

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1396

Chapter 79, Laws of 2013

63rd Legislature
2013 Regular Session

UNEMPLOYMENT BENEFITS--SHARED WORK PROGRAM

EFFECTIVE DATE: 07/28/13

Passed by the House March 8, 2013
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 11, 2013
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved April 25, 2013, 2:02 p.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1396** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 25, 2013

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1396

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Manweller, Sells, Chandler, Reykdal, Condotta, Hunt, Wylie, Van De Wege, Green, Appleton, and Morrell; by request of Employment Security Department

Read first time 01/25/13. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to changing the unemployment insurance shared work
2 program by adopting short-time compensation provisions in the federal
3 middle class tax relief and job creation act of 2012; amending RCW
4 50.60.030, 50.60.090, and 50.60.110; reenacting and amending RCW
5 50.60.020; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 50.60.020 and 2009 c 3 s 7 are each reenacted and
8 amended to read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Affected employee" means a specified employee, hired on a
12 permanent basis, to which an approved shared work compensation plan
13 applies.

14 (2) "Employers' association" means an association which is a party
15 to a collective bargaining agreement under which there is a shared work
16 compensation plan.

17 (3) (~~"Fringe benefits" include health insurance, retirement~~
18 ~~benefits under benefit pension plans as defined in section 3(35) of the~~

1 ~~employee retirement income security act of 1974, paid vacation and~~
2 ~~holidays, and sick leave, which are incidents of employment in addition~~
3 ~~to cash remuneration.~~

4 (4)) "Shared work benefits" means the benefits payable to an
5 affected employee under an approved shared work compensation plan as
6 distinguished from the benefits otherwise payable under this title.

7 ((5)) (4) "Shared work compensation plan" means a plan of an
8 employer, or of an employers' association, under which there is a
9 reduction in the number of hours worked by employees rather than
10 ((temporary)) layoffs.

11 ((6)) (5) "Shared work employer" means an employer, ((one or more
12 of whose)) who has at least two employees ((are)), and at least one
13 employee is covered by a shared work compensation plan.

14 ((7)) (6) "Unemployment compensation" means the benefits payable
15 under this title other than shared work benefits and includes any
16 amounts payable pursuant to an agreement under federal law providing
17 for compensation, assistance, or allowances with respect to
18 unemployment.

19 ((8)) (7) "Usual weekly hours of work" means the ((normal))
20 regular number of hours of work ((for the affected employee when he or
21 she is working on a full-time basis)) before the hours were reduced,
22 not to exceed forty hours and not including overtime.

23 **Sec. 2.** RCW 50.60.030 and 2009 c 3 s 8 are each amended to read as
24 follows:

25 An employer or employers' association wishing to participate in a
26 shared work compensation program shall submit a written and signed
27 shared work compensation plan to the commissioner for approval. The
28 commissioner shall approve a shared work compensation plan only if the
29 following criteria are met:

30 (1) The plan identifies the affected employees to which it applies;

31 (2) Each affected employee is identified by name, social security
32 number, and by any other information required by the commissioner;

33 (3) The usual weekly hours of work for each affected employee are
34 reduced by not less than ten percent and not more than fifty percent;

35 (4) ((Fringe)) The employer certifies health benefits will continue
36 to be provided ((on)) under the same ((basis as before the reduction in
37 work hours. In no event shall the level of health benefits be reduced

1 ~~due to a reduction in hours))~~ terms and conditions as when the affected
2 employee worked his or her usual weekly hours of work. Affected
3 employees must be allowed to maintain coverage under the same terms and
4 conditions as employees not participating in the shared work
5 compensation plan. However, a change in health benefits applicable to
6 employees who are not participating in the shared work compensation
7 plan may also apply to affected employees;

8 (5) The employer certifies retirement benefits under a defined
9 benefit plan or contributions under a defined contribution plan will
10 continue to be provided under the same terms and conditions as when the
11 affected employee worked his or her usual weekly hours of work.
12 Affected employees must be allowed to maintain coverage in the
13 retirement plan under the same terms and conditions as employees not
14 participating in the shared work compensation plan. However, a
15 reduction in benefits under a defined benefit plan or a reduction in
16 contributions under a defined contribution plan applicable to employees
17 who are not participating in the shared work compensation plan may also
18 apply to affected employees;

19 (6) The employer certifies paid vacation, holidays, and sick leave
20 continue to be provided under the same terms and conditions as when the
21 affected employee worked his or her usual weekly hours of work.
22 Affected employees must be allowed to maintain these benefits under the
23 same terms and conditions as employees not participating in the shared
24 work compensation plan. However, a reduction in these benefits
25 applicable to employees who are not participating in the shared work
26 compensation plan may also apply to affected employees;

27 ~~((+5))~~ (7) The plan certifies that the aggregate reduction in work
28 hours for each affected employee is in lieu of ~~((temporary))~~ layoffs
29 which would have resulted in an equivalent reduction in work hours;

30 ~~((+6))~~ (8) The plan is approved in writing by the collective
31 bargaining agent for each collective bargaining agreement covering any
32 affected employee;

33 ~~((+7))~~ (9) The plan will not subsidize seasonal employers during
34 the off season ~~((nor subsidize employers who have traditionally used~~
35 part-time employees; and

36 ~~+8))~~;

37 (10) The employer agrees to furnish reports necessary for the

1 proper administration of the plan and to permit access by the
2 commissioner to all records necessary to verify the plan before
3 approval and after approval to evaluate the application of the plan;

4 (11) The plan includes an estimate of the number of layoffs that
5 would have occurred absent the ability to participate in shared work;

6 (12) The shared work compensation plan includes a plan to give
7 advance notice, when feasible, to an employee whose usual weekly hours
8 of work will be reduced. If not feasible, the shared work compensation
9 plan must explain why it is not feasible; and

10 (13) The employer must attest that participation is consistent with
11 employer obligations under federal and state law.

12 In addition to subsections (1) through ~~((+8))~~ (13) of this
13 section, the commissioner shall take into account any other factors
14 which may be pertinent.

15 **Sec. 3.** RCW 50.60.090 and 2009 c 3 s 11 are each amended to read
16 as follows:

17 An individual is eligible to receive shared work benefits with
18 respect to any week only if, in addition to meeting the conditions of
19 eligibility for other benefits under this title, the commissioner finds
20 that:

21 (1) The individual was employed during that week as an affected
22 employee under an approved shared work compensation plan which was in
23 effect for that week;

24 (2) The ~~((individual))~~ affected employee was able to work and was
25 available for ~~((additional hours of work and for full-time work))~~ his
26 or her usual weekly hours of work with the shared work employer; and

27 (3) Notwithstanding any other provision of this chapter, an
28 individual is deemed to have been unemployed in any week for which
29 remuneration is payable to him or her as an affected employee for less
30 than his or her normal weekly hours of work as specified under the
31 approved shared work compensation plan in effect for that week.

32 **Sec. 4.** RCW 50.60.110 and 1983 c 207 s 11 are each amended to read
33 as follows:

34 (1) Except as provided in subsection (2) of this section, shared
35 work benefits shall be charged to employers' experience rating accounts
36 in the same manner as other benefits under this title are charged.

1 Employers liable for payments in lieu of contributions shall have
2 shared work benefits attributed to their accounts in the same manner as
3 other benefits under this title are attributed.

4 (2) For weeks of benefits paid between July 1, 2012, and June 28,
5 2015, any amount of shared work benefits reimbursed by the federal
6 government is not charged to experience rating accounts of employers or
7 to employers who are liable for payments in lieu of contributions. The
8 department shall remove charges for any amount of shared work benefits
9 reimbursed by the federal government between July 1, 2012, and the week
10 prior to the effective date of this section.

11 NEW SECTION. Sec. 5. If any part of this act is found to be in
12 conflict with federal requirements that are a prescribed condition to
13 the allocation of federal funds to the state or the eligibility of
14 employers in this state for federal unemployment tax credits, the
15 conflicting part of this act is inoperative solely to the extent of the
16 conflict, and the finding or determination does not affect the
17 operation of the remainder of this act. Rules adopted under this act
18 must meet federal requirements that are a necessary condition to the
19 receipt of federal funds by the state or the granting of federal
20 unemployment tax credits to employers in this state.

21 NEW SECTION. Sec. 6. If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

Passed by the House March 8, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.