

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 276
Committee Substitute Favorable 4/19/99

Short Title: Omnibus ESC Changes.

(Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED
AN ACT MAKING VARIOUS CHANGES TO THE EMPLOYMENT SECURITY
LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9(a) is amended by adding two new subdivisions to read:

"(10) Employers electing to do so may pay their quarterly tax contributions by electronic funds transfer. When an electronic funds transfer cannot be completed due to insufficient funds or the nonexistence of an account of the transferor, the Commission shall assess a penalty equal to ten percent (10%) of the amount of the transfer, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). The Commission may waive this penalty for good cause shown. As used in this section, the term 'electronic funds transfer' means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.

(11) The Commission may establish policies to allow taxes to be payable under certain conditions by credit card. A condition of payment by credit card is receipt by the Commission of the full amount of taxes,

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1 penalties, and interest due. The Commission shall require an employer
2 who pays by credit card to include an amount equal to any fee charged
3 the Commission for the use of the card. A payment of taxes that is
4 made by credit card and is not honored by the card issuer does not
5 relieve the employer of the obligation to pay the taxes."

6 Section 2. G.S. 96-9(a)(7) reads as rewritten:

7 "(7) Effective with the quarter ending September 30, ~~1992,~~1999, every
8 employer with ~~250~~100 or more employees, and every person or
9 organization that, as agent, reports wages on a total of ~~250~~100 or more
10 employees on behalf of one or more subject employers, shall file that
11 portion of the "Employer's Quarterly Tax and Wage Report" that
12 contains the name, social security number, and gross wages of each
13 individual in employment on magnetic tapes or diskettes in a format
14 prescribed by the Commission.

15 For failure of an employer to comply with this subdivision, there
16 shall be added to the amount required to be shown as tax in the reports a
17 penalty of twenty-five dollars (\$25.00). For failure of an agent to
18 comply with this subdivision, the Commission may deny the agent the
19 right to report wages and file reports for the employer for whom the
20 agent filed an improper report for a period of one year following the
21 calendar quarter in which that agent filed the improper report. The
22 Commission may reduce or waive a penalty for good cause shown."

23 Section 3. G.S. 96-9(c)(4)b. reads as rewritten:

24 "b. Notwithstanding any other provisions of this section, if the
25 successor employer was an employer subject to this Chapter prior
26 to the date of acquisition of the business, ~~his~~the successor's rate
27 of contribution for the period from ~~such~~that date to the end of the
28 then current contribution year shall be the same as ~~his~~the
29 successor's rate in effect on the date of ~~such~~the acquisition. If the
30 successor was not an employer prior to the date of the acquisition
31 of the ~~business~~hebusiness, the successor shall be assigned a
32 standard beginning rate of contribution set forth in G.S. 96-
33 9(b)(1) for the remainder of the year in which ~~he~~the successor
34 acquired the business of the predecessor; however, if ~~such~~the
35 successor makes application for the transfer of the account within
36 60 days after notification by the Commission of ~~his~~the right to
37 do so and the account is transferred, or meets the requirements
38 for mandatory transfer, ~~he~~the successor shall be assigned for the
39 remainder of ~~such~~the year the rate applicable to the predecessor
40 employer or employers on the date of acquisition of the business,
41 provided as long as there was only one predecessor ~~or if more than~~
42 ~~one and or,~~ if more than one, the predecessors had identical rates.
43 In the event the rates of the predecessor were not identical, the

1 rate of the successor shall be the highest rate applicable to any of
2 the predecessor employers on the date of acquisition of the
3 business.

4 Irrespective of any other provisions of this Chapter, when an
5 account is transferred in its entirety by an employer to a
6 successor, the transferring employer shall thereafter pay the
7 standard beginning rate of contributions ~~of two and seven-tenths~~
8 ~~percent (2.7%) set forth in G.S. 96-9(b)(1)~~ and shall continue to
9 pay at ~~such rate until he~~ that rate until the transferring employer
10 qualifies for a reduction, reacquires the account he transferred or
11 acquires the experience rating account of another employer, or is
12 subject to an increase in rate under the conditions prescribed in
13 G.S. 96-9(b)(2) and (3). However, when an account is transferred in
14 its entirety by an employer to a successor on or after January 1, 1987,
15 the transferring employer shall thereafter pay the standard beginning
16 rate of contributions of two and twenty five hundredths percent
17 (2.25%) and shall continue to pay at such rate until he qualifies for a
18 reduction, reacquires the account he transferred or acquires the
19 experience rating account of another employer, or is subject to an
20 increase in rate under the conditions prescribed in G.S. 96-9(b)(2) and
21 (3)."

22 Section 4. G.S. 96-12.01(b) reads as rewritten:

23 "(b) Effect of State Law Provisions Relating to Regular Benefits on Claims for, and
24 for Payment of, Extended Benefits. – Except when the result would be inconsistent with
25 ~~G.S. 96-12 or~~ the other provisions of this ~~section,~~ section and in matters of eligibility
26 determination, as provided in the regulations of the Commission, the provisions of this
27 Chapter which apply to claims for, or the payment of, regular benefits shall apply to
28 claims for, and the payment of, extended benefits."

29 Section 5. G.S. 96-12.01(c) is amended by adding a new subdivision to read:

30 "(5) An individual shall not be eligible for extended compensation unless the
31 individual had 20 weeks of full-time insured employment, or the
32 equivalent in insured wages, as determined by a calculation of base
33 period wages based upon total hours worked during each quarter of the
34 base period and the hourly wage rate for each quarter of the base period.
35 For the purposes of this paragraph, the equivalent in insured wages shall
36 be earnings covered by the State law for compensation purposes which
37 exceed 40 times the individual's most recent weekly benefit amount or
38 one and one-half times the individual's insured wages in that calendar
39 quarter of the base period in which the individual's insured wages were
40 the highest."

41 Section 6. G.S. 96-15(a) reads as rewritten:

42 "(a) Filing. – Claims for benefits shall be made in accordance with such regulations
43 as the Commission may prescribe. Employers may file claims for employees through the

1 use of automation in the case of Partial Unemployment. Each employing unit shall post
2 and maintain in places readily accessible to individuals performing services for it printed
3 statements, concerning benefit rights, claims for benefits, and such other matters relating
4 to the administration of this Chapter as the Commission may direct. Each employing unit
5 shall supply to such individuals copies of such printed statements or other materials
6 relating to claims for benefits as the Commission may direct. Such printed statements
7 and other materials shall be supplied by the Commission to each employing unit without
8 cost to the employing unit."

9 Section 7. G.S. 96-15(b)(2) reads as rewritten:

10 "(2) Adjudication. – When a protest is made by the claimant to the initial or
11 monetary determination, or a question or issue is raised or presented as
12 to the eligibility of a claimant under G.S. 96-13, or whether any
13 disqualification should be imposed under G.S. 96-14, or benefits denied
14 or adjusted pursuant to G.S. 96-18, the matter shall be referred to an
15 adjudicator. The adjudicator may consider any matter, document or
16 statement deemed to be pertinent to the issues, including telephone
17 conversations, and after such consideration shall render a conclusion as
18 to the claimant's benefit entitlements. The adjudicator shall notify the
19 claimant and all other interested parties of the conclusion reached. The
20 conclusion of the adjudicator shall be deemed the final decision of the
21 Commission unless within ~~10 working~~ 15 days after the date of
22 notification or mailing of the conclusion, whichever is earlier, a written
23 appeal is filed pursuant to such regulations as the Commission may
24 adopt. The Commission shall be deemed an interested party for such
25 purposes and may remove to itself or transfer to an appeals referee the
26 proceedings involving any claim pending before an adjudicator.

27 Provided, any interested employer shall be allowed ~~10 working~~ 15
28 days from the earlier of mailing or delivery of the notice of the filing of
29 a claim against the employer's account to protest the claim and have the
30 claim referred to an adjudicator for a decision on the question or issue
31 raised. Provided further, no question or issue may be raised or
32 presented by the Commission as to the eligibility of a claimant under
33 G.S. 96-13, or whether any disqualification should be imposed under
34 G.S. 96-14, after ~~20 working~~ 45 days from the first day of the first week
35 after the question or issue occurs with respect to which week an
36 individual filed a claim for benefits. None of the provisions of this
37 subsection shall have the force and effect nor shall the same be
38 construed or interested as repealing any of the provisions of G.S. 96-
39 18."

40 Section 8. G.S. 105-259(b)(9a) reads as rewritten:

41 "(9a) To furnish information to the Employment Security Commission to the
42 extent required for its NC WORKS study of the working poor pursuant
43 to G.S. 108A-29(r). The Employment Security Commission shall use

1 information furnished to it under this subdivision only in a
2 nonidentifying form for statistical and analytical purposes related to its
3 NC WORKS study. The information that may be furnished under this
4 subdivision is the following with respect to individual income
5 taxpayers, as shown on the North Carolina income tax forms:

- 6 a. Name, social security number, spouse's name, spouse's social
7 security number, and county of residence.
- 8 b. Filing status and federal personal exemptions.
- 9 c. Federal taxable income, additions to federal taxable income, and
10 total of federal taxable income plus additional income.
- 11 d. Income while a North Carolina resident, total income from North
12 Carolina sources while a nonresident, and total income from all
13 sources.
- 14 e. Exemption for children, nonresidents' and part-year residents'
15 exemption for children, and credit for children.
- 16 f. Expenses for child and dependent care, portion of expenses paid
17 while a resident of North Carolina, portion of expenses paid
18 while a resident of North Carolina that was incurred for
19 dependents who were under the age of seven and dependents
20 who were physically or mentally incapable of caring for
21 themselves, credit for child and dependent care expenses, other
22 qualifying expenses, credit for other qualifying expenses, total
23 credit for child and dependent care expenses."

24 Section 9. G.S. 108A-29(q) reads as rewritten:

25 "(q) Each county Employment Security Commission local or branch office shall
26 organize a Job Service Employer Committee, based on the membership makeup of the Job
27 Service Employer Committees in existence at the time this act becomes law. Committee. The
28 Chairman of the Employment Security Commission shall appoint the Job Service
29 Employer Committee members, each of whom shall serve two-year terms, from persons
30 nominated by the local Job Service Employer Committee. The Employment Security
31 Commission shall organize a State Job Service Employer Committee consisting of eight
32 members who shall serve two-year terms. The Chairman of the Employment Security
33 Commission shall appoint the State Job Service Employer Committee members after
34 consultation with the Governor. The Employment Security Commission shall adopt rules
35 and regulations concerning the meeting schedule and the conduct of meetings of each Job
36 Service Employer Committee. Each Job Service Employer Committee in counties
37 participating in the First Stop Employment Program shall oversee the operation of the
38 First Stop Employment Program in that county and shall report to the local Employment
39 Security Commission quarterly on its recommendations to improve the First Stop
40 Employment Program. The Employment Security Commission shall develop the
41 reporting method and time frame and shall coordinate a full report to be presented to the
42 Joint Legislative Public Assistance Commission by the end of each calendar year.

1 ~~Counties having a Workforce Development Board may designate the Board to perform the duties~~
2 ~~described in this section rather than organizing a Job Service Employer Committee."~~

3 Section 10. G.S. 96-12(b)(4) reads as rewritten:

4 "(4) Qualifying Wages for Second Benefit Year. – An individual whose prior
5 benefit year has expired and who files a new benefit claim is not entitled
6 to benefits unless the individual has been paid qualifying wages since
7 the beginning date of the prior benefit year and before the date the new
8 benefit claim was filed equal to at least ~~10 times the individual's weekly~~
9 ~~benefit amount under the new benefit claim.~~ six times the average weekly
10 insured wage, obtained in accordance with G.S. 96-8(22), and has been
11 paid wages in at least two quarters of the individual's base period.
12 "Qualifying wages"are wages earned with an employer subject to the
13 provisions of this Chapter or some other state employment security law
14 or in federal service as defined in 5 U.S.C. Chapter 85."

15 Section 11. Sections 3, 7, and 10 of this act become effective July 1, 1999,
16 with Sections 7 and 10 applying to unemployment insurance claims filed on or after that
17 date. The remainder of this act is effective when it becomes law.