

CHAPTER 210  
HB 361 – FINAL VERSION

05/02/13 1407s  
5June2013... 1969EBA

2013 SESSION

13-0647  
08/04

HOUSE BILL           **361**

AN ACT               relative to worksharing.

SPONSORS:           Rep. A. White, Graf 13

COMMITTEE:         Labor, Industrial and Rehabilitative Services

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ANALYSIS

This bill makes changes to worksharing reporting requirements in order to conform to the Federal Unemployment Tax Act.

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Explanation:       Matter added to current law appears in ***bold italics***.  
                          Matter removed from current law appears [~~in brackets and struck through.~~]  
                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT relative to worksharing.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 210:1 Worksharing. Amend RSA 282-A:31-b, I(d) through (k) to read as follows:

2 (d) The plan provides that health benefits **and retirement benefits under a defined**  
3 **benefit plan (as defined in section 414(j) of the Internal Revenue Code) or contributions**  
4 **under a defined contribution plan (as defined in section 414(i) of the Internal Revenue**  
5 **Code) shall continue to be provided to the employees in the affected units under the same terms**  
6 **and conditions** as though their normal weekly hours of work had not been reduced, [~~that~~  
7 ~~contributions to a defined benefit plan, as defined in section 3(35) of the Employee Retirement~~  
8 ~~Income Security Act of 1974 (ERISA), shall continue to be provided to the employees in the affected~~  
9 ~~units for each hour worked by the employees, and that for individual account plans and defined~~  
10 ~~contribution plans including those provided under section 401(k) of the Internal Revenue Code as~~  
11 ~~defined in section 3(34) or ERISA, employer contributions shall be made to the defined contribution~~  
12 ~~plan for each hour worked by the employees in the affected units,]~~ **or to the same extent as other**  
13 **employees not participating in the worksharing program**, and specifies the effect, if any, the  
14 reduction in the normal weekly hours of work will have on other fringe benefits provided by the  
15 employer.

16 (e) The plan certifies that the reduction in the normal weekly hours of work is instead of  
17 layoffs and states the reason for and expected duration of the work reduction. The plan shall not  
18 serve as a subsidy of seasonal employment during the off-season, nor as a subsidy of temporary part-  
19 time or intermittent employment.

20 (f) **The plan describes the manner in which the requirements of this section will**  
21 **be implemented (including a plan for giving notice, where feasible, to an employee whose**  
22 **work week is to be reduced) together with an estimate of the number of layoffs that would**  
23 **have occurred absent the ability to participate in the worksharing program. If advance**  
24 **notice of the implementation of the worksharing plan is not feasible, the plan shall explain**  
25 **why it is not feasible.**

26 [~~(g)~~] (g) The written approval by the collective bargaining representative for each  
27 affected unit is included in the plan.

28 [~~(h)~~] (h) The plan specifies a beginning and ending date. The ending date shall be not

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1 more than 26 weeks from the beginning date.

2           ~~[(h)]~~ **(i)** The plan contains an agreement by the employer to furnish all reports and  
3 information necessary for the administration of the plan and to permit access by the commissioner to  
4 all records necessary to verify and evaluate the plan.

5           ~~[(j)]~~ **(j)** No employee's participation in the plan shall be precluded or limited by any  
6 particular definition of attachment to the employer, such as length of employment.

7           ~~[(k)]~~ **(k)** The plan applies to only full-time or permanent part-time employees. No  
8 seasonal employees may participate in a worksharing plan.

9           ~~[(l)]~~ **(l)** The plan certifies that the employer has paid all contributions, payments in lieu  
10 of contributions, interest, or penalty charges due under this chapter.

11           ***(m) The plan certifies that its terms and their implementation are consistent***  
12 ***with employer obligations under applicable federal and state laws.***

13           210:2 New Paragraph; Worksharing. Amend RSA 282-A:31-c by inserting after paragraph IV  
14 the following new paragraph:

15           V. Eligible employees may participate, as appropriate, in training (including employer-  
16 sponsored training or worker training funded under the Workforce Investment Act of 1998) to  
17 enhance job skills if such program has been approved by the commissioner.

18           210:3 Worksharing. Amend RSA 282-A:31-e to read as follows:

19           282-A:31-e Conformance With Minimum Standards.

20           ***I.*** In the event that the Congress of the United States should pass any legislation, or the  
21 Secretary of Labor of the United States shall issue any regulation, establishing certain minimum  
22 standards for eligibility for 100 percent reimbursement, the commissioner of the department of  
23 employment security, or the commissioner's duly authorized representative, is hereby authorized to  
24 make such revision as may be necessary to cause this section to conform with such minimum  
25 standards. If any of the provisions of this section or the application thereof to any persons or  
26 circumstances are held invalid, the remainder of this section and the application of this section to  
27 other persons or circumstances shall not be affected thereby.

28           ***II. In the event that any provision in this section fails to be approved by the***  
29 ***Secretary of Labor of the United States under section 3306(v)(10), FUTA, such provision***  
30 ***shall be severed here from, and the validity of the remainder of this section shall not be***  
31 ***affected thereby.***

32           210:4 Effective Date. This act shall take effect 60 days after its passage.

33  
34 Approved: July 10, 2013

35 Effective Date: September 8, 2013