



HOUSE BILL 5: Unemployment Insurance Technical Changes.

2017-2018 General Assembly

Committee: House Finance	Date: February 23, 2017
Introduced by: Reps. Howard, Arp, Warren, Setzer	Prepared by: Greg Roney
Analysis of: PCS to First Edition	Staff Attorney
H5-CSTMxr-3	

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 5 would:*

- *Waive the waiting week and work search requirements for unemployment insurance (UI) claims due directly to a disaster covered by a federal disaster declaration.*
- *Exclude paid time off, such as vacation and sick leave, from the definition of severance pay.*
- *Make 3 miscellaneous changes:*
 - *Replace "August 1 computation date" with "September 1 of the preceding calendar year."*
 - *Reduce the time allowed for employers to respond to UI claims from 14 days to 10 days.*
 - *Authorize refunds of erroneous payments by governmental entities, nonprofit organizations, and Indian tribes that maintain a 1% reserve.*
- *Make 2 conforming changes required by federal law:*
 - *Transfer the UI account if part or all of a business is transferred between employers with substantially common ownership, management or control.*
 - *Not transfer the UI account if a predecessor employer acquired the business solely or primarily for the purpose of obtaining a lower contribution rate.*

The PCS makes the following substantive changes to House Bill 5 as introduced:

- *Delays the effective date until 10/1/2017 for the reduction of the time allowed for employers to respond to UI claims from 14 days to 10 days.*
- *Authorize refunds of erroneous payments by governmental entities, nonprofit organizations, and Indian tribes that maintain a 1% reserve.*

Section	Bill Analysis	Effective Date
PART I: DISASTER UNEMPLOYMENT INSURANCE		
1(a)	Defines federal disaster declaration as a major natural disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Presidential declaration must allow disaster unemployment assistance under the federal act.	10/1/2016

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1(b-e)	Waives the waiting week and work search requirements for UI claims due directly to a disaster covered by a federal disaster declaration. These disaster UI benefits would also not be charged to individual employer's accounts. Current law expressly waives charging employer accounts for disaster UI benefits.	10/1/2016
PART II: PAID TIME OFF EXCLUDED FROM SEVERANCE PAY		
2	UI benefits are reduced by severance pay. Current law treats paid time off, such as vacation and sick leave, as severance pay and reduces UI benefits. This section changes the treatment of accrued paid time off and excludes paid time off from the definition of severance pay. Therefore, payments representing paid time off available to the employee before separation under a written policy would not affect UI benefits.	7/1/2017
PART III. MISCELLANEOUS CHANGES		
3.1	Technical correction replacing "August 1 computation date" with "September 1 of the preceding calendar year."	7/1/2017
3.2	Reduces the time allowed for employers to respond to UI claims from 14 days to 10 days to reflect the speed of electronic communications. The NC Department of Commerce's Division of Employment Security (DES) anticipates a new computer system will be operational before the 10/1/2017 effective date of this section. The modern computer system will offer electronic communications to employers.	10/1/2017
3.3	Governmental entities, nonprofit organizations, and Indian tribes may elect to reimburse the UI fund for UI claims. If an employer makes the election, the employer does not pay UI taxes like private employers. Reimbursing employers must maintain a 1% reserve that is applied to UI claims. The reimbursing employer must annually pay into the UI fund to maintain the 1% reserve. The reserve account is not refundable. At least 1 reimbursable employer has erroneously overpaid. This section authorizes refunds, without interest, of erroneous overpayments if a reimbursing employer erroneously remits an amount in excess of the amount due and the employer applies for a refund of the excess amount remitted within the later of 5 years from the last day of the calendar year with respect to which a payment was made or 1 year from the date on which such payment was made.	When law
PART IV. FEDERAL CONFORMING CHANGES		
4	Federal law requires NC transfer the UI account if part or all of a business is transferred between employers with substantially common ownership, management or control. Federal law requires NC <u>not</u> transfer the UI account if a predecessor employer acquired the business solely or primarily for the purpose of obtaining a lower contribution rate. The US Department of Labor (USDOL) sent the NC Department of Commerce's Division of Employment Security (DES) a letter notifying DES that NC law was nonconforming. This section adds language to conform to federal law by transferring the UI account	7/1/2017

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	attributable to a business or portion of a business between related parties. This section also prevents the transfer of the UI account if DES finds that a person acquired the business solely or primarily for the purpose of obtaining a lower contribution rate.	
PART V. EFFECTIVE DATE		
5	Except as otherwise provided, this act is effective when it becomes law.	