

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 754

Short Title: Unemp. Benefits Spousal Changes.

(Public)

Sponsors: Senators Reeves; Kinnaird, Martin of Guilford, Miller, Rand, Wellons, and Winner.

Referred to: Children & Human Resources.

April 7, 1997

1 A BILL TO BE ENTITLED
2 AN ACT RELATING TO ELIGIBILITY FOR UNEMPLOYMENT BENEFITS IN THE
3 EVENT OF SPOUSAL RELOCATION OR SPOUSAL ABUSE.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 96-14(1D) reads as rewritten:

6 "(1D) For the purposes of this Chapter, any claimant leaving work to
7 accompany the claimant's legally recognized spouse to a new place of
8 residence where that spouse has secured work in a location that is too
9 far removed for the claimant reasonably to continue his or her work
10 shall ~~serve a time certain disqualification for benefits for a period of five~~
11 ~~weeks beginning the first day of the first week after the disqualifying act~~
12 ~~occurs with respect to which week an individual files a claim for benefits.~~
13 constitute good cause for leaving work. Benefits paid on the basis of
14 this section shall be noncharged."

15 Section 2. G.S. 96-14 is amended by adding a new subdivision to read:

16 "(1F) For the purposes of this Chapter, any claimant's leaving work, or
17 discharge, as the result of domestic violence committed upon the
18 claimant or upon a minor child with or in the custody of the claimant by
19 a person who has or who has had a familial relationship with the

1 claimant or minor child shall constitute good cause for leaving work,
2 provided that the claimant has been adjudged an aggrieved party as set
3 forth by Chapter 50B of the General Statutes. Benefits paid on the basis
4 of this section shall be noncharged."

5 Section 3. G.S. 96-9(c) reads as rewritten:

6 "(c) (1) Except as provided in subsection (d) of this section, the
7 Commission shall maintain a separate account for each employer and
8 shall credit ~~his~~the employer's account with all voluntary contributions
9 made by ~~him~~the employer and all other contributions which ~~he~~the
10 employer has paid or is paid on ~~his~~the employer's behalf, provided the
11 Commission shall credit the account of each employer in an amount
12 equal to eighty percent (80%) of all voluntary contributions paid with
13 respect to periods prior to January 1, 1984, and of all other
14 contributions paid with respect to periods between July 1, 1965, and
15 December 31, 1983. On the computation date, beginning first with
16 August 1, 1948, the ratio of the credit balance in each individual
17 account to the total of all the credit balances in all employer accounts
18 shall be computed as of such computation date, and an amount equal
19 to the interest credited to this State's account in the unemployment
20 trust fund in the treasury of the United States for the four most
21 recently completed calendar quarters shall be credited prior to the next
22 computation date on a pro rata basis to all employers' accounts having
23 a credit balance on the computation date. Such amount shall be
24 prorated to the individual accounts in the same ratio that the credit
25 balance in each individual account bears to the total of the credit
26 balances in all such accounts. In computing the amount to be credited
27 to the account of an employer as a result of interest earned by funds
28 on deposit in the unemployment trust fund in the treasury of the
29 United States to the account of this State, any voluntary contributions
30 made by an employer after July 31 of any year shall not be considered
31 a part of the account balance of the employer until the next
32 computation date occurring after such voluntary contribution was
33 made. No provision in this section shall in any way be subject to or
34 affected by any provisions of the Executive Budget Act, as amended.
35 Nothing in this Act shall be construed to grant any employer or
36 individual in ~~his~~the employer's service prior claims or rights to the
37 amount paid by ~~him~~the employer into the fund either on ~~his~~the
38 employer's own behalf or on behalf of such individuals.

39 (2) Charging of benefit payments. –

40 a. Benefits paid shall be allocated to the account of each base
41 period employer in the proportion that the base period wages
42 paid to an eligible individual in any calendar quarter by each
43 such employer bears to the total wages paid by all base period

1 employers during the base period, except as hereinafter provided
2 in paragraphs b, c, and d of this subdivision, G.S. 96-9(d)(2)c,
3 and 96-12(e)G. The amount so allocated shall be multiplied by
4 one hundred twenty percent (120%) and charged to that
5 employer's account. Benefits paid shall be charged to employers'
6 accounts upon the basis of benefits paid to claimants whose
7 benefit years have expired.

- 8 b. Any benefits paid to any claimant under a claim filed for a period
9 occurring after the date of such separations as are set forth in this
10 paragraph and based on wages paid prior to the date of (i) the
11 leaving of work by the claimant without good cause attributable
12 to the employer; (ii) the discharge of claimant for misconduct in
13 connection with ~~his~~the claimant's work; (iii) the discharge of the
14 claimant for substantial fault as that term may be defined in G.S.
15 96-14; (iv) the discharge of the claimant solely for a bona fide
16 inability to do the work for which ~~he~~the claimant was hired but
17 only where the claimant was hired pursuant to a job order placed
18 with a local office of the Commission for referrals to
19 probationary employment (with a probationary period no longer
20 than 100 days), which job order was placed in such
21 circumstances and which satisfies such conditions as the
22 Commission may by regulation prescribe and only to the extent
23 of the wages paid during such probationary employment; (v)
24 separations made disqualifying under G.S. 96-14(2B) and (6A);
25 ~~or~~(vi) separation due to leaving for disability or health ~~condition~~
26 condition; or (vii) separation due to spousal relocation or spousal
27 abuse as provided by G.S. 96-14(1D) and (1F) shall not be
28 charged to the account of the employer by whom the claimant
29 was employed at the time of such separation; provided, however,
30 said employer promptly furnishes the Commission with such
31 notices regarding any separation of the individual from work as
32 are or may be required by the regulations of the Commission.

33 No benefit charges shall be made to the account of any
34 employer who has furnished work to an individual who, because
35 of the loss of employment with one or more other employers,
36 becomes eligible for partial benefits while still being furnished
37 work by such employer on substantially the same basis and
38 substantially the same amount as had been made available to
39 such individual during ~~his~~the individual's base period whether
40 the employments were simultaneous or successive; provided, that
41 such employer makes a written request for noncharging of
42 benefits in accordance with Commission regulations and
43 procedures.

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

6 No benefit charges shall be made to the account of any
7 employer where benefits are paid as a result of a decision by an
8 Adjudicator, Appeals Referee or the Commission if such decision
9 to pay benefits is ultimately reversed; nor shall any such benefits
10 paid be deemed to constitute an overpayment under G.S. 96-
11 18(g)(2), the provisions thereof notwithstanding. Provided, an
12 overpayment of benefits paid shall be established in order to
13 provide for the waiting period required by G.S. 96-13(c).

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

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

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

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

24 3. The benefits are paid to claimants who would have been
25 eligible for disaster unemployment assistance under this
26 Act, if they had not received unemployment insurance
27 benefits with respect to that unemployment.

28 e. 1. Any benefits paid to any claimant which are
29 based on previously uncovered employment which are
30 reimbursable by the federal government shall not be
31 charged to the experience rating account of any
32 employer.

33 2. For purposes of this paragraph previously uncovered
34 employment for which benefits are reimbursable by the
35 federal government means services performed before July
36 1, 1978, in the case of a week of unemployment beginning
37 before July 1, 1978, or before January 1, 1978, in the case
38 of a week of unemployment beginning after July 1, 1978,
39 and to the extent that assistance under Title II of the
40 Emergency Jobs and Unemployment Assistance Act of
41 1974 (SUA) was not paid to such individuals on the basis
42 of such service.

1 (3) As of July 31 of each year, and prior to January 1 of the succeeding
2 year, the Commission shall determine the balance of each employer's
3 account and shall furnish ~~him~~the employer with a statement of all
4 charges and credits thereto. At the same time the Commission shall
5 notify each employer of ~~his~~the employer's rate of contributions as
6 determined for the succeeding calendar year pursuant to this section.
7 Such determination shall become final unless the employer files an
8 application for review or redetermination prior to May 1 following the
9 effective date of such rates. The Commission may redetermine on its
10 own motion within the same period of time.

11 (4) Transfer of account. –

12 a. Whenever any individual, group of individuals, or employing
13 unit, who or which, in any manner succeeds to or acquires
14 substantially all or a distinct and severable portion of the
15 organization, trade, or business of another employing unit as
16 provided in G.S. 96-8, subdivision (5), paragraph b, the account
17 or that part of the account of the predecessor which relates to the
18 acquired portion of the business shall, upon the mutual consent of
19 the parties concerned and approval of the Commission in
20 conformity with the regulations as prescribed therefor, be
21 transferred as of the date of acquisition of the business to the
22 successor employer for use in the determination of ~~his~~the
23 successor's rate of contributions, provided application for transfer
24 is made within 60 days after the Commission notifies the
25 successor of ~~his~~the successor's right to request such transfer,
26 otherwise the effective date of the transfer shall be the first day
27 of the calendar quarter in which such application is filed, and that
28 after the transfer the successor employing unit continues to
29 operate the transferred portion of such organization, trade or
30 business. Provided, however, that the transfer of an account for
31 the purpose of computation of rates shall be deemed to have been
32 made prior to the computation date falling within the calendar
33 year within which the effective date of such transfer occurs and
34 the account shall thereafter be used in the computation of the rate
35 of the successor employer for succeeding years, subject,
36 however, to the provisions of paragraph b of this subdivision.

37 On or after August 1, 1988, whenever any individual, group
38 of individuals, or employing unit, who or which, in any manner
39 succeeds to or acquires all of the organization, trade, or business
40 of another employing unit as provided in G.S. 96-8, subdivision
41 (5), paragraph b, the account of the predecessor shall be
42 transferred as of the date of the acquisition of the business to the
43 successor employer for use in the determination of ~~his~~the

1 successor's rate of contributions. Whenever any individual, group
2 of individuals, or employing unit, who or which, in any manner
3 succeeds to or acquires a distinct and severable portion of the
4 organization, trade, or business of another employing unit as
5 provided in G.S. 96-8, subdivision (5), paragraph b, that part of
6 the account of the predecessor which relates to the acquired
7 portion of the business shall, upon the mutual consent of the
8 parties concerned and approval of the Commission in conformity
9 with the regulations as prescribed therefor, be transferred as of
10 the date of acquisition of the business to the successor employer
11 for use in the determination of ~~his~~the successor's rate of
12 contributions, provided application for transfer is made within 60
13 days after the Commission notifies the successor of ~~his~~the
14 successor's right to request such transfer, otherwise the effective
15 date of the transfer shall be the first day of the calendar quarter in
16 which such application is filed, and that after the transfer the
17 successor employing unit continues to operate the transferred
18 portion of such organization, trade or business. Provided,
19 however, that the transfer of an account for the purpose of
20 computation of rates shall be deemed to have been made prior to
21 the computation date falling within the calendar year within
22 which the effective date of such transfer occurs and the account
23 shall thereafter be used in the computation of the rate of the
24 successor employer for succeeding years, subject, however, to
25 the provisions of paragraph b of this subdivision. No request for
26 a transfer of the account will be accepted and no transfer of the
27 account will be made if the request for the transfer of the account
28 is not received within two years of the date of acquisition or
29 notification by the Commission of the right to request such
30 transfer, whichever occurs later. However, in no event will a
31 request for a transfer be allowed if an account has been
32 terminated because an employer ceases to be an employer
33 pursuant to G.S. 96-9(c)(5) and G.S. 96-11(d) regardless of the
34 date of notification.

- 35 b. Notwithstanding any other provisions of this section, if the
36 successor employer was an employer subject to this Chapter prior
37 to the date of acquisition of the business, ~~his~~the successor
38 employer's rate of contribution for the period from such date to
39 the end of the then current contribution year shall be the same as
40 ~~his~~the successor employer's rate in effect on the date of such
41 acquisition. If the successor was not an employer prior to the date
42 of the acquisition of the business ~~he~~the successor shall be
43 assigned a standard rate of contribution set forth in G.S. 96-

1 9(b)(1) for the remainder of the year in which ~~he~~ the successor
2 acquired the business of the predecessor; however, if such
3 successor makes application for the transfer of the account within
4 60 days after notification by the Commission of his right to do so
5 and the account is transferred, or meets the requirements for
6 mandatory transfer, ~~he~~ the successor shall be assigned for the
7 remainder of such year the rate applicable to the predecessor
8 employer or employers on the date of acquisition of the business,
9 provided there was only one predecessor or if more than one and
10 the predecessors had identical rates. In the event the rates of the
11 predecessor were not identical, the rate of the successor shall be
12 the highest rate applicable to any of the predecessor employers
13 on the date of acquisition of the business.

14 Irrespective of any other provisions of this Chapter, when an
15 account is transferred in its entirety by an employer to a
16 successor, the transferring employer shall thereafter pay the
17 standard rate of contributions of two and seven-tenths percent
18 (2.7%) and shall continue to pay at such rate until ~~he~~ the
19 transferring employer qualifies for a reduction, reacquires the
20 account ~~he~~ that the transferring employer transferred or acquires
21 the experience rating account of another employer, or is subject
22 to an increase in rate under the conditions prescribed in G.S. 96-
23 9(b)(2) and (3). However, when an account is transferred in its
24 entirety by an employer to a successor on or after January 1,
25 1987, the transferring employer shall thereafter pay the standard
26 beginning rate of contributions of two and twenty-five
27 hundredths percent (2.25%) and shall continue to pay at such rate
28 until ~~he~~ the transferring employer qualifies for a reduction,
29 reacquires the account ~~he~~ that the transferring employer
30 transferred or acquires the experience rating account of another
31 employer, or is subject to an increase in rate under the conditions
32 prescribed in G.S. 96-9(b)(2) and (3).

33 c. In those cases where the organization, trade, or business of a
34 deceased person, or insolvent debtor is taken over and operated
35 by an administrator, administratrix, executor, executrix, receiver,
36 or trustee in bankruptcy, such employing units shall
37 automatically succeed to the account and rate of contribution of
38 such deceased person, or insolvent debtor without the necessity
39 of the filing of a formal application for the transfer of such
40 account.

41 (5) In the event any employer subject to this Chapter ceases to be such an
42 employer, ~~his~~ the employer's account shall be closed and the same shall
43 not be used in any future computation of such employer's rate nor shall

1 any period prior to the effective date of the termination of such
2 employer during which benefits were chargeable be considered in the
3 application of G.S. 96-9(b)(2) of this Chapter.

- 4 (6) If the Commission finds that an employer's business is closed solely
5 because of the entrance of one or more of the owners, officers, partners,
6 or the majority stockholder into the Armed Forces of the United States,
7 or of any of its allies, or of the United Nations, such employer's
8 experience rating account shall not be terminated; and, if the business is
9 resumed within two years after the discharge or release from active duty
10 in the Armed Forces of such person or persons, the employer's account
11 shall be deemed to have been chargeable with benefits throughout more
12 than 13 consecutive calendar months ending July 31 immediately
13 preceding the computation date. This subdivision shall apply only to
14 employers who are liable for contributions under the experience rating
15 system of financing unemployment benefits. This subdivision shall not
16 be construed to apply to employers who are liable for payments in lieu
17 of contributions or to employers using the reimbursable method of
18 financing benefit payments."

19 Section 4. This act is effective when it becomes law and applies to new initial
20 claims filed on or after September 1, 1997.