

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 791

Introduced by Mello, 5; Nordquist, 7.

Read first time January 05, 2012

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Employment Security Law; to amend section
2 48-601, Reissue Revised Statutes of Nebraska; to adopt
3 the Shared Work Unemployment Compensation Program; to
4 harmonize provisions; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-601, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-601 Sections 48-601 to 48-671 and sections 2 to 5 of
4 this act shall be known and may be cited as the Employment Security
5 Law.

6 Sec. 2. Sections 2 to 5 of this act create the Shared
7 Work Unemployment Compensation Program.

8 Sec. 3. As used in sections 2 to 5 of this act:

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

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

16 (3) Normal weekly hours of work means as to any
17 individual, the lesser of forty hours or the average obtained by
18 dividing the total number of hours worked per week in the preceding
19 twelve-week period by the number twelve;

20 (4) Participating employee means an employee who works a
21 reduced number of hours under a shared work plan;

22 (5) Participating employer means an employer who has a
23 shared work plan in effect;

24 (6) Shared work benefit means an unemployment
25 compensation benefit that is payable to an individual in an affected

1 unit because the individual works reduced hours under an approved
2 shared work plan;

3 (7) Shared work plan means a program for reducing
4 unemployment under which employees who are members of an affected
5 unit share the work remaining after a reduction in their normal
6 weekly hours of work;

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

13 (9) Waiting week means the first week of participation in
14 a shared work unemployment compensation program.

15 Sec. 4. (1) An employer who wishes to participate in the
16 shared work unemployment compensation program shall submit a written
17 shared work plan in a form acceptable to the department for approval.
18 As a condition for approval by the department, a participating
19 employer shall agree to furnish the department with reports relating
20 to the operation of the shared work plan as requested by the
21 department. The employer shall monitor and evaluate the operation of
22 the established shared work plan as requested by the department and
23 shall report the findings to the department.

24 (2) The department may approve a shared work plan if:

25 (a) The employer has filed all reports required to be

1 filed under the Employment Security Law for all past and current
2 periods and has paid all contributions due for all past and current
3 periods;

4 (b) The shared work plan applies to and identifies a
5 specified affected unit;

6 (c) The employees in the affected unit are identified by
7 name and social security number;

8 (d) The shared work plan reduces the normal weekly hours
9 of work for an employee in the affected unit by not less than ten
10 percent and not more than forty percent;

11 (e) The shared work plan applies to at least ten percent
12 of the employees in the affected unit;

13 (f) The shared work plan provides that the fringe
14 benefits of each employee in the affected unit will continue to be
15 provided as though their workweeks had not been reduced;

16 (g) The employer certifies that the implementation of a
17 shared work plan and the resulting reduction in work hours is in lieu
18 of temporary layoffs that would affect at least ten percent of the
19 employees in the affected unit and that would result in an equivalent
20 reduction in work hours;

21 (h) The employer certifies that the employer will not
22 hire additional part-time or full-time employees for the affected
23 unit while the program is in operation; and

24 (i) During the previous four months the work force in the
25 affected unit has not been reduced by temporary layoffs of more than

1 ten percent of the employees.

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

6 (4) No shared work plan which will subsidize seasonal
7 employers during the off-season or subsidize employers, at least
8 fifty percent of the employees of which have normal weekly hours of
9 work equaling thirty-two hours or less, shall be approved by the
10 department. No shared work plan benefits will be initiated when the
11 reduced hours coincide with holiday earnings already committed to be
12 paid by the employer. Shared work benefits may not be denied in any
13 week containing a holiday for which holiday earnings are committed to
14 be paid by the employer unless the shared work benefits to be paid
15 are for the same hours in the same day as the holiday earnings.

16 (5) The department shall approve or deny a shared work
17 plan not later than the thirtieth day after the day on which the
18 shared work plan is received by the department. The department shall
19 approve or deny a plan in writing. If the department denies a plan,
20 the department shall notify the employer of the reasons for the
21 denial. Approval or denial of a plan by the department shall be final
22 and such determination shall be subject to review in the manner
23 otherwise provided by law. If approval of a plan is denied by the
24 department, the employer may submit a new plan to the department for
25 consideration no sooner than forty-five calendar days following the

1 date on which the department disapproved the employer's previously
2 submitted plan.

3 (6) The department may revoke approval of a shared work
4 plan and terminate the plan if it determines that the shared work
5 plan is not being executed according to the terms and intent of the
6 shared work unemployment compensation program or if it is determined
7 by the department that the approval of the shared work plan was
8 based, in whole or in part, upon information contained in the plan
9 which was either false or substantially misleading.

10 (7) Each shared work plan approved by the department
11 shall become effective on the first day of the week in which it is
12 approved by the department or on a later date as specified in the
13 shared work plan. Each shared work plan approved by the department
14 shall expire on the last day of the twelfth full calendar month after
15 the effective date of such shared work plan.

16 (8) An employer may modify a shared work plan created
17 under this section to meet changed conditions if the modification
18 conforms to the basic provisions of the shared work plan as
19 originally approved by the department. The employer shall report the
20 changes made to the plan in writing to the department at least seven
21 days before implementing such changes. The department shall
22 reevaluate the shared work plan and may approve the modified shared
23 work plan if it meets the requirements for approval under subsection
24 (2) of this section. The approval of a modified shared work plan
25 shall not, under any circumstances, affect the expiration date

1 originally set for the shared work plan. If modifications cause the
2 shared work plan to fail to meet the requirements for approval, the
3 department shall deny approval of the modifications as provided in
4 subsection (5) of this section.

5 Sec. 5. (1) Notwithstanding any other provision of the
6 Employment Security Law, an individual is unemployed for purposes of
7 sections 2 to 5 of this act in any week in which the individual, as
8 an employee in an affected unit, works less than his or her normal
9 weekly hours of work in accordance with an approved shared work plan
10 in effect for that week.

11 (2) An individual who is otherwise entitled to receive
12 regular unemployment insurance benefits under the Employment Security
13 Law shall be eligible to receive shared work benefits with respect to
14 any week in which the department finds that:

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

18 (b) Notwithstanding subdivision (2) of section 48-627,
19 the individual is able to work, is available for work, and is working
20 all available hours with the participating employer;

21 (c) The individual's normal weekly hours of work have
22 been reduced by at least ten percent but not more than forty percent,
23 with a corresponding reduction in wages; and

24 (d) The individual has served a waiting week.

25 (3) A waiting period of one week served under subdivision

1 (4) of section 48-627 shall serve to meet the requirements of
2 subdivision (2)(d) of this section and a waiting week served under
3 such subdivision shall serve to meet the requirements of section
4 48-627. Notwithstanding any other provisions of the Employment
5 Security Law, an individual who files a new initial claim during the
6 pendency of the twelve-month period in which a shared work plan is in
7 effect shall serve a waiting week whether or not the individual has
8 already served a waiting week under this subsection.

9 (4) The department shall not deny shared work benefits
10 for any week to an otherwise eligible individual by reason of the
11 application of the Employment Security Law that relates to
12 availability for work, active search for work, or refusal to apply
13 for or accept work with an employer other than the participating
14 employer under the plan.

15 (5) The department shall pay an individual who is
16 eligible for shared work benefits a weekly shared work benefit amount
17 equal to the individual's regular weekly benefit amount for a period
18 of total unemployment less any deductible amounts under the
19 Employment Security Law except wages received from any employer,
20 multiplied by the full percentage of reduction in the individual's
21 hours as set forth in the employer's shared work plan. If the shared
22 work benefit amount calculated under this subsection is not a
23 multiple of one dollar, the department shall round the amount so
24 calculated to the next lowest multiple of one dollar. An individual
25 shall be ineligible for shared work benefits for any week in which

1 the individual performs paid work for the participating employer in
2 excess of the reduced hours established under the shared work plan.

3 (6) An individual shall not be entitled to receive shared
4 work benefits and regular unemployment compensation benefits in an
5 aggregate amount which exceeds the maximum annual amount of benefits
6 payable to that individual as provided under section 48-626.
7 Notwithstanding any other provisions of the Employment Security Law,
8 an individual shall not be eligible to receive shared work benefits
9 for more than fifty-two calendar weeks during the twelve-month period
10 of the shared work plan. No week shall be counted as a week of
11 unemployment for the purposes of this subsection unless it occurs
12 within the twelve-month period of the shared work plan.

13 (7) Notwithstanding any other provision of the Employment
14 Security Law, all benefits paid under a shared work plan which are
15 chargeable to the participating employer or any other base period
16 employer of a participating employee shall be charged to the account
17 of the participating employer under the plan.

18 (8) An individual who has received the maximum annual
19 amount of benefits by receiving shared work benefits and regular
20 unemployment compensation benefits is an exhaustee under section
21 48-628.02 and is entitled to receive extended benefits under section
22 48-628.02 if the individual is otherwise eligible under such section.

23 Sec. 6. Original section 48-601, Reissue Revised Statutes
24 of Nebraska, is repealed.