GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2013-391
SENATE BILL 420

AN ACT TO MAKE TECHNICAL, ADMINISTRATIVE, AND CLARIFYING CHANGES TO THE UNEMPLOYMENT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-6(a), as rewritten by S.L. 2013-2, reads as rewritten:

"(a) Establishment and Use. – The Unemployment Insurance Fund is established as an enterprise fund. The Division must administer the fund solely for the payment of unemployment compensation as that term is defined by section 3306(h) of the Code, exclusive of expenses of administration, and for refunds of sums erroneously paid into the fund. ~~exclusively for the purposes of this Chapter.~~ No money in the fund may be used, directly or indirectly, to pay interest on an advance received from the Unemployment Trust Fund.

This fund consists of the following sources of revenue:

…

~~(8)~~(9) Amounts transferred from the Unemployment Insurance Reserve Fund."

SECTION 2. G.S. 96-9.2, as enacted by S.L. 2013-2 and as rewritten by S.L. 2013-224, reads as rewritten:

"**§ 96-9.2. Required contributions to the Unemployment Insurance Fund.**

(a) Required Contribution. – An employer is required to make a contribution in each calendar year to the Unemployment Insurance Fund in an amount equal to the applicable percentage of the taxable wages the employer pays its employees during the year for services performed in this State. An employer may not deduct the contributions due in whole or in part from the remuneration of the individuals employed. Taxable wages are determined in accordance with G.S. 96-9.3. The applicable percentage for an employer is considered the employer's contribution rate and determined in accordance with this section.~~rate and is determined by the employer's base rate and the balance in the Unemployment Insurance Fund as of the computation date. Taxable wages are determined in accordance with G.S. 96-9.3. An employer's base rate is either the standard beginning rate or an experience rating. An employer's experience rating is computed as a reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.~~

(b) Contribution Rate for ~~Standard~~ Beginning Employer. ~~Rate.~~ – The contribution rate for ~~standard beginning rate applies to an~~ a beginning employer until the employer's account has been chargeable with benefits for at least 12 calendar months ending July 31 immediately preceding the computation date is one percent (1%). ~~date.~~ An employer's account has been chargeable with benefits for at least 12 calendar months if the employer has reported wages paid in four completed calendar quarters and its liability extends over all or part of two consecutive calendar years.

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

employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.

~~**Employer's Base Rate**~~	**UI Trust Fund Balance as Percentage of Total Insured Wages**	**Contribution Rate**
~~Standard Beginning Rate~~	~~All balances~~	~~1%~~
~~Experience Rating~~	Less than or equal to 1%	2.9% minus ERRP
	Greater than 1% but less than or equal to 1.25%	2.4% minus ERRP
	Greater than 1.25%	1.9% minus ERRP

(d) Notification of Contribution Rate. – The Division must notify an employer of the employer's contribution rate for a calendar year by January 1 of that year. The contribution rate becomes final unless the employer files an application for review and redetermination prior to May 1 following the effective date of the contribution rate. The Division may redetermine the contribution rate on its own motion within the same time period.

(e) Voluntary Contribution. – An employer that is subject to this section may make a voluntary contribution to the Unemployment Insurance Fund in addition to its required contribution. A voluntary contribution is credited to the employer's account. A voluntary contribution made by an employer within 30 days after the date on an annual notice of its contribution rate is considered to have been made as of the previous July 31."

SECTION 3. G.S. 96-14.1, as enacted by S.L. 2013-2 and as amended by S.L. 2013-224, reads as rewritten:

"(a) Purpose. – The purpose of this Article is to provide temporary unemployment benefits as required by federal law to an individual who is unemployed through no fault on the part of the individual and who is able, available, and actively seeking work. Benefits are payable on the basis of service, to which section 3309(a)(1) of the Code applies, performed for a governmental entity, a nonprofit organization, and an Indian tribe in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service.

…

(c) Qualification Determination. – An individual's qualification for benefits is determined based on the reason for separation from employment from the individual's bona fide employer. The individual's bona fide employer is the most recent employer for whom the individual began employment for an indefinite duration or a duration of more than 30 consecutive calendar days, regardless of whether work was performed on all of those days. An individual who is disqualified has no right to benefits. An individual who is disqualified may have the disqualification removed if the individual files a valid claim based on employment with a bona fide employer that employed the individual subsequent to the employment that resulted in disqualification. An individual who had a prior disqualification removed may be determined to be disqualified based on the reason for separation from employment from the individual's most recent bona fide employer, and the individual must be otherwise eligible for benefits.

…

(e) Federal Restrictions. – Benefits are not payable for services performed by the following individuals, to the maximum extent allowed ~~prohibited~~ by section 3304 of the Code:

(1) Instructional, research, or principal administrative employees of educational institutions.

(2) Employees who provide services ~~Services~~ in any other capacity for an educational institution.

(3) Individuals who performed services described in either subdivision (1) or (2) of this subsection in an educational institution while in the employ of an educational service agency. The term "educational service agency" has the same meaning as defined in section 3304 of the Code.

(4)~~(3)~~ Professional athletes.

(5)~~(4)~~ Aliens."

SECTION 4. G.S. 96-14.2(c), as enacted by S.L. 2013-2, reads as rewritten:

"(c) Retirement Reduction. – The amount of benefits payable to an individual must be reduced as provided in section 3304(a)(15) of the Code. This subsection does not apply to social security retirement benefits."

SECTION 5. G.S. 96-14.9(h), as enacted by S.L. 2013-2, reads as rewritten:

"(h) Job Training. – An individual who is otherwise eligible may not be denied benefits for any week because of the application to any such week of requirements relating to availability for work, active search for work, or refusal to accept work if the individual is attending a training program approved by the Division. ~~has satisfied the work search requirements for any given week if the Division determines for that week that one or more of the following applies:~~

~~(1) Trade Jobs for Success. – The individual is participating in the Trade Jobs for Success initiative under G.S. 143B-438.16.~~

~~(2) Reemployment services. – The individual is participating in the reemployment services as directed by the Division and is actively seeking work in a manner consistent with the planned reemployment services. The Division must refer an individual to reemployment services if the Division finds that the individual would likely exhaust regular benefits and need reemployment services to make a successful transition to new employment.~~

~~(3) Vocational school or training program. – The individual is attending a vocational school or training program approved by the Division.~~"

SECTION 6. G.S. 96-14.11(c), as enacted by S.L. 2013-2 and as rewritten by S.L. 2013-224, reads as rewritten:

"(c) Recall After Layoff. – An individual is disqualified for any remaining benefits if it is determined by the Division that the individual is ~~is, at the time a claim is filed,~~ unemployed because the individual, without good cause attributable to the employer and after receiving notice from the employer, refused to return to work for an employer under one or more of the following circumstances:

…."

SECTION 7. G.S. 96-16(g), as rewritten by S.L. 2013-2, reads as rewritten:

"(g) ~~(1)~~ All benefits paid to a seasonal worker ~~based on seasonal wages~~ shall be charged in accordance with G.S. 96-11.2. ~~against the account of his base period employer or employers who paid him such seasonal wages, and for the purpose of this paragraph such seasonal wages shall be deemed to constitute all of his base period wages.~~

~~(2) All benefits paid to a seasonal worker based on nonseasonal wages shall be charged against the account of his base period employer or employers who paid him such nonseasonal wages, and for the purpose of this paragraph such nonseasonal wages shall be deemed to constitute all of his base period wages.~~"

SECTION 8. G.S. 96-32 reads as rewritten:

"**§ 96-32. Common follow-up information management system created.**

(a) The Department of Commerce, ~~Division of Labor and Economic Analysis (Labor and Economic Analysis Division) (DLEA),~~ Labor and Economic Analysis Division (LEAD), shall develop, implement, and maintain a common follow-up information management system for tracking the performance measures related to current and former participants in State job training, education, and placement programs. The system shall provide for the automated collection, organization, dissemination, and analysis of data obtained from State-funded programs that provide job training and education and job placement services to program participants. In developing the system, ~~the Division, DLEA,~~ LEAD shall ensure that data and information collected from State agencies is confidential, not open for general public inspection, and maintained and disseminated in a manner that protects the identity of individual persons from general public disclosure.

(b) LEAD~~The Labor and Economic Analysis Division, DLEA,~~ shall adopt procedures and guidelines for the development and implementation of the CFS authorized under this section.

(c) Based on data collected under the CFS, the ~~Labor and Economic Analysis Division, DLEA,~~ LEAD shall evaluate the effectiveness of job training, education, and placement programs to determine if specific program goals and objectives are attained, to determine placement and completion rates for each program, and to make recommendations regarding the continuation of State funding for programs evaluated.

(d) The ~~DLEA~~ LEAD shall do the following:

(1) Collaborate with the Commission on Workforce Development to develop common performance measures across workforce programs in the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, the Department of Administration, and the Department of Public Instruction that can be tracked through the CFS in order to assess and report on workforce development program performance.
(2) Determine whether other workforce development programs not participating in CFS should be required to report information and data.
(3) Provide information from CFS to reporting agencies annually.
(4) Provide training for participating agencies to ensure data quality and consistency.
(5) Develop common data definitions that are shared across agencies contributing information to the system.

(e) The Department of Commerce shall ensure that funding and staff resources for the CFS are not diverted to other programs or systems managed by the Department of Commerce."

SECTION 9. This act becomes effective July 1, 2013. Changes made by this act to unemployment benefits apply to claims for benefits filed on or after June 30, 2013. Changes made by this act to the determination and application of the contribution rate apply to contributions payable for calendar quarters beginning on or after January 1, 2014.

In the General Assembly read three times and ratified this the 24th day of July, 2013.

s/ Louis M. Pate, Jr.
Deputy President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:46 a.m. this 23rd day of August, 2013