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HOUSE BILL 1396

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State of Washington

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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; creating a new section; and declaring an emergency.

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, shared work benefits are not charged to experience rating  
6 accounts of employers or to employers who are liable for payments in  
7 lieu of contributions. The department shall remove charges for weeks  
8 of shared work benefits paid between July 1, 2012, and the week prior  
9 to the effective date of this section.

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

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

24 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and takes effect  
27 immediately.

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