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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT SECURITY --
BENEFITS

Introduced By: Senators DaPonte, Felag, Pichardo, and Walaska

Date Introduced: March 24, 2011

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-44-62 of the General Laws in Chapter 28-44 entitled
2 "Employment Security - Benefits" is hereby amended to read as follows:

3 **28-44-62. Extended benefits.** -- (a) Definitions. - As used in this section, unless the
4 context clearly requires otherwise:

5 (1) "Eligibility period" of an individual means the period consisting of the weeks in his
6 or her benefit year which begin in an extended period that is in effect in this state and, if his or her
7 benefit year ends within that extended benefit period, any weeks thereafter which begin in that
8 period.

9 (2) "Extended benefit period" means a period which:

10 (i) Begins with the third week after the first week for which there is a state "on"
11 indicator; and

12 (ii) Ends with either of the following weeks, whichever occurs later: (A) the third (3rd)
13 week after the first week for which there is a state "off " indicator; or (B) the thirteenth (13th)
14 consecutive week of that period; provided, that no extended benefit period may begin by reason
15 of a state "on" indicator before the fourteenth week following the end of a prior extended benefit
16 period which was in effect with respect to this state; and provided, further, that no extended
17 benefit period may become effective in this state prior to the sixty-first (61st) day following the
18 date of enactment of the Federal-State Extended Unemployment Compensation Act of 1970 (see

1 26 U.S.C. section 3304), and that, on and after January 1, 1972, either state or national indicators
2 shall be applicable.

3 (iii) There is a "state 'on' indicator" for this state for a week, beginning after September
4 25, 1982 and prior to December 18, 2010, or beginning on or after January 1, 2012, if:

5 (A) The director determines, in accordance with regulations of the U.S. Secretary of
6 Labor, that for the period consisting of that week and the immediately preceding twelve (12)
7 weeks, the rate of insured unemployment not seasonally adjusted under this chapter:

8 (I) Equaled or exceeded one hundred twenty percent (120%) of the average of those rates
9 for the corresponding thirteen (13) week period ending in each of the preceding two (2) calendar
10 years, and

11 (II) Equaled or exceeded five percent (5%), or

12 (B) The director determines, in accordance with regulations of the U.S. Secretary of
13 Labor, that for the period consisting of that week and the immediately preceding twelve (12)
14 weeks, the rate of insured unemployment not seasonally adjusted under this chapter equaled or
15 exceeded six percent (6%), regardless of the insured unemployment rate in previous years, or

16 (C) With respect to benefits for weeks of unemployment beginning after March 6, 1993,
17 and prior to December 18, 2010, or beginning on or after January 1, 2012 the average rate of total
18 unemployment seasonally adjusted, as determined by the United States Secretary of Labor, for
19 the period consisting of the most recent three (3) months for which data for all states are
20 published before the close of that week:

21 (I) Equals or exceeds 6.5 percent (6.5%), and

22 (II) Equals or exceeds one hundred ten percent (110%) of such average for either or both
23 of the corresponding three (3) month periods ending in the two (2) preceding calendar years.

24 (D) Notwithstanding any provision of this subdivision, any week for which there would
25 otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to
26 be a week for which there is a state "off" indicator.

27 (iv) There is a "state 'on' indicator" for this state for a week, beginning on or after
28 December 18, 2010 and ending on or before December 31, 2011, if:

29 (A) The director determines, in accordance with regulations of the U.S. Secretary of
30 Labor, that for the period consisting of that week and the immediately preceding twelve (12)
31 weeks, the rate of insured unemployment not seasonally adjusted under this chapter:

32 (I) Equaled or exceeded one hundred twenty percent (120%) of the average of those rates
33 for the corresponding thirteen (13) week period ending in each of the preceding three (3) calendar
34 years; and

1 (II) Equaled or exceeded five percent (5%); or

2 (B) The director determines, in accordance with regulations of the U.S. Secretary of
3 Labor, that for the period consisting of that week and the immediately preceding twelve (12)
4 weeks, the rate of insured unemployment not seasonally adjusted under this chapter equaled or
5 exceeded six percent (6%), regardless of the insured unemployment rate in previous years; or

6 (C) With respect to benefits for weeks of unemployment beginning on or after December
7 18, 2010 and ending on or before December 31, 2011, the average rate of total unemployment
8 seasonally adjusted, as determined by the United States Secretary of Labor, for the period
9 consisting of the most recent three (3) months for which data for all states are published before
10 the close of that week:

11 (I) Equals or exceeds six and one-half percent (6.5%); and

12 (II) Equals or exceeds one hundred ten percent (110%) of such average for any or all of
13 the corresponding three (3) month periods ending in the three (3) preceding calendar years.

14 (D) Notwithstanding any provision of this subdivision, any week for which there would
15 otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to
16 be a week for which there is a state "off" indicator.

17 ~~(iv)~~(v)(A) There is a state "off" indicator for this state for a week beginning after March
18 6, 1993 and prior to December 18, 2010 or beginning on or after January 1, 2012, if in the period
19 consisting of the week and the immediately preceding twelve (12) weeks, none of the options
20 specified in subparagraphs (iii)(A), (B), and (C) of this subdivision result in an "on" indicator; or

21 (B) There is a state "off" indicator for this state for a week beginning on or after
22 December 18, 2010 and ending on or before December 31, 2011, if in the period consisting of the
23 week and the immediately preceding twelve (12) weeks, none of the options specified in
24 subparagraphs (iv)(A),(B), and (C) of this subdivision result in an "on" indicator.

25 (3) "Extended benefits" means benefits, including benefits payable to federal civilian
26 employees and to ex-servicepersons pursuant to 5 U.S.C. section 8501 et seq., payable to an
27 individual under the provisions of this section for weeks of unemployment in his or her eligibility
28 period.

29 (4) (i) "Rate of insured unemployment", for purposes of paragraph (2)(iii) of this
30 subsection, means the percentage derived by dividing:

31 (A) The average weekly number of individuals filing claims for regular benefits for
32 weeks of unemployment with respect to the most recent thirteen (13) consecutive week period, as
33 determined by the director on the basis of reports submitted to the Secretary of Labor, by

34 (B) The average monthly covered employment for the first four (4) of the most recent six

1 (6) completed calendar quarters ending before the end of the thirteen (13) week period.

2 (ii) Computations required by the provisions of this subdivision shall be made by the
3 director, in accordance with the regulations prescribed by the Secretary of Labor.

4 (5) "Regular benefits" means benefits, including dependents' allowances, payable to an
5 individual under chapters 42 -- 44 of this title, or under any other state law, including benefits
6 payable to federal civilian employees and to ex-servicepersons pursuant to 5 U.S.C. section 8501
7 et seq., other than extended benefits.

8 (6) "State" includes any state of the United States of America, the District of Columbia,
9 the Commonwealth of Puerto Rico and the Virgin Islands.

10 (7) "State law" means the unemployment insurance law of any state, approved by the
11 Secretary of Labor under 26 U.S.C. section 3304.

12 (8) "Suitable work" means, with respect to any individual, any work that is within that
13 individual's capabilities; provided, however:

14 (i) That the gross average weekly remuneration payable for the work must exceed the
15 sum of the individual's weekly benefit amount as determined under subsection (g) of this section
16 plus the amount, if any, of supplemental unemployment benefits 26 U.S.C. section 50(C)(17)(D)
17 payable to that individual for that week, and

18 (ii) That wages for such work are not less than the higher of:

19 (A) The minimum wage provided by 29 U.S.C. section 206(a)(1) without regard to any
20 exemption, or

21 (B) The applicable state or local minimum wage.

22 (b) Effect of state law provisions relating to regular benefits on claims for, and the
23 payment of extended benefits. - Except when the result would be inconsistent with the other
24 provisions of this section and as otherwise provided in the employment security rules, the
25 provisions of chapters 42 -- 44 of this title which apply to claims for, or the payment of, regular
26 benefits shall apply to claims for, and the payment of, extended benefits provided under this
27 section.

28 (c) Eligibility requirements for extended benefits. - An individual shall be eligible to
29 receive extended benefits with respect to any week of unemployment in his or her eligibility
30 period only if the director finds that:

31 (1) He or she has, prior to that week, exhausted all of his or her rights to regular benefits
32 provided under chapters 42 -- 44 of this title because either:

33 (i) He or she has received all of those benefits that were available to him or her in his or
34 her current benefit year, or

1 (ii) His or her benefit year has expired prior to that week, and he or she has insufficient
2 wages and/or insufficient weeks of employment on which to establish a new benefit year which
3 would include that week; and

4 (2) With respect to that week of unemployment:

5 (i) He or she has exhausted all his or her rights to regular benefits available to him or her
6 under any state law, including benefits payable to federal civilian employees and ex-
7 servicepersons under section 5 U.S.C. section 8501 et seq.;

8 (ii) He or she has no rights to allowances or unemployment benefits under any other
9 federal law, such as the Railroad Unemployment Insurance Act;

10 (iii) He or she has not received unemployment benefits under the law of Canada; and

11 (iv) He or she is not disqualified or ineligible for benefits under any provisions of
12 chapters 42 -- 44 of this title, to the extent that those provisions, pursuant to paragraph (ii) of this
13 subdivision or the regulations adopted pursuant to that paragraph, are applicable to the claims for,
14 and the payment of, extended benefits provided under this section; provided, that for purposes of
15 subdivision (1) of this subsection, an individual shall be deemed to have exhausted his or her
16 regular benefit rights with respect to any week of unemployment when he or she may become
17 entitled to regular benefits with respect to that week, or future weeks, but those benefits are not
18 payable at the time he or she claims extended benefits because final action has not yet been taken
19 on a pending appeal with respect to regular benefits based on wages and/or employment which
20 were not considered in the prior determination of his or her benefits.

21 (3) Notwithstanding the provisions of this subsection, an individual filing an initial claim
22 for extended benefits effective March 7, 1993 or after shall not be eligible for extended
23 compensation for any week of unemployment, unless in the base period with respect to which the
24 individual exhausted all rights to regular benefits provided under chapters 42 -- 44 of this title, the
25 individual:

26 (i) Had earnings in insured employment under chapters 42 -- 44 of this title which
27 equaled or exceeded forty (40) times the individual's weekly benefit amount, including
28 dependent's allowance, or

29 (ii) Had been paid wages for insured employment under chapters 42 -- 44 of this title
30 which equaled or exceeded one and one-half (1 1/2) times the individual's insured wages in the
31 calendar quarter of the base period in which the individual's insured wages were the highest, or

32 (iii) Had twenty (20) weeks of full-time work in insured employment under chapters 42 -
33 - 44 of this title.

34 (d) (1) Suitable work and work search requirements for extended benefits. -

1 Notwithstanding the provisions of subsection (b) of this section, an individual shall be ineligible
2 for payment of extended benefits for any week of unemployment beginning on or after April 1,
3 1981, if the director finds that during that period:

4 (i) He or she failed to accept an offer of suitable work as defined under subsection (a) of
5 this section or failed to apply for any suitable work to which he or she was referred by the
6 director; or

7 (ii) He or she failed to actively engage in seeking work as prescribed under subdivision
8 (3) of this subsection;

9 (2) Any individual who has been found ineligible for extended benefits by reason of the
10 provisions in subdivision (1) of this subsection shall also be denied benefits beginning the first
11 day of the week following the week in which that failure occurred and until he or she has been
12 employed, except in self-employment, in each of four (4) subsequent weeks, whether or not
13 consecutive, and has earned remuneration equal to not less than four (4) times the extended
14 weekly benefit amount. No individual shall be denied extended benefits for failure to accept an
15 offer of or to apply for any job which meets the definition of suitability as described in subsection
16 (a) of this section if:

17 (i) The position was not offered to that individual in writing or was not listed with the
18 employment service;

19 (ii) The failure would not result in a denial of benefits under the definition of suitable
20 work for regular benefit claimants in section 28-44-20 to the extent that the criteria of suitability
21 in that section are not inconsistent with the provisions of subsection (a) of this section; or

22 (iii) The individual furnishes satisfactory evidence to the director that his or her
23 prospects for obtaining work in his or her customary occupation within a reasonably short period
24 are good. If that evidence is deemed satisfactory for this purpose, the determination of whether
25 any work is suitable with respect to that individual shall be made in accordance with the
26 definition of suitable work for regular benefit claimants in section 28-44-20 without regard to the
27 definition specified by subsection (a) of this section.

28 (3) For the purpose of paragraph (1)(ii) of this subsection, an individual shall be treated
29 as actively engaged in seeking work during any week if:

30 (i) The individual has engaged in a systematic and sustained effort to obtain work during
31 that week;

32 (ii) The individual furnishes tangible evidence that he or she has engaged in that effort
33 during that week; and

34 (iii) The director shall give written notice of the minimum requirements necessary to

1 satisfy the requirements of this subsection prior to the individual's exhaustion of regular benefits
2 provided under chapters 42 -- 44 of this title.

3 (4) Notwithstanding the provisions of subdivision (a)(8) of this section to the contrary,
4 no work shall be deemed to be suitable work for an individual which does not accord with the
5 labor standard provisions required by 26 U.S.C. section 3304(a)(5) and set forth under section 28-
6 44-20(a) and (b).

7 (e) Cessation of extended benefits when paid under interstate claim in a state where
8 extended benefit period is not in effect. - (1) Except as provided in subdivision (2) of this
9 subsection, an individual shall not be eligible for extended benefits for any week beginning on or
10 after June 1, 1981, if:

11 (i) Extended benefits are payable for that week pursuant to an interstate claim filed in
12 any state under the interstate benefit payment plan; and

13 (ii) No extended benefit period is in effect for that week in that state.

14 (2) Subdivision (1) of this subsection shall not apply with respect to the first two (2)
15 weeks for which extended benefits are payable, determined without regard to this subsection,
16 pursuant to an interstate claim filed under the interstate benefit payment plan to the individual
17 from the extended benefit account established for the individual with respect to the benefit year.

18 (f) Suitable work. - The employment service shall refer any claimant entitled to extended
19 benefits under chapters 42 -- 44 of this title to any suitable work which meets the criteria
20 prescribed in subsection (a) of this section.

21 (g) Weekly extended benefit amount. - The weekly extended benefit amount payable to
22 an individual for a week of total unemployment in his or her eligibility period shall be an amount
23 equal to the weekly benefit amount, including dependent's allowances, payable to him or her for a
24 week of total unemployment during his or her benefit year.

25 (h) Maximum extended benefit amount. - (1) The maximum extended benefit amount
26 payable to any eligible individual with respect to the applicable benefit year shall be the least of
27 the following amounts, determined on the basis of the specified regular benefit amounts which
28 were payable, or paid, whichever is applicable, to the individual in the benefit year:

29 (i) Fifty percent (50%) of the maximum potential regular benefits, including dependents'
30 allowances, which were payable to the individual under chapters 42 -- 44 of this title in the
31 benefit year, or

32 (ii) Thirteen (13) times the individual's weekly benefit amount, including dependents'
33 allowances, which was payable to the individual under chapters 42 -- 44 of this title for a week of
34 total unemployment in the benefit year.

1 (2) Effective with respect to weeks beginning in a high unemployment period, the
2 maximum extended benefit amount payable to any eligible individual with respect to the
3 applicable benefit year shall be the least of the following amounts, determined on the basis of the
4 specified regular benefit amounts which were payable, or paid, whichever is applicable, to the
5 individual in the benefit year:

6 (i) (A) Eighty percent (80%) of the maximum potential regular benefits, including
7 dependents' allowances, which were payable to the individual under chapters 42 -- 44 of this title
8 in the benefit year, or

9 (B) Twenty (20) times the individual's weekly benefit amount, including dependents'
10 allowances, which was payable to the individual under chapters 42 -- 44 of this title in the benefit
11 year.

12 (ii) For the purposes of this subdivision, the term "high unemployment period" means
13 any period during which an extended benefit period would be in effect if item (a)(1)(iii)(C)(I) or
14 item (a)(1)(iv)(C)(I) of this section were applied by substituting "eight percent" ("8%") for "6.5
15 percent" ("6.5%").

16 (3) Notwithstanding any other provisions of this chapter, if the benefit year of any
17 individual ends within an extended benefit period, the remaining balance of extended benefits that
18 the individual would, but for this subsection, be entitled to receive in that extended benefit period,
19 with respect to weeks of unemployment beginning after the end of the benefit year, shall be
20 reduced, but not below zero (0), by the product of the number of weeks for which the individual
21 received any amounts as trade readjustment allowances within that benefit year, multiplied by the
22 individual's weekly benefit amount for extended benefits.

23 (i) Beginning and termination of extended benefit period. Whenever an extended benefit
24 period is to become effective in this state as a result of a state "on" indicator, or an extended
25 benefit period is to be terminated in this state as a result of a state "off " indicator, the director
26 shall make an appropriate public announcement.

27 (j) If the Federal-State Extended Unemployment Compensation Act of 1970 (see 26
28 U.S.C. section 3304) is amended so as to authorize this state to pay benefits for an extended
29 benefit period in a manner other than that currently provided by this section, then, and in that
30 case, all the terms and conditions contained in the amended provisions of that federal law shall
31 become a part of this section to the extent necessary to authorize the payment of benefits to
32 eligible individuals as permitted under that amended provision.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT SECURITY --
BENEFITS

1 This act would amend the provisions for triggering the state extended benefits program. It
2 would compare the thirteen (13) week average insured unemployment rate and the three (3)
3 month average total unemployment rate trigger to the same figure, in the same period, over the
4 last three (3) years for determining when the program would trigger off. Current law only uses the
5 last two (2) years in the comparison for the trigger mechanism. This third year would only be in
6 effect for calendar year 2011 as permitted by federal law.

7 This act would take effect upon passage.

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