

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0749.01 Kristen Forrestal

SENATE BILL 10-028

SENATE SPONSORSHIP

Heath,

HOUSE SPONSORSHIP

(None),

Senate Committees
Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING THE ESTABLISHMENT OF THE COLORADO "WORK SHARE
102 PROGRAM" TO ALLOW PAYMENT OF UNEMPLOYMENT
103 COMPENSATION BENEFITS TO ELIGIBLE EMPLOYEES WHO HAVE
104 RECEIVED A REDUCTION IN WORK HOURS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill directs the director of the division of employment and training in the department of labor and employment

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

(director) to establish a work share program allowing for the payment of unemployment compensation benefits to employees of a particular work unit whose work hours have been reduced at least 10% but not more than 40%. In order to be eligible for payment of benefits, an employer must submit a work share plan (plan) to the director for approval. The plan must apply to at least 10% of the employees in the affected unit. The plan must meet specific requirements in order to be approved by the director. Employees must also meet specific eligibility requirements in order to be eligible for the payment of benefits. The bill allows for modifications to a plan if conditions of the employer change. The bill also specifies that the benefits payable under the work share program are not in addition to the total maximum allowable regular unemployment benefits in a benefit year. **Sections 2 through 4** of the bill make conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 75 of title 8, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 2**

5 **WORK SHARE PROGRAM**

6 **8-75-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY BE
7 CITED AS THE "COLORADO WORK SHARE PROGRAM".

8 **8-75-202. Definitions.** AS USED IN THIS PART 2 UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "AFFECTED UNIT" MEANS A SPECIFIED PLANT, DEPARTMENT,
11 SHIFT, OR OTHER DEFINABLE UNIT TO WHICH A WORK SHARE PLAN APPLIES.

12 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
13 EMPLOYMENT AND TRAINING OR HIS OR HER DESIGNEE.

14 (3) "NORMAL WEEKLY WORK HOURS" MEANS THE NUMBER OF
15 HOURS IN A WEEK THAT AN EMPLOYEE ORDINARILY WORKS FOR A
16 PARTICIPATING EMPLOYER OR FORTY HOURS, WHICHEVER IS LESS.

17 **8-75-203. Work share program - work share plan - eligibility**
18 **of employer - approval - denial.** (1) THE DIRECTOR SHALL ESTABLISH

1 A VOLUNTARY WORK SHARE PROGRAM FOR THE PURPOSE OF ALLOWING
2 THE PAYMENT OF UNEMPLOYMENT COMPENSATION BENEFITS TO
3 EMPLOYEES WHOSE WAGES AND HOURS HAVE BEEN REDUCED. IN ORDER
4 TO PARTICIPATE IN THE WORK SHARE PROGRAM, AN EMPLOYER SHALL
5 SUBMIT A WORK SHARE PLAN IN WRITING TO THE DIRECTOR FOR
6 APPROVAL. IF THE EMPLOYER IS SUBJECT TO A COLLECTIVE BARGAINING
7 AGREEMENT, THE COLLECTIVE BARGAINING UNIT MUST AGREE IN WRITING
8 TO THE WORK SHARE PLAN PRIOR TO IMPLEMENTATION. AN EMPLOYER
9 THAT IS A NEGATIVE EXCESS EMPLOYER PURSUANT TO SECTION 8-76-103
10 (3) (b) IS NOT ELIGIBLE TO PARTICIPATE IN THE WORK SHARE PROGRAM.

11 (2) AN EMPLOYER SHALL SUBMIT A WORK SHARE PLAN TO THE
12 DIVISION ON FORMS AND FOLLOWING PROCEDURES REQUIRED BY THE
13 DIRECTOR. THE DIRECTOR MAY APPROVE A WORK SHARE PLAN IF:

14 (a) THE PLAN APPLIES TO AND IDENTIFIES A SPECIFIC AFFECTED
15 UNIT;

16 (b) THE PLAN IDENTIFIES THE EMPLOYEES IN THE AFFECTED UNIT
17 BY NAME AND SOCIAL SECURITY NUMBER;

18 (c) THE PLAN REDUCES THE NORMAL WORK FOR AN EMPLOYEE IN
19 THE AFFECTED UNIT BY AT LEAST TEN PERCENT AND NOT MORE THAN
20 FORTY PERCENT; AND

21 (d) THE PLAN APPLIES TO AT LEAST TEN PERCENT OF THE
22 EMPLOYEES IN THE AFFECTED UNIT.

23 (3) THE DIRECTOR SHALL NOT APPROVE A WORK SHARE PLAN
24 UNLESS THE EMPLOYER:

25 (a) AGREES THAT FOR THE DURATION OF THE EMPLOYER'S
26 PARTICIPATION IN THE WORK SHARE PROGRAM, THE EMPLOYER SHALL NOT
27 ELIMINATE OR DIMINISH HEALTH INSURANCE, RETIREMENT BENEFITS

1 RECEIVED UNDER A PENSION PLAN, PAID VACATION AND HOLIDAYS, SICK
2 LEAVE, OR ANY OTHER SIMILAR EMPLOYEE BENEFIT PROVIDED BY THE
3 EMPLOYER IMMEDIATELY PRIOR TO SUBMITTING THE WORK SHARE PLAN
4 TO THE DIVISION;

5 (b) CERTIFIES THAT THE COLLECTIVE BARGAINING AGENT FOR THE
6 EMPLOYEES, IF APPLICABLE, HAS AGREED TO THE WORK SHARE PLAN;

7 (c) CERTIFIES THAT THE TOTAL EMPLOYEE WORK HOURS OF THE
8 AFFECTED UNIT WOULD BE REDUCED AT THE SAME PERCENTAGE RATE AS
9 THOSE PROPOSED IN THE WORK SHARE PLAN IF THE EMPLOYER WERE NOT
10 PARTICIPATING IN THE WORK SHARE PROGRAM;

11 (d) CERTIFIES THAT THE EMPLOYER WILL NOT EMPLOY ADDITIONAL
12 EMPLOYEES IN THE AFFECTED UNIT WHILE PARTICIPATING IN THE WORK
13 SHARE PROGRAM;

14 (e) AGREES THAT NO EMPLOYEE PARTICIPATING IN THE WORK
15 SHARE PROGRAM SHALL RECEIVE, IN THE AGGREGATE, MORE THAN
16 TWENTY-SIX WEEKS OF BENEFITS; AND

17 (f) AGREES TO SUBMIT REPORTS CONCERNING THE OPERATION OF
18 THE WORK SHARE PLAN TO THE DIVISION UPON REQUEST OF THE DIRECTOR.

19 (4) THE DIRECTOR SHALL APPROVE OR DENY THE WORK SHARE
20 PLAN IN WRITING NO LATER THAN THIRTY DAYS AFTER THE DATE THE
21 DIVISION RECEIVES THE PLAN. IF THE DIRECTOR DENIES THE WORK SHARE
22 PLAN, HE OR SHE SHALL INFORM THE EMPLOYER IN WRITING OF THE
23 REASONS FOR THE DENIAL.

24 **8-75-204. Employee eligibility for unemployment benefits**
25 **under the work share plan.** (1) NOTWITHSTANDING ANY OTHER
26 PROVISION OF THIS TITLE, AN EMPLOYEE MAY BE ELIGIBLE FOR
27 UNEMPLOYMENT COMPENSATION BENEFITS FOR A PARTICULAR WEEK

1 PURSUANT TO THIS PART 2 IF:

2 (a) THE EMPLOYEE IS EMPLOYED AS A MEMBER OF AN AFFECTED
3 UNIT THAT IS SUBJECT TO AN APPROVED WORK SHARE PLAN THAT IS IN
4 EFFECT FOR THAT WEEK;

5 (b) THE EMPLOYEE'S NORMAL WEEKLY WORK HOURS HAVE BEEN
6 REDUCED BY AT LEAST TEN PERCENT BUT NOT MORE THAN FORTY PERCENT
7 AND THE EMPLOYEE HAS RECEIVED A CORRESPONDING REDUCTION IN
8 WAGES FOR THAT WEEK; AND

9 (c) THE EMPLOYEE IS ABLE AND AVAILABLE TO WORK ADDITIONAL
10 OR FULL-TIME HOURS WITH HIS OR HER EMPLOYER.

11 (2) THE ELIGIBILITY REQUIREMENTS FOR THE RECEIPT OF
12 UNEMPLOYMENT COMPENSATION BENEFITS RELATED TO THE AVAILABILITY
13 FOR WORK, ACTIVELY SEEKING WORK, AND REFUSING TO APPLY FOR OR TO
14 ACCEPT WORK WITH AN EMPLOYER OTHER THAN THE EMPLOYEE'S
15 CURRENT EMPLOYER, PURSUANT TO SECTIONS 8-73-107 AND 8-73-108 (5),
16 SHALL NOT APPLY TO AN EMPLOYEE SUBJECT TO THIS PART 2.

17 **8-75-205. Benefits formula - limitation of benefits.**

18 (1) **Formula.** THE DIVISION SHALL PAY AN EMPLOYEE WHO IS ELIGIBLE
19 FOR UNEMPLOYMENT COMPENSATION BENEFITS UNDER A WORK SHARE
20 PLAN A WEEKLY BENEFIT THAT IS THE PRODUCT OF THE EMPLOYEE'S
21 REGULAR WEEKLY BENEFIT AMOUNT PURSUANT TO ARTICLE 73 OF THIS
22 TITLE, MULTIPLIED BY THE NEAREST FULL PERCENTAGE OF THE REDUCTION
23 OF THE EMPLOYEE'S WORK HOURS, ROUNDED DOWN TO THE NEXT FULL
24 DOLLAR.

25 (2) **Limitations.** (a) AN INDIVIDUAL IS NOT ENTITLED TO RECEIVE
26 UNEMPLOYMENT COMPENSATION BENEFITS PURSUANT TO THIS PART 2 AND
27 REGULAR UNEMPLOYMENT COMPENSATION BENEFITS THAT EXCEED THE

1 MAXIMUM ALLOWABLE TOTAL BENEFITS PAYABLE TO AN INDIVIDUAL IN A
2 BENEFIT YEAR PURSUANT TO ARTICLES 70 TO 82 OF THIS TITLE.

3 (b) THE DIVISION SHALL NOT PAY UNEMPLOYMENT COMPENSATION
4 BENEFITS TO AN EMPLOYEE FOR A WEEK IN WHICH THE EMPLOYEE IS
5 COMPENSATED FOR WORK FOR HIS OR HER EMPLOYER THAT EXCEEDS THE
6 REDUCED HOURS ESTABLISHED UNDER THE WORK SHARE PLAN.

7 (c) AN EMPLOYEE RECEIVING WEEKLY UNEMPLOYMENT
8 COMPENSATION BENEFITS UNDER A WORK SHARE PLAN IS NOT ENTITLED TO
9 RECEIVE BENEFITS FOR PARTIAL EMPLOYMENT PURSUANT TO SECTION
10 8-73-103 FOR THE SAME WEEK.

11 (d) THE WAITING PERIOD OF ONE WEEK IN SECTION 8-73-107 (1) (d)
12 THAT APPLIES TO THE PAYMENT OF BENEFITS FOR TOTAL OR PARTIAL
13 UNEMPLOYMENT SHALL APPLY TO THE PAYMENT OF BENEFITS PURSUANT
14 TO THIS PART 2.

15 **8-75-206. Work share plan - effective date - expiration -**
16 **termination.** (1) A WORK SHARE PLAN AND THE PAYMENT OF
17 UNEMPLOYMENT COMPENSATION BENEFITS PURSUANT TO THE PLAN SHALL
18 BEGIN THE FIRST WEEK FOLLOWING APPROVAL OF THE PLAN BY THE
19 DIRECTOR OR THE FIRST WEEK SPECIFIED BY THE EMPLOYER, WHICHEVER
20 IS LATER.

21 (2) A WORK SHARE PLAN SHALL EXPIRE TWELVE MONTHS AFTER
22 THE EFFECTIVE DATE OF THE PLAN.

23 (3) THE DIRECTOR MAY TERMINATE A WORK SHARE PLAN FOR
24 GOOD CAUSE IF THE PLAN IS NOT EXECUTED ACCORDING TO THE TERMS
25 AND INTENT OF THE PROGRAM. "GOOD CAUSE" MAY INCLUDE FAILURE TO
26 COMPLY WITH SECTION 8-75-203, UNREASONABLE REVISION OF
27 PRODUCTIVITY STANDARDS FOR THE AFFECTED UNIT, OR OTHER CONDUCT

1 BY THE EMPLOYER THAT MAY COMPROMISE THE PURPOSE, INTENT, AND
2 EFFECTIVENESS OF A WORK SHARE PLAN.

3 **8-75-207. Work share plan modifications.** (1) AN EMPLOYER
4 MAY MODIFY A WORK SHARE PLAN TO MEET CHANGED CONDITIONS IF THE
5 MODIFICATION CONFORMS TO THE BASIC PROVISIONS OF THE PLAN AS
6 ORIGINALLY APPROVED BY THE DIRECTOR.

7 (2) BEFORE A PROPOSED CHANGE TO A WORK SHARE PLAN MAY BE
8 IMPLEMENTED:

9 (a) THE COLLECTIVE BARGAINING AGENT SHALL APPROVE THE
10 MODIFICATION TO THE PLAN IF AN EMPLOYEE IS COVERED BY A
11 COLLECTIVE BARGAINING UNIT;

12 (b) THE EMPLOYER SHALL REPORT THE CHANGE IN WRITING TO THE
13 DIVISION; AND

14 (c) THE DIRECTOR SHALL APPROVE THE MODIFIED PLAN.

15 (3) THE DIRECTOR SHALL APPROVE OR DENY A MODIFIED WORK
16 SHARE PLAN USING THE SAME STANDARDS AND REQUIREMENTS THAT ARE
17 USED FOR THE ORIGINAL WORK SHARE PLAN IN ACCORDANCE WITH
18 SECTION 8-75-203.

19 (4) APPROVAL OF A MODIFIED WORK SHARE PLAN SHALL NOT
20 AFFECT THE ORIGINAL EXPIRATION DATE OF THE WORK SHARE PLAN.

21 **8-75-208. Benefits payments charged to employer.**
22 UNEMPLOYMENT COMPENSATION BENEFITS PAID TO AN EMPLOYEE
23 PURSUANT TO THIS PART 2 SHALL BE CHARGED TO THE ACCOUNT OF THE
24 EMPLOYER PARTICIPATING IN THE WORK SHARE PLAN IN THE SAME
25 MANNER AS REGULAR BENEFITS PURSUANT TO SECTION 8-73-108 (3) (e)
26 (I).

27 **SECTION 2.** The introductory portions to 8-75-101 and 8-75-101

1 (2) (a), Colorado Revised Statutes, are amended, and the said 8-75-101
2 (2) (a) is further amended BY THE ADDITION OF A NEW
3 SUBPARAGRAPH, to read:

4 **8-75-101. Definitions.** As used in this ~~article~~ PART 1, unless the
5 context otherwise requires:

6 (2) (a) "Exhaustee" means an individual who, with respect to any
7 week of unemployment in his OR HER eligibility period:

8 (VI) HAS RECEIVED ALL OF THE UNEMPLOYMENT COMPENSATION
9 BENEFITS PURSUANT TO PART 2 OF THIS ARTICLE AND REGULAR
10 UNEMPLOYMENT COMPENSATION BENEFITS AVAILABLE IN A BENEFIT YEAR.

11 **SECTION 3.** 8-75-105 (2) and (3), Colorado Revised Statutes,
12 are amended to read:

13 **8-75-105. Total extended benefit amount.** (2) Notwithstanding
14 any other provisions of this ~~article~~ PART 1, if the benefit year of any
15 individual ends within an extended benefit period, the remaining balance
16 of extended benefits that such individual would, but for this subsection
17 (2), be entitled to receive in that extended benefit period, with respect to
18 weeks of unemployment beginning after the end of the benefit year, shall
19 be reduced (but not below zero) by an amount equal to the product of the
20 number of weeks for which the individual received any amounts as trade
21 readjustment allowances within that benefit year multiplied by the
22 individual's weekly benefit amount for extended benefits.

23 (3) Notwithstanding any other provision of this ~~article~~ PART 1,
24 during any fiscal year in which federal payments to states under section
25 204 of the "Federal-State Extended Unemployment Compensation Act of
26 1970" and amendments thereto are reduced under section 252 of the
27 "Balanced Budget and Emergency Deficit Control Act of 1985" and

1 amendments thereto, the total extended benefit amount payable to an
2 individual with respect to his OR HER applicable benefit year shall be
3 reduced by an amount equal to the aggregate of the reductions in the
4 weekly amounts paid to the individual under section 8-75-104.

5 **SECTION 4.** 8-70-110 (1) (b), Colorado Revised Statutes, is
6 amended to read:

7 **8-70-110. Benefits - classifications.** (1) Benefits are divided into
8 classifications, as follows:

9 (b) Extended benefits: Benefits payable to an individual under
10 PART 1 OF article 75 of this title, including benefits payable to federal
11 civilian employees and to ~~ex-servicemen~~ FORMER MEMBERS OF THE
12 ARMED FORCES pursuant to chapter 85 of title 5 of the United States Code,
13 for weeks of unemployment in his OR HER eligibility period;

14 **SECTION 5. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.