

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1083, 1085, 1050, 1035, 1036, 873 &
2 1097, Page 1, Section A, Line 2, by inserting after all of said section and line the following:

3
4 "288.040. 1. A claimant who is unemployed and has been determined to be an insured
5 worker shall be eligible for benefits for any week only if the deputy finds that:

6 (1) The claimant has registered for work at and thereafter has continued to report at an
7 employment office in accordance with such regulations as the division may prescribe;

8 (2) The claimant is able to work and is available for work. No person shall be deemed
9 available for work unless such person has been and is actively and earnestly seeking work. Upon
10 the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the
11 deputy shall notify each claimant of the number of work search contacts required to constitute an
12 active search for work. Unless the deputy directs otherwise, a claimant shall make a minimum of
13 three work search contacts during any week for which he or she claims benefits. No person shall be
14 considered not available for work, pursuant to this subdivision, solely because he or she is a
15 substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to
16 this subdivision because of not actively and earnestly seeking work if:

17 (a) The claimant is participating in training approved pursuant to Section 236 of the Trade
18 Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

19 (b) The claimant is temporarily unemployed through no fault of his or her own and has a
20 definite recall date within eight weeks of his or her first day of unemployment; however, upon
21 application of the employer responsible for the claimant's unemployment, such eight-week period
22 may be extended not to exceed a total of sixteen weeks at the discretion of the director;

23 (3) The claimant has reported to an office of the division as directed by the deputy, but at
24 least once every four weeks, except that a claimant shall be exempted from the reporting
25 requirement of this subdivision if:

26 (a) The claimant is claiming benefits in accordance with division regulations dealing with
27 partial or temporary total unemployment; or

28 (b) The claimant is temporarily unemployed through no fault of his or her own and has a
29 definite recall date within eight weeks of his or her first day of unemployment; or

30 (c) The director of the division of employment security has determined that the claimant
31 belongs to a group or class of workers whose opportunities for reemployment will not be enhanced

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1 by reporting, or is prevented from reporting due to emergency conditions that limit access by the
2 general public to an office that serves the area where the claimant resides, but only during the time
3 such circumstances exist.
4

5 Ineligibility pursuant to this subdivision shall begin on the first day of the week which the claimant
6 was scheduled to claim and shall end on the last day of the week preceding the week during which
7 the claimant does report to the division's office;

8 (4) Prior to the first week of a period of total or partial unemployment for which the
9 claimant claims benefits he or she has been totally or partially unemployed for a waiting period of
10 one week. No more than one waiting week will be required in any benefit year. During calendar
11 year 2008 and each calendar year thereafter, the one-week waiting period shall become compensable
12 once his or her remaining balance on the claim is equal to or less than the compensable amount for
13 the waiting period. No week shall be counted as a week of total or partial unemployment for the
14 purposes of this subsection unless it occurs within the benefit year which includes the week with
15 respect to which the claimant claims benefits;

16 (5) The claimant has made a claim for benefits within fourteen days from the last day of the
17 week being claimed. The fourteen-day period may, for good cause, be extended to twenty-eight
18 days;

19 (6) The claimant has reported to an employment office to participate in a reemployment
20 assessment and reemployment services as directed by the deputy or designated staff of an
21 employment office, unless the deputy determines that good cause exists for the claimant's failure to
22 participate in such reemployment assessment and reemployment services. For purposes of this
23 section, "reemployment services" may include, but not be limited to, the following:

- 24 (a) Providing an orientation to employment office services;
 - 25 (b) Providing job search assistance; and
 - 26 (c) Providing labor market statistics or analysis;
- 27

28 Ineligibility under this subdivision shall begin on the first day of the week which the claimant was
29 scheduled to report for the reemployment assessment or reemployment services and shall end on the
30 last day of the week preceding the week during which the claimant does report in person to the
31 employment office for such reemployment assessment or reemployment services;

32 (7) The claimant is participating in reemployment services, such as job search assistance
33 services, as directed by the deputy if the claimant has been determined to be likely to exhaust
34 regular benefits and to need reemployment services pursuant to a profiling system established by the
35 division, unless the deputy determines that:

- 36 (a) The individual has completed such reemployment services; or
- 37 (b) There is justifiable cause for the claimant's failure to participate in such reemployment
38 services.

39 2. A claimant shall be ineligible for waiting week credit or benefits for any week for which
40 the deputy finds he or she is or has been suspended by his or her most recent employer for
41 misconduct connected with his or her work. Suspensions of four weeks or more shall be treated as

1 discharges.

2 3. (1) Benefits based on "service in employment", described in subsections 7 and 8 of
3 section 288.034, shall be payable in the same amount, on the same terms and subject to the same
4 conditions as compensation payable on the basis of other service subject to this law; except that:

5 (a) With respect to service performed in an instructional, research, or principal
6 administrative capacity for an educational institution, benefits shall not be paid based on such
7 services for any week of unemployment commencing during the period between two successive
8 academic years or terms, or during a similar period between two regular but not successive terms, or
9 during a period of paid sabbatical leave provided for in the individual's contract, to any individual if
10 such individual performs such services in the first of such academic years (or terms) and if there is a
11 contract or a reasonable assurance that such individual will perform services in any such capacity
12 for any educational institution in the second of such academic years or terms;

13 (b) With respect to services performed in any capacity (other than instructional, research, or
14 principal administrative capacity) for an educational institution, benefits shall not be paid on the
15 basis of such services to any individual for any week which commences during a period between
16 two successive academic years or terms if such individual performs such services in the first of such
17 academic years or terms and there is a contract or a reasonable assurance that such individual will
18 perform such services in the second of such academic years or terms;

19 (c) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits
20 shall not be paid on the basis of such services to any individual for any week which commences
21 during an established and customary vacation period or holiday recess if such individual performed
22 such services in the period immediately before such vacation period or holiday recess, and there is
23 reasonable assurance that such individual will perform such services immediately following such
24 vacation period or holiday recess;

25 (d) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits
26 payable on the basis of services in any such capacity shall be denied as specified in paragraphs (a),
27 (b), and (c) of this subdivision to any individual who performed such services at an educational
28 institution while in the employ of an educational service agency, and for this purpose the term
29 "educational service agency" means a governmental agency or governmental entity which is
30 established and operated exclusively for the purpose of providing such services to one or more
31 educational institutions.

32 (2) If compensation is denied for any week pursuant to paragraph (b) or (d) of subdivision
33 (1) of this subsection to any individual performing services at an educational institution in any
34 capacity (other than instructional, research or principal administrative capacity), and such individual
35 was not offered an opportunity to perform such services for the second of such academic years or
36 terms, such individual shall be entitled to a retroactive payment of the compensation for each week
37 for which the individual filed a timely claim for compensation and for which compensation was
38 denied solely by reason of paragraph (b) or (d) of subdivision (1) of this subsection.

39 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work
40 benefits for any week for which he or she is receiving or has received remuneration exceeding his or
41 her weekly benefit amount or shared work benefit amount in the form of:

1 (a) Compensation for temporary partial disability pursuant to the workers' compensation law
2 of any state or pursuant to a similar law of the United States;

3 (b) A governmental or other pension, retirement or retired pay, annuity, or other similar
4 periodic payment, not including any military pension or military retirement benefit, which is based
5 on the previous work of such claimant to the extent that such payment is provided from funds
6 provided by a base period or chargeable employer pursuant to a plan maintained or contributed to by
7 such employer; but, except for such payments made pursuant to the Social Security Act or the
8 Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), the provisions of
9 this paragraph shall not apply if the services performed for such employer by the claimant after the
10 beginning of the base period (or remuneration for such services) do not affect eligibility for or
11 increase the amount of such pension, retirement or retired pay, annuity or similar payment.

12 (2) If the remuneration referred to in this subsection is less than the benefits which would
13 otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible,
14 benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one
15 dollar, such amount shall be lowered to the next multiple of one dollar.

16 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a
17 claimant receives a military pension or other military retirement benefit or has contributed in any
18 way to the Social Security Act or the Railroad Retirement Act of 1974, or the corresponding
19 provisions of prior law, no part of the payments received pursuant to such military pension, military
20 retirement benefit, or federal law shall be deductible from the amount of benefits received pursuant
21 to this chapter.

22 5. A claimant shall be ineligible for waiting week credit or benefits for any week for which
23 or a part of which he or she has received or is seeking unemployment benefits pursuant to an
24 unemployment insurance law of another state or the United States; provided, that if it be finally
25 determined that the claimant is not entitled to such unemployment benefits, such ineligibility shall
26 not apply.

27 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for
28 which the deputy finds that such claimant's total or partial unemployment is due to a stoppage of
29 work which exists because of a labor dispute in the factory, establishment or other premises in
30 which such claimant is or was last employed. In the event the claimant secures other employment
31 from which he or she is separated during the existence of the labor dispute, the claimant must have
32 obtained bona fide employment as a permanent employee for at least the major part of each of two
33 weeks in such subsequent employment to terminate his or her ineligibility. If, in any case, separate
34 branches of work which are commonly conducted as separate businesses at separate premises are
35 conducted in separate departments of the same premises, each such department shall for the
36 purposes of this subsection be deemed to be a separate factory, establishment or other premises.
37 This subsection shall not apply if it is shown to the satisfaction of the deputy that:

38 (a) The claimant is not participating in or financing or directly interested in the labor dispute
39 which caused the stoppage of work; and

40 (b) The claimant does not belong to a grade or class of workers of which, immediately
41 preceding the commencement of the stoppage, there were members employed at the premises at

1 which the stoppage occurs, any of whom are participating in or financing or directly interested in the
2 dispute.

3 (2) "Stoppage of work" as used in this subsection means a substantial diminution of the
4 activities, production or services at the establishment, plant, factory or premises of the employing
5 unit. This definition shall not apply to a strike where the employees in the bargaining unit who
6 initiated the strike are participating in the strike. Such employees shall not be eligible for waiting
7 week credit or benefits during the period when the strike is in effect, regardless of diminution,
8 unless the employer has been found guilty of an unfair labor practice by the National Labor
9 Relations Board or a federal court of law for an act or actions preceding or during the strike.

10 7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis of
11 any services, substantially all of which consist of participating in sports or athletic events or training
12 or preparing to so participate, for any week which commences during the period between two
13 successive sport seasons (or similar periods) if such individual performed such services in the first
14 of such seasons (or similar periods) and there is a reasonable assurance that such individual will
15 perform such services in the later of such seasons (or similar periods).

16 8. Benefits shall not be payable on the basis of services performed by an alien, unless such
17 alien is an individual who was lawfully admitted for permanent residence at the time such services
18 were performed, was lawfully present for purposes of performing such services, or was permanently
19 residing in the United States under color of law at the time such services were performed (including
20 an alien who was lawfully present in the United States as a result of the application of the provisions
21 of Section 212(d)(5) of the Immigration and Nationality Act).

22 (1) Any data or information required of individuals applying for benefits to determine
23 whether benefits are not payable to them because of their alien status shall be uniformly required
24 from all applicants for benefits.

25 (2) In the case of an individual whose application for benefits would otherwise be approved,
26 no determination that benefits to such individual are not payable because of such individual's alien
27 status shall be made except upon a preponderance of the evidence.

28 9. A claimant shall be ineligible for waiting week credit or benefits for any week such
29 claimant has an outstanding penalty which was assessed based upon an overpayment of benefits, as
30 provided for in subsection 9 of section 288.380.

31 10. The directors of the division of employment security and the division of workforce
32 development shall submit to the governor, the speaker of the house of representatives, and the
33 president pro tem of the senate no later than October 15, 2006, a report outlining their
34 recommendations for how to improve work search verification and claimant reemployment
35 activities. The recommendations shall include, but not limited to how to best utilize
36 "greathires.org", and how to reduce the average duration of unemployment insurance claims. Each
37 calendar year thereafter, the directors shall submit a report containing their recommendations on
38 these issues by December thirty-first of each year.

39 11. For purposes of this section, a claimant may satisfy reporting requirements provided
40 under this section by reporting by internet communication or any other means deemed acceptable by
41 the division of employment security."; and

- 1 Further amend said bill, Page 2, Section B, Line 4, by deleting the phrase "section 288.552" on said
- 2 line and inserting in lieu thereof the phrase "sections 288.040 and 288.552"; and
- 3
- 4 Further amend said bill by amending the title, enacting clause, and intersectional references
- 5 accordingly.