

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1090

Short Title: UI/Severance Modifications. (Public)

Sponsors: Representatives Wainwright; Faison, Lucas, and Parmon.

Referred to: Insurance, if favorable, Appropriations.

April 7, 2009

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
36 which ~~he~~the claimant is employed and whose earnings from
37 such employment (including payments defined in



subparagraph c below) would qualify ~~him~~the claimant for a reduced payment as prescribed by G.S. 96-12(c).

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

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

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

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

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