



The  
Bell  
Policy  
Center

## STATE and LOCAL OPPORTUNITY NOTE

*Revised, replaces Opportunity Note of Feb. 17, 2010*

**SB10-028**  
(as amended)



**POSITIVE**

**Drafting Number:** LLS 10-0749.01

**Date:** March 23, 2010

**Prime Sponsors:** Sen. Rollie Heath, D-Boulder

**Bill Status:** House S,V&MA

Rep. Sal Pace, D-Pueblo

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### Title: Concerning the establishment of the Colorado "work-share program" to allow payment of unemployment compensation benefits to eligible employees who have received a reduction in work hours

This bill represents a net opportunity gain for Colorado. Allowing employers to provide work-share opportunities will keep more Colorado workers employed during periods of economic downturn.

#### Summary of Legislation

As amended, Senate Bill 28 allows for the creation of a voluntary work-share program, which would provide prorated unemployment benefits to workers whose hours are reduced in lieu of layoffs. The bill requires employers to submit a written work-share plan to the Colorado Department of Labor and Employment Division of Employment and Training for approval.<sup>1</sup> The plan must apply to at least 10 percent of the employees in an affected unit, and their work hours must be reduced at least 10 percent but no more than 40 percent. Employers must maintain employee benefits, such as health insurance, during the period in which the employee participates in the work-share program. The plan must also include a strategy to restore work hours to the participating employees. Unemployment benefits paid under the work-share program are deducted from the total maximum allowable regular unemployment benefits in a benefit year. The work-share program terminates July 1, 2013, or earlier if the program causes the insolvency of the Unemployment Insurance (UI) Trust Fund to accelerate.

#### Background

As of December 2009, Colorado's unemployment rate was 7.5 percent.<sup>2</sup> Total claims for unemployment

benefits are at a historic high.<sup>3</sup> In the third quarter of 2009, 58,540 initial claims were filed in Colorado.<sup>4</sup>

Unemployment benefits are paid from the UI Trust Fund, which is funded by a tax paid by employers. Employer tax rates are experience-rated; employers with a stable workforce and for whom less benefits are paid have lower tax rates. There is also a solvency surcharge that goes into effect when the UI Trust Fund has been depleted. The surcharge has been in effect since 2003 and is likely to remain in effect until 2012.<sup>5</sup> Colorado's UI Trust Fund is projected to have a negative balance of \$213 million in fiscal year 2009-2010 and of \$342 million in 2010-2011.<sup>6</sup> When the balance is below zero, the state is required to borrow money from the federal UI Trust Fund.

Work-share programs, also referred to as short-time compensation, allow employers to reduce hours across the workforce rather than lay off employees. Workers then receive partial unemployment insurance benefits to offset the lost hours of work. For example, an employer might reduce the work hours of a division by 20 percent, from five days to four days, rather than lay off 20 percent of the workforce. Workers with reduced work hours could then receive unemployment benefits to cover a portion of their wages from the "lost" fifth day of work.

#### Research and Evidence of Effectiveness

Work-share programs are a tool companies can use to weather short-term business declines. The first program was introduced in California in 1978.

The Bell Policy Center believes a top priority of the General Assembly should be to expand opportunities for Coloradans to achieve the American Dream. In that spirit, we offer Opportunity Notes on selected bills. Similar to Fiscal Notes, Opportunity Notes reflect our best analysis of whether a bill, if implemented, will expand opportunities for Coloradans.

A POSITIVE analysis means our research suggests a bill will expand opportunity in a cost effective manner.

A NEGATIVE analysis means our research suggests the measure will restrict opportunities or will not cost-effectively achieve its goals.

Currently, 17 states operate work-share programs.<sup>7</sup>

Work-share program beneficiaries are a small component of the overall unemployment insurance program. Nationally, short-time compensation has not constituted more than 1% of unemployment benefits paid annually.<sup>8</sup>

Such programs are more frequently used during periods of recession. Nationally, the number of work-share program beneficiaries peaked at 111,202 in 2001.<sup>9</sup> During the current recession, states with such programs have reported significant increases in work-share programs. Between 2007 and 2008, New York reported a 60 percent increase and Rhode Island reported a 119 percent increase in the number of companies using work share programs.<sup>10</sup> Also during this time frame, some states have seen significant increases in initial claims under work-share programs; claims rose 171 percent in Arizona and 78 percent in California, for example.<sup>11</sup> While historically used in the manufacturing sector, work-share programs are now being implemented in a broader range of industries, such as the construction and retail industries.<sup>12</sup>

According to the fiscal note on Senate Bill 28, this policy is estimated to save the Unemployment Insurance Trust Fund between \$12,104 and \$2,160,688 in FY 2010-11 and FY 2011-12.<sup>13</sup>

### Estimate of Impact and Benefits

Work-sharing programs can benefit both employers and employees. Such programs are also likely to have positive macroeconomic effects for the state of Colorado.

Employers can retain highly skilled workers during economic downturns, thereby reducing recruitment and training costs once the economy recovers. Employers also benefit by sustaining employee morale and productivity, as compared to periods of layoffs,<sup>14</sup> and by preserving the diversity of the workforce.<sup>15</sup> The impact on the employer's experience rating is likely to be the same under the work-share program as under the current system. Senate Bill 28 requires the employer to certify that implementation of the work-share program and the resulting reduction in work hours are in lieu of temporary layoffs. In other words, the employer must certify that there would have been an equivalent reduction in hours through layoffs.

Instead of imposing substantial hardships on the few employees who are laid off, work-share programs spread more moderate impacts across a broader pool

of employees. Employees would continue to receive their existing health and retirement benefits under the work share program.

Finally, such programs can have benefits on the state level by keeping more people employed. Unemployment leads to reductions in consumer spending and consequently, lower state revenues.<sup>16</sup> Because employees would retain their health benefits, there is less need to turn to state services for support. Moreover, state employment services may see a savings in job assistance program expenditures.<sup>17</sup> According to the fiscal note, aside from costs to reprogram computers, the division can administer the program with existing staff.<sup>18</sup>

### End notes

- <sup>1</sup> If the employer is subject to a collective-bargaining agreement, the collective-bargaining unit must also agree in writing to the plan.
- <sup>2</sup> Colorado Department of Labor and Employment (2009).
- <sup>3</sup> Colorado Legislative Council Staff, *Focus Colorado: Economic and Revenue Forecast*, Dec. 18, 2009.
- <sup>4</sup> U.S. Department of Labor, Employment and Training Administration (2009). Unemployment data summary for Colorado, third quarter 2009.
- <sup>5</sup> Colorado Legislative Council (2009). Unemployment Insurance, Number 09-01.
- <sup>6</sup> Colorado Legislative Council Staff, *Focus Colorado: Economic and Revenue Forecast*, March 19, 2010.
- <sup>7</sup> Shelton, A. (2009). *Unemployment compensation: short-time compensation and compensated work sharing arrangements*. Congressional Research Service.
- <sup>8</sup> Shelton, A. (2009).
- <sup>9</sup> Shelton, A. (2009).
- <sup>10</sup> Ridley, N., Center for Law and Social Policy (2009). *Work sharing – An alternative to layoffs for tough times*.
- <sup>11</sup> Ridley, N., Center for Law and Social Policy (2009).
- <sup>12</sup> Ridley, N. (2009). AARP Forum on Saving Jobs in a Recession: How work-sharing can help.
- <sup>13</sup> Colorado Legislative Council Staff *Fiscal Note (revised)*, SB10-028, March 17, 2010.
- <sup>14</sup> Shelton, A. (2009).
- <sup>15</sup> Vroman, W. & Brusentsev, V. (2009). *Short-term compensation as a policy to stabilize employment*.
- <sup>16</sup> Shelton, A. (2009).
- <sup>17</sup> Shelton, A. (2009).