

## ***Relief for Employers Hoping to Avoid Layoffs During Difficult Economic Times***

By Christina Bolmarcich

According to the U.S. Bureau of Labor and Statistics, the unemployment rate has soared to 8.1%, the highest in twenty-five (25) years. Often people view a layoff as a hardship only for employees because of the economic burdens they will face. However, layoffs are often challenges for employers, who are left with lower worker morale, and the inability to maintain a professional level of productivity necessary to operate their businesses.

For employers seeking a solution to the layoff dilemma, the Maryland General Assembly passed legislation which established the Work Sharing Unemployment Insurance Program.<sup>1</sup> This program allows employers to reduce employees' hours by the same percentage while maintaining its entire workforce. It also allows employees to receive unemployment benefits for a maximum of twenty-six (26) weeks in a benefit year without the strict conditions imposed on them when collected regular Unemployment Insurance.

The benefits of the Work Sharing Program for employers include permitting an employer to maintain its business, keep employee morale high, and avoid rehiring and retraining new or additional employees when financial times improve. For employees, the benefits allow them to maintain a sense of belonging and avoid the negative financial burden that they would have faced should they have been the victim of a total layoff.

To participate in the Work Sharing Program, an employer does not have to apply the reduction in hours to all employees throughout its organization. In contrast, the employer can apply the reduction to an entire affected department, shift, or unit so long as it is comprised of

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<sup>1</sup> Md. Code Ann., Lab. & Empl. §\_8-1201 through §\_8-1208 (2008).

two or more employees. To qualify, an employee must have been on the payroll continuously for at least three months, and may not be a part-time employee.

The Work Sharing Program is codified in Sections 8-1201 through 8-1208 of the Maryland Annotated Code. The general procedure for an employer to participate is as follows:

- (a) The employer shall submit written work sharing plan Secretary of Labor, Licensing, and Regulation.<sup>2</sup>
- (b) A work sharing plan shall apply to at least ten percent or at least twenty (20) employees in a specific plant, department, shift, or other definable employing unit.<sup>3</sup>
- (c) The normal weekly work hours of the affected employees shall be reduced by at least ten percent, unless waived by the Secretary of Labor, Licensing, and Regulation, but may not exceed fifty percent.<sup>4</sup>
- (d) The work sharing plan shall identify the affected employees by name, Social Security number, and any other information that the Secretary of Labor, Licensing, and Regulation may require.<sup>5</sup>
- (e) The work sharing plan must specify an expiration date that is not more than six months the effective date of the work sharing plan.<sup>6</sup>
- (f) The work sharing plan must specify the fringe benefits of each named employee including, but not limited to, health insurance benefits, retirement benefits, and sick leave benefits.<sup>7</sup>
- (g) The work sharing plan shall certify that each named employee has been continuously on the payroll of the specific plant, department, shift, or other definable employing unit for at least three months and that the reduction in normal working hours is instead of layoffs.<sup>8</sup>

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<sup>2</sup> *Id.* at §8-1203(a).

<sup>3</sup> *Id.* at §8-1204(1).

<sup>4</sup> *Id.* at §8-1204(2).

<sup>5</sup> *Id.* at §8-1204(3).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

- (h) If an employer participates in a collective bargaining agreement, the union bargaining agent's or employee representative's consent must accompany the work sharing plan.<sup>9</sup>
- (i) If the work sharing plan serves the employer as a transitional step to permanent staff reduction, the work sharing plan shall contain a reemployment assistance plan for each named employee.<sup>10</sup>
- (j) The employer shall submit reports to the Secretary of Labor, Licensing, and Regulation that are necessary for administration of the work sharing plan.<sup>11</sup>

For lawyers representing employers in the process, the Maryland Annotated Code sets out the requirements for the eligibility of employees and how benefits are determined.<sup>12</sup> The Work Sharing Program may be a great solution for employers during the present difficult economic time. For more information on the requirements for participation, visit [www.dllr.state.md.us](http://www.dllr.state.md.us).

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at §8-1204(4).

<sup>11</sup> *Id.* at §8-1204(5).

<sup>12</sup> *Id.* at §8-1206 and §8-1207.