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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 908

February 16, 2009

Authored by Urdahl, Atkins, Davids and Sanders

The bill was read for the first time and referred to the Committee on Commerce and Labor

March 23, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

April 7, 2009

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

A bill for an act

relating to unemployment insurance; providing for a shared work plan; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2008, section 268.135.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. ~~268.136~~ SHARED WORK.

Subdivision 1. Purpose. Shared work provides partial unemployment benefits to employees whose normal weekly hours of work are reduced, with a proportional reduction in total weekly pay, in order to prevent layoffs because of lack of work. This group of employees may not otherwise be entitled to any unemployment benefits because their earnings from working reduced hours would cause them to be ineligible and they would not meet a number of other eligibility requirements.

Subd. 2. Shared work agreement requirements. (a) An employer may submit a proposed shared work plan for an employee group to the commissioner for approval in a manner and format set by the commissioner. The proposed agreement must include:

(1) a certified statement that the normal weekly hours of work of all of the proposed participating employees was full-time but are now reduced, or will be reduced, with a corresponding reduction in pay, in order to prevent layoffs;

(2) the name and Social Security number of each participating employee;

(3) a certified statement of when each participating employee was first hired by the employer, which must be at least one year before the proposed agreement is submitted;

(4) the hours of work each participating employee will work each week for the duration of the agreement, which must be at least 20 hours and no more than 32 hours

2.1 per week, except that the agreement may provide for a uniform vacation shutdown of up  
2.2 to two weeks;

2.3 (5) the proposed duration of the agreement, which must be at least two months and  
2.4 not more than one year, although an agreement may be extended for up to an additional  
2.5 year upon approval of the commissioner;

2.6 (6) a starting date beginning on a Sunday at least 15 calendar days after the date  
2.7 the proposed agreement is submitted; and

2.8 (7) a signature of an owner or officer of the employer who is listed as an owner or  
2.9 officer on the employer's account under section 268.045.

2.10 (b) An agreement may not be approved for an employer that:

2.11 (1) has any unemployment tax or reimbursements, including any interest, fees, or  
2.12 penalties, due but unpaid;

2.13 (2) has the maximum experience rating provided for under section 268.051,  
2.14 subdivision 3; or

2.15 (3) is in a high-experience rating industry as defined in section 268.051, subdivision  
2.16 5.

2.17 Subd. 3. **Agreement by commissioner.** (a) The commissioner must promptly  
2.18 review a proposed agreement and notify the employer, by mail or electronic transmission,  
2.19 within 15 days of receipt, whether the proposal satisfies the requirements of this section. If  
2.20 the proposal does not comply with this section, the commissioner must specifically state  
2.21 why the proposal is not in compliance. If a proposed agreement complies with this section,  
2.22 it must be implemented according to its terms.

2.23 (b) The commissioner may reject an agreement if the commissioner has cause to  
2.24 believe the proposal is not submitted for the purpose of preventing layoffs due to lack  
2.25 of work.

2.26 Subd. 4. **Applicant requirements.** (a) An applicant, in order to be paid  
2.27 unemployment benefits under this section, must meet all of the requirements under section  
2.28 268.069, subdivision 1. The following do not apply to an applicant under this section:

2.29 (1) the deductible earnings provision of section 268.085, subdivision 5;

2.30 (2) the restriction under section 268.085, subdivision 6, if the applicant works  
2.31 exactly 32 hours in a week;

2.32 (3) the requirement of being available for suitable employment; and

2.33 (4) the requirement of actively seeking suitable employment.

2.34 (b) An applicant is ineligible for unemployment benefits under this section for  
2.35 any week, if:

3.1 (1) the applicant works more than 32 hours in a week in employment with one or  
3.2 more employer; or

3.3 (2) the applicant works more hours in a week for the shared work employer than  
3.4 the reduced weekly hours provided for in the agreement.

3.5 Subd. 5. **Amount of unemployment benefits available.** The weekly benefit amount  
3.6 and maximum amount of unemployment benefits available are computed according to  
3.7 section 268.07, except that an applicant is paid a reduced amount in direct proportion to  
3.8 the reduction in hours from the normal weekly hours.

3.9 Subd. 6. **Cancellation.** (a) An employer may cancel an agreement at any time upon  
3.10 seven calendar days' notice to the commissioner in a manner and format prescribed by the  
3.11 commissioner. The cancellation must be signed by an owner or officer of the employer.

3.12 (b) An employer that cancels an agreement must provide written notice to each  
3.13 participating employee in the group of the cancellation at the time notice is sent to the  
3.14 commissioner.

3.15 (c) If an employer cancels an agreement before the expiration date provided for in  
3.16 subdivision 2, a new agreement may not be entered into with that employer under this  
3.17 section for at least 60 calendar days.

3.18 (d) The commissioner may immediately cancel any agreement if the commissioner  
3.19 determines the agreement was based upon false information or the employer is in breach  
3.20 of the contract. The commissioner must immediately send written notice of cancellation to  
3.21 the employer. An employer that receives notice of cancellation by the commissioner must  
3.22 provide written notice to each participating employer in the group of the cancellation.

3.23 **EFFECTIVE DATE.** This section is effective August 2, 2009, except that the  
3.24 one-year extension of shared work agreements authorized in subdivision 2, paragraph (a),  
3.25 clause (5), is effective retroactively from January 1, 2009.

3.26 Sec. 2. **REPEALER.**

3.27 Minnesota Statutes 2008, section 268.135, is repealed, except that Minnesota  
3.28 Statutes, section 268.135, applies to a shared work agreement approved by the  
3.29 commissioner before August 2, 2009, until the expiration of that shared work plan.

3.30 **EFFECTIVE DATE.** This section is effective August 2, 2009.

**268.135 SHARED WORK PLAN.**

Subdivision 1. **Definitions.** For purposes of this section:

(1) "Affected employee" means an employee who was continuously employed as a member of the affected group, for at least six months, on a full-time basis, before submission of the shared work plan.

(2) "Affected group" means five or more employees designated by the employer to participate in a shared work plan.

(3) "Shared work plan" or "plan" means an employer's plan, submitted in a manner and format prescribed by the commissioner, under which a group of employees whose normal weekly hours of work are reduced, in order to prevent employees from being laid off because of lack of work.

(4) "Normal weekly hours of work" means the number of hours in a week that the employee normally would work for the shared work employer or 40 hours, whichever is less.

Subd. 2. **Participation.** (a) An employer wishing to participate in the shared work benefit program must submit a shared work plan to the commissioner in a manner and format prescribed for approval. The commissioner may approve a shared work plan only if it:

(1) specifies the employees in the affected group;

(2) applies to only one affected group;

(3) includes a certified statement by the employer that each employee specified in the affected group is an affected employee;

(4) includes a certified statement by the employer that for the duration of the plan the reduction in normal weekly hours of work of the employees in the affected group is instead of layoffs that otherwise would result in at least as large a reduction in the total normal weekly hours of work;

(5) specifies an expiration date that is no more than one year from the date the employer submits the plan for approval;

(6) specifies that fringe benefits, such as health and retirement, available to the employees in the affected group are not reduced beyond the percentage of reduction in hours of work; and

(7) is approved in writing by the collective bargaining agent for each collective bargaining agreement that covers any employee in the affected group.

(b) The commissioner shall set the beginning and ending dates of an approved shared work plan.

(c) The commissioner shall send to the employer a determination, by mail or electronic transmission, approving or disapproving the plan within 15 calendar days of its receipt. Determinations are final.

(d) Disapproval of a plan may be reconsidered at the discretion of the commissioner. Approval of a shared work plan may be revoked if the approval was based, in whole or in part, upon information that was false or misleading.

Subd. 3. **Eligibility.** (a) Regardless of any other provision, an applicant is eligible to receive shared work benefits with respect to any week if:

(1) during the week the applicant is employed as a member of an affected group in a plan that was approved before the week and is in effect for the week; and

(2) during the week the normal weekly hours of work were reduced, in accordance with the plan, at least 20 percent but not more than 40 percent, with a corresponding reduction in wages.

(b) Shared work benefits may not be paid to an applicant beyond one benefit year.

(c) The total amount of regular unemployment benefits and shared work benefits paid to an applicant in a benefit year may not exceed the maximum amount of regular unemployment benefits available.

(d) An otherwise eligible applicant may not be denied shared work benefits because of the application of any provision relating to availability for employment, active search for employment, or refusal to apply for or accept suitable employment from other than the applicant's shared work employer.

Subd. 4. **Weekly benefit amount.** (a) An applicant who is eligible for shared work benefits is paid an amount equal to the regular weekly unemployment benefit amount multiplied by the nearest full percentage of reduction of the applicant's regular weekly hours of work as set in the plan. The benefit payment, if not a whole dollar must be rounded down to the next lower whole dollar.

(b) The deductible earnings provisions of section 268.085, subdivision 5, must not apply to earnings from the shared work employer of an applicant eligible for shared work benefits unless

APPENDIX

Repealed Minnesota Statutes: H0908-1

the resulting amount would be less than the regular weekly unemployment benefit amount the applicant would otherwise be eligible for without regard to shared work benefits.

(c) An applicant is not eligible for shared work benefits for any week that employment is performed for the shared work employer in excess of the reduced hours set forth in the plan.