

SENATE BILL No. 154

By Committee on Commerce

2-5

Revisor's Technical Amendment
SB 154
Office of Revisor of Statutes
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February 23, 2015

1 AN ACT concerning employment security law; relating to determination
2 of benefits; employer classification and rates; amending K.S.A. 2014
3 Supp. 44-704 and 44-710a and repealing the existing sections.

44-757 and

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

6 Section 1. K.S.A. 2014 Supp. 44-704 is hereby amended to read as
7 follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall
8 be payable from the fund. All benefits shall be paid through the secretary
9 of labor, in accordance with such rules and regulations as the secretary
10 may adopt. Benefits based on service in employment defined in
11 subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703(i)(3)(E) and (i)(3)(F),
12 and amendments thereto, shall be payable in the same amount, on the same
13 terms and subject to the same conditions as compensation payable on the
14 basis of other service subject to this act except as provided in subsection
15 (e) of K.S.A. 44-705(e) and subsection (e)(2) of K.S.A. 44-711(e)(2), and
16 amendments thereto.

17 (b) *Determined weekly benefit amount.* An individual's determined
18 weekly benefit amount shall be an amount equal to 4.25% of the
19 individual's total wages for insured work paid during that calendar quarter
20 of the individual's base period in which such total wages were highest,
21 subject to the following limitations:

22 (1) If an individual's determined weekly benefit amount is less than
23 the minimum weekly benefit amount, it shall be raised to such minimum
24 weekly benefit amount;

25 (2) If the individual's determined weekly benefit amount is more than
26 the maximum weekly benefit amount, it shall be reduced to the maximum
27 weekly benefit amount; and

28 (3) If the individual's determined weekly benefit amount is not a
29 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

30 (c) *Maximum weekly benefit amount.* On July 1 of each year, the
31 secretary shall determine the maximum weekly benefit amount by
32 computing 60% of the average weekly wages paid to employees in insured
33 work during the previous calendar year and shall prior to that date
34 announce the maximum weekly benefit amount so determined, by
35 publication in the Kansas register. Such computation shall be made by
36 dividing the gross wages reported as paid for insured work during the

1 K.S.A. 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and amendments
2 thereto, or any like provision the secretary shall remit all moneys received
3 from employers pursuant to the interest payment assessment established in
4 subsection (a)(2)(E), to the state treasurer in accordance with the
5 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
6 each such remittance, the state treasurer shall deposit the entire amount in
7 the employment security interest assessment fund. All moneys in this fund
8 which are received from employers pursuant to the interest payment
9 assessment established in subsection (a)(2)(E), shall be expended solely
10 for the purposes and in the amounts found by the secretary necessary to
11 pay any principal and interest due and owing the United States department
12 of labor resulting from any advancements made to the Kansas employment
13 security fund pursuant to the provisions of title XII of the social security
14 act (42 U.S.C. §§ 1321 to 1324) except as may be otherwise provided
15 under subsection (a)(2)(E). Notwithstanding any provision of this section,
16 all moneys received and credited to this fund pursuant to subsection (a)(2)
17 (E), shall remain part of the employment security interest assessment fund
18 and shall be used only in accordance with the conditions specified in
19 subsection (a)(2)(E).

20 (f) The secretary of labor shall annually prepare and submit a
21 certification as to the solvency and adequacy of the amount credited to the
22 state of Kansas' account in the federal employment security trust fund to
23 the governor and the legislative coordinating council. The certification
24 shall be submitted on or before December 1 of each calendar year and
25 shall be for the 12-month period ending on June 30 of that calendar year.
26 In arriving at the certification contributions paid on or before July 31
27 following the 12-month period ending date of June 30 shall be considered.
28 Each certification shall be used to determine the need for any adjustment
29 to schedule III in subsection (a)(3)(A)(f)(B) and to assist in preparing
30 legislation to accomplish any such adjustment.

31 Sec. 3. K.S.A. 2014 Supp. 44-704 and ~~44-710a~~ are hereby repealed.

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

Insert attachment A

and 44-757

Renumber sections accordingly.

ATTACHMENT A

Sec. 3. K.S.A. 2014 Supp. 44-757 is hereby amended to read as follows: 44-757. *Shared work unemployment compensation program.* (a) As used in this section:

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

(2) "Fringe benefit" means 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.

(3) "Fund" has the meaning ascribed thereto by ~~with section (b) of~~ K.S.A. 44-703(a), and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) A shared work plan may not be implemented to subsidize seasonal employers during the off-season.

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

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

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

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

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

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

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

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

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

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

(m) An individual may not receive shared work benefits and regular unemployment compensation benefits in an amount that exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided by ~~subsections (l) of~~ K.S.A. 44-704(l), and amendments thereto.

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

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

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

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

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