House Substitute for SENATE BILL No. 27

As Act concerning employment security law; relating to the maximum benefit eligibility period; compensation for the pre-payment waiting period; amending K.S.A. 2019 Supp. 44-704 and 44-705 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2019 Supp. 44-704 is hereby amended to read as follows: 44-704. (a) Payment of benefits. All benefits provided herein shall be payable from the fund. All benefits shall be paid through the secretary of labor, in accordance with such rules and regulations as the secretary may adopt. Benefits based on service in employment defined in K.S.A. 44-703(l)(3)(E) and (l)(3)(F), and amendments thereto, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act except as provided in K.S.A. 44-705(e) and K.S.A. 44-711(e), and amendments thereto.

(b) Determined weekly benefit amount. An individual's determined weekly benefit amount shall be an amount equal to 4.25% of the individual's total wages for insured work paid during that calendar quarter of the individual's base period in which that such total wages were highest, subject to the following limitations:

1. If an individual's determined weekly benefit amount is less than the minimum weekly benefit amount, it shall be raised to such minimum weekly benefit amount;

2. if the individual's determined weekly benefit amount is more than the maximum weekly benefit amount, it shall be reduced to the maximum weekly benefit amount; and

3. if the individual's determined weekly benefit amount is not a multiple of $1, it shall be reduced to the next lower multiple of $1.

(c) Maximum weekly benefit amount. (1) For initial claims effective prior to July 1, 2015, the maximum weekly benefit amount shall be determined as follows: On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 60% of the average weekly wages paid to employees in insured work during the previous calendar year and shall, prior to that date, announce the maximum weekly benefit amount so determined, by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the twelve-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent twelve-month period. If the computed maximum weekly benefit amount is not a multiple of $1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of $1.

(2) For initial claims effective on or after July 1, 2015, the maximum weekly benefit amount shall be determined as follows: On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 55% of the average weekly wages paid to employees in insured work during the previous calendar year, but not to be less than $474, and shall, prior to that date, announce the maximum weekly benefit amount so determined by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year multiplied by 52. The maximum weekly benefit amount
so determined and announced for the 12-month period shall apply only to
those claims filed in that period qualifying for maximum payment under
the foregoing formula. All claims qualifying for payment at the maximum
weekly benefit amount shall be paid at the maximum weekly benefit
amount in effect when the benefit year to which the claim relates was first
established, notwithstanding a change in the maximum benefit amount for
a subsequent 12-month period. If the computed maximum weekly benefit
amount is not a multiple of $1, then the computed maximum weekly
benefit amount shall be reduced to the next lower multiple of $1.

(d) **Minimum weekly benefit amount.** The minimum weekly benefit
amount payable to any individual shall be 25% of the maximum weekly
benefit amount effective as of the beginning of the individual's benefit
year. If the minimum weekly benefit amount is not a multiple of $1 it
shall be reduced to the next lower multiple of $1. The minimum weekly
benefit amount shall apply through the benefit year, notwithstanding a
change in the minimum weekly benefit amount.

(e) All claims qualifying for payment at the maximum weekly
benefit amount shall be paid at the maximum weekly benefit amount in
effect when the benefit year to which the claim relates was first
established, notwithstanding a subsequent change in the maximum weekly
benefit amount.

(f) **Weekly benefit payable.** Each eligible individual who is
unemployed with respect to any week, except as to final payment, shall be
paid with respect to such week a benefit in an amount equal to such
individual's determined weekly benefit amount, less that part of the wage,
if any, payable to such individual with respect to such week which that is
in excess of the amount which that is equal to 25% of such individual's
determined weekly benefit amount, and if the resulting amount is not a
multiple of $1, it shall be reduced to the next lower multiple of $1.

1. For the purposes of this section, remuneration received under the
following circumstances shall be construed as wages:

(A) Vacation or holiday pay that was attributable to a week that the
individual claimed benefits; and

(B) severance pay, if paid as scheduled, and all other employment
benefits within the employer's control, as defined in subsection (f)(3), if
continued as though the severance had not occurred, except as set out in
subsubsection (f)(2)(C).

2. For the purposes of this section, remuneration received under the
following circumstances shall not be construed as wages:

(A) Remuneration received for services performed on a public
assistance work project;

(B) severance pay, in lieu of notice, under the provisions of public
law 100-379, the federal worker adjustment and retraining notification
act, 29 U.S.C. §§ 2101 through 2109;

(C) all other severance pay, separation pay, bonuses, wages in lieu of
notice or remuneration of a similar nature that is payable after the
severance of the employment relationship, except as set out in subsection
(f)(1)(B); and

(D) moneys received as federal social security payments.

3. For the purposes of this subsection, "employment benefits
within the employer's control" means benefits offered by the employer to
employees which that are employee benefit plans as defined by section 3
of the federal employee retirement income security act of 1974, as
amended, 29 U.S.C. § 1002a, and which that the employer has the option
to continue to provide to the employee after the last day that the employee
worked for that employer.

4. **Duration of benefits.** Any otherwise eligible individual shall be
entitled during any benefit year to a total amount of benefits equal to
whichever is the lesser of 26 times such individual's weekly benefit
amount, or $1 of such individual's wages for insured work paid during such individual's base period. Such total amount of benefits, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

(h) For the purposes of this section, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has satisfied the conditions of K.S.A. 44-703(h), and amendments thereto, with respect to becoming an employer.

(i) Notwithstanding any other provisions of this section to the contrary, any benefit otherwise payable for any week shall be reduced by the amount of any separation, termination, severance or other similar payment paid to a claimant at the time of or after the claimant's separation from employment during the benefit year.

1. If any payment pursuant to this subsection is paid with respect to a month, then the amount deemed to be received with respect to any week during such month shall be computed by multiplying such monthly amount by 12 and dividing the product by 52. If there is no designation of the period with respect to which payments to an individual are made under this section, then an amount equal to such individual's normal weekly wage shall be attributed to and deemed paid with respect to the first and each succeeding week following payment of the separation pay to the individual until such amount is paid is exhausted.

2. If benefits for any week, when reduced as provided in this subsection, result in an amount that is not a multiple of $1, such benefits shall be rounded to the next lower multiple of $1.

3. Notwithstanding the reemployment provisions of K.S.A. 44-705(c), and amendments thereto, any individual whose benefit amount is completely reduced under this subsection for 52 or more weeks shall, upon exhaustion of the separation pay, be entitled to a new benefit year based upon entitlement from the base period of the claim that was reduced.

(j) Except as provided in subsection (k), for weeks commencing on and after January 1, 2014, if at the beginning of the benefit year, the three-month three-month seasonally adjusted average unemployment rate for the state of Kansas is: (1) Less than 4.5%, a claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at least 4.5% but less than 6%, a claimant shall be eligible for a maximum of 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a maximum of 26 weeks of benefits.

(k) On and after the effective date of this act, a claimant shall be eligible for a maximum of 26 weeks of benefits. A claimant who filed a new claim on or after January 1, 2020, and before the effective date of this act shall be eligible for a maximum of 26 weeks of benefits including the number of weeks of benefits received after January 1, 2020, and before the effective date of this act. This subsection shall not apply to initial claims effective on and after April 1, 2021.

Sec. 2. K.S.A. 2019 Supp. 44-705 is hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-757, and amendments thereto, an unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

(a) The claimant has registered for work at and thereafter continued to represent at an employment office in accordance with rules and regulations adopted by the secretary, except that, subject to the provisions of subsection (a) of K.S.A. 44-704(a), and amendments thereto, the secretary may adopt rules and regulations which waive or alter either or both of the requirements of this subsection.

(b) The claimant has made a claim for benefits with respect to such
week in accordance with rules and regulations adopted by the secretary.

(c) The claimant is able to perform the duties of such claimant's customary occupation or the duties of other occupations for which the claimant is reasonably fitted by training or experience, and is available for work, as demonstrated by the claimant's pursuit of the full course of action most reasonably calculated to result in the claimant's reemployment except that, notwithstanding any other provisions of this section, an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits: (1) Because of the claimant's enrollment in and satisfactory pursuit of approved training, including training approved under section 236(a)(1) of the trade act of 1974; or (2) solely because such individual is seeking only part-time employment if the individual is available for a number of hours per week that are comparable to the individual's part-time work experience in the base period.

For the purposes of this subsection, an inmate of a custodial or correctional institution shall be deemed to be unavailable for work and not eligible to receive unemployment compensation while incarcerated.

(d) (1) Except as provided further, the claimant has been unemployed for a waiting period of one week or the claimant is unemployed and has satisfied the requirement for a waiting period of one week under the shared work unemployment compensation program as provided in subsection (j)(4) of K.S.A. 44-757(k)(4), and amendments thereto, which period of one week, in either case, occurs within the benefit year which includes the week for which the claimant is claiming benefits. No week shall be counted as a week of unemployment for the purposes of this subsection:

(A) If benefits have been paid for such week;

(B) if the individual fails to meet with the other eligibility requirements of this section; or

(C) if an individual is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such state or of the United States finally determines that the claimant is not entitled to unemployment benefits under such other law, this subparagraph shall not apply.

(2) The waiting week requirement of paragraph (1) shall not apply to new claims, filed on or after July 1, 2002, by claimants who become unemployed as a result of an employer terminating business operations within this state, declaring bankruptcy or initiating a work force reduction pursuant to public law 100-379, the federal worker adjustment and retraining notification act, 29 U.S.C. §§ 2101 through 2109, as amended. The secretary shall adopt rules and regulations to administer the provisions of this paragraph.

(3) A claimant shall become eligible to receive compensation for the waiting period of one week, pursuant to paragraph (1), upon completion of three weeks of unemployment consecutive to such waiting period. This paragraph shall not apply to initial claims effective on and after April 1, 2021.

(e) For benefit years established on and after the effective date of this act, the claimant has been paid total wages for insured work in the claimant's base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's base period, except that the wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which the individual filed a valid initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has returned to work and subsequently earned wages for insured work in an amount equal to at least eight times the claimant's current weekly benefit amount.

(f) The claimant participates in reemployment services, such as job
search assistance services, if the individual has been determined to be
likely to exhaust regular benefits and needs reemployment services
pursuant to a profiling system established by the secretary, unless the
secretary determines that: (1) The individual has completed such services;
or (2) there is justifiable cause for the claimant's failure to participate in
such services.

(g) The claimant is returning to work after a qualifying injury and
has been paid total wages for insured work in the claimant's alternative
base period of not less than 30 times the claimant's weekly benefit amount
and has been paid wages in more than one quarter of the claimant's
alternative base period if:

(1) The claimant has filed for benefits within four weeks of being
released to return to work by a licensed and practicing health care
provider;

(2) the claimant files for benefits within 24 months of the date the
qualifying injury occurred; and

(3) the claimant attempted to return to work with the employer where
the qualifying injury occurred, but the individual's regular work or
comparable and suitable work was not available.

Sec. 3. K.S.A. 2019 Supp. 44-704 and 44-705 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its
publication in the Kansas register.

I hereby certify that the above Bill originated in the
SENATE, and passed that body

SENATE concurred in
HOUSE amendments

________________________
President of the Senate.

________________________
Secretary of the Senate.

Passed the HOUSE
as amended

________________________
Speaker of the House.

________________________
Chief Clerk of the House.

APPROVED

________________________
Governor.