

FIRST REGULAR SESSION

# HOUSE BILL NO. 642

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BEAN, MERIDETH AND MYERS (Co-sponsors).

Read 1<sup>st</sup> time March 11, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2117L.011

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### AN ACT

To repeal section 288.190, RSMo, and to enact in lieu thereof one new section relating to employment security.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 288.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.190, to read as follows:

288.190. 1. The director shall designate an impartial referee or referees to hear and decide disputed determinations, claims referred pursuant to subsection 2 of section 288.070, and petitions for reassessment. No employee of the division shall participate on behalf of the division in any case in which the division employee is an interested party.

2. The manner in which disputed determinations, referred claims, and petitions for reassessment shall be presented and the conduct of hearings shall be in accordance with regulations prescribed by the division for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. When the same or substantially similar evidence is relevant and material to the matters in issue in claims by more than one individual or in claims by a single individual in respect to two or more weeks of unemployment, the same time and place for considering each such claim or claims may be fixed, hearings thereon jointly conducted, a single record of the proceedings made, and evidence introduced with respect to one proceeding considered as introduced in the others, if in the judgment of the appeals tribunal or the commission having jurisdiction of the proceeding such consolidation would not be prejudicial to any party. A full and complete record shall be kept of all proceedings in connection with a disputed determination, referred claim, or petition for reassessment. The appeals tribunal shall include in the record and consider as evidence all records of the division that are material to the issues. All testimony at

19 any hearing shall be recorded but need not be transcribed unless the matter is further appealed.

20           3. Unless an appeal on a disputed determination or referred claim is withdrawn, an  
21 appeals tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm,  
22 modify, or reverse the determination of the deputy, or shall remand the matter to the deputy with  
23 directions. In addition, in any case wherein the appellant, after having been duly notified of the  
24 date, time, and place of the hearing, shall fail to appear at such hearing, the appeals tribunal may  
25 enter an order dismissing the appeal. The director may transfer to another appeals tribunal the  
26 proceedings on an appeal determination before an appeals tribunal. The parties shall be duly  
27 notified of an appeals tribunal's decision or order, together with its reason therefor, which shall  
28 be deemed to be the final decision or order of the division unless, within thirty days after the date  
29 of notification or mailing of such decision, further appeal is initiated pursuant to section 288.200;  
30 except that, within thirty days of either notification or mailing of the appeals tribunal's decision  
31 or order, the appeals tribunal, on its own motion, may reconsider any decision or order when it  
32 appears that such reconsideration is essential to the accomplishment of the object and purpose  
33 of this law.

34           4. Unless a petition for reassessment is withdrawn or is allowed without a hearing, the  
35 petitioners shall be given a reasonable opportunity for a fair hearing before an appeals tribunal  
36 upon each such petition. The appeals tribunal shall promptly notify the interested parties of its  
37 decision upon such petition together with its reason therefor. In addition, in any case wherein  
38 the appellant, after having been duly notified of the date, time, and place of the hearing, shall fail  
39 to appear at such hearing, the appeals tribunal may enter an order dismissing the appeal. In the  
40 absence of the filing of an application for review of such decision, the decision, whether it results  
41 in a reassessment or otherwise, shall become final thirty days after the date of notification or  
42 mailing thereof; except that, within thirty days of either notification or mailing of the appeals  
43 tribunal's decision or order, the appeals tribunal, on its own motion, may reconsider any decision  
44 or order when it appears that such reconsideration is essential to the accomplishment of the  
45 object and purposes of this law.

46           5. Any party subject to any decision of an appeals tribunal pursuant to this chapter has  
47 a right to counsel **or the right to have an accountant, including a certified public accountant,**  
48 **to represent the party at any hearing** and shall be notified prior to a hearing conducted  
49 pursuant to this chapter that a decision of the appeals tribunal is presumptively conclusive for  
50 the purposes of this chapter as provided in section 288.200.