

The Senate Finance Committee offered the following substitute to HB 481:

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 change for a
9 limited period of time certain provisions regarding applicability of workers' compensation
10 statutes; to amend Title 48 of the Official Code of Georgia Annotated, the "Georgia Public
11 Revenue Code," so as to provide for a graduated elimination of the corporate income tax for
12 certain corporations; to provide for credits against state income tax for employers employing
13 certain previously unemployed persons; to eliminate the requirement for dealers to make
14 returns and remittances with respect to estimated sales and use tax liability; to provide for
15 other related matters; to provide for an effective date; to repeal conflicting laws; and for other
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

18 This Act shall be known and may be cited as the "Jobs, Opportunity, and Business Success
19 Act of 2009."
20

SECTION 2.

21 Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships,
22 and associations, is amended by revising Code Section 14-2-122, relating to fees for filings
23 related to business corporations, as follows:
24

25 "14-2-122.

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

28	<u>Document</u>	<u>Fee</u>
29	(1) Articles of incorporation	\$ 100.00
30	(2) Application for certificate of authority	225.00
31	(3) Annual registration	30.00
32	(4) Penalty for late filing of annual registration	25.00
33	(5) Agent's statement of resignation	No fee
34	(6) Certificate of judicial dissolution	No fee
35	(7) Articles of dissolution or intent to dissolve	No fee
36	(8) Application of withdrawal	No fee
37	(9) Application for reservation of a corporate name	25.00
38	(10) Civil penalty for a foreign corporation transacting business in this state 39 without a certificate of authority	500.00
40	(11) Statement of change of address of registered agent...\$5.00 per corporation 41 but not less than	20.00
42	(12) Application for reinstatement	100.00
43	(13) Certificate of conversion	95.00
44	(14) Any other document required or permitted to be filed by this chapter . .	20.00

45 (b) For the period of time beginning July 1, 2009, and ending June 30, 2010, the fees
46 specified in paragraphs (1) and (2) of subsection (a) of this Code section shall be waived,
47 and there shall be no fee for such filings."

48 SECTION 3.

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

51 "14-9-1101.

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

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

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

SECTION 4.

Said Title 14 is further amended by revising Code Section 14-11-1101, relating to fees for filings related to limited liability companies, as follows:

"14-11-1101.

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

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

92	(12) Registered agent's statement of resignation pursuant to subsection (d)	
93	of Code Section 14-11-209 or subsection (d) of Code Section 14-11-703	No fee
94	(13) Certificate of judicial dissolution	No fee
95	(14) Annual registration (foreign or domestic)	30.00
96	(15) Penalty for late filing of annual registration	25.00
97	(16) Reinstatement fee	100.00
98	(17) Any other document required or permitted to be filed by	
99	this chapter	20.00
100	(18) Certificate of conversion	95.00
101	(b) The Secretary of State shall collect the penalty provided for in paragraph (2) of	
102	subsection (c) of Code Section 14-11-711.	
103	<u>(c) For the period of time beginning July 1, 2009, and ending June 30, 2010, the fees</u>	
104	<u>specified in paragraphs (1) and (5) of subsection (a) of this Code section shall be waived,</u>	
105	<u>and there shall be no fee for such filings."</u>	

SECTION 5.

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

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

(1) Such individual:

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

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

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

126 (D) Has at least eight weeks of benefit eligibility remaining on his or her current claim
 127 at the time the employer hires the individual;
 128 (2) The credit for each such hired individual per calendar quarter may be claimed on the
 129 reports required to be filed under Code Section 34-8-165 as a reduction from amounts
 130 otherwise due with respect to each of the four calendar quarters immediately following
 131 the hire date of the individual; provided, however, that the credit may not be claimed for
 132 any hired individual with respect to more than one hiring by the employer claiming the
 133 credit or for more than four calendar quarters with respect to that one hiring;
 134 (3) For each calendar quarter for which the credit is claimed, such individual shall be
 135 continuously employed by the employer claiming the credit, and such individual's
 136 employment with that employer shall consist of at least 30 hours per week during each
 137 week of that calendar quarter;
 138 (4) The credit shall be timely claimed for the calendar quarter to which the credit is
 139 applicable, and in no event later than the last day of the reporting month following the
 140 end of the calendar quarter to which the credit is applicable. The credit shall not be
 141 refundable. The credit cannot reduce tax liability below zero; provided, however, that the
 142 credit, if properly and timely claimed, may be carried forward and applied against
 143 contributions due in any subsequent calendar quarter in the same calendar year as
 144 claimed. Any unused credit remaining at the end of a calendar year may not be carried
 145 forward to another calendar year and shall be deemed to have expired; and
 146 (5) No credit shall be claimed or taken by any employer who fails to timely file any
 147 report or to timely pay all amounts otherwise due for all calendar quarters during the
 148 calendar year for which the credit is claimed. In the event an employer has claimed a
 149 credit under this Code section and fails to timely file any report or to timely pay all
 150 amounts otherwise due during the year the credit is claimed, the amount of any credits
 151 claimed with respect to the calendar year shall be canceled and become delinquent as of
 152 the date originally due under Code Section 34-8-165 and subject to all the provisions of
 153 this article as if no credit had ever been available or claimed."

154 **SECTION 6.**

155 Said Title 34 is further amended in Code Section 34-9-2, relating to applicability of workers'
 156 compensation provisions to employers and employees generally, by revising subsection (a)
 157 as follows:

158 "(a)(1) As used in this subsection, the term 'farm laborer' shall include, without
 159 limitation, any person employed by an employer in connection with the raising and
 160 feeding of and caring for wildlife, as such term is defined in paragraph (77) of
 161 Code Section 27-1-2.

162 (2) This chapter shall not apply to common carriers by railroad engaged in intrastate
 163 trade or commerce; nor shall this chapter be construed to lessen the liability of such
 164 common carriers or take away or diminish any right that any employee of such common
 165 carrier or, in case of his or her death, the personal representative of such employee may
 166 have under the laws of this state; nor shall this chapter apply to employees whose
 167 employment is not in the usual course of trade, business, occupation, or profession of the
 168 employer or not incidental thereto; nor to farm laborers or domestic servants; nor to
 169 employers of such employees; nor to any person, firm, or private corporation, including
 170 any public service corporation, that has regularly in service less than three employees in
 171 the same business within this state, unless such employees and their employers
 172 voluntarily elect to be bound; nor to any person performing services as a licensed real
 173 estate salesperson or associate broker who has a written contract of employment
 174 providing that he or she shall perform all services as an independent contractor.

175 (3)(A) Notwithstanding the provisions of paragraph (2) of this subsection, this
 176 paragraph shall apply for the period commencing January 1, 2010, and concluding
 177 December 31, 2011.

178 (B) This chapter shall not apply to common carriers by railroad engaged in intrastate
 179 trade or commerce; nor shall this chapter be construed to lessen the liability of such
 180 common carriers or take away or diminish any right that any employee of such common
 181 carrier or, in case of his or her death, the personal representative of such employee may
 182 have under the laws of this state; nor shall this chapter apply to employees whose
 183 employment is not in the usual course of trade, business, occupation, or profession of
 184 the employer or not incidental thereto; nor to farm laborers or domestic servants; nor
 185 to employers of such employees; nor to any person, firm, or private corporation,
 186 including any public service corporation, that has regularly in service less than ten
 187 employees in the same business within this state, unless such employees and their
 188 employers voluntarily elect to be bound; nor to any person performing services as a
 189 licensed real estate salesperson or associate broker who has a written contract of
 190 employment providing that he or she shall perform all services as an independent
 191 contractor.

192 (C) This paragraph shall stand repealed in its entirety on January 1, 2012.

193 **SECTION 7.**

194 Title 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," is
 195 amended in Code Section 48-7-21, relating to taxation of corporations, by revising
 196 subsection (a) and adding a new subsection as follows:

197 "(a) Except as otherwise provided in subsection (a.1) of this Code section, every Every
198 domestic corporation and every foreign corporation shall pay annually an income tax
199 equivalent to 6 percent of its Georgia taxable net income. Georgia taxable net income of
200 a corporation shall be the corporation's taxable income from property owned or from
201 business done in this state. A corporation's taxable income from property owned or from
202 business done in this state shall consist of the corporation's taxable income as defined in
203 the Internal Revenue Code of 1986, with the adjustments provided for in subsection (b) of
204 this Code section and allocated and apportioned as provided in Code Section 48-7-31.

205 (a.1)(1)(A) For taxable years prior to January 1, 2012, every Georgia domiciled
206 corporation shall pay annually an income tax equivalent to 6 percent of its Georgia
207 taxable net income.

208 (B) For taxable years beginning on or after January 1, 2012, and prior to January 1,
209 2013, every domestic corporation and every foreign corporation shall pay annually an
210 income tax equivalent to 5.5 percent of its Georgia taxable net income.

211 (C) For taxable years beginning on or after January 1, 2013, and prior to January 1,
212 2014, every domestic corporation and every foreign corporation shall pay annually an
213 income tax equivalent to 5.0 percent of its Georgia taxable net income.

214 (D) For taxable years beginning on or after January 1, 2014, and prior to January 1,
215 2015, every domestic corporation and every foreign corporation shall pay annually an
216 income tax equivalent to 4.5 percent of its Georgia taxable net income.

217 (E) For taxable years beginning on or after January 1, 2015, and prior to January 1,
218 2016, every domestic corporation and every foreign corporation shall pay annually an
219 income tax equivalent to 4.0 percent of its Georgia taxable net income.

220 (F) For taxable years beginning on or after January 1, 2016, and prior to January 1,
221 2017, every domestic corporation and every foreign corporation shall pay annually an
222 income tax equivalent to 3.5 percent of its Georgia taxable net income.

223 (G) For taxable years beginning on or after January 1, 2017, and prior to January 1,
224 2018, every domestic corporation and every foreign corporation shall pay annually an
225 income tax equivalent to 3.0 percent of its Georgia taxable net income.

226 (H) For taxable years beginning on or after January 1, 2018, and prior to January 1,
227 2019, every domestic corporation and every foreign corporation shall pay annually an
228 income tax equivalent to 2.5 percent of its Georgia taxable net income.

229 (I) For taxable years beginning on or after January 1, 2019, and prior to January 1,
230 2020, every domestic corporation and every foreign corporation shall pay annually an
231 income tax equivalent to 2.0 percent of its Georgia taxable net income.

232 (J) For taxable years beginning on or after January 1, 2020, and prior to January 1,
 233 2021, every domestic corporation and every foreign corporation shall pay annually an
 234 income tax equivalent to 1.5 percent of its Georgia taxable net income.

235 (K) For taxable years beginning on or after January 1, 2021, and prior to January 1,
 236 2022, every domestic corporation and every foreign corporation shall pay annually an
 237 income tax equivalent to 1 percent of its Georgia taxable net income.

238 (L) For taxable years beginning on or after January 1, 2022, and prior to January 1,
 239 2023, every domestic corporation and every foreign corporation shall pay annually an
 240 income tax equivalent to 0.5 percent of its Georgia taxable net income.

241 (M) For any taxable year beginning on or after January 1, 2023, there shall not be a
 242 corporate income tax and no corporate returns are required.

243 (2) The reduction schedule specified in paragraph (1) of this subsection shall be subject
 244 to the limitations in this paragraph. The reduction otherwise specified to occur in a
 245 taxable year shall be granted for that tax year only if the amount of funds in the Revenue
 246 Shortfall Reserve for the current fiscal year is in excess of 5 percent of the net revenue
 247 of the preceding fiscal year. In the event that insufficient funds are in the Revenue
 248 Shortfall Reserve, then the reduction otherwise specified to occur in the taxable year shall
 249 be postponed until the following taxable year and the schedule of gradual reductions
 250 specified in paragraph (1) of this subsection shall be extended accordingly.

251 (3) Georgia taxable net income of a Georgia domiciled corporation shall be that
 252 corporation's taxable income from property owned or from business done in this state.
 253 A Georgia domiciled corporation's taxable income from property owned or from business
 254 done in this state shall consist of that corporation's taxable income as defined in the
 255 Internal Revenue Code of 1986, with the adjustments provided for in subsection (b) of
 256 this Code section and allocated and apportioned as provided in Code Section 48-7-31."

257 **SECTION 8.**

258 Said Title 48 is further amended by adding a new Code section as follows:

259 "48-7-29.17.

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

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

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

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

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

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

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

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

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

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

296 **SECTION 9.**

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

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

302 ~~(2) If the estimated tax liability of a dealer for any taxable period exceeds \$5,000.00, the~~
 303 ~~A dealer shall not be required to file a return and remit to the commissioner not less than~~
 304 ~~50 percent of the any estimated tax liability for the taxable period on or before the~~
 305 ~~twentieth day of the period. The amount of the payment of the estimated tax liability shall~~
 306 ~~be credited against the amount to be due on the return required under subsection (a) of~~
 307 ~~this Code section. This subsection shall not apply to any dealer unless during the~~
 308 ~~previous fiscal year the dealer's monthly payments exceeded \$5,000.00 per month for~~
 309 ~~three consecutive months or more nor shall this subsection apply to any dealer whose~~
 310 ~~primary business is the sale of motor fuels who is remitting prepaid state tax under~~
 311 ~~paragraph (2) of subsection (b) of Code Section 48-9-14. No local sales taxes shall be~~
 312 ~~included in determining any estimated tax liability.~~

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

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

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

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

328 Thank you!

329 Georgia General Assembly"

330 **SECTION 10.**

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

333 **SECTION 11.**
334 All laws and parts of laws in conflict with this Act are repealed.