

2013 -- S 0402 SUBSTITUTE A

LC01493/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT SECURITY --
BENEFITS

Introduced By: Senators Lynch, Paiva Weed, Algieri, Cote, and Ruggerio

Date Introduced: February 26, 2013

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 28-44 of the General Laws entitled "Employment Security -
2 Benefits" is hereby amended by adding thereto the following section:

3 **28-44-71. Back to work Rhode Island program. -- (a) Legislative findings and purpose.**
4 The general assembly hereby finds as follows:

5 (1) As of January 1, 2013, Rhode Island's unemployment rate is the highest in the New
6 England region and above the national average;

7 (2) Despite this high unemployment, businesses report difficulties and frustration in
8 locating employment candidates with the requisite knowledge, skills, and abilities they need;

9 (3) In an uncertain economy, employers are hesitant to invest in training if there is a risk
10 the investment will not result in a qualified and skilled employee;

11 (4) Despite the need for skilled employees, job seekers face difficulties in getting their
12 "foot in the door" to demonstrate their value to potential employers;

13 (5) Statistics indicate that unemployment compensation claimants who participated in
14 employer-partnered structured training programs return to work more quickly than those who do
15 not, and that such programs have saved significant sums of employment security funds;

16 (6) The purpose of the "Back to Work Rhode Island Program" is to provide claimants
17 with planned, structured, and career-relevant job training to gain new skills and abilities and help
18 increase their prospects for employment, and assist employers in locating and obtaining skilled

1 and well qualified job candidates for open employment positions.

2 (b) Definitions. - For the purposes of this section, the following terms shall have the
3 following meanings:

4 (1) "Claimant" means a person collecting unemployment security benefits under the
5 provisions of chapters 28-42 through 28-44 of this title;

6 (2) "Department" means the Rhode Island department of labor and training;

7 (3) "Director" means the director of the Rhode Island department of labor and training;

8 (4) "Participating employer" means an employer who has voluntarily agreed to participate
9 in the "Back to Work Rhode Island Program" and meets the criteria for participation established
10 by this section and as determined by the director;

11 (5) "Program" means the "Back to Work Rhode Island Program" established under this
12 section;

13 (6) "Skill enhancement and job training" means a planned, structured learning
14 environment for the primary benefit of the trainee and from which the participating employer
15 derives no immediate advantage and which is designed to provide the skills and knowledge
16 necessary to meet the employer's specifications for an occupation or trade;

17 (7) "Unemployment benefits" means the money payable to a claimant for his or her wage
18 losses due to unemployment, payable pursuant to chapters 42 through 44 of this title and includes
19 any amounts payable pursuant to an agreement under federal law providing for compensation,
20 assistance, or allowances with respect to unemployment.

21 (c) Program established. - (1) The "Back to Work Rhode Island Program" is hereby
22 established and shall be administered by the department of labor and training.

23 (2) The program shall be designed so as to permit a claimant to be matched with an
24 employer participating in the program and be placed in department-approved skill enhancement
25 and job training made available by the employer. Participation by both claimant and employer
26 shall be voluntary. The employer shall provide the claimant with skill enhancement and job
27 training relevant to an open employment position for up to twenty-four (24) hours per week for
28 up to six (6) weeks. Upon completion of the six (6) week period, claimants must be considered
29 for employment by the employer. During the six (6) week period, the employer shall not
30 compensate the claimant in any way other than the training that the claimant receives through
31 participation in the program. Both the employer and the claimant may terminate participation in
32 the program at any time.

33 (3) Notwithstanding any other provision of this title to the contrary, no otherwise eligible
34 individual shall be denied unemployment benefits because of his or her participation in the "Back

1 to Work Rhode Island Program"; provided, however, that, contingent upon appropriation, said
2 claimant may receive a reasonable stipend in an amount determined by the director to cover any
3 additional costs associated with their participation in the program, including, but not limited to,
4 transportation or childcare costs.

5 (4) The department shall notify employers of the availability of the program and shall
6 provide employers with information and materials necessary to participate upon request.

7 (5) The department shall continuously monitor the program to ensure that participating
8 employers enter the program in good faith with the genuine expectation of hiring for the open
9 position and with the intent and ability to provide relevant skill enhancement and job training.

10 (6) The department shall develop and conduct an orientation program for participating
11 claimants and employers informing them of the rules, regulations, opportunities, and limitations
12 of the "Back to Work Rhode Island Program."

13 (7) A claimant may stay in the program if they exhaust benefits or lose program
14 eligibility prior to the end of the sixth (6th) week.

15 (8) Participation in the program by a claimant shall be limited to six (6) weeks in any
16 benefit year. A claimant shall be encouraged to end a training relationship that is not beneficial
17 and shall be encouraged to preserve the remainder of his or her six (6) weeks of training for
18 another training opportunity.

19 (9) In order to participate, a claimant must be seeking work and must be able to work,
20 available to work, and accept work during the training period.

21 (10) Interested claimants shall be encouraged, but not required, to find employment
22 opportunities that align with their current job skills, knowledge and experience. Employers shall
23 be encouraged to work with the department to locate claimants with current job skills, knowledge,
24 and experience that align with the requirements of an open employment opportunity;

25 (11) The claimant and the employer must agree upon a formal training plan and schedule
26 which must be approved by the department and may include on-site training, education and the
27 application of learned skills or experiences.

28 (12) Participation in the program may be limited based on program capacity as
29 determined by the department.

30 (13) The "Back to Work Rhode Island Program" will expire on December 31, 2014. New
31 participants will not be enrolled after November 18, 2014.

32 (d) Eligibility to be a participating employer. - (1) An employer wishing to participate in
33 the "Back to Work Rhode Island Program" shall be required to meet the following qualifications,
34 in addition to any additional criteria established by the director:

- 1 (i) The employer must conduct business in Rhode Island; although, the business need not
2 be domestic to Rhode Island;
- 3 (ii) The employer must have a full-time position of employment available that the
4 employer is desirous of filling;
- 5 (iii) The employer must be willing and able to provide a participating claimant with
6 skills enhancement and job training focused toward the position that is available;
- 7 (iv) The employer must certify that he, she, they, or it will not pay any wages or provide
8 any payment in kind to the claimant during the course of the claimant's participation in the
9 program;
- 10 (v) The employer must certify that he, she, they, or it will, at completion of the training
11 period, consider the claimant for employment in the full-time position for which the claimant was
12 trained;
- 13 (vi) The employer must agree to follow up a claimant's participation in the program with
14 a performance evaluation of the claimant, regardless of whether or not the claimant is hired for
15 employment;
- 16 (vii) The employer must agree to provide information as requested by the department and
17 verify that employment of a participating claimant will not displace nor have any impact on a
18 promotion due an existing employee;
- 19 (viii) The employer must certify that the employment and training opportunity is not due
20 to a lockout, strike, or other labor dispute; and
- 21 (ix) For employers with employees who are subject to collective bargaining, the written
22 approval by the collective bargaining representative for each affected unit shall be required to be
23 included in the plan for any job training for a position which would otherwise be covered by a
24 collective bargaining agreement.
- 25 (e) Eligibility to be a participating claimant. - (1) An individual receiving unemployment
26 benefits and wishing to participate in the "Back to Work Rhode Island Program" must meet the
27 following qualifications:
- 28 (i) The individual must be eligible to receive Rhode Island unemployment compensation
29 benefits;
- 30 (ii) The individual must continue to file weekly continued claims to receive benefits
31 unless otherwise exempted;
- 32 (iii) The individual must continue to look for work and employment opportunities during
33 their participation in the program, unless otherwise exempt;
- 34 (iv) The individual must certify that he or she understands that participation in the

1 program includes no guarantee of employment;

2 (v) The individual must attend a mandatory orientation to be offered by the department;

3 (vi) The individual must agree to provide relevant information as requested by the
4 department; and to cooperate with requests from the department for the evaluation of aspects of
5 the "Back to Work Rhode Island Program."

6 (2) Claimants with a definite recall date within six (6) weeks and those who do not
7 register for employment services are not eligible for the program.

8 (f) Workers' compensation. - (1) The department will provide workers compensation
9 coverage for participating claimants.

10 (2) A claimant's participation in the program does not create an employment relationship
11 with the department for the purposes of chapter 28-29.

12 (3) For the purposes of computing an approved claimant's wage compensation and
13 benefit amount under chapter 28-29, the average weekly wage shall be the claimant's maximum
14 weekly unemployment compensation benefit rate for the benefit year in effect at the time of the
15 injury.

16 (g) Rules and regulations. - The director shall promulgate such rules and regulations as
17 the director deems necessary to implement the provisions of this section.

18 (h) Program performance monitoring. The department shall develop and implement a
19 performance monitoring system which does the following:

20 (1) Collects critical information on the "Back to Work Rhode Island Program" on an
21 annual basis or more frequently as determined by the director, including:

22 (i) Increases in claimant skills.

23 (ii) Skill training being provided by businesses.

24 (iii) Placement of claimants after training.

25 (iv) Challenges foreseen by businesses.

26 (v) Business training best practices.

27 (vi) Amount of weeks claimants received unemployment compensation benefits after
28 completion of the training period.

29 (2) Defines the benefits of the program and its training to businesses, claimants and the
30 employment security fund.

31 (i) Funding. - Creation of the "Back to Work Rhode Island Program" is contingent upon
32 funding.

33 SECTION 2. Severability. - If any of the provisions of this act or the application thereof
34 to any persons or circumstances are held invalid, the remainder of this act and the application

1 [thereof to other persons or circumstances shall not be affected thereby. To that end, the provisions](#)
2 [of this act are declared to be severable.](#)

3 SECTION 3. This act shall take effect on January 1, 2014.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT SECURITY --
BENEFITS

- 1 This act would assist employers and potential employees by creating the "Back to Work
- 2 Rhode Island Program."
- 3 This act would take effect on January 1, 2014.

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