

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 658
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Short Title: Industrial Commission Mediation Program.

(Public)

Sponsors: Representatives Nesbitt, Baddour, Hackney (Co-sponsors); Bowman and Fitch.

Referred to: Judiciary III.

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A MEDIATION PROGRAM FOR THE INDUSTRIAL
COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-80(a) reads as rewritten:

"(a) The Commission may make rules, not inconsistent with this Article, for carrying out the provisions of this Article. Processes and procedure under this Article shall be as summary and simple as reasonably may be. The Commission or any member thereof, or any person deputized by it, shall have the power, for the purpose of this Article, to tax costs against the parties, and to subpoena witnesses, administer or cause to have administered oaths, hold persons, firms or corporations in contempt as provided in Chapter 5A of the General Statutes, and to examine or cause to be examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. The Commission may order parties to participate in mediation, under rules substantially similar to those approved by the Supreme Court for use in the Superior Court division, and to apportion the costs among the parties. Any party to a proceeding under this Article may, upon application to the Commission, which application shall set forth the materiality of the evidence to be given, cause the depositions of witnesses residing within or without the State to be taken, the costs to be taxed as other costs by Commission. Such depositions shall be taken after giving the notice and in the manner prescribed by law for depositions in action at law, except that they shall be directed to

1 the Commission, the commissioner, or the deputy commissioner before whom the
2 proceedings may be pending."

3 Sec. 2. G.S. 143-296 reads as rewritten:

4 **"§ 143-296. Powers of Industrial Commission; deputies.**

5 The members of the Industrial Commission, or a deputy thereof, shall have power to
6 issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders,
7 opinions, and awards based thereon, and punish for contempt. The Industrial
8 Commission is authorized to appoint deputies and clerical assistants to carry out the
9 purpose and intent of this Article, and such deputy or deputies are hereby vested with
10 the same power and authority to hear and determine tort claims against State
11 departments, institutions, and agencies as is by this Article vested in the members of the
12 Industrial Commission. Such deputy or deputies shall also have and are hereby vested
13 with the same power and authority to hear and determine cases arising under the
14 Workers' Compensation Act when assigned to do so by the Industrial Commission. The
15 Commission may order parties to participate in mediation, under rules substantially
16 similar to those approved by the Supreme Court for use in the Superior Court division,
17 and to apportion the costs among the parties."

18 Sec. 3. The mediation program authorized by this act shall be evaluated
19 under the direction of the Attorney General who shall file a written report on the
20 evaluation of the program on or before May 1, 1995. One copy of the report shall be
21 sent to the Speaker of the House of Representatives, one copy shall be sent to the
22 President Pro Tempore of the Senate, and five copies shall be sent to the Legislative
23 Services Commission for placement in the Legislative Library.

24 Sec. 4. This act becomes effective October 1, 1993 only if the General
25 Assembly appropriates funds to implement the purpose of this act, and expires June 30,
26 1995. It applies to claims pending on or filed after the effective date.