

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 27

Short Title: ESC Hearings Accommodate Business Activities. (Public)

Sponsors: Representatives Glazier, Gibson, Justice, Carney (Primary Sponsors);
Alexander, Brown, Daughtridge, Farmer-Butterfield, Goforth, Harrison,
LaRoque, McGee, Pate, Preston, Stiller, and Underhill.

Referred to: Commerce.

February 2, 2005

A BILL TO BE ENTITLED

1 AN ACT REQUIRING THE EMPLOYMENT SECURITY COMMISSION TO
2 CONSIDER THE ORDINARY BUSINESS ACTIVITIES OF EMPLOYERS
3 WHEN SCHEDULING HEARINGS.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 96-15(c) reads as rewritten:

7 "(c) Appeals. – Unless an appeal from the adjudicator is withdrawn, an appeals
8 referee shall set a hearing in which the parties are given reasonable opportunity to be
9 heard. The conduct of hearings shall be governed by suitable regulations established by
10 the Commission. ~~Such~~The regulations need not conform to common law or statutory
11 rules of evidence or technical or formal rules of procedure but shall provide for the
12 conduct of hearings in such manner as to ascertain the substantial rights of the parties.
13 The hearings may be conducted by conference telephone call or other similar means
14 provided that if any party files with the Commission prior written objection to the
15 telephone procedure, that party will be afforded an opportunity for an in-person hearing
16 at such place in the State as the Commission by regulation shall provide. The hearing
17 shall be scheduled for a time that, as much as practicable, least intrudes on and
18 reasonably accommodates the ordinary business activities of an employer and the return
19 to employment of a claimant. The appeals referee may affirm or modify the conclusion
20 of the adjudicator or issue a new decision in which findings of fact and conclusions of
21 law will be set out or dismiss an appeal when the appellant fails to appear at the appeals
22 hearing to prosecute the appeal after having been duly notified of the appeals hearing.
23 The evidence taken at the hearings before the appeals referee shall be recorded and the
24 decision of the appeals referee shall be deemed to be the final decision of the
25 Commission unless within 10 days after the date of notification or mailing of the
26 decision, whichever is earlier a written appeal is filed pursuant to such regulations as the
27 Commission may adopt. No person may be appointed as an appeals referee unless he or

1 she possesses the minimum qualifications necessary to be a staff attorney eligible for
2 designation by the Commission as a hearing officer under G.S. 96-4(m). No appeals
3 referee in full-time permanent status may engage in the private practice of law as
4 defined in G.S. 84-2.1 while serving in office as appeals referee; violation of this
5 prohibition shall be grounds for removal. Whenever an appeal is taken from a decision
6 of the appeals referee, the appealing party shall submit a clear written statement
7 containing the grounds for the appeal within the time allowed by law for taking the
8 appeal, and if such timely statement is not submitted, the Commission may dismiss the
9 appeal."

10 **SECTION 2.** This act is effective when it becomes law.