

## CHAPTER 68

## H.B. No. 71

An Act relating to the creation of a shared work unemployment compensation program.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** The Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 31 to read as follows:

**Sec. 31. SHARED WORK UNEMPLOYMENT COMPENSATION PROGRAM.** (a) *In this section:*

- (1) "Affected unit" means a specified department, shift, or other unit of two or more employees that is designated by an employer to participate in a shared work plan.
- (2) "Commission" means the Texas Employment Commission.
- (3) "Fringe benefit" means health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer.
- (4) "Normal weekly hours of work" means the number of hours in a week that an employee, ordinarily works for a participating employer or 40 hours, whichever is less.
- (5) "Participating employee" means an employee who works a reduced number of hours under a shared work plan.
- (6) "Participating employer" means an employer who has a shared work plan in effect.
- (7) "Shared work benefit" means an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan.
- (8) "Shared work plan" means a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.
- (9) "Shared work unemployment compensation program" means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

(b) The commission shall establish a voluntary shared work unemployment compensation program as provided by this section. The commission may adopt rules and establish procedures necessary to administer the program.

(c) An employer who wishes to participate in the shared work unemployment compensation program must submit a written shared work plan to the commission for the commission's approval. As a condition for approval, a participating employer must agree to furnish the commission with reports relating to the operation of the plan as requested by the commission. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the commission and shall report the findings to the commission.

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

- (1) the plan applies to and identifies a specific affected unit;
- (2) the employees in the affected unit are identified by name and social security number;
- (3) the plan reduces the normal weekly hours of work for an employee in the affected unit by not less than 10 percent and not more than 40 percent;
- (4) the plan applies to at least 10 percent of the employees in the affected unit;
- (5) the plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit; and

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

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

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

(g) The commission shall approve or deny a shared work plan not later than the 30th day after the day the plan is received by the commission. The commission shall approve or deny a plan in writing. If the commission denies a plan, the commission shall notify the employer of the reasons for the denial.

(h) A shared work plan is effective on the date it is approved by the commission. The plan expires on the last day of the 12th full calendar month after the effective date of the plan.

(i) An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the plan as approved by the commission. The employer must report the changes made to the plan in writing to the commission before implementing the changes. If the original plan is substantially modified, the commission shall reevaluate the plan and may approve the modified plan if it meets the requirements for approval under Subsection (d) of this section. The approval of a modified plan does not affect the expiration date originally set for that plan. If substantial modifications cause the plan to fail to meet the requirements for approval, the commission shall deny approval to the modifications as provided by Subsection (g) of this section.

(j) Notwithstanding any other provisions of this Act, an individual is unemployed for the purposes of this Act and is eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The commission may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of this Act that relates to availability for work, active search for work, or refusal to apply for or accept work with an employer other than the participating employer.

(k) An individual is eligible to receive shared work benefits with respect to any week in which the commission finds that:

- (1) the individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;
- (2) the individual is able to work and is available for additional hours of work or full-time work with the participating employer; and
- (3) the individual's normal weekly hours of work have been reduced by at least 10 percent but not more than 40 percent, with a corresponding reduction in wages.

(l) The commission shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's wages as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of one dollar, the commission shall round the amount to the next highest multiple of one dollar.

(m) The commission may not pay an individual shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.

(n) An individual may not receive shared work benefits and regular unemployment compensation benefits in an amount that exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided by Section 3(d) of this Act. An individual who receives shared work benefits under this section is not entitled to receive benefits for partial unemployment under Section 3(c) of this Act for any week in which the individual works as a participating employee under a shared work plan.

(o) An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under Section 6-A(a)(8) of this Act, and is entitled to receive extended benefits under Section 6-A of this Act if the individual is otherwise eligible under that section.

(p) The commission may terminate a shared work plan for good cause if the commission determines that the plan is not being executed according to the terms and intent of the program.

**SECTION 2.** Section 4, Texas Unemployment Compensation Act (Article 5221b-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. **BENEFIT ELIGIBILITY CONDITIONS.** Except as provided by Section 31 of this Act, an [An] unemployed individual shall be eligible to receive benefits with respect to any benefit period only if the Commission finds that:

(a) He has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulations as the Commission may prescribe;

(b) He has made a claim for benefits in accordance with the provisions of Subsection 6(a) of this Act;

(c) He is able to work;

(d) He is available for work;

(e) He has within his base period received benefit wage credits for employment by employers of not less than Five Hundred Dollars (\$500) and has total benefit wage credits in his base period of not less than one and one-half (1-1/2) times his high quarter benefit wage credits in his base period, or within at least one quarter of his base period received wages for employment by employers equal to two-thirds (2/3) of the maximum amount of wages as defined in the Federal Insurance Contributions Act (Section 3121, Chapter 21, Subtitle C, Internal Revenue Code), as amended, or as it may hereafter be amended, provided that any claimant who has had a prior benefit year must have earned wages of Two Hundred Fifty Dollars (\$250) or more subsequent to the beginning date of the prior benefit year.

(f) Prior to the first payment of benefits following an initial claim he has been totally or partially unemployed for a waiting period of seven (7) consecutive days. No week shall be counted as a waiting period week for the purposes of this Subsection:

(1) Unless he has registered for work at an employment office in accordance with Subsection (a) of this Section;

(2) Unless it is a week following the filing of an initial claim;

(3) Unless he reports at an office of the Commission and certifies that he has met the waiting period requirements herein prescribed for the preceding seven (7) days;

(4) If benefits have been paid or are payable with respect thereto;

(5) If the individual does not meet the eligibility conditions of Subsections (c) and (d) of this Section 4;

(6) If the individual has been disqualified for benefits for such seven (7) day period under the provisions of Subsections (a), (b), (c), or (d) of Section 5 of this Act;

(7) Provided, notwithstanding any other provision of this Subsection (f), when an individual has been paid benefits in his current benefit year equal to three times his weekly benefit amount, he shall be eligible to receive benefits on his waiting period claim in accordance with the terms of the Act.

**SECTION 3.** Section 7(c)(6), Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes), is amended by adding Paragraph (G) to read as follows:

(G) The Commission shall extend the table provided by Paragraph (A) of this subdivision, using the same mathematical principles used in constructing the table, to provide tax rates up to nine percent (9%) for an employer with an approved shared work unemployment compensation plan in effect under Section 31 of this Act during the current year or a prior three-year period.

**SECTION 4.** This Act takes effect September 1, 1985. An individual is entitled to receive shared work benefits under a shared work plan that is approved by the commission on or after January 1, 1986.

**SECTION 5.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 4, 1985, by a non-record vote; passed by the Senate on April 18, 1985, by the following vote: Yeas 31, Nays 0.

Approved: May 2, 1985

Effective: September 1, 1985