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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORK--SHARING BENEFITS

Introduced By: Representative Arthur J. Corvese

Date Introduced: February 02, 2010

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-44-69 of the General Laws in Chapter 28-44 entitled
2 "Employment Security - Benefits" is hereby amended to read as follows:

3 **28-44-69. Work-sharing benefits.** -- (a) Definitions. - As used in this section, unless the
4 context clearly requires otherwise:

5 (1) "Affected unit" means a specified plant, department, shift, or other definable unit
6 consisting of two (2) or more employees to which an approved work-sharing plan applies.

7 (2) "Eligible employee" means an individual who usually works thirty (30) hours or
8 more per week for the employer submitting a work-sharing plan.

9 (3) "Eligible employer" means any ~~private~~ employer who has had contributions credited
10 to his or her account and benefits have been chargeable to this account, and who is not delinquent
11 in the payment of contributions or reimbursements, as required by chapters 42 -- 44 of this title.

12 (4) "Fringe benefits" include, but are not limited to, health insurance, retirement benefits,
13 paid vacation and holidays, sick leave, and similar advantages that are incidents of employment.

14 (5) "Intermittent employment" means employment which is not continuous but may
15 consist of periodic intervals of weekly work and intervals of no weekly work.

16 (6) "Seasonal employment" means employment with an employer who displays a twenty
17 percent (20%) difference between its highest level of employment and its lowest level of
18 employment each year for the three (3) previous calendar years as reported to the department of
19 labor and training, or as shown in the information which is available and satisfactory to the

1 director.

2 (7) "Temporary layoffs" for this purpose means the separation of workers in the affected
3 unit for an indefinite period expected to last for at least two (2) months but less than six (6)
4 months.

5 (8) "Usual weekly hours of work" means the normal hours of work each week for an
6 employee in an affected unit when that unit is operating on a full-time basis, not to exceed forty
7 (40) hours and not including overtime.

8 (9) "Work-sharing benefits" means benefits payable to employees in an affected unit
9 under an approved work-sharing plan.

10 (10) "Work-sharing employer" means an employer with an approved work-sharing plan
11 in effect.

12 (11) "Work-sharing plan" means a plan submitted by an employer under which there is a
13 reduction in the number of hours worked by the employees in the affected unit in lieu of
14 temporary layoffs of some of the employees.

15 (b) (1) Criteria for approval of a work-sharing plan. - An employer wishing to participate
16 in the work-sharing program shall submit a signed written work-sharing plan to the director for
17 approval. The director shall approve a work-sharing plan only if the following requirements are
18 met:

19 (i) The plan identifies the affected unit or units and specifies the effective date of the
20 plan;

21 (ii) The employees in the affected unit or units are identified by name, social security
22 number, the usual weekly hours of work, proposed wage and hour reduction, and any other
23 information that the director shall require;

24 (iii) The plan certifies that the reduction in the usual weekly hours of work is in lieu of
25 temporary layoffs which would have affected at least 10 percent (10%) of the employees in the
26 affected unit or units to which the plan applies and which would have resulted in an equivalent
27 reduction in work hours;

28 (iv) The usual weekly hours of work for employees in the affected unit or units are
29 reduced by not less than 10 percent (10%) and not more than 50 percent (50%), and the reduction
30 in hours in each affected unit are spread equally among employees in the affected unit;

31 (v) The plan specifies the manner in which the fringe benefits of the participating
32 employees will be affected;

33 (vi) In the case of employees represented by a collective bargaining agent or union, the
34 plan is approved in writing by the collective bargaining agents or unions that cover the affected

1 employees. In the absence of any collective bargaining agent or union, the plan must contain a
2 certification by the employer that the proposed plan, or a summary of the plan, has been made
3 available to each employee in the affected unit;

4 (vii) The plan will not serve as a subsidy of seasonal employment during the off season,
5 nor as a subsidy for intermittent employment; and

6 (viii) The employer agrees to furnish reports relating to the proper conduct of the plan
7 and agrees to allow the director or his or her authorized representatives access to all records
8 necessary to verify the plan prior to approval and, after approval, to monitor and evaluate
9 application of the plan.

10 (2) In addition to the matters previously specified in this section, the director shall take
11 into account any other factors that may be pertinent to proper implementation of the plan.

12 (c) Approval or rejection of the plan. - The director shall approve or reject a plan in
13 writing. The reasons for rejection shall be final and not subject to appeal. The employer shall be
14 allowed to submit another plan for consideration and that determination will be made based upon
15 the new data submitted by the interested employer.

16 (d) Effective date and duration of the plan. - A plan shall be effective on the date
17 specified in the plan or on the first Sunday following the date on which the plan is approved by
18 the director, whichever is later. It shall expire at the end of the twelfth (12th) full calendar month
19 after its effective date or on the date specified in the plan if that date is earlier; provided, that the
20 plan is not previously revoked by the director. If a plan is revoked by the director, it shall
21 terminate on the date specified in the director's written order of revocation.

22 (e) (1) Revocation of approval. - The director may revoke approval of a work-sharing
23 plan for good cause. The revocation order shall be in writing and shall specify the date the
24 revocation is effective and the reasons for it. The revocation order shall be final and not subject to
25 appeal.

26 (2) Good cause shall include, but not be limited to, failure to comply with assurances
27 given in the plan, unreasonable revision of productivity standards for the affected unit, conduct or
28 occurrences tending to defeat the intent and effective operation of the plan, and violation of any
29 criteria on which approval of the plan was based.

30 (3) The action may be taken at any time by the director on his or her own motion, on the
31 motion of any of the affected unit's employees or on the motion of the collective bargaining agent
32 or agents. The director shall review the operation of each qualified employer plan at least once
33 during the period the plan is in effect to assure its compliance with the work-sharing
34 requirements.

1 (f) Modification of the plan. - An operational approved work-sharing plan may be
2 modified by the employer with the consent of the collective bargaining agent or agents, if any, if
3 the modification is not substantial and is in conformity with the plan approved by the director,
4 provided the modifications are reported promptly to the director by the employer. If the hours of
5 work are increased or decreased substantially beyond the level in the original plan, or any other
6 conditions are changed substantially, the director shall approve or disapprove the modifications
7 without changing the expiration date of the original plan. If the substantial modifications do not
8 meet the requirements for approval, the director shall disallow that portion of the plan in writing.
9 The decision of the director shall be final and not subject to appeal.

10 (g) (1) Eligibility for work-sharing benefits. - An individual is eligible to receive work-
11 sharing benefits, subsequent to serving a waiting period as prescribed by the director, with respect
12 to any week only if, in addition to meeting other conditions of eligibility for regular benefits
13 under this title that are not inconsistent with this section, the director finds that:

14 (i) During the week, the individual is employed as a member of an affected unit under an
15 approved work-sharing plan that was approved prior to that week, and the plan is in effect with
16 respect to the week for which work-sharing benefits are claimed;

17 (ii) The individual is able to work and is available for the normal work week with the
18 work-sharing employer.

19 (2) Notwithstanding any other provisions of this chapter to the contrary, an individual is
20 deemed unemployed in any week for which remuneration is payable to him or her as an employee
21 in an affected unit for less than his or her normal weekly hours of work as specified under the
22 approved work-sharing plan in effect for the week.

23 (3) Notwithstanding any other provisions of this title to the contrary, an individual shall
24 not be denied work-sharing benefits for any week by reason of the application of provisions
25 relating to the availability for work and active search for work with an employer other than the
26 work-sharing employer.

27 (h) (1) Work-sharing benefits. - The work-sharing weekly benefit amount shall be the
28 product of the regular weekly benefit rate, including any dependents' allowances, multiplied by
29 the percentage reduction in the individual's usual weekly hours of work as specified in the
30 approved plan. If the work-sharing weekly benefit amount is not an exact multiple of one dollar
31 (\$1.00) then the weekly benefit amount shall be rounded down to the next lower multiple of one
32 dollar (\$1.00).

33 (2) An individual may be eligible for work-sharing benefits or regular unemployment
34 compensation, as appropriate, except that no individual shall be eligible for combined benefits in

1 any benefit year in an amount more than the maximum entitlement established for unemployment
2 compensation, nor shall an individual be paid work-sharing benefits for more than fifty-two (52)
3 weeks, whether or not consecutive, in any benefit year pursuant to an approved work-sharing
4 plan.

5 (3) The work-sharing benefits paid shall be deducted from the maximum entitlement
6 amount established for that individual's benefit year.

7 (4) If an employer approves time off and the worker has performed some work during
8 the week, the individual is eligible for work-sharing benefits based on the combined work and
9 paid leave hours for that week. If the employer does not grant time off, the question of
10 availability must be investigated.

11 (5) If an employee was sick and consequently did not work all the hours offered by the
12 work-sharing employer in a given week, the employee will be denied work-sharing benefits for
13 that week.

14 (6) Claims for work-sharing benefits shall be filed in the same manner as claims for
15 unemployment compensation or as prescribed in regulations by the director.

16 (7) Provisions applicable to unemployment compensation claimants shall apply to work-
17 sharing claimants to the extent that they are not inconsistent with the established work-sharing
18 provisions. An individual who files an initial claim for work-sharing benefits shall be provided, if
19 eligible for benefits, a monetary determination of entitlement to work-sharing benefits and shall
20 serve a waiting week.

21 (8) If an individual works in the same week for an employer other than the work-sharing
22 employer, the individual's work-sharing benefits shall be computed in the same manner as if the
23 individual worked solely with the work-sharing employer. If the individual is not able to work or
24 is not available for the normal work week with the work-sharing employer, then no work-sharing
25 benefits shall be payable to that individual for that week.

26 (9) An individual who performs no services during a week for the work-sharing
27 employer and is otherwise eligible shall be paid the full weekly unemployment compensation
28 amount. That week shall not be counted as a week with respect to which work-sharing benefits
29 were received.

30 (10) An individual who does not work for the work-sharing employer during a week but
31 works for another employer and is otherwise eligible shall be paid benefits for that week under
32 the partial unemployment compensation provisions of this chapter. That week shall not be
33 counted as a week with respect to which work-sharing benefits were received.

34 (11) Nothing in the section shall preclude an otherwise eligible individual from receiving

1 total or partial unemployment benefits when the individual's work-sharing benefits have been
2 exhausted.

3 (i) Benefit charges. - Notwithstanding any provisions of this title to the contrary, work-
4 sharing benefits shall be charged to the account of the work-sharing employer. Employers liable
5 for payments in lieu of contributions shall be responsible for reimbursing the employment
6 security fund for the full amount of work-sharing benefits paid to their employees under an
7 approved work-sharing plan.

8 (j) Extended benefits. - An individual who has received all of the unemployment
9 compensation or combined unemployment compensation and work-sharing benefits available in a
10 benefit year shall be considered an exhaustee for purposes of extended benefits, as provided
11 under the provisions of section 28-44-62, and, if otherwise eligible under those provisions, shall
12 be eligible to receive extended benefits.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO LABOR AND LABOR RELATIONS – WORK--SHARING BENEFITS

1 This act would expand the definition of “eligible employer” in the job sharing contract
2 for the purpose of unemployment security benefits by deleting the word “private”, to make
3 applicable to state and local governments.

4 This act would take effect upon passage.

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