

The Senate Insurance and Labor Committee offered the following substitute to SB 403:

ADOPTED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 34 of the Official Code of Georgia Annotated,
2 relating to the master and servant employment relationship generally, so as to provide for
3 prompt payment of wages to an employee following his or her resignation or discharge; to
4 provide for penalties; to provide for related matters; to provide for an effective date and
5 applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 7 of Title 34 of the Official Code of Georgia Annotated, relating to the
9 master and servant employment relationship generally, is amended by adding a new Code
10 section to read as follows:

11 "34-7-7.

12 (a) Upon the discharge of an employee of any kind whatever, it shall be the duty of the
13 person employing such employee to pay the amount then due under the terms of
14 employment, no later than or at the next regular pay period for such employee.

15 (b) Upon the resignation of any employee of any kind whatever, it shall be the duty of the
16 person employing such employee to pay the amount then due under the terms of
17 employment, no later than or at the next regular pay period for such employee.

18 (c) Payment shall be made at the place and in the manner which has been customary
19 during the employment, except that payment may be made via United States mail to the
20 employee, provided postage has been prepaid and the envelope properly addressed with the
21 employee's current address as shown in the employer's records. In the event payment is
22 made by mail, the employer shall be deemed to have made such payment when it is mailed.
23 The timeliness of the mailing may be shown by an official United States postmark or other
24 official documentation from the United States Postal Service.

25 (d) The provisions of this Code section shall not apply when there is a written policy
26 signed by or provided to the employee, or written contract or written agreement, or

1 collective bargaining agreement affecting the employer and employee which provides
2 otherwise.

3 (e) In the event of a dispute as to the amount due under this Code section, the employee
4 shall have the right to file an action to enforce the remainder of his or her wage claim.

5 (f) For purposes of this Code section, vacation pay will be considered an amount then due
6 only if, in accordance with the stated vacation policy of the person employing such
7 employee, both of the following apply:

8 (1) Pursuant to the employer's policy, the employee is deemed eligible for and has
9 accrued the right to take vacation time with pay; and

10 (2) Pursuant to the employer's policy, the employee has not taken or been compensated
11 for the vacation time as of the date of the discharge or resignation.

12 The provisions of this subsection shall not be interpreted to allow the forfeiture of any
13 vacation pay actually earned by an employee pursuant to the employer's policy.

14 (g) In the event of a dispute between the parties as to the amount of wages owed, the
15 parties are encouraged to meet and confer within five days after the next regular pay period
16 after the resignation or discharge of the employee.

17 (h) If the dispute is not resolved and the employee files suit under this Code section, the
18 employer may pay the wages under dispute into the court and upon doing so there shall be
19 no penalties assessed against such employer.

20 (i) The court shall take into consideration and allow reduction of payment to the employee
21 for moneys owed to the employer, or equipment or property of the employer that is
22 determined to be in the possession or have been in the possession of the employee and not
23 returned to the employer.

24 (j) Any employer who fails or refuses to comply with the provisions of this Code section
25 shall be liable to the employee for 15 days' wages at the employee's daily rate of pay. In
26 addition to the 15 days' wages, a \$500.00 civil penalty may be allowed the employee by
27 the court based on the actions and good faith conduct or lack thereof of the parties."

28 SECTION 2.

29 This Act shall become effective on July 1, 2008, and shall be applied only to disputes arising
30 on or after that date.

31 SECTION 3.

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