

House Bill 443 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 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 for related matters; to  
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

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

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

17 ~~(2) Such service is outside the usual course of the business for which such service is~~  
18 ~~performed or such service is performed outside of all the places of business of the~~  
19 ~~enterprise for which such service is performed; and~~

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

22 (2) Such individual and the services performed for wages are the subject of an SS-8  
23 determination by the Internal Revenue Service, which decided against employee status."

24 "(17) Services performed for a common carrier of property, persons, or property and  
25 persons by an individual consisting of the pickup, transportation, and delivery of  
26 property, persons, or property and persons; provided that:

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

## 17 SECTION 2.

18 Said chapter is further amended in Code Section 34-8-156, relating to the State-wide Reserve

19 Ratio for unemployment compensation, by revising subparagraph (B) of paragraph (4) of

20 subsection (d), as follows:

21 "(B) Except for any year or portion of a year during which the provisions of

22 paragraph (1) of subsection (f) of Code Section 34-8-155 apply, when the State-wide

23 Reserve Ratio, as calculated above, is less than 1.7 percent, there shall be an overall

24 increase in the rate, as of the computation date, for each employer whose rate is

25 computed under a rate table in Code Section 34-8-155 in accordance with the

26 following table:

27 If the State-wide Reserve Ratio:

28 Equals or	29 But Is	Overall
30 <u>Exceeds</u>	31 <u>Less Than</u>	32 <u>Increase</u>
33 1.5 percent	34 1.7 percent	35 25 percent
1.25 percent	1.5 percent	50 percent
0.75 percent	1.25 percent	75 percent
Under 0.75 percent		100 percent

34 provided, however, that for the periods of January 1 through December 31, 2004;

35 January 1 through December 31, 2005; and January 1 through December 31, 2006, the

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

### 17 SECTION 3.

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

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

32 (b) Weekly benefit amount entitlement as computed in this Code section shall be no less  
 33 than \$27.00 per week for benefit years beginning on or after July 1, 1983; provided,  
 34 however, that for benefit years beginning on or after July 1, 1987, when the weekly benefit  
 35 amount, as computed, would be more than \$26.00 but less than \$37.00, the individual's  
 36 weekly benefit amount will be \$37.00, and no weekly benefit amount shall be established

1 for less than \$37.00; provided, further, that for benefit years beginning on or after July 1,  
2 1997, when the weekly benefit amount, as computed, would be more than \$26.00 but less  
3 than \$39.00, the individual's weekly benefit amount will be \$39.00, and no weekly benefit  
4 amount shall be established for less than \$39.00; provided, further, that for benefit years  
5 beginning on or after July 1, 2002, when the weekly benefit amount, as computed, would  
6 be more than \$26.00 but less than \$40.00, the individual's weekly benefit amount will be  
7 \$40.00, and no weekly benefit amount shall be established for less than \$40.00; provided,  
8 further, that for benefit years beginning on or after July 1, 2005, when the weekly benefit  
9 amount, as computed, would be more than \$26.00 but less than \$42.00, the individual's  
10 weekly benefit amount will be \$42.00, and no weekly benefit amount shall be established  
11 for less than \$42.00; provided, further, that for benefit years beginning on or after July 1,  
12 2007, when the weekly benefit amount, as computed, would be more than \$26.00 but less  
13 than \$44.00, the individual's weekly benefit amount will be \$44.00, and no weekly benefit  
14 amount shall be established for less than \$44.00.

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

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

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

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

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

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

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

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

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

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

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

- 1 (11) For claims filed on or after July 1, 2003, but before July 1, 2005, the maximum  
2 weekly benefit amount shall not exceed \$300.00;
- 3 (12) For claims filed on or after July 1, 2005, but before July 1, 2006, the maximum  
4 weekly benefit amount shall not exceed \$310.00; and
- 5 (13) For claims filed on or after July 1, 2006, but before July 1, 2008, the maximum  
6 weekly benefit amount shall not exceed \$320.00; and
- 7 (14) For claims filed on or after July 1, 2008, the maximum weekly benefit amount shall  
8 not exceed \$330.00."

9

**SECTION 4.**

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