

Approved AW Douville 3-7-88
Date

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Arthur Douville at
Chairperson

9:08 a.m./~~p.m.~~ on February 11, 1988 in room 526-S of the Capitol.

All members were present except:

Representative Bideau - Excused

Committee staff present:

Jerry Ann Donaldson, Kansas Department of Legislative Research
Jim Wilson, Revisor of Statutes' Office
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Bill Clawson, Chief of Benefits, Department of Human Resources
Paul Bicknell, Chief of Contributions, Department of Human Resources

Bill Clawson gave a short review of shared work which is also called short time compensation. The concept was borrowed from Germany, began in the U.S. as P.L. 97-48 which mandated the Secretary of Labor to develop a prototype. There are 13 states that have a work sharing program, the three closest to Kansas being Missouri, Arkansas and Texas.

An example of the plan would be: If an employer were in a situation where he needed to reduce payroll costs and his only option would be total layoff, through work sharing, he could keep the work force, reduce its hours and the employees would receive supplement from unemployment insurance. This is a form of what is known as the "sub-plan" which would bring an individual's take home pay to a level of approximately 80% of his regular wages. Another example: If an employer had 100 employees and needed to reduce his payroll 25%, rather than cut 25 employees, he could reduce everyone's hours and unemployment insurance would pay all employees for the hours (of a regular work week) not worked.

The advantages to the employer are that he can consistently maintain a trained staff without turnover or training expenses. The advantages to the employee are that he maintains his income, continues paying taxes and receiving his benefits.

A disadvantage would be that some employees would have to be laid off as result of seniority. However, the national labor unions seem to be in agreement with the concept expressed in this plan.

The agency would enter into a formal agreement with the employer. The following criteria would need to be met:

1. The number of employees would have to be agreed on. It would be cost prohibitive for the department to develop a plan and work out a system for processing a claim for a minute number of individuals.
2. This plan does not seem appropriate for governmental agencies or non-profit organizations so would apply only to private, for profit employers.
3. Employers in a deficit situation would be excluded.

The chairman noted #3 and asked why stating those seemed to be the employers needing this type of plan the most. Paul Bicknell responded that since these employers were not currently paying their accounts, in effect other employers would be paying their costs. Mr. Clawson stated that other states have included deficit employers but have automatically raised the rate 2% when the plan began. The department cannot determine the cost of the plan at this time so cannot project whether it will cost the employers more money. If the plan is implemented, it is the intent of the department to track it on an individual basis and monitor it.

Employers in a deficit situation seems to be evenly spread between small businesses and large corporations. Representative Webb stated the plan seemed to be positive for employer as well as employee and stated a preference for eliminating negative account employers rather than harm the chances of the bill passing.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry

room 526-S, Statehouse, at 9:08 a.m./~~p.m.~~ on February 11, 1988

Mr. Clawson reported that Missouri's law went into effect in the summer of 1987. It has 78 plans in effect and those involved seem content. He answered it was the wish of the committee as to whether it would be an ongoing or a pilot program and added that some states have a sunset provision. The programs would be voluntary on the part of the employer.

Attachment #1 is a balloon version of H.B. 2453. The amendments shown are those proposed by the department. Noting Mr. Clawson's estimates of time necessary to get the program operational during the March 4, 1987, meeting, Representative Hensley asked what the effective date of the bill should be. Mr. Clawson responded that rules and regulations would need to be adopted and could not be done so without statute. After some discussion it was decided that publication of the statute could be July 1, 1988, with an effective date of April 1, 1989.

Representative Whiteman referred to page 3, (h), lines 0100-0103 and asked if it was a standard period of time for states having a shared work plan. Mr. Clawson's response was "normally the period of time that the claim is in effect". He also referred to the last page and stated that anything beyond 12 months or 26 weeks would not seem to be a situation conducive to work sharing. After the 12 months period the plan may be used again. This law is based on the Texas law which was a composite of laws from California, Oregon and Arizona. The chairman requested Mr. Clawson contact Texas and get information regarding its experience with the law. He suggested the committee review the bill and stated it would be considered for possible final action next week.

Jim Wilson explained the drafting errors in H.B. 2764 as discussed at the February 11, 1988, meeting of the committee. Representative Hensley made a motion to amend the bill, as proposed by the revisor. Representative Cribbs seconded the motion which carried. Representative Miller made a motion to report the bill favorably as amended. It was seconded by Representative Sifers and passed by the committee.

Representative Hensley made a conceptual motion to introduce as a committee bill, one which would amend the Kansas minimum wage law raising it to \$2.65 per hour. Representative Whiteman seconded the bill which then passed.

No objections having been expressed, the minutes of the January 27, 1988, and the January 28, 1988, meetings stand approved as presented.

The meeting was adjourned at 9:40 a.m. The next meeting of the committee will be February 18, 1988, 9:00 a.m. in Room 526-S.

HOUSE COMMITTEE ON
LABOR AND INDUSTRY

Guest List

Date February 11, 1988

Name	City	Representing
Paul Bicknell	Topeka	DHR
Linda Tierce	Topeka	DHR
Bill Clawson	"	"
Dennis Taylor	Topeka	DHR
Paul O'Malley	Topeka	MEIK
Marty Kennedy	Topeka	⊙ Budget
Jimmie Zentman	Topeka	Ka Bar Assoc.
Lee Velasquez	Topeka	Rep. Hensley
Rob Hodges	Topeka	KCCI
Wayne Maichel	Top	K. AFL-CIO
Jim DeHoff	Top	K. " "
Hany Nelson	"	" " "

HOUSE BILL No. 2453

By Committee on Labor and Industry

2-23

0017 AN ACT concerning the employment security law; relating to
0018 the creation of a shared work unemployment compensation
0019 program; amending K.S.A. 44-705 and repealing the existing
0020 section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 New Section 1. *Shared work unemployment compensation*
0023 *program.* (a) As used in this section:

0024 (1) "Affected unit" means a specified department, shift or
0025 other unit of ~~two~~ for more employees that is designated by an
0026 employer to participate in a shared work plan.

four

0027 (2) "Fringe benefit" means health insurance, a retirement
0028 benefit received under a pension plan, a paid vacation day, a
0029 paid holiday, sick leave, and any other analogous employee
0030 benefit that is provided by an employer.

0031 (3) "Fund" has the meaning ascribed thereto by subsection
0032 (k) of K.S.A. 44-703 and amendments thereto.

lesser

0033 (4) "Normal weekly hours of work" means the ~~number of~~
0034 ~~hours in a week that an employee ordinarily works for a partici-~~
0035 ~~pating employer or 40 hours, whichever is less.~~

or the average obtained by dividing the total number of hours worked per week in
the preceding 12-week period by the number 12;

0036 (5) "Participating employee" means an employee who works
0037 a reduced number of hours under a shared work plan.

0038 (6) "Participating employer" means an employer who has a
0039 shared work plan in effect.

0040 (7) "Secretary" means the secretary of human resources.

0041 (8) "Shared work benefit" means an unemployment com-
0042 pensation benefit that is payable to an individual in an affected
0043 unit because the individual works reduced hours under an ap-
0044 proved shared work plan.

0045 (9) "Shared work plan" means a program for reducing un-

0046 employment under which employees who are members of an
0047 affected unit share the work remaining after a reduction in their
0048 normal weekly hours of work.

0049 (10) "Shared work unemployment compensation program"
0050 means a program designed to reduce unemployment and stabi-
0051 lize the work force by allowing certain employees to collect
0052 unemployment compensation benefits if the employees share
0053 the work remaining after a reduction in the total number of hours
0054 of work and a corresponding reduction in wages.

0055 (b) The secretary shall establish a voluntary shared work
0056 unemployment compensation program as provided by this sec-
0057 tion. The secretary may adopt rules and regulations and establish
0058 procedures necessary to administer the shared work unemploy-
0059 ment compensation program.

0060 (c) An employer who wishes to participate in the shared work
0061 unemployment compensation program must submit a written
0062 shared work plan to the secretary for the secretary's approval. As
0063 a condition for approval, a participating employer must agree to
0064 furnish the secretary with reports relating to the operation of the
0065 shared work plan as requested by the secretary. The employer
0066 shall monitor and evaluate the operation of the established
0067 shared work plan as requested by the secretary and shall report
0068 the findings to the secretary.

0069 (d) The secretary may approve a shared work plan if:

0070 (1) The shared work plan applies to and identifies a specific
0071 affected unit;

0072 (2) the employees in the affected unit are identified by name
0073 and social security number;

0074 (3) the shared work plan reduces the normal weekly hours of
0075 work for an employee in the affected unit by not less than ~~10%~~
0076 and not more than 40%;

0077 (4) the shared work plan applies to at least 10% of the em-
0078 ployees in the affected unit;

0079 (5) the shared work plan describes the manner in which the
0080 participating employer treats the fringe benefits of each em-
0081 ployee in the affected unit; and

0082 (6) the employer certifies that the implementation of a shared

0083 work plan and the resulting reduction in work hours is in lieu of
0084 temporary layoffs that would affect at least 10% of the employees
0085 in the affected unit and that would result in an equivalent
0086 reduction in work hours.

;

0087 (e) If any of the employees who participate in a shared work
0088 plan under this section are covered by a collective bargaining
0089 agreement, the shared work plan must be approved in writing by
0090 the collective bargaining agent.

0091 (f) A shared work plan may not be implemented to subsidize
0092 seasonal employers during the off-season or to subsidize em-
0093 ployers who have traditionally used part-time employees.

0094 (g) The secretary shall approve or deny a shared work plan no
0095 later than the 30th day after the day the shared work plan is
0096 received by the secretary. The secretary shall approve or deny a
0097 shared work plan in writing. If the secretary denies a shared
0098 work plan, the secretary shall notify the employer of the reasons
0099 for the denial.

0100 (h) A shared work plan is effective on the date it is approved
0101 by the secretary. The shared work plan expires on the last day of
0102 the 12th full calendar month after the effective date of the shared
0103 work plan.

0104 (i) An employer may modify a shared work plan created
0105 under this section to meet changed conditions if the modification
0106 conforms to the basic provisions of the shared work plan as
0107 approved by the secretary. The employer must report the
0108 changes made to the shared work plan in writing to the secretary
0109 before implementing the changes. If the original shared work
0110 plan is substantially modified, the secretary shall reevaluate the
0111 shared work plan and may approve the modified shared work
0112 plan if it meets the requirements for approval under subsection
0113 (d). The approval of a modified shared work plan does not affect
0114 the expiration date originally set for that shared work plan. If
0115 substantial modifications cause the shared work plan to fail to
0116 meet the requirements for approval, the secretary shall deny
0117 approval to the modifications as provided by subsection (g).

0118 (j) Notwithstanding any other provisions of the employment
0119 security law, an individual is unemployed and is eligible for

(7) the employer has filed all reports required to be filed under this
section and all past and current periods and has paid all contributions due for
all past and current periods; and

(8) the employer must be a private for profit contributing employer eligible
for a rate computation as set forth in subsection (a)(2) of K.S.A. 44-710a and
does not meet the definition of a negative account employer.

0120 shared work benefits in any week in which the individual, as an
 0121 employee in an affected unit, works for less than the individual's
 0122 normal weekly hours of work in accordance with an approved
 0123 shared work plan in effect for that week. The secretary may not
 0124 deny shared work benefits for any week to an otherwise eligible
 0125 individual by reason of the application of any provision of the
 0126 employment security law that relates to availability for work,
 0127 active search for work or refusal to apply for or accept work with
 0128 an employer other than the participating employer.

0129 (k) An individual is eligible to receive shared work benefits
 0130 with respect to any week in which the secretary finds that:

0131 (1) The individual is employed as a member of an affected
 0132 unit subject to a shared work plan that was approved before the
 0133 week in question and is in effect for that week;

0134 (2) the individual is able to work and is available for addi-
 0135 tional hours of work or full-time work with the participating
 0136 employer; and

0137 (3) the individual's normal weekly hours of work have been
 0138 reduced by at least ~~10%~~ but not more than 40%, with a corre-
 0139 sponding reduction in wages.

20

0140 (l) The secretary shall pay an individual who is eligible for
 0141 shared work benefits under this section a weekly shared work
 0142 benefit amount equal to the individual's regular weekly benefit
 0143 amount for a period of total unemployment multiplied by the
 0144 nearest full percentage of reduction of the individual's ~~wages~~ as
 0145 set forth in the employer's shared work plan. If the shared
 0146 benefit amount is not a multiple of \$1, the secretary shall reduce
 0147 the amount to the next lowest multiple of \$1. All shared work
 0148 benefits under this section shall be payable from the fund.

hours

0149 (m) The secretary may not pay an individual shared work
 0150 benefits for any week in which the individual performs paid
 0151 work for the participating employer in excess of the reduced
 0152 hours established under the shared work plan.

0153 (n) An individual may not receive shared work benefits and
 0154 regular unemployment compensation benefits in an amount that
 0155 exceeds the maximum total amount of benefits payable to that
 0156 individual in a benefit year as provided by subsection (f) of

0157 K.S.A. 44-704 and amendments thereto.

0158 (o) An individual who has received all of the shared work
0159 benefits and regular unemployment compensation benefits
0160 available in a benefit year is an exhaustee under K.S.A. 44-704a
0161 and 44-704b and amendments thereto and is entitled to receive
0162 extended benefits under such statutes if the individual is other-
0163 wise eligible under such statutes.

0164 (p) The secretary may terminate a shared work plan for good
0165 cause if the secretary determines that the shared work plan is not
0166 being executed according to the terms and intent of the shared
0167 work unemployment compensation program.

0168 (q) This section shall be construed as part of the employment
0169 security law.

0170 Sec. 2. K.S.A. 44-705 is hereby amended to read as follows:
0171 44-705. *Except as provided by section 1*, an unemployed indi-
0172 vidual shall be eligible to receive benefits with respect to any
0173 week only if the secretary, or a person or persons designated by
0174 the secretary, finds that:

0175 (a) The claimant has registered for work at and thereafter
0176 continued to report at an employment office in accordance with
0177 rules and regulations adopted by the secretary, except that,
0178 subject to the provisions of subsection (a) of K.S.A. 44-704 and
0179 amendments thereto, the secretary may adopt rules and regula-
0180 tions which waive or alter either or both of the requirements of
0181 this subsection (a).

0182 (b) The claimant has made a claim for benefits with respect to
0183 such week in accordance with rules and regulations adopted by
0184 the secretary.

0185 (c) The claimant is able to perform the duties of such claim-
0186 ant's customary occupation or the duties of other occupations for
0187 which the claimant is reasonably fitted by training or experience,
0188 and is available for work, as demonstrated by the claimant's
0189 pursuit of the full course of action most reasonably calculated to
0190 result in the claimant's reemployment except that, notwith-
0191 standing any other provisions of this section, an unemployed
0192 claimant otherwise eligible for benefits shall not become ineli-
0193 gible for benefits because of the claimant's enrollment in and

Notwithstanding any other provisions of this chapter, an individual shall not be eligible to receive shared work benefits for more than twenty-six calendar weeks during the twelve-month period of the shared work plan. No week shall be counted as a week of unemployment for the purposes of this subsection unless it occurs within the twelve-month period of the shared work plan.

0194 satisfactory pursuit of approved training, including training ap-
0195 proved under section 236(a)(1) of the trade act of 1974.

0196 (d) The claimant has been unemployed for a waiting period
0197 of one week which occurs within the benefit year which includes
0198 the week for which the claimant is claiming benefits. No week
0199 shall be counted as a week of unemployment for the purposes of
0200 this subsection (d):

0201 (1) If benefits have been paid for such week;

0202 (2) if the individual fails to meet with the other eligibility
0203 requirements of this section; or

0204 (3) if an individual is seeking unemployment benefits under
0205 the unemployment compensation law of any other state or of the
0206 United States, except that if the appropriate agency of such state
0207 or of the United States finally determines that the claimant is not
0208 entitled to unemployment benefits under such other law, this
0209 subsection (d) shall not apply.

0210 (e) For benefit years established on and after the effective
0211 date of this act, the claimant has been paid total wages for
0212 insured work in the claimant's base period of not less than 30
0213 times the claimant's weekly benefit amount and has been paid
0214 wages in more than one quarter of the claimant's base period,
0215 except that the wage credits of an individual earned during the
0216 period commencing with the end of a prior base period and
0217 ending on the date on which such individual filed a valid initial
0218 claim shall not be available for benefit purposes in a subsequent
0219 benefit year unless, in addition thereto, such individual has
0220 subsequently earned wages for insured work in an amount equal
0221 to at least eight times the claimant's current weekly benefit
0222 amount.

0223 Sec. 3. K.S.A. 44-705 is hereby repealed.

0224 Sec. 4. This act shall take effect and be in force from and
0225 after its publication in the statute book.