

## AMENDMENTS TO HOUSE BILL NO. 916

Sponsor: REPRESENTATIVE REICHLEY

Printer's No. 1848

1 Amend Bill, page 1, line 24, by inserting after "for"

2 shared-work program and for

3 Amend Bill, page 26, by inserting between lines 3 and 4

4 Section 10. The act is amended by adding an article to read:

5 ARTICLE XIII

6 SHARED-WORK PROGRAM

7 Section 1301. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Affected unit." A department, shift or other organizational  
12 unit of two or more employees that is designated by an employer  
13 to participate in a shared-work plan.

14 "Approved shared-work plan." An employer's shared-work plan  
15 which meets the requirements of section 1303 and which the  
16 department approves in writing.

17 "Fringe benefit." Health insurance, a retirement benefit  
18 received under a pension plan, a paid vacation day, a paid  
19 holiday, sick leave and any other similar employee benefit  
20 provided by an employer.

21 "Participating employee." An employee in the affected unit  
22 whose hours of work are reduced by the reduction percentage  
23 under the shared-work plan.

24 "Participating employer." An employer who has a shared-work  
25 plan in effect.

26 "Reduction percentage." The percentage by which each  
27 participating employee's normal weekly hours of work are reduced  
28 under a shared-work plan in accordance with section 1303(b).

29 "Shared-work plan." A plan for reducing unemployment under  
30 which participating employees of an affected unit share the work  
31 remaining after reduction in their normal weekly hours of work.

32 Section 1302. Application to approve plan.

33 (a) Requirements.--An employer that meets all of the  
34 following requirements may apply to the department for approval  
35 of a shared-work plan:

36 (1) The employer has filed all quarterly reports and  
37 other reports required under this act and has paid all

1 contribution, reimbursement, interest and penalty due through  
2 the date of the employer's application.

3 (2) If the employer is contributory, the employer's  
4 reserve account balance as of the most recent computation  
5 date preceding the date of the employer's application is a  
6 positive number.

7 (3) The employer has paid wages for the 12 consecutive  
8 calendar quarters preceding the date of the employer's  
9 application.

10 (b) Application.--An application under this section shall be  
11 made in the manner prescribed by the department and contain all  
12 information required by the department, including the following:

13 (1) The employer's assurance that it will provide  
14 reports to the department relating to the operation of its  
15 shared-work plan at the times and in the manner prescribed by  
16 the department and containing all information required by the  
17 department, including the number of hours worked each week by  
18 participating employees.

19 (2) The employer's assurance that it will not hire new  
20 employees in, or transfer employees to, the affected unit  
21 during the effective period of the shared-work plan.

22 (3) The employer's assurance that it will not lay off  
23 participating employees during the effective period of the  
24 shared-work plan, or reduce participating employees' hours of  
25 work by more than the reduction percentage during the  
26 effective period of the shared-work plan, except in cases of  
27 holidays, designated vacation periods, equipment maintenance  
28 or similar circumstances.

29 (4) A list of the week or weeks within the requested  
30 effective period of the plan during which participating  
31 employees are anticipated to work fewer hours than the number  
32 of hours determined under section 1303(a) (5) due to  
33 circumstances included in paragraph (3).

34 (5) The employer's certification that the implementation  
35 of a shared-work plan is in lieu of temporary layoffs that  
36 would affect at least 10% of the employees in the affected  
37 unit and would result in an equivalent reduction in work  
38 hours.

39 (6) The employer's assurance that it will abide by all  
40 terms and conditions of this article.

41 (c) Multiple plans.--An employer may apply to the department  
42 for approval of more than one shared-work plan.  
43 Section 1303. Plan requirements.

44 (a) General rule.--The department may approve a shared-work  
45 plan only if the plan meets all of the following requirements:

46 (1) The shared-work plan applies to one affected unit.

47 (2) All employees in the affected unit are participating  
48 employees, except that the following employees may not be  
49 participating employees:

50 (i) An employee who has been employed in the  
51 affected unit for less than three months prior to the

1 date the employer applies for approval of the shared-work  
2 plan.

3 (ii) An employee whose hours of work per week  
4 determined under paragraph (5) is 40 or more hours.

5 (3) There are no fewer than two participating employees,  
6 determined without regard to corporate officers.

7 (4) The participating employees are identified by name  
8 and Social Security number.

9 (5) The number of hours a participating employee will  
10 work each week during the effective period of the plan is  
11 determined by the following formula:

12 employee's normal weekly hours of  
13 work x (100% - reduction percentage)

14 (6) As a result of a decrease in the number of hours  
15 worked by each participating employee, there is a  
16 corresponding reduction in wages.

17 (7) If any participating employee is covered by a  
18 collective bargaining agreement, the plan is approved in  
19 writing by the collective bargaining representative.

20 (8) The plan does not affect the fringe benefits of any  
21 participating employee not covered by a collective bargaining  
22 agreement.

23 (9) The effective period of the plan is not more than 52  
24 consecutive weeks.

25 (10) The effective period of the plan combined with  
26 effective periods of the participating employer's prior plans  
27 does not equal more than 104 weeks out of a 156-week period.

28 (11) The reduction percentage satisfies the requirements  
29 of subsection (b).

30 (b) Reduction percentage.--The reduction percentage under an  
31 approved shared-work plan shall meet all of the following  
32 requirements:

33 (1) The reduction percentage shall be no less than 20%  
34 and no more than 40%.

35 (2) The reduction percentage shall be the same for all  
36 participating employees.

37 (3) The reduction percentage shall not change during the  
38 period of the shared-work plan unless the plan is modified in  
39 accordance with section 1308.

40 Section 1304. Approval or disapproval of shared-work plan.

41 The department shall approve or disapprove a shared-work plan  
42 no later than 15 days after the date the employer's shared-work  
43 plan application that meets the requirements of section 1302(b)  
44 is received by the department. The department's decision shall  
45 be made in writing and, if the shared-work plan is disapproved,  
46 shall include the reasons for the disapproval.

47 Section 1305. Effective period of plan.

48 (a) Number of weeks.--A shared-work plan is effective for  
49 the number of consecutive weeks indicated in the employer's  
50 application, or a lesser number of weeks as approved by the  
51 department, unless sooner terminated in accordance with section

1309.

(b) Start date.--The effective period of the shared-work plan shall begin with the first calendar week following the date on which the department approves the plan.

Section 1306. Criteria for compensation.

(a) General rule.--Compensation shall be payable to a participating employee for a week within the effective period of an approved shared-work plan during which the employee works the number of hours determined under section 1303(a) (5) for the participating employer on the same terms, in the same amount and subject to the same conditions that would apply to the participating employee without regard to this article, except as follows:

(1) A participating employee shall not be required to be unemployed within the meaning of section 4(u) or file claims for compensation under section 401(c).

(2) Notwithstanding section 404(d) (1), a participating employee shall be paid compensation in an amount equal to the product of his weekly benefit rate and the reduction percentage, rounded to the next lower whole dollar amount.

(3) The department shall not deny compensation to a participating employee for any week during the effective period of the shared-work plan by reason of the application of any provision of this act relating to active search for work or refusal to apply for or accept work other than work offered by the participating employer.

(4) A participating employee satisfies the requirements of section 401(d) (1) if the employee is able to work and is available for the employee's normal weekly hours of work with the participating employer.

(b) Equivalent remuneration.--For purposes of subsection (a), if a participating employee works fewer hours than the number of hours determined under section 1303(a) (5) for the participating employer during a week within the effective period of the approved shared-work plan, but receives remuneration equal to remuneration the employee would have received if the employee had worked the number of hours determined under section 1303(a) (5), the employee will be deemed to have worked the number of hours determined under section 1303(a) (5) during that week.

(c) Inapplicability of article.--A participating employee's eligibility for compensation for a week within the effective period of an approved shared-work plan shall be determined without regard to this article under any of the following circumstances:

(1) The employee works fewer hours than the number of hours determined under section 1303(a) (5) for the participating employer during the week and subsection (b) does not apply.

(2) The employee works more hours than the number of hours determined under section 1303(a) (5) for the

1 participating employer during the week.

2 (3) The employee receives remuneration for the week from  
3 the participating employer for hours in excess of the number  
4 of hours determined under section 1303(a) (5).

5 Section 1307. Participating employer responsibilities.

6 (a) Filing claims.--The department shall establish a  
7 schedule of consecutive two-week periods within the effective  
8 period of the shared-work plan. The department may, as  
9 necessary, include one-week periods in the schedule and revise  
10 the schedule. At the end of each scheduled period, the  
11 participating employer shall file claims for compensation for  
12 the week or weeks within the period on behalf of the  
13 participating employees. The claims shall be filed no later than  
14 the last day of the week immediately following the period,  
15 unless an extension of time is granted by the department for  
16 good cause. The claims shall be filed in the manner prescribed  
17 by the department and shall contain all information required by  
18 the department to determine the eligibility of the participating  
19 employees for compensation.

20 (b) Benefit charges.--Notwithstanding any other provision of  
21 this act, compensation paid to participating employees for weeks  
22 within the effective period of an approved shared-work plan will  
23 be charged to the participating employer.

24 Section 1308. Modification of plan.

25 An employer may apply to the department for approval to  
26 modify a shared-work plan to meet changed conditions. The  
27 department shall reevaluate the plan and may approve the  
28 modified plan if it meets the requirements for approval under  
29 section 1304. If the modifications cause the shared-work plan to  
30 fail to meet the requirements for approval, the department shall  
31 disapprove the proposed modifications.

32 Section 1309. Termination of plan.

33 (a) General rule.--The secretary may terminate a shared-work  
34 plan for good cause.

35 (b) Good cause.--For purposes of subsection (a), good cause  
36 includes any of the following:

37 (1) The plan is not being executed according to its  
38 approved terms and conditions.

39 (2) The participating employer fails to comply with the  
40 assurances given in the plan.

41 (3) The participating employer or a participating  
42 employee violates any criteria on which approval of the plan  
43 was based.

44 (c) Termination by employer.--The employer may terminate a  
45 shared-work plan by written notice to the department.

46 Section 1310. Department discretion.

47 The decision to approve or disapprove a shared-work plan, to  
48 approve or disapprove a modification of a shared-work plan or to  
49 terminate a shared-work plan will be made within the  
50 department's discretion. Such decisions are not subject to the  
51 appeal provisions of Article V.

1 Section 1311. Publication of notice.

2 The department shall transmit to the Legislative Reference  
3 Bureau for publication in the Pennsylvania Bulletin notice that  
4 the provisions of this article have been approved by the  
5 department as required under section 3304(a)(4)(E) of the  
6 Federal Unemployment Tax Act (Public Law 86-778, 26 U.S.C. §  
7 3304(a)(4)(E)) and section 303(a)(5) of the Social Security Act  
8 (49 Stat. 620, 42 U.S.C. § 503(a)(5)).

9 Section 1312. Severability.

10 Notwithstanding any other section of this act, if any  
11 provision or provisions of this article cause the department to  
12 withhold approval of this article as required under section  
13 3304(a)(4)(E) of the Federal Unemployment Tax Act (Public Law  
14 86-778, 26 U.S.C. § 3304(a)(4)(E)) and section 303(a)(5) of the  
15 Social Security Act (49 Stat. 620, 42 U.S.C. § 503(a)(5)), the  
16 department is authorized to permanently suspend the provision or  
17 provisions.

18 Section 1313. Expiration.

19 This article shall expire five years from its effective date.

20 Amend Bill, page 26, line 4, by striking out "10" and  
21 inserting

22 11

23 Amend Bill, page 26, line 19, by striking out "11" and  
24 inserting

25 12

26 Amend Bill, page 26, line 20, by striking out "10(6)" and  
27 inserting

28 11(6)

29 Amend Bill, page 26, by inserting between lines 25 and 26

30 (4) The addition of Article XIII of the act shall take  
31 effect upon publication in the Pennsylvania Bulletin of the  
32 notice required under section 1311 of the act or July 1,  
33 2011, whichever occurs later.

34 Amend Bill, page 26, line 26, by striking out "(4)" and  
35 inserting

36 (5)