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SENATE BILL NO. 1474

Offered January 21, 2011

A BILL to amend the Code of Virginia by adding in Title 60.2 a chapter numbered 7, consisting of sections numbered 60.2-700 through 60.2-706, relating to unemployment compensation; shared work programs.

Patrons—Whipple, Barker, Colgan, Deeds, Edwards, Herring, Houck, Howell, Locke, Lucas, Marsden, Marsh, McEachin, Northam, Puckett, Puller, Reynolds, Saslaw and Ticer

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 60.2 a chapter numbered 7, consisting of sections numbered 60.2-700 through 60.2-706, as follows:

CHAPTER 7.

SHARED WORK PROGRAMS.

§ 60.2-700. Definitions.

As used in this chapter:

"Affected employee" means an individual who has been continuously on the payroll of an affected unit for at least three months immediately before the employing unit submits a work sharing plan.

"Affected unit" means a specific plant, department, shift, or other definable unit of an employing unit that has at least two employees to which an approved work sharing plan applies.

"Approved work sharing plan" means a plan that is approved by the Commission as provided by this chapter.

"Fringe benefits" include, but are not limited to, such benefits as health insurance, retirement benefits under defined benefit pension plans, paid vacation and holidays, and sick leave, that are incidents of employment in addition to the cash remuneration earned.

"Normal weekly work hours" means the lesser of (i) the number of hours in a week that an employee usually works for the regular employing unit or (ii) 40 hours.

"Shared work plan" means a plan of an employer under which there is a reduction in the number of hours worked by all affected employees of an affected unit rather than temporary layoffs of some such employees. As used herein, "temporary layoffs" means the separation of workers in the affected unit for an indefinite period expected to last for more than two months but less than one year.

"Work sharing benefit" means benefits payable to an affected employee for work performed under an approved work sharing plan. "Work sharing benefit" includes benefits payable to a federal civilian employee or former service member under Title 5, Chapter 85 of the United States Code, and does not include benefits that are otherwise payable under this title.

"Work sharing employer" means an employing unit for which a work sharing plan has been approved.

"Work sharing plan" means a plan of an employing unit under which (i) the normal weekly work hours of affected employees are reduced and (ii) affected employees share the work that remains after the reduction.

§ 60.2-701. Criteria for approval of a work sharing plan.

A. An employing unit that wishes to participate in the program provided by this chapter shall submit to the Commission a signed, written work sharing plan. Within 15 days after receipt of a work sharing plan, the Commission shall give written approval or disapproval of the plan. If the Commission disapproves a work sharing plan, the decision is final and may not be appealed; however, after 15 days following the Commission's disapproval of a work sharing plan, the employing unit may submit a new work sharing plan.

B. The Commission shall approve a work sharing plan that meets the following requirements:

1. The work sharing plan shall apply to at least 10 percent of the employees in the affected unit and applies equally to all affected employees;

2. The normal weekly work hours of affected employees in the affected unit shall be reduced by at least 10 percent but not by more than 50 percent;

3. Each employee in the affected unit is identified by name, social security number, and any other information that the Commission requires;

4. The plan specifies a proposed expiration date that is not more than 12 months after the effective date of the work sharing plan;

5. Fringe benefits will continue to be provided to employees in affected units as though their work

58 weeks had not been reduced;

59 6. The plan certifies that:

60 a. Each affected employee has been continuously on the payroll of the employing unit for three
61 months immediately before the date on which the employing unit submits the work sharing plan,

62 b. The total reduction in normal weekly work hours is instead of layoffs that would have affected at
63 least the number of employees specified in subdivision 1 and that would have resulted in an equivalent
64 reduction in work hours, and

65 c. During the previous four months the workforce in the affected unit has not been reduced by
66 temporary layoffs of more than 10 percent of the employees;

67 7. If the employees are represented by an exclusive bargaining representative, the plan is approved
68 in writing by the collective bargaining agent, or if they are not, by the employees in the affected unit;

69 8. If a work sharing plan serves the work sharing employer as a transitional step to permanent staff
70 reduction, the work sharing plan shall contain a reemployment assistance plan for each affected
71 employee that the work sharing employer develops with the Commission;

72 9. The plan does not subsidize an employing unit that traditionally has used employees who work
73 less than 30 hours a week;

74 10. The plan will not serve as a subsidy of seasonal employment during the off-season or as a
75 subsidy of temporary part-time or intermittent employment; and

76 11. The work sharing employer shall agree to submit to the Commission reports that are necessary
77 to administer the work sharing plan and to allow the Commission to have access to all records
78 necessary to verify the work sharing plan before its approval and to monitor and evaluate the
79 application of the work sharing plan after its approval.

80 § 60.2-702. Modification of plan.

81 A. An approved work sharing plan may be modified if the modification meets the requirements for
82 approval under § 60.2-701 and the Commission approves the modification.

83 B. An employing unit may add an employee to a work sharing plan under this section when the
84 employee has been continuously on the payroll for three months.

85 C. An approved modification of a work sharing plan shall not change its expiration date.

86 § 60.2-703. Effective date and duration of plan.

87 A. A plan shall be effective on the date specified in the plan or on a date mutually agreed upon by
88 the employer and the Commission.

89 B. If not sooner revoked, the plan shall expire at the end of the twelfth calendar month after its
90 effective date or on the date specified in the plan, if such date is earlier. If a plan is revoked by the
91 Commission, it shall terminate on the date specified in the Commission's written order of revocation.

92 § 60.2-704. Revocation of plan.

93 A. The Commission may revoke approval of an approved work sharing plan for good cause. Good
94 cause shall include, but is not limited to:

95 1. Conduct or an occurrence that tends to defeat the intent and effective operation of the approved
96 work sharing plan;

97 2. Failure to comply with an assurance in the approved work sharing plan;

98 3. Unreasonable revision of a productivity standard of the affected unit; and

99 4. Violation of a criterion on which the Commission based approval of the approved work sharing
100 plan.

101 B. A notice of revocation shall be in writing and shall specify the date the revocation is effective and
102 the reasons therefor.

103 § 60.2-705. Eligibility for work sharing benefits.

104 A. An affected employee shall be eligible under § 60.2-707 to receive work sharing benefits for each
105 week in which the Commission determines that the affected employee is:

106 1. Employed as a member of an affected unit under an approved plan, which approval was granted
107 prior to the week for which short-term benefits are sought, and the plan is in effect for the week for
108 which the benefit is claimed;

109 2. Able to work;

110 3. Available for more hours of work or full-time work for the work sharing employer; or

111 4. Deemed unemployed.

112 B. An affected employee who otherwise is eligible shall not be denied work sharing benefits for
113 failure to actively seek work under § 60.2-612 from an employer other than the work sharing employer.

114 C. An affected employee may not be disqualified for refusal to apply for or accept suitable work
115 from a person other than the work sharing employer.

116 D. An affected employee shall be considered to be unemployed for the purpose of the work sharing
117 unemployment insurance program during any week for which remuneration is payable to him as an
118 employee in an affected unit for 90 percent or less than his normal weekly hours of work as specified
119 under the approved plan in effect for that week.

120 § 60.2-706. *Benefits.*

121 A. *The weekly work sharing benefit amount shall be the product obtained by multiplying the regular*
122 *weekly unemployment compensation amount by the percentage of the reduction in the employee's normal*
123 *weekly work hours under the approved work sharing plan, which reduction shall be at least 10 percent*
124 *of the employee's normal weekly hours of work. The hours for which an affected employee receives*
125 *holiday or vacation pay shall be counted as hours worked.*

126 B. *An affected employee shall not be eligible to receive more than 26 weeks of work sharing benefits*
127 *during each benefit year.*

128 C. *The total amount of benefits payable under Chapter 6 (§ 60.2-600 et seq.) and work sharing*
129 *benefits payable under this chapter shall not exceed the total for the benefit year under § 60.2-602.*

130 D. *During a week in which an individual who otherwise is eligible for benefits does not work for the*
131 *work sharing employer:*

132 1. *The individual shall be paid benefits in accordance with Chapter 6 (§ 60.2-600 et seq.); and*

133 2. *The week does not count as a week for which a work sharing benefit is received.*

134 E. *During a week in which an employee earns wages under an approved work sharing plan and*
135 *other wages, the work sharing benefit shall be reduced by the same percentage that the combined wages*
136 *are of wages for normal weekly work hours if the other wages:*

137 1. *Exceed the wages earned under the approved work sharing plan; and*

138 2. *Do not exceed 90 percent of the wages the individual earns for normal weekly work hours.*

139 *The computation under subdivision 1 of this subsection shall apply regardless of whether the*
140 *employee earned the other wage from the work sharing employer or another employer.*

141 F. *During any period that an affected employee applies for or receives work sharing benefits, the*
142 *affected employee shall be not be eligible for:*

143 1. *Extended benefits;*

144 2. *Supplemental federal unemployment compensation; or*

145 3. *Benefits under any other federal or state program.*