

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 576 be amended to read as follows:

- 1 Page 43, between lines 9 and 10, begin a new paragraph and insert:
2 "SECTION 18. IC 22-4-15-1, AS AMENDED BY P.L.175-2009,
3 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 1. (a) With respect to benefit periods established
5 on and after July 6, 1980, an individual who has voluntarily left the
6 individual's most recent employment without good cause in connection
7 with the work or who was discharged from the individual's most recent
8 employment for just cause is ineligible for waiting period or benefit
9 rights for the week in which the disqualifying separation occurred and
10 until the individual has earned remuneration in employment equal to
11 or exceeding the weekly benefit amount of the individual's claim in
12 each of eight (8) weeks. If the qualification amount has not been earned
13 at the expiration of an individual's benefit period, the unearned amount
14 shall be carried forward to an extended benefit period or to the benefit
15 period of a subsequent claim.
16 (b) When it has been determined that an individual has been
17 separated from employment under disqualifying conditions as outlined
18 in this section, the maximum benefit amount of the individual's current
19 claim, as initially determined, shall be reduced by an amount
20 determined as follows:
21 (1) For the first separation from employment under disqualifying
22 conditions, the maximum benefit amount of the individual's
23 current claim is equal to the result of:
24 (A) the maximum benefit amount of the individual's current

- 1 claim, as initially determined; multiplied by
2 (B) seventy-five percent (75%);
3 rounded (if not already a multiple of one dollar (\$1)) to the next
4 higher dollar.
- 5 (2) For the second separation from employment under
6 disqualifying conditions, the maximum benefit amount of the
7 individual's current claim is equal to the result of:
8 (A) the maximum benefit amount of the individual's current
9 claim determined under subdivision (1); multiplied by
10 (B) eighty-five percent (85%);
11 rounded (if not already a multiple of one dollar (\$1)) to the next
12 higher dollar.
- 13 (3) For the third and any subsequent separation from employment
14 under disqualifying conditions, the maximum benefit amount of
15 the individual's current claim is equal to the result of:
16 (A) the maximum benefit amount of the individual's current
17 claim determined under subdivision (2); multiplied by
18 (B) ninety percent (90%);
19 rounded (if not already a multiple of one dollar (\$1)) to the next
20 higher dollar.
- 21 (c) The disqualifications provided in this section shall be subject to
22 the following modifications:
- 23 (1) An individual shall not be subject to disqualification because
24 of separation from the individual's employment if:
25 (A) the individual left to accept with another employer
26 previously secured permanent full-time work which offered
27 reasonable expectation of continued covered employment and
28 betterment of wages or working conditions and thereafter was
29 employed on said job;
30 (B) having been simultaneously employed by two (2)
31 employers, the individual leaves one (1) such employer
32 voluntarily without good cause in connection with the work
33 but remains in employment with the second employer with a
34 reasonable expectation of continued employment; or
35 (C) the individual left to accept recall made by a base period
36 employer.
- 37 (2) An individual whose unemployment is the result of medically
38 substantiated physical disability and who is involuntarily
39 unemployed after having made reasonable efforts to maintain the
40 employment relationship shall not be subject to disqualification
41 under this section for such separation.
- 42 (3) An individual who left work to enter the armed forces of the
43 United States shall not be subject to disqualification under this
44 section for such leaving of work.
- 45 (4) An individual whose employment is terminated under the
46 compulsory retirement provision of a collective bargaining

1 agreement to which the employer is a party, or under any other
2 plan, system, or program, public or private, providing for
3 compulsory retirement and who is otherwise eligible shall not be
4 deemed to have left the individual's work voluntarily without
5 good cause in connection with the work. However, if such
6 individual subsequently becomes reemployed and thereafter
7 voluntarily leaves work without good cause in connection with the
8 work, the individual shall be deemed ineligible as outlined in this
9 section.

10 (5) An otherwise eligible individual shall not be denied benefits
11 for any week because the individual is in training approved under
12 Section 236(a)(1) of the Trade Act of 1974, nor shall the
13 individual be denied benefits by reason of leaving work to enter
14 such training, provided the work left is not suitable employment,
15 or because of the application to any week in training of provisions
16 in this law (or any applicable federal unemployment
17 compensation law), relating to availability for work, active search
18 for work, or refusal to accept work. For purposes of this
19 subdivision, the term "suitable employment" means with respect
20 to an individual, work of a substantially equal or higher skill level
21 than the individual's past adversely affected employment (as
22 defined for purposes of the Trade Act of 1974), and wages for
23 such work at not less than eighty percent (80%) of the individual's
24 average weekly wage as determined for the purposes of the Trade
25 Act of 1974.

26 (6) An individual is not subject to disqualification because of
27 separation from the individual's employment if:

- 28 (A) the employment was outside the individual's labor market;
- 29 (B) the individual left to accept previously secured full-time
30 work with an employer in the individual's labor market; and
- 31 (C) the individual actually became employed with the
32 employer in the individual's labor market.

33 (7) An individual who, but for the voluntary separation to move
34 to another labor market to join a spouse who had moved to that
35 labor market, shall not be disqualified for that voluntary
36 separation, if the individual is otherwise eligible for benefits.
37 Benefits paid to the spouse whose eligibility is established under
38 this subdivision shall not be charged against the employer from
39 whom the spouse voluntarily separated.

40 (8) An individual shall not be subject to disqualification if the
41 individual voluntarily left employment or was discharged due to
42 circumstances directly caused by domestic or family violence (as
43 defined in IC 31-9-2-42). An individual who may be entitled to
44 benefits based on this modification may apply to the office of the
45 attorney general under IC 5-26.5 to have an address designated by
46 the office of the attorney general to serve as the individual's

1 address for purposes of this article.

2 **(9) An individual who is an affected employee (as defined in**
 3 **IC 22-4-44-1(1)) and is subject to the work sharing**
 4 **unemployment insurance program under IC 22-4-44 is not**
 5 **disqualified for participating in the work sharing**
 6 **unemployment insurance program.**

7 As used in this subsection, "labor market" means the area surrounding
 8 an individual's permanent residence, outside which the individual
 9 cannot reasonably commute on a daily basis. In determining whether
 10 an individual can reasonably commute under this subdivision, the
 11 department shall consider the nature of the individual's job.

12 (d) "Discharge for just cause" as used in this section is defined to
 13 include but not be limited to:

14 (1) separation initiated by an employer for falsification of an
 15 employment application to obtain employment through
 16 subterfuge;

17 (2) knowing violation of a reasonable and uniformly enforced rule
 18 of an employer, including a rule regarding attendance;

19 (3) if an employer does not have a rule regarding attendance, an
 20 individual's unsatisfactory attendance, if the individual cannot
 21 show good cause for absences or tardiness;

22 (4) damaging the employer's property through willful negligence;

23 (5) refusing to obey instructions;

24 (6) reporting to work under the influence of alcohol or drugs or
 25 consuming alcohol or drugs on employer's premises during
 26 working hours;

27 (7) conduct endangering safety of self or coworkers;

28 (8) incarceration in jail following conviction of a misdemeanor or
 29 felony by a court of competent jurisdiction; or

30 (9) any breach of duty in connection with work which is
 31 reasonably owed an employer by an employee.

32 (e) To verify that domestic or family violence has occurred, an
 33 individual who applies for benefits under subsection (c)(8) shall
 34 provide one (1) of the following:

35 (1) A report of a law enforcement agency (as defined in
 36 IC 10-13-3-10).

37 (2) A protection order issued under IC 34-26-5.

38 (3) A foreign protection order (as defined in IC 34-6-2-48.5).

39 (4) An affidavit from a domestic violence service provider
 40 verifying services provided to the individual by the domestic
 41 violence service provider.

42 SECTION 19. IC 22-4-44 IS ADDED TO THE INDIANA CODE
 43 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2011]:

45 **Chapter 44. Work Sharing**

46 **Sec. 1. The following definitions apply throughout this chapter:**

- 1 **(1) "Affected employee" means an individual:**
2 **(A) who has been continuously on the payroll of an affected**
3 **unit for at least three (3) months; and**
4 **(B) who works at least thirty (30) normal weekly work**
5 **hours for the affected unit before a reduction under an**
6 **approved work sharing plan.**
- 7 **(2) "Affected unit" means a specific plant, department, shift,**
8 **or other definable unit of an employing unit:**
9 **(A) that has at least two (2) employees; and**
10 **(B) to which an approved work sharing plan applies.**
- 11 **(3) "Approved work sharing plan" means a plan that satisfies**
12 **the purpose set forth in section 2 of this chapter and has the**
13 **approval of the commissioner.**
- 14 **(4) "Intermittent employment" means periodic intervals that**
15 **are not continuous during which an individual works for an**
16 **employing unit.**
- 17 **(5) "Normal weekly work hours" means the lesser of the**
18 **following:**
19 **(A) The number of hours that an employee in the affected**
20 **unit works when the unit is operating on its normal**
21 **full-time basis.**
22 **(B) Forty (40) hours.**
- 23 **(6) "Payments in lieu of contributions" has the meaning set**
24 **forth in IC 22-4-2-32.**
- 25 **(7) "Seasonal employment" has the meaning set forth in**
26 **IC 22-4-8-4.**
- 27 **(8) "Work sharing benefit" means a benefit payable to an**
28 **affected employee for work performed under an approved**
29 **work sharing plan, but does not include benefits that are**
30 **otherwise payable under this article.**
- 31 **(9) "Work sharing employer" means an employing unit for**
32 **which a work sharing plan has been approved.**
- 33 **(10) "Work sharing plan" means a plan of an employing unit**
34 **under which:**
35 **(A) normal weekly work hours of the affected employees**
36 **are reduced in lieu of a layoff of a part or all of the affected**
37 **employees; and**
38 **(B) the affected employees share the work that remains**
39 **after the reduction.**
- 40 **Sec. 2. The work sharing unemployment insurance program**
41 **seeks to:**
42 **(1) preserve the jobs of employees and the work force of an**
43 **employer during lowered economic activity by reduction in**
44 **work hours or workdays rather than by a layoff of some**
45 **employees while other employees continue their normal**
46 **weekly work hours or workdays; and**
47 **(2) ameliorate the adverse effect of reduction in business**

1 activity by providing benefits for the part of the normal
 2 weekly work hours or workdays in which an employee does
 3 not work.

4 **Sec. 3. (a) An employing unit that meets all of the following**
 5 **requirements is eligible to participate in the work sharing**
 6 **unemployment insurance program established by this chapter:**

7 (1) The employing unit is subject to this article for wages paid
 8 during a calendar year.

9 (2) The employing unit's contribution rate for the calendar
 10 year or payments in lieu of contributions are determined
 11 under IC 22-4-10, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3.

12 (3) The employing unit is not delinquent as determined under
 13 IC 22-4-11-2.

14 (b) An employing unit that:

15 (1) meets the eligibility requirements under subsection (a);
 16 and

17 (2) wishes to participate in the work sharing unemployment
 18 insurance program established by this chapter;

19 shall submit to the commissioner a written work sharing plan.

20 **Sec. 4. (a) Within fifteen (15) days after receipt of a work**
 21 **sharing plan, the commissioner shall give written approval or**
 22 **disapproval of the plan to the employing unit.**

23 (b) The decision of the commissioner to disapprove a work
 24 sharing plan is final and may not be appealed.

25 (c) An employing unit may submit a new work sharing plan not
 26 less than fifteen (15) days after disapproval of a work sharing plan.

27 **Sec. 5. The commissioner shall approve a work sharing plan**
 28 **that meets the following requirements:**

29 (1) The work sharing plan must apply to:

30 (A) at least ten percent (10%) of the employees in an
 31 affected unit; or

32 (B) at least twenty (20) employees in an affected unit.

33 (2) The normal weekly work hours of the affected employees
 34 in the affected unit shall be reduced by at least ten percent
 35 (10%), but the reduction may not exceed fifty percent (50%)
 36 unless waived by the commissioner. The reduction in normal
 37 weekly work hours must be spread equally among the affected
 38 employees.

39 **Sec. 6. A work sharing plan must:**

40 (1) identify the affected unit;

41 (2) specify the effective date of the work sharing plan;

42 (3) identify each employee in the affected unit by:

43 (A) name;

44 (B) Social Security number;

45 (C) the employee's normal weekly work hours;

46 (D) the reductions in the number of hours and the amount
 47 of wages proposed for the employee by the work sharing

- 1 **plan; and**
- 2 **(E) any other information the commissioner requires;**
- 3 **(4) specify an expiration date that is not more than twelve (12)**
- 4 **months after the effective date of the work sharing plan;**
- 5 **(5) specify the effect that the work sharing plan will have on**
- 6 **the fringe benefits of each employee in the affected unit,**
- 7 **including:**
- 8 **(A) health insurance for hospital, medical, dental, and**
- 9 **similar services;**
- 10 **(B) retirement benefits under benefit pension plans as**
- 11 **defined in the federal Employee Retirement Income**
- 12 **Security Act (29 U.S.C. 1001 et seq.);**
- 13 **(C) holiday and vacation pay;**
- 14 **(D) sick leave; and**
- 15 **(E) other similar benefits that are incidents of**
- 16 **employment;**
- 17 **(6) certify that:**
- 18 **(A) each affected employee:**
- 19 **(i) has been continuously on the payroll of the employing**
- 20 **unit for three (3) months; and**
- 21 **(ii) works at least thirty (30) normal weekly work hours**
- 22 **for the affected unit;**
- 23 **immediately before the date on which the employing unit**
- 24 **submits the work sharing plan;**
- 25 **(B) the total reduction in normal weekly work hours is in**
- 26 **place of layoffs that would have:**
- 27 **(i) affected at least the number of employees specified in**
- 28 **section 5(1) of this chapter; and**
- 29 **(ii) resulted in an equivalent reduction in work hours;**
- 30 **and**
- 31 **(C) the work sharing plan will not serve as a subsidy of:**
- 32 **(i) seasonal employment outside the employer's seasonal**
- 33 **period or periods as determined by the department**
- 34 **under IC 22-4-7-3; or**
- 35 **(ii) intermittent employment; and**
- 36 **(7) contain:**
- 37 **(A) the written approval of the collective bargaining agent**
- 38 **for each collective bargaining agreement that covers any**
- 39 **affected employee in the affected unit; or**
- 40 **(B) in the absence of a collective bargaining agreement, a**
- 41 **certification by the employing unit that the proposed work**
- 42 **sharing plan, or a summary of the work sharing plan, has**
- 43 **been made available to each affected employee in the**
- 44 **affected unit.**
- 45 **Sec. 7. If a work sharing plan serves the work sharing employer**
- 46 **as a transitional step to permanent staff reduction, the work**
- 47 **sharing plan must contain a reemployment assistance plan**

1 developed by the work sharing employer and the commissioner for
2 each affected employee.

3 **Sec. 8. A work sharing employer shall agree to:**

4 (1) submit reports that are necessary to administer the work
5 sharing plan; and

6 (2) allow the department to have access to all records
7 necessary to:

8 (A) verify the work sharing plan before its approval; and

9 (B) monitor and evaluate the application of the work
10 sharing plan after its approval.

11 **Sec. 9. (a) An approved work sharing plan may be modified if:**

12 (1) the modification meets the requirements for approval
13 under section 6 of this chapter; and

14 (2) the commissioner approves the modification.

15 (b) An employing unit may add an employee who works at least
16 thirty (30) normal weekly work hours to a work sharing plan when
17 the employee has been continuously on the payroll for three (3)
18 months.

19 (c) An approved modification of a work sharing plan may not
20 change its expiration date.

21 (d) The decision of the commissioner to disapprove a
22 modification to a work sharing plan is final and may not be
23 appealed.

24 **Sec. 10. (a) An affected employee is eligible under this chapter**
25 **to receive work sharing benefits for each week in which the**
26 **commissioner determines that the affected employee is:**

27 (1) able to work; and

28 (2) available for more hours of work or full-time work for the
29 work sharing employer.

30 (b) An affected employee who otherwise is eligible may not be
31 denied work sharing benefits for lack of effort to secure work as set
32 forth in IC 22-4-14-3 or for failure to apply for available suitable
33 work as set forth in IC 22-4-15-2 from a person other than the
34 work sharing employer.

35 (c) An affected employee shall apply for benefits under
36 IC 22-4-17-1.

37 (d) An affected employee who otherwise is eligible for benefits
38 is:

39 (1) considered to be unemployed for the purpose of the work
40 sharing unemployment insurance program; and

41 (2) not subject to the requirements of IC 22-4-14-2.

42 **Sec. 11. The weekly work sharing unemployment compensation**
43 **benefit due to an affected worker is determined in STEP FIVE of**
44 **the following formula:**

45 **STEP ONE: Determine the weekly benefit that would be due**
46 **to the affected employee under IC 22-4-12-4.**

47 **STEP TWO: Subtract the number of the employee's work**

- 1 hours under the approved work sharing plan from the
2 number of the employee's normal work hours.
- 3 **STEP THREE:** Divide the STEP TWO result by the number
4 of the employee's normal work hours.
- 5 **STEP FOUR:** Multiply the number determined in STEP ONE
6 by the quotient determined in STEP THREE.
- 7 **STEP FIVE:** If the product determined under STEP FOUR is
8 not a multiple of one dollar (\$1), round down to the nearest
9 lower multiple of one dollar (\$1).
- 10 **Sec. 12. (a)** An affected employee is eligible to receive not more
11 than fifty-two (52) weeks of work sharing benefits during each
12 benefit year.
- 13 **(b)** The total amount of benefits payable under IC 22-4-12-4 and
14 work sharing benefits payable under this chapter may not exceed
15 the total payable for the benefit year under IC 22-4-12-4(a).
- 16 **Sec. 13.** During a week in which an affected employee who
17 otherwise is eligible for benefits does not work for the work
18 sharing employer:
- 19 (1) the individual shall be paid unemployment insurance
20 benefits in accordance with IC 22-4-12; and
- 21 (2) the week does not count as a week for which a work
22 sharing benefit is received.
- 23 **Sec. 14.** During a week in which an employee earns wages under
24 an approved work sharing plan and other wages, the work sharing
25 benefit shall be reduced by the same percentage that the combined
26 wages are of wages for normal weekly work hours if the other
27 wages:
- 28 (1) exceed the wages earned under the approved work sharing
29 plan; and
- 30 (2) do not exceed ninety percent (90%) of the wages that the
31 individual earns for normal weekly work hours.
- 32 This computation applies regardless of whether the employee
33 earned the other wages from the work sharing employer or
34 another employer.
- 35 **Sec. 15.** While an affected employee applies for or receives work
36 sharing benefits, the affected employee is not eligible for:
- 37 (1) extended benefits under IC 22-4-12-4; or
- 38 (2) supplemental federal unemployment compensation.
- 39 **Sec. 16.** Work sharing benefits shall be charged to the work
40 sharing employer's experience balance in the same manner as
41 unemployment insurance is charged under this article. Employers
42 liable for payments in lieu of contributions shall have work sharing
43 benefits attributed to service in their employ in the same manner
44 as unemployment insurance is attributed under this article.
- 45 **Sec. 17. (a)** The commissioner may revoke approval of an
46 approved work sharing plan for good cause, including:
- 47 (1) conduct or an occurrence that tends to defeat the intent

- 1 **and effective operation of the approved work sharing plan;**
- 2 **(2) failure to comply with an assurance in the approved work**
- 3 **sharing plan;**
- 4 **(3) unreasonable revision of a productivity standard of the**
- 5 **affected unit; and**
- 6 **(4) violation of a criterion on which the commissioner based**
- 7 **the approval of the work sharing plan.**
- 8 **(b) An affected employee in an affected unit or the collective**
- 9 **bargaining agent representing an affected employee in an affected**
- 10 **unit may request that the commissioner take action to revoke the**
- 11 **approval of an approved work sharing plan.**
- 12 **(c) The commissioner shall give written notice of the revocation**
- 13 **to the employing unit specifying:**
- 14 **(1) the date the revocation is effective; and**
- 15 **(2) the reason or reasons for the revocation.**
- 16 **(d) The commissioner's decision to revoke approval of an**
- 17 **approved work sharing plan is final and may not be appealed.**
- 18 **(e) The department shall review the operation of all approved**
- 19 **work sharing plans at least once during the period that the work**
- 20 **sharing plan is in effect to assure that the work sharing employer**
- 21 **is complying with the requirements of the work sharing plan**
- 22 **approved by the commissioner."**
- 23 Renumber all SECTIONS consecutively.
 (Reference is to ESB 576 as printed March 29, 2011.)

Representative Sullivan