



House of Representatives

General Assembly

File No. 137

February Session, 2012

Substitute House Bill No. 5232

House of Representatives, March 27, 2012

The Committee on Labor and Public Employees reported through REP. ZALASKI of the 81st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING HEARINGS BEFORE THE ADMINISTRATOR AND THE EMPLOYMENT SECURITY APPEALS DIVISION UNDER THE UNEMPLOYMENT COMPENSATION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 31-241 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2012*):

4 (a) The administrator, or a deputy or representative designated by
5 him and hereinafter referred to as an examiner, shall promptly
6 examine the initiating claim and, on the basis of the facts found by
7 him, shall determine whether or not such claim is valid and, if valid,
8 the weekly amount of benefits payable and the maximum possible
9 duration thereof. He shall promptly notify the claimant of the decision
10 and the reasons therefor, which notification shall set forth the
11 provision of this section for appeal. The administrator or an examiner
12 shall promptly examine each claim for a benefit payment for a week of

13 unemployment and, on the basis of the facts found by him, shall
14 determine whether or not the claimant is eligible to receive such
15 benefit payment for such week and the amount of benefits payable for
16 such week. The determination of eligibility by the administrator or an
17 examiner shall be based upon evidence or testimony presented in such
18 a manner as the administrator shall prescribe, including [in person,] in
19 writing, by telephone or by other electronic means at a hearing called
20 for such purpose. An administrator may prescribe an in person
21 hearing at his or her discretion. Notice of the decision and the reasons
22 therefor shall be given to the claimant. The employers against whose
23 accounts charges may be made due to any benefits awarded by the
24 decision shall be notified of the initial determination of the claimant's
25 benefit entitlement at the time notice is given to the claimant, which
26 notification shall set forth the provisions of this section for appeal,
27 provided any employer who claims that the claimant is ineligible for
28 benefits because his unemployment is due to the existence of a labor
29 dispute at such employer's factory, establishment or other premises,
30 shall be notified of the decision and the reasons therefor, whether or
31 not benefits awarded by the decision might be charged against such
32 employer's account. The employer's appeal rights shall be limited to
33 the first notice he is given in connection with a claim which sets forth
34 his appeal rights, and no issue may be appealed if notice of such issue
35 and the right to appeal such issue had previously been given.
36 Notwithstanding any provisions of this chapter to the contrary,
37 whenever the employer, after receiving notice of such hearing, fails to
38 appear at the hearing or fails to timely submit a written response in a
39 manner prescribed by the administrator, such employer's
40 proportionate share of benefits paid to the claimant prior to the
41 issuance of a decision by a referee under section 31-242 for any week
42 beginning prior to the forty-second day after the end of the calendar
43 week in which the employer's appeal was filed shall be charged
44 against such employer's account and the claimant shall not be charged
45 with an overpayment with respect to such benefits pursuant to
46 subsection (a) of section 31-273. The decision of the administrator shall
47 be final and benefits shall be paid or denied in accordance therewith

48 unless the claimant or any of such employers, within twenty-one
49 calendar days after such notification was mailed to his last-known
50 address, files an appeal from such decision and applies for a hearing,
51 provided (1) any such appeal which is filed after such twenty-one-day
52 period may be considered to be timely filed if the filing party shows
53 good cause, as defined in regulations adopted pursuant to section 31-
54 249h, for the late filing, (2) if the last day for filing an appeal falls on
55 any day when the offices of the Employment Security Division are not
56 open for business, such last day shall be extended to the next business
57 day, and (3) if any such appeal is filed by mail, such appeal shall be
58 considered timely filed if it was received within such twenty-one-day
59 period or bears a legible United States postal service postmark which
60 indicates that within such twenty-one-day period it was placed in the
61 possession of such postal authorities for delivery to the appropriate
62 office. Posting dates attributable to private postage meters shall not be
63 considered in determining the timeliness of appeals filed by mail.
64 Where the administrator or examiner has determined that the claimant
65 is eligible for benefits, benefits shall be paid promptly in accordance
66 with the determination regardless of the pendency of the period to file
67 an appeal or the pendency of such appeal. No examiner shall
68 participate in any case in which he is an interested party. Any person
69 who has filed a claim for benefits pursuant to an agreement entered
70 into by the administrator with the proper agency under the laws of the
71 United States, whereby the administrator makes payment of
72 unemployment compensation out of funds supplied by the United
73 States, may in like manner file an appeal from the decision of such
74 claim and apply for a hearing, and the United States or the agency
75 thereof which had employed such person may in like manner appeal
76 from the decision on such claim and apply for a hearing.

77 Sec. 2. Section 31-237j of the general statutes is repealed and the
78 following is substituted in lieu thereof (*Effective October 1, 2012*):

79 (a) The referees shall promptly hear and decide appeals from the
80 decisions of the administrator of this chapter, or his designee, appeals
81 from all other determinations made pursuant to any provision of this

82 chapter and appeals from any proceeding conducted by authorized
 83 personnel of the Employment Security Division pursuant to directives
 84 of the United States of America and the Secretary of Labor of the
 85 United States. Except as otherwise provided in this chapter or in the
 86 applicable federal directives, appeals to referees shall be filed within
 87 the time limits and under the conditions prescribed in section 31-241,
 88 as amended by this act.

89 (b) The referees shall have state-wide jurisdiction and venue, and
 90 referee proceedings shall be conducted [throughout the state in such
 91 places as are reasonably convenient for the parties] (1) by telephone or
 92 other electronic means, or (2) at the request of either party, in person at
 93 locations within the state designated by the executive head of the
 94 Employment Security Appeals Division.

95 (c) The chief referee may appoint a panel of three referees to hear
 96 and decide any appeal involving (1) complex issues of fact, (2) complex
 97 issues of law, (3) multiple parties, or (4) numerous witnesses. The
 98 decision on all such appeals shall be by a majority vote of the full
 99 panel.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	31-241(a)
Sec. 2	October 1, 2012	31-237j

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes hearings by telephone the default way of conducting hearings and appeals under the Unemployment Compensation Act, has no fiscal impact.

While the bill may result in fewer in-person unemployment compensation hearings, it is not expected to reduce the number of referees needed or the operating costs associated with the adjudication offices.

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State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5232

AN ACT CONCERNING HEARINGS BEFORE THE ADMINISTRATOR AND THE EMPLOYMENT SECURITY APPEALS DIVISION UNDER THE UNEMPLOYMENT COMPENSATION ACT.

SUMMARY:

Current law requires appeals over unemployment benefit eligibility to be heard in-person at a location that is reasonably convenient for the parties. This bill makes hearings by telephone or other electronic means the default method for conducting these appeals, but it requires in-person hearings if either party requests one. It also allows the Employment Security Appeals Division's executive head to designate the hearing's location regardless of its convenience for the parties.

EFFECTIVE DATE: October 1, 2012

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/15/2012)