

House Bill 481 (COMMITTEE SUBSTITUTE)

By: Representatives Graves of the 12th, Burkhalter of the 50th, Keen of the 179th, Ehrhart of the 36th, Rice of the 51st, and others

A BILL TO BE ENTITLED
AN ACT

1 To enact the Jobs, Opportunity, and Business Success Act of 2009; to amend and enact
2 provisions intended to provide for tax relief and encourage employment opportunities and
3 business stimulation; to amend Title 14 of the Official Code of Georgia Annotated, relating
4 to corporations, partnerships, and associations, so as to provide for a period of time for the
5 waiver of certain filing fees otherwise charged in connection with such entities; to amend
6 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
7 so as to provide that for a period of time employers who hire persons receiving employment
8 security benefits shall be entitled to a credit against employer contributions; to amend Title
9 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," so as to
10 provide for credits against state income tax for employers employing certain previously
11 unemployed persons; to eliminate the requirement for dealers to make returns and
12 remittances with respect to estimated sales and use tax liability; to provide for other 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 "Jobs, Opportunity, and Business Success
17 Act of 2009."

18 **SECTION 2.**

19 Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships,
20 and associations, is amended by revising Code Section 14-2-122, relating to fees for filings
21 related to business corporations, as follows:

22 "14-2-122.

23 (a) The Secretary of State shall collect the following fees and penalties when the
24 documents described in this Code section are delivered to him or her for filing:

	<u>Document</u>	<u>Fee</u>
25		
26	(1) Articles of incorporation	\$ 100.00
27	(2) Application for certificate of authority	225.00
28	(3) Annual registration	30.00
29	(4) Penalty for late filing of annual registration	25.00
30	(5) Agent's statement of resignation	No fee
31	(6) Certificate of judicial dissolution	No fee
32	(7) Articles of dissolution or intent to dissolve	No fee
33	(8) Application of withdrawal	No fee
34	(9) Application for reservation of a corporate name	25.00
35	(10) Civil penalty for a foreign corporation transacting business in this state	
36	without a certificate of authority	500.00
37	(11) Statement of change of address of registered agent...\$5.00 per corporation	
38	but not less than	20.00
39	(12) Application for reinstatement	100.00
40	(13) Certificate of conversion	95.00
41	(14) Any other document required or permitted to be filed by this chapter ..	20.00
42	<u>(b) For the period of time beginning July 1, 2009, and ending June 30, 2010, the fees</u>	
43	<u>specified in paragraphs (1) and (2) of subsection (a) of this Code section shall be waived,</u>	
44	<u>and there shall be no fee for such filings."</u>	

SECTION 3.

Said Title 14 is further amended by revising Code Section 14-9-1101, relating to fees for filings related to limited partnerships, as follows:

"14-9-1101.

(a) The Secretary of State shall charge and collect for filing:

	<u>Document</u>	<u>Fee</u>
50		
51	(1) A certificate of limited partnership	\$ 100.00
52	(2) A registration of a foreign limited partnership	225.00
53	(3) An annual registration	30.00
54	(4) Penalty for late filing of annual registration	25.00
55	(5) Agent's statement of resignation	No fee
56	(6) Certificate of cancellation	No fee
57	(7) Application of withdrawal	No fee

58	(8) Statement of change of address of registered agent or registered office...	
59	\$5.00 per limited partnership but not less than	20.00
60	(9) An amendment to a certificate of limited partnership for the purpose of	
61	becoming a limited liability partnership	100.00
62	(10) Certificate of election to become a limited partnership	80.00
63	(11) Certificate of conversion	95.00
64	(12) Application for reservation of a name	25.00
65	(13) Any other document required or permitted pursuant to this chapter	20.00
66	<u>(b) For the period of time beginning July 1, 2009, and ending June 30, 2010, the fees</u>	
67	<u>specified in paragraphs (1) and (2) of subsection (a) of this Code section shall be waived,</u>	
68	<u>and there shall be no fee for such filings."</u>	

69 **SECTION 4.**

70 Said Title 14 is further amended by revising Code Section 14-9-1101, relating to fees for
 71 filings related to limited liability companies, as follows:

72 "14-11-1101.

73 (a) The Secretary of State shall collect the following fees when the documents described
 74 below are delivered to the Secretary of State for filing pursuant to this chapter:

75	<u>Document</u>	<u>Fee</u>
76	(1) Articles of organization	\$ 100.00
77	(2) Articles of amendment	20.00
78	(3) Articles of merger	20.00
79	(4) Certificate of election under Code Section 14-11-212 (together with	
80	articles of organization)	95.00
81	(5) Application for certificate of authority to transact business	225.00
82	(6) Statement of commencement of winding up	No Fee
83	(7) Certificate of termination	No Fee
84	(8) Application of withdrawal	No fee
85	(9) Articles of correction	20.00
86	(10) Application for reservation of a name	25.00
87	(11) Statement of change of registered office or registered agent...\$5.00	
88	per limited liability company (foreign or domestic), but not less than . .	20.00
89	(12) Registered agent's statement of resignation pursuant to subsection (d)	
90	of Code Section 14-11-209 or subsection (d) of Code Section 14-11-703	No fee
91	(13) Certificate of judicial dissolution	No fee

92	(14) Annual registration (foreign or domestic)	30.00
93	(15) Penalty for late filing of annual registration	25.00
94	(16) Reinstatement fee	100.00
95	(17) Any other document required or permitted to be filed by	
96	this chapter	20.00
97	(18) Certificate of conversion	95.00
98	(b) The Secretary of State shall collect the penalty provided for in paragraph (2) of	
99	subsection (c) of Code Section 14-11-711.	
100	(c) <u>For the period of time beginning July 1, 2009, and ending June 30, 2010, the fees</u>	
101	<u>specified in paragraphs (1) and (5) of subsection (a) of this Code section shall be waived,</u>	
102	<u>and there shall be no fee for such filings."</u>	

SECTION 5.

104 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
 105 is amended by revising Code Section 34-8-156, relating to the State-wide Reserve ratio and
 106 reduction in tax rate, by adding a new subsection as follows:

107 "(g) For calendar quarters beginning on or after July 1, 2009, there shall be a credit to be
 108 known as the Georgia Works Tax Credit. The amount of the credit shall be not less than
 109 \$25.00 and not more than \$125.00 per individual employee per calendar quarter, as further
 110 described in this subsection. The determination of the amount of the credit, within the
 111 permissible range, shall be made and periodically revised by the Commissioner based on
 112 the Commissioner's evaluation of conditions in the Georgia labor market, the state of the
 113 economy, and the State-wide Reserve Ratio. The credit may be claimed by an employer
 114 for up to four calendar quarters with respect to an individual hired by that employer for
 115 services to be performed in this state under the following conditions:

116 (1) Such individual:

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

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

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

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

125 (2) The credit for each such hired individual per calendar quarter may be claimed on the
 126 reports required to be filed under Code Section 34-8-165 as a reduction from amounts

otherwise due with respect to each of the four calendar quarters immediately following the hire date of the individual; provided, however, that the credit may not be claimed for any hired individual with respect to more than one hiring by the employer claiming the credit or for more than four calendar quarters with respect to that one hiring;

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

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

(5) No credit shall be claimed or taken by any employer who fails to timely file any report or to timely pay all amounts otherwise due for all calendar quarters during the calendar year for which the credit is claimed. In the event an employer has claimed a credit under this Code section and fails to timely file any report or to timely pay all amounts otherwise due during the year the credit is claimed, the amount of any credits claimed with respect to the calendar year shall be cancelled and become delinquent as of the date originally due under Code Section 34-8-165 and subject to all the provisions of this article as if no credit had ever been available or claimed."

SECTION 6.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new Code section as follows:

"48-7-29.17.

(a) As used in this Code section, the term 'creditable employee' means an employee of an employer who:

(1) Is first employed by the employer on or after the effective date of this Code section and prior to July 1, 2010;

(2) Was unemployed immediately prior to becoming so employed;

(3) Remains so employed by the employer for at least 24 consecutive months;

(4) Executes and provides a notarized affidavit swearing or affirming that such employee is eligible to work in the United States because such person is either a United States citizen or a lawfully present alien according to federal law; and

(5) During the entire period of such employment receives monthly compensation in an amount at least equal to the average monthly employment compensation benefit paid to persons receiving employment compensation benefits in this state.

(b) An employer who has one or more creditable employees and who provides a notarized affidavit attesting to use of the federal employment verification system now know as 'E-Verify' or any future federal employment verification system shall be eligible to apply for and receive a credit against taxes imposed under this chapter. The amount of the credit shall be \$2,400.00 for each creditable employee. Eligibility for the credit shall be established as of the time the creditable employee completes 24 consecutive months of employment; and the credit shall be claimed for the taxable year in which the twenty-fourth month of such employment is completed.

(c) In no event shall the total amount of any tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed to be carried forward to apply to the taxpayer's succeeding two years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(d) The credit shall be claimed and granted in such manner as shall be specified by rules adopted by the commissioner; and such rules shall specifically provide for the manner of establishing the qualifying status of unemployment of the employee prior to employment. The average monthly employment security benefit shall be computed on a monthly basis by the Commissioner of Labor.

(e) For the purpose of determining whether an employee is employed by the employer under subsection (a) of this Code section, employment may include up to 13 weeks continuous prior service for the employer as a temporary employee of a staffing firm. As used in this Code section, staffing firm means an organization that hires its own employees and assigns them to a client to support or supplement the client's work force in special work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects."

SECTION 7.

Said Title 48 is further amended in Code Section 48-8-49, relating to dealers' sales and use tax returns, by revising subsection (b) as follows:

"(b)(1) As used in this subsection, the term 'estimated tax liability' means a dealer's tax liability, adjusted to account for any subsequent change in the state sales and use tax rate, based on the dealer's average monthly payments for the last fiscal year.

(2) ~~If the estimated tax liability of a dealer for any taxable period exceeds \$5,000.00, the~~
~~A dealer shall not be required to file a return and remit to the commissioner not less than~~
~~50 percent of the any estimated tax liability for the taxable period on or before the~~
~~twentieth day of the period. The amount of the payment of the estimated tax liability shall~~
~~be credited against the amount to be due on the return required under subsection (a) of~~
~~this Code section. This subsection shall not apply to any dealer unless during the~~
~~previous fiscal year the dealer's monthly payments exceeded \$5,000.00 per month for~~
~~three consecutive months or more nor shall this subsection apply to any dealer whose~~
~~primary business is the sale of motor fuels who is remitting prepaid state tax under~~
~~paragraph (2) of subsection (b) of Code Section 48-9-14. No local sales taxes shall be~~
~~included in determining any estimated tax liability.~~

(3) Any dealer who has filed a return and remitted any estimated tax liability to the
commissioner which amount has not been credited against the amount to be due on the
return required under subsection (a) of this Code section on or before the effective date
of this paragraph shall be issued a refund check by the commissioner for such amount.
Prior to or in conjunction with the mailing of such refund check, the commissioner shall
mail the dealer the following notice:

'Dear Georgia business owner,

This is a refund of your sales tax deposit, which is returned to you in compliance with
the Jobs, Opportunity, and Business Success Act of 2009 (J.O.B.S). The state will no
longer require you to pay sales tax before it is collected.

The Georgia State House and State Senate passed and the Governor signed the J.O.B.S.
Act (O.C.G.A. 48-8-49) believing that entrepreneurs and business owners, not
government, are best equipped to create jobs and sustainable economic growth for
Georgia.

We appreciate your efforts to create true economic stimulus for our great state.

Thank you!

Georgia General Assembly'''

SECTION 8.

This Act shall become effective upon its approval by the Governor or upon its becoming law
without such approval.

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SECTION 9.

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