

PUBLICATION

Tennessee Unemployment Reform: Still a Boon for Business

Authors: Christie M. Hayes

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Nearly two years ago, on May 9, 2012, Tennessee's Unemployment Insurance Accountability Act (the Act) was signed into law by Governor Bill Haslam. Before 2012, claimants who were terminated for "misconduct" were disqualified from receiving unemployment benefits, and more often than not, the definition of misconduct was very subjective and often difficult for employers to prove. Under the Act, Tennessee lawmakers strengthened the definition of misconduct and mandated that a violation of an employer's policy automatically establishes misconduct, unless the claimant can prove that he did not know about the policy and could not have reasonably known about the policy, or if the policy in question was unlawful or not related to the job of claimant.

In 2013, the misconduct definition was further expanded to include any conduct constituting a criminal offense for which the claimant has been convicted or charged that involved dishonesty arising out of the claimant's employment or was committed while the claimant was acting within the scope of employment.

New data compiled by the U.S. Department of Labor demonstrates that these recent reforms to Tennessee's unemployment system are paying off for employers. The 2013 U.S. Department of Labor data tracked the number of appeals and the percentage of time that claimants and employers prevailed on appeal. The rate at which employee-claimants prevail at lower-level hearings in Tennessee is the fourth lowest rate in the country at 19.4%. Additionally, the data demonstrates that employers prevail 56.3% of the time at lower level hearings in Tennessee. It should be noted that these results only track whether an appellant is successful on appeal and do not track the general success rate on appeal; i.e., these statistics do not track whether an employer prevails in an appeal brought by an employee or whether an employee prevails in an appeal filed by an employer. This past year has also seen a rise in the state's unemployment trust fund, triggering a tax cut for Tennessee employers. Overall, these statistics are very encouraging for employers regarding the future of unemployment in Tennessee.