

House Bill 443

By: Representatives Coan of the 101st, Pruett of the 144th, Scott of the 2nd, Teilhet of the 40th, England of the 108th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Tittle 34 of the Official Code of Georgia Annotated, relating to
2 employment security, so as to provide for changes to what shall be deemed "employment";
3 to extend suspension of adjustments based upon the State-wide Reserve Ratio; to provide for
4 a reduced adjustment in contribution rates through a certain time period; to provide for a
5 change in the weekly benefit amount over a certain period; to provide a supplemental
6 appropriation for the Department of Labor of additional funds which are otherwise available
7 to the department; to authorize the Commissioner of Labor to direct the obligation and
8 expenditure of said funds and to employ workers, contract with persons, public and private
9 agencies, corporations, and other entities, and to do all other things necessary to accomplish
10 such purposes; to provide for related matters; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 8 of Tittle 34 of the Official Code of Georgia Annotated, relating to employment
15 security, is amended in Code Section 34-8-35, relating to the term "employment," by revising
16 subsection (f) and paragraph (17) of subsection (n) as follows:

17 "(f) Services performed by an individual for wages shall be deemed to be employment
18 subject to this chapter unless and until it is shown that:

19 (1)(A) Such individual has been and will continue to be free from control or direction
20 over the performance of such services, both under the individual's contract of service
21 and in fact; and

22 ~~(2) Such service is outside the usual course of the business for which such service is~~
23 ~~performed or such service is performed outside of all the places of business of the~~
24 ~~enterprise for which such service is performed; and~~

25 ~~(3)~~(B) Such individual is customarily engaged in an independently established trade,
26 occupation, profession, or business; or

1 (2) Such individual and the services performed for wages are the subject of an SS-8
 2 determination by the Internal Revenue Service, which decided against employee status."
 3 "(17) Services performed for a common carrier of property, persons, or property and
 4 persons by an individual consisting of the pickup, transportation, and delivery of
 5 property, persons, or property and persons; provided that:
 6 (A) The individual is free to accept or reject assignments from the common carrier;
 7 (B) Remuneration for the individual is on the basis of commissions, trips, or deliveries
 8 accomplished;
 9 (C) Such individual personally provides the vehicle used in the pickup, transportation,
 10 and delivery of the property, persons, or property and persons;
 11 (D) Such individual has a written contract with the common carrier;
 12 (E) The written contract states expressly and prominently that the individual knows:
 13 (i) Of the responsibility to pay estimated social security taxes and state and federal
 14 income taxes;
 15 (ii) That the social security tax the individual must pay is higher than the social
 16 security tax the individual would pay if he or she were an employee; and
 17 (iii) That the work is not covered by the unemployment compensation laws of
 18 Georgia; and
 19 (F) The written contract does not prohibit such individual from the pickup,
 20 transportation, or delivery of property, persons, or property and persons for more than
 21 one common carrier or any other person or entity; or"

22 SECTION 2.

23 Said chapter is further amended in Code Section 34-8-156, relating to the State-wide Reserve
 24 Ratio for unemployment compensation, by revising subparagraph (B) of paragraph (4) of
 25 subsection (d), as follows:

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

32 If the State-wide Reserve Ratio:

33 Equals or	But Is	Overall
34 <u>Exceeds</u>	<u>Less Than</u>	<u>Increase</u>
35 1.5 percent	1.7 percent	25 percent

1	1.25 percent	1.5 percent	50 percent
2	0.75 percent	1.25 percent	75 percent
3	Under 0.75 percent		100 percent

4 provided, however, that for the periods of January 1 through December 31, 2004;
5 January 1 through December 31, 2005; and January 1 through December 31, 2006, the
6 overall increase in the rate required under this subparagraph shall be suspended and the
7 provisions of this subparagraph shall be null and void, except in the event the
8 State-wide Reserve Ratio, as calculated above, is less than 1.00 percent on the
9 computation date with respect to rates applicable to calendar year 2004, 2005, or 2006,
10 then for each such year the Commissioner of Labor shall have the option of imposing
11 an increase in the overall rate of up to 35 percent, as of the computation date, for each
12 employer whose rate is computed under a rate table in Code Section 34-8-155; and
13 provided, further, that for the period of January 1 through December 31, 2007, January
14 1 through December 31, 2008, and January 1 through December 31, 2009, the overall
15 increase in the rate required under this subparagraph shall be suspended and the
16 provisions of this subparagraph shall be null and void, except in the event the
17 State-wide Reserve Ratio, as calculated above, is less than 1.25 percent on the
18 computation date with respect to rates applicable to calendar year 2007, 2008, or 2009,
19 then for each such year, the Commissioner of Labor shall have the option of imposing
20 an increase in the overall rate of up to 35 percent, as of the computation date, for each
21 employer whose rate is computed under a rate table in Code Section 34-8-155."

22 SECTION 3.

23 Said chapter is further amended in Code Section 34-8-193, relating to the determination of
24 the weekly benefit amount, by revising subsections (a), (b), and (c), as follows:

25 "(a) The weekly benefit amount of an individual's claim shall be that amount computed
26 by dividing the two highest quarters of wages paid in the base period by ~~44~~ 42. Any
27 fraction of a dollar shall then be disregarded. Wages must have been paid in at least two
28 quarters of the base period and total wages in the base period must equal or exceed 150
29 percent of the highest quarter base period wages. For claims that fail to establish
30 entitlement due to failure to meet the 150 percent requirement, an alternative computation
31 shall be made. In such event, the weekly benefit amount shall be computed by dividing the
32 highest single quarter of base period wages paid by ~~22~~ 21. Any fraction of a dollar shall
33 then be disregarded. Under this alternative computation, wages must have been paid in at
34 least two quarters of the base period and total base period wages must equal or exceed 40
35 times the weekly benefit amount. Regardless of the method of computation used, wages
36 must have been paid for insured work, as defined in Code Section 34-8-41.

1 (b) Weekly benefit amount entitlement as computed in this Code section shall be no less
2 than \$27.00 per week for benefit years beginning on or after July 1, 1983; provided,
3 however, that for benefit years beginning on or after July 1, 1987, when the weekly benefit
4 amount, as computed, would be more than \$26.00 but less than \$37.00, the individual's
5 weekly benefit amount will be \$37.00, and no weekly benefit amount shall be established
6 for less than \$37.00; provided, further, that for benefit years beginning on or after July 1,
7 1997, when the weekly benefit amount, as computed, would be more than \$26.00 but less
8 than \$39.00, the individual's weekly benefit amount will be \$39.00, and no weekly benefit
9 amount shall be established for less than \$39.00; provided, further, that for benefit years
10 beginning on or after July 1, 2002, when the weekly benefit amount, as computed, would
11 be more than \$26.00 but less than \$40.00, the individual's weekly benefit amount will be
12 \$40.00, and no weekly benefit amount shall be established for less than \$40.00; provided,
13 further, that for benefit years beginning on or after July 1, 2005, when the weekly benefit
14 amount, as computed, would be more than \$26.00 but less than \$42.00, the individual's
15 weekly benefit amount will be \$42.00, and no weekly benefit amount shall be established
16 for less than \$42.00; provided, further, that for benefit years beginning on or after July 1,
17 2007, when the weekly benefit amount, as computed, would be more than \$26.00 but less
18 than \$44.00, the individual's weekly benefit amount will be \$44.00, and no weekly benefit
19 amount shall be established for less than \$44.00.

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

22 (1) For claims filed on or after July 1, 1990, but before July 1, 1994, the maximum
23 weekly benefit amount shall not exceed \$185.00;

24 (2) For claims filed on or after July 1, 1994, but before July 1, 1995, the maximum
25 weekly benefit amount shall not exceed \$195.00;

26 (3) For claims filed on or after July 1, 1995, but before July 1, 1996, the maximum
27 weekly benefit amount shall not exceed \$205.00;

28 (4) For claims filed on or after July 1, 1996, but before July 1, 1997, the maximum
29 weekly benefit amount shall not exceed \$215.00;

30 (5) For claims filed on or after July 1, 1997, but before July 1, 1998, the maximum
31 weekly benefit amount shall not exceed \$224.00;

32 (6) For claims filed on or after July 1, 1998, but before July 1, 1999, the maximum
33 weekly benefit amount shall not exceed \$244.00;

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

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

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

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

5 (11) For claims filed on or after July 1, 2003, but before July 1, 2005, the maximum
6 weekly benefit amount shall not exceed \$300.00;

7 (12) For claims filed on or after July 1, 2005, but before July 1, 2006, the maximum
8 weekly benefit amount shall not exceed \$310.00; and

9 (13) For claims filed on or after July 1, 2006, but before July 1, 2008, the maximum
10 weekly benefit amount shall not exceed \$320.00; and

11 (14) For claims filed on or after July 1, 2008, the maximum weekly benefit amount shall
12 not exceed \$330.00."

13 SECTION 4.

14 There is appropriated to the Department of Labor out of funds credited to and held in this
15 state's account in the Unemployment Trust Fund by the Secretary of the Treasury of the
16 United States pursuant to and in accordance with Section 903 of the Social Security Act, as
17 amended, an additional amount of \$1,885,551.11. Of said additional amount, the sum of
18 \$1,885,551.11 is authorized to be allocated for expenses incurred in the administration of
19 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, the "Employment Security
20 Law" as amended, including personal services and operating and other expenses incurred in
21 the administration of said law, as well as for the purchase or rental, either or both, of
22 improvements, repairs, or alterations to and of offices, lands, buildings or parts of buildings,
23 fixtures, furnishings, equipment, technology, data, reports and studies, supplies, and the
24 construction of buildings or parts of buildings suitable for use in this state by the Department
25 of Labor, and for the payment of expenses incurred for the acquisition, purchase, rental,
26 construction, maintenance, improvements, repairs, or alterations of and to such real or
27 personal property. Notwithstanding any other provision of this section, the amount
28 appropriated in this section shall not exceed the amount in the Unemployment Trust Fund,
29 which may be obligated for expenditure for such purposes as provided in Code Section
30 34-8-85 of the Official Code of Georgia Annotated, relating to certain withdrawals from the
31 Unemployment Trust Fund, and the amount which may be obligated shall not exceed the
32 limitations provided in Code Section 34-8-85 of the Official Code of Georgia Annotated,
33 relating to certain withdrawals from the Unemployment Trust Fund; provided, however, that
34 said additional funds shall not be obligated for expenditure, as provided in this section, after
35 the close of the two-year period which begins on the date of enactment of this section.

SECTION 5.

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