

SENATE, No. 1301

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator MICHAEL J. DOHERTY

District 23 (Warren and Hunterdon)

Co-Sponsored by:

Senator Cunningham

SYNOPSIS

Authorizes unemployment benefits for shared work programs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/19/2010)

1 AN ACT concerning unemployment insurance, amending P.L.2007,
2 c.212 and R.S.43:21-4 and supplementing chapter 21 of Title 43
3 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) For the purposes of this act:

9 “Division” means the Division of Unemployment and Temporary
10 Disability Insurance of the Department of Labor and Workforce
11 Development.

12 “Full-time hours” means not less than 30 and not more than 40
13 hours per week.

14 “Shared work employer” means an employer who is providing a
15 shared work program approved by the division pursuant to section 2
16 of this act.

17 “Short-time benefits” means benefits provided pursuant to
18 sections 1 through 8 of this act.

19
20 2. (New section) An employer who has not less than 10
21 employees, who are each employed for not less than 1,500 hours
22 per year, may apply to the division for approval to provide a shared
23 work program, the purpose of which is to stabilize the employer’s
24 work force during a period of economic disruption by permitting the
25 sharing of the work remaining after a reduction in total hours of
26 work. Any subsidizing of seasonal employment during off season,
27 of employers who traditionally use part-time employees, or of
28 temporary part-time or intermittent employment on an ongoing
29 basis, is contrary to the purpose of a shared work program approved
30 pursuant to this act. The application for a shared work program
31 shall be made according to procedures and on forms specified by
32 the division and shall include whatever information the division
33 requires. In deciding whether to approve the application, the
34 division may consider the nature and size of the employer, its
35 frequency of personnel turnover, its geographical location, and any
36 other factors which may affect the efficacy and utility of the shared
37 work program. The division may approve the program for a period
38 of one year and may, upon employer request, renew the approval of
39 the program annually. The division shall not approve an application
40 unless the employer:

41 a. Certifies to the division that it will not hire additional part-
42 time or full-time employees while short-time benefits are being
43 paid;

44 b. Agrees with the division not to reduce health insurance or
45 pension coverage, paid time off, or other benefits provided to

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 employees before the application was made, or make unreasonable
2 revisions of workforce productivity standards;

3 c. Certifies to the division that any collective bargaining agent
4 representing the employees has entered into a written agreement
5 with the employer regarding the terms of the program, including
6 terms regarding attendance in training programs while receiving
7 short-time benefits, and provides a copy of the agreement to the
8 division; and

9 d. Agrees to provide the division with whatever information the
10 division deems necessary to administer the shared work program
11 and monitor compliance with all agreements and certifications
12 required pursuant to this section.

13

14 3. (New section) The division may revoke approval of an
15 employer's application previously granted for good cause shown,
16 including any failure to comply with any agreement or certification
17 required pursuant to section 2 of this act or other conduct or
18 occurrences which the division determines to defeat the purpose,
19 intent and effective operation of a shared work program.

20

21 4. (New section) An individual who is employed by an
22 employer with a shared work program approved by the division
23 shall be eligible for short-time benefits during a week if:

24 a. The individual was employed by the employer for not less
25 than 1,500 hours during the individual's base year;

26 b. The individual works for the employer less than the
27 individual's normal full-time hours during the week, and the
28 employer has reduced the individual's weekly hours of work
29 pursuant to a shared work program approved by the division
30 pursuant to section 2 of this act;

31 c. The percentage of the reduction of the individual's work
32 hours below the individual's normal full-time hours during a week
33 is not less than 10%, with a corresponding reduction of wages;

34 d. The individual would be eligible for unemployment benefits
35 other than short-time benefits during the week, if the individual was
36 entirely unemployed during that week and applied for
37 unemployment benefits other than short-time benefits; and

38 e. During the week, the individual is able to work and is
39 available to work the individual's normal full-time hours for the
40 shared work employer or is attending a training program which is in
41 compliance with the provisions of paragraph (4) of subsection (c) of
42 R.S.43:21-4 and the agreements and certifications required pursuant
43 to the provisions of section 2 of this act.

44

45 5. (New section) The amount of short-time benefits paid to an
46 eligible individual shall, for any week, be equal to the individual's
47 weekly benefit rate multiplied by the percentage of reduction of his
48 wages resulting from reduced hours of work. The weekly benefit

1 amount shall be rounded off to the nearest dollar. An individual
2 shall not be paid short-time benefits in excess of 26 weeks during a
3 benefit year, but the weeks may be nonconsecutive. An individual
4 shall not receive short-time benefits during any benefit week in
5 which the individual receives any other unemployment benefits.

6 Total unemployment benefits paid to an individual during any
7 benefit year, including short-time benefits and all other
8 unemployment benefits, shall not exceed the maximum amount to
9 which the individual is entitled for all unemployment benefits other
10 than short-time benefits.

11

12 6. (New section) A shared work program and payment of short-
13 time benefits to individuals under the program shall begin with the
14 first week following approval of an application by the division or
15 the first week specified by the employer, whichever is later.

16

17 7. (New section) All short-time benefits paid to an individual
18 shall be charged to the account of the shared work employer by
19 which the individual is employed while receiving the short-time
20 benefits. If the shared work employer is liable for payments in lieu
21 of contributions in the case of other unemployment benefits, that
22 employer shall be liable for payments in lieu of contributions for
23 the entire amount of the short-time benefits paid.

24

25 8. (New section) If the United State Department of Labor finds
26 any provision of this act to be in violation of federal law, all
27 provisions of this act shall be inoperative.

28

29 9. Section 5 of P.L.2007, c.212 (C.34:21-5) is amended to read
30 as follows:

31

32 5. a. There is established, in the Department of Labor and
33 Workforce Development, a response team. The purpose of the
34 response team is to provide appropriate information, referral and
35 counseling, as rapidly as possible, to workers who are, or may be,
36 subject to plant closings or mass layoffs, and the management of
establishments where those workers are or were employed.

37

38 b. In the case of each transfer or termination of the operations
39 in an establishment which results in the termination of 50 or more
40 employees, the response team shall:

41

42 (1) Offer to meet with the representatives of the management of
43 the establishment to discuss available public programs which may
44 make it possible to delay or prevent the transfer or termination of
45 operations, including economic development incentive and
46 workforce development programs, shared work unemployment
compensation benefit programs, and coordinated utilization of any
of those programs which are applicable;

47

48 (2) Meet on site with workers and provide information, referral
and counseling regarding:

- 1 (a) Available public programs which may make it possible to
2 delay or prevent the transfer or termination of operations, including
3 economic development incentive and workforce development
4 programs, shared work unemployment compensation benefit
5 programs, and coordinated utilization of any of those programs
6 which are applicable;
7 (b) Public programs or benefits which may be available to assist
8 the employees, including, but not limited to, unemployment
9 compensation benefits, job training or retraining programs, and job
10 search assistance; and
11 (c) Employee rights based on this act or any other law which
12 applies to the employees with respect to wages, severance pay,
13 benefits, pensions or other terms of employment as they relate to
14 the termination of employment; and
15 (3) Seek to facilitate cooperation between representatives of the
16 management and employees at the establishment to most effectively
17 utilize available public programs which may make it possible to
18 delay or prevent the transfer or termination of operations or to assist
19 employees if it is not possible to prevent the termination.
20 (cf:P.L.2007, c.212, s.5)

- 21
22 10. R.S.43:21-4 is amended to read as follows:
23 43:21-4. Benefit eligibility conditions. An unemployed
24 individual shall be eligible to receive benefits with respect to any
25 week eligible only if:
26 (a) The individual has filed a claim at an unemployment
27 insurance claims office and thereafter continues to report at an
28 employment service office or unemployment insurance claims
29 office, as directed by the division in accordance with such
30 regulations as the division may prescribe, except that the division
31 may, by regulation, waive or alter either or both of the requirements
32 of this subsection as to individuals attached to regular jobs, and as
33 to such other types of cases or situations with respect to which the
34 division finds that compliance with such requirements would be
35 oppressive, or would be inconsistent with the purpose of this act;
36 provided that no such regulation shall conflict with subsection (a) of
37 R.S.43:21-3.
38 (b) The individual has made a claim for benefits in accordance
39 with the provisions of subsection (a) of R.S.43:21-6.
40 (c)(1) The individual is able to work, and is available for work,
41 and has demonstrated to be actively seeking work, except as
42 hereinafter provided in this subsection or in subsection (f) of this
43 section.
44 (2) The director may modify the requirement of actively seeking
45 work if such modification of this requirement is warranted by
46 economic conditions.
47 (3) No individual, who is otherwise eligible, shall be deemed
48 ineligible, or unavailable for work, because the individual is on

1 vacation, without pay, during said week, if said vacation is not the
2 result of the individual's own action as distinguished from any
3 collective action of a collective bargaining agent or other action
4 beyond the individual's control.

5 (4) (A) Subject to such limitations and conditions as the division
6 may prescribe, an individual, who is otherwise eligible, shall not be
7 deemed unavailable for work or ineligible because the individual is
8 attending a training program approved for the individual by the
9 division to enhance the individual's employment opportunities or
10 because the individual failed or refused to accept work while
11 attending such program.

12 (B) For the purpose of this paragraph (4), any training program
13 shall be regarded as approved by the division for the individual if
14 the program and the individual meet the following requirements:

15 (i) The training is for a labor demand occupation and is likely to
16 enhance the individual's marketable skills and earning power,
17 except that the training may be for an occupation other than a labor
18 demand occupation if the individual is receiving short-term benefits
19 pursuant to the provisions of P.L. , c. (C.) (pending before
20 the Legislature as this bill) and the training is necessary to prevent a
21 likely loss of jobs;

22 (ii) The training is provided by a competent and reliable private
23 or public entity approved by the Commissioner of Labor and
24 Workforce Development pursuant to the provisions of section 8 of
25 the "1992 New Jersey Employment and Workforce Development
26 Act," P.L.1992, c.43 (C.34:15D-8);

27 (iii) The individual can reasonably be expected to complete the
28 program, either during or after the period of benefits;

29 (iv) The training does not include on the job training or other
30 training under which the individual is paid by an employer for work
31 performed by the individual during the time that the individual
32 receives benefits; and

33 (v) The individual enrolls in vocational training, remedial
34 education or a combination of both on a full-time basis, except that
35 the training or education may be on a part-time basis if the
36 individual is receiving short-term benefits pursuant to the
37 provisions of P.L. , c. (C.) (pending before the Legislature
38 as this bill).

39 (C) If the requirements of subparagraph (B) of this paragraph (4)
40 are met, the division shall not withhold approval of the training
41 program for the individual for any of the following reasons:

42 (i) The training includes remedial basic skills education
43 necessary for the individual to successfully complete the vocational
44 component of the training;

45 (ii) The training is provided in connection with a program under
46 which the individual may obtain a college degree, including a post-
47 graduate degree;

48 (iii) The length of the training period under the program; or

1 (iv) The lack of a prior guarantee of employment upon
2 completion of the training.

3 (D) For the purpose of this paragraph (4), "labor demand
4 occupation" means an occupation for which there is or is likely to
5 be an excess of demand over supply for adequately trained workers,
6 including, but not limited to, an occupation designated as a labor
7 demand occupation by the Center for Occupational Employment
8 Information pursuant to the provisions of subsection d. of section
9 27 of P.L.2005, c.354 (C.34:1A-86).

10 (5) An unemployed individual, who is otherwise eligible, shall
11 not be deemed unavailable for work or ineligible solely by reason of
12 the individual's attendance before a court in response to a summons
13 for service on a jury.

14 (6) An unemployed individual, who is otherwise eligible, shall
15 not be deemed unavailable for work or ineligible solely by reason of
16 the individual's attendance at the funeral of an immediate family
17 member, provided that the duration of the attendance does not
18 extend beyond a two-day period.

19 For purposes of this paragraph, "immediate family member"
20 includes any of the following individuals: father, mother, mother-
21 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
22 child, child placed by the Division of Youth and Family Services in
23 the Department of Children and Families, sister or brother of the
24 unemployed individual and any relatives of the unemployed
25 individual residing in the unemployed individual's household.

26 (7) No individual, who is otherwise eligible, shall be deemed
27 ineligible or unavailable for work with respect to any week because,
28 during that week, the individual fails or refuses to accept work
29 while the individual is participating on a full-time basis in self-
30 employment assistance activities authorized by the division,
31 whether or not the individual is receiving a self-employment
32 allowance during that week.

33 (8) Any individual who is determined to be likely to exhaust
34 regular benefits and need reemployment services based on
35 information obtained by the worker profiling system shall not be
36 eligible to receive benefits if the individual fails to participate in
37 available reemployment services to which the individual is referred
38 by the division or in similar services, unless the division determines
39 that:

40 (A) The individual has completed the reemployment services; or

41 (B) There is justifiable cause for the failure to participate, which
42 shall include participation in employment and training, self-
43 employment assistance activities or other activities authorized by
44 the division to assist reemployment or enhance the marketable skills
45 and earning power of the individual and which shall include any
46 other circumstance indicated pursuant to this section in which an
47 individual is not required to be available for and actively seeking
48 work to receive benefits.

1 (9) An unemployed individual, who is otherwise eligible, shall
2 not be deemed unavailable for work or ineligible solely by reason of
3 the individual's work as a board worker for a county board of
4 elections on an election day.

5 (10) An individual who is employed by a shared work employer
6 and is otherwise eligible for benefits shall not be deemed ineligible
7 for short-time benefits because the individual is unavailable for
8 work with employers other than the shared work employer, so long
9 as;

10 (A) The individual is able to work and is available to work the
11 individual's normal full-time hours for the shared work employer;
12 or

13 (B) The individual is attending a training program which is in
14 compliance with the provisions of paragraph (4) of subsection (c) of
15 this section and the agreements and certifications required pursuant
16 to the provisions of section 2 of P.L. , c. (C.) (pending before
17 the Legislature as this bill).

18 (d) With respect to any benefit year commencing before January
19 1, 2002, the individual has been totally or partially unemployed for
20 a waiting period of one week in the benefit year which includes that
21 week. When benefits become payable with respect to the third
22 consecutive week next following the waiting period, the individual
23 shall be eligible to receive benefits as appropriate with respect to
24 the waiting period. No week shall be counted as a week of
25 unemployment for the purposes of this subsection:

26 (1) If benefits have been paid, or are payable with respect
27 thereto; provided that the requirements of this paragraph shall be
28 waived with respect to any benefits paid or payable for a waiting
29 period as provided in this subsection;

30 (2) If it has constituted a waiting period week under the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
32 et al.);

33 (3) Unless the individual fulfills the requirements of subsections
34 (a) and (c) of this section;

35 (4) If with respect thereto, claimant was disqualified for benefits
36 in accordance with the provisions of subsection (d) of R.S.43:21-5.

37 The waiting period provided by this subsection shall not apply to
38 benefit years commencing on or after January 1, 2002. An
39 individual whose total benefit amount was reduced by the
40 application of the waiting period to a claim which occurred on or
41 after January 1, 2002 and before the effective date of P.L.2002,
42 c.13, shall be permitted to file a claim for the additional benefits
43 attributable to the waiting period in the form and manner prescribed
44 by the division, but not later than the 180th day following the
45 effective date of P.L.2002, c.13 unless the division determines that
46 there is good cause for a later filing.

47 (e) (1) (Deleted by amendment, P.L.2001, c.17).

48 (2) (Deleted by amendment, P.L.2008, c.17).

1 (3) (Deleted by amendment, P.L.2008, c.17).

2 (4) With respect to benefit years commencing on or after
3 January 7, 2001, except as otherwise provided in paragraph (5) of
4 this subsection, the individual has, during his base year as defined
5 in subsection (c) of R.S.43:21-19:

6 (A) Established at least 20 base weeks as defined in paragraphs
7 (2) and (3) of subsection (t) of R.S.43:21-19; or

8 (B) If the individual has not met the requirements of
9 subparagraph (A) of this paragraph (4), earned remuneration not
10 less than an amount 1,000 times the minimum wage in effect
11 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
12 1 of the calendar year preceding the calendar year in which the
13 benefit year commences, which amount shall be adjusted to the next
14 higher multiple of \$100 if not already a multiple thereof.

15 (5) With respect to benefit years commencing on or after
16 January 7, 2001, notwithstanding the provisions of paragraph (4) of
17 this subsection, an unemployed individual claiming benefits on the
18 basis of service performed in the production and harvesting of
19 agricultural crops shall, subject to the limitations of subsection (i)
20 of R.S.43:21-19, be eligible to receive benefits if during his base
21 year, as defined in subsection (c) of R.S.43:21-19, the individual:

22 (A) Has established at least 20 base weeks as defined in
23 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

24 (B) Has earned remuneration not less than an amount 1,000
25 times the minimum wage in effect pursuant to section 5 of
26 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
27 preceding the calendar year in which the benefit year commences,
28 which amount shall be adjusted to the next higher multiple of \$100
29 if not already a multiple thereof; or

30 (C) Has performed at least 770 hours of service in the
31 production and harvesting of agricultural crops.

32 (6) The individual applying for benefits in any successive
33 benefit year has earned at least six times his previous weekly
34 benefit amount and has had four weeks of employment since the
35 beginning of the immediately preceding benefit year. This
36 provision shall be in addition to the earnings requirements specified
37 in paragraph (4) or (5) of this subsection, as applicable.

38 (f) (1) The individual has suffered any accident or sickness not
39 compensable under the workers' compensation law, R.S.34:15-1 et
40 seq. and resulting in the individual's total disability to perform any
41 work for remuneration, and would be eligible to receive benefits
42 under this chapter (R.S.43:21-1 et seq.) (without regard to the
43 maximum amount of benefits payable during any benefit year)
44 except for the inability to work and has furnished notice and proof
45 of claim to the division, in accordance with its rules and
46 regulations, and payment is not precluded by the provisions of
47 R.S.43:21-3(d); provided, however, that benefits paid under this
48 subsection (f) shall be computed on the basis of only those base

1 year wages earned by the claimant as a "covered individual," as
2 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
3 27); provided further that no benefits shall be payable under this
4 subsection to any individual:

5 (A) For any period during which such individual is not under the
6 care of a legally licensed physician, dentist, optometrist, podiatrist,
7 practicing psychologist, advanced practice nurse, or chiropractor,
8 who, when requested by the division, shall certify within the scope
9 of the practitioner's practice, the disability of the individual, the
10 probable duration thereof, and, where applicable, the medical facts
11 within the practitioner's knowledge;

12 (B) (Deleted by amendment, P.L.1980, c.90.)

13 (C) For any period of disability due to willfully or intentionally
14 self-inflicted injury, or to injuries sustained in the perpetration by
15 the individual of a crime of the first, second or third degree;

16 (D) For any week with respect to which or a part of which the
17 individual has received or is seeking benefits under any
18 unemployment compensation or disability benefits law of any other
19 state or of the United States; provided that if the appropriate agency
20 of such other state or the United States finally determines that the
21 individual is not entitled to such benefits, this disqualification shall
22 not apply;

23 (E) For any week with respect to which or part of which the
24 individual has received or is seeking disability benefits under the
25 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
26 et al.);

27 (F) For any period of disability commencing while such
28 individual is a "covered individual," as defined in subsection (b) of
29 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
30 c.110 (C.43:21-27).

31 (2) The individual is taking family temporary disability leave to
32 provide care for a family member with a serious health condition or
33 to be with a child during the first 12 months after the child's birth or
34 placement of the child for adoption with the individual, and the
35 individual would be eligible to receive benefits under R.S.43:21-1
36 et seq. (without regard to the maximum amount of benefits payable
37 during any benefit year) except for the individual's unavailability
38 for work while taking the family temporary disability leave, and the
39 individual has furnished notice and proof of claim to the division, in
40 accordance with its rules and regulations, and payment is not
41 precluded by the provisions of R.S.43:21-3(d) provided, however,
42 that benefits paid under this subsection (f) shall be computed on the
43 basis of only those base year wages earned by the claimant as a
44 "covered individual," as defined in subsection (b) of section 3 of
45 P.L.1948, c.110 (C.43:21-27); provided further that no benefits
46 shall be payable under this subsection to any individual:

47 (A) For any week with respect to which or a part of which the
48 individual has received or is seeking benefits under any

1 unemployment compensation or disability benefits law of any other
2 state or of the United States; provided that if the appropriate agency
3 of such other state or the United States finally determines that the
4 individual is not entitled to such benefits, this disqualification shall
5 not apply;

6 (B) For any week with respect to which or part of which the
7 individual has received or is seeking disability benefits for a
8 disability of the individual under the "Temporary Disability
9 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

10 (C) For any period of family temporary disability leave
11 commencing while the individual is a "covered individual," as
12 defined in subsection (b) of section 3 of the "Temporary Disability
13 Benefits Law," P.L.1948, c.110 (C.43:21-27); or

14 (D) For any period of family temporary disability leave for a
15 serious health condition of a family member of the claimant during
16 which the family member is not receiving inpatient care in a
17 hospital, hospice, or residential medical care facility and is not
18 subject to continuing medical treatment or continuing supervision
19 by a health care provider, who, when requested by the division,
20 shall certify within the scope of the provider's practice, the serious
21 health condition of the family member, the probable duration
22 thereof, and, where applicable, the medical facts within the
23 provider's knowledge.

24 (3) Benefit payments under this subsection (f) shall be charged
25 to and paid from the State disability benefits fund established by the
26 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
27 et al.), and shall not be charged to any employer account in
28 computing any employer's experience rate for contributions payable
29 under this chapter.

30 (g) Benefits based on service in employment defined in
31 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
32 in the same amount and on the terms and subject to the same
33 conditions as benefits payable on the basis of other service subject
34 to the "unemployment compensation law"; except that,
35 notwithstanding any other provisions of the "unemployment
36 compensation law":

37 (1) With respect to service performed after December 31, 1977,
38 in an instructional research, or principal administrative capacity for
39 an educational institution, benefits shall not be paid based on such
40 services for any week of unemployment commencing during the
41 period between two successive academic years, or during a similar
42 period between two regular terms, whether or not successive, or
43 during a period of paid sabbatical leave provided for in the
44 individual's contract, to any individual if such individual performs
45 such services in the first of such academic years (or terms) and if
46 there is a contract or a reasonable assurance that such individual
47 will perform services in any such capacity for any educational
48 institution in the second of such academic years or terms;

1 (2) With respect to weeks of unemployment beginning after
2 September 3, 1982, on the basis of service performed in any other
3 capacity for an educational institution, benefits shall not be paid on
4 the basis of such services to any individual for any week which
5 commences during a period between two successive academic years
6 or terms if such individual performs such services in the first of
7 such academic years or terms and there is a reasonable assurance
8 that such individual will perform such services in the second of
9 such academic years or terms, except that if benefits are denied to
10 any individual under this paragraph (2) and the individual was not
11 offered an opportunity to perform these services for the educational
12 institution for the second of any academic years or terms, the
13 individual shall be entitled to a retroactive payment of benefits for
14 each week for which the individual filed a timely claim for benefits
15 and for which benefits were denied solely by reason of this clause;

16 (3) With respect to those services described in paragraphs (1)
17 and (2) above, benefits shall not be paid on the basis of such
18 services to any individual for any week which commences during
19 an established and customary vacation period or holiday recess if
20 such individual performs such services in the period immediately
21 before such vacation period or holiday recess, and there is a
22 reasonable assurance that such individual will perform such
23 services in the period immediately following such period or holiday
24 recess;

25 (4) With respect to any services described in paragraphs (1) and
26 (2) above, benefits shall not be paid as specified in paragraphs (1),
27 (2), and (3) above to any individual who performed those services
28 in an educational institution while in the employ of an educational
29 service agency, and for this purpose the term "educational service
30 agency" means a governmental agency or governmental entity
31 which is established and operated exclusively for the purpose of
32 providing those services to one or more educational institutions.

33 (h) Benefits shall not be paid to any individual on the basis of
34 any services, substantially all of which consist of participating in
35 sports or athletic events or training or preparing to so participate,
36 for any week which commences during the period between two
37 successive sports seasons (or similar periods) if such individual
38 performed such services in the first of such seasons (or similar
39 periods) and there is a reasonable assurance that such individual
40 will perform such services in the later of such seasons (or similar
41 periods).

42 (i) (1) Benefits shall not be paid on the basis of services
43 performed by an alien unless such alien is an individual who was
44 lawfully admitted for permanent residence at the time the services
45 were performed and was lawfully present for the purpose of
46 performing the services or otherwise was permanently residing in
47 the United States under color of law at the time the services were
48 performed (including an alien who is lawfully present in the United

1 States as a result of the application of the provisions of section
2 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
3 Nationality Act (8 U.S.C. s.1101 et seq.); provided that any
4 modifications of the provisions of section 3304(a)(14) of the
5 Federal Unemployment Tax Act **[28U.S.C. s.3304 (a)(14)]**, (26
6 U.S.C. s. 3304 (a) (14) as provided by Pub.L.94-566, which specify
7 other conditions or other effective dates than stated herein for the
8 denial of benefits based on services performed by aliens and which
9 modifications are required to be implemented under State law as a
10 condition for full tax credit against the tax imposed by the Federal
11 Unemployment Tax Act, shall be deemed applicable under the
12 provisions of this section.

13 (2) Any data or information required of individuals applying for
14 benefits to determine whether benefits are not payable to them
15 because of their alien status shall be uniformly required from all
16 applicants for benefits.

17 (3) In the case of an individual whose application for benefits
18 would otherwise be approved, no determination that benefits to such
19 individual are not payable because of alien status shall be made
20 except upon a preponderance of the evidence.

21 (j) Notwithstanding any other provision of this chapter, the
22 director may, to the extent that it may be deemed efficient and
23 economical, provide for consolidated administration by one or more
24 representatives or deputies of claims made pursuant to subsection
25 (f) of this section with those made pursuant to Article III (State
26 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
27 (C.43:21-25 et al.).

28 (cf: P.L.2008, c.17, s.14)

29

30 11. This act shall take effect on the 90th day after enactment.

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32

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STATEMENT

34

35 This bill is designed to encourage employers who must reduce
36 their employees' work hours because of economic conditions to
37 avoid layoffs by sharing the remaining work. That is achieved by
38 permitting, under certain circumstances, a full-time employee to
39 receive unemployment benefits when the employee's weekly work
40 time is reduced by 10% or more. The bill also permits the
41 employee to attend an approved training program while receiving
42 those benefits.

43 The bill provides that an employer of at least 10 full-time non-
44 seasonal employees may provide a shared work program if
45 approved by the Department of Labor and Workforce Development.
46 The program may be approved for one year with annual renewals
47 upon request. The employer is required to sustain existing fringe
48 benefits levels, not to hire additional part-time or full-time

1 employees; or make unreasonable revisions of workloads; to
2 provide information needed to monitor compliance; and to certify
3 that if a labor union represents the employees, it has agreed to the
4 terms of the program.

5 Under an approved program, an employee is eligible for “short-
6 time” unemployment benefits if:

7 1. The employee’s weekly work hours are reduced at least 10%
8 from normal full-time hours;

9 2. The employee would be eligible for regular unemployment
10 benefits during the week if the employee was entirely unemployed;
11 and

12 3. The employee is available to work normal full-time hours.

13 Short-time weekly benefits paid to an eligible individual are
14 equal to the individual’s weekly benefit rate multiplied by the
15 percentage of reduction of his wages for the week. The benefits are
16 limited to 26 weeks during a benefit year, but the weeks may be
17 nonconsecutive. No person may receive both short-time benefits
18 and regular unemployment benefits during the same week. The
19 combined total of regular and short-time unemployment benefits for
20 an employee during a benefit year is limited to the maximum
21 amount of regular unemployment benefits allowed.

22 All short-time benefits are charged to the account of the
23 employer that provides the shared work program.

24 The bill also requires that when the Department of Labor and
25 Workforce Development’s response team provides information,
26 referral and counseling at a workplace which may have mass layoffs
27 or plant closings, it provides those services to management as well
28 as to workers and that it provides information on shared work
29 unemployment compensation benefit programs.