

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE DRH50405-LR-102 (03/25)

Short Title: UI/Severance Modifications.

(Public)

Sponsors: Representative Wainwright.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE DEFINITION OF TOTAL AND PARTIAL UNEMPLOYMENT  
3 RELATING TO THE TREATMENT OF SEVERANCE PAY UNDER THE  
4 EMPLOYMENT SECURITY LAWS OF NORTH CAROLINA.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 96-8(10) reads as rewritten:

7 "(10) Total and partial unemployment.

8 a. For the purpose of establishing a benefit year, an individual shall be  
9 deemed to be unemployed:

10 1. If ~~he~~the individual has payroll attachment but, because of  
11 lack of work during the payroll week for which ~~he~~the  
12 individual is requesting the establishment of a benefit year, ~~he~~  
13 the individual worked less than the equivalent of three  
14 customary scheduled full-time days in the establishment,  
15 plant, or industry in which ~~he~~the individual has payroll  
16 attachment as a regular employee. If a benefit year is  
17 established, it shall begin on the Sunday preceding the payroll  
18 week ending date.

19 2. If ~~he~~the individual has no payroll attachment on the date ~~he~~  
20 the individual reports to apply for unemployment insurance.  
21 If a benefit year is established, it shall begin on the Sunday of  
22 the calendar week with respect to which the claimant met the  
23 reporting requirements provided by Commission regulation.

24 b. For benefit weeks within an established benefit year, a claimant shall  
25 be deemed to be:

26 1. Totally unemployed, irrespective of job attachment, if ~~his~~a  
27 claimant's earnings for such week, including payments  
28 defined in subparagraph c below, would not reduce ~~his~~the  
29 claimant's weekly benefit amount as prescribed by  
30 G.S. 96-12(c).

31 2. Partially unemployed, if ~~he~~the claimant has payroll  
32 attachment but because of lack of work during the payroll  
33 week for which ~~he~~the claimant is requesting benefits ~~he~~the  
34 claimant worked less than three customary scheduled  
35 full-time days in the establishment, plant, or industry in



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1 which ~~he~~ the claimant is employed and whose earnings from  
2 such employment (including payments defined in  
3 subparagraph c below) would qualify ~~him~~ the claimant for a  
4 reduced payment as prescribed by G.S. 96-12(c).

5 3. Part-totally unemployed, if the claimant had no job  
6 attachment during all or part of such week and whose  
7 earnings for odd jobs or subsidiary work (including payments  
8 defined in subparagraph c below) would qualify ~~him~~ the  
9 claimant for a reduced payment as prescribed by  
10 G.S. 96-12(c).

11 c. No individual shall be considered unemployed if, with respect to the  
12 entire calendar week, ~~he~~ the individual is receiving, has received, or  
13 will receive as a result of ~~his~~ the individual's separation from  
14 employment, remuneration in the form of (i) wages in lieu of notice,  
15 (ii) accrued vacation pay, (iii) terminal leave pay, ~~(iv) severance pay,~~  
16 ~~(v) (iv)~~ separation pay, or ~~(vi) (v)~~ dismissal payments or wages by  
17 whatever name. Provided, however, if such payment is applicable to  
18 less than the entire week, the claimant may be considered to be  
19 unemployed as defined in subsections a and b of this paragraph.  
20 Sums received by any individual for services performed as an elected  
21 official who holds an elective office, as defined in G.S. 128-1.1(d), or  
22 as a member of the N. C. National Guard, as defined in G.S. 127A-3,  
23 or as a member of any reserve component of the United States  
24 Armed Forces shall not be considered in determining that individual's  
25 employment status under this subsection. ~~Provided further, however,~~  
26 ~~that an individual shall be considered to be unemployed as to receipt~~  
27 ~~of severance pay for any week the individual is registered at or~~  
28 ~~attending any institution of higher education as defined in~~  
29 ~~G.S. 96-8(5)j., or secondary school as defined in G.S. 96-8(5)q., or~~  
30 ~~Commission approved vocational, educational, or training programs~~  
31 ~~as defined in G.S. 96-13.~~

32 d. An individual's week of unemployment shall be deemed to  
33 commence only after his registration at an employment office, except  
34 as the Commission may by regulation otherwise prescribe.

35 e. No substitute teacher or other substitute school personnel shall be  
36 considered unemployed for days or weeks when not called to work  
37 unless the individual is or was a permanent school employee  
38 regularly employed as a full-time substitute during the period of time  
39 for which the individual is requesting benefits."

40 **SECTION 2.** This act is effective when it becomes law.