

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 1338

Short Title: Amend Workers' Compensation Act. (Public)

Sponsors: Senator Berger of Franklin.

Referred to: Commerce, Small Business and Entrepreneurship.

March 26, 2007

A BILL TO BE ENTITLED
AN ACT TO AMEND THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-80 is amended by adding three new subsections to read:

"(i) The Commission may conduct a hearing to determine whether an employee is competent to represent himself or herself at any proceeding under this Article. Prior to the hearing under this subsection, the Commission shall appoint a guardian ad litem and may order the employee to undergo a diagnostic evaluation by a State, local, regional, or area mental health, public health, social service, or developmental disability agency. If the Commission finds by clear and convincing evidence that the employee is not competent to represent himself or herself at any proceeding under this Article, the Commission may appoint a guardian ad litem and counsel to represent the employee in any other proceedings under this Article. The Commission may by rule adopt standards and procedures to implement this subsection.

(j) The Commission may determine that a party is an indigent if it finds that a party is financially unable to secure legal representation and to provide all other necessary expenses of representation in any proceeding under this Article. When the Commission determines a party is indigent under this subsection, the Commission shall request the Office of Indigent Defense Services to appoint an attorney to represent the indigent party, and the Commission may order the payment of the attorney's fees from the Indigent Persons' Attorney Fee Fund in accordance with rules adopted by the Office of Indigent Defense Services. The Commission may by rule adopt standards and procedures to implement this subsection.

(k) The Commission may resolve disputes regarding attorneys' fees between two or more attorneys representing the same party in a claim under this Article, and the Commission may by order apportion the award of attorneys' fees among these attorneys."

SECTION 2. G.S. 97-84 reads as rewritten:

1 **"§ 97-84. Determination of disputes by Commission or deputy.**

2 The Commission or any of its members shall hear the parties at issue and their
3 representatives and witnesses, and shall determine the dispute in a summary manner.
4 The award, together with a statement of the findings of fact, rulings of law, and other
5 matters pertinent to the questions at issue shall be filed with the record of the
6 proceedings, within 180 days of the ~~close of the hearing record~~ hearing, unless time is
7 extended for good cause by order of the Chairman of the Commission, and a copy of the
8 award shall immediately be sent to the parties in dispute. The parties may be heard by a
9 deputy, in which event the hearing shall be conducted in the same way and manner
10 prescribed for hearings which are conducted by a member of the Industrial Commission,
11 and said deputy shall proceed to a complete determination of the matters in dispute, file
12 his written opinion within 180 days ~~of the close of the hearing record~~ hearing, unless
13 time is extended for good cause by order of the Chairman of the Commission, and the
14 deputy shall cause to be issued an award pursuant to such determination."

15 **SECTION 3.** G.S. 97-88.2 is amended by adding a new subsection to read:

16 "(b1) Persons performing investigations under subdivision (1) of subsection (b) of
17 this section have the authority to make arrests and obtain and serve warrants in
18 accordance with rules adopted by the Commission."

19 **SECTION 4.** This act is effective when it becomes law and applies to claims
20 for compensation filed on or after that date.