

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 585
HOUSE BILL 716

AN ACT TO ASSURE UNEMPLOYMENT INSURANCE TRUST FUND
SOLVENCY AND COMPLIANCE WITH FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9(a)(5) is amended by adding a new paragraph at the end to read:

"On the computation date (August 1) in 1983 and each computation date thereafter, the Commission shall compute the average yearly insured wage by multiplying the average weekly insured wage (obtained in accordance with G.S. 96-8(22)) by 52. During the calendar year following the computation date, the taxable wage base shall be the greater of the federally required tax base or the product resulting from multiplying the average yearly insured wage by sixty percent (60%), rounded to the nearest multiple of one hundred dollars (\$100.00)."

Sec. 2. The second sentence of G.S. 96-9(d)(2)a. is amended by adding immediately after the words "wage base" the words:

"provided that after December 31, 1983, the wage base shall be the same as that provided for in G.S. 96-9(a)(5)".

Sec. 3. G.S. 96-9(b)(3) is amended by adding a new subdivision to read:

"i. Notwithstanding any other provision of this Chapter, on the computation date in 1983 (August 1) and each computation date thereafter, if the fund ratio as computed in G.S. 96-9(b)(3)d. is less than five and five-tenths percent (5.5%), the standard tax rate and the tax rate assigned to any employer by either the experience rating formula table in G.S. 96-9(b)(3)d. or the rate schedule for overdrawn accounts in G.S. 96-9(b)(3)e. shall be increased for the next tax year by ten percent (10%) thereof (e.g., multiplied by one and one-tenth (1.1), etc.) for each percentage point or part thereof by which five and five-tenths percent (5.5%) exceeds the fund ratio; provided that no rate shall be increased by the provisions of this subsection by more than twenty percent (20%) for 1984; by more than thirty percent (30%) for 1985 or by more than forty percent (40%) for the years after 1985."

Sec. 4. G.S. 96-9(c)(1) is amended by rewriting the first sentence to read:

"Except as provided in subsection (d) of this section, the Commission shall maintain a separate account for each employer and shall credit his account with all voluntary contributions made by him and all other contributions which he has paid or is paid on his behalf, provided the Commission shall credit the account of each employer in an amount equal to eighty percent (80%) of all voluntary contributions paid with respect to periods prior to January 1, 1984, and of all other contributions paid with respect to

periods between July 1, 1965, and December 31, 1983."; and is further amended by deleting the second sentence in its entirety.

Sec. 5. The first sentence of G.S. 96-9(c)(2)a. is amended by deleting "charged against" and substituting "allocated to" and further by adding a new sentence after the first sentence to read:

"The amount so allocated shall be multiplied by one hundred twenty percent (120%) and charged to that employer's account."

Sec. 6. G.S. 96-9(c)(2)b. is rewritten to read:

"b. Any benefits paid to any claimant under a claim filed for a period occurring after the date of such separations as are set forth in this paragraph and based on wages paid prior to the date of (i) the voluntary leaving of work by the claimant without good cause attributable to the employer; (ii) the discharge of claimant for misconduct in connection with his work; (iii) the discharge of the claimant for substantial fault as that term may be defined in G.S. 96-14; or, (iv) the discharge of the claimant solely for a bona fide inability to do the work for which he was hired but only where the claimant was hired pursuant to a job order placed with a local office of the Commission for referrals to probationary employment (with a probationary period no longer than 60 days), which job order was placed in such circumstances and which satisfies such conditions as the Commission may by regulation prescribe and only to the extent of the wages paid during such probationary employment shall not be charged to the account of the employer by whom the claimant was employed at the time of such separation; provided, however, said employer promptly furnishes the Commission with such notices regarding any separation of the individual from work as are or may be required by the regulations of the Commission.

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

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

Sec. 7. G.S. 96-9(d)(2)b. is amended by deleting "charged, credited," and substituting "credited".

Sec. 8. G.S. 96-9(d)(2)c. is rewritten to read:

"Benefits paid shall be allocated to the employer's account in accordance with G.S. 96-9(c)(2)a. but charged to such account without the application of any multiplier, and no benefits shall be noncharged except amounts equal to fifty percent (50%) of extended benefits paid and amounts equal to one hundred percent (100%) of benefits paid through error."

Sec. 9. G.S. 96-9(f)(2) is rewritten to read as follows:

"In lieu of paying for benefits by reimbursement as provided in subdivision (1) hereof, any State or local governmental employing unit may elect pursuant to rules and regulations established by the Commission:

(a) to pay contributions on an experience rating basis as provided in G.S. 96-9(a), (b), and (c); or,

(b) to pay to the Commission, within 25 days from the date a list of benefit charges is mailed to such employing unit, a sum equal to the amount which its account would be charged if it were a tax paying employer under G.S. 96-9(c)(2)."

Sec. 10. G.S. 96-9(f)(4) is amended by adding immediately after the word "reimbursement" the words: "as provided in subdivision (1) hereof".

Sec. 11. G.S. 96-9 is amended by adding a new subsection to read:

"(g) Nothing contained in subsections (d) and (f) of this section shall be construed to prevent the Commission from providing any reimbursing employer with informational bills or lists of charges on a basis more frequent than yearly, if in its sole discretion, the Commission deems such action to be in the best interest of the Commission and the affected employer(s)."

Sec. 12. The first sentence of G.S. 96-12(b)(2) is amended by deleting "rounded to the nearest dollar" and substituting "rounded, if not a multiple of one dollar, to the next lower dollar", and further by adding a new sentence after the first sentence to read: "Provided, if on August 1, 1983, or any August 1 thereafter, the fund ratio as computed pursuant to G.S. 96-9(b)(3)d. is less than five and five-tenths percent (5.5%), the maximum weekly benefit amount shall be computed as provided for in the preceding sentence except it shall be computed at sixty percent (60%) of the average weekly insured wage; but in no event shall the maximum weekly benefit amount be reduced by the provisions of this sentence to an amount less than the maximum weekly benefit in effect during the 12 months next preceding the computation date."

Sec. 13. G.S. 96-12(b)(1)b. is amended by adding a new paragraph at the end to read:

"Each eligible individual whose benefit year begins on or after the first day of October 1983, who is totally unemployed as defined by G.S. 96-8(10), and who files a valid claim, shall be paid benefits with respect to such week or weeks at a rate equal to the amount obtained by dividing the sum of the wages paid to such individual during his two highest paid base period quarters by 52 and, if the amount so obtained is not a multiple of one dollar, rounded to the next lower whole dollar; provided that if the amount so obtained, after rounding, is less than fifteen dollars (\$15.00), no benefits shall be paid."

Sec. 14. G.S. 96-12(c) is amended by adding a new sentence to the end to read:

"Each eligible individual whose benefit year begins on or after October 1, 1983, who is 'partially unemployed' or 'part totally unemployed' as defined in G.S. 96-8(10), and who files a valid claim, shall be paid benefits with respect to such week or weeks in an amount rounded to the nearest lower full dollar amount (if not a full dollar amount) which is equal to the difference between his weekly benefit amount and that part of the

remuneration payable to him for such week which is in excess of ten percent (10%) of the average weekly wage in the two highest quarters of his base period."

Sec. 15. G.S. 96-12(d) is amended by deleting the first sentence in its entirety and by adding a new sentence before the last sentence to read:

"On and after October 1, 1983, the maximum benefit amount available to eligible individuals shall be determined by dividing the individual's base-period wages by his high-quarter wages and multiplying that quotient by eight, rounding the result to the nearest whole number, and then multiplying the figure so derived by the weekly benefit amount available to that individual; provided the minimum total amount of benefits available to eligible individuals shall not be less than 13 times his weekly benefit amount, nor shall any eligible individual be entitled to more than 26 times his weekly benefit amount during any benefit year, except that such benefits may be extended further in accordance with the provisions of G.S. 96-12(e)."

Sec. 16. The second sentence of G.S. 96-12(e)D. is amended by adding immediately after the words "such weekly benefit amounts" the words: "rounded to the nearest lower full dollar amount (if not a full dollar amount)".

Sec. 17. The second sentence of G.S. 96-13(a)(3)(ii) is amended by adding immediately after the words "amount of such allowance" the words: "which weekly benefit amount shall be rounded to the nearest lower full dollar amount (if not a full dollar amount)".

Sec. 18. The second paragraph of G.S. 96-14(9) is amended by adding a new sentence at the end to read: "Provided further, that all such reduced weekly benefit amounts shall be rounded to the nearest lower full dollar amount (if not a full dollar amount)".

Sec. 19. G.S. 96-16(e) is amended by adding immediately after the words "weekly benefit amount" the words: "; provided however, that all weekly benefit amounts so determined shall be rounded to the nearest lower full dollar amount (if not a full dollar amount)".

Sec. 20. G.S. 96-8(24) is rewritten to read:

"Work, for purposes of this Chapter, means any bona fide permanent employment. For purposes of this definition, 'bona fide permanent employment' is presumed to include only those employments of greater than 30 consecutive calendar days duration (regardless of whether work is performed on all those days) provided: (a) The presumption that an employment lasting 30 days or less is not bona fide permanent employment may be rebutted by a finding by the Commission, either on its own motion or upon a clear and convincing showing by an interested party that the application of the presumption would work a substantial injustice in view of the intent of this Chapter; (b) Any decision of the Commission on the question of bona fide employment may be disturbed on judicial review only upon a finding of plain error."

Sec. 21. This act shall become effective August 1, 1983.

In the General Assembly read three times and ratified, this the 22nd day of June, 1983.