

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 924

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DATE	D-PG	OFFICIAL STATUS
02/28/2013	457	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
03/20/2013	1275a	Comm report: To pass as amended
	1352	Second reading
04/23/2013	2608	Special Order
	2608	Third reading Passed

1.1 A bill for an act
 1.2 relating to unemployment insurance; regulating the shared work program
 1.3 to conform to federal law; providing for a program converting layoffs into
 1.4 businesses; amending Minnesota Statutes 2012, sections 116L.17, subdivision
 1.5 4, by adding a subdivision; 268.051, subdivision 5; 268.07, subdivision 3b;
 1.6 268.136, subdivisions 1, 2, 3, 4, 5, by adding subdivisions; 268.23; Laws 2012,
 1.7 chapter 201, article 1, section 3; proposing coding for new law in Minnesota
 1.8 Statutes, chapter 268.

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

1.10 **ARTICLE 1**

1.11 **FEDERAL CONFORMITY**

1.12 Section 1. Minnesota Statutes 2012, section 268.136, subdivision 1, is amended to read:

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

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

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

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

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

2.1 ~~(4)~~ (5) the hours of work each participating employee will work each week for the
 2.2 duration of the ~~agreement~~ shared work plan, which must be at least ~~20~~ one-half the normal
 2.3 weekly hours ~~and but~~ no more than 32 hours per week, except that the ~~agreement~~ plan
 2.4 may provide for a uniform vacation shutdown of up to two weeks;

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

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

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

2.14 ~~(5)~~ (9) the proposed duration of the ~~agreement~~ shared work plan, which must be
 2.15 at least two months and not more than one year, although ~~an agreement~~ a plan may be
 2.16 extended for up to an additional year upon approval of the commissioner;

2.17 ~~(6)~~ (10) a starting date beginning on a Sunday at least 15 calendar days after the date
 2.18 the proposed ~~agreement~~ shared work plan is submitted; and

2.19 ~~(7)~~ (11) a signature of an owner or officer of the employer who is listed as an owner
 2.20 or officer on the employer's account under section 268.045.

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

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

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

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

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

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

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

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

3.10 Sec. 3. Minnesota Statutes 2012, section 268.136, is amended by adding a subdivision
 3.11 to read:

3.12 Subd. 2a. **Notice to participating employee.** The employer must provide written
 3.13 notification to each participating employee that the employer has submitted a proposed
 3.14 shared work plan. The notification must be provided to the employee no later than at
 3.15 the time the commissioner notifies the employer that a proposed shared work plan has
 3.16 been approved. The notification must inform the employee of the proposed terms of the
 3.17 shared work plan along with notice to the employee of the employee's right to apply for
 3.18 unemployment benefits.

3.19 Sec. 4. Minnesota Statutes 2012, section 268.136, subdivision 3, is amended to read:

3.20 Subd. 3. **Applicant requirements.** (a) An applicant, in order to be paid
 3.21 unemployment benefits under this section, must meet all of the requirements under section
 3.22 268.069, subdivision 1. The following provisions of section 268.085 do not apply to an
 3.23 applicant ~~under this section~~ in an approved shared work plan:

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

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

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

3.30 (4) ~~the requirement of actively seeking suitable employment under subdivision~~
 3.31 1, clause (5).

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

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

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

4.5 Sec. 5. Minnesota Statutes 2012, section 268.136, subdivision 4, is amended to read:

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

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

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

4.18 Sec. 6. Minnesota Statutes 2012, section 268.136, subdivision 5, is amended to read:

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

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

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

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

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

5.7 Sec. 7. Minnesota Statutes 2012, section 268.136, is amended by adding a subdivision
 5.8 to read:

5.9 Subd. 6. **Federal law.** This section is enacted to comply with the "short time
 5.10 compensation" requirements of the Federal Unemployment Tax Act, United States Code,
 5.11 title 26, section 3306 (v).

5.12 Sec. 8. Minnesota Statutes 2012, section 268.23, is amended to read:

5.13 **268.23 SEVERABLE.**

5.14 ~~In the event that~~ If the United States Department of Labor determines that any
 5.15 provision of the Minnesota Unemployment Insurance Law, ~~or any other provision of~~
 5.16 ~~Minnesota Statutes relating to the unemployment insurance program,~~ is not in conformity
 5.17 with, or is inconsistent with, the requirements of federal law, the provision has no force
 5.18 or effect, ~~but~~. If only a portion of the provision, or the application to any person or
 5.19 circumstances, is ~~held~~ determined not in conformity, or determined inconsistent, the
 5.20 remainder of the provision and the application of the provision to other persons or
 5.21 circumstances are not affected.

5.22 Sec. 9. **COMMISSIONER AUTHORIZED TO REQUEST SHARED WORK**
 5.23 **FUNDS.**

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

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

6.1 Sec. 10. **EFFECTIVE DATE.**

6.2 Unless otherwise specified, this article is effective for shared work plans approved
6.3 on or after July 1, 2013.

6.4 **ARTICLE 2**

6.5 **POLICY**

6.6 Section 1. Minnesota Statutes 2012, section 116L.17, subdivision 4, is amended to read:

6.7 Subd. 4. **Use of funds.** Funds granted by the board under this section may be used
6.8 for any combination of the following, except as otherwise provided in this section:

6.9 (1) employment transition services such as developing readjustment plans for
6.10 individuals; outreach and intake; early readjustment; job or career counseling; testing;
6.11 orientation; assessment of skills and aptitudes; provision of occupational and labor market
6.12 information; job placement assistance; job search; job development; prelayoff assistance;
6.13 relocation assistance; ~~and~~ programs provided in cooperation with employers or labor
6.14 organizations to provide early intervention in the event of plant closings or substantial
6.15 layoffs; and entrepreneurial training and business consulting;

6.16 (2) support services, including assistance to help the participant relocate to employ
6.17 existing skills; out-of-area job search assistance; family care assistance, including child
6.18 care; commuting assistance; emergency housing and rental assistance; counseling
6.19 assistance, including personal and financial; health care; emergency health assistance;
6.20 emergency financial assistance; work-related tools and clothing; and other appropriate
6.21 support services that enable a person to participate in an employment and training program
6.22 with the goal of reemployment;

6.23 (3) specific, short-term training to help the participant enhance current skills
6.24 in a similar occupation or industry; entrepreneurial training, customized training, or
6.25 on-the-job training; basic and remedial education to enhance current skills; and literacy
6.26 and work-related English training for non-English speakers; and

6.27 (4) long-term training in a new occupation or industry, including occupational skills
6.28 training or customized training in an accredited program recognized by one or more
6.29 relevant industries. Long-term training shall only be provided to dislocated workers
6.30 whose skills are obsolete and who have no other transferable skills likely to result in
6.31 employment at a comparable wage rate. Training shall only be provided for occupations or
6.32 industries with reasonable expectations of job availability based on the service provider's
6.33 thorough assessment of local labor market information where the individual currently
6.34 resides or is willing to relocate. This clause shall not restrict training in personal services
6.35 or other such industries.

7.1 Sec. 2. Minnesota Statutes 2012, section 116L.17, is amended by adding a subdivision
7.2 to read:

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

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

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

7.14 Sec. 3. Minnesota Statutes 2012, section 268.051, subdivision 5, is amended to read:

7.15 Subd. 5. **Tax rate for new employers.** (a) Each new taxpaying employer that does
7.16 not qualify for an experience rating under subdivision 3, except new employers in a high
7.17 experience rating industry, must be assigned, for a calendar year, a tax rate the higher of
7.18 (1) one percent, or (2) the tax rate computed, to the nearest 1/100 of a percent, by dividing
7.19 the total amount of unemployment benefits paid all applicants during the 48 calendar
7.20 months ending on June 30 of the prior calendar year by the total taxable wages of all
7.21 taxpaying employers during the same period, plus the applicable base tax rate and any
7.22 additional assessments under subdivision 2, paragraph (c).

7.23 (b) Each new taxpaying employer in a high experience rating industry that does not
7.24 qualify for an experience rating under subdivision 3, must be assigned, for a calendar year,
7.25 a tax rate the higher of (1) that assigned under paragraph (a), or (2) the tax rate, computed
7.26 to the nearest 1/100 of a percent, by dividing the total amount of unemployment benefits
7.27 paid to all applicants from high experience rating industry employers during the 48
7.28 calendar months ending on June 30 of the prior calendar year by the total taxable wages
7.29 of all high experience rating industry employers during the same period, to a maximum
7.30 provided for under subdivision 3, paragraph (b), plus the applicable base tax rate and any
7.31 additional assessments under subdivision 2, paragraph (c).

7.32 (c) An employer is considered to be in a high experience rating industry if:

7.33 (1) the employer is engaged in residential, commercial, or industrial construction,
7.34 including general contractors;

7.35 (2) the employer is engaged in sand, gravel, or limestone mining;

8.1 (3) the employer is engaged in the manufacturing of concrete, concrete products,
8.2 or asphalt; or

8.3 (4) the employer is engaged in road building, repair, or resurfacing, including bridge
8.4 and tunnels and residential and commercial driveways and parking lots.

8.5 (d) Regardless of any law to the contrary, a taxpaying employer must be assigned a
8.6 tax rate under this subdivision if:

8.7 ~~(1) the employer registers for a tax account under section 268.042 and for each of~~
8.8 ~~the five calendar quarters after registering files a "no wages paid" report on wage detail~~
8.9 ~~under section 268.044; or had no taxable wages during the experience rating period under~~
8.10 ~~subdivision 3.~~

8.11 ~~(2) the employer has filed 14 consecutive quarterly "no wages paid" reports on~~
8.12 ~~wage detail under section 268.044.~~

8.13 (e) The commissioner must send to the new employer, by mail or electronic
8.14 transmission, a determination of tax rate. An employer may appeal the determination of
8.15 tax rate in accordance with the procedures in subdivision 6, paragraph (c).

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

8.17 Sec. 4. Minnesota Statutes 2012, section 268.07, subdivision 3b, is amended to read:

8.18 Subd. 3b. **Limitations on applications and benefit accounts.** (a) An application for
8.19 unemployment benefits is effective the Sunday of the calendar week that the application
8.20 was filed. An application for unemployment benefits may be backdated one calendar week
8.21 before the Sunday of the week the application was actually filed if the applicant requests
8.22 the backdating at the time the application is filed. An application may be backdated only if
8.23 the applicant ~~had no employment~~ was unemployed during the period of the backdating.
8.24 If an individual attempted to file an application for unemployment benefits, but was
8.25 prevented from filing an application by the department, the application is effective the
8.26 Sunday of the calendar week the individual first attempted to file an application.

8.27 (b) A benefit account established under subdivision 2 is effective the date the
8.28 application for unemployment benefits was effective.

8.29 (c) A benefit account, once established, may later be withdrawn only if:

8.30 (1) the applicant has not been paid any unemployment benefits on that benefit
8.31 account; and

8.32 (2) a new application for unemployment benefits is filed and a new benefit account is
8.33 established at the time of the withdrawal.

9.1 A determination or amended determination of eligibility or ineligibility issued under
9.2 section 268.101, that was sent before the withdrawal of the benefit account, remains in
9.3 effect and is not voided by the withdrawal of the benefit account.

9.4 (d) An application for unemployment benefits is not allowed before the Sunday
9.5 following the expiration of the benefit year on a prior benefit account. Except as allowed
9.6 under paragraph (c), an applicant may establish only one benefit account each 52 calendar
9.7 weeks.

9.8 Sec. 5. **[268.133] UNEMPLOYMENT BENEFITS WHILE IN**
9.9 **ENTREPRENEURIAL TRAINING.**

9.10 Unemployment benefits are available to dislocated workers participating in the
9.11 converting layoffs into Minnesota businesses (CLIMB) program under section 116L.17,
9.12 subdivision 11. Applicants participating in CLIMB are considered in reemployment
9.13 assistance training under section 268.035, subdivision 21c. All requirements under section
9.14 268.069, subdivision 1, must be met, except the commissioner may waive:

9.15 (1) the earnings deductible provisions in section 268.085, subdivision 5; and
9.16 (2) the 32 hours of work limitation in section 268.085, subdivision 2, clause (6). A
9.17 maximum of 500 applicants may receive a waiver at any given time.

9.18 Sec. 6. Laws 2012, chapter 201, article 1, section 3, the effective date, is amended to
9.19 read:

9.20 **EFFECTIVE DATE.** This section is effective July 1, 2012, except the amendments
9.21 to paragraph (d) are effective for penalties ~~imposed~~ credited on or after July 1, 2013.

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

9.23 Sec. 7. **EFFECTIVE DATE.**

9.24 This article is effective July 1, 2013.

APPENDIX
Article locations in S0924-1

ARTICLE 1 FEDERAL CONFORMITY Page.Ln 1.10
ARTICLE 2 POLICY Page.Ln 6.4