

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

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

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

19 style="text-align:center">**SECTION 2.**

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

23 "14-2-122.

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

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

46 **SECTION 3.**

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

49 "14-9-1101.

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

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

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

70 **SECTION 4.**

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

73 "14-11-1101.

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

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

93	(14) Annual registration (foreign or domestic) . . . . .	30.00
94	(15) Penalty for late filing of annual registration . . . . .	25.00
95	(16) Reinstatement fee . . . . .	100.00
96	(17) Any other document required or permitted to be filed by	
97	this chapter . . . . .	20.00
98	(18) Certificate of conversion . . . . .	95.00
99	(b) The Secretary of State shall collect the penalty provided for in paragraph (2) of	
100	subsection (c) of Code Section 14-11-711.	
101	<u>(c) For the period of time beginning July 1, 2009, and ending June 30, 2010, the fees</u>	
102	<u>specified in paragraphs (1) and (5) of subsection (a) of this Code section shall be waived,</u>	
103	<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

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

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

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

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

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

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

## 152 **SECTION 6.**

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

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

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

167 (B) For taxable years beginning on or after January 1, 2012, and prior to January 1,  
168 2013, every domestic corporation and every foreign corporation shall pay annually an  
169 income tax equivalent to 5.5 percent of its Georgia taxable net income.

170 (C) For taxable years beginning on or after January 1, 2013, and prior to January 1,  
171 2014, every domestic corporation and every foreign corporation shall pay annually an  
172 income tax equivalent to 5.0 percent of its Georgia taxable net income.

173 (D) For taxable years beginning on or after January 1, 2014, and prior to January 1,  
174 2015, every domestic corporation and every foreign corporation shall pay annually an  
175 income tax equivalent to 4.5 percent of its Georgia taxable net income.

176 (E) For taxable years beginning on or after January 1, 2015, and prior to January 1,  
177 2016, every domestic corporation and every foreign corporation shall pay annually an  
178 income tax equivalent to 4.0 percent of its Georgia taxable net income.

179 (F) For taxable years beginning on or after January 1, 2016, and prior to January 1,  
180 2017, every domestic corporation and every foreign corporation shall pay annually an  
181 income tax equivalent to 3.5 percent of its Georgia taxable net income.

182 (G) For taxable years beginning on or after January 1, 2017, and prior to January 1,  
183 2018, every domestic corporation and every foreign corporation shall pay annually an  
184 income tax equivalent to 3.0 percent of its Georgia taxable net income.

185 (H) For taxable years beginning on or after January 1, 2018, and prior to January 1,  
186 2019, every domestic corporation and every foreign corporation shall pay annually an  
187 income tax equivalent to 2.5 percent of its Georgia taxable net income.

188 (I) For taxable years beginning on or after January 1, 2019, and prior to January 1,  
189 2020, every domestic corporation and every foreign corporation shall pay annually an  
190 income tax equivalent to 2.0 percent of its Georgia taxable net income.

191 (J) For taxable years beginning on or after January 1, 2020, and prior to January 1,  
192 2021, every domestic corporation and every foreign corporation shall pay annually an  
193 income tax equivalent to 1.5 percent of its Georgia taxable net income.

194 (K) For taxable years beginning on or after January 1, 2021, and prior to January 1,  
195 2022, every domestic corporation and every foreign corporation shall pay annually an  
196 income tax equivalent to 1 percent of its Georgia taxable net income.

197 (L) For taxable years beginning on or after January 1, 2022, and prior to January 1,  
198 2023, every domestic corporation and every foreign corporation shall pay annually an  
199 income tax equivalent to 0.5 percent of its Georgia taxable net income.

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

202 (2) The reduction schedule specified in paragraph (1) of this subsection shall be subject  
 203 to the limitations in this paragraph. The reduction otherwise specified to occur in a  
 204 taxable year shall be granted for that tax year only if the amount of funds in the Revenue  
 205 Shortfall Reserve for the current fiscal year is in excess of 5 percent of the net revenue  
 206 of the preceding fiscal year. In the event that insufficient funds are in the Revenue  
 207 Shortfall Reserve, then the reduction otherwise specified to occur in the taxable year shall  
 208 be postponed until the following taxable year and the schedule of gradual reductions  
 209 specified in paragraph (1) of this subsection shall be extended accordingly.

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

216 **SECTION 7.**

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

218 "48-7-29.17.

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

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

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

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

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

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

231 (b) An employer who has one or more creditable employees and who provides a notarized  
 232 affidavit attesting to use of the federal employment verification system now known as  
 233 'E-Verify' or any future federal employment verification system shall be eligible to apply  
 234 for and receive a credit against taxes imposed under this chapter. The amount of the credit  
 235 shall be \$2,400.00 for each creditable employee. Eligibility for the credit shall be

236 established as of the time the creditable employee completes 24 consecutive months of  
 237 employment; and the credit shall be claimed for the taxable year in which the twenty-fourth  
 238 month of such employment is completed.

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

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

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

255 **SECTION 8.**

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

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

261 ~~(2) If the estimated tax liability of a dealer for any taxable period exceeds \$5,000.00, the~~  
 262 ~~A dealer shall not be required to file a return and remit to the commissioner not less than~~  
 263 ~~50 percent of the any estimated tax liability for the taxable period on or before the~~  
 264 ~~twentieth day of the period. The amount of the payment of the estimated tax liability shall~~  
 265 ~~be credited against the amount to be due on the return required under subsection (a) of~~  
 266 ~~this Code section. This subsection shall not apply to any dealer unless during the~~  
 267 ~~previous fiscal year the dealer's monthly payments exceeded \$5,000.00 per month for~~  
 268 ~~three consecutive months or more nor shall this subsection apply to any dealer whose~~  
 269 ~~primary business is the sale of motor fuels who is remitting prepaid state tax under~~  
 270 ~~paragraph (2) of subsection (b) of Code Section 48-9-14. No local sales taxes shall be~~  
 271 ~~included in determining any estimated tax liability.~~

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

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

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

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

287 Thank you!

288 Georgia General Assembly"

289 **SECTION 9.**

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

292 **SECTION 10.**

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