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HOUSE BILL 253

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO UNEMPLOYMENT; CREATING A WORK SHARE PROGRAM TO
ALLOW EMPLOYERS TO REDUCE WORK HOURS OF CERTAIN EMPLOYEES IN
LIEU OF LAYOFFS; ALLOWING CERTAIN EMPLOYEES TO COLLECT
UNEMPLOYMENT COMPENSATION BENEFITS IN PROPORTION TO A REDUCTION
IN WORK HOURS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Unemployment Compensation
Law is enacted to read:

"[NEW MATERIAL] WORK SHARE PROGRAM CREATION--WORK SHARE
PLAN--APPROVAL--MODIFICATION--EFFECTIVE DATE AND TERMINATION--
BENEFIT ELIGIBILITY REQUIREMENTS--COMPUTATION OF BENEFITS--
BENEFIT LIMITATION--BENEFIT PAYMENTS CHARGED TO EMPLOYER--
DEFINITIONS.--

A. The secretary shall create a "work share

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1 program". The work share program shall be designed to allow
2 employers to reduce the normal weekly work hours of employees
3 in an affected unit, in lieu of laying off employees, and to
4 allow the employees in an affected unit to collect unemployment
5 compensation benefits in proportion to the number of hours
6 reduced from the employee's normal weekly work hours. The
7 department shall promulgate rules to carry out the provisions
8 of the work share program.

9 B. To participate in the work share program, an
10 employer shall submit a work share plan to the department in
11 the form and manner prescribed by the department that shall
12 include:

13 (1) the identification of a specific affected
14 unit;

15 (2) the identification of the employees in the
16 affected unit by name and social security number;

17 (3) certification that the work share plan
18 will reduce the normal weekly work hours of the employees in an
19 affected unit by at least ten percent and not more than fifty
20 percent;

21 (4) certification that the work share plan
22 will affect at least ten percent of the employees in the
23 affected unit; and either

24 (5) a strategy that restores the number of
25 weekly work hours to the normal weekly work hours of each

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1 employee in the affected unit; or

2 (6) if a work share plan serves as a
3 transitional step to permanent staff reduction, a reemployment
4 assistance plan for employees in the affected unit.

5 C. The secretary shall approve or deny the work
6 share plan in writing to the employer no later than thirty days
7 after the date the department receives the work share plan. If
8 the secretary denies the work share plan, the secretary shall
9 inform the employer in writing of the reasons for denial. The
10 secretary shall not approve a work share plan unless the
11 employer:

12 (1) agrees that for the duration of the work
13 share plan, the employer shall not eliminate or diminish health
14 insurance, retirement benefits received under a pension plan,
15 paid vacation and holidays, sick leave or any other similar
16 employee benefit provided by the employer immediately prior to
17 submitting the work share plan to the department;

18 (2) certifies that the collective bargaining
19 agent for the employees in the affected unit, if applicable,
20 has agreed to the work share plan;

21 (3) certifies that the implementation of the
22 work share plan and resulting reduction in normal weekly work
23 hours is in lieu of layoffs that would have affected at least
24 ten percent of the employees in the affected unit and resulted
25 in an equivalent reduction in work hours;

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1 (4) certifies that the employer will not
2 employ additional employees in the affected unit while the work
3 share plan is in effect except:

4 (a) to replace an employee that leaves
5 the employ of the employer; or

6 (b) after the employer restores the
7 number of weekly work hours to the normal weekly work hours of
8 each employee in the affected unit;

9 (5) agrees that no employee in the affected
10 unit shall receive, in the aggregate, more than twenty-six
11 weeks of benefits under the work share plan; and

12 (6) upon request of the secretary, agrees to
13 submit reports concerning the operation of the work share plan
14 to the department.

15 D. An employer may modify a work share plan to meet
16 changed conditions, with the exception of extending the
17 termination date of the work share plan, if the modification
18 conforms to the basic provisions of the work share plan
19 originally approved by the secretary and if the:

20 (1) collective bargaining agent, if
21 applicable, agrees to the modification;

22 (2) employer submits the modification to the
23 department in the form and manner prescribed by the department;
24 and

25 (3) secretary approves in writing of the

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1 modification using the same standards and requirements pursuant
2 to Subsections A and B of this section.

3 E. A work share plan shall be in effect for six
4 months beginning the first week following approval of the work
5 share plan or the first week specified by the employer,
6 whichever is later. The secretary may terminate a work share
7 plan at any time for good cause if the work share plan is not
8 executed pursuant to the terms of the approval. Good cause may
9 include unreasonable revision of productivity standards for the
10 affected unit or other conduct by the employer that may
11 compromise the purpose, intent and effectiveness of the work
12 share plan.

13 F. Notwithstanding the benefit eligibility
14 conditions pursuant to Subsection A of Section 51-1-5 NMSA
15 1978, an employee may be eligible for unemployment compensation
16 benefits for a particular week if the:

17 (1) employee is employed as a member of an
18 affected unit that is subject to an approved work share plan
19 that is in effect for that week;

20 (2) employee's normal weekly work hours have
21 been reduced by at least ten percent but not more than fifty
22 percent and the employee has received a corresponding reduction
23 in wages for that week; and

24 (3) employee is able and available to work
25 additional or full-time hours with the employer.

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1 G. Weekly benefits for employees of an affected
2 unit subject to an approved work share plan shall be the
3 product of the employee's regular weekly benefit amount
4 pursuant to Section 51-1-4 NMSA 1978 multiplied by the nearest
5 full percentage of the reduction of the employee's normal
6 weekly work hours, rounded down to the next full dollar.

7 H. An individual is not entitled to unemployment
8 compensation benefits that exceed the maximum allowable of
9 total benefits payable to an individual in a benefit year
10 pursuant to the Unemployment Compensation Law.

11 I. Unemployment compensation benefits paid to an
12 employee of an affected unit pursuant to this section shall be
13 charged to the account of the employer in the same manner as
14 benefits are charged to an employer pursuant to the
15 Unemployment Compensation Law.

16 J. As used in this section:

17 (1) "affected unit" means a specified plant,
18 department, shift or other definable unit of employees to which
19 a work share plan applies; and

20 (2) "normal weekly work hours" means the
21 number of hours in a week that an employee ordinarily works for
22 an employer submitting a work share plan or forty hours,
23 whichever is less."

24 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2012.

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