

# SENATE BILL 771

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EMERGENCY BILL

1lr1413  
CF HB 1143

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By: **Senators Hester and Rosapepe**

Introduced and read first time: February 5, 2021

Assigned to: Finance

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## A BILL ENTITLED

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; requiring  
7 the Maryland Department of Labor to take certain actions to achieve a certain goal  
8 relating to participation in the work sharing unemployment insurance program;  
9 requiring the Department to ensure that the work sharing unemployment insurance  
10 program has sufficient staff and resources to complete the processing of applications  
11 within a certain time period; repealing the requirement that the reduction of normal  
12 weekly work hours of affected employees in an affected unit be applied equally to all  
13 employees in the unit; altering the percentage of normal weekly work hours of each  
14 employee that a work sharing plan may include; requiring the Department to provide  
15 certain notice to employers regarding their eligibility to participate in the work  
16 sharing program; requiring the Department to contract with a professional  
17 marketing firm to develop and implement a work sharing unemployment insurance  
18 program marketing campaign; providing that the contract may have a value of up to  
19 a certain amount; establishing requirements that a firm must meet to be eligible for  
20 the contract; requiring that the campaign include certain components; requiring a  
21 certain firm to work with a certain person for certain purposes; making this Act an  
22 emergency measure; and generally relating to the work sharing unemployment  
23 insurance program.

24 BY repealing and reenacting, without amendments,  
25 Article – Labor and Employment  
26 Section 8–1201(a) and 8–1202  
27 Annotated Code of Maryland  
28 (2016 Replacement Volume and 2020 Supplement)

29 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Labor and Employment  
 2 Section 8–1201(b) and 8–1204(a)(1)  
 3 Annotated Code of Maryland  
 4 (2016 Replacement Volume and 2020 Supplement)

5 BY adding to  
 6 Article – Labor and Employment  
 7 Section 8–1202.1  
 8 Annotated Code of Maryland  
 9 (2016 Replacement Volume and 2020 Supplement)

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

12 **Article – Labor and Employment**

13 8–1201.

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

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

17 **(1) WAS** hired on a full–time basis [or], as a permanent part–time worker,  
 18 **OR AS A PAID INTERN OR APPRENTICE**, who has been continuously on the payroll of an  
 19 affected unit for at least 3 months immediately before the employing unit submits a work  
 20 sharing plan; **OR**

21 **(2) IS REHIRED BY AN AFFECTED UNIT FOLLOWING A TEMPORARY**  
 22 **CLOSURE OR LAYOFF DUE TO THE COVID–19 PANDEMIC.**

23 8–1202.

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

25 (1) preserve the jobs of employees and the work force of an employer during  
 26 periods of lowered economic activity by reduction in work hours or workdays rather than  
 27 by a layoff of some employees while other employees continue their normal weekly work  
 28 hours or workdays; and

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

32 (b) The work sharing unemployment insurance program is not intended to  
 33 subsidize:

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

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

4 **8-1202.1.**

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

8 (B) THE DEPARTMENT SHALL ENSURE THAT THE WORK SHARING  
9 UNEMPLOYMENT INSURANCE PROGRAM HAS SUFFICIENT STAFF AND RESOURCES  
10 TO COMPLETE THE PROCESSING OF AN APPLICATION WITHIN 10 DAYS AFTER  
11 RECEIPT.

12 **8-1204.**

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

15 (1) a work sharing plan shall:

16 (i) identify the affected unit;

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

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

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

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

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

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

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

- 3 1. holiday and vacation pay;
- 4 2. sick leave; and
- 5 3. similar advantages;

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

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

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

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

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

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

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

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

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

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

32 B. to the same extent as other employees not participating in

1 the program; and

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

5 2. for any affected employee not covered by a collective  
6 bargaining agreement:

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

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

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

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

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

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

19 (b) (1) In order to further the goals of the work sharing unemployment  
20 insurance program, the Department shall contract with a professional marketing and  
21 communications firm to develop and implement a work sharing unemployment insurance  
22 program marketing campaign.

23 (2) The contract for services may have a value of up to \$500,000.

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

26 (i) previously demonstrated success in at least three statewide  
27 communications campaigns; and

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

30 (c) The marketing campaign shall include:

31 (1) a comprehensive plan that uses the resources available through the  
32 myriad State agencies to disperse information about the work sharing unemployment

1 insurance program;

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

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

- 10                   (i) contact information;
- 11                   (ii) summaries of the program;
- 12                   (iii) frequently asked questions;
- 13                   (iv) webinars; and
- 14                   (v) legal notices.

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

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

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

23           SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
24 measure, is necessary for the immediate preservation of the public health or safety, has  
25 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
26 each of the two Houses of the General Assembly, and shall take effect from the date it is  
27 enacted.