

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

FILED SENATE
Feb 3, 2015
S.B. 16
PRINCIPAL CLERK

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SENATE DRS35000-TMxz-1A* (11/10)

Short Title: Unemployment Insurance Law Changes. (Public)

Sponsors: Senators Rucho (Primary Sponsor); Clark, B. Jackson, and Tucker.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE LAWS, AS
3 RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
4 UNEMPLOYMENT INSURANCE.

5
6 The General Assembly of North Carolina enacts:

7
8 **PART I: AUTHORIZING DMV TO DISCLOSE SOCIAL SECURITY NUMBERS;
9 REQUIRING UI CLAIMANTS TO CONTACT FIVE POTENTIAL EMPLOYERS PER
10 WEEK; AND ELIMINATING THE PROCEDURE TO REQUEST
11 RECONSIDERATION OF DECISIONS.**

12 **SECTION 1.1.** G.S. 20-7(b2) is amended by adding a new subdivision to read:

13 "(b2) Disclosure of Social Security Number. – The social security number of an applicant
14 is not a public record. The Division may not disclose an applicant's social security number
15 except as allowed under federal law. A violation of the disclosure restrictions is punishable as
16 provided in 42 U.S.C. § 408, and amendments to that law.

17 In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division
18 may disclose a social security number obtained under subsection (b1) of this section only as
19 follows:

20 ...

21 (7) To the Department of Commerce, Division of Employment Security, for the
22 purpose of verifying employer and claimant identity."

23 **SECTION 1.2.(a)** G.S. 96-9.2(c) reads as rewritten:

24 "(c) Contribution Rate for Experience-Rated Employer. – The contribution rate for an
25 experience-rated employer who does not qualify as a beginning employer under subsection (b)
26 of this section is determined in accordance with the table set out below and then rounded to the
27 nearest one-hundredth percent (0.01%), subject to the minimum and maximum contribution
28 rates. The minimum contribution rate is six-hundredths of one percent (0.06%). The maximum
29 contribution rate is five and seventy-six hundredths percent (5.76%). "Total insured wages" are
30 the total wages reported by all insured employers for the 12-month period ending on ~~July 31~~
31 June 30 preceding the computation date. An employer's experience rating is computed as a
32 reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is
33 the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a
34 lower contribution rate, and a negative ERRP produces a higher contribution rate.

35"



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1 **SECTION 1.2.(b)** This section is effective when it becomes law and applies to
2 contributions payable for calendar quarters beginning on or after January 1, 2014.

3 **SECTION 1.3.(a)** G.S. 96-14.9(e) reads as rewritten:

4 "(e) Actively Seeking Work. – The Division's determination of whether an individual is
5 actively seeking work is based upon the following:

- 6 (1) The individual is registered for employment services, as required by the
7 Division.
- 8 (2) The individual has engaged in an active search for employment that is
9 appropriate in light of the employment available in the labor market and the
10 individual's skills and capabilities.
- 11 (3) The individual has ~~sought work on at least two different days during the~~
12 ~~week and made at least two five~~ job contacts with potential
13 ~~employers.~~employers during the week.
- 14 (4) The individual has maintained a record of the individual's work search
15 efforts. The record must include the potential employers contacted, the
16 method of contact, and the date contacted. The individual must provide the
17 record to the Division upon request."

18 **SECTION 1.3.(b)** This section becomes effective July 1, 2015, and applies to
19 claims for benefits filed on or after that date.

20 **SECTION 1.4.(a)** G.S. 96-15(h) reads as rewritten:

21 "(h) Judicial Review. – ~~Any A~~ decision of the Division, ~~in the absence of judicial review~~
22 ~~as herein provided, or in the absence of an interested party filing a request for reconsideration,~~
23 ~~shall become Board of Review becomes final 30 days after the date of notification or mailing~~
24 ~~thereof, whichever is earlier.~~ unless a party to the decision seeks judicial review as provided in
25 this subsection. Judicial review ~~shall be~~ is permitted only after a party claiming to be aggrieved
26 by the decision has exhausted ~~his remedies before the Division as provided in this Chapter~~ the
27 remedies provided in this Chapter and has filed a petition for review in the superior court of the
28 county in which ~~he~~ the petitioner resides or ~~has his~~ the county in which the petitioner's principal
29 place of business. business is located. The petition for review ~~shall~~ must explicitly state what
30 exceptions are taken to the decision or procedure ~~of the Division~~ and what relief the petitioner
31 seeks. Within 10 days after the petition is filed with the court, the petitioner ~~shall~~ must serve
32 copies of the petition by personal service or by certified mail, return receipt requested, upon the
33 Division and upon all parties of record to the Division proceedings. The Division must furnish
34 the petitioner the names ~~Names~~ and addresses of the parties ~~shall be furnished to the petitioner~~
35 ~~by the Division~~ upon request. The Division ~~shall be deemed to be~~ is a party to any judicial
36 action involving any of its decisions and may be represented in the judicial action by any
37 qualified attorney who has been designated by it for that purpose. Any questions regarding the
38 requirements of this subsection concerning the service or filing of a petition ~~shall~~ must be
39 determined by the superior court. Any party to the Division proceeding may become a party to
40 the review proceeding by notifying the court within 10 days after receipt of the copy of the
41 petition. Any person aggrieved may petition to become a party by filing a motion to intervene
42 as provided in G.S. 1A-1, Rule 24.

43 Within 45 days after receipt of the copy of the petition for review or within such additional
44 time as the court may allow, the Division ~~shall~~ must transmit to the reviewing court the original
45 or a certified copy of the entire record of the proceedings under review. With the permission of
46 the court the record may be shortened by stipulation of all parties to the review proceedings.
47 Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for
48 ~~such~~ the additional cost ~~as is occasioned~~ incurred by the refusal. The court may require or
49 permit subsequent corrections or additions to the record when ~~deemed~~ the court considers the
50 changes desirable."

1 **SECTION 1.4.(b)** This section becomes effective July 1, 2015, and applies to
2 decisions made on or after that date.

3 **SECTION 1.5.(a)** G.S. 96-3 reads as rewritten:

4 "**§ 96-3. Division of Employment Security.**

5 The Division of Employment Security (DES) is created within the Department of
6 Commerce and shall administer the provisions of this Chapter under the supervision of the
7 Assistant Secretary of ~~Commerce-Commerce~~ through two coordinate sections: the ~~Employment~~
8 ~~Security Section and the Employment Insurance Section.~~ The ~~Employment Security Section~~
9 shall administer the employment services functions of the Division. The ~~Employment Insurance~~
10 ~~Section shall administer the unemployment taxation and assessment functions of the Division."~~

11 **SECTION 1.5.(b)** G.S. 96-4(j) reads as rewritten:

12 "(j) Hearings. – The Assistant Secretary shall appoint hearing officers or appeals
13 referees to hear contested matters arising from the ~~Employment Security Section and the~~
14 ~~Employment Insurance Section.~~ Division of Employment Security. Appeals from the decisions
15 of the hearing officers or appeals referees shall be heard by the Board of Review."

16 **SECTION 1.5.(c)** G.S. 96-9.15(f) reads as rewritten:

17 "(f) Domestic Employer Exception. – The Division may authorize an employer of
18 domestic service employees to file an annual report and to file that report by telephone. An
19 annual report allowed under this subsection is due on or before the last day of the month
20 following the close of the calendar year in which the wages are paid. A domestic service
21 employer that files a report by telephone must contact either the tax auditor assigned to the
22 employer's account or the ~~Employment Insurance Section~~ Division of Employment Security in
23 Raleigh and report the required information to that auditor or to that section by the date the
24 report is due."
25

26 **PART II: GARNISHMENT AND ATTACHMENT FOR THE COLLECTION OF**
27 **UNPAID UI TAXES**

28 **SECTION 2.1.(a)** G.S. 1-359 reads as rewritten:

29 "**§ 1-359. Debtors of judgment debtor may satisfy execution.**

30 (a) After the issuing of an execution against property, all persons indebted to the
31 judgment debtor, or to any one of several debtors in the same judgment, may pay to the sheriff
32 the amount of their debt, or as much thereof as is necessary to satisfy the execution; and the
33 sheriff's receipt is a sufficient discharge for the amount paid.

34 (b) When the Division of Employment Security of the Department of Commerce
35 (Division) prevails in a civil action against an employer to collect unpaid employment taxes
36 under G.S. 96-10(b), the Division may attach or garnish the employer's credit card receipts or
37 other third-party payments in payment of the unpaid taxes in the manner provided by
38 subsection (a) of this section. Direct receipt by the Division is a sufficient discharge for the
39 amount paid by a credit card company, clearinghouse, or third-party payment processor."

40 **SECTION 2.1.(b)** G.S. 96-10(b)(1) reads as rewritten:

41 "(b) Collection. –

42 (1) If, after due notice, any employer defaults in any payment of contributions or
43 interest thereon, the amount due shall be collected by civil action in the
44 name of the Division, and the employer adjudged in default shall pay the
45 costs of such action. Civil actions brought under this section to collect
46 contributions or interest thereon from an employer shall be heard by the
47 court at the earliest possible date, and shall be entitled to preference upon the
48 calendar of the court over all other civil actions, except petitions for judicial
49 review under this Chapter and cases arising under the Workers'
50 Compensation Law of this State; or, if any contribution imposed by this
51 Chapter, or any portion thereof, and/or penalties duly provided for the

1 nonpayment thereof shall not be paid within 30 days after the same become
2 due and payable, and after due notice and reasonable opportunity for
3 hearing, the Division, under the hand of the Assistant Secretary, may certify
4 the same to the clerk of the superior court of the county in which the
5 delinquent resides or has property, and additional copies of said certificate
6 for each county in which the Division has reason to believe the delinquent
7 has property located. If the amount of a delinquency is less than fifty dollars
8 (\$50.00), the Division may not certify the amount to the clerk of court until a
9 field tax auditor or another representative of the Division personally
10 contacts, or unsuccessfully attempts to personally contact, the delinquent and
11 collect the amount due. A certificate or a copy of a certificate forwarded to
12 the clerk of the superior court shall immediately be docketed and indexed on
13 the cross index of judgments, and from the date of such docketing shall
14 constitute a preferred lien upon any property which said delinquent may own
15 in said county, with the same force and effect as a judgment rendered by the
16 superior court. The Division shall forward a copy of said certificate to the
17 sheriff or sheriffs of such county or counties, or to a duly authorized agent of
18 the Division, and when so forwarded and in the hands of such sheriff or
19 agent of the Division, shall have all the force and effect of an execution
20 issued to such sheriff or agent of the Division by the clerk of the superior
21 court upon a judgment of the superior court duly docketed in said county.
22 Provided, however, the Division may in its discretion withhold the issuance
23 of said certificate or execution to the sheriff or agent of the Division for a
24 period not exceeding 180 days from the date upon which the original
25 certificate is certified to the clerk of superior court. The Division is further
26 authorized and empowered to issue alias copies of said certificate or
27 execution to the sheriff or sheriffs of such county or counties, or to a duly
28 authorized agent of the Division in all cases in which the sheriff or duly
29 authorized agent has returned an execution or certificate unsatisfied; when so
30 issued and in the hands of the sheriff or duly authorized agent of the
31 Division, such alias shall have all the force and effect of an alias execution
32 issued to such sheriff or duly authorized agent of the Division by the clerk of
33 the superior court upon a judgment of the superior court duly docketed in
34 said county. Provided, however, that notwithstanding any provision of this
35 subsection, upon filing one written notice with the Division, the sheriff of
36 any county shall have the sole and exclusive right to serve all executions and
37 make all collections mentioned in this subsection and in such case no agent
38 of the Division shall have the authority to serve any executions or make any
39 collections therein in such county. A return of such execution, or alias
40 execution, shall be made to the Division, together with all moneys collected
41 thereunder, and when such order, execution, or alias is referred to the agent
42 of the Division for service the said agent of the Division shall be vested with
43 all the powers of the sheriff to the extent of serving such order, execution or
44 alias and levying or collecting thereunder. The agent of the Division to
45 whom such order or execution is referred shall give a bond not to exceed
46 three thousand dollars (\$3,000) approved by the Division for the faithful
47 performance of such duties. The liability of said agent shall be in the same
48 manner and to the same extent as is now imposed on sheriffs in the service
49 of executions. If any sheriff of this State or any agent of the Division who is
50 charged with the duty of serving executions shall willfully fail, refuse, or
51 neglect to execute any order directed to him by the said Division and within

1 the time provided by law, the official bond of such sheriff or of such agent of
 2 the Division shall be liable for the contributions, penalty, interest, and costs
 3 due by the employer. Any judgment that is executable and allowed under
 4 this section shall be subject to attachment and garnishment under
 5 G.S. 1-359(b) in payment of unpaid taxes that are due from the employer
 6 and collectable under this Article."
 7

8 PART III: REQUIRE PHOTO IDENTIFICATION TO RECEIVE UI BENEFITS

9 SECTION 3.1. G.S. 96-14.9 reads as rewritten:

10 "§ 96-14.9. Weekly certification.

11 (a) Requirements. – An individual's eligibility for a weekly benefit amount is
 12 determined on a week-to-week basis. An individual must meet all of the requirements of this
 13 section for each weekly benefit period. An individual who fails to meet one or more of the
 14 requirements is ineligible to receive benefits until the condition causing the ineligibility ceases
 15 to exist:

- 16 (1) File a claim for benefits.
- 17 (2) Report ~~at an employment office~~ as requested by the ~~Division~~ Division and
 18 present valid photo identification meeting the requirements of subsection (k)
 19 of this section.
- 20 (3) Meet the work search requirements of subsection (b) of this section.

21 ...

22 (k) Photo Identification. – The individual must present the Division one of the
 23 following documents bearing the individual's photograph:

- 24 (1) A drivers license, learner's permit, provisional license, or nonoperator's
 25 identification card issued by North Carolina, another state, the District of
 26 Columbia, United States territory, or United States commonwealth.
- 27 (2) A United States passport.
- 28 (3) A United States military identification card.
- 29 (4) A Veterans Identification Card issued by the United States Department of
 30 Veterans Affairs.
- 31 (5) A tribal enrollment card issued by a federally recognized tribe.
- 32 (6) Any other document that the Division determines adequately identifies the
 33 individual and that is issued by the United States, any state, the District of
 34 Columbia, United States territory, or United States commonwealth."
 35

36 PART IV: EXTEND DEADLINE FOR ADOPTION OF DIVISION OF 37 EMPLOYMENT SECURITY RULES

38 SECTION 4.1. Section 1.10(c) of S.L. 2011-401 reads as rewritten:

39 "SECTION 1.10.(c) The Department of Commerce, Division of Employment Security,
 40 shall adopt ~~all existing~~ rules and regulations in accordance with Article 2A of Chapter 150B of
 41 the General Statutes. Any existing rule that has not been readopted by ~~December 31, 2012,~~
 42 April 20, 2015, shall expire."
 43

44 PART V: SET THE DURATION OF UNEMPLOYMENT BENEFITS BASED ONLY 45 ON UNEMPLOYMENT RATES

46 SECTION 5.1.(a) G.S. 96-14.4 is repealed.

47 SECTION 5.1.(b) G.S. 96-14.3 reads as rewritten:

48 "§ 96-14.3. ~~Minimum and maximum duration~~ Duration of benefits.

49 (a) Duration. – The ~~minimum and maximum~~ number of weeks an individual is allowed
 50 to receive unemployment benefits depends on the seasonal adjusted statewide unemployment
 51 rate that applies to the six-month base period in which the claim is filed. One six-month base

1 period begins on January 1 and one six-month base period begins on July 1. For the base period
 2 that begins January 1, the average of the seasonal adjusted unemployment rates for the State for
 3 the preceding months of July, August, and September applies. For the base period that begins
 4 July 1, the average of the seasonal adjusted unemployment rates for the State for the preceding
 5 months of January, February, and March applies. The Division must use the most recent
 6 seasonal adjusted unemployment rate determined by the U.S. Department of Labor, Bureau of
 7 Labor Statistics, and not the rate as revised in the annual benchmark. ~~The number of weeks~~
 8 ~~allowed for an individual is determined in accordance with G.S. 96-14.4.~~

| 9 Seasonal Adjusted | 10 Minimum Number | 11 Maximum Number |
|-------------------------------|-------------------|-------------------|
| 12 Unemployment Rate | 13 of Weeks | 14 of Weeks |
| 15 Less than or equal to 5.5% | 16 5 | 17 12 |
| 18 Greater than 5.5% up to 6% | 19 6 | 20 13 |
| 21 Greater than 6% up to 6.5% | 22 7 | 23 14 |
| 24 Greater than 6.5% up to 7% | 25 8 | 26 15 |
| 27 Greater than 7% up to 7.5% | 28 9 | 29 16 |
| 30 Greater than 7.5% up to 8% | 31 10 | 32 17 |
| 33 Greater than 8% up to 8.5% | 34 11 | 35 18 |
| 36 Greater than 8.5% up to 9% | 37 12 | 38 19 |
| 39 Greater than 9% | 40 13 | 41 20 |

42 (b) Total Benefits. – The total benefits paid to an individual equals the individual's
 43 weekly benefit amount allowed under G.S. 96-14.2 multiplied by the number of weeks allowed
 44 under subsection (a) of this section."

45 **SECTION 5.1.(c)** G.S. 96-14.12(b) reads as rewritten:

46 "(b) Duration of Benefits. – This subsection applies to an individual and the spouse of an
 47 individual who is unemployed based on services performed for a corporation in which the
 48 individual held five percent (5%) or more of the outstanding shares of the voting stock of the
 49 corporation. The maximum number of weeks an individual or an individual's spouse may
 50 receive benefits is ~~limited to the lesser of six weeks or the applicable weeks determined under~~
 51 ~~G.S. 96-14.4 weeks.~~"

52 **SECTION 5.1.(d)** G.S. 96-16(f) reads as rewritten:

- 53 "(f) (1) A seasonal worker shall be eligible to receive benefits based on seasonal
 54 wages only for a week of unemployment which occurs, or the greater part of
 55 which occurs within the active period or periods of the seasonal pursuit or
 56 pursuits in which he earned base period wages.
 57 (2) A seasonal worker shall be eligible to receive benefits based on nonseasonal
 58 wages for any week of unemployment which occurs during any active period
 59 or periods of the seasonal pursuit in which he has earned base period wages
 60 provided he has exhausted benefits based on seasonal wages. Such worker
 61 shall also be eligible to receive benefits based on nonseasonal wages for any
 62 week of unemployment which occurs during the inactive period or periods
 63 of the seasonal pursuit in which he earned base period wages irrespective as
 64 to whether he has exhausted benefits based on seasonal wages.
 65 (3) The maximum amount of benefits which a seasonal worker shall be eligible
 66 to receive based on seasonal wages shall be an amount, adjusted to the
 67 nearest multiple of one dollar (\$1.00), determined by multiplying the
 68 maximum benefits payable in his benefit year, as provided in ~~G.S. 96-14.4,~~
 69 G.S. 96-14.3, by the percentage obtained by dividing the seasonal wages in
 70 his base period by all of his base period wages.
 71 (4) The maximum amount of benefits which a seasonal worker shall be eligible
 72 to receive based on nonseasonal wages shall be an amount, adjusted to the
 73 nearest multiple of one dollar (\$1.00), determined by multiplying the

1 maximum benefits payable in his benefit year, as provided in ~~G.S. 96-14.4,~~
2 G.S. 96-14.3, by the percentage obtained by dividing the nonseasonal wages
3 in his base period by all of his base period wages.

4 (5) In no case shall a seasonal worker be eligible to receive a total amount of
5 benefits in a benefit year in excess of the maximum benefits payable for
6 such benefit year, as provided in ~~G.S. 96-14.4.~~G.S. 96-14.3."

7 **SECTION 5.1.(e)** This section becomes effective July 1, 2015. Changes made by
8 this section to unemployment benefits apply to claims for benefits filed on or after July 1, 2015.

9
10 **PART VI: EFFECTIVE DATE**

11 **SECTION 6.1.** Except as otherwise provided, this act is effective when it becomes
12 law.