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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2443

02/22/2012 Authored by Downey

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

1.1 A bill for an act
1.2 relating to unemployment benefits; modifying benefit eligibility and duration;
1.3 providing wage support for persons with disabilities; providing exceptions for
1.4 certain persons who are starting a business; appropriating money; amending
1.5 Minnesota Statutes 2010, sections 268.07, subdivision 2a; 268.085, subdivisions
1.6 1, 5, 16; Minnesota Statutes 2011 Supplement, section 268.085, subdivision 3.

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

1.8 Section 1. Minnesota Statutes 2010, section 268.07, subdivision 2a, is amended to read:

1.9 Subd. 2a. **Weekly unemployment benefit amount and maximum amount of**
1.10 **unemployment benefits available.** (a) If an applicant has established a benefit account
1.11 under subdivision 2, the weekly unemployment benefit amount available during the
1.12 applicant's benefit year is the higher of:

1.13 (1) 50 percent of the applicant's average weekly wage during the base period, to a
1.14 maximum of 66-2/3 percent of the state's average weekly wage; or

1.15 (2) 50 percent of the applicant's average weekly wage during the high quarter, to a
1.16 maximum of 43 percent of the state's average weekly wage.

1.17 The applicant's average weekly wage under clause (1) is computed by dividing
1.18 the total wage credits by 52. The applicant's average weekly wage under clause (2) is
1.19 computed by dividing the high quarter wage credits by 13.

1.20 (b) The state's maximum weekly benefit amount, computed in accordance with
1.21 section 268.035, subdivision 23, applies to a benefit account established effective on or
1.22 after the last Sunday in October. Once established, an applicant's weekly unemployment
1.23 benefit amount is not affected by the last Sunday in October change in the state's maximum
1.24 weekly unemployment benefit amount.

2.1 (c) The maximum amount of unemployment benefits available on any benefit
2.2 account is the lower of:

2.3 (1) 33-1/3 percent of the applicant's total wage credits; or

2.4 (2) ~~26~~ (i) four times the applicant's weekly unemployment benefit amount if the
2.5 statewide unemployment rate is at least three percent;

2.6 (ii) ten times the applicant's weekly unemployment benefit amount if the statewide
2.7 unemployment rate is at least four percent;

2.8 (iii) 18 times the applicant's weekly unemployment benefit amount if the statewide
2.9 unemployment rate is at least five percent; or

2.10 (iv) 26 times the applicant's weekly unemployment benefit amount if the statewide
2.11 unemployment rate is at least six percent.

2.12 (d) Benefits are available under paragraph (c), clause (2), items (ii), (iii), and (iv),
2.13 only if the applicant is eligible under section 268.085, subdivision 1, paragraph (b).

2.14 Sec. 2. Minnesota Statutes 2010, section 268.085, subdivision 1, is amended to read:

2.15 Subdivision 1. **Eligibility conditions.** (a) An applicant may be eligible to receive
2.16 unemployment benefits for any week if:

2.17 (1) the applicant has filed a continued request for unemployment benefits for that
2.18 week under section 268.0865;

2.19 (2) the week for which unemployment benefits are requested is in the applicant's
2.20 benefit year;

2.21 (3) the applicant was unemployed as defined in section 268.035, subdivision 26;

2.22 (4) the applicant was available for suitable employment as defined in subdivision

2.23 15. The applicant's weekly unemployment benefit amount is reduced one-fifth for each
2.24 day the applicant is unavailable for suitable employment. This clause does not apply to
2.25 an applicant who is in reemployment assistance training, or each day the applicant is on
2.26 jury duty or serving as an election judge;

2.27 (5) the applicant was actively seeking suitable employment as defined in subdivision
2.28 16. This clause does not apply to an applicant who is in reemployment assistance training
2.29 or who was on jury duty throughout the week;

2.30 (6) the applicant has served a nonpayable period of one week that the applicant is
2.31 otherwise entitled to some amount of unemployment benefits. This clause does not apply
2.32 if the applicant would have been entitled to federal disaster unemployment assistance
2.33 because of a disaster in Minnesota, but for the applicant's establishment of a benefit
2.34 account under section 268.07; and

3.1 (7) the applicant has been participating in reemployment assistance services, such
 3.2 as job search and resume writing classes, if the applicant has been determined in need
 3.3 of reemployment assistance services by the commissioner, unless the applicant has good
 3.4 cause for failing to participate.

3.5 (b) An applicant may be eligible to receive unemployment benefits for any week
 3.6 if, for the purpose of benefits under section 268.07, subdivision 2a, paragraph (c), clause
 3.7 (2), items (ii), (iii), and (iv), the applicant is participating in an education, training, or
 3.8 entrepreneurship program, or has earned income for the benefit week.

3.9 Sec. 3. Minnesota Statutes 2011 Supplement, section 268.085, subdivision 3, is
 3.10 amended to read:

3.11 Subd. 3. **Payments that delay unemployment benefits.** (a) An applicant is not
 3.12 eligible to receive unemployment benefits for any week with respect to which the applicant
 3.13 is receiving, has received, or has filed for payment, equal to or in excess of the applicant's
 3.14 weekly unemployment benefit amount, in the form of:

3.15 (1) vacation pay, sick pay, or personal time off pay, also known as "PTO," paid
 3.16 upon temporary, indefinite, or seasonal separation. This clause does not apply to (i)
 3.17 vacation pay, sick pay, or personal time off pay, paid upon a permanent separation from
 3.18 employment, or (ii) vacation pay, sick pay, or personal time off pay, paid from a vacation
 3.19 fund administered by a union or a third party not under the control of the employer;

3.20 (2) severance pay, bonus pay, and any other payments, except earnings under
 3.21 subdivision 5, and back pay under subdivision 6, paid by an employer because of, upon,
 3.22 or after separation from employment, but only if the payment is considered wages at the
 3.23 time of payment under section 268.035, subdivision 29; ~~or~~

3.24 (3) pension, retirement, or annuity payments from any plan contributed to by a base
 3.25 period employer including the United States government, except Social Security benefits
 3.26 that are provided for in subdivision 4. The base period employer is considered to have
 3.27 contributed to the plan if the contribution is excluded from the definition of wages under
 3.28 section 268.035, subdivision 29, clause (1). If the pension, retirement, or annuity payment
 3.29 is paid in a lump sum, an applicant is not considered to have received a payment if (i) the
 3.30 applicant immediately deposits that payment in a qualified pension plan or account, or
 3.31 (ii) that payment is an early distribution for which the applicant paid an early distribution
 3.32 penalty under the Internal Revenue Code, United States Code, title 26, section 72(t)(1); or

3.33 (4) payments or benefits received under section 116L.17 for education or training.

4.1 (b) This subdivision applies to all the weeks of payment. Payments under paragraph
4.2 (a), clause (1), are applied to the period immediately following the last day of employment.
4.3 The number of weeks of payment is determined as follows:

4.4 (1) if the payments are made periodically, the total of the payments to be received is
4.5 divided by the applicant's last level of regular weekly pay from the employer; or

4.6 (2) if the payment is made in a lump sum, that sum is divided by the applicant's last
4.7 level of regular weekly pay from the employer.

4.8 (c) If the payment is less than the applicant's weekly unemployment benefit amount,
4.9 unemployment benefits are reduced by the amount of the payment.

4.10 Sec. 4. Minnesota Statutes 2010, section 268.085, subdivision 5, is amended to read:

4.11 Subd. 5. **Deductible earnings.** (a) If the applicant has earnings, including holiday
4.12 pay, with respect to any week, from employment, covered employment, noncovered
4.13 employment, self-employment, or volunteer work, equal to or in excess of 125 percent
4.14 of the applicant's weekly unemployment benefit amount, the applicant is ineligible for
4.15 unemployment benefits for that week.

4.16 (b) If the applicant has earnings, with respect to any week, that is less than 125
4.17 percent of the applicant's weekly unemployment benefit amount, from employment,
4.18 covered employment, noncovered employment, self-employment, or volunteer work, ~~55~~
4.19 50 percent of the earnings are deducted from the weekly unemployment benefit amount.

4.20 (c) No deduction is made from an applicant's weekly unemployment benefit amount
4.21 for earnings from service in the National Guard or a United States military reserve unit or
4.22 from direct service as a volunteer firefighter or volunteer ambulance service personnel.
4.23 This exception to paragraphs (a) and (b) does not apply to on-call or standby pay provided
4.24 to a volunteer firefighter or volunteer ambulance service personnel. No deduction is made
4.25 for jury duty pay or for pay as an election judge.

4.26 (d) The applicant may report deductible earnings on continued requests for
4.27 unemployment benefits at the next lower whole dollar amount.

4.28 (e) Deductible earnings does not include any money considered a deductible
4.29 payment under subdivision 3, but includes all compensation considered wages under
4.30 section 268.035, subdivision 29, and any other compensation considered earned income
4.31 under state and federal law for income tax purposes.

4.32 Sec. 5. Minnesota Statutes 2010, section 268.085, subdivision 16, is amended to read:

4.33 Subd. 16. **Actively seeking suitable employment defined.** (a) "Actively seeking
4.34 suitable employment" means those reasonable, diligent efforts an individual in similar

5.1 circumstances would make if genuinely interested in obtaining suitable employment under
5.2 the existing conditions in the labor market area. An applicant must document at least five
5.3 reasonable, diligent efforts to seek suitable employment for each week that an application
5.4 or continued request for unemployment benefits is made. Limiting the search to positions
5.5 that are not available or are above the applicant's training, experience, and qualifications is
5.6 not "actively seeking suitable employment."

5.7 (b) To be considered "actively seeking suitable employment" an applicant must,
5.8 when reasonable, contact those employers from whom the applicant was laid off because
5.9 of lack of work and request suitable employment.

5.10 (c) If reasonable prospects of suitable employment in the applicant's usual or
5.11 customary occupation do not exist, the applicant must actively seek other suitable
5.12 employment to be considered "actively seeking suitable employment." This applies to an
5.13 applicant who is seasonally unemployed.

5.14 (d) Actively seeking a suitable job assignment or other employment with a staffing
5.15 service is considered actively seeking suitable employment.

5.16 (e) An applicant who is seeking employment only through a union is considered
5.17 actively seeking suitable employment if the applicant is in an occupation where hiring
5.18 in that locality is done through the union. If the applicant is a union member who is
5.19 restricted to obtaining employment among signatory contractors in the construction
5.20 industry, seeking employment only with those signatory contractors is considered actively
5.21 seeking employment. The applicant must be a union member in good standing, registered
5.22 with the union for employment, and in compliance with other union rules to be considered
5.23 "actively seeking suitable employment."

5.24 **Sec. 6. SPECIAL WAGE SUPPORT FOR PERSONS WITH DISABILITIES;**
5.25 **APPROPRIATION.**

5.26 Notwithstanding any other law to the contrary, \$3,000,000 each year is appropriated
5.27 from the unemployment insurance contingent account under Minnesota Statutes, section
5.28 268.199, for wage supports for persons with disabilities under this section. For the
5.29 purposes of this section, "wage supports" means a payment to an employer that hires a
5.30 person with a disability. A wage support payment is equal to \$3 per hour. For the purposes
5.31 of this section, "person with a disability" has the meaning given in Minnesota Statutes,
5.32 section 268A.01, subdivision 5. An employer must certify to the commissioner that the
5.33 person with a disability would not have been hired but for the wage support under this
5.34 section. Employment counselors and other support personnel under Minnesota Statutes,

6.1 chapter 268A, shall assist employers in applying for wage supports on behalf of persons
6.2 with disabilities under this section.

6.3 **Sec. 7. ENTREPRENEURSHIP FOR DISLOCATED WORKERS.**

6.4 (a) The commissioner is authorized to waive:

6.5 (1) the availability for suitable employment requirements under Minnesota Statutes,
6.6 section 268.085, subdivision 1, clause (5); and

6.7 (2) the 32 hours of work limitation under Minnesota Statutes, section 268.085,
6.8 subdivision 2, clause (6).

6.9 (b) The waiver in paragraph (a) is available to applicants eligible to receive benefits
6.10 under section 268.085, subdivision 1, who are starting a business.

6.11 For the purposes of this section, "starting a business" has the meaning used in the
6.12 administration of the Growing America Through Entrepreneurship Program under Laws
6.13 2009, chapter 78, article 3, section 16, as amended by Laws 2011, chapter 84, article
6.14 1, section 10.

6.15 **EFFECTIVE DATE.** This section is effective July 1, 2013, and expires June 30,
6.16 2016.