

SENATE BILL 771

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EMERGENCY BILL

1lr1413
CF HB 1143

By: **Senators Hester and Rosapepe**

Introduced and read first time: February 5, 2021

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2021

CHAPTER _____

1 AN ACT concerning

2 **Unemployment Insurance – Work Sharing**
3 **(Work Share Expansion Act of 2021)**

4 FOR the purpose of altering the definition of “affected employee” for purposes of certain
5 provisions of unemployment insurance law governing work sharing to include
6 ~~certain interns and apprentices and~~ certain individuals who were rehired, subject to
7 a certain limitation; ~~requiring the Maryland Department of Labor to take certain~~
8 ~~actions to achieve a certain goal relating to participation in the work sharing~~
9 ~~unemployment insurance program~~; requiring the Department to ensure that the
10 work sharing unemployment insurance program has sufficient staff and resources to
11 complete the processing of applications within a certain time period; repealing the
12 requirement that the reduction of normal weekly work hours of affected employees
13 in an affected unit be applied equally to all employees in the unit; altering the
14 percentage of normal weekly work hours of each employee that a work sharing plan
15 may include; requiring the Department to provide certain notice to employers
16 regarding their eligibility to participate in the work sharing program; requiring the
17 Department to contract with a professional marketing firm to develop and
18 implement a work sharing unemployment insurance program marketing campaign;
19 providing that the cost of the contract may have a value of up to a certain amount be
20 paid for using funding from certain sources; establishing requirements that a firm
21 must meet to be eligible for the contract; requiring that the campaign include certain
22 components; requiring a certain firm to work with a certain person for certain
23 purposes; making this Act an emergency measure; and generally relating to the work
24 sharing unemployment insurance program.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
 2 Article – Labor and Employment
 3 Section 8–1201(a) and 8–1202
 4 Annotated Code of Maryland
 5 (2016 Replacement Volume and 2020 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Labor and Employment
 8 Section 8–1201(b) and 8–1204(a)(1)
 9 Annotated Code of Maryland
 10 (2016 Replacement Volume and 2020 Supplement)

11 BY adding to
 12 Article – Labor and Employment
 13 Section 8–1202.1
 14 Annotated Code of Maryland
 15 (2016 Replacement Volume and 2020 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 17 That the Laws of Maryland read as follows:

18 Article – Labor and Employment

19 8–1201.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) “Affected employee” means an individual to whom an approved work sharing
 22 plan applies, **AND WHO:**

23 **(1) WAS** hired on a full–time basis ~~for~~, as a permanent part–time worker,
 24 ~~OR AS A PAID INTERN OR APPRENTICE,~~ who has been continuously on the payroll of an
 25 affected unit for at least 3 months immediately before the employing unit submits a work
 26 sharing plan; **OR**

27 **(2) IS REHIRED BY AN AFFECTED UNIT FOLLOWING A TEMPORARY**
 28 **CLOSURE OR LAYOFF DUE TO THE COVID–19 PANDEMIC, SUBJECT TO FLEXIBILITY**
 29 **FOR NONCONTINUOUS EMPLOYMENT PROVIDED UNDER FEDERAL GUIDANCE.**

30 8–1202.

31 (a) The work sharing unemployment insurance program seeks to:

32 (1) preserve the jobs of employees and the work force of an employer during
 33 periods of lowered economic activity by reduction in work hours or workdays rather than

1 by a layoff of some employees while other employees continue their normal weekly work
2 hours or workdays; and

3 (2) ameliorate the adverse effect of reduction in business activity by
4 providing benefits for the part of the normal weekly work hours or workdays in which an
5 employee does not work.

6 (b) The work sharing unemployment insurance program is not intended to
7 subsidize:

8 (1) normal or expected fluctuations in economic activity that are an
9 inherent part of an industry or occupation; or

10 (2) an employer's usual operation on a long-term basis.

11 **8-1202.1.**

12 ~~(A) THE DEPARTMENT SHALL UNDERTAKE ANY ACTIONS NECESSARY TO~~
13 ~~ACHIEVE THE GOAL OF HAVING 4% WORK SHARING CLAIMS AS A PERCENTAGE OF~~
14 ~~TOTAL UNEMPLOYMENT CLAIMS BY JUNE 1, 2021.~~

15 ~~(B)~~ THE DEPARTMENT SHALL ENSURE THAT THE WORK SHARING
16 UNEMPLOYMENT INSURANCE PROGRAM HAS SUFFICIENT STAFF AND RESOURCES
17 TO COMPLETE THE PROCESSING OF AN A COMPLETE APPLICATION WITHIN 10 DAYS
18 AFTER RECEIPT.

19 **8-1204.**

20 (a) Except as provided in subsection (b) of this section, the Secretary shall
21 approve a work sharing plan that meets the following requirements:

22 (1) a work sharing plan shall:

23 (i) identify the affected unit;

24 (ii) identify each employee in the affected unit by name, Social
25 Security number, normal weekly work hours, and any other information that the Secretary
26 requires;

27 (iii) specify the requested start date of the work sharing plan that,
28 unless waived by the Secretary for good cause, shall begin on a Sunday no earlier than 7
29 days after the plan is submitted and an expiration date that is not more than 6 months
30 after the effective date of the work sharing plan;

31 (iv) provide for reduction of normal weekly work hours of affected
32 employees in each affected unit which shall be[:

1 1. applied equally to all employees in the affected unit for all
2 weeks of the plan unless waived by the Secretary for good cause; and

3 2.] at least [20%] **10%** but not more than [50%] **60%** of the
4 normal weekly work hours of each employee;

5 (v) identify any week during the term of the plan for which the
6 employer regularly provides no work for its employees;

7 (vi) specify the effect that work sharing will have on the fringe
8 benefits of each employee in the affected unit including:

9 1. holiday and vacation pay;

10 2. sick leave; and

11 3. similar advantages;

12 (vii) include an estimate of the number of employees who would be
13 laid off in the absence of the plan and the aggregate normal weekly work hours for those
14 employees that must be equivalent to the aggregate hours reduced under the work sharing
15 plan;

16 (viii) include a brief description of the circumstances requiring the use
17 of work sharing to avoid layoffs;

18 (ix) contain the employer's certification that:

19 1. each affected employee has been continuously on the
20 payroll of the employing unit for 3 months immediately before the date on which the
21 employing unit or employer association submits the work sharing plan;

22 2. the total reduction in normal weekly work hours under the
23 work sharing plan is instead of temporary or permanent layoffs, or both, that would have
24 affected at least one employee and that would have resulted in an equivalent reduction in
25 work hours;

26 3. participation in the plan and its implementation is
27 consistent with the employer's obligations under applicable federal and State law;

28 4. the employer will not hire new employees in, or transfer
29 employees to, the affected unit while the plan is in effect;

30 5. the work sharing plan will not serve as a subsidy of
31 temporary or intermittent employment; and

1 6. health benefits and retirement benefits, if any, provided to
2 any employee whose usual weekly work hours are reduced under the work sharing plan
3 will continue to be provided:

4 A. to each employee participating in the work sharing plan
5 under the same terms and conditions as though the usual weekly work hours of the
6 employee had not been reduced; or

7 B. to the same extent as other employees not participating in
8 the program; and

9 (x) 1. contain the written approval of the collective bargaining
10 agent for each collective bargaining agreement that covers any affected employee in the
11 affected unit; and

12 2. for any affected employee not covered by a collective
13 bargaining agreement:

14 A. describe how notice of the plan will be provided to
15 employees who will be subject to the plan; or

16 B. if advance notice to employees subject to the plan is not
17 feasible, provide a detailed explanation as to why advance notice is not feasible.

18 SECTION 2. AND BE IT FURTHER ENACTED, That:

19 (a) Within 30 days after this Act takes effect, the Department shall send a notice
20 to all employers on record as having paid unemployment insurance taxes in the State
21 during the immediately preceding year:

22 (1) informing them of their eligibility to participate in the work sharing
23 unemployment insurance program; and

24 (2) advising them how to contact the Department to participate in the work
25 sharing unemployment insurance program.

26 (b) (1) In order to further the goals of the work sharing unemployment
27 insurance program, the Department shall contract with a professional marketing and
28 communications firm to develop and implement a work sharing unemployment insurance
29 program marketing campaign.

30 (2) The cost of the contract for services may have a value of up to \$500,000
31 be paid for using funding from:

32 (i) Chapter 39 of the Acts of the General Assembly of 2021 for
33 purposes consistent with Section 9(f)(23) of Chapter 39;

1 (ii) the federal government; or

2 (iii) any other source.

3 (3) To be eligible for the contract, a marketing and communications firm
4 must demonstrate that the firm has:

5 (i) previously demonstrated success in at least three statewide
6 communications campaigns; and

7 (ii) connections within the Maryland business community sufficient
8 to successfully complete the marketing campaign.

9 (c) The marketing campaign shall include:

10 (1) a comprehensive plan that uses the resources available through the
11 myriad State agencies to disperse information about the work sharing unemployment
12 insurance program;

13 (2) the development of materials, resources, tool kits, and advertisements
14 that State agencies should use to effectively disseminate information about the work
15 sharing unemployment insurance program; and

16 (3) close cooperation between the marketing and communications firm, the
17 Maryland Department of Labor, and the Department of Information Technology to quickly
18 develop a website that can be updated in real time by either the marketing and
19 communications firm or the Maryland Department of Labor to house all work share
20 program information, including:

21 (i) contact information;

22 (ii) summaries of the program;

23 (iii) frequently asked questions;

24 (iv) webinars; and

25 (v) legal notices.

26 (d) The marketing and communications firm contracted by the Maryland
27 Department of Labor shall work with:

28 (1) relevant State agencies to distribute the information developed through
29 the marketing campaign directly to every employer who pays unemployment taxes in the
30 State; and

1 (2) all chambers of commerce, unions, apprentice sponsors, industry trade
2 associations, and State–licensed employers to deliver program information in the most
3 useful form.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
5 measure, is necessary for the immediate preservation of the public health or safety, has
6 been passed by a ye and nay vote supported by three–fifths of all the members elected to
7 each of the two Houses of the General Assembly, and shall take effect from the date it is
8 enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.