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SENATE BILL NO. 763

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Commerce and Labor
on February 7, 2000)

(Patron Prior to Substitute—Senator Reynolds)

A BILL to amend and reenact §§ 60.2-116 and 60.2-612 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 32.1-330.1:01 and 60.2-602.1, relating to the Textile Workers Relief Act of 2000.

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-116 and 60.2-612 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 32.1-330.1:01 and 60.2-602.1 as follows:

§ 32.1-330.1:01. State Program for Displaced Virginia Workers.

A. From such funds as appropriated for this purpose, the Board of Medical Assistance Services shall develop, implement, and administer the State Program for Displaced Virginia Workers to provide at least twenty-four months of health care coverage for individuals and their families who are eligible for North American Free Trade Agreement (NAFTA) transitional adjustment assistance pursuant to the Trade Act of 1974, 19 USC § 2331 and its implementing regulations, and who meet the income and other criteria established in this section.

B. The Board shall promulgate any necessary regulations for implementation of this program including, but not limited to:

1. Financial eligibility criteria, as set forth in the appropriation act, allowing for a maximum family income of not more than 300 percent of federal poverty level;

2. Allowable resources, as set forth in the appropriation act, which may exceed twice the maximum amount of resources that an individual may have and be eligible for medical assistance services in Virginia as established in regulation and in the state plan for medical assistance services as approved by the Health Care Financing Administration;

3. A provision requiring that costs incurred for medical care or any other type of remedial care shall not be taken into account when determining income;

4. The amount, duration, and scope of medical services covered by the Program; and

5. Application forms and the manner of distribution of such forms and of publicizing the availability of the Program.

C. The Board's regulations shall provide for a two-pronged program consisting of (i) a program in compliance the subsections A and B of this section to be available to eligible individuals and their families regardless of failure to elect eligibility to continue their employer's group policy pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 that shall provide for twenty-four months of health care coverage through a state-only program to be implemented by the Department and (ii) a program that provides for (a) payment of health insurance premiums for the period of eighteen-month eligibility for the COBRA extension or such COBRA-eligibility period as may remain upon the individual and his family obtaining eligibility for the State Program for Displaced Virginia Workers, (b) a continuing, unbroken six-month period of eligibility for the state-only program, and (c) a total of twenty-four months of continuing, unbroken coverage via the COBRA extension and the state-only program.

Pursuant to the Program established in this section, the payment of health insurance premiums, in lieu of twenty-four months of participation in the state-only health care coverage, shall be provided for individuals and their families who are eligible for the Program and are not eligible for Medicaid and who can document (i) eligibility for the State Program for Displaced Virginia Workers as established in this section and the Board's regulations; (ii) eligibility for NAFTA transitional adjustment assistance pursuant to 19 USC § 2331 and its implementing regulations, and (iii) an election to continue their employer's group policy pursuant to COBRA.

D. The services available under the Program shall not exceed, in amount, duration or scope, those services available to recipients of medical assistance services as established in the state plan for medical assistance pursuant to § 32.1-325.

E. For the purpose of linking essential services to displaced workers and their families and ameliorating, to the extent possible, the effects of loss of income and benefits, the Board shall establish an aggressive outreach mechanism for recently displaced workers in Virginia.

§ 60.2-116. Reciprocal agreements.

A. Subject to the approval of the Governor, the Commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government whereby individuals performing services in this and other states for a single employing unit under circumstances not

specifically provided for in §§ 60.2-212 through 60.2-219, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this Commonwealth or within one of such other states. Such arrangements may set forth terms whereby the potential right to benefits accumulated under the unemployment compensation laws of one or more states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency of any state under terms which the Commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

B. Subject to the approval of the Governor, the Commission is also authorized to enter into arrangements with the appropriate agencies of other states or of the federal government:

1. a. Whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages for employment by employers for the purposes of §§ 60.2-602, 60.2-602.1, 60.2-606, 60.2-607, 60.2-609, 60.2-610, 60.2-611, subdivision 1 of § 60.2-612 and §§ 60.2-614 through 60.2-617, provided such other state agency or agency of the federal government has agreed to reimburse the fund for such portion of benefits paid under this title upon the basis of such wages or services as the Commission finds will be fair and reasonable as to all affected interests; and

b. Whereby the Commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers, as the Commission finds will be fair and reasonable as to all affected interests.

2. Reimbursements so payable under subdivision 1 b of this subsection shall be deemed to be benefits for the purposes of §§ 60.2-300 through 60.2-304, but no reimbursement so payable shall be charged against any employer's account for the purposes of §§ 60.2-526 through 60.2-531. The Commission is hereby authorized to make to other state or federal agencies and receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section.

C. Subject to the approval of the Governor, the Commission is also authorized to enter into arrangements with the appropriate agencies of other states or of the federal government:

1. Whereby the Commission may deduct, in accordance with the provisions of § 60.2-633, from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other state, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made and in accordance with the arrangement between the Commission and the jurisdiction.

2. Whereby the United States agrees to allow the Commission to recover from unemployment benefits otherwise payable to an individual under an unemployment benefit program of the United States any overpayments made by the Commission to such individual under this title and not previously recovered, in accordance with the same procedures that apply under subdivision 1 of this subsection.

3. The amendments made by this subsection shall apply to recoveries made on or after July 1, 1987, and shall apply with respect to overpayments made before, on, or after such date.

§ 60.2-602.1. *Weekly benefit calculations for certain high-unemployment localities.*

A. *For purposes of this section, "eligible employee" shall mean (i) any employee who files a claim beginning December 1, 1999 through April 30, 2000, and who resides or whose last place of employment is in a county or city with an unemployment rate of not less than two hundred percent of the statewide unemployment rate as of December, 1999, as calculated by the Commission and released January 28, 2000; or (ii) any employee who files a claim after April 30, 2000, and who resides or whose last place of employment is in a county or city with an unemployment rate of not less than two hundred percent of the statewide unemployment rate for the immediately preceding calendar quarter, as calculated by the Commission.*

B. *An eligible employee shall have earned a minimum of \$2,500 in his base period to receive benefits. An eligible employee's weekly benefit amount shall equal the amount of total wages paid to the eligible employee for the two quarters of his base period in which such total wages were highest, divided by 35, and if the quotient is not a whole dollar, rounded to the next lower whole dollar; however, the maximum weekly benefit amount shall be \$332.*

C. *The maximum total amount of benefits payable to any eligible employee during any benefit year shall not exceed the lesser of (i) the maximum total benefit for the eligible employee or (ii) the total benefit amount for the eligible employee. The total benefit amount for an eligible employee shall be determined by (i) dividing the eligible employee's base period wages by the amount of total wages paid to the eligible employee for the two quarters of his base period in which such total wages were highest, and (ii) using the quotient to determine the applicable durational factor as follows:*

If the quotient equals or exceeds but is not the durational factor is:

1.0000	1.0714	12
1.0714	1.1428	13
1.1428	1.2142	14
1.2142	1.2856	15
1.2856	1.3570	16
1.3570	1.4285	17
1.4285	1.5000	18
1.5000	1.5714	19
1.5714	1.6428	20
1.6428	1.7142	21
1.7142	1.7856	22
1.7856	1.8570	23
1.8570	1.9285	24
1.9285	2.000	25
2.0000		26

The total benefit amount for an eligible employee shall be the product obtained by multiplying the applicable durational factor by the individual's weekly benefit amount. The maximum total benefit for an individual is twenty-six times such individual's weekly benefit amount, except when benefits are paid pursuant to the provisions of § 60.2-610 or § 60.2-611. Such determination shall be based only upon wages paid for insured work during such individual's base period. The Commission shall maintain a separate account for each eligible employee who is paid wages for insured work. After the expiration of each calendar quarter the Commission shall credit each eligible employee's account with the wages paid to him for insured work in such calendar quarter.

§ 60.2-612. Benefit eligibility conditions.

An unemployed individual shall be eligible to receive benefits for any week only if the Commission finds that:

1. He has, in the highest two quarters of earnings within his base period, been paid wages in employment for employers that are equal to not less than the lowest amount appearing in Column A of the "Benefit Table" appearing in § 60.2-602 on the line which extends through Division C and on which in Column B of the "Benefit Table" appears his weekly benefit amount, *except for employees eligible under § 60.2-602.1*. Such wages shall be earned in not less than two quarters.

2. a. His total or partial unemployment is not due to a labor dispute in active progress or to shutdown or start-up operations caused by such dispute which exists (i) at the factory, establishment, or other premises, including a vessel, at which he is or was last employed, or (ii) at a factory, establishment or other premises, including a vessel, either within or without this Commonwealth, which (a) is owned or operated by the same employing unit which owns or operates the premises at which he is or was last employed and (b) supplies materials or services necessary to the continued and usual operation of the premises at which he is or was last employed. This subdivision shall not apply if it is shown to the satisfaction of the Commission that:

(1) He is not participating in or financing or directly interested in the labor dispute; and

(2) He does not belong to a grade or class of workers of which, immediately before the

180 commencement of the labor dispute, there were members employed at the premises, including a vessel,
181 at which the labor dispute occurs, any of whom are participating in or financing or directly interested in
182 the dispute.

183 b. If separate branches of work which are commonly conducted as separate businesses at separate
184 premises are conducted in separate departments of the same premises, each such department shall, for
185 the purposes of this subdivision, be deemed to be a separate factory, establishment or other premises.
186 Membership in a union, or the payment of regular dues to a bona fide labor organization, however, shall
187 not alone constitute financing a labor dispute.

188 3. He is not receiving, has not received or is not seeking unemployment benefits under an
189 unemployment compensation law of any other state or of the United States; however, if the appropriate
190 agency of such other state or of the United States finally determines that he is not entitled to such
191 unemployment benefits, this subdivision shall not apply.

192 4. He is not on a bona fide paid vacation. If an individual is paid vacation pay for any week in an
193 amount less than the individual's weekly benefit amount his eligibility for benefits shall be computed
194 under the provisions of § 60.2-603.

195 5. He has registered for work and thereafter has continued to report at an employment office in
196 accordance with such regulations as the Commission may prescribe. The Commission may, by
197 regulation, waive or alter either or both of the requirements of this subdivision for certain types of cases
198 when it finds that compliance with such requirements would be oppressive, or would be inconsistent
199 with the purposes of this title.

200 6. He has made a claim for benefits in accordance with regulations the Commission may prescribe.

201 7. a. He is able to work, is available for work, and is actively seeking and unable to obtain suitable
202 work. Every claimant who is totally unemployed shall report to the Commission the names of employers
203 contacted each week in his effort to obtain work. This information may be subject to employer
204 verification by the Commission through a program designed for that purpose. The Commission may
205 determine that registration by a claimant with the Virginia State Job Service may constitute a valid
206 employer contact and satisfy the search for work requirement of this subsection in labor market areas
207 where job opportunities are limited. The Commission may determine that an individual, whose usual and
208 customary means of soliciting work in his occupation is through contact with a single hiring hall which
209 makes contacts with multiple employers on behalf of the claimant, meets the requirement that he be
210 actively seeking and unable to obtain suitable work by contacting that hiring hall alone. In areas of high
211 unemployment, as determined by the Commission, the Commission has the authority to adjust the
212 requirement that he be actively seeking and unable to obtain suitable work.

213 b. An individual who leaves the normal labor market area of the individual for the major portion of
214 any week is presumed to be unavailable for work within the meaning of this section. This presumption
215 may be overcome if the individual establishes to the satisfaction of the Commission that the individual
216 has conducted a bona fide search for work and has been reasonably accessible to suitable work in the
217 labor market area in which the individual spent the major portion of the week to which the presumption
218 applies.

219 c. *An individual whose type of work is such that it is performed by individuals working two or more*
220 *shifts in a twenty-four-hour period shall not be deemed unavailable for work if the individual is*
221 *currently enrolled in one or more classes of higher education, provided that the enrollment would only*
222 *limit the individual's availability for one shift and the individual is otherwise available to work any of*
223 *the other shifts.*

224 8. He has given notice of resignation to his employer and the employer subsequently made the
225 termination of employment effective immediately, but in no case to exceed two weeks for which he
226 would have worked had the employee separated from employment on the date of termination as given in
227 the notice; provided, that the claimant could not establish good cause for leaving work pursuant to
228 § 60.2-618 and was not discharged for misconduct as provided in § 60.2-618.

229 9. ~~Beginning January 6, 1991, he has served a waiting period of one week during which he was~~
230 ~~eligible for benefits under this section in all other respects and has not received benefits, except that~~
231 ~~only one waiting week shall be required of such individual within any benefit year.~~

232 ~~10. He is not imprisoned or confined in jail.~~

233 ~~10/10. He participates in reemployment services, such as job search assistance services, if he has been~~
234 ~~determined to be likely to exhaust regular benefits and need reemployment services pursuant to a~~
235 ~~profiling system established by the Commission, unless the Commission determines that (i) such~~
236 ~~claimant has completed such services or (ii) there is good cause for such claimant's failure to participate~~
237 ~~in such services.~~

238 **2. That the provisions of this act shall expire on July 1, 2003.**

239 **3. That the Board of Medical Assistance Services shall promulgate regulations to implement the**
240 **provisions of § 32.1-330.1:01 as set forth in this act to be effective within 280 days of its**
241 **enactment.**

242 4. That an emergency exists and this act is in force from its passage, and shall be effective
243 retroactive to January 1, 2000, except that the provisions of § 60.2-602.1 shall be effective
244 retroactive to December 1, 1999.