

House Bill 581

By: Representatives Coan of the 101st, May of the 111th, Horne of the 71st, Marin of the 96th, Reese of the 98th, 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 protect the solvency of the Georgia Unemployment Trust Fund
3 by providing incentives to employers to comply with the Employment Security Law; to
4 protect existing jobs and to stimulate job creation; to reduce employer payment requirements
5 for de minimis tax amounts; to establish a credit to employers for hiring unemployment
6 claimants; to provide for the Georgia Works program to assist recipients of unemployment
7 compensation in obtaining new job skill training; to secure employer compliance by
8 providing for an amnesty program with respect to certain penalties and interest obligations
9 due from employers; to extend suspension of adjustments based upon the State-wide Reserve
10 Ratio; to provide for a reduced adjustment in contribution rates through a certain time period;
11 to reauthorize certain federal moneys for the administration of Chapter 8 of Title 34; to
12 provide for restrictions on disclosure of confidential information; to provide for related
13 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 This Act shall be known and may be cited as the "Georgia Works Job Creation and
17 Protection Act of 2009."

18 **SECTION 2.**

19 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment
20 security, is amended by revising Code Section 34-8-150, relating to payment of contributions
21 by employers, to read as follows:

22 "34-8-150.

23 (a) Contributions shall accrue from each employer for each calendar year in which the
24 employer is subject to this chapter with respect to wages payable for employment, except
25 as provided in Code Sections 34-8-158 through 34-8-162. Except as otherwise provided

26 in this Code section, such Such contributions shall become due and be paid before the last
 27 day of the month next following the end of the calendar quarter to which they apply, in
 28 accordance with such regulations as the Commissioner may prescribe; provided, however,
 29 that with respect to employers as defined in paragraph (2) of subsection (a) of Code Section
 30 34-8-33, the Commissioner shall provide by regulation that such contributions shall
 31 become due and be paid on an annual basis not later than such date as shall be prescribed
 32 by resolution of the Commissioner. Such contributions shall become delinquent if not paid
 33 when due and shall not be deducted, in whole or in part, from the wages of individuals in
 34 such employer's employ.

35 (b)(1) For calendar quarters beginning on or after July 1, 2009, when the combined
 36 amount of contributions under this Code section and assessments under Code Section
 37 34-8-180 or 34-8-181 due from an employer for any calendar quarter does not exceed
 38 \$5.00, such amount may be regarded as a de minimis amount with respect to that calendar
 39 quarter.

40 (2) Payment of such de minimis amount for such calendar quarter, otherwise due before
 41 the last day of the month next following the end of the calendar quarter, may be deferred,
 42 at the option of the employer, until the January 31 reporting date next following, if the
 43 employer:

44 (A) Files all quarterly wage and tax reports, including a report of such de minimis
 45 amount due;

46 (B) Timely pays all other amounts due; and

47 (C) Makes full payment of any deferred de minimis amount by the January 31 report
 48 date next following.

49 (3) In the event that an employer fails to comply with paragraph (2) of this subsection,
 50 any such deferred de minimis amount shall become delinquent as of the date originally
 51 due under this Code section and Code Section 34-8-165, 34-8-180, or 34-8-181, as
 52 applicable, and the employer shall be subject to all the provisions thereof.

53 (b)(c) In the payment of any contributions, a fractional part of a cent shall be disregarded
 54 unless it amounts to one-half cent or more, in which case it shall be increased to one cent."

55 SECTION 3.

56 Said chapter is further amended by revising Code Section 34-8-156, relating to the
 57 State-wide Reserve Ratio and reduction in tax rate, by adding a new subsection to read as
 58 follows:

59 "(g) For calendar quarters beginning on or after July 1, 2009, there shall be a \$25.00 credit
 60 to be known as the Georgia Works Tax Credit, which may be claimed by an employer for

61 up to four calendar quarters with respect to an individual hired by that employer for
62 services to be performed in this state under the following conditions:

63 (1) Such individual:

64 (A) Has filed a claim for unemployment compensation in this state and is currently
65 receiving weekly unemployment compensation benefits on that claim under the
66 provisions of Article 7 of this chapter and such benefits are chargeable to the
67 experience rating account of an employer under Code Section 34-8-157;

68 (B) Has been profiled by the department as likely to exhaust benefits;

69 (C) Has no return to work date or promise of future employment; and

70 (D) Has at least eight weeks of benefit eligibility remaining on his or her current claim
71 at the time the employer hires the individual;

72 (2) The credit, which shall be an amount equal to \$25.00 for each such hired individual
73 per calendar quarter as provided herein, may be claimed on the reports required to be
74 filed under Code Section 34-8-165 as a reduction from amounts otherwise due with
75 respect to each of the four calendar quarters immediately following the hire date of the
76 individual; provided, however, that the credit may not be claimed for any hired individual
77 with respect to more than one hiring by the employer claiming the credit or for more than
78 four calendar quarters with respect to that one hiring;

79 (3) For each calendar quarter for which the credit is claimed, such individual shall be
80 continuously employed by the employer claiming the credit, and such individual's
81 employment with that employer shall consist of at least 30 hours per week during each
82 week of that calendar quarter;

83 (4) The credit shall be timely claimed for the calendar quarter to which the credit is
84 applicable, and in no event later than the last day of the reporting month following the
85 end of the calendar quarter to which the credit is applicable. The credit shall not be
86 refundable. The credit cannot reduce tax liability below zero; provided, however, that the
87 credit, if properly and timely claimed, may be carried forward and applied against
88 contributions due in any subsequent calendar quarter in the same calendar year as
89 claimed. Any unused credit remaining at the end of a calendar year may not be carried
90 forward to another calendar year and shall be deemed to have expired; and

91 (5) No credit shall be claimed or taken by any employer who fails to timely file any
92 report or to timely pay all amounts otherwise due for all calendar quarters during the
93 calendar year for which the credit is claimed. In the event an employer has claimed a
94 credit under this Code section and fails to timely file any report or to timely pay all
95 amounts otherwise due during the year the credit is claimed, the amount of any credits
96 claimed with respect to the calendar year shall be cancelled and become delinquent as of

97 the date originally due under Code Section 34-8-165 and subject to all the provisions of
 98 this article as if no credit had ever been available or claimed."

99 **SECTION 4.**

100 Said chapter is further amended by adding a new Code section to read as follows:

101 "34-8-200.

102 Georgia Works is established as a subsidized job training program administered by the
 103 department. Georgia Works shall provide individuals an opportunity to receive on-site
 104 workplace training from employers with available job openings, while continuing to
 105 receive unemployment benefits to which they are otherwise eligible. Georgia Works
 106 participants may receive a training allowance to defray costs associated with training.
 107 Georgia Works training shall be scheduled for a maximum of 24 hours per week for up to
 108 eight calendar weeks. After completion of the established weeks of training, Georgia
 109 Works participants shall receive certification of acquired job skills, and the training
 110 employer may, but shall not be required to, hire the individual participant. The provisions
 111 of subsection (d) of Code Section 34-8-195 shall apply to Georgia Works participants."

112 **SECTION 5.**

113 Said chapter is further amended by revising the title designation for Article 10 to read as
 114 follows:

115 "ARTICLE 10

116 1994 UNEMPLOYMENT TAX AMNESTY"

117 **SECTION 6.**

118 Said chapter is further amended by revising Code Section 34-8-270, relating to the short title
 119 for the Unemployment Tax Amnesty Program, to read as follows:

120 "34-8-270.

121 This article shall be known and may be cited as the '1994 Unemployment Tax Amnesty
 122 Program."

123 **SECTION 7.**

124 Said chapter is further amended by revising Code Section 34-8-271, relating to legislative
 125 findings, declarations, and intent relative to the Unemployment Tax Amnesty Program, to
 126 read as follows:

127 "34-8-271.
 128 The General Assembly finds and declares that a public purpose is served by the waiver of
 129 interest on unemployment tax, penalties, and criminal prosecution in return for the
 130 immediate reporting and payment of previously underreported, unreported, or unpaid
 131 unemployment contributions liabilities. The General Assembly further finds and declares
 132 that the benefits gained through this program include, among other things, increased
 133 collection of certain currently owed unemployment contributions, permanently bringing
 134 into the unemployment insurance system employers who have been evading payment of
 135 unemployment contributions and providing an opportunity for such employers to satisfy
 136 unemployment contributions obligations before stepped-up unemployment tax enforcement
 137 programs take effect. ~~It is the intention of the General Assembly in enacting this article that~~
 138 ~~the unemployment tax amnesty program provided under this article be a one-time~~
 139 ~~occurrence which shall not be repeated in the future because employers' expectations of any~~
 140 ~~future amnesty programs could have a counterproductive effect on compliance under this~~
 141 ~~article."~~

142 **SECTION 8.**

143 Said chapter is further amended by adding a new article to read as follows:

144 "ARTICLE 11

145 2009 UNEMPLOYMENT TAX AMNESTY

146 34-8-290.

147 This article shall be known and may be cited as the '2009 Unemployment Tax Amnesty
 148 Program.'

149 34-8-291.

150 The General Assembly finds and declares that multiple public purposes are served by the
 151 waiver of interest on unemployment tax, penalties, and criminal prosecution in return for
 152 the immediate reporting and payment of previously underreported, unreported, or unpaid
 153 unemployment contributions liabilities. The General Assembly further finds and declares
 154 that the benefits gained through this program include, among other things, the protection
 155 of existing jobs and the stimulation of new jobs, the immediate collection of past due
 156 unemployment contributions which may forestall higher tax rate adjustments on employers
 157 during difficult economic times, increased collection of certain currently owed
 158 unemployment contributions, permanently bringing into the unemployment insurance
 159 system employers who have been evading payment of unemployment contributions and

160 providing an opportunity for such employers to satisfy unemployment contributions
161 obligations before stepped-up unemployment tax enforcement programs take effect.

162 34-8-292.

163 As used in this article, the term:

164 (1) 'Accounts receivable' means an amount of unemployment contribution, tax,
165 administrative assessment, reimbursement in lieu of contributions, penalty, or interest
166 which has been recorded as due and entered in the account records or any ledger
167 maintained in the department, or which an employer should reasonably expect to become
168 due as a direct or indirect result of any pending or completed audit or investigation, which
169 an employer knows is being conducted by any federal, state, or local taxing authority.

170 (2) 'Employer' means any individual, partnership, joint venture, association, limited
171 liability company, corporation, receiver, trustee, guardian, executor, administrator,
172 fiduciary, or any other entity of any kind subject to any unemployment tax, contribution,
173 or reimbursement in lieu of contributions, or any person required to collect any such
174 unemployment tax, contribution, or reimbursement in lieu of contributions under this
175 chapter, and as further defined in Code Section 34-8-33. The term shall also include any
176 individual who has been deemed personally liable for the debt under the authority of
177 Code Section 34-8-167.

178 (3) 'Final, due, and owing' means an assessment of unemployment contributions which
179 has become final and is owed to the state due to either the expiration of the employer's
180 appeal rights or, in the case of an assessment which has been appealed, either pursuant
181 to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' or pursuant to
182 Code Section 34-8-220, the rendition of the final order by the Commissioner or by any
183 court of this state. Assessments that have been appealed shall be final, due, and owing 15
184 days after the last unappealed or unappealable order sustaining the assessment or any part
185 thereof has become final. Assessments that have not been appealed shall be final, due,
186 and owing 15 days after service of notice of assessment pursuant to Code Section
187 34-8-170.

188 (4) 'Unemployment tax' shall include any unemployment tax or contribution,
189 administrative assessment, or reimbursement in lieu of contributions or recording costs
190 incurred thereon.

191 34-8-293.

192 (a) The Commissioner shall develop and administer a one-time unemployment tax
193 amnesty program as provided in this article. The Commissioner shall, upon the voluntary
194 return and remission of unemployment taxes and interest owed by any employer, waive all

195 penalties that are assessed or subject to being assessed for outstanding liabilities for taxable
196 periods ending or transactions occurring on or before December 31, 2009. The
197 Commissioner shall provide by regulation as necessary for the administration of this
198 amnesty program and shall further provide for necessary forms for the filing of amnesty
199 applications and returns.

200 (b) Notwithstanding the provisions of any other law to the contrary, the unemployment tax
201 amnesty program shall begin by October 1, 2009, and shall be completed no later than
202 December 31, 2009, and shall apply to all employers owing unemployment taxes, penalties,
203 or interest administered by the Commissioner under the provisions of this chapter. The
204 program shall apply to unemployment tax liabilities for taxable periods ending or
205 transactions occurring on or before December 31, 2009. Amnesty unemployment tax
206 return forms shall be in a form prescribed by the Commissioner.

207 34-8-294.

208 (a) The provisions of this article shall apply to any eligible employer who files an
209 application for amnesty within the time prescribed by the Commissioner and does the
210 following:

211 (1) Files such returns as may be required by the Commissioner for all years or tax
212 reporting periods as stated on the application for which returns have not previously been
213 filed and files such returns as may be required by the Commissioner for all years or tax
214 reporting periods for which returns were filed but the tax liability was underreported;

215 (2) Pays in full within the unemployment tax amnesty period the unemployment taxes
216 that are final, due, and owing for the respective tax periods, the unemployment taxes for
217 which application is made under the amnesty unemployment tax program or for which
218 amnesty unemployment tax returns are filed during the amnesty time period, pays with
219 the unemployment taxes the amount of interest due, and pays the amount of any
220 additional unemployment tax and interest which is owed as may be determined by the
221 Commissioner, such additional payment to be made within 30 days of notification to the
222 employer by the Commissioner that such additional unemployment tax and interest is
223 owed; provided, however, that the failure to pay such additional tax and interest within
224 30 days of such notification shall invalidate any amnesty granted pursuant to this article;
225 and

226 (3) The Commissioner may, in his or her discretion, impose by regulation, the further
227 condition that, in addition to the requirements set forth in paragraphs (1) and (2) of this
228 subsection, the requirement that any eligible employer also pay in full within the amnesty
229 period all unemployment taxes previously assessed by the Commissioner that are final,
230 due, and owing at the time the application or amnesty unemployment tax returns are filed,

231 pays with the unemployment taxes the amount of interest due, and pays within 30 days
232 of notification by the Commissioner the amount of any additional interest owed.

233 (b) An eligible employer may participate in the amnesty program whether or not the
234 employer is under audit, notwithstanding the fact that the amount due is included in a
235 proposed assessment or an assessment, bill, notice, or demand for payment issued by the
236 Commissioner, and without regard to whether the amount due is subject to a pending
237 administrative or judicial proceeding. An eligible employer may participate in the amnesty
238 program to the extent of the uncontested portion of any assessed liability. However,
239 participation in the program shall be conditioned upon the employer's agreement that the
240 right to protest or initiate an administrative or judicial proceeding or to claim any refund
241 of moneys paid under the program is barred with respect to the amounts paid with the
242 application or amnesty return.

243 (c) The Commissioner may enter into an installment payment agreement in cases of severe
244 hardship in lieu of the complete payment required under subsection (a) of this Code
245 section. In such cases, 25 percent of the amount due shall be paid with the application or
246 amnesty return with the balance to be paid in monthly installments of not less than 25
247 percent of the original amount nor to exceed three months following the expiration of the
248 amnesty period. Failure of the employer to make timely payments shall void the terms of
249 the amnesty program. All such agreements and payments shall include interest due and
250 accruing during the installment agreement.

251 (d) If, following the termination of the unemployment tax amnesty period, the
252 Commissioner issues a deficiency assessment based upon information independent of that
253 shown on a return filed pursuant to subsection (a) of this Code section, the Commissioner
254 shall have the authority to impose penalties and criminal action may be brought where
255 authorized by law only with respect to the difference between the amount shown on the
256 amnesty unemployment tax return and the correct amount of unemployment tax due. The
257 imposition of penalties or criminal action shall not invalidate any waiver granted under
258 Code Section 34-8-295.

259 34-8-295.

260 (a) Amnesty shall be granted for any employer who meets the requirements of Code
261 Section 34-8-294 in accordance with the following:

262 (1) For unemployment taxes which are owed as a result of the nonreporting or
263 underreporting of unemployment tax liabilities or the nonpayment of any accounts
264 receivable owed by an eligible employer, the state shall waive criminal prosecution and
265 all civil penalties which may be assessed under any provision of this chapter for the
266 taxable years or periods for which unemployment tax amnesty is requested; and

267 (2) With the exception of instances in which the employer and Commissioner enter into
268 an installment payment agreement authorized under subsection (c) of Code Section
269 34-8-294, the failure to pay all unemployment taxes and interest as shown on the
270 employer's amnesty unemployment tax return shall invalidate any amnesty granted
271 pursuant to this article.

272 (b) This article shall not apply to any employer who is on notice, written or otherwise, of
273 a criminal investigation being conducted by an agency of the state or any political
274 subdivision thereof or the United States, nor shall this article apply to any employer who
275 is the subject of any criminal litigation which is pending on the date of the employer's
276 application in any court of this state or the United States for nonpayment, delinquency,
277 evasion, or fraud in relation to any federal taxes or to any of the unemployment taxes to
278 which this amnesty program is applicable.

279 (c) No refund or credit shall be granted for any interest or penalty paid prior to the time
280 the employer requests amnesty pursuant to Code Section 34-8-294.

281 (d) Unless the Commissioner in his or her own discretion redetermines the amount of
282 unemployment taxes and interest due, no refund or credit shall be granted for any
283 unemployment taxes or interest paid under the amnesty program.

284 (e) Notwithstanding any provision of this article to the contrary, the Commissioner shall
285 have the right to waive any portion of the interest due on an account receivable when it is
286 demonstrated to the satisfaction of the Commissioner that any deficiency of the employer
287 was not due to negligence, intentional disregard of administrative rules and regulations, or
288 fraud and the collection of the interest by the Commissioner would be contrary to equity
289 and good conscience.

290 34-8-296.

291 All installment agreements authorized under subsection (c) of Code Section 34-8-294 shall
292 bear interest on the outstanding amount of unemployment tax due at the rate prescribed
293 under Code Section 34-8-166.

294 34-8-297.

295 The Commissioner shall promulgate administrative regulations as necessary, issue forms
296 and instructions, and take all actions necessary to implement the provisions of this article.

297 The Commissioner shall publicize the unemployment tax amnesty program in order to
298 maximize the public awareness of and participation in the program. The Commissioner
299 may, for the purpose of publicizing the unemployment tax amnesty program, contract with
300 any advertising agency within or outside this state.

301 34-8-298.

302 For purposes of accounting for the unemployment contributions received pursuant to this
303 chapter, the Commissioner shall maintain an accounting and reporting of funds collected
304 under the amnesty program. All contributions or reimbursements in lieu of contributions
305 collected shall be remitted to the Unemployment Compensation Fund created pursuant to
306 Code Section 34-8-83.

307 34-8-299.

308 (a) In addition to all other penalties provided under this chapter or any other law, the
309 Commissioner may by regulation impose after the expiration of the unemployment tax
310 amnesty period a cost of collection fee of 20 percent of any deficiency assessed for any
311 taxable period ending or transactions occurring after December 31, 2009. This fee shall be
312 in addition to all other applicable penalties, fees, or costs. The Commissioner shall have
313 the right to waive any collection fee when it is demonstrated that any deficiency of the
314 employer was not due to negligence, intentional disregard of administrative rules and
315 regulations, or fraud.

316 (b) In addition to all other penalties provided under this chapter or any other law, the
317 Commissioner may by regulation impose after the expiration of the unemployment tax
318 amnesty period a cost of collection fee of 50 percent of any deficiency for taxable periods
319 ending or transactions occurring on or before December 31, 2009, regardless of when due.
320 This fee shall be in addition to all other applicable penalties, fees, or costs. The
321 Commissioner shall have the right to waive any collection fee when it is demonstrated that
322 any deficiency of the employer was not due to negligence, intentional disregard of
323 administrative rules and regulations, or fraud.

324 (c) The provisions of subsections (a) and (b) of this Code section shall not apply to any
325 account or accounts receivable which has been protested pursuant to Code Section
326 34-8-167 or 34-8-170 as of the expiration of the unemployment tax amnesty period or to
327 any account or accounts receivable on which the employer is remitting timely payments
328 under a payment agreement negotiated with the Commissioner prior to or during the
329 amnesty period.

330 (d) The fee levied under subsections (a) and (b) of this Code section shall not apply to
331 unemployment taxes paid pursuant to the terms of the amnesty program.

332 34-8-300.

333 The Commissioner may, for the purpose of collecting any delinquent unemployment tax
334 due from an employer, contract with any debt collection agency or attorney doing business
335 within or outside this state for the collection of such delinquent unemployment tax,

336 including penalties and interest and collections thereon. Without limiting any authority
 337 otherwise granted to the Commissioner in Code Section 34-8-169, the Commissioner may
 338 also pay such agency or attorney from the fees authorized in Code Section 34-8-299."

339 **SECTION 9.**

340 Said chapter is further amended by revising subparagraph (d)(4)(B) of Code Section
 341 34-8-156, relating to the State-wide Reserve Ratio for unemployment compensation, to read
 342 as follows:

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

349 If the State-wide Reserve Ratio:

350	Equals or	But Is	Overall
351	<u>Exceeds</u>	<u>Less Than</u>	<u>Increase</u>
352	1.5 percent	1.7 percent	25 percent
353	1.25 percent	1.5 percent	50 percent
354	0.75 percent	1.25 percent	75 percent
355	Under 0.75 percent		100 percent

356 provided, however, that for the periods of January 1 through December 31, 2004;
 357 January 1 through December 31, 2005; and January 1 through December 31, 2006, the
 358 overall increase in the rate required under this subparagraph shall be suspended and the
 359 provisions of this subparagraph shall be null and void, except in the event the
 360 State-wide Reserve Ratio, as calculated above, is less than 1.00 percent on the
 361 computation date with respect to rates applicable to calendar year 2004, 2005, or 2006,
 362 then for each such year the Commissioner of Labor shall have the option of imposing
 363 an increase in the overall rate of up to 35 percent, as of the computation date, for each
 364 employer whose rate is computed under a rate table in Code Section 34-8-155; and
 365 provided, further, that for the periods of January 1 through December 31, 2007, January
 366 1 through December 31, 2008, ~~and~~ January 1 through December 31, 2009, January 1
 367 through December 31, 2010, and January 1 through December 31, 2011, the overall
 368 increase in the rate required under this subparagraph shall be suspended and the
 369 provisions of this subparagraph shall be null and void, except in the event the
 370 State-wide Reserve Ratio, as calculated above, is less than 1.25 percent on the

371 computation date with respect to rates applicable to calendar year 2007, 2008, ~~or~~ 2009,
 372 2010, or 2011, then for each such year the Commissioner of Labor shall have the option
 373 of imposing an increase in the overall rate of up to 35 percent, as of the computation
 374 date, for each employer whose rate is computed under a rate table in Code Section
 375 34-8-155."

376 **SECTION 10.**

377 There is appropriated to the Department of Labor out of funds credited to and held in this
 378 state's account in the Unemployment Trust Fund by the Secretary of the Treasury of the
 379 United States pursuant to and in accordance with Section 903 of the Social Security Act, as
 380 amended, an additional amount of \$1,885,551.11. Of said additional amount, the sum of
 381 \$1,885,551.11 is authorized to be allocated for expenses incurred in the administration of
 382 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, the "Employment Security
 383 Law" as amended, including personal services and operating and other expenses incurred in
 384 the administration of said law, as well as for the purchase or rental, either or both, of
 385 improvements, repairs, or alterations to and of offices, lands, buildings or parts of buildings,
 386 fixtures, furnishings, equipment, technology, data, reports and studies, supplies, and the
 387 construction of buildings or parts of buildings suitable for use in this state by the Department
 388 of Labor, and for the payment of expenses incurred for the acquisition, purchase, rental,
 389 construction, maintenance, improvements, repairs, or alterations of and to such real or
 390 personal property. Notwithstanding any other provision of this section, the amount
 391 appropriated in this section shall not exceed the amount in the Unemployment Trust Fund,
 392 which may be obligated for expenditure for such purposes as provided in Code Section
 393 34-8-85 of the Official Code of Georgia Annotated, relating to certain withdrawals from the
 394 Unemployment Trust Fund, and the amount which may be obligated shall not exceed the
 395 limitations provided in Code Section 34-8-85 of the Official Code of Georgia Annotated,
 396 relating to certain withdrawals from the Unemployment Trust Fund; provided, however, that
 397 said additional funds shall not be obligated for expenditure, as provided in this section, after
 398 the close of the two-year period which begins on the date of enactment of this section.

399 **SECTION 11.**

400 Said chapter is further amended by revising Code Section 34-8-121, relating to information
 401 or records to be kept private and confidential, release of authorized maintenance of records,
 402 and destruction of outdated records, to read as follows:

403 "34-8-121.

404 (a) Any information or records concerning an individual or employing unit obtained by the
 405 department pursuant to the administration of this chapter or other federally funded

406 programs for which the department has responsibility shall be private and confidential,
407 except as otherwise provided in this article or by regulation. This article does not create a
408 rule of evidence. Information or records may be released by the department when the
409 release is required by the federal government in connection with, or as a condition of
410 funding for, a program being administered by the department. The provisions of
411 paragraphs (1) through (3) of subsection (a) of Code Section 34-8-125 shall not apply to
412 such release.

413 (b)(1) Each employing unit shall keep true and accurate records containing such
414 information as the Commissioner may prescribe. Such records shall be open to inspection
415 and be subject to being copied by the Commissioner or an authorized representative of
416 the Commissioner at any time and as often as may be necessary. In addition to
417 information prescribed by the Commissioner, each employer shall keep records of and
418 report to the Commissioner quarterly the street address of each establishment, branch,
419 outlet, or office of such employer, the nature of the operation, the number of persons
420 employed, and the wages paid at each establishment, branch, outlet, or office.

421 (2) The Commissioner or an authorized representative of the Commissioner may require
422 from any employing unit any sworn or unsworn reports deemed necessary for the
423 effective administration of this chapter. Any member of the board of review, any
424 administrative hearing officer, or any field representative may require from any
425 employing unit any sworn or unsworn reports, with respect to persons employed by it,
426 which are deemed necessary for the effective administration of this chapter.

427 (3) Information, statements, transcriptions of proceedings, transcriptions of recordings,
428 electronic recordings, letters, memoranda, and other documents and reports thus obtained
429 or obtained from any individual, claimant, employing unit, or employer pursuant to the
430 administration of this chapter, except to the extent necessary for the proper administration
431 and enforcement of this chapter, shall be held confidential and shall not be subject to
432 subpoena in any civil action or proceeding, published, or open to public inspection, other
433 than to public employees in the performance of their public duties, in any manner
434 revealing the individual's or employing unit's identity; but any claimant, employer, or a
435 duly authorized representative, at a hearing before an administrative hearing officer or
436 the board of review, shall be supplied with information from such records to the extent
437 necessary for the proper presentation of his or her claim. Any person who violates any
438 provision of this paragraph shall upon conviction be guilty of a misdemeanor.

439 (4) Notwithstanding the provisions of Code Sections 50-6-9 and 50-6-29 relating to the
440 powers of the state auditor to disclose private and confidential information or records
441 obtained by the department pursuant to the administration of this chapter or other
442 federally funded programs for which the department has responsibility, such private and

443 confidential information or records may be disclosed by the state auditor only in
444 accordance with all provisions of this article and the requirements of 20 C.F.R. 603 and,
445 after notice and review, upon the written direction of the Commissioner issued in advance
446 of such disclosure.

447 ~~(4)~~(5) On orders of the Commissioner, any records or documents received or maintained
448 by the Commissioner under the provisions of this chapter or the rules and regulations
449 promulgated under this chapter may be destroyed under such safeguards as will protect
450 their confidential nature two years after the date on which such records or documents last
451 serve any useful, legal, or administrative purpose in the administration of this chapter or
452 in the protection of the rights of anyone."

453 **SECTION 12.**

454 This Act shall become effective on July 1, 2009.

455 **SECTION 13.**

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