

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS15114-LR-42 (3/10)

Short Title: Omnibus ESC Changes.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT MAKING OMNIBUS CHANGES TO THE EMPLOYMENT SECURITY
LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 96-8(10a) reads as rewritten:

"(10a) "Undue family hardship" arises when an individual is unable to accept ~~a particular shift work~~ because the individual is unable to obtain (i) child care during that shift for a minor child who is in the legally recognized custody of the individual, (ii) elder care during that shift for an aged or disabled parent of the individual, or (iii) care for any disabled member of that individual's immediate family."

SECTION 1.(b) G.S. 96-14(1g) reads as rewritten:

"(1g) For purposes of this Chapter, separation or discharge solely due to an inability to accept work ~~during a particular shift~~ as a result of an undue family hardship shall constitute good cause for leaving work. Benefits paid on the basis of this section shall not be charged to the account of the employer."

SECTION 2. G.S. 96-9(c)(2) reads as rewritten:

"(2) Charging of benefit payments. –

- a. Benefits paid shall be allocated to the account of each base period employer in the proportion that the base period wages paid to an eligible individual in any calendar quarter by each such employer bears to the total wages paid by all base period employers during the base period, except as hereinafter provided in paragraphs b, c, and d of this subdivision, G.S. 96-9(d)(2)c, and 96-12.01G. The amount so allocated shall be multiplied by one hundred twenty percent (120%) and charged

1 to that employer's account. Benefits paid shall be charged to
2 employers' accounts upon the basis of benefits paid to claimants
3 whose benefit years have expired.

- 4 b. Any benefits paid to any claimant under a claim filed for a
5 period occurring after the date of such separations as are set
6 forth in this paragraph and based on wages paid prior to the date
7 of (i) the leaving of work by the claimant without good cause
8 attributable to the employer; (ii) the discharge of claimant for
9 misconduct in connection with his work; (iii) the discharge of
10 the claimant for substantial fault as that term may be defined in
11 G.S. 96-14; (iv) the discharge of the claimant solely for a bona
12 fide inability to do the work for which he was hired but only
13 where the claimant's period of employment was 100 days or
14 less; (v) separations made disqualifying under G.S. 96-14(2b)
15 and (6a); (vi) separation due to leaving for disability or health
16 condition; or (vii) separation of claimant solely as the result of
17 an undue family ~~hardship~~; hardship, shall not be charged to the
18 account of an employer by whom the claimant was employed at
19 the time of such separation; provided, however, said employer
20 promptly furnishes the Commission with such notices regarding
21 any separation of the individual from work as are or may be
22 required by the regulations of the Commission.

23 No benefit charges shall be made to the account of any
24 employer who has furnished work to an individual who,
25 because of the loss of employment with one or more other
26 employers, becomes eligible for partial benefits while still being
27 furnished work by such employer on substantially the same
28 basis and substantially the same amount as had been made
29 available to such individual during his base period whether the
30 employments were simultaneous or successive; provided, that
31 such employer makes a written request for noncharging of
32 benefits in accordance with Commission regulations and
33 procedures.

34 No benefit charges shall be made to the account of any
35 employer for benefit years ending on or before June 30, 1992,
36 where benefits were paid as a result of a discharge due directly
37 to the reemployment of a veteran mandated by the Veteran's
38 Reemployment Rights Law, 38 USCA § 2021, et seq.

39 No benefit charges shall be made to the account of any
40 employer where benefits are paid as a result of a decision by an
41 Adjudicator, Appeals Referee or the Commission if such
42 decision to pay benefits is ultimately reversed; nor shall any
43 such benefits paid be deemed to constitute an overpayment
44 under G.S. 96-18(g)(2), the provisions thereof notwithstanding.

1 Provided, an overpayment of benefits paid shall be established
2 in order to provide for the waiting period required by G.S.
3 96-13(c).

4 c. Any benefits paid to any claimant who is attending a vocational
5 school or training program as provided in G.S. 96-13(a)(3) shall
6 not be charged to the account of the base period employer(s).

7 d. Any benefits paid to any claimant under the following
8 conditions shall not be charged to the account of the base period
9 employer(s):

10 1. The benefits are paid for unemployment due directly to a
11 major natural disaster, and

12 2. The President has declared the disaster pursuant to the
13 Disaster Relief Act of 1970, 42 USCA 4401, et seq., and

14 3. The benefits are paid to claimants who would have been
15 eligible for disaster unemployment assistance under this
16 Act, if they had not received unemployment insurance
17 benefits with respect to that unemployment.

18 e. 1. Any benefits paid to any claimant which are based on
19 previously uncovered employment which are
20 reimbursable by the federal government shall not be
21 charged to the experience rating account of any
22 employer.

23 2. For purposes of this paragraph previously uncovered
24 employment for which benefits are reimbursable by the
25 federal government means services performed before
26 July 1, 1978, in the case of a week of unemployment
27 beginning before July 1, 1978, or before January 1, 1978,
28 in the case of a week of unemployment beginning after
29 July 1, 1978, and to the extent that assistance under Title
30 II of the Emergency Jobs and Unemployment Assistance
31 Act of 1974 (SUA) was not paid to such individuals on
32 the basis of such service."

33 **SECTION 3.** G.S. 96-14(1f) reads as rewritten:

34 "(1f) For the purposes of this Chapter, any claimant's leaving work, or
35 discharge, if the claimant has been adjudged an aggrieved party as set
36 forth by Chapter 50B of the General ~~Statutes~~ Statutes, or has been
37 granted program participant status pursuant to G.S. 15C-4, as the result
38 of domestic violence committed upon the claimant or upon a minor
39 child with or in the custody of the claimant by a person who has or has
40 had a familial relationship with the claimant or minor child, shall
41 constitute good cause for leaving work. Benefits paid on the basis of
42 this section shall be noncharged."

43 **SECTION 4.** G.S. 96-9(d)(1) reads as rewritten:

- 1 "(1) a. Any nonprofit organization which becomes subject to this
2 Chapter on or after January 1, 1972, shall pay contributions
3 under the provisions of this Chapter, unless it elects in
4 accordance with this paragraph to pay the Commission for the
5 Unemployment Insurance Fund an amount equal to the amount
6 of regular benefits and of one half of the extended benefits paid,
7 that is attributable to service in the employ of such nonprofit
8 organization, to individuals for weeks of unemployment which
9 begin within a benefit year established during the effective
10 period of such election.
- 11 b. Any nonprofit organization which is or becomes subject to this
12 Chapter on or after January 1, 1972, may elect to become liable
13 for payments in lieu of contributions for a period of not less
14 than four calendar years beginning with the date on which
15 subjectivity begins by filing a written notice of its election with
16 the Commission not later than 30 days immediately following
17 the date of written notification of the determination of such
18 subjectivity. Provided if notification is not by registered mail,
19 the election may be made on or after January 1, 1972, within six
20 months following the date of the written notification of the
21 determination of such subjectivity. If such election is not made
22 as set forth herein, no election can be made until after four
23 calendar years have elapsed under the contributions method of
24 payment.
- 25 c. Any nonprofit organization which makes an election in
26 accordance with subparagraph b of this paragraph will continue
27 after such four calendar years to be liable for payments in lieu
28 of contributions until it files with the Commission a written
29 notice terminating its election not later than 30 days prior to the
30 next January 1, effective on such January 1. Provided, however,
31 no employer granted or in reimbursement status will be allowed
32 refund of any previous balances used in a transfer to
33 reimbursement status.
- 34 d. Any nonprofit organization which has been paying
35 contributions under this Chapter for a period of at least four
36 consecutive calendar years subsequent to January 1, 1972, may
37 elect to change to a reimbursement basis by filing with the
38 Commission not later than 30 days prior to the next January 1 a
39 written notice of election to become liable for payments in lieu
40 of contributions, effective on such January 1. Such election
41 shall not be terminable for a period of four calendar years. In
42 the event of such an election, the account of such employer
43 shall be closed and shall not be used in any future computation
44 of such employer's contribution rate in any manner whatsoever.

1 Provided, however, any nonprofit employer formerly paying
2 contributions who elects and qualifies to change to a
3 reimbursement basis may be relieved of the requirement to pay
4 one percent (1%) of taxable wages as required by G.S.
5 96-9(d)(2)a to the following extent and upon the following
6 conditions:

- 7 1. Any nonprofit employer which has, for the year the
8 election will be effective, an experience rating of 1.7 or
9 less, will have transferred from its experience rating
10 account an amount equal to one percent (1%) of its
11 payroll as reported for each of the four calendar quarters
12 which constitute the election year;
 - 13 2. Any nonprofit employer which has, for the year the
14 election will be effective, an experience rating of less
15 than 2.7 but more than 1.7, will have transferred from its
16 experience rating account an amount equal to one-half of
17 one percent (.5%) of its payroll as reported for each of
18 the four calendar quarters which constitute the election
19 year. Such employers shall make advance payments to
20 the Commission quarterly, computed at one-half of one
21 percent (.5%) of the taxable wages reported as provided
22 in G.S. 96-9(d)(2)a;
 - 23 3. Any nonprofit employer which has, for the year the
24 election will become effective, an experience rating of
25 2.7 or more, upon electing to change to a reimbursement
26 basis, will meet all the requirements of G.S. 96-9(d)(2)a,
27 including making advance payments computed at one
28 percent (1%) of taxable wages.
- 29 e. The Commission, in accordance with such regulations as it may
30 adopt, shall notify each nonprofit organization of any
31 determination which it may make of its status as an employer
32 and of the effective date of any election which it makes and of
33 any termination of such election. Such determinations shall be
34 subject to reconsideration, appeal and review."

35 **SECTION 5.** G.S. 96-13(a) is amended by adding a new subdivision to read:

36 "(6) An unemployed individual shall not be disqualified for eligibility for
37 unemployment compensation benefits solely on the basis that the
38 individual is only available for part-time work. If an individual
39 restricts his or her eligibility to part-time work, the individual may be
40 considered able and available to work if it is determined that all the
41 following conditions exist:

- 42 a. The claim for benefits is based on part-time work.

1 b. The claimant is actively seeking and is willing to accept work
2 under essentially the same conditions as existed while the
3 claimant's reported wages were accrued.

4 c. The claimant imposes no other restriction and is in a labor
5 market in which a reasonable demand exists for part-time
6 service."

7 **SECTION 6.** G.S. 96-14(1d) reads as rewritten:

8 "(1d) For the purposes of this Chapter, any claimant leaving work to
9 accompany the claimant's spouse to a new place of residence where
10 that spouse has secured work in a location that is too far removed for
11 the claimant reasonably to continue his or her work shall serve a time
12 certain disqualification for benefits for a period of ~~five~~two weeks
13 beginning the first day of the first week after the disqualifying act
14 occurs with respect to which week an individual files a claim for
15 benefits. Notwithstanding the other provisions of this subdivision,
16 leaving work to accompany a spouse who has been reassigned from
17 one military assignment to another shall be deemed good cause for
18 leaving work."

19 **SECTION 7.** This act is effective when it becomes law.