GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H **D**

HOUSE BILL 128
Committee Substitute Favorable 3/2/21
PROPOSED SENATE COMMITTEE SUBSTITUTE H128-CSBHa-19 [v.2]
05/20/2021 10:07:17 AM

Short Title: An Act to Reemploy NC's Workforce. (Public)

Sponsors:

Referred to:

February 24, 2021

A BILL TO BE ENTITLED

AN ACT TO REEMPLOY NORTH CAROLINA'S WORKFORCE BY PROVIDING BONUSES FOR ACCEPTING REEMPLOYMENT AND REQUIRING INDIVIDUALS TO RESPOND TO EMPLOYER REQUESTS AND ADMINISTRATIVE CHANGES TO THE UNEMPLOYMENT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Alternative Use of Funds. – North Carolina seeks approval from the U.S. Department of Labor to use the funds appropriated by Congress for the FPUC program to provide a signing bonus for unemployed claimants who accept reemployment. The Division of Employment Security, Department of Commerce, is directed to seek approval from the U.S. Department of Labor to use the FPUC funds allocated to this State under an agreement entered into between this State and the U.S. Department of Labor to operate the FPUC program for a back-to-work bonus as provided in this subsection. The back-to-work bonus amount would vary and be payable as follows:

(1) A one thousand five hundred dollar ($1,500) bonus for accepting reemployment on or before June 1, 2021, payable in two installments: fifty percent (50%) after 30 days of employment and the remainder after 60 days of employment.

(2) An eight hundred dollar ($800.00) bonus for accepting reemployment on or before July 1, 2021, payable in two installments: fifty percent (50%) after 30 days of employment and the remainder after 60 days of employment.

SECTION 1.(b) FPUC. – For purposes of this section, "FPUC" is the Federal Pandemic Unemployment Compensation program authorized by section 2104, Emergency Increase in Unemployment Compensation Benefits of the CARES Act of 2020 (P.L. 116-136), as amended by the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 (P.L. 116-151), and the Continued Assistance for Unemployed Workers Act of 2020 (P.L. 116-260).

SECTION 2.(a) G.S. 96-14.9 reads as rewritten:

"**§ 96-14.9. Weekly certification.**

(a) Requirements. – An individual's eligibility for a weekly benefit amount is determined on a week-to-week basis. An individual must meet all of the requirements of this section for each weekly benefit period. An individual who fails to meet one or more of the requirements is ineligible to receive benefits until the condition causing the ineligibility ceases to exist:

(1) File a claim for benefits.

(2) Report as requested by the Division and present valid photo identification meeting the requirements of subsection (k) of this section.

(3) Meet the work search requirements of subsection (b) of this section.

(b) Work Search Requirements. – The Division must find that the individual meets all of the following work search requirements:

(1) The individual is able to work.

(2) The individual is available to work.

(3) The individual is actively seeking work.

(4) The individual accepts suitable work when offered.

(c) Able to Work. – An individual is not able to work during any week that the individual is receiving or is applying for benefits under any other state or federal law based on the individual's temporary total or permanent total disability.

(d) Available to Work. – An individual is not available to work during any week that one or more of the following applies:

(1) The individual tests positive for a controlled substance. An individual tests positive for a controlled substance if all of the conditions of this subdivision apply. An employer must report an individual's positive test for a controlled substance to the Division:

a. The test is a controlled substance examination administered under Article 20 of Chapter 95 of the General Statutes.

b. The test is required as a condition of hire for a job.

c. The job would be suitable work for the individual.

(2) The individual is incarcerated or has received notice to report to or is otherwise detained in a state or federal jail or penal institution. This subdivision does not apply to an individual who is incarcerated solely on a weekend in a county jail and who is otherwise available for work.

(3) The individual is an alien and is not in satisfactory immigration status under the laws administered by the United States Department of Justice, Immigration and Naturalization Service.

(4) The individual is on disciplinary suspension for 30 or fewer days based on acts or omissions that constitute fault on the part of the employee and are connected with the work.

(e) Actively Seeking Work. – The Division's determination of whether an individual is actively seeking work is based upon the following:

(1) The individual is registered for employment services, as required by the Division.

(2) The individual has engaged in an active search for employment that is appropriate in light of the employment available in the labor market and the individual's skills and capabilities.

(3) The individual has made at least three job contacts with potential employers during the week. ~~An individual may satisfy one of the weekly job contacts by attending a reemployment activity offered by a local career center. The Division shall verify the suitability of the activity for the credit and the claimant's attendance at the activity.~~

(4) The individual has maintained a record of the individual's work search efforts. The record must include the potential employers contacted, the method of contact, and the date contacted. <u>The record must also include whether any of the potential employers have made an interview request and, if so, the responses made under subsection (f1) of this section.</u> The individual must provide the record to the Division upon request.

(f) Suitable Work. – The Division's determination of whether an employment offer is suitable must vary based upon the individual's length of unemployment as follows:

(1) During the first 10 weeks of a benefit period, the Division may consider all of the following:
a. The degree of risk involved to the individual's health, safety, and morals.
b. The individual's physical fitness and prior training and experience.
c. The individual's prospects for securing local work in the individual's customary occupation.
d. The distance of the available work from the individual's residence.
e. The individual's prior earnings.
(2) During the remaining weeks of a benefit period, the Division must consider any employment offer paying one hundred twenty percent (120%) of the individual's weekly benefit amount to be suitable work. The weekly benefit amount considered under this subdivision only includes benefits paid under this Chapter.

(f1) An individual who has received an interview request by an employer offering suitable work under this section must respond to the employer in the following manner:
(1) Respond to the interview request within 48 hours using the contact information provided by the employer.
(2) Schedule an interview following an interview request received under subdivision (1) of this subsection within seven days if the employer has made available to the individual an opportunity to interview during that same period, or a period outside of seven days if mutually agreed upon by both parties.
(3) Appear for an interview scheduled under subdivision (2) of this subsection.
(4) Attend any reemployment activity associated with the interview request if required by an employer in their normal course of recruitment. A reemployment activity under this subdivision may include drug testing, skills assessments, or other similar reemployment activities.

An employer may report any violation of this subsection by an individual to the Division. The Division shall audit all violations reported by an employer under this subsection to determine if the violation would impact the individual's eligibility to receive benefits. The Division shall utilize a private third-party firm if necessary to satisfy the audit requirements of this subsection.
…."

SECTION 2.(b) G.S. 96-14.11 reads as rewritten:

"**§ 96-14.11. Disqualification for the remaining weeks of the benefit period.**

(a) Duration. – An individual may be disqualified from receiving benefits for the remaining weeks of the claim's duration if one or more subsections of this section apply. The period of disqualification under this section begins with the first day of the first week after the disqualifying act occurs.

(b) Suitable Work. – An individual is disqualified for any remaining benefits if the Division determines that the individual has failed, without good cause, to do one or more of the following:
(1) Apply for available suitable work when so directed by the employment office of the Division.
(2) Accept suitable work when offered.
(3) Return to the individual's customary self-employment when so directed by the Division.

(b1) Interview Response. – An individual is disqualified for any remaining benefits if the Division determines that the individual has failed, without good cause, to satisfy any of the requirements set forth in G.S. 96-14.9(f1) three or more times during a benefit year.

(c) Recall After Layoff. – An individual is disqualified for any remaining benefits if it is determined by the Division that the individual is 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:

(1) The individual was recalled within four weeks after a layoff. As used in this subdivision, the term "layoff" means a temporary separation from work due to no work available for the individual at the time of separation from work and the individual is retained on the employer's payroll and is a continuing employee subject to recall by the employer.

(2) The individual was recalled in a week in which the work search requirements were satisfied under G.S. 96-14.9(g) due to job attachment."

SECTION 2.(c) G.S. 96-40 reads as rewritten:

"**§ 96-40. Unemployment insurance program integrity; reporting.**

(a) Findings and Purpose. – The General Assembly finds that program integrity measures have been implemented by the Division to maximize the efficiency and effectiveness of the State's unemployment insurance program. The purpose of this section is to assure that these efforts shall include the rigorous and consistent use of business intelligence and data analytics for enhanced unemployment insurance program integrity.

(b) Required Activities. – To achieve the program integrity enhancements required by this section, at a minimum, the Division shall do all of the following:

(1) Prioritize Division program integrity efforts that maximize utilization of and information sharing with or between these projects and initiatives in order to prevent, detect, and reduce unemployment insurance fraud, improper payments, overpayments, and other programmatic irregularities:

a. Government Data Analytics Center (GDAC);

b. Southeast Consortium Unemployment Insurance Benefits Initiative (SCUBI); and

c. Any other program integrity capabilities identified by the Division.

(2) Coordinate efforts with the Office of Information Technology Services to ensure that the Division identifies and integrates into its operations and procedures the most effective and accurate processes and scalable tools available to prevent payment of fraudulent, suspicious, or irregular claims.

(3) Coordinate efforts with the Department of Revenue to enhance alerts indicating circumvention of the payment of unemployment insurance taxes.

(4) Coordinate efforts with the Department of Health and Human Services to facilitate claims cross-matching and other appropriate steps to enhance program integrity.

(5) Coordinate efforts with the Office of State Controller to facilitate cross-matching and other appropriate steps using BEACON (Building Enterprise Access for North Carolina's Core Operation Needs).

(6) Audit at least twenty-five percent (25%) of all weekly certifications under G.S. 96-14.9 filed with the Division each week. An audit performed under this subdivision must include a review or examination of a sufficient nature to analyze whether the certification and any associated materials are accurate and have complied with applicable law in order to prevent, detect, and reduce unemployment insurance fraud, improper payments, overpayments, and other programmatic irregularities.

…

(e) The Division shall utilize a private third-party firm if necessary to satisfy the audit requirements of subdivision (6) of subsection (b) of this section."

SECTION 2.(d) This section is effective when it becomes law and applies to claims with weekly certification under G.S. 96-14.9 filed on or after that date.

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.