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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-EIGHTH SESSION

**H. F. No. 1459**

03/11/2013 Authored by Mahoney

The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance and Policy

1.1 A bill for an act  
1.2 relating to unemployment insurance; changing shared work provisions;  
1.3 modifying benefits; creating CLIMB; amending Minnesota Statutes 2012,  
1.4 sections 116L.17, by adding a subdivision; 268.136, subdivisions 1, 2, 3, 4, 5,  
1.5 by adding a subdivision; 268.23; proposing coding for new law in Minnesota  
1.6 Statutes, chapter 268.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2012, section 116L.17, is amended by adding a  
1.9 subdivision to read:

1.10 Subd. 11. **Converting layoffs into Minnesota businesses (CLIMB).** Converting  
1.11 layoffs into Minnesota businesses (CLIMB) is created to assist dislocated workers in  
1.12 starting or growing a business. CLIMB must offer entrepreneurial training, business  
1.13 consulting, and technical assistance to dislocated workers seeking to start or grow a  
1.14 business. The commissioner, in cooperation with local workforce councils, must provide  
1.15 the assistance in this subdivision by:

1.16 (1) encouraging closer ties between the Small Business Development Center  
1.17 network, Small Business Development Center training providers, and workforce centers,  
1.18 as well as other dislocated worker program service providers; and

1.19 (2) eliminating grantee performance data disincentives that would otherwise prevent  
1.20 enrollment of dislocated workers in entrepreneurship-related training.

1.21 Sec. 2. **[268.133] UNEMPLOYMENT BENEFITS WHILE IN**  
1.22 **ENTREPRENEURIAL TRAINING.**

1.23 Unemployment benefits are available to dislocated workers participating in the  
1.24 converting layoffs into Minnesota businesses (CLIMB) program under section 116L.17,

subdivision 11. Applicants participating in CLIMB are considered in reemployment assistance training under section 268.035, subdivision 21c. All requirements under section 268.069, subdivision 1, must be met, except the commissioner may waive:

(1) the earnings deductible provisions in section 268.085, subdivision 5; and

(2) the 32 hours of work limitation in section 268.085, subdivision 2, clause (6). A maximum of 500 applicants may receive a waiver at any given time.

Sec. 3. Minnesota Statutes 2012, section 268.136, subdivision 1, is amended to read:

Subdivision 1. **Shared work agreement plan requirements.** (a) An employer may submit a proposed shared work plan for an employee group to the commissioner for approval in a manner and format set by the commissioner. The proposed ~~agreement~~ shared work plan must include:

(1) a certified statement that the normal weekly hours of work of all of the proposed participating employees were full time or regular part time but are now reduced, or will be reduced, with a corresponding reduction in pay, in order to prevent layoffs;

(2) the name and Social Security number of each participating employee;

(3) the number of layoffs that would have occurred absent the employer's ability to participate in a shared work plan;

(4) a certified statement ~~of when~~ that each participating employee was first hired by the employer, ~~which must be~~ at least one year before the proposed ~~agreement~~ shared work plan is submitted and is not a seasonal, temporary, or intermittent worker;

~~(4)~~ (5) the hours of work each participating employee will work each week for the duration of the ~~agreement~~ shared work plan, which must be at least ~~20~~ one-half the normal weekly hours ~~and but~~ no more than 32 hours per week, except that the ~~agreement~~ plan may provide for a uniform vacation shutdown of up to two weeks;

(6) a certified statement that any health benefits and any pension benefits provided by the employer to participating employees will continue to be provided under the same terms and conditions as though the participating employees' hours of work each week had not been reduced;

(7) a certified statement that the terms and implementation of the shared work plan is consistent with the employer's obligations under state and federal law;

(8) an acknowledgement that the employer understands that unemployment benefits paid under a shared work plan will be used in computing the future tax rate of a taxpaying employer or charged to the reimbursable account of a nonprofit or government employer;

(5) (9) the proposed duration of the agreement shared work plan, which must be at least two months and not more than one year, although ~~an agreement~~ a plan may be extended for up to an additional year upon approval of the commissioner;

(6) (10) a starting date beginning on a Sunday at least 15 calendar days after the date the proposed ~~agreement~~ shared work plan is submitted; and

(7) (11) a signature of an owner or officer of the employer who is listed as an owner or officer on the employer's account under section 268.045.

~~(b) An agreement may not be approved for an employer that:~~

~~(1) has any unemployment tax or reimbursements, including any interest, fees, or penalties, due but unpaid; or~~

~~(2) has the maximum experience rating provided for under section 268.051, subdivision 3.~~

Sec. 4. Minnesota Statutes 2012, section 268.136, subdivision 2, is amended to read:

Subd. 2. **Agreement Approval by commissioner.** (a) The commissioner must promptly review a proposed agreement shared work plan and notify the employer, by mail or electronic transmission, within 15 days of receipt, whether the proposal satisfies the requirements of this section and has been approved. If the proposal does not comply with this section, the commissioner must specifically state why the proposal is not in compliance. If a proposed ~~agreement complies with this section~~ shared work plan has been approved, it must be implemented according to its terms.

(b) The commissioner may ~~reject an agreement~~ not approve a proposed shared work plan if the commissioner has cause to believe the proposal ~~is not~~ was submitted for the a purpose ~~of other than~~ preventing layoffs due to lack of work.

(c) The commissioner may not approve a proposed shared work plan if the employer has any unemployment tax or reimbursements, including any interest, fees, or penalties, due but unpaid.

(d) A shared work plan that has been approved by the commissioner is considered a contract that is binding on the employer and the department. This contract may be canceled or modified under subdivision 5.

Sec. 5. Minnesota Statutes 2012, section 268.136, is amended by adding a subdivision to read:

Subd. 2a. **Notice to participating employee.** The employer must provide written notification to each participating employee that the employer has submitted a proposed shared work plan. The notification must be provided to the employee no later than at

the time the commissioner notifies the employer that a proposed shared work plan has been approved. The notification must inform the employee of the proposed terms of the shared work plan along with notice to the employee of the employee's right to apply for unemployment benefits.

Sec. 6. Minnesota Statutes 2012, section 268.136, subdivision 3, is amended to read:

Subd. 3. **Applicant requirements.** (a) An applicant, in order to be paid unemployment benefits under this section, must meet all of the requirements under section 268.069, subdivision 1. The following provisions of section 268.085 do not apply to an applicant ~~under this section~~ in an approved shared work plan:

(1) the deductible earnings provision of section 268.085, under subdivision 5;

(2) the restriction under section 268.085, subdivision 6 2, clause (6), if the applicant works exactly 32 hours in a week;

(3) the requirement of being available for suitable employment under subdivision 1, clause (4), but only if the applicant is (i) available for the normal hours of work per week with the shared work employer, or (ii) is in a training program when not working; and

(4) the requirement of actively seeking suitable employment under subdivision 1, clause (5).

(b) An applicant is ineligible for unemployment benefits under this section for any week, if:

(1) the applicant works more than 32 hours in a week in employment with one or more employer; or

(2) the applicant works more hours in a week for the shared work employer than the reduced weekly hours provided for in the agreement.

Sec. 7. Minnesota Statutes 2012, section 268.136, subdivision 4, is amended to read:

Subd. 4. **Amount of unemployment benefits available.** (a) The weekly benefit amount and maximum amount of unemployment benefits available are computed according to section 268.07, except that ~~an applicant is paid~~ the amount of benefits available is a reduced amount in direct proportion to the reduction in hours set out in the shared work plan from the normal weekly hours.

(b) Regardless of paragraph (a), if the applicant works more hours in a week for the shared work employer than the reduced weekly hours provided for in the shared work plan, the amount of unemployment benefits available is a reduced amount in direct proportion to the reduction in hours actually worked from the normal weekly hours.

(c) If an applicant works fewer hours in a week for the shared work employer than set out in the shared work plan, the amount of unemployment benefits are available in accordance with paragraph (a).

Sec. 8. Minnesota Statutes 2012, section 268.136, subdivision 5, is amended to read:

Subd. 5. **Cancellation; modification.** (a) An employer may cancel ~~an agreement a~~ shared work plan at any time upon seven calendar days' notice to the commissioner in a manner and format prescribed by the commissioner. The cancellation must be signed by an owner or officer of the employer.

(b) An employer may request that the commissioner allow modification of the shared work plan as to the hours of work each participating employee will work each week. The request must be sent in a manner and form prescribed by the commissioner. The request must be signed by an owner or officer of the employer. The commissioner must notify the employer as soon as possible if the modification is allowed.

~~(b) (c)~~ An employer that cancels ~~an agreement~~ or requests modification of a shared work plan must provide written notice to each participating employee ~~in the group~~ of the cancellation or requested modification at the time notice is sent to the commissioner.

~~(e) (d)~~ If an employer cancels ~~an agreement a~~ shared work plan before the expiration date provided for in subdivision 1, a new ~~agreement~~ shared work plan may not be entered ~~into with~~ approved for that employer under this section for at least 60 calendar days.

~~(d) (e)~~ The commissioner may immediately cancel any ~~agreement~~ shared work plan if the commissioner determines the ~~agreement~~ plan was based upon false information or the employer is ~~in breach~~ has failed to adhere to the terms of the ~~contract~~ shared work plan. The commissioner must immediately send written notice of cancellation to the employer. An employer that receives notice of cancellation ~~by the commissioner~~ must provide written notice to each participating ~~employer in the group~~ employee of the cancellation.

Sec. 9. Minnesota Statutes 2012, section 268.23, is amended to read:

**268.23 SEVERABLE.**

~~In the event that~~ If the United States Department of Labor determines that any provision of the Minnesota Unemployment Insurance Law, ~~or any other provision of Minnesota Statutes relating to the unemployment insurance program,~~ is not in conformity with, or is inconsistent with, the requirements of federal law, the provision has no force or effect; ~~but,~~ If only a portion of the provision, or the application to any person or circumstances, is ~~held~~ determined not in conformity, or determined inconsistent, the

6.1 remainder of the provision and the application of the provision to other persons or  
6.2 circumstances are not affected.

6.3 Sec. 10. **COMMISSIONER AUTHORIZED TO REQUEST SHARED WORK**  
6.4 **FUNDS.**

6.5 The commissioner of employment and economic development is authorized to  
6.6 request federal funding for Minnesota's "shared work" unemployment benefit program  
6.7 under Minnesota Statutes, section 268.136. Federal funding is available under the Middle  
6.8 Class Tax Relief and Job Creation Act of 2012, Public Law 112-96. Federal funding  
6.9 provided under that act for the "shared work" program must be immediately deposited  
6.10 in the Minnesota Unemployment Insurance Trust Fund. The exception under Minnesota  
6.11 Statutes, section 268.047, subdivision 2, clause (10), does not apply to the federal money.

6.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.