

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 182

By: Dossett (J.A.)

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5
6 AS INTRODUCED

7 An Act relating to labor; creating the Shared Work
8 Unemployment Compensation Program; providing short
9 title; defining terms; requiring the Oklahoma
10 Employment Security Commission to establish a
11 voluntary shared work program; authorizing the
12 Oklahoma Employment Security Commission to promulgate
13 certain rules and procedures; requiring reports as a
14 condition for a shared work participation; providing
15 for certain form; authorizing the Commission to
16 approve or deny shared work plans under certain
17 conditions; stating conditions for shared work
18 approval; providing for collective bargaining
19 agreements; denying shared work for certain temporary
20 workers; prohibiting employers with certain
21 percentage in experience rate for certain period of
22 time; stating time period to approve or deny shared
23 work plan; requiring notification to employer upon
24 denial; allowing appeal; providing effective dates
for shared work plans; allowing modification of plan
effective date; providing for plan expiration;
authorizing written employer modification to approved
plan; requiring certain written changes to plan;
construing effect of modified plan; stating
eligibility for unemployment benefits under shared
work plan; allowing Oklahoma Employment Security
Commission to reevaluate modified plans; establishing
eligibility for shared work benefits; prohibiting
certain denial of benefits under approved shared work
plan; prohibiting deduction of unemployment benefits
under shared work program; providing procedures to
determine amount of unemployment benefit under
approved shared work plan; requiring employer to file
shared work claims for employees; requiring payments
in whole dollars; prohibiting benefits in excess of
maximum unemployment benefits; authorizing certain

1 extended unemployment benefits; stating basis for
2 benefit wages; requiring employer to be charged
3 benefit amount; allowing the Commission to terminate
4 plan for cause; prohibiting unemployment benefits
5 until certain date; providing for codification;
6 providing an effective date; and declaring an
7 emergency.

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2-950 of Title 40, unless there
11 is created a duplication in numbering, reads as follows:

12 This act shall be known and may be cited as the "Shared Work
13 Unemployment Compensation Program".

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2-950.1 of Title 40, unless
16 there is created a duplication in numbering, reads as follows:

17 As used in this act:

18 1. "Affected unit" means a specified department, shift or other
19 unit of two or more employees that is designated by an employer to
20 participate in a shared work plan;

21 2. "Fringe benefit" means health insurance, a retirement
22 benefit received under a pension plan, a paid vacation day, a paid
23 holiday, sick leave, and any other analogous employee benefit that
24 is provided by an employer;

1 3. "Fund" means the Unemployment Trust Fund established by
2 Section 3-605 of Title 40 of the Oklahoma Statutes;

3 4. "Normal weekly hours of work" means the lesser of forty (40)
4 hours or the average obtained by dividing the total number of hours
5 worked per week during the preceding twelve-week period by the
6 number twelve;

7 5. "Participating employee" means an employee who works a
8 reduced number of hours under a shared work plan;

9 6. "Participating employer" means an employer who has a shared
10 work plan in effect;

11 7. "Commission" has the same meaning as set out in Section 1-
12 206 of Title 40 of the Oklahoma Statutes;

13 8. "Shared work benefit" means an unemployment compensation
14 benefit that is payable to an individual in an affected unit because
15 the individual works reduced hours under an approved shared work
16 plan;

17 9. "Shared work plan" means a program for reducing unemployment
18 under which employees who are members of an affected unit share the
19 work remaining after a reduction in their normal weekly hours of
20 work; and

21 10. "Shared Work Unemployment Compensation Program" means a
22 program designed to reduce unemployment and stabilize the work force
23 by allowing certain employees to collect unemployment compensation
24 benefits if the employees share the work remaining after a reduction
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1 in the total number of hours of work and a corresponding reduction
2 in wages.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-950.2 of Title 40, unless
5 there is created a duplication in numbering, reads as follows:

6 A. The Oklahoma Employment Security Commission shall establish
7 a voluntary Shared Work Unemployment Compensation Program as
8 provided by this act. The Commission may adopt rules and establish
9 procedures necessary to administer the program.

10 B. An employer who wishes to participate in the Shared Work
11 Unemployment Compensation Program must submit a written shared work
12 plan to the Commission for approval. As a condition for approval, a
13 participating employer must agree to furnish the Commission with
14 reports relating to the operation of the shared work plan. The
15 report shall be in a form prescribed by the Commission.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2-950.3 of Title 40, unless
18 there is created a duplication in numbering, reads as follows:

19 A. The Oklahoma Employment Security Commission may approve a
20 shared work plan if:

21 1. The participating employer regularly employs at least one
22 hundred employees;

23 2. The shared work plan applies to and identifies a specific
24 affected unit or number of units;

1 3. The employees in the affected unit are identified by name
2 and social security number;

3 4. The shared work plan reduces the normal weekly hours of work
4 for an employee in the affected unit by not less than twenty percent
5 (20%) and not more than forty percent (40%);

6 5. The shared work plan applies to at least ten percent (10%)
7 of the employees in the affected unit and at least fifty employees
8 within the company;

9 6. The shared work plan maintains the fringe benefits of each
10 employee in the affected unit at the benefit level in effect before
11 the shared work plan is implemented;

12 7. The employer certifies that the implementation of a shared
13 work plan and the resulting reduction in work hours is in lieu of
14 temporary layoffs that would affect at least ten percent (10%) of
15 the employees in the affected unit and at least fifty employees
16 within the company, and that would result in an equivalent reduction
17 in work hours; and

18 8. The employer has filed all reports required to be filed
19 under the Employment Security Act of 1980 for all past and current
20 periods, and has paid all contributions, interest, penalties and
21 fees owing on the employer's account with the Commission.

22 B. If any of the employees who participate in a shared work
23 plan pursuant to this act are covered by a collective bargaining
24

1 agreement, the shared work plan must be approved in writing by the
2 collective bargaining agent before approval by the Commission.

3 C. A shared work plan may not be implemented to subsidize
4 seasonal employers during the off-season or to subsidize employers
5 who have traditionally employed workers less than thirty-two (32)
6 hours per week.

7 D. If any employer that is eligible for a tax rate computation
8 under Sections 3-101 through 3-118 of Title 40 of the Oklahoma
9 Statutes is assigned an experience tax rate of five and four-tenths
10 percent (5.4%) or greater for a calendar year, that employer shall
11 be ineligible to participate in the Shared Work Unemployment
12 Compensation Program provided by this act for that calendar year.

13 E. The Commission shall approve or deny a shared work plan no
14 later than thirty (30) days after the day the shared work plan is
15 received by the Commission. The Commission shall approve or deny a
16 shared work plan in writing. If the plan is denied, the Commission
17 shall notify the employer of the reasons for the denial.

18 F. The employer may appeal the denial of a shared work plan
19 pursuant to the provisions of Section 3-115 of Title 40 of the
20 Oklahoma Statutes.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-950.4 of Title 40, unless
23 there is created a duplication in numbering, reads as follows:
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1 A shared work plan is effective on the date it is approved by
2 the Oklahoma Employment Security Commission. For good cause shown,
3 the Commission may designate the effective date to be on any day
4 within a period of fourteen (14) days prior to the date the plan is
5 approved by the Commission. The shared work plan expires on the
6 last day of the twelfth full calendar month after the effective date
7 of the shared work plan. Shared work benefits shall be paid for a
8 maximum of twenty-six (26) weeks during the twelve (12) consecutive
9 calendar months that the shared work plan is in effect.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-950.5 of Title 40, unless
12 there is created a duplication in numbering, reads as follows:

13 An employer may modify a shared work plan created pursuant to
14 this act to meet changed conditions if the modification conforms to
15 the basic provisions of the shared work plan as approved by the
16 Oklahoma Employment Security Commission. The employer must report
17 the changes made to the shared work plan in writing to the
18 Commission before implementing the changes. If the original shared
19 work plan is substantially modified, the Commission shall reevaluate
20 the shared work plan and may approve the modified shared work plan
21 if it meets the requirements for approval under Section 5 of this
22 act. The approval of a modified shared work plan does not affect
23 the expiration date originally set for that shared work plan. If
24 substantial modifications cause the shared work plan to fail to meet

1 the requirements for approval, the Commission shall deny approval to
2 the modifications as provided by subsection E of Section 4 of this
3 act.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2-950.6 of Title 40, unless
6 there is created a duplication in numbering, reads as follows:

7 A. Notwithstanding any other provisions of the Employment
8 Security Act of 1980, an individual is unemployed and is eligible
9 for shared work benefits in any week in which the individual, as an
10 employee in an affected unit, works for less than the individual's
11 normal weekly hours of work in accordance with an approved shared
12 work plan in effect for that week. The Oklahoma Employment Security
13 Commission may not deny shared work benefits for any week to an
14 otherwise eligible individual by reason of the application of any
15 provision of this title that relates to availability for work,
16 active search for work or refusal to apply for or accept work with
17 an employer other than the participating employer. The Oklahoma
18 Employment Security Commission shall not deduct wages paid by the
19 participating employer to the participating employee from the shared
20 work benefit in any week the shared work plan is being implemented
21 for the participating employee.

22 B. An individual is eligible to receive shared work benefits
23 with respect to any week in which the Commission finds that:
24

1 1. The individual is employed as a member of an affected unit
2 subject to a shared work plan that was approved and is in effect for
3 that week;

4 2. The individual is able to work and is available for
5 additional hours of work or full-time work with the participating
6 employer;

7 3. The individual's normal weekly hours of work have been
8 reduced by at least twenty percent (20%) but not more than forty
9 percent (40%) with a corresponding reduction in wages; and

10 4. The individual's normal weekly hours of work and wages have
11 been reduced as described in paragraph 3 of this subsection for a
12 waiting period of one (1) week which occurs within the period the
13 shared work plan is in effect, which period includes the week for
14 which the individual is claiming shared work benefits.

15 C. The participating employer shall be responsible for the
16 filing of the weekly claims for shared work benefits on behalf of
17 the participating employee. The participating employer shall
18 provide the Oklahoma Employment Security Commission with the name
19 and social security number of each participating employee along with
20 any other information necessary to complete the claim. The
21 participating employer shall certify that the participating employee
22 is qualified to receive the shared work benefit.

1 SECTION 8. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 2-950.7 of Title 40, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Employment Security Commission shall pay an
5 individual who is eligible for shared work benefits a weekly shared
6 work benefit amount equal to the individual's regular weekly benefit
7 amount, calculated pursuant to Section 2-106 of Title 40 of the
8 Oklahoma Statutes, for a period of total unemployment multiplied by
9 the nearest full percentage of reduction of the individual's hours
10 as set forth in the employer's shared work plan. If the shared
11 benefit amount is not a multiple of One Dollar (\$1.00), the
12 Commission shall reduce the amount to the next lowest multiple of
13 One Dollar (\$1.00). All shared work benefits under this act shall
14 be payable from the Unemployment Compensation Fund.

15 B. The Commission may not pay an individual shared work
16 benefits for any week in which the individual performs paid work for
17 the participating employer in excess of the reduced hours
18 established under the shared work plan.

19 C. An individual shall not receive shared work benefits or
20 regular unemployment compensation benefits or both, in an amount
21 that exceeds the maximum benefit amount payable to that individual,
22 pursuant to Section 2-106 of Title 40 of the Oklahoma Statutes, in
23 the benefit year that shall begin as of the effective date of the
24 shared work plan.

1 D. An individual who has received all of the shared work
2 benefits and regular unemployment compensation benefits available in
3 a benefit year has exhausted his or her benefits and may be entitled
4 to receive extended benefits, if extended benefits are available and
5 if the individual is otherwise eligible.

6 SECTION 9. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2-950.8 of Title 40, unless
8 there is created a duplication in numbering, reads as follows:

9 Shared work benefits paid under a shared work plan shall be
10 based on benefit wages of the participating employee and shall be
11 charged to the participating employer as provided in Sections 1-221,
12 3-105, 3-106 and 3-806 of Title 40 of the Oklahoma Statutes.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-950.9 of Title 40, unless
15 there is created a duplication in numbering, reads as follows:

16 The Oklahoma Employment Security Commission may terminate a
17 shared work plan for good cause if the Commission determines that
18 the shared work plan is not being executed according to the terms
19 and intent of the Shared Work Unemployment Compensation Program.

20 SECTION 11. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-950.10 of Title 40, unless
22 there is created a duplication in numbering, reads as follows:

23 No shared work benefit payment shall be made under any shared
24 work plan for any week which commences before January 1, 2022.

1 SECTION 12. This act shall become effective July 1, 2021.

2 SECTION 13. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.
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