

The Senate Insurance and Labor Committee offered the following substitute to SB 508:

A BILL TO BE ENTITLED  
AN ACT

1 To be known as the "Employment Security and Enhancement Act of 2002"; to amend  
2 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment  
3 security, so as to change the provisions relating to the base period and the determination  
4 thereof; to change the provisions relating to deductible earnings; to provide for definitions;  
5 to change the provisions relating to benefit experience and variations from the standard rate  
6 of employer contributions during certain periods; to change the provisions relating to the  
7 State-wide Reserve Ratio and reductions in tax rate; to change certain time periods; to change  
8 the provisions relating to determination of the weekly benefit amount and weekly allowable  
9 earnings; to provide for eligibility for unemployment compensation benefits due to the threat  
10 or risk of harm domestic violence may pose at the workplace; to provide for related matters;  
11 to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

13 This Act shall be known and may be cited as the "Employment Security and Enhancement  
14 Act of 2002."  
15

**SECTION 2.**

16 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment  
17 security, is amended by striking Code Section 34-8-21, relating to the base period, and  
18 inserting in lieu thereof the following:  
19

20 "34-8-21.

21 (a) Except as provided in subsection (b) of this Code section, as ~~As~~ used in this chapter,  
22 the term 'base period' means the first four of the last five completed calendar quarters  
23 immediately preceding the first day of an individual's benefit year; provided, however,  
24 that, in the case of a combined wage claim under Code Section 34-8-80, the base period  
25 shall be that applicable under the unemployment compensation law of the paying state.

1 (b) If an individual does not have sufficient wages to qualify for benefits under the  
 2 definition of base period in subsection (a) of this Code section, then his or her base period  
 3 shall be calculated using the last four completed quarters immediately preceding the first  
 4 day of the individual's benefit year. Such base period shall be known as the 'alternative  
 5 base period.' Applicants shall receive written notice of the alternative base period.  
 6 Implementation of the alternative base period shall commence on January 1, 2003, and  
 7 shall conclude and terminate on December 31, 2003. Implementation of the alternative  
 8 base period under this subsection shall be under such terms and conditions as the  
 9 Commissioner may prescribe by policy directive or memorandum. All benefit payments  
 10 made under this subsection shall be paid exclusively from amounts credited to the account  
 11 of this state in the Unemployment Trust Fund by the secretary of the treasury of the United  
 12 States pursuant to Section 903 of the federal Social Security Act, as amended by the Job  
 13 Creation and Worker Assistance Act of 2002 (P.L. 107-147)."

### 14 SECTION 3.

15 Said chapter is further amended by striking Code Section 34-8-30, relating to deductible  
 16 earnings, and inserting in lieu thereof the following:

17 "34-8-30.

18 As used in this chapter, the term 'deductible earnings' means all money in excess of \$30.00  
 19 each week earned by a claimant for services performed, whether or not received by such  
 20 claimant. For claims filed on or after July 1, 2002, the term 'deductible earnings' means all  
 21 money in excess of \$50.00 each week earned by a claimant for services performed, whether  
 22 or not received by such claimant. Deductible earnings shall be subtracted from the weekly  
 23 benefit amount of the claim."

### 24 SECTION 4.

25 Said chapter is further amended by striking subsection (f) of Code Section 34-8-155, relating  
 26 to benefit experience and variations from standard rate of employer contributions during  
 27 certain periods, and inserting in lieu thereof the following:

28 "(f)(1) Subject to the provisions of paragraph (2) of this subsection, contribution rates for  
 29 experience rated employers for the time periods:

30 (A) January 1, 2000, to December 31, 2000;

31 (B) January 1, 2001, to December 31, 2001;

32 (C) January 1, 2002, to December 31, 2002; and

33 (D) January 1, 2003, to December 31, 2003; and

34 (~~E~~) January 1, 2004, to December 31, 2004

1 shall not be imposed above the level of 1.0 percent of statutory contribution rates.

2 (2) ~~In addition to and not in substitution of the provisions of paragraph (4) of subsection~~  
3 ~~(d) of Code Section 34-8-156, if at any time during the five-year time period commencing~~  
4 ~~January 1, 2000, and ending December 31, 2004, the State-wide Reserve Ratio equals~~  
5 ~~1.25 or less, the provisions of paragraph (1) of this subsection shall become null and void~~  
6 ~~and of no further purpose or effect for any subsequent time periods identified therein; and~~  
7 ~~provided further, the~~ The Governor shall have authority to suspend by executive order  
8 any future portion of ~~said~~ the reduction in calculated rates ~~as provided for~~ in paragraph  
9 (1) of this subsection in the event the Governor determines, upon the recommendation of  
10 the Commissioner, that suspension of said reduction is in the best interests of the State  
11 of Georgia."

12 **SECTION 5.**

13 Said chapter is further amended by striking subparagraph (B) of paragraph (4) of subsection  
14 (d) of Code Section 34-8-156, relating to State-wide Reserve Ratio and reduction in tax rate,  
15 and inserting in its place the following:

16 "(B) Except for any year or portion of a year during which the provisions of paragraph  
17 (1) of subsection (f) of Code Section 34-8-155 apply, when the State-wide Reserve  
18 Ratio, as calculated above, is less than 1.7 percent, there shall be an overall increase in  
19 the rate, as of the computation date, for each employer whose rate is computed under  
20 a rate table in Code Section 34-8-155 in accordance with the following table:

21 If the State-wide Reserve Ratio:

22	Equals or	But Is	Overall
23	<u>Exceeds</u>	<u>Less Than</u>	<u>Increase</u>
24	1.5 percent	1.7 percent	25 percent
25	<del>1.25 percent</del>	<del>1.5 percent</del>	<del>50 percent</del>
26	<del>0.75 percent</del>	<del>1.25 percent</del>	<del>75 percent</del>
27	<del>Under 0.75 percent</del>		<del>100 percent</del>
28	<u>Under 1.5 percent</u>		<u>50 percent"</u>

29 **SECTION 6.**

30 Said chapter is further amended by striking Code Section 34-8-193, relating to determination  
31 of the weekly benefit amount, and inserting in its place the following:

32 "34-8-193.

33 (a) The weekly benefit amount of an individual's claim shall be that amount computed by  
34 dividing the two highest quarters of wages paid in the base period by ~~48~~ 46. Any fraction

1 of a dollar shall then be disregarded. Wages must have been paid in at least two quarters  
2 of the base period and total wages in the base period must equal or exceed 150 percent of  
3 the highest quarter base period wages. For claims that fail to establish entitlement due to  
4 failure to meet the 150 percent requirement, an alternative computation shall be made. In  
5 such event, the weekly benefit amount shall be computed by dividing the highest single  
6 quarter of base period wages paid by ~~24~~ 23. Any fraction of a dollar shall then be  
7 disregarded. Under this alternative computation, wages must have been paid in at least two  
8 quarters of the base period and total base period wages must equal or exceed 40 times the  
9 weekly benefit amount. Regardless of the method of computation used, wages must have  
10 been paid for insured work, as defined in Code Section 34-8-41.

11 (b) Weekly benefit amount entitlement as computed in this Code section shall be no less  
12 than \$27.00 per week for benefit years beginning on or after July 1, 1983; provided,  
13 however, that for benefit years beginning on or after July 1, 1987, when the weekly benefit  
14 amount, as computed, would be more than \$26.00 but less than \$37.00, the individual's  
15 weekly benefit amount will be \$37.00, and no weekly benefit amount shall be established  
16 for less than \$37.00; provided, further, that for benefit years beginning on or after July 1,  
17 1997, when the weekly benefit amount, as computed, would be more than \$26.00 but less  
18 than \$39.00, the individual's weekly benefit amount will be \$39.00, and no weekly benefit  
19 amount shall be established for less than \$39.00; provided, further, that for benefit years  
20 beginning on or after July 1, 2002, when the weekly benefit amount, as computed, would  
21 be more than \$26.00 but less than \$40.00, the individual's weekly benefit amount will be  
22 \$40.00, and no weekly benefit amount shall be established for less than \$40.00.

23 (c) Weekly benefit amount entitlement as computed in this Code section shall not exceed  
24 these amounts for the applicable time period:

- 25 (1) For claims filed on or after July 1, 1990, but before July 1, 1994, the maximum  
26 weekly benefit amount shall not exceed \$185.00;
- 27 (2) For claims filed on or after July 1, 1994, but before July 1, 1995, the maximum  
28 weekly benefit amount shall not exceed \$195.00;
- 29 (3) For claims filed on or after July 1, 1995, but before July 1, 1996, the maximum  
30 weekly benefit amount shall not exceed \$205.00;
- 31 (4) For claims filed on or after July 1, 1996, but before July 1, 1997, the maximum  
32 weekly benefit amount shall not exceed \$215.00;
- 33 (5) For claims filed on or after July 1, 1997, but before July 1, 1998, the maximum  
34 weekly benefit amount shall not exceed \$224.00;
- 35 (6) For claims filed on or after July 1, 1998, but before July 1, 1999, the maximum  
36 weekly benefit amount shall not exceed \$244.00;

1 (7) For claims filed on or after July 1, 1999, but before July 1, 2000, the maximum  
2 weekly benefit amount shall not exceed \$264.00;

3 (8) For claims filed on or after July 1, 2000, but before July 1, 2001, the maximum  
4 weekly benefit amount shall not exceed \$274.00; and

5 (9) For claims filed on or after July 1, 2001, but before July 1, 2002, the maximum  
6 weekly benefit amount shall not exceed \$284.00;

7 (10) For claims filed on or after July 1, 2002, but before July 1, 2003, the maximum  
8 weekly benefit amount shall not exceed \$295.00; and

9 (11) For claims filed on or after July 1, 2003, the maximum weekly benefit amount shall  
10 not exceed \$300.00.

11 ~~Provided, however, for the period on or after January 1, 2000, whenever the State-wide~~  
12 ~~Reserve Ratio, as defined in Code Section 34-8-156, is 1.25 percent or less, no future~~  
13 ~~increase in the weekly benefit amount shall be effective until the State-wide Reserve Ratio~~  
14 ~~is over 1.25 percent.~~

15 (d) The maximum benefits payable to an individual in a benefit year shall be the lesser of  
16 26 times the weekly benefit amount or one-fourth of the base period wages. If the amount  
17 computed is not a multiple of the weekly benefit amount, the total will be adjusted to the  
18 nearest multiple of the weekly benefit amount. The duration of benefits shall be extended  
19 in accordance with Code Section 34-8-197.

20 (e)(1) An otherwise eligible individual shall be paid the weekly benefit amount, less  
21 gross earnings in excess of \$30.00, payable to the individual applicable to the week for  
22 which benefits are claimed. Such remaining benefit, if not a multiple of \$1.00, shall be  
23 computed to the nearest multiple of \$1.00. Earnings of \$30.00 or less will not affect  
24 entitlement to benefits. For the purpose of this subsection, jury duty pay shall not be  
25 considered as earnings.

26 (2) For claims filed on or after July 1, 2002, an otherwise eligible individual shall be paid  
27 the weekly benefit amount, less gross earnings in excess of \$50.00, payable to the  
28 individual applicable to the week for which benefits are claimed. Such remaining benefit,  
29 if not a multiple of \$1.00, shall be computed to the nearest multiple of \$1.00. Earnings  
30 of \$50.00 or less will not affect entitlement to benefits. For the purpose of this paragraph,  
31 jury duty pay shall not be considered as earnings.

32 (f)(1) The amount of unemployment compensation payable to an individual for any week  
33 which begins in a period with respect to which such individual is receiving a  
34 governmental or other pension, retirement or retired pay, annuity, or any other similar  
35 periodic payment which is based on the previous work of such individual shall be reduced  
36 by an amount equal to the amount of such pension, retirement or retired pay, annuity, or

1 other payment which is reasonably attributable to such week. Such remaining benefit,  
2 if not a multiple of \$1.00, shall be computed to the nearest multiple of \$1.00.

3 (2) The requirements of this subsection shall apply to any pension, retirement or retired  
4 pay, annuity, or other similar periodic payment only if:

5 (A) Such pension, retirement or retired pay, annuity, or similar payment is under a plan  
6 maintained or contributed to by a base-period employer or chargeable employer as  
7 determined under applicable law; and

8 (B) Payments for services performed for such employer by the individual after the  
9 beginning of the base period affect eligibility for or increase the amount of such  
10 pension, retirement or retired pay, annuity, or similar payment, except in the case of  
11 pensions paid under the federal Social Security Act, the Railroad Retirement Act of  
12 1974, or the corresponding provisions of prior law.

13 (3) The Commissioner shall take into consideration the amount contributed by the  
14 individual for the pension, retirement or retired pay, annuity, or other similar periodic  
15 payment and shall limit such reduction based on the percent share contributed by such  
16 individual. An individual who, while working, contributed 50 percent or more toward  
17 such plan shall not be subject to a reduction in the weekly benefit amount of the claim.

18 (g) Between the filing of one benefit year claim and the filing of another benefit year  
19 claim, an individual must have performed services in bona fide employment and earned  
20 insured wages for such services. These wages for insured work must equal or exceed ten  
21 times the weekly benefit amount of the new claim in order to establish entitlement.

22 (h) The wage credits and benefit rights of persons who entered the armed services of the  
23 United States during a national emergency are preserved for the period of their actual  
24 service and six months thereafter in accordance with regulations of the Commissioner."

## 25 SECTION 7.

26 Said chapter is further amended by adding a new Code Section 34-8-194.1 to read as follows:

27 "34-8-194.1.

28 Benefits shall not be denied when an individual has filed an otherwise valid claim for  
29 benefits after separation from such individual's most recent work, when it can be  
30 reasonably determined that the separation is due to the threat or risk of harm domestic  
31 violence may pose to the personal safety of that individual or to others at the workplace.

32 To establish a claim for benefits under this Code section, the individual must:

33 (1) Take reasonable steps to preserve the employment relationship;

34 (2) Provide evidence of the entry of a protective order or consent agreement for the  
35 protective benefit of the individual, which order or agreement was entered pursuant to the

1 provisions of Code Section 19-13-4 and was in effect at the time of the individual's job  
2 separation; and

3 (3) Make a demonstration that such order has been violated or is reasonably likely to be  
4 violated in a manner that would result in violence to the individual or to others in the  
5 workplace.

6 The employer's experience rating account shall not be charged for benefits paid under the  
7 provisions of this Code section. Benefits paid under this Code section shall be paid solely  
8 and exclusively from the amounts credited to the account of this state in the Unemployment  
9 Trust Fund by the secretary of the treasury of the United States pursuant to Section 903 of  
10 the federal Social Security Act, as amended by the Job Creation and Worker Assistance Act  
11 of 2002 (P.L. 107-147), plus allocable interest attributable thereto."

12 **SECTION 8.**

13 All laws and parts of laws in conflict with this Act are repealed.