

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 401

Short Title: ESC Share Information With Controller.

(Public)

Sponsors: Senator Sherron.

Referred to: Manufacturing and Labor.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE EMPLOYMENT SECURITY COMMISSION TO SHARE
CERTAIN INFORMATION WITH THE STATE CONTROLLER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-4(t) reads as rewritten:

"(t) Confidentiality of Records, Reports, and Information Obtained from
Claimants and Employers.

(1) Confidentiality of Information Contained in Records and Reports. – (i)
Except as hereinafter otherwise provided, it shall be unlawful for any
person to obtain, disclose, or use, or to authorize or permit the use of
any information which is obtained from any employing unit or
individual pursuant to the administration of this Chapter. (ii) Any
claimant or employer or their legal representatives shall be supplied
with information from the records of the Employment Security
Commission to the extent necessary for the proper presentation of
claims or defenses in any proceeding under this Chapter.
Notwithstanding any other provision of law, any claimant may be
supplied, subject to restrictions as the Commission may by regulation
prescribe, with any information contained in his payment record or on
his most recent monetary determination, and any individual, as well as
any interested employer, may be supplied with information as to the
individual's potential benefit rights from claim records. (iii) Subject to
restrictions as the Commission may by regulation provide, information
from the records of the Employment Security Commission may be

1 made available to any agency or public official for any purpose for
2 which disclosure is required by statute or regulation. (iv) The
3 Commission may, in its sole discretion, permit the use of information
4 in its possession by public officials in the performance of their public
5 duties. (v) The Commission shall release the payment and the amount
6 of unemployment compensation benefits upon receipt of a subpoena in
7 a proceeding involving child support. (vi) The Commission shall
8 furnish to the State Controller any information the State Controller
9 needs to prepare a comprehensive annual financial report of the State.

10 (2) Job Service Information. – (i) Except as hereinafter otherwise provided
11 it is unlawful for any person to disclose any information obtained by
12 the North Carolina State Employment Service Division from workers,
13 employers, applicants, or other persons or groups of persons in the
14 course of administering the State Public Employment Service
15 Program. Provided, however, that if all interested parties waive in
16 writing the right to hold such information confidential, the information
17 may be disclosed and used but only for those purposes that the parties
18 and the Commission have agreed upon in writing. (ii) The
19 Employment Service Division shall make public, through the
20 newspapers and any other suitable media, information as to job
21 openings and available applicants for the purpose of supplying the
22 demand for workers and employment. (iii) The Labor Market
23 Information Division shall collect, collate, and publish statistical and
24 other information relating to the work under the Commission's
25 jurisdiction; investigate economic developments, and the extent and
26 causes of unemployment and its remedies with the view of preparing
27 for the information of the General Assembly such facts as in the
28 Commission's opinion may make further legislation desirable. (iv)
29 Except as provided by Commission regulation, any information
30 published pursuant to this subsection (II) shall not be published in any
31 manner revealing the identity of the applicant or the employing unit.

32 (3) Penalties for Disclosure or Improper Use. – Any person violating any
33 provision of this section may be fined not less than twenty dollars
34 (\$20.00) nor more than two hundred dollars (\$200.00), or imprisoned
35 for not longer than 90 days, or both.

36 (4) Regulations. – The Commission may provide by regulation for
37 procedures by which requests for information will be considered and
38 the methods by which such information may be disclosed. The
39 Commission is authorized to provide by regulation for the assessment
40 of fees for securing and copying information released under this
41 section.

42 (5) Privileged Status of Letters and Reports and Other Information
43 Relating to Administration of this Chapter. – All letters, reports,
44 communication, or any other matters, either oral or written, including

1 any testimony at any hearing, from the employer or employee to each
2 other or to the Commission or any of its agents, representatives, or
3 employees, which letters, reports, or other communication shall have
4 been written, sent, delivered, or made in connection with the
5 requirements of the administration of this Chapter, shall be absolutely
6 privileged communication in any civil or criminal proceedings except
7 proceedings pursuant to or involving the administration of this Chapter
8 and except proceedings involving child support and only for the
9 purpose of establishing the payment and amount of unemployment
10 compensation benefits.

11 (6) Nothing in this subsection (t) shall operate to relieve any claimant or
12 employing unit from disclosing any information required by this
13 Chapter or by regulations promulgated thereunder.

14 (7) Nothing in this subsection (t) shall be construed to prevent the
15 Commission from allowing any individual or entity to examine and
16 copy any report, return, or any other written communication made by
17 that individual or entity to the Commission, its agents, or its
18 employees.

19 (7a) Nothing in this subsection (t) shall be construed to prevent the
20 Commission from disclosing, upon request and on a reimbursable
21 basis only, to officers and employees of the Department of Housing
22 and Urban Development and to representatives of a public housing
23 agency as defined in Section 303(i)(4) of the Social Security Act, any
24 information from the records of the Employment Security Commission
25 with respect to individuals applying for or participating in any housing
26 assistance program administered by the Department of Housing and
27 Urban Development who have signed an appropriate consent form
28 approved by the Secretary of Housing and Urban Development. It is
29 the purpose of this paragraph to assure the Employment Security
30 Commission's compliance with Section 303(i)(1) of the Social Security
31 Act and it shall be construed accordingly.

32 (7b) Nothing in this subsection (t) shall be construed to prevent the
33 Commission from disclosing, upon request and on a reimbursable
34 basis, to the Secretary of Health and Human Services, any information
35 from the records of the Employment Security Commission as may be
36 required by Section 303(h)(1) of the Social Security Act. It is the
37 purpose of this paragraph to assure compliance with Section 303(h)(1)
38 of the Social Security Act and it shall be construed accordingly.

39 (8) Any finding of fact or law, judgment, determination, conclusion or
40 final order made by an adjudicator, appeals referee, commissioner, the
41 Commission or any other person acting under authority of the
42 Commission pursuant to the Employment Security Law is not
43 admissible or binding in any separate or subsequent action or
44 proceeding, between a person and his present or previous employer

1 brought before an arbitrator, court or judge of this State or the United
2 States, regardless of whether the prior action was between the same or
3 related parties or involved the same facts.
4 Provided, however, any finding of fact or law, judgment,
5 determination, conclusion, or final order made by an adjudicator,
6 appeals referee, commissioner, the Commission or any other person
7 acting under the authority of the Commission pursuant to the
8 Employment Security Law shall be admissible in proceedings before
9 the North Carolina Industrial Commission."
10 Sec. 2. This act is effective upon ratification.