

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 10-0749.01 Kristen Forrestal

SENATE BILL 10-028

SENATE SPONSORSHIP

Heath,

HOUSE SPONSORSHIP

Pace,

Senate Committees

Business, Labor and Technology
Appropriations

House Committees

State, Veterans, & Military Affairs
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE ESTABLISHMENT OF THE COLORADO "WORK SHARE**
102 **PROGRAM" TO ALLOW PAYMENT OF UNEMPLOYMENT**
103 **COMPENSATION BENEFITS TO ELIGIBLE EMPLOYEES WHO HAVE**
104 **RECEIVED A REDUCTION IN WORK HOURS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill directs the director of the division of employment and training in the department of labor and employment

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
May 5, 2010

SENATE
3rd Reading Unamended
March 5, 2010

SENATE
Amended 2nd Reading
March 3, 2010

(director) to establish a work share program allowing for the payment of unemployment compensation benefits to employees of a particular work unit whose work hours have been reduced at least 10% but not more than 40%. In order to be eligible for payment of benefits, an employer must submit a work share plan (plan) to the director for approval. The plan must apply to at least 10% of the employees in the affected unit. The plan must meet specific requirements in order to be approved by the director. Employees must also meet specific eligibility requirements in order to be eligible for the payment of benefits. The bill allows for modifications to a plan if conditions of the employer change. The bill also specifies that the benefits payable under the work share program are not in addition to the total maximum allowable regular unemployment benefits in a benefit year. **Sections 2 through 4** of the bill make conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 75 of title 8, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 PART 2

5 WORK SHARE PROGRAM

6 **8-75-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY BE
7 CITED AS THE "COLORADO WORK SHARE PROGRAM".

8 **8-75-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "AFFECTED UNIT" MEANS A SPECIFIED PLANT, DEPARTMENT,
11 SHIFT, OR OTHER DEFINABLE UNIT TO WHICH A WORK SHARE PLAN APPLIES.

12 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
13 EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR AND
14 EMPLOYMENT OR HIS OR HER DESIGNEE.

15 (3) "NORMAL WEEKLY WORK HOURS" MEANS THE NUMBER OF
16 HOURS IN A WEEK THAT AN EMPLOYEE ORDINARILY WORKS FOR A
17 PARTICIPATING EMPLOYER OR FORTY HOURS, WHICHEVER IS LESS.

18 (4) "WORK SHARE PLAN" MEANS A PLAN FOR REDUCING

1 UNEMPLOYMENT UNDER WHICH EMPLOYEES WHO ARE MEMBERS OF AN
2 AFFECTED UNIT SHARE THE WORK REMAINING AFTER A REDUCTION IN
3 THEIR NORMAL WEEKLY WORK HOURS.

4 **8-75-203. Work share program - work share plan - eligibility**
5 **of employer - approval - denial.** (1) THE DIRECTOR SHALL ESTABLISH
6 A VOLUNTARY WORK SHARE PROGRAM FOR THE PURPOSE OF ALLOWING
7 THE PAYMENT OF UNEMPLOYMENT COMPENSATION BENEFITS TO
8 EMPLOYEES WHOSE WAGES AND HOURS HAVE BEEN REDUCED. IN ORDER
9 TO PARTICIPATE IN THE WORK SHARE PROGRAM, AN EMPLOYER SHALL
10 SUBMIT A WORK SHARE PLAN IN WRITING TO THE DIRECTOR FOR
11 APPROVAL. IF THE EMPLOYER IS SUBJECT TO A COLLECTIVE BARGAINING
12 AGREEMENT, THE COLLECTIVE BARGAINING UNIT MUST AGREE IN WRITING
13 TO THE WORK SHARE PLAN PRIOR TO IMPLEMENTATION. AN EMPLOYER
14 THAT IS A NEGATIVE EXCESS EMPLOYER PURSUANT TO SECTION 8-76-103
15 (3) (b) IS NOT ELIGIBLE TO PARTICIPATE IN THE WORK SHARE PROGRAM.

16 (2) AN EMPLOYER SHALL SUBMIT A WORK SHARE PLAN TO THE
17 DIVISION ON FORMS AND FOLLOWING PROCEDURES REQUIRED BY THE
18 DIRECTOR. THE DIRECTOR MAY APPROVE A WORK SHARE PLAN IF:

19 (a) THE PLAN APPLIES TO AND IDENTIFIES A SPECIFIC AFFECTED
20 UNIT;

21 (b) THE PLAN IDENTIFIES THE EMPLOYEES IN THE AFFECTED UNIT
22 BY NAME AND SOCIAL SECURITY NUMBER;

23 (c) THE PLAN REDUCES THE NORMAL WORK FOR AN EMPLOYEE IN
24 THE AFFECTED UNIT BY AT LEAST TEN PERCENT AND NOT MORE THAN
25 FORTY PERCENT;

26 (d) THE PLAN APPLIES TO AT LEAST TEN PERCENT OF THE
27 EMPLOYEES IN THE AFFECTED UNIT; AND

1 (e) THE PLAN INCLUDES A STRATEGY THAT RESTORES THE TOTAL
2 NUMBER OF WORK HOURS TO EACH PARTICIPATING EMPLOYEE TO THE
3 AMOUNT OF HOURS WORKED PRIOR TO PARTICIPATION IN THE PROGRAM.

4 (3) THE DIRECTOR SHALL NOT APPROVE A WORK SHARE PLAN
5 UNLESS THE EMPLOYER:

6 (a) AGREES THAT FOR THE DURATION OF THE EMPLOYER'S
7 PARTICIPATION IN THE WORK SHARE PROGRAM, THE EMPLOYER SHALL NOT
8 ELIMINATE OR DIMINISH HEALTH INSURANCE, RETIREMENT BENEFITS
9 RECEIVED UNDER A PENSION PLAN, PAID VACATION AND HOLIDAYS, SICK
10 LEAVE, OR ANY OTHER SIMILAR EMPLOYEE BENEFIT PROVIDED BY THE
11 EMPLOYER IMMEDIATELY PRIOR TO SUBMITTING THE WORK SHARE PLAN
12 TO THE DIVISION, IF THE EMPLOYER PROVIDES BENEFITS TO HIS OR HER
13 EMPLOYEES;

14 (b) CERTIFIES THAT THE COLLECTIVE BARGAINING AGENT FOR THE
15 EMPLOYEES, IF APPLICABLE, HAS AGREED TO THE WORK SHARE PLAN;

16 (c) CERTIFIES THAT THE IMPLEMENTATION OF A SHARED WORK
17 PLAN AND THE RESULTING REDUCTION IN WORK HOURS IS IN LIEU OF
18 TEMPORARY LAYOFFS THAT WOULD AFFECT AT LEAST TEN PERCENT OF THE
19 EMPLOYEES IN THE AFFECTED UNIT AND THAT WOULD RESULT IN AN
20 EQUIVALENT REDUCTION IN WORK HOURS;

21 (d) CERTIFIES THAT THE EMPLOYER WILL NOT EMPLOY ADDITIONAL
22 EMPLOYEES IN THE AFFECTED UNIT WHILE PARTICIPATING IN THE WORK
23 SHARE PROGRAM;

24 (e) AGREES THAT NO EMPLOYEE PARTICIPATING IN THE WORK
25 SHARE PROGRAM SHALL RECEIVE, IN THE AGGREGATE, MORE THAN
26 EIGHTEEN WEEKS OF BENEFITS; AND

27 (f) AGREES TO SUBMIT REPORTS CONCERNING THE OPERATION OF

1 THE WORK SHARE PLAN TO THE DIVISION UPON REQUEST OF THE DIRECTOR.

2 (4) THE DIRECTOR SHALL APPROVE OR DENY THE WORK SHARE
3 PLAN IN WRITING NO LATER THAN THIRTY DAYS AFTER THE DATE THE
4 DIVISION RECEIVES THE PLAN. IF THE DIRECTOR DENIES THE WORK SHARE
5 PLAN, HE OR SHE SHALL INFORM THE EMPLOYER IN WRITING OF THE
6 REASONS FOR THE DENIAL.

7 **8-75-204. Employee eligibility for unemployment benefits**
8 **under the work share plan.** (1) NOTWITHSTANDING ANY OTHER
9 PROVISION OF THIS TITLE, AN EMPLOYEE MAY BE ELIGIBLE FOR
10 UNEMPLOYMENT COMPENSATION BENEFITS FOR A PARTICULAR WEEK
11 PURSUANT TO THIS PART 2 IF:

12 (a) THE EMPLOYEE IS EMPLOYED AS A MEMBER OF AN AFFECTED
13 UNIT THAT IS SUBJECT TO AN APPROVED WORK SHARE PLAN THAT IS IN
14 EFFECT FOR THAT WEEK;

15 (b) THE EMPLOYEE'S NORMAL WEEKLY WORK HOURS HAVE BEEN
16 REDUCED BY AT LEAST TEN PERCENT BUT NOT MORE THAN FORTY PERCENT
17 AND THE EMPLOYEE HAS RECEIVED A CORRESPONDING REDUCTION IN
18 WAGES FOR THAT WEEK; AND

19 (c) THE EMPLOYEE IS ABLE AND AVAILABLE TO WORK ADDITIONAL
20 OR FULL-TIME HOURS WITH HIS OR HER EMPLOYER.

21 (2) THE ELIGIBILITY REQUIREMENTS FOR THE RECEIPT OF
22 UNEMPLOYMENT COMPENSATION BENEFITS RELATED TO THE AVAILABILITY
23 FOR WORK, ACTIVELY SEEKING WORK, AND REFUSING TO APPLY FOR OR TO
24 ACCEPT WORK WITH AN EMPLOYER OTHER THAN THE EMPLOYEE'S
25 CURRENT EMPLOYER, PURSUANT TO SECTIONS 8-73-107 AND 8-73-108 (5),
26 SHALL NOT APPLY TO AN EMPLOYEE SUBJECT TO THIS PART 2.

27 **8-75-205. Benefits formula - limitation of benefits.**

1 (1) **Formula.** THE DIVISION SHALL PAY AN EMPLOYEE WHO IS ELIGIBLE
2 FOR UNEMPLOYMENT COMPENSATION BENEFITS UNDER A WORK SHARE
3 PLAN A WEEKLY BENEFIT THAT IS THE PRODUCT OF THE EMPLOYEE'S
4 REGULAR WEEKLY BENEFIT AMOUNT PURSUANT TO ARTICLE 73 OF THIS
5 TITLE, MULTIPLIED BY THE NEAREST FULL PERCENTAGE OF THE REDUCTION
6 OF THE EMPLOYEE'S WORK HOURS, ROUNDED DOWN TO THE NEXT FULL
7 DOLLAR.

8 (2) **Limitations.** (a) AN INDIVIDUAL IS NOT ENTITLED TO RECEIVE
9 UNEMPLOYMENT COMPENSATION BENEFITS PURSUANT TO THIS PART 2 AND
10 REGULAR UNEMPLOYMENT COMPENSATION BENEFITS THAT EXCEED THE
11 MAXIMUM ALLOWABLE TOTAL BENEFITS PAYABLE TO AN INDIVIDUAL IN A
12 BENEFIT YEAR PURSUANT TO ARTICLES 70 TO 82 OF THIS TITLE.

13 (b) THE DIVISION SHALL NOT PAY UNEMPLOYMENT COMPENSATION
14 BENEFITS TO AN EMPLOYEE FOR A WEEK IN WHICH THE EMPLOYEE IS
15 COMPENSATED FOR WORK FOR HIS OR HER EMPLOYER THAT EXCEEDS THE
16 REDUCED HOURS ESTABLISHED UNDER THE WORK SHARE PLAN.

17 (c) AN EMPLOYEE RECEIVING WEEKLY UNEMPLOYMENT
18 COMPENSATION BENEFITS UNDER A WORK SHARE PLAN IS NOT ENTITLED TO
19 RECEIVE BENEFITS FOR PARTIAL EMPLOYMENT PURSUANT TO SECTION
20 8-73-103 FOR THE SAME WEEK.

21 (d) THE WAITING PERIOD OF ONE WEEK IN SECTION 8-73-107 (1) (d)
22 THAT APPLIES TO THE PAYMENT OF BENEFITS FOR TOTAL OR PARTIAL
23 UNEMPLOYMENT SHALL APPLY TO THE PAYMENT OF BENEFITS PURSUANT
24 TO THIS PART 2.

25 **8-75-206. Work share plan - effective date - expiration -**
26 **termination.** (1) A WORK SHARE PLAN AND THE PAYMENT OF
27 UNEMPLOYMENT COMPENSATION BENEFITS PURSUANT TO THE PLAN SHALL

1 BEGIN THE FIRST WEEK FOLLOWING APPROVAL OF THE PLAN BY THE
2 DIRECTOR OR THE FIRST WEEK SPECIFIED BY THE EMPLOYER, WHICHEVER
3 IS LATER.

4 (2) A WORK SHARE PLAN SHALL EXPIRE TWELVE MONTHS AFTER
5 THE EFFECTIVE DATE OF THE PLAN.

6 (3) THE DIRECTOR MAY TERMINATE A WORK SHARE PLAN FOR
7 GOOD CAUSE IF THE PLAN IS NOT EXECUTED ACCORDING TO THE TERMS
8 AND INTENT OF THE PROGRAM. "GOOD CAUSE" MAY INCLUDE FAILURE TO
9 COMPLY WITH SECTION 8-75-203, UNREASONABLE REVISION OF
10 PRODUCTIVITY STANDARDS FOR THE AFFECTED UNIT, OR OTHER CONDUCT
11 BY THE EMPLOYER THAT MAY COMPROMISE THE PURPOSE, INTENT, AND
12 EFFECTIVENESS OF A WORK SHARE PLAN.

13 **8-75-207. Work share plan modifications.** (1) AN EMPLOYER
14 MAY MODIFY A WORK SHARE PLAN TO MEET CHANGED CONDITIONS IF THE
15 MODIFICATION CONFORMS TO THE BASIC PROVISIONS OF THE PLAN AS
16 ORIGINALLY APPROVED BY THE DIRECTOR.

17 (2) BEFORE A PROPOSED CHANGE TO A WORK SHARE PLAN MAY BE
18 IMPLEMENTED:

19 (a) THE COLLECTIVE BARGAINING AGENT SHALL APPROVE THE
20 MODIFICATION TO THE PLAN IF AN EMPLOYEE IS COVERED BY A
21 COLLECTIVE BARGAINING UNIT;

22 (b) THE EMPLOYER SHALL REPORT THE CHANGE IN WRITING TO THE
23 DIVISION; AND

24 (c) THE DIRECTOR SHALL APPROVE THE MODIFIED PLAN.

25 (3) THE DIRECTOR SHALL APPROVE OR DENY A MODIFIED WORK
26 SHARE PLAN USING THE SAME STANDARDS AND REQUIREMENTS THAT ARE
27 USED FOR THE ORIGINAL WORK SHARE PLAN IN ACCORDANCE WITH

1 SECTION 8-75-203.

2 (4) APPROVAL OF A MODIFIED WORK SHARE PLAN SHALL NOT
3 AFFECT THE ORIGINAL EXPIRATION DATE OF THE WORK SHARE PLAN.

4 **8-75-208. Benefits payments charged to employer.**
5 UNEMPLOYMENT COMPENSATION BENEFITS PAID TO AN EMPLOYEE
6 PURSUANT TO THIS PART 2 SHALL BE CHARGED TO THE ACCOUNT OF THE
7 EMPLOYER PARTICIPATING IN THE WORK SHARE PLAN IN THE SAME
8 MANNER AS REGULAR BENEFITS PURSUANT TO SECTION 8-73-108 (3) (e)
9 (I).

10 **8-75-209. Repeal of article.** (1) THIS ARTICLE IS REPEALED,
11 EFFECTIVE JULY 1, 2013. PRIOR TO ITS REPEAL, THE "COLORADO WORK
12 SHARE PROGRAM" SHALL BE REVIEWED AS PROVIDED FOR IN SECTION
13 24-34-104, C.R.S.

14 (2) IF THE DIRECTOR FINDS THAT THE PROVISIONS OF THIS PART 2
15 CAUSE THE INSOLVENCY OF THE UNEMPLOYMENT INSURANCE CASH FUND
16 TO ACCELERATE, THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES
17 IN WRITING AND THIS PART 2 SHALL BE REPEALED.

18 **SECTION 2.** The introductory portions to 8-75-101 and 8-75-101
19 (2) (a), Colorado Revised Statutes, are amended, and the said 8-75-101
20 (2) (a) is further amended BY THE ADDITION OF A NEW
21 SUBPARAGRAPH, to read:

22 **8-75-101. Definitions.** As used in this ~~article~~ PART 1, unless the
23 context otherwise requires:

24 (2) (a) "Exhaustee" means an individual who, with respect to any
25 week of unemployment in his OR HER eligibility period:

26 (VI) HAS RECEIVED ALL OF THE UNEMPLOYMENT COMPENSATION
27 BENEFITS PURSUANT TO PART 2 OF THIS ARTICLE AND REGULAR

1 UNEMPLOYMENT COMPENSATION BENEFITS AVAILABLE IN A BENEFIT YEAR.

2 **SECTION 3.** 8-75-105 (2) and (3), Colorado Revised Statutes,
3 are amended to read:

4 **8-75-105. Total extended benefit amount.** (2) Notwithstanding
5 any other provisions of this ~~article~~ PART 1, if the benefit year of any
6 individual ends within an extended benefit period, the remaining balance
7 of extended benefits that such individual would, but for this subsection
8 (2), be entitled to receive in that extended benefit period, with respect to
9 weeks of unemployment beginning after the end of the benefit year, shall
10 be reduced (but not below zero) by an amount equal to the product of the
11 number of weeks for which the individual received any amounts as trade
12 readjustment allowances within that benefit year multiplied by the
13 individual's weekly benefit amount for extended benefits.

14 (3) Notwithstanding any other provision of this ~~article~~ PART 1,
15 during any fiscal year in which federal payments to states under section
16 204 of the "Federal-State Extended Unemployment Compensation Act of
17 1970" and amendments thereto are reduced under section 252 of the
18 "Balanced Budget and Emergency Deficit Control Act of 1985" and
19 amendments thereto, the total extended benefit amount payable to an
20 individual with respect to his OR HER applicable benefit year shall be
21 reduced by an amount equal to the aggregate of the reductions in the
22 weekly amounts paid to the individual under section 8-75-104.

23 **SECTION 4.** 8-70-110 (1) (b), Colorado Revised Statutes, is
24 amended to read:

25 **8-70-110. Benefits - classifications.** (1) Benefits are divided into
26 classifications, as follows:

27 (b) Extended benefits: Benefits payable to an individual under

1 PART 1 OF article 75 of this title, including benefits payable to federal
2 civilian employees and to ~~ex-servicemen~~ FORMER MEMBERS OF THE
3 ARMED FORCES pursuant to chapter 85 of title 5 of the United States Code,
4 for weeks of unemployment in his OR HER eligibility period;

5 SECTION 5. 24-34-104 (44), Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

7 24-34-104. General assembly review of regulatory agencies
8 and functions for termination, continuation, or reestablishment.

9 (44) The following agencies, functions, or both, shall terminate on July
10 1, 2013:

11 (p) THE "COLORADO WORK SHARE PROGRAM" CREATED IN PART
12 2 OF ARTICLE 75 OF TITLE 8, C.R.S.

13 SECTION 6. Safety clause. The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.