

SENATE BILL No. 372

By Committee on Commerce

2-10

1 AN ACT concerning employment security; relating to the shared work
2 unemployment compensation program; layoff aversion; amending
3 K.S.A. 2013 Supp. 44-757 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2013 Supp. 44-757 is hereby amended to read as
7 follows: 44-757. *Shared work unemployment compensation program.* (a)

8 As used in this section:

9 (1) "Affected unit" means a specified department, shift or other unit
10 of two or more employees that is designated by an employer to participate
11 in a shared work plan.

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

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

18 (4) "Normal weekly hours of work" means the lesser of 40 hours or
19 the average obtained by dividing the total number of hours worked per
20 week during the preceding twelve-week period by the number 12.

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

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

25 (7) "Secretary" means the secretary of labor or the secretary's
26 designee.

27 (8) "Shared work benefit" means an unemployment compensation
28 benefit that is payable to an individual in an affected unit because the
29 individual works reduced hours under an approved shared work plan.

30 (9) "Shared work plan" means a program for reducing unemployment
31 under which employees who are members of an affected unit share the
32 work remaining after a reduction in their normal weekly hours of work.

33 (10) "Shared work unemployment compensation program" means a
34 program designed to reduce unemployment and stabilize the work force by
35 allowing certain employees to collect unemployment compensation
36 benefits if the employees share the work remaining after a reduction in the

1 total number of hours of work and a corresponding reduction in wages.

2 (b) The secretary shall establish a voluntary shared work
3 unemployment compensation program as provided by this section. The
4 secretary may adopt rules and regulations and establish procedures
5 necessary to administer the shared work unemployment compensation
6 program.

7 (c) An employer who wishes to participate in the shared work
8 unemployment compensation program must submit a written shared work
9 plan to the secretary for the secretary's approval. As a condition for
10 approval, a participating employer must agree to furnish the secretary with
11 reports relating to the operation of the shared work plan as requested by
12 the secretary. The employer shall monitor and evaluate the operation of the
13 established shared work plan as requested by the secretary and shall report
14 the findings to the secretary.

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

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

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

20 (3) the shared work plan reduces the normal weekly hours of work
21 for an employee, *including regular part-time employees*, in the affected
22 unit by not less than 20% and not more than 40%;

23 (4) the shared work plan applies to at least 10% of the employees in
24 the affected unit;

25 (5) the shared work plan describes the manner in which the
26 participating employer treats the fringe benefits of each employee in the
27 affected unit *and the employer certifies that if the employer provides*
28 *health benefits and retirement benefits under a defined benefit plan, as*
29 *defined in 26 U.S.C. § 414(j), or contributions under a defined*
30 *contribution plan, as defined in 26 U.S.C. § 414(i), to any employee whose*
31 *workweek is reduced under the program that such benefits will continue to*
32 *be provided to employees participating in the shared work compensation*
33 *program under the same terms and conditions as though the workweek of*
34 *such employee had not ~~bee~~ been reduced or to the same extent as other*
35 *employees not participating in the shared work program;*

36 (6) the employer certifies that the implementation of a shared work
37 plan and the resulting reduction in work hours is in lieu of ~~temporary~~
38 layoffs that would affect at least 10% of the employees in the affected unit
39 and that would result in an equivalent reduction in work hours;

40 (7) the employer has filed all reports required to be filed under the
41 employment security law for all past and current periods and has paid all
42 contributions, benefit cost payments, or if a reimbursing employer has
43 made all payments in lieu of contributions due for all past and current

1 periods; ~~and~~

2 (8) (A) a contributing employer must be eligible for a rate
3 computation under subsection (a)(2) of K.S.A. 44-710a, and amendments
4 thereto, and is not a negative account employer as defined by subsection
5 (d) of K.S.A. 44-710a, and amendments thereto; (B) a rated governmental
6 employer must be eligible for a rate computation under subsection (g) of
7 K.S.A. 44-710d, and amendments thereto;

8 (9) *eligible employees may participate, as appropriate, in training,*
9 *including without limitation, employer-sponsored training or worker*
10 *training funded under the workforce investment act of 1998, to enhance*
11 *job skills if such program has been approved by the state of Kansas;*

12 (10) *the employer includes a plan for giving advance notice, where*
13 *feasible, to an employee whose workweek is to be reduced together with*
14 *an estimate of the number of layoffs that would have occurred absent the*
15 *ability to participate in shared work compensation and such other*
16 *information as the secretary of labor determines is appropriate; and*

17 (11) *the terms of the employer's written plan and implementation are*
18 *consistent with employer obligations under applicable federal and Kansas*
19 *laws.*

20 (e) If any of the employees who participate in a shared work plan
21 under this section are covered by a collective bargaining agreement, the
22 shared work plan must be approved in writing by the collective bargaining
23 agent.

24 (f) A shared work plan may not be implemented to subsidize seasonal
25 employers during the off-season ~~or to subsidize employers who have~~
26 ~~traditionally used part-time employees.~~

27 (g) The secretary shall approve or deny a shared work plan no later
28 than the 30th day after the day the shared work plan is received by the
29 secretary. The secretary shall approve or deny a shared work plan in
30 writing. If the secretary denies a shared work plan, the secretary shall
31 notify the employer of the reasons for the denial.

32 (h) A shared work plan is effective on the date it is approved by the
33 secretary, except for good cause a shared work plan may be effective at
34 any time within a period of 14 days prior to the date such plan is approved
35 by the secretary. The shared work plan expires on the last day of the 12th
36 full calendar month after the effective date of the shared work plan.

37 (i) An employer may modify a shared work plan created under this
38 section to meet changed conditions if the modification conforms to the
39 basic provisions of the shared work plan as approved by the secretary. The
40 employer must report the changes made to the shared work plan in writing
41 to the secretary before implementing the changes. If the original shared
42 work plan is substantially modified, the secretary shall reevaluate the
43 shared work plan and may approve the modified shared work plan if it

1 meets the requirements for approval under subsection (d). The approval of
2 a modified shared work plan does not affect the expiration date originally
3 set for that shared work plan. If substantial modifications cause the shared
4 work plan to fail to meet the requirements for approval, the secretary shall
5 deny approval to the modifications as provided by subsection (g).

6 (j) Notwithstanding any other provisions of the employment security
7 law, an individual is unemployed and is eligible for shared work benefits
8 in any week in which the individual, as an employee in an affected unit,
9 works for less than the individual's normal weekly hours of work in
10 accordance with an approved shared work plan in effect for that week. The
11 secretary may not deny shared work benefits for any week to an otherwise
12 eligible individual by reason of the application of any provision of the
13 employment security law that relates to availability for work, active search
14 for work or refusal to apply for or accept work with an employer other
15 than the participating employer.

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

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

21 (2) the individual is able to work and is available for additional hours
22 of work or full-time work with the participating employer;

23 (3) the individual's normal weekly hours of work have been reduced
24 by at least 20% but not more than 40%, with a corresponding reduction in
25 wages; and

26 (4) the individual's normal weekly hours of work and wages have
27 been reduced as described in ~~paragraph (3) of this subsection (k)(3)~~ for a
28 waiting period of one week which occurs within the period the shared
29 work plan is in effect, which period includes the week for which the
30 individual is claiming shared work benefits.

31 (l) The secretary shall pay an individual who is eligible for shared
32 work benefits under this section a weekly shared work benefit amount
33 equal to the individual's regular weekly benefit amount for a period of total
34 unemployment multiplied by the nearest full percentage of reduction of the
35 individual's hours as set forth in the employer's shared work plan. If the
36 shared benefit amount is not a multiple of \$1, the secretary shall reduce the
37 amount to the next lowest multiple of \$1. All shared work benefits under
38 this section shall be payable from the fund.

39 ~~(m) The secretary may not pay an individual shared work benefits for
40 any week in which the individual performs paid work for the participating
41 employer in excess of the reduced hours established under the shared work
42 plan.~~

43 (n) An individual may not receive shared work benefits and regular

1 unemployment compensation benefits in an amount that exceeds the
2 maximum total amount of benefits payable to that individual in a benefit
3 year as provided by subsection (f) of K.S.A. 44-704, and amendments
4 thereto.

5 ~~(h)~~ (n) An individual who has received all of the shared work benefits
6 and regular unemployment compensation benefits available in a benefit
7 year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments
8 thereto, and is entitled to receive extended benefits under such statutes if
9 the individual is otherwise eligible under such statutes.

10 ~~(i)~~ (o) The secretary may terminate a shared work plan for good
11 cause if the secretary determines that the shared work plan is not being
12 executed according to the terms and intent of the shared work
13 unemployment compensation program.

14 ~~(j)~~ (p) Notwithstanding any other provisions of this section, an
15 individual shall not be eligible to receive shared work benefits for more
16 than 26 calendar weeks during the 12-month period of the shared work
17 plan, except that two weeks of additional benefits shall be payable to
18 claimants who exhaust regular benefits and any benefits under any other
19 federal or state extended benefits program during the period July 1, 2003
20 through June 30, 2004. No week shall be counted as a week for which an
21 individual is eligible for shared work benefits for the purposes of this
22 section unless the week occurs within the 12-month period of the shared
23 work plan.

24 ~~(k)~~ (q) No shared work benefit payment shall be made under any
25 shared work plan or this section for any week which commences before
26 April 1, 1989.

27 ~~(l)~~ (r) This section shall be construed as part of the employment
28 security law.

29 Sec. 2. K.S.A. 2013 Supp. 44-757 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
31 publication in the statute book.