

SECOND REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 844

97TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR DIXON.

Read 1st time February 6, 2014, and ordered printed.

Read 2nd time February 27, 2014, and referred to the Committee on Seniors, Families and Pensions.

Reported from the Committee April 3, 2014, with recommendation that the bill do pass.

Taken up for Perfection April 15, 2014. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

5809S.01P

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## AN ACT

To repeal section 288.500, RSMo, and to enact in lieu thereof one new section relating to the shared work unemployment compensation program, with an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 288.500, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 288.500, to read as follows:

288.500. 1. There is created under this section a voluntary "Shared Work  
2 Unemployment Compensation Program". In connection therewith, the division  
3 may adopt rules and establish procedures, not inconsistent with this section,  
4 which are necessary to administer this program.

5 2. As used in this section, the following terms mean:

6 (1) "Affected unit", a specified department, shift, or other unit of three or  
7 more employees which is designated by an employer to participate in a shared  
8 work plan;

9 (2) "Division", the division of employment security;

10 (3) "Fringe benefit", health insurance, a retirement benefit received under  
11 a **defined benefit** pension plan, as **defined in section 414(j) of the Internal**  
12 **Revenue Code, or contributions under a defined contribution plan, as**  
13 **defined in section 414(i) of the Internal Revenue Code**, a paid vacation  
14 day, a paid holiday, sick leave, and any other analogous employee benefit that is  
15 provided by an employer;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 (4) "Normal weekly hours of work", as to any individual, the lesser of forty  
17 hours or the average obtained by dividing the total number of hours worked per  
18 week in the preceding twelve-week period by the number twelve;

19 (5) "Participating employee", an employee who works a reduced number  
20 of hours under a shared work plan;

21 (6) "Participating employer", an employer who has a shared work plan in  
22 effect;

23 (7) "Shared work benefit", an unemployment compensation benefit that  
24 is payable to an individual in an affected unit because the individual works  
25 reduced hours under an approved shared work plan;

26 (8) "Shared work plan", a program for reducing unemployment under  
27 which employees who are members of an affected unit share the work remaining  
28 after a reduction in their normal weekly hours of work;

29 (9) "Shared work unemployment compensation program", a program  
30 designed to reduce unemployment and stabilize the work force by allowing certain  
31 employees to collect unemployment compensation benefits if the employees share  
32 the work remaining after a reduction in the total number of hours of work and a  
33 corresponding reduction in wages.

34 3. An employer who wishes to participate in the shared work  
35 unemployment compensation program established under this section shall submit  
36 a written shared work plan in a form acceptable to the division for approval. As  
37 a condition for approval by the division, a participating employer shall agree to  
38 furnish the division with reports relating to the operation of the shared work plan  
39 as requested by the division. The employer shall monitor and evaluate the  
40 operation of the established shared work plan as requested by the division and  
41 shall report the findings to the division.

42 4. The division may approve a shared work plan if:

43 (1) The employer has filed all reports required to be filed under this  
44 chapter for all past and current periods and has paid all contributions due for all  
45 past and current periods;

46 (2) The shared work plan applies to and identifies a specified affected  
47 unit;

48 (3) The employees in the affected unit are identified by name and Social  
49 Security number;

50 (4) The shared work plan reduces the normal weekly hours of work for an  
51 employee in the affected unit by not less than [twenty] ~~ten~~ percent and not more

52 than [forty] **sixty** percent;

53 (5) The shared work plan applies to at least ten percent of the employees  
54 in the affected unit;

55 (6) The [shared work plan describes the manner in which] **employer**  
56 **certifies that, if** the participating employer [treats the] **provides** fringe  
57 benefits [of each], **as defined in this section, to any** employee in the affected  
58 unit, **such benefits shall continue to be provided to employees**  
59 **participating in the shared work unemployment compensation program**  
60 **under the same terms and conditions as though the normal weekly**  
61 **hours of work had not been reduced or to the same extent as other**  
62 **employees not participating in the shared work unemployment**  
63 **compensation program; [and]**

64 (7) The employer certifies that the implementation of a shared work plan  
65 and the resulting reduction in work hours is in lieu of [temporary] layoffs that  
66 would affect at least ten percent of the employees in the affected unit and that  
67 would result in an equivalent reduction in work hours;

68 (8) **The shared work plan includes an estimate of the number of**  
69 **employees who would be laid off if the employer does not participate**  
70 **in the shared work unemployment compensation program;**

71 (9) **The shared work plan describes the manner in which**  
72 **employees in the affected unit will be notified of the employer's**  
73 **participation in the shared work unemployment compensation program.**  
74 **If the employer will not provide advance notice to the employees in the**  
75 **affected unit, the shared work plan must contain a statement**  
76 **explaining why it is not feasible to provide advance notice;**

77 (10) **The employer certifies that participation in the shared work**  
78 **plan and its implementation is consistent with the employer's**  
79 **obligation under applicable federal and state laws; and**

80 (11) **The shared work plan includes any other provision that the**  
81 **United States Secretary of Labor determines to be appropriate for the**  
82 **purpose of a shared work unemployment compensation program.**

83 5. If any of the employees who participate in a shared work plan under  
84 this section are covered by a collective bargaining agreement, the shared work  
85 plan shall be approved in writing by the collective bargaining agent.

86 6. No shared work plan which will subsidize seasonal employers during  
87 the off-season [or subsidize employers, at least fifty percent of the employees of

88 which have normal weekly hours of work equaling thirty-two hours or less,] shall  
89 be approved by the division. No shared work plan benefits will be initiated when  
90 the reduced hours coincide with holiday earnings already committed to be paid  
91 by the employer. Shared work plan benefits may not be denied in any week  
92 containing a holiday for which holiday earnings are committed to be paid by the  
93 employer unless the shared work benefits to be paid are for the same hours in the  
94 same day as the holiday earnings.

95         7. The division shall approve or deny a shared work plan not later than  
96 the thirtieth day after the day on which the shared work plan is received by the  
97 division. The division shall approve or deny a plan in writing. If the division  
98 denies a plan, the division shall notify the employer of the reasons for the  
99 denial. Approval or denial of a plan by the division shall be final and such  
100 determination shall be subject to review in the manner otherwise provided by  
101 law. If approval of a plan is denied by the division, the employer may submit a  
102 new plan to the division for consideration no sooner than forty-five calendar days  
103 following the date on which the division disapproved the employer's previously  
104 submitted plan.

105         8. The division may revoke approval of a shared work plan and terminate  
106 the plan if it determines that the shared work plan is not being executed  
107 according to the terms and intent of the shared work unemployment  
108 compensation program, or if it is determined by the division that the approval of  
109 the shared work plan was based, in whole or in part, upon information contained  
110 in the plan which was either false or substantially misleading.

111         9. Each shared work plan approved by the division shall become effective  
112 on the first day of the week in which it is approved by the division or on a later  
113 date as specified in the shared work plan. Each shared work plan approved by  
114 the division shall expire on the last day of the twelfth full calendar month after  
115 the effective date of such shared work plan.

116         10. An employer may modify a shared work plan created under this  
117 section to meet changed conditions if the modification conforms to the basic  
118 provisions of the shared work plan as originally approved by the division. The  
119 employer shall report the changes made to the plan in writing to the division at  
120 least seven days before implementing such changes. The division shall reevaluate  
121 the shared work plan and may approve the modified shared work plan if it meets  
122 the requirements for approval under subsection 4 of this section. The approval  
123 of a modified shared work plan shall not, under any circumstances, affect the

124 expiration date originally set for the shared work plan. If modifications cause the  
125 shared work plan to fail to meet the requirements for approval, the division shall  
126 deny approval of the modifications as provided in subsection 7 of this section.

127         11. Notwithstanding any other provisions of this chapter, an individual  
128 is unemployed for the purposes of this section in any week in which the  
129 individual, as an employee in an affected unit, works less than his normal weekly  
130 hours of work in accordance with an approved shared work plan in effect for that  
131 week.

132         12. An individual who is otherwise entitled to receive regular  
133 unemployment insurance benefits under this chapter shall be eligible to receive  
134 shared work benefits with respect to any week in which the division finds that:

135             (1) The individual is employed as a member of an affected unit subject to  
136 a shared work plan that was approved before the week in question and is in effect  
137 for that week;

138             (2) Notwithstanding the provisions of subdivision (2) of subsection 1 of  
139 section 288.040, the individual is able to work[,] **and** available for [work and  
140 works all available] **his or her normal hours of work** with the participating  
141 employer;

142             (3) The individual's normal weekly hours of work have been reduced by  
143 at least [twenty] **ten** percent but not more than [forty] **sixty** percent, with a  
144 corresponding reduction in wages; and

145             (4) The individual has served a waiting week as defined in section  
146 288.030.

147         13. A waiting week served under the provisions of subdivision (3) of  
148 subsection 1 of section 288.040 shall serve to meet the requirements of  
149 subdivision (4) of subsection 12 of this section and a waiting week served under  
150 the provisions of subdivision (4) of subsection 12 of this section shall serve to  
151 meet the requirements of section 288.040. Notwithstanding any other provisions  
152 of this chapter, an individual who files a new initial claim during the pendency  
153 of the twelve-month period in which a shared work plan is in effect shall serve  
154 a waiting week whether or not the individual has served a waiting week under  
155 this subsection.

156         14. The division shall not deny shared work benefits for any week to an  
157 otherwise eligible individual by reason of the application of any provision of this  
158 chapter that relates to availability for work, active search for work, [or] refusal  
159 to apply for or accept work with an employer other than the participating

160 employer under the plan, **or training that is approved by the director, as**  
161 **provided in section 288.055, such as employer-sponsored training or**  
162 **training funded under the Workforce Investment Act of 1998.**

163         15. The division shall pay an individual who is eligible for shared work  
164 benefits under this section a weekly shared work benefit amount equal to the  
165 individual's regular weekly benefit amount for a period of total unemployment  
166 less any deductible amounts under this chapter except wages received from any  
167 employer, multiplied by the full percentage of reduction in the individual's hours  
168 as set forth in the employer's shared work plan. If the shared work benefit  
169 amount calculated under this subsection is not a multiple of one dollar, the  
170 division shall round the amount so calculated to the next lowest multiple of one  
171 dollar. [An individual shall be ineligible for shared work benefits for any week  
172 in which the individual performs paid work for the participating employer in  
173 excess of the reduced hours established under the shared work plan.]

174         16. An individual shall not be entitled to receive shared work benefits and  
175 regular unemployment compensation benefits in an aggregate amount which  
176 exceeds the maximum total amount of benefits payable to that individual in a  
177 benefit year as provided under section [288.038] **288.060**. Notwithstanding any  
178 other provisions of this chapter, an individual shall not be eligible to receive  
179 shared work benefits for more than fifty-two calendar weeks during the  
180 twelve-month period of the shared work plan. No week shall be counted as a  
181 week of unemployment for the purposes of this subsection unless it occurs within  
182 the twelve-month period of the shared work plan.

183         17. [Notwithstanding any other provision of this chapter, all benefits paid  
184 under a shared work plan which are chargeable to the participating employer or  
185 any other base period employer of a participating employee shall be charged to  
186 the account of the participating employer under the plan.

187         18.] An individual who has received all of the shared work benefits and  
188 regular unemployment compensation benefits available in a benefit year is an  
189 exhaustee under section 288.062 and is entitled to receive extended benefits  
190 under section 288.062 if the individual is otherwise eligible under that section.

191         **18. If the United States Secretary of Labor determines any**  
192 **provision of this section to be nonconforming with federal law, the**  
193 **nonconforming provision shall not affect the validity of the remaining**  
194 **provisions of this section.**

Section B. Because of the need to conform with federal requirements for

2 shared work compensation programs, section A of this act is deemed necessary  
3 for the immediate preservation of the public health, welfare, peace and safety,  
4 and is hereby declared to be an emergency act within the meaning of the  
5 constitution, and section A of this act shall be in full force and effect upon its  
6 passage and approval.

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Unofficial

Bill

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