

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 658
Second Edition Engrossed 5/12/93
Senate Judiciary II Committee Substitute Adopted 7/14/93

Short Title: Industrial Commission Powers.

(Public)

Sponsors:

Referred to:

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A MEDIATION PROGRAM FOR THE INDUSTRIAL COMMISSION AND TO AUTHORIZE THE CHAIRMAN OF THE INDUSTRIAL COMMISSION TO HIRE OR FIRE PERSONNEL AND TRANSFER PERSONNEL WITHIN THE COMMISSION WITHOUT OBTAINING THE APPROVAL OF AT LEAST ONE OTHER COMMISSIONER.

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, except the Commission shall determine the manner in which payment of the costs of the mediated settlement conference is assessed. 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

1 residing within or without the State to be taken, the costs to be taxed as other costs by
2 Commission. Such depositions shall be taken after giving the notice and in the manner
3 prescribed by law for depositions in action at law, except that they shall be directed to
4 the Commission, the commissioner, or the deputy commissioner before whom the
5 proceedings may be pending."

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

7 "**§ 143-296. Powers of Industrial Commission; deputies.**

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

22 Sec. 3. G.S. 97-77(b) reads as rewritten:

23 "(b) One member, to be designated by the Governor, shall act as chairman. The
24 chairman shall be the chief judicial officer and the chief executive officer of the
25 Industrial Commission; such authority shall be exercised pursuant to the provisions of
26 Chapter 126 of the General Statutes and the rules and policies of the State Personnel
27 Commission. Notwithstanding the provisions of this Chapter, the chairman shall have
28 such authority as is necessary to direct and oversee the Commission. The chairman may
29 delegate any duties and responsibilities as may be necessary to ensure the proper
30 management of the Industrial Commission. Notwithstanding the provisions of this
31 Chapter, Chapter 143A, and Chapter 143B of the General Statutes, ~~the chairman, with the~~
32 ~~approval of at least one of the other commissioners, shall have the authority to~~ chairman may
33 hire or fire personnel and to transfer personnel within the Industrial Commission.

34 The Governor may designate one vice-chairman from the remaining two
35 commissioners. The vice-chairman shall assume the powers of the chairman upon
36 request of the chairman or when the chairman is absent for 24 hours or more. The
37 authority delegated to the vice-chairman shall be relinquished immediately upon the
38 return of the chairman or at the request of the chairman."

39 Sec. 4. The mediation program authorized by this act shall be evaluated
40 under the direction of the Attorney General who shall file a written report on the
41 evaluation of the program on or before May 1, 1995. One copy of the report shall be
42 sent to the Speaker of the House of Representatives, one copy shall be sent to the
43 President Pro Tempore of the Senate, and five copies shall be sent to the Legislative
44 Services Commission for placement in the Legislative Library.

1 Sec. 5. Section 3 of this act is effective upon ratification. Sections 1, 2, and 4
2 of this act become effective October 1, 1993, only if the General Assembly appropriates
3 funds to implement the purpose of these sections, expire June 30, 1995, and apply to
4 claims pending on or filed after the effective date.