

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 429
Second Edition Engrossed 4/23/91
House Committee Substitute Favorable 7/2/91

Short Title: Amend Unemployment Hearings.

(Public)

Sponsors:

Referred to:

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE LAW PERTAINING
TO HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-15(c) reads as rewritten:

"(c) Appeals. – Unless an appeal from the adjudicator is withdrawn, an appeals referee shall set a hearing in which the parties are given reasonable opportunity to be heard. The conduct of hearings shall be governed by suitable regulations established by the Commission. Such regulations need not conform to common law or statutory rules of evidence or technical or formal rules of procedure but shall provide for the conduct of hearings in such manner as to ascertain the substantial rights of the parties. The hearings may be conducted by conference telephone call or other similar means provided that if any party files with the Commission prior written objection to the telephone procedure, that party will be afforded an opportunity for an in-person hearing at such place in the State as the Commission by regulation shall provide. The appeals referee may affirm or modify the conclusion of the adjudicator or issue a new decision in which findings of fact and conclusions of law will be set out or dismiss an appeal when the appellant fails to appear at the appeals hearing to prosecute the appeal after having been duly notified of the appeals hearing. The evidence taken at the hearings before the appeals referee shall be recorded and the decision of the appeals referee shall be deemed to be the final decision of the Commission unless within 10 days after the date of notification or mailing of the decision, whichever is earlier a written appeal is

1 filed pursuant to such regulations as the Commission may adopt. No person may be
2 appointed as an ~~Appeals Referee~~ appeals referee unless he or she possesses the minimum
3 qualifications necessary to be a staff attorney eligible for designation by the
4 Commission as a hearing officer under G.S. 96-4(m). No appeals referee may engage in
5 the private practice of law as defined in G.S. 84-2.1 while serving in office as appeals
6 referee; violation of this prohibition shall be grounds for removal. Whenever an appeal
7 is taken from a decision of the appeals referee, the appealing party shall submit a clear
8 written statement containing the grounds for the appeal within the time allowed by law
9 for taking the appeal, and if such timely statement is not submitted, an appeals referee
10 may dismiss the appeal."

11 Sec. 2. G.S. 96-15 is amended by adding a new subsection to read:

12 "(d1) No continuance shall be granted except upon application to the
13 Commissioner, the appeals referee, or other authority assigned to make the decision in
14 the matter to be continued. A continuance may be granted only for good cause shown
15 and upon such terms and conditions as justice may require. Good cause for granting a
16 continuance shall include, but not be limited to, those instances when a party to the
17 proceeding, a witness, or counsel of record has an obligation of service to the State,
18 such as service as a member of the North Carolina General Assembly, or an obligation
19 to participate in a proceeding in a court of greater jurisdiction."

20 Sec. 3. G.S. 96-4(t)(5) reads as rewritten:

21 "(5) Privileged Status of Letters and Reports and Other Information
22 Relating to Administration of this Chapter. – All letters, reports,
23 communication, or any other matters, either oral or written, including
24 any testimony at any hearing, from the employer or employee to each
25 other or to the Commission or any of its agents, representatives, or
26 employees, which letters, reports, or other communication shall have
27 been written, sent, delivered, or made in connection with the
28 requirements of the administration of this Chapter, shall be absolutely
29 privileged communication in any civil or criminal proceedings except
30 proceedings pursuant to or involving the administration of this Chapter
31 and except proceedings involving child support and only for the
32 purpose of establishing the payment and amount of unemployment
33 compensation benefits. Nothing in this subdivision shall be construed
34 to prohibit the Commission, upon written request and on a
35 reimbursable basis only, from disclosing information to any party to
36 the proceeding from the records of an adjudication or proceeding
37 before an appeals referee, deputy commissioner, or other hearing
38 officer by whatever name called, compiled for the purpose of resolving
39 issues raised pursuant to the Employment Security Law."

40 Sec. 4. This act is effective upon ratification.