 by general economic downturns and to supplement depressed
11 buying power of employees affected by such downturns, the
12 General Assembly finds that the public interest would be served
13 by the enactment of laws providing greater flexibility in the
14 payment of unemployment insurance benefits in situations where
15 qualified employers elect to retain employees at reduced hours
16 rather than instituting layoffs.

17 B. Definitions. As used in this Section:

18 (1) "Affected employee" means a specified employee, to
19 which an approved shared work compensation plan applies.

20 (2) "Employers' association" means an association
21 which is a party to a collective bargaining agreement under
22 which there is a shared work compensation plan.

23 (3) "Fringe benefits" include health insurance,

1 retirement benefits, paid vacation and holidays, and sick
2 leave which are incidents of employment in addition to cash
3 remuneration.

4 (4) "Shared work benefits" means the benefits payable
5 to an affected employee under an approved shared work
6 compensation plan as distinguished from the benefits
7 otherwise payable under this Act.

8 (5) "Shared work compensation plan" means a plan of an
9 employer, or of an employers' association, under which
10 there is a reduction in the number of hours worked by
11 employees rather than temporary layoffs.

12 (6) "Shared work employer" means an employer, one or
13 more of whose employees are covered by a shared work
14 compensation plan.

15 (7) "Unemployment insurance" means the benefits
16 payable under this Act other than shared work benefits and
17 includes any amounts payable pursuant to an agreement under
18 federal law providing for compensation, assistance, or
19 allowances with respect to unemployment.

20 (8) "Usual weekly hours of work" means the normal
21 number of hours of work for the affected employee when he
22 or she is working on a full-time basis, not to exceed 40
23 hours and not including overtime.

24 C. An employer or employers' association wishing to
25 participate in a shared work compensation program shall submit
26 a written and signed shared work compensation plan to the

1 Director of Employment Security for approval. The Director
2 shall approve a shared work compensation plan only if the
3 following criteria are met:

4 (1) the plan identifies the affected employees to which
5 it applies;

6 (2) each affected employee is identified by name,
7 social security number, and any other information required
8 by the Director;

9 (3) the usual weekly hours of work for each affected
10 employee are reduced by not less than 10% and not more than
11 50%;

12 (4) fringe benefits will continue to be provided on the
13 same basis as before the reduction in work hours; in no
14 event shall the level of health benefits be reduced due to
15 a reduction in hours;

16 (5) the plan certifies that the aggregate reduction in
17 work hours for each affected employee is in lieu of
18 temporary layoffs which would have resulted in an
19 equivalent reduction in work hours;

20 (6) the plan is approved in writing by the collective
21 bargaining agent for each collective bargaining agreement
22 covering any affected employee;

23 (7) the plan will not subsidize seasonal employers
24 during the off season nor subsidize employers who have
25 traditionally used part-time employees; and

26 (8) the employer agrees to furnish reports necessary

1 for the proper administration of the plan and to permit
2 access by the Director to all records necessary to verify
3 the plan before approval and after approval to evaluate the
4 application of the plan.

5 In addition to subdivisions (1) through (8) of this
6 subsection C, the Director shall take into account any other
7 factors which may be pertinent.

8 D. The Director shall approve or reject a shared work
9 compensation plan in writing within 15 days of its receipt. The
10 reasons for the rejection shall be final and nonappealable, but
11 the rejection shall not prevent an employer from submitting
12 another plan for approval not earlier than 15 days after the
13 date of a previous written rejection.

14 E. If an approved plan or any representation for
15 implementation of the plan is intentionally and substantially
16 misleading or false, any individual who participated in any
17 such misrepresentation has committed a Class B misdemeanor and
18 is personally liable for any amount of benefits deemed by the
19 Director to have been improperly paid from the fund as a result
20 thereof. This provision for personal liability is in addition
21 to any remedy against individual claimants for collection of
22 overpayment of benefits if such claimants participated in or
23 were otherwise at fault in the overpayment.

24 F. A shared work compensation plan shall be effective on
25 the date agreed upon by the Director and the employer but no
26 later than the first day of the second calendar week after the

1 date of the Director's approval, unless a later date is
2 requested by the employer. The plan shall expire at the end of
3 the twelfth full calendar month after its effective date, or on
4 the date specified in the plan if that date is earlier, unless
5 the plan is revoked before that date by the Director. If a plan
6 is revoked by the Director, it shall terminate on the date
7 specified in the Director's order of revocation.

8 G. The Director may revoke approval of a shared work
9 compensation plan for good cause. The revocation order shall be
10 in writing and shall specify the date the revocation is
11 effective and the reasons for the revocation. Good cause for
12 revocation shall include but is not limited to failure to
13 comply with the assurances given in the plan, unreasonable
14 revision of productivity standards, conduct or occurrences
15 tending to defeat the intent and effective operation of the
16 plan, and violation of the criteria on which approval of the
17 plan was based.

18 An action to revoke approval of a shared work compensation
19 plan may be initiated at any time by the Director on his or her
20 own motion, on the motion of any of the affected employees, or
21 on the motion of the appropriate collective bargaining agents.
22 The Director shall review each plan at least once within the
23 12-month period the plan is in effect to assure that it
24 continues to meet the requirements of this Section.

25 H. An approved shared work compensation plan in effect may
26 be modified with the approval of the Director. If the hours of

1 work are increased or decreased beyond the level in the
2 original plan, or any other condition is changed, the employer
3 shall promptly notify the Director. If the changes meet the
4 requirements for approval of a plan, the Director shall approve
5 the modifications. This approval shall not change the
6 expiration date of the original plan. If the modifications do
7 not meet the requirements for approval, the Director shall
8 revoke the plan as specified in subsection G.

9 I. An individual is eligible to receive shared work
10 benefits with respect to any week only if, in addition to
11 meeting the conditions of eligibility for other benefits under
12 this Act, the Director finds that:

13 (1) the individual was employed during that week as an
14 affected employee under an approved shared work
15 compensation plan which was in effect for that week; and

16 (2) the individual was able to work and was available
17 for additional hours of work and for full-time work with
18 the shared work employer.

19 Notwithstanding any other provision of this Act, an
20 individual is deemed to have been unemployed in any week for
21 which remuneration is payable to him or her as an affected
22 employee for less than his or her normal weekly hours of work
23 as specified under the approved shared work compensation plan
24 in effect for that week.

25 J. Benefits.

26 (1) The shared work weekly benefit amount shall be the

1 product of the weekly benefit amount, as determined in
2 accordance with Section 401, multiplied by the percentage
3 of reduction in the individual's usual weekly hours of
4 work.

5 (2) No individual is eligible in any benefit year for
6 more than the maximum entitlement established for benefits
7 under this Act, including benefits under this Section.

8 (3) The shared work benefits paid an individual shall
9 be deducted from the maximum benefit amount established
10 pursuant to Section 403 for that individual's benefit year.

11 (4) Claims for shared work benefits shall be filed in
12 the same manner as claims for other benefits under this Act
13 or as prescribed by the Director by rule.

14 (5) Provisions otherwise applicable to unemployment
15 insurance claimants under this Act apply to shared work
16 claimants to the extent that they are not inconsistent with
17 this Section.

18 (6) (a) If an individual works in the same week for an
19 employer other than the shared work employer and his or her
20 combined hours of work for both employers are equal to or
21 greater than the usual weekly hours of work with the shared
22 work employer, the individual shall not be entitled to
23 benefits under this Section.

24 (b) If an individual works in the same week for both
25 the shared work employer and another employer and his or
26 her combined hours of work for both employers are less than

1 his or her usual weekly hours of work, the benefit amount
2 payable for that week shall be the weekly benefit amount,
3 as determined in accordance with Section 401, reduced by
4 the same percentage that the combined hours are of the
5 usual weekly hours of work.

6 (7) An individual who does not work during a week for
7 the shared work employer, and is otherwise eligible, shall
8 be paid his or her full weekly benefit amount.

9 (8) An individual who does not work for the shared work
10 employer during a week but works for another employer, and
11 is otherwise eligible, shall be paid benefits for that week
12 under the provisions of Section 402.

13 K. Shared work benefits shall be charged to employers'
14 experience rating records in the same manner as other benefits
15 under this Act are charged. Employers liable for payments in
16 lieu of contributions shall have shared work benefits
17 attributed to their records in the same manner as other
18 benefits under this Act are attributed.

19 L. An individual who has received all of the shared work
20 benefits, or all of the combined unemployment insurance and
21 shared work benefits, available in a benefit year shall be
22 considered an exhaustee for purposes of the extended benefits
23 program under Section 409, and, if otherwise eligible under
24 that Section, shall be eligible to receive extended benefits.

25 M. Unless inconsistent with or otherwise provided by this
26 Section, this Act and rules adopted under this Act apply to

1 shared work benefits. To the extent permitted by federal law,
2 those rules may make such distinctions and requirements as may
3 be necessary with respect to unemployed individuals to carry
4 out the purposes of this Section, including rules defining
5 usual hours, days, work week, wages, and the duration of plans
6 adopted under this Section. To the extent that any portion of
7 this Section may be inconsistent with the requirements of
8 federal law relating to the payment of unemployment insurance
9 benefits, the conflicting provisions or interpretations of
10 this Section shall be deemed inoperative, but only to the
11 extent of the conflict. If the Director determines that such a
12 conflict exists, a statement to that effect shall be filed with
13 the Governor's office for transmission to both houses of the
14 General Assembly.

15 N. The Director shall adopt such rules as are necessary to
16 carry out the purposes of this Section.

17 Section 99. Effective date. This Act takes effect July 1,
18 2011.