

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 17, 2010
Date

Committee on Business, Labor and Technology.

After consideration on the merits, the Committee recommends the following:

SB10-028 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. Article 75 of title 8, Colorado Revised Statutes, is
4 amended BY THE ADDITION OF A NEW PART to read:

5 PART 2
6 WORK SHARE PROGRAM

7 **8-75-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY BE
8 CITED AS THE "COLORADO WORK SHARE PROGRAM".

9 **8-75-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "AFFECTED UNIT" MEANS A SPECIFIED PLANT, DEPARTMENT,
12 SHIFT, OR OTHER DEFINABLE UNIT TO WHICH A WORK SHARE PLAN APPLIES.

13 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
14 EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR AND
15 EMPLOYMENT OR HIS OR HER DESIGNEE.

16 (3) "NORMAL WEEKLY WORK HOURS" MEANS THE NUMBER OF
17 HOURS IN A WEEK THAT AN EMPLOYEE ORDINARILY WORKS FOR A

1 PARTICIPATING EMPLOYER OR FORTY HOURS, WHICHEVER IS LESS.

2 (4) "WORK SHARE PLAN" MEANS A PLAN FOR REDUCING
3 UNEMPLOYMENT UNDER WHICH EMPLOYEES WHO ARE MEMBERS OF AN
4 AFFECTED UNIT SHARE THE WORK REMAINING AFTER A REDUCTION IN
5 THEIR NORMAL WEEKLY WORK HOURS.

6 **8-75-203. Work share program - work share plan - eligibility**
7 **of employer - approval - denial.** (1) THE DIRECTOR SHALL ESTABLISH
8 A VOLUNTARY WORK SHARE PROGRAM FOR THE PURPOSE OF ALLOWING
9 THE PAYMENT OF UNEMPLOYMENT COMPENSATION BENEFITS TO
10 EMPLOYEES WHOSE WAGES AND HOURS HAVE BEEN REDUCED. IN ORDER
11 TO PARTICIPATE IN THE WORK SHARE PROGRAM, AN EMPLOYER SHALL
12 SUBMIT A WORK SHARE PLAN IN WRITING TO THE DIRECTOR FOR
13 APPROVAL. IF THE EMPLOYER IS SUBJECT TO A COLLECTIVE BARGAINING
14 AGREEMENT, THE COLLECTIVE BARGAINING UNIT MUST AGREE IN WRITING
15 TO THE WORK SHARE PLAN PRIOR TO IMPLEMENTATION. AN EMPLOYER
16 THAT IS A NEGATIVE EXCESS EMPLOYER PURSUANT TO SECTION 8-76-103
17 (3) (b) IS NOT ELIGIBLE TO PARTICIPATE IN THE WORK SHARE PROGRAM.
18 AN EMPLOYER THAT DOES NOT CONTRIBUTE TO THE UNEMPLOYMENT
19 COMPENSATION FUND ESTABLISHED IN SECTION 8-77-101, AS REQUIRED,
20 IS NOT ELIGIBLE TO PARTICIPATE IN THE WORK SHARE PROGRAM.

21 (2) AN EMPLOYER SHALL SUBMIT A WORK SHARE PLAN TO THE
22 DIVISION ON FORMS AND FOLLOWING PROCEDURES REQUIRED BY THE
23 DIRECTOR. THE DIRECTOR MAY APPROVE A WORK SHARE PLAN IF:

24 (a) THE PLAN APPLIES TO AND IDENTIFIES A SPECIFIC AFFECTED
25 UNIT;

26 (b) THE PLAN IDENTIFIES THE EMPLOYEES IN THE AFFECTED UNIT
27 BY NAME AND SOCIAL SECURITY NUMBER;

28 (c) THE PLAN REDUCES THE NORMAL WORK FOR AN EMPLOYEE IN
29 THE AFFECTED UNIT BY AT LEAST TEN PERCENT AND NOT MORE THAN
30 FORTY PERCENT; AND

31 (d) THE PLAN APPLIES TO AT LEAST TEN PERCENT OF THE
32 EMPLOYEES IN THE AFFECTED UNIT.

33 (3) THE DIRECTOR SHALL NOT APPROVE A WORK SHARE PLAN

1 UNLESS THE EMPLOYER:

2 (a) AGREES THAT FOR THE DURATION OF THE EMPLOYER'S
3 PARTICIPATION IN THE WORK SHARE PROGRAM, THE EMPLOYER SHALL NOT
4 ELIMINATE OR DIMINISH HEALTH INSURANCE, RETIREMENT BENEFITS
5 RECEIVED UNDER A PENSION PLAN, PAID VACATION AND HOLIDAYS, SICK
6 LEAVE, OR ANY OTHER SIMILAR EMPLOYEE BENEFIT PROVIDED BY THE
7 EMPLOYER IMMEDIATELY PRIOR TO SUBMITTING THE WORK SHARE PLAN
8 TO THE DIVISION, IF THE EMPLOYER PROVIDES BENEFITS TO HIS OR HER
9 EMPLOYEES;

10 (b) CERTIFIES THAT THE COLLECTIVE BARGAINING AGENT FOR THE
11 EMPLOYEES, IF APPLICABLE, HAS AGREED TO THE WORK SHARE PLAN;

12 (c) CERTIFIES THAT THE TOTAL EMPLOYEE WORK HOURS OF THE
13 AFFECTED UNIT WOULD BE REDUCED AT THE SAME PERCENTAGE RATE AS
14 THOSE PROPOSED IN THE WORK SHARE PLAN IF THE EMPLOYER WERE NOT
15 PARTICIPATING IN THE WORK SHARE PROGRAM;

16 (d) CERTIFIES THAT THE EMPLOYER WILL NOT EMPLOY ADDITIONAL
17 EMPLOYEES IN THE AFFECTED UNIT WHILE PARTICIPATING IN THE WORK
18 SHARE PROGRAM;

19 (e) AGREES THAT NO EMPLOYEE PARTICIPATING IN THE WORK
20 SHARE PROGRAM SHALL RECEIVE, IN THE AGGREGATE, MORE THAN
21 EIGHTEEN WEEKS OF BENEFITS;

22 (f) AGREES TO PROVIDE A STRATEGY FOR IMPLEMENTING A
23 FOLLOW-UP PLAN TO THE WORK SHARE PLAN THAT RESTORES THE TOTAL
24 NUMBER OF WORK HOURS TO EACH PARTICIPATING EMPLOYEE TO THE
25 AMOUNT OF HOURS WORKED PRIOR TO PARTICIPATION IN THE PROGRAM;
26 AND

27 (g) AGREES TO SUBMIT REPORTS CONCERNING THE OPERATION OF
28 THE WORK SHARE PLAN TO THE DIVISION UPON REQUEST OF THE DIRECTOR.

29 (4) THE DIRECTOR SHALL APPROVE OR DENY THE WORK SHARE
30 PLAN IN WRITING NO LATER THAN THIRTY DAYS AFTER THE DATE THE
31 DIVISION RECEIVES THE PLAN. IF THE DIRECTOR DENIES THE WORK SHARE
32 PLAN, HE OR SHE SHALL INFORM THE EMPLOYER IN WRITING OF THE
33 REASONS FOR THE DENIAL.

1 **8-75-204. Employee eligibility for unemployment benefits**
2 **under the work share plan.** (1) NOTWITHSTANDING ANY OTHER
3 PROVISION OF THIS TITLE, AN EMPLOYEE MAY BE ELIGIBLE FOR
4 UNEMPLOYMENT COMPENSATION BENEFITS FOR A PARTICULAR WEEK
5 PURSUANT TO THIS PART 2 IF:

6 (a) THE EMPLOYEE IS EMPLOYED AS A MEMBER OF AN AFFECTED
7 UNIT THAT IS SUBJECT TO AN APPROVED WORK SHARE PLAN THAT IS IN
8 EFFECT FOR THAT WEEK;

9 (b) THE EMPLOYEE'S NORMAL WEEKLY WORK HOURS HAVE BEEN
10 REDUCED BY AT LEAST TEN PERCENT BUT NOT MORE THAN FORTY PERCENT
11 AND THE EMPLOYEE HAS RECEIVED A CORRESPONDING REDUCTION IN
12 WAGES FOR THAT WEEK; AND

13 (c) THE EMPLOYEE IS ABLE AND AVAILABLE TO WORK ADDITIONAL
14 OR FULL-TIME HOURS WITH HIS OR HER EMPLOYER.

15 (2) THE ELIGIBILITY REQUIREMENTS FOR THE RECEIPT OF
16 UNEMPLOYMENT COMPENSATION BENEFITS RELATED TO THE AVAILABILITY
17 FOR WORK, ACTIVELY SEEKING WORK, AND REFUSING TO APPLY FOR OR TO
18 ACCEPT WORK WITH AN EMPLOYER OTHER THAN THE EMPLOYEE'S
19 CURRENT EMPLOYER, PURSUANT TO SECTIONS 8-73-107 AND 8-73-108 (5),
20 SHALL NOT APPLY TO AN EMPLOYEE SUBJECT TO THIS PART 2.

21 **8-75-205. Benefits formula - limitation of benefits.**
22 (1) **Formula.** THE DIVISION SHALL PAY AN EMPLOYEE WHO IS ELIGIBLE
23 FOR UNEMPLOYMENT COMPENSATION BENEFITS UNDER A WORK SHARE
24 PLAN A WEEKLY BENEFIT THAT IS THE PRODUCT OF THE EMPLOYEE'S
25 REGULAR WEEKLY BENEFIT AMOUNT PURSUANT TO ARTICLE 73 OF THIS
26 TITLE, MULTIPLIED BY THE NEAREST FULL PERCENTAGE OF THE REDUCTION
27 OF THE EMPLOYEE'S WORK HOURS, ROUNDED DOWN TO THE NEXT FULL
28 DOLLAR.

29 (2) **Limitations.** (a) AN INDIVIDUAL IS NOT ENTITLED TO RECEIVE
30 UNEMPLOYMENT COMPENSATION BENEFITS PURSUANT TO THIS PART 2 AND
31 REGULAR UNEMPLOYMENT COMPENSATION BENEFITS THAT EXCEED THE
32 MAXIMUM ALLOWABLE TOTAL BENEFITS PAYABLE TO AN INDIVIDUAL IN A
33 BENEFIT YEAR PURSUANT TO ARTICLES 70 TO 82 OF THIS TITLE.

34 (b) THE DIVISION SHALL NOT PAY UNEMPLOYMENT COMPENSATION

1 BENEFITS TO AN EMPLOYEE FOR A WEEK IN WHICH THE EMPLOYEE IS
2 COMPENSATED FOR WORK FOR HIS OR HER EMPLOYER THAT EXCEEDS THE
3 REDUCED HOURS ESTABLISHED UNDER THE WORK SHARE PLAN.

4 (c) AN EMPLOYEE RECEIVING WEEKLY UNEMPLOYMENT
5 COMPENSATION BENEFITS UNDER A WORK SHARE PLAN IS NOT ENTITLED TO
6 RECEIVE BENEFITS FOR PARTIAL EMPLOYMENT PURSUANT TO SECTION
7 8-73-103 FOR THE SAME WEEK.

8 (d) THE WAITING PERIOD OF ONE WEEK IN SECTION 8-73-107(1) (d)
9 THAT APPLIES TO THE PAYMENT OF BENEFITS FOR TOTAL OR PARTIAL
10 UNEMPLOYMENT SHALL APPLY TO THE PAYMENT OF BENEFITS PURSUANT
11 TO THIS PART 2.

12 **8-75-206. Work share plan - effective date - expiration -**
13 **termination.** (1) A WORK SHARE PLAN AND THE PAYMENT OF
14 UNEMPLOYMENT COMPENSATION BENEFITS PURSUANT TO THE PLAN SHALL
15 BEGIN THE FIRST WEEK FOLLOWING APPROVAL OF THE PLAN BY THE
16 DIRECTOR OR THE FIRST WEEK SPECIFIED BY THE EMPLOYER, WHICHEVER
17 IS LATER.

18 (2) A WORK SHARE PLAN SHALL EXPIRE TWELVE MONTHS AFTER
19 THE EFFECTIVE DATE OF THE PLAN.

20 (3) THE DIRECTOR MAY TERMINATE A WORK SHARE PLAN FOR
21 GOOD CAUSE IF THE PLAN IS NOT EXECUTED ACCORDING TO THE TERMS
22 AND INTENT OF THE PROGRAM. "GOOD CAUSE" MAY INCLUDE FAILURE TO
23 COMPLY WITH SECTION 8-75-203, UNREASONABLE REVISION OF
24 PRODUCTIVITY STANDARDS FOR THE AFFECTED UNIT, OR OTHER CONDUCT
25 BY THE EMPLOYER THAT MAY COMPROMISE THE PURPOSE, INTENT, AND
26 EFFECTIVENESS OF A WORK SHARE PLAN.

27 **8-75-207. Work share plan modifications.** (1) AN EMPLOYER
28 MAY MODIFY A WORK SHARE PLAN TO MEET CHANGED CONDITIONS IF THE
29 MODIFICATION CONFORMS TO THE BASIC PROVISIONS OF THE PLAN AS
30 ORIGINALLY APPROVED BY THE DIRECTOR.

31 (2) BEFORE A PROPOSED CHANGE TO A WORK SHARE PLAN MAY BE
32 IMPLEMENTED:

33 (a) THE COLLECTIVE BARGAINING AGENT SHALL APPROVE THE

1 MODIFICATION TO THE PLAN IF AN EMPLOYEE IS COVERED BY A
2 COLLECTIVE BARGAINING UNIT;

3 (b) THE EMPLOYER SHALL REPORT THE CHANGE IN WRITING TO THE
4 DIVISION; AND

5 (c) THE DIRECTOR SHALL APPROVE THE MODIFIED PLAN.

6 (3) THE DIRECTOR SHALL APPROVE OR DENY A MODIFIED WORK
7 SHARE PLAN USING THE SAME STANDARDS AND REQUIREMENTS THAT ARE
8 USED FOR THE ORIGINAL WORK SHARE PLAN IN ACCORDANCE WITH
9 SECTION 8-75-203.

10 (4) APPROVAL OF A MODIFIED WORK SHARE PLAN SHALL NOT
11 AFFECT THE ORIGINAL EXPIRATION DATE OF THE WORK SHARE PLAN.

12 **8-75-208. Benefits payments charged to employer.**
13 UNEMPLOYMENT COMPENSATION BENEFITS PAID TO AN EMPLOYEE
14 PURSUANT TO THIS PART 2 SHALL BE CHARGED TO THE ACCOUNT OF THE
15 EMPLOYER PARTICIPATING IN THE WORK SHARE PLAN IN THE SAME
16 MANNER AS REGULAR BENEFITS PURSUANT TO SECTION 8-73-108 (3) (e)
17 (I).

18 **8-75-209. Repeal of article.** THIS ARTICLE IS REPEALED,
19 EFFECTIVE JULY 1, 2013. PRIOR TO ITS REPEAL, THE "COLORADO WORK
20 SHARE PROGRAM" SHALL BE REVIEWED AS PROVIDED FOR IN SECTION
21 24-34-104, C.R.S.

22 **SECTION 2.** The introductory portions to 8-75-101 and 8-75-101
23 (2) (a), Colorado Revised Statutes, are amended, and the said 8-75-101
24 (2) (a) is further amended BY THE ADDITION OF A NEW
25 SUBPARAGRAPH, to read:

26 **8-75-101. Definitions.** As used in this ~~article~~ PART 1, unless the
27 context otherwise requires:

28 (2) (a) "Exhaustee" means an individual who, with respect to any
29 week of unemployment in his OR HER eligibility period:

30 (VI) HAS RECEIVED ALL OF THE UNEMPLOYMENT COMPENSATION
31 BENEFITS PURSUANT TO PART 2 OF THIS ARTICLE AND REGULAR

1 UNEMPLOYMENT COMPENSATION BENEFITS AVAILABLE IN A BENEFIT YEAR.

2 **SECTION 3.** 8-75-105 (2) and (3), Colorado Revised Statutes,
3 are amended to read:

4 **8-75-105. Total extended benefit amount.** (2) Notwithstanding
5 any other provisions of this ~~article~~ PART 1, if the benefit year of any
6 individual ends within an extended benefit period, the remaining balance
7 of extended benefits that such individual would, but for this subsection
8 (2), be entitled to receive in that extended benefit period, with respect to
9 weeks of unemployment beginning after the end of the benefit year, shall
10 be reduced (but not below zero) by an amount equal to the product of the
11 number of weeks for which the individual received any amounts as trade
12 readjustment allowances within that benefit year multiplied by the
13 individual's weekly benefit amount for extended benefits.

14 (3) Notwithstanding any other provision of this ~~article~~ PART 1,
15 during any fiscal year in which federal payments to states under section
16 204 of the "Federal-State Extended Unemployment Compensation Act of
17 1970" and amendments thereto are reduced under section 252 of the
18 "Balanced Budget and Emergency Deficit Control Act of 1985" and
19 amendments thereto, the total extended benefit amount payable to an
20 individual with respect to his OR HER applicable benefit year shall be
21 reduced by an amount equal to the aggregate of the reductions in the
22 weekly amounts paid to the individual under section 8-75-104.

23 **SECTION 4.** 8-70-110 (1) (b), Colorado Revised Statutes, is
24 amended to read:

25 **8-70-110. Benefits - classifications.** (1) Benefits are divided into
26 classifications, as follows:

27 (b) Extended benefits: Benefits payable to an individual under
28 PART 1 OF article 75 of this title, including benefits payable to federal
29 civilian employees and to ~~ex-servicemen~~ FORMER MEMBERS OF THE
30 ARMED FORCES pursuant to chapter 85 of title 5 of the United States Code,
31 for weeks of unemployment in his OR HER eligibility period;

32 **SECTION 5.** 24-34-104 (44), Colorado Revised Statutes, is
33 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

1 **24-34-104. General assembly review of regulatory agencies**
2 **and functions for termination, continuation, or reestablishment.**
3 (44) The following agencies, functions, or both, shall terminate on July
4 1, 2013:

5 (p) THE "COLORADO WORK SHARE PROGRAM" CREATED IN PART
6 2 OF ARTICLE 75 OF TITLE 8, C.R.S.

7 **SECTION 6. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety."

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