

HOUSE BILL 3789

By Curtiss

AN ACT to amend Tennessee Code Annotated, Section 50-7-304; Section 50-7-601; Section 50-7-701; Section 50-7-702; Section 50-7-703 and Section 50-7-708, relative to the employment security law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Sections 50-7-304(b)(2)(A), (B), and (D), are amended by deleting all references to the “board of review” and substituting instead the words “commissioner’s designee” wherever the words “board of review” appear in those sections.

SECTION 2. Tennessee Code Annotated Section 50-7-304(c), is amended in subdivision (1) by deleting the words “board of review” in the third sentence and substituting instead the word “commissioner”, by deleting the words “board of review” in the fourth sentence and substituting instead the words “commissioner’s designee”, and, by deleting the words “board of review” in the last sentence and substituting instead the word “commissioner” and is further amended in subdivision (2) by deleting the words “board of review” wherever it appears and substituting instead the words “commissioner’s designee”.

SECTION 3. Tennessee Code Annotated Section 50-7-304(d), is amended by deleting the words “board of review“ between the language “...commissioner or the” and the words “in any case...” and substituting instead the words “commissioner’s designee” in the second sentence and by also deleting the words “board of review” in the last sentence and substituting instead the words “and the designees designated to hear second stage appeals”.

SECTION 4. Tennessee Code Annotated Section 50-7-304(e), is amended by deleting this section in its entirety and substituting instead the following as a new section (e).

(e) Commissioner’s Designees

(1) The commissioner shall designate Tennessee licensed attorneys within the department of labor and workforce development to adjudicate appeals of the decision of the unemployment hearing officer. The individuals so designated shall be referred to as the commissioner's designees and will constitute a part of the department of labor and workforce development's legal division.

(2) The commissioner's designee may on their own motion affirm, modify, or set aside any decision of an unemployment hearing officer on the basis of the evidence previously submitted in the case, or direct the taking of additional evidence, or may permit any of the parties to the decision to initiate further appeals before it. The commissioner's designee shall permit the further appeal by any of the parties interested in a decision of an unemployment hearing officer. The Commissioner may remove to a designee or transfer to another unemployment hearing officer proceedings of any claim pending before an unemployment hearing officer. The commissioner's designee shall promptly give written notice to all interested parties of their findings and decision. Any decision of the commissioner's designee shall be the final decision of the commissioner.

SECTION 5. Tennessee Code Annotated Section 50-7-304(f), is amended by deleting the word "board" in the first sentence and substituting instead the word "commissioner"; by deleting in the third sentence the word "reported" and substituting instead the word "recorded", by deleting the word "further" and by adding the words "to chancery court" between "...claim is appealed" and ". Notwithstanding..."; by deleting the words "board of review" in the fourth sentence and substituting instead the words "commissioner's designee"; and, by deleting the words "board of review" in the fifth sentence and substituting instead the words "commissioner's designee".

SECTION 6. Tennessee Code Annotated Section 50-7-304(h), is amended by deleting the word “board” wherever it appears and substituting instead the word “commissioner”. This section is further amended by deleting the second sentence which states: “Written notification shall be made by certified mail.”.

SECTION 7. Tennessee Code Annotated Section 50-7-304(i)(1), is amended by deleting the word “board” in the first sentence and substituting instead the word “commissioner”; by deleting the word “board” in the second and substituting instead the words “commissioner’s designee”; by deleting the words “board of review” and the word “board” in the third sentence and substituting instead the words “commissioner’s designee” in both instances; and, by deleting the word “board” in the last sentence and substituting instead the words “commissioner’s designee”.

SECTION 8. Tennessee Code Annotated Section 50-7-304(i)(2), is amended by deleting the word “board” and substituting instead the word “commissioner”.

SECTION 9. Tennessee Code Annotated Section 50-7-304(i)(3), is amended by deleting the words “board of review” in the first sentence and substituting instead the words “commissioner’s designee” and by deleting the word “board” wherever it appears in the second sentence and substituting instead the words “commissioner’s designee”.

SECTION 10. Tennessee Code Annotated Section 50-7-304(i)(4), is amended by deleting the word “board” wherever it appears and substituting instead the words “commissioner’s designee”.

SECTION 11. Tennessee Code Annotated Section 50-7-304(i)(6), is amended by deleting the word “board” and substituting instead the words “commissioner’s designee”.

SECTION 12: Tennessee Code Annotated, Section 50-7-601, is amended by deleting the section in its entirety and substituting the following language as a new 50-7-601.

50-7-601. Unemployment compensation bureau – Unemployment compensation division – State employment service.

(a) Bureau.

(1) There is created and established in the division of employment security a coordinate bureau to be designated as the unemployment compensation bureau. The bureau shall be a separate administrative unit with respect to personnel and budget, except insofar as the commissioner may find that separation is impracticable. The bureau shall exercise all the powers, perform the duties, and be subject to all the limitations prescribed in this chapter, except those pertaining to overall administration of the division vested in the administrator or except those pertaining to the overall supervision of the department vested in the commissioner, and those provided in this section for the division of the Tennessee state employment service.

(2) Division. There is also created within the department of labor and workforce development the division of Tennessee state employment service, the latter being more fully described in Tennessee Code Annotated 50-7-608. The division shall be a separate administrative entity with respect to personnel and budget, except insofar as the commissioner may find that separation impracticable. The division shall be subject to the supervision and control of the commissioner within the provisions of this chapter.

SECTION 13. Tennessee Code Annotated Section 50-7-701(a)(1)(A), is amended by deleting the words “board of review” and substituting instead the words “commissioner’s designee”.

SECTION 14. Tennessee Code Annotated Section 50-7-701(a)(1)(B)(iv), is amended by deleting the words “board of review” in the first and second sentence and the first time those

words appear in the third sentence and substituting instead the words “commissioner’s designee”. This subsection is further amended by deleting the words “the board of review” after the words “...subject to rules” and before the words “prescribes in accordance...” in the last sentence and substituting instead the word “Agency” and by changing the word “prescribes” to the word “prescribed”.

SECTION 15. Tennessee Code Annotated Section 50-7-701(a)(1)(C), is amended by deleting the words “member of the board of review” and substituting instead the words “commissioner’s designee”.

SECTION 16. Tennessee Code Annotated Section 50-7-701(b), is amended by deleting the words “member of the board of review” and substituting instead the words “commissioner’s designee”.

SECTION 17. Tennessee Code Annotated Section 50-7-702, is amended by deleting the words “member of the board of review” and substituting instead the words “commissioner’s designee”.

SECTION 18. Tennessee Code Annotated Section 50-7-703, is amended by deleting the words “board of review” wherever it appears and substituting instead the words “commissioner’s designee”.

SECTION 19. Tennessee Code Annotated Section 50-7-708(b)(1), is amended by deleting the words “board of review” wherever it appears and substituting the words “commissioner’s designee” in the first instance and the word “commissioner” in the second instance, and, by deleting the word “its” after the words “..., the commissioner,” and before the words “or the commissioner’s representatives,...”.

SECTION 20. Tennessee Code Annotated Section 50-7-708(b)(2), is amended by deleting the words “board of review” wherever it appears and substituting instead the words

“commissioner’s designee” and by deleting the words “or its” after the words “...or the commissioner,” and before the words “or the commissioner’s representatives, ...”.

SECTION 21. This act shall take effect January 1, 2011, the public welfare requiring it.