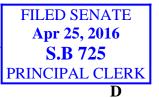
GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2015



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SENATE BILL DRS35318-TMxz-12D* (02/16)

Short Title:	Unemployment Insurance Technical Changes.	(Public)
Sponsors:	Senator Rucho (Primary Sponsor).	
Referred to:		

1		A BILL TO BE ENTITLED
2	AN ACT TO MA	AKE TECHNICAL, ADMINISTRATIVE, AND CLARIFYING CHANGES TO
3	THE UNEM	PLOYMENT INSURANCE LAWS, AS RECOMMENDED BY THE JOINT
4	LEGISLATIV	E OVERSIGHT COMMITTEE ON UNEMPLOYMENT INSURANCE.
5	The General Asse	embly of North Carolina enacts:
6	SECT	ION 1. G.S. 96-11.7(c) reads as rewritten:
7	"(c) Emplo	yer Number A new employer shall not be assigned a discrete employer
8	number when the	re is an acquisition or change in the form or organization of an existing business
9	enterprise, or se	verable portion thereof, and there is a continuity of control of the business
10	enterprise. That I	new employer shall continue to be the same employer for the purposes of this
11	Chapter as befor	e the acquisition or change in form. The following assumptions apply in this
12	subsection:Contin	nuity of Control Any new employer that has continuity of control with an
13	existing business	enterprise shall continue to be the same employer as the existing business
14	enterprise for the	e purposes of this Chapter as before the existence of the new employer. The
15	Division shall as	sign any new employer with continuity of control to the account of the existing
16	business enterpris	e. Any new employer with continuity of control shall not request or maintain an
17	account with the	Division other than the account of the existing business enterprise. If a new
18	employer receive	s a new account and the Division subsequently finds that such new employer has
19	continuity of con	trol with an existing business enterprise, the Division shall recalculate the annual
20	tax rates based o	n the combined annual account balances of the new employer and the existing
21	business enterpris	
22	(1)	"Control of the business enterprise" may occur by means of ownership of the
23		organization conducting the business enterprise, ownership of assets necessary
24		to conduct the business enterprise, security arrangements or lease arrangements
25		covering assets necessary to conduct the business enterprise, or a contract when
26		the ownership, stated arrangements, or contract provide for or allow direction of
27		the internal affairs or conduct of the business enterprise.
28	(2)	A "continuity of control" will exist- Continuity of control exists if one or more
29		persons, entities, or other organizations controlling the business enterprise
30		remain in control of the business enterprise after an acquisition or change in
31		form. Evidence of continuity of control includes changes of an individual
32		proprietorship to a corporation, partnership, limited liability company,
33		association, or estate; a partnership to an individual proprietorship, corporation,
34		limited liability company, association, estate, or the addition, deletion, or
35		change of partners; a limited liability company to an individual proprietorship,
36		partnership, corporation, association, estate, or to another limited liability



1	company; a corporation to an individual proprietorship partnership, limited
2	liability company, association, estate, or to another corporation or from any
3	form to another form.new employer. Control may occur by means of ownership
4	of the organization conducting the business enterprise, ownership of assets
5	necessary to conduct the business enterprise, security arrangements or lease
6	arrangements covering assets necessary to conduct the business enterprise, or a
7	contract when the ownership, stated arrangements, or contract provide for or
8	allow direction of the internal affairs or conduct of the business enterprise.
9	Control is not affected by changes in the form of a business enterprise,
10	reorganization of a business enterprise, or expansion of a business enterprise."
11	SECTION 2. G.S. 96-4(q) reads as rewritten:

The Board of Review after due notice shall have the right and power to hold and 12 "(q) 13 conduct hearings for the purpose of determining the rights, status and liabilities of an employer. The Board of Review shall have the power and authority to determine any and all questions and 14 15 issues of fact or questions of law that may arise under the Employment Security Law that may affect the rights, liabilities and status of an employer including the right to determine the amount 16 17 of contributions, if any, which may be due the Division by any employer. Hearings may be before 18 the Board of Review and shall be held in the central office of the Board of Review or at any other 19 designated place within the State. They shall be open to the public and shall consist of a review of 20 the evidence taken by a hearing officer designated by the Board of Review and a determination of 21 the law applicable to that evidence. The Board of Review shall have the power to provide for the taking of evidence by a hearing officer employed in the capacity of an attorney by the Department. 22 23 Such hearing officer shall have the same power to issue subpoenas, administer oaths, conduct 24 hearings and take evidence as is possessed by the Board of Review and such hearings shall be 25 recorded, and he shall transmit all testimony and records of such hearings to the Board for its 26 determination. All such hearings conducted by such hearing officer shall be scheduled and held in 27 any county in this State in which the employer resides, maintains a place of business, or conducts 28 business; however, the Board of Review may require additional testimony at any hearings held by 29 it at its office. From all decisions or determinations made by the Board of Review, any party 30 affected thereby shall be entitled to an appeal to the superior court. Before a party shall be allowed 31 to appeal, the party shall within 10 days after notice of such decision or determination, file with 32 the Board of Review exceptions to the decision or the determination, which exceptions will state 33 the grounds of objection to the decision or determination. If any one of the exceptions shall be 34 overruled then the party may appeal from the order overruling the exceptions, and shall, within 10 35 days after the decision overruling the exceptions, give notice of his appeal. When an exception is 36 made to the facts as found by the Board of Review, the appeal shall be to the superior court in 37 term time but the decision or determination of the Board of Review upon such review in the 38 superior court shall be conclusive and binding as to all questions of fact supported by any 39 competent evidence. When an exception is made to any rulings of law, as determined by the Board 40 of Review, the appeal shall be to the judge of the superior court at chambers. The party appealing 41 shall, within 10 days after the notice of appeal has been served, file with the Board of Review 42 exceptions to the decision or determination overruling the exception which statement shall assign 43 the errors complained of and the grounds of the appeal. Upon the filing of such statement the Board of Review shall, within 30 days, transmit all the papers and evidence considered by it, 44 45 together with the assignments of errors filed by the appellant to a judge of the superior court holding court or residing in some district in which such appellant either resides, maintains a place 46 47 of business or conducts business, or, unless the appellant objects after being given reasonable 48 opportunity to object, to a judge of the Superior Court of Wake County: Provided, however, the 49 30-day period specified herein may be extended by agreement of parties." 50 **SECTION 3.** This act is effective when it becomes law.