

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**SENATE BILL 439**

Short Title: Omnibus ESC Changes.

(Public)

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Sponsors: Senators Clodfelter; and Dannelly.

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Referred to: Judiciary I.

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March 17, 2003

A BILL TO BE ENTITLED  
AN ACT MAKING OMNIBUS CHANGES TO THE EMPLOYMENT SECURITY  
LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

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

"(10a) "Undue family hardship" arises when an individual is unable to accept ~~a particular shift work~~ because the individual is unable to obtain (i) child care during that shift for a minor child who is in the legally recognized custody of the individual, (ii) elder care during that shift for an aged or disabled parent of the individual, or (iii) care for any disabled member of that individual's immediate family."

**SECTION 1.(b)** G.S. 96-14(1g) reads as rewritten:

"(1g) For purposes of this Chapter, separation or discharge solely due to an inability to accept work ~~during a particular shift~~ as a result of an undue family hardship shall constitute good cause for leaving work. Benefits paid on the basis of this section shall not be charged to the account of the employer."

**SECTION 2.** G.S. 96-9(c)(2) reads as rewritten:

"(2) Charging of benefit payments. –

- a. Benefits paid shall be allocated to the account of each base period employer in the proportion that the base period wages paid to an eligible individual in any calendar quarter by each such employer bears to the total wages paid by all base period employers during the base period, except as hereinafter provided in paragraphs b, c, and d of this subdivision, G.S. 96-9(d)(2)c, and 96-12.01G. The amount so allocated shall be multiplied by one hundred twenty percent (120%) and charged to that employer's account. Benefits paid shall be charged to

1 employers' accounts upon the basis of benefits paid to claimants  
2 whose benefit years have expired.

- 3 b. Any benefits paid to any claimant under a claim filed for a  
4 period occurring after the date of such separations as are set  
5 forth in this paragraph and based on wages paid prior to the date  
6 of (i) the leaving of work by the claimant without good cause  
7 attributable to the employer; (ii) the discharge of claimant for  
8 misconduct in connection with his work; (iii) the discharge of  
9 the claimant for substantial fault as that term may be defined in  
10 G.S. 96-14; (iv) the discharge of the claimant solely for a bona  
11 fide inability to do the work for which he was hired but only  
12 where the claimant's period of employment was 100 days or  
13 less; (v) separations made disqualifying under G.S. 96-14(2b)  
14 and (6a); (vi) separation due to leaving for disability or health  
15 condition; or (vii) separation of claimant solely as the result of  
16 an undue family ~~hardship~~; hardship, shall not be charged to the  
17 account of an employer by whom the claimant was employed at  
18 the time of such separation; provided, however, said employer  
19 promptly furnishes the Commission with such notices regarding  
20 any separation of the individual from work as are or may be  
21 required by the regulations of the Commission.

22 No benefit charges shall be made to the account of any  
23 employer who has furnished work to an individual who,  
24 because of the loss of employment with one or more other  
25 employers, becomes eligible for partial benefits while still being  
26 furnished work by such employer on substantially the same  
27 basis and substantially the same amount as had been made  
28 available to such individual during his base period whether the  
29 employments were simultaneous or successive; provided, that  
30 such employer makes a written request for noncharging of  
31 benefits in accordance with Commission regulations and  
32 procedures.

33 No benefit charges shall be made to the account of any  
34 employer for benefit years ending on or before June 30, 1992,  
35 where benefits were paid as a result of a discharge due directly  
36 to the reemployment of a veteran mandated by the Veteran's  
37 Reemployment Rights Law, 38 USCA § 2021, et seq.

38 No benefit charges shall be made to the account of any  
39 employer where benefits are paid as a result of a decision by an  
40 Adjudicator, Appeals Referee or the Commission if such  
41 decision to pay benefits is ultimately reversed; nor shall any  
42 such benefits paid be deemed to constitute an overpayment  
43 under G.S. 96-18(g)(2), the provisions thereof notwithstanding.  
44 Provided, an overpayment of benefits paid shall be established

1 in order to provide for the waiting period required by G.S.  
2 96-13(c).

3 c. Any benefits paid to any claimant who is attending a vocational  
4 school or training program as provided in G.S. 96-13(a)(3) shall  
5 not be charged to the account of the base period employer(s).

6 d. Any benefits paid to any claimant under the following  
7 conditions shall not be charged to the account of the base period  
8 employer(s):

9 1. The benefits are paid for unemployment due directly to a  
10 major natural disaster, and

11 2. The President has declared the disaster pursuant to the  
12 Disaster Relief Act of 1970, 42 USCA 4401, et seq., and

13 3. The benefits are paid to claimants who would have been  
14 eligible for disaster unemployment assistance under this  
15 Act, if they had not received unemployment insurance  
16 benefits with respect to that unemployment.

17 e. 1. Any benefits paid to any claimant which are based on  
18 previously uncovered employment which are  
19 reimbursable by the federal government shall not be  
20 charged to the experience rating account of any  
21 employer.

22 2. For purposes of this paragraph previously uncovered  
23 employment for which benefits are reimbursable by the  
24 federal government means services performed before  
25 July 1, 1978, in the case of a week of unemployment  
26 beginning before July 1, 1978, or before January 1, 1978,  
27 in the case of a week of unemployment beginning after  
28 July 1, 1978, and to the extent that assistance under Title  
29 II of the Emergency Jobs and Unemployment Assistance  
30 Act of 1974 (SUA) was not paid to such individuals on  
31 the basis of such service."

32 **SECTION 3.** G.S. 96-14(1f) reads as rewritten:

33 "(1f) For the purposes of this Chapter, any claimant's leaving work, or  
34 discharge, if the claimant has been adjudged an aggrieved party as set  
35 forth by Chapter 50B of the General ~~Statutes~~ Statutes, or has been  
36 granted program participant status pursuant to G.S. 15C-4, as the result  
37 of domestic violence committed upon the claimant or upon a minor  
38 child with or in the custody of the claimant by a person who has or has  
39 had a familial relationship with the claimant or minor child, shall  
40 constitute good cause for leaving work. Benefits paid on the basis of  
41 this section shall be noncharged."

42 **SECTION 4.** G.S. 96-9(d)(1) reads as rewritten:

43 "(1) a. Any nonprofit organization which becomes subject to this  
44 Chapter on or after January 1, 1972, shall pay contributions

1 under the provisions of this Chapter, unless it elects in  
2 accordance with this paragraph to pay the Commission for the  
3 Unemployment Insurance Fund an amount equal to the amount  
4 of regular benefits and of one half of the extended benefits paid,  
5 that is attributable to service in the employ of such nonprofit  
6 organization, to individuals for weeks of unemployment which  
7 begin within a benefit year established during the effective  
8 period of such election.

9 b. Any nonprofit organization which is or becomes subject to this  
10 Chapter on or after January 1, 1972, may elect to become liable  
11 for payments in lieu of contributions for a period of not less  
12 than four calendar years beginning with the date on which  
13 subjectivity begins by filing a written notice of its election with  
14 the Commission not later than 30 days immediately following  
15 the date of written notification of the determination of such  
16 subjectivity. Provided if notification is not by registered mail,  
17 the election may be made on or after January 1, 1972, within six  
18 months following the date of the written notification of the  
19 determination of such subjectivity. If such election is not made  
20 as set forth herein, no election can be made until after four  
21 calendar years have elapsed under the contributions method of  
22 payment.

23 c. Any nonprofit organization which makes an election in  
24 accordance with subparagraph b of this paragraph will continue  
25 after such four calendar years to be liable for payments in lieu  
26 of contributions until it files with the Commission a written  
27 notice terminating its election not later than 30 days prior to the  
28 next January 1, effective on such January 1. Provided, however,  
29 no employer granted or in reimbursement status will be allowed  
30 refund of any previous balances used in a transfer to  
31 reimbursement status.

32 d. Any nonprofit organization which has been paying  
33 contributions under this Chapter for a period of at least four  
34 consecutive calendar years subsequent to January 1, 1972, may  
35 elect to change to a reimbursement basis by filing with the  
36 Commission not later than 30 days prior to the next January 1 a  
37 written notice of election to become liable for payments in lieu  
38 of contributions, effective on such January 1. Such election  
39 shall not be terminable for a period of four calendar years. In  
40 the event of such an election, the account of such employer  
41 shall be closed and shall not be used in any future computation  
42 of such employer's contribution rate in any manner whatsoever.  
43 Provided, however, any nonprofit employer formerly paying  
44 contributions who elects and qualifies to change to a

1 reimbursement basis may be relieved of the requirement to pay  
2 one percent (1%) of taxable wages as required by G.S.  
3 96-9(d)(2)a to the following extent and upon the following  
4 conditions:

- 5 1. Any nonprofit employer which has, for the year the  
6 election will be effective, an experience rating of 1.7 or  
7 less, will have transferred from its experience rating  
8 account an amount equal to one percent (1%) of its  
9 payroll as reported for each of the four calendar quarters  
10 which constitute the election year;
  - 11 2. Any nonprofit employer which has, for the year the  
12 election will be effective, an experience rating of less  
13 than 2.7 but more than 1.7, will have transferred from its  
14 experience rating account an amount equal to one-half of  
15 one percent (.5%) of its payroll as reported for each of  
16 the four calendar quarters which constitute the election  
17 year. Such employers shall make advance payments to  
18 the Commission quarterly, computed at one-half of one  
19 percent (.5%) of the taxable wages reported as provided  
20 in G.S. 96-9(d)(2)a;
  - 21 3. Any nonprofit employer which has, for the year the  
22 election will become effective, an experience rating of  
23 2.7 or more, upon electing to change to a reimbursement  
24 basis, will meet all the requirements of G.S. 96-9(d)(2)a,  
25 including making advance payments computed at one  
26 percent (1%) of taxable wages.
- 27 e. The Commission, in accordance with such regulations as it may  
28 adopt, shall notify each nonprofit organization of any  
29 determination which it may make of its status as an employer  
30 and of the effective date of any election which it makes and of  
31 any termination of such election. Such determinations shall be  
32 subject to reconsideration, appeal and review."

33 **SECTION 5.** G.S. 96-13(a) is amended by adding a new subdivision to read:

34 "(6) An unemployed individual shall not be disqualified for eligibility for  
35 unemployment compensation benefits solely on the basis that the  
36 individual is only available for part-time work. If an individual  
37 restricts his or her eligibility to part-time work, the individual may be  
38 considered able and available to work if it is determined that all the  
39 following conditions exist:

- 40 a. The claim for benefits is based on part-time work.
- 41 b. The claimant is actively seeking and is willing to accept work  
42 under essentially the same conditions as existed while the  
43 claimant's reported wages were accrued.

1                   c.     The claimant imposes no other restriction and is in a labor  
2                             market in which a reasonable demand exists for part-time  
3                             service."

4     **SECTION 6.** G.S. 96-14(1d) reads as rewritten:

5     "(1d) For the purposes of this Chapter, any claimant leaving work to  
6             accompany the claimant's spouse to a new place of residence where  
7             that spouse has secured work in a location that is too far removed for  
8             the claimant reasonably to continue his or her work shall serve a time  
9             certain disqualification for benefits for a period of ~~five~~two weeks  
10            beginning the first day of the first week after the disqualifying act  
11            occurs with respect to which week an individual files a claim for  
12            benefits. Notwithstanding the other provisions of this subdivision,  
13            leaving work to accompany a spouse who has been reassigned from  
14            one military assignment to another shall be deemed good cause for  
15            leaving work."

16     **SECTION 7.** This act is effective when it becomes law.