

HOUSE BILL No. 2575

By Committee on Federal and State Affairs

3-13

9 AN ACT concerning the employment security law; relating to eligibility
10 for benefits; amending K.S.A. 2006 Supp. 44-705 and 44-757 and re-
11 pealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 44-705 is hereby amended to read as
15 follows: 44-705. Except as provided by K.S.A. 44-757 and amendments
16 thereto, an unemployed individual shall be eligible to receive benefits
17 with respect to any week only if the secretary, or a person or persons
18 designated by the secretary, finds that:

19 (a) The claimant has registered for work at and thereafter continued
20 to report at an employment office in accordance with rules and regula-
21 tions adopted by the secretary, except that, subject to the provisions of
22 subsection (a) of K.S.A. 44-704 and amendments thereto, the secretary
23 may adopt rules and regulations which waive or alter either or both of
24 the requirements of this subsection (a).

25 (b) The claimant has made a claim for benefits with respect to such
26 week in accordance with rules and regulations adopted by the secretary.

27 (c) The claimant is able to perform the duties of such claimant's cus-
28 tomary occupation or the duties of other occupations for which the claim-
29 ant is reasonably fitted by training or experience, and is available for work,
30 as demonstrated by the claimant's pursuit of the full course of action most
31 reasonably calculated to result in the claimant's reemployment except
32 that, notwithstanding any other provisions of this section, an unemployed
33 claimant otherwise eligible for benefits shall not become ineligible for
34 benefits because of the claimant's enrollment in and satisfactory pursuit
35 of approved training, including training approved under section 236(a)(1)
36 of the trade act of 1974.

37 For the purposes of this subsection, an inmate of a custodial or cor-
38 rectional institution shall be deemed to be unavailable for work and not
39 eligible to receive unemployment compensation while incarcerated.

40 (d) The claimant has been unemployed for a waiting period of one
41 week or the claimant is unemployed and has satisfied the requirement
42 for a waiting period of one week under the shared work unemployment
43 compensation program as provided in subsection (k)(4) of K.S.A. 44-757

1 and amendments thereto, which period of one week, in either case, occurs
2 within the benefit year which includes the week for which the claimant
3 is claiming benefits. *The waiting week requirement of this subsection (d)*
4 *shall not apply to new claims filed during the period commencing July 1,*
5 *2007, and ending on June 30, 2009.* No week shall be counted as a week
6 of unemployment for the purposes of this subsection (d):

7 (1) If benefits have been paid for such week;
8 (2) if the individual fails to meet with the other eligibility require-
9 ments of this section; or

10 (3) if an individual is seeking unemployment benefits under the un-
11 employment compensation law of any other state or of the United States,
12 except that if the appropriate agency of such state or of the United States
13 finally determines that the claimant is not entitled to unemployment ben-
14 efits under such other law, this subsection (d)(3) shall not apply.

15 (e) For benefit years established on and after the effective date of
16 this act, the claimant has been paid total wages for insured work in the
17 claimant's base period of not less than 30 times the claimant's weekly
18 benefit amount and has been paid wages in more than one quarter of the
19 claimant's base period, except that the wage credits of an individual
20 earned during the period commencing with the end of a prior base period
21 and ending on the date on which such individual filed a valid initial claim
22 shall not be available for benefit purposes in a subsequent benefit year
23 unless, in addition thereto, such individual has returned to work and sub-
24 sequently earned wages for insured work in an amount equal to at least
25 eight times the claimant's current weekly benefit amount.

26 (f) The claimant participates in reemployment services, such as job
27 search assistance services, if the individual has been determined to be
28 likely to exhaust regular benefits and needs reemployment services pur-
29 suant to a profiling system established by the secretary, unless the sec-
30 retary determines that: (1) The individual has completed such services;
31 or (2) there is justifiable cause for the claimant's failure to participate in
32 such services.

33 (g) The claimant is returning to work after a qualifying injury and has
34 been paid total wages for insured work in the claimant's alternative base
35 period of not less than 30 times the claimant's weekly benefit amount and
36 has been paid wages in more than one quarter of the claimant's alternative
37 base period if:

38 (1) The claimant has filed for benefits within four weeks of being
39 released to return to work by a licensed and practicing health care
40 provider.

41 (2) The claimant files for benefits within 24 months of the date the
42 qualifying injury occurred.

43 (3) The claimant attempted to return to work with the employer

1 where the qualifying injury occurred, but the individual's regular work or
2 comparable and suitable work was not available.

3 Sec. 2. K.S.A. 2006 Supp. 44-757 is hereby amended to read as fol-
4 lows: 44-757. *Shared work unemployment compensation program.* (a) As
5 used in this section:

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

9 (2) "Fringe benefit" means health insurance, a retirement benefit
10 received under a pension plan, a paid vacation day, a paid holiday, sick
11 leave, and any other analogous employee benefit that is provided by an
12 employer.

13 (3) "Fund" has the meaning ascribed thereto by subsection (k) of
14 K.S.A. 44-703 and amendments thereto.

15 (4) "Normal weekly hours of work" means the lesser of 40 hours or
16 the average obtained by dividing the total number of hours worked per
17 week during the preceding twelve-week period by the number 12.

18 (5) "Participating employee" means an employee who works a re-
19 duced number of hours under a shared work plan.

20 (6) "Participating employer" means an employer who has a shared
21 work plan in effect.

22 (7) "Secretary" means the secretary of labor or the secretary's
23 designee.

24 (8) "Shared work benefit" means an unemployment compensation
25 benefit that is payable to an individual in an affected unit because the
26 individual works reduced hours under an approved shared work plan.

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

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

36 (b) The secretary shall establish a voluntary shared work unemploy-
37 ment compensation program as provided by this section. The secretary
38 may adopt rules and regulations and establish procedures necessary to
39 administer the shared work unemployment compensation program.

40 (c) An employer who wishes to participate in the shared work un-
41 employment compensation program must submit a written shared work
42 plan to the secretary for the secretary's approval. As a condition for ap-
43 proval, a participating employer must agree to furnish the secretary with

1 reports relating to the operation of the shared work plan as requested by
2 the secretary. The employer shall monitor and evaluate the operation of
3 the established shared work plan as requested by the secretary and shall
4 report the findings to the secretary.

5 (d) The secretary may approve a shared work plan if:

6 (1) The shared work plan applies to and identifies a specific affected
7 unit;

8 (2) the employees in the affected unit are identified by name and
9 social security number;

10 (3) the shared work plan reduces the normal weekly hours of work
11 for an employee in the affected unit by not less than 20% and not more
12 than 40%;

13 (4) the shared work plan applies to at least 10% of the employees in
14 the affected unit;

15 (5) the shared work plan describes the manner in which the partici-
16 pating employer treats the fringe benefits of each employee in the af-
17 fected unit;

18 (6) the employer certifies that the implementation of a shared work
19 plan and the resulting reduction in work hours is in lieu of temporary
20 layoffs that would affect at least 10% of the employees in the affected
21 unit and that would result in an equivalent reduction in work hours;

22 (7) the employer has filed all reports required to be filed under the
23 employment security law for all past and current periods and has paid all
24 contributions, benefit cost payments, or if a reimbursing employer has
25 made all payments in lieu of contributions due for all past and current
26 periods; and

27 (8) (A) a contributing employer must be eligible for a rate compu-
28 tation under subsection (a)(2) of K.S.A. 44-710a, and amendments
29 thereto, and is not a negative account employer as defined by subsection
30 (d) of K.S.A. 44-710a and amendments thereto; (B) a rated governmental
31 employer must be eligible for a rate computation under subsection (g) of
32 K.S.A. 44-710d and amendments thereto.

33 (e) If any of the employees who participate in a shared work plan
34 under this section are covered by a collective bargaining agreement, the
35 shared work plan must be approved in writing by the collective bargaining
36 agent.

37 (f) A shared work plan may not be implemented to subsidize seasonal
38 employers during the off-season or to subsidize employers who have tra-
39 ditionally used part-time employees.

40 (g) The secretary shall approve or deny a shared work plan no later
41 than the 30th day after the day the shared work plan is received by the
42 secretary. The secretary shall approve or deny a shared work plan in
43 writing. If the secretary denies a shared work plan, the secretary shall

1 notify the employer of the reasons for the denial.

2 (h) A shared work plan is effective on the date it is approved by the
3 secretary, except for good cause a shared work plan may be effective at
4 any time within a period of 14 days prior to the date such plan is approved
5 by the secretary. The shared work plan expires on the last day of the 12th
6 full calendar month after the effective date of the shared work plan.

7 (i) An employer may modify a shared work plan created under this
8 section to meet changed conditions if the modification conforms to the
9 basic provisions of the shared work plan as approved by the secretary.
10 The employer must report the changes made to the shared work plan in
11 writing to the secretary before implementing the changes. If the original
12 shared work plan is substantially modified, the secretary shall reevaluate
13 the shared work plan and may approve the modified shared work plan if
14 it meets the requirements for approval under subsection (d). The approval
15 of a modified shared work plan does not affect the expiration date origi-
16 nally set for that shared work plan. If substantial modifications cause the
17 shared work plan to fail to meet the requirements for approval, the sec-
18 retary shall deny approval to the modifications as provided by subsection
19 (g).

20 (j) Notwithstanding any other provisions of the employment security
21 law, an individual is unemployed and is eligible for shared work benefits
22 in any week in which the individual, as an employee in an affected unit,
23 works for less than the individual's normal weekly hours of work in ac-
24 cordance with an approved shared work plan in effect for that week. The
25 secretary may not deny shared work benefits for any week to an otherwise
26 eligible individual by reason of the application of any provision of the
27 employment security law that relates to availability for work, active search
28 for work or refusal to apply for or accept work with an employer other
29 than the participating employer.

30 (k) An individual is eligible to receive shared work benefits with re-
31 spect to any week in which the secretary finds that:

32 (1) The individual is employed as a member of an affected unit sub-
33 ject to a shared work plan that was approved before the week in question
34 and is in effect for that week;

35 (2) the individual is able to work and is available for additional hours
36 of work or full-time work with the participating employer;

37 (3) the individual's normal weekly hours of work have been reduced
38 by at least 20% but not more than 40%, with a corresponding reduction
39 in wages; and

40 (4) the individual's normal weekly hours of work and wages have been
41 reduced as described in paragraph (3) of this subsection (k) for a waiting
42 period of one week which occurs within the period the shared work plan
43 is in effect, which period includes the week for which the individual is

- 1 claiming shared work benefits. *The waiting week requirement of this sub-*
2 *section (k)(4) shall not apply to new claims filed during the period com-*
3 *mencing July 1, 2007, and ending on June 30, 2009.*
- 4 (l) The secretary shall pay an individual who is eligible for shared
5 work benefits under this section a weekly shared work benefit amount
6 equal to the individual's regular weekly benefit amount for a period of
7 total unemployment multiplied by the nearest full percentage of reduc-
8 tion of the individual's hours as set forth in the employer's shared work
9 plan. If the shared benefit amount is not a multiple of \$1, the secretary
10 shall reduce the amount to the next lowest multiple of \$1. All shared work
11 benefits under this section shall be payable from the fund.
- 12 (m) The secretary may not pay an individual shared work benefits for
13 any week in which the individual performs paid work for the participating
14 employer in excess of the reduced hours established under the shared
15 work plan.
- 16 (n) An individual may not receive shared work benefits and regular
17 unemployment compensation benefits in an amount that exceeds the
18 maximum total amount of benefits payable to that individual in a benefit
19 year as provided by subsection (f) of K.S.A. 44-704 and amendments
20 thereto.
- 21 (o) An individual who has received all of the shared work benefits
22 and regular unemployment compensation benefits available in a benefit
23 year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments
24 thereto, and is entitled to receive extended benefits under such statutes
25 if the individual is otherwise eligible under such statutes.
- 26 (p) The secretary may terminate a shared work plan for good cause
27 if the secretary determines that the shared work plan is not being exe-
28 cuted according to the terms and intent of the shared work unemploy-
29 ment compensation program.
- 30 (q) Notwithstanding any other provisions of this section, an individual
31 shall not be eligible to receive shared work benefits for more than 26
32 calendar weeks during the 12-month period of the shared work plan,
33 except that two weeks of additional benefits shall be payable to claimants
34 who exhaust regular benefits and any benefits under any other federal or
35 state extended benefits program during the period July 1, 2003 through
36 June 30, 2004. No week shall be counted as a week for which an individual
37 is eligible for shared work benefits for the purposes of this section unless
38 the week occurs within the 12-month period of the shared work plan.
- 39 (r) No shared work benefit payment shall be made under any shared
40 work plan or this section for any week which commences before April 1,
41 1989.
- 42 (s) This section shall be construed as part of the employment security
43 law.

- 1 Sec. 3. K.S.A. 2006 Supp. 44-705 and 44-757 are hereby repealed.
- 2 Sec. 4. This act shall take effect and be in force from and after its
- 3 publication in the Kansas register.