

House Bill 1030

By: Representative Harbin of the 118th

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 revise the provisions of law relating to the amount and manner
3 of funds collected for the unemployment insurance trust fund; to revise the extent of benefits
4 provided under the employment security law; to revise the powers of the Commissioner of
5 Labor with regard to the employment security law; to provide for related matters; to provide
6 an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment
10 security, is amended by revising Code Section 34-8-70, relating to duties and powers of
11 Commissioner of Labor, as follows:

12 "34-8-70.

13 (a) It shall be the duty of the Commissioner to administer this chapter.

14 (b) The Commissioner shall have power and authority to adopt, amend, or rescind such
15 rules and regulations and to employ such persons, make such expenditures, require such
16 reports, make such investigations, and take such other action as deemed necessary or
17 suitable to that end, and such rules and regulations shall be effective upon publication in
18 the manner, not inconsistent with this chapter, which the Commissioner shall prescribe.

19 (c) The Commissioner shall determine methods of organization and procedure in
20 accordance with this chapter and shall have an official seal, which shall be judicially
21 noticed.

22 (d) Not later than February 1 of each year, the Commissioner shall submit to the Governor
23 a report covering the administration and operation of this chapter during the preceding
24 fiscal year and shall make such recommendations for amendments to this chapter as
25 deemed proper. Such report shall include a balance sheet of the moneys in the fund in
26 which there shall be provided, if possible, a reserve against the liability in the future years

27 to pay benefits in excess of the then current contributions, which reserve shall be
 28 established by the Commissioner in accordance with accepted actuarial principles on the
 29 basis of statistics regarding employment, business activity, and other relevant factors for
 30 the longest possible period.

31 (e) Whenever the Commissioner believes that a change in contribution or benefit rates will
 32 become necessary to protect the solvency of the fund, the Commissioner shall promptly so
 33 inform the Governor and the General Assembly and make recommendations with respect
 34 thereto.

35 (f) The Commissioner shall fully cooperate with the agencies of other states and shall
 36 make every proper effort to oppose and prevent any further action which would in the
 37 Commissioner's judgment tend to effect complete or substantial federalization of state
 38 unemployment compensation funds or state employment security programs. In addition,
 39 the Commissioner may make and may cooperate with other appropriate agencies in making
 40 studies as to the practicality and probable cost of possible new state administered social
 41 security programs and the relative desirability of state, rather than federal, action in any
 42 such field.

43 (g) The Commissioner is authorized to enter into such cooperative agreements or contracts
 44 with appropriate officials in other states or with the United States secretary of labor for the
 45 purpose of the reciprocal collection of overpayments or delinquent contributions, penalties,
 46 interest, and costs or for such other purposes as reasonably relate to the discharge of the
 47 Commissioner's responsibilities under this chapter.

48 (h) Notwithstanding any other provision of this chapter, the Commissioner may recover
 49 an overpayment of benefits paid to any individual under this state or another state's
 50 unemployment benefit law or under an unemployment benefit program of the United
 51 States."

52 **SECTION 2.**

53 Said chapter is further amended by revising paragraph (4) of subsection (d) of Code
 54 Section 34-8-156, relating to the State-wide Reserve Ratio and reduction in tax rate, as
 55 follows:

56 "(4) For the period on or after January 1, 2000:

57 (A) When the State-wide Reserve Ratio, as calculated above, is 2.4 percent or more for
 58 any calendar year, each employer who does not have a deficit reserve balance shall
 59 have its contribution rate at the time of computation credited by applying an overall
 60 reduction of the rate in accordance with the following table:

61 If the State-wide Reserve Ratio:

62	Equals or	But Is	Overall
63	<u>Exceeds</u>	<u>Less Than</u>	<u>Reduction</u>
64	2.4 percent	2.7 percent	25 percent
65	2.7 percent and over		50 percent

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

71 If the State-wide Reserve Ratio:

72	Equals or	But Is	Overall
73	<u>Exceeds</u>	<u>Less Than</u>	<u>Increase</u>
74	1.5 percent	1.7 percent	25 percent
75	1.25 percent	1.5 percent	50 percent
76	0.75 percent	1.25 percent	75 percent
77	Under 0.75 percent		100 percent

78 provided, however, that for the periods of January 1 through December 31, 2004;
79 January 1 through December 31, 2005; and January 1 through December 31, 2006, the
80 overall increase in the rate required under this subparagraph shall be suspended and the
81 provisions of this subparagraph shall be null and void, except in the event the
82 State-wide Reserve Ratio, as calculated above, is less than 1.00 percent on the
83 computation date with respect to rates applicable to calendar year 2004, 2005, or 2006,
84 then for each such year the Commissioner of Labor shall have the option of imposing
85 an increase in the overall rate of up to 35 percent, as of the computation date, for each
86 employer whose rate is computed under a rate table in Code Section 34-8-155; and
87 provided, further, that for the periods of January 1 through December 31, 2007, January
88 1 through December 31, 2008, January 1 through December 31, 2009, January 1
89 through December 31, 2010, January 1 through December 31, 2011, and January 1
90 through December 31, 2012, the overall increase in the rate required under this
91 subparagraph shall be suspended and the provisions of this subparagraph shall be null
92 and void, except in the event the State-wide Reserve Ratio, as calculated above, is less
93 than 1.25 percent on the computation date with respect to rates applicable to calendar
94 year 2007, 2008, 2009, 2010, 2011, or 2012, then for each such year the Commissioner
95 of Labor shall have the option of imposing an increase in the overall rate of up to 50

96 percent, as of the computation date, for each employer whose rate is computed under
 97 a rate table in Code Section 34-8-155."

98 **SECTION 3.**

99 Said chapter is further amended by revising Code Section 34-8-197, relating to eligibility
 100 requirements for extended benefits, as follows:

101 "34-8-197.

102 (a) **Definitions.** As used in this Code section, the term:

103 (1) 'Eligibility period' of an individual means the period consisting of the weeks in his
 104 or her benefit year which begin in an extended benefit period and, if his or her benefit
 105 year ends within such extended benefit period, any weeks thereafter which begin in such
 106 period; provided, however, that with respect to extended benefit periods established under
 107 division (a)(3)(B)(i) of this Code section pertaining to Section 2005 of Public Law 111-5
 108 and any extension thereof that does not impose any new condition upon receipt of 100
 109 percent federal funding, or division (a)(3)(B)(ii) of this Code section pertaining to Section
 110 502 of Public Law 111-312, 'eligibility period' of an individual also means the period
 111 consisting of the weeks during which such individual is eligible for Emergency
 112 Unemployment Compensation provided for by the Supplemental Appropriations Act of
 113 2008, Title IV Emergency Unemployment Compensation, Public Law 110-252, and the
 114 Unemployment Compensation Extension Act of 2008, Public Law 110-449, and any
 115 extension or expansion thereof, when such weeks begin in that extended benefit period
 116 and, if his or her eligibility for such emergency unemployment compensation ends within
 117 such extended benefit period, any weeks thereafter which begin in such period, except
 118 as otherwise limited by the provisions in division (a)(3)(B)(iii) of this Code section.

119 (2) 'Exhaustee' means an individual who, with respect to any week of unemployment in
 120 his or her eligibility period:

121 (A) Has received, prior to such week, all of the regular benefits that were available to
 122 him or her under this chapter or any other state law, including dependents' allowances
 123 and benefits payable to federal civilian employees and ex-service personnel under 5
 124 U.S.C. Chapter 85, in his or her current benefit year that includes such week, provided
 125 that for the purposes of this subparagraph an individual shall be deemed to have
 126 received all of the regular benefits that were available to him or her, although, as a
 127 result of a pending appeal with respect to wages that were not considered in the original
 128 monetary determination in his or her benefit year, he or she may subsequently be
 129 determined to be entitled to added regular benefits;

130 (B) His or her benefit year having expired prior to such week, has no or insufficient
 131 wages on the basis of which he or she could establish a new benefit year that would
 132 include such week; and

133 (C)(i) Has no right to unemployment benefits or allowances under the Railroad
 134 Unemployment Insurance Act and such other federal laws as are specified in
 135 regulations issued by the United States secretary of labor.

136 (ii) Has not received and is not seeking unemployment benefits under the
 137 unemployment compensation law of Canada; but if he or she is seeking such benefits
 138 and the appropriate agency finally determines that he or she is not entitled to benefits
 139 under such law, he or she is considered an exhaustee.

140 (3)(A) 'Extended benefit period' means a period which:

141 (i) Begins with the third week after a week for which there is a state 'on' indicator;
 142 and

143 (ii) Ends with either of the following weeks, whichever occurs later:

144 (I) The third week after the first week for which there is a state 'off' indicator; or

145 (II) The thirteenth consecutive week of such period.

146 However, no extended benefit period may begin by reason of a state 'on' indicator before
 147 the fourteenth week following the end of a prior extended benefit period which was in
 148 effect with respect to this state. There is a state 'on' indicator for a week if, for the period
 149 consisting of such week and the immediately preceding 12 weeks, the rate of insured
 150 unemployment under the state law for the period equaled or exceeded 120 percent of the
 151 average of such rates for the corresponding 13 week period ending in each of the
 152 preceding two calendar years and equaled or exceeded 5 percent.

153 (B)(i) With respect to weeks of unemployment beginning on or after February 1,
 154 2009, there is a state 'on' indicator for a week if:

155 (I) The average rate of total unemployment, seasonally adjusted, as determined by
 156 the United States secretary of labor, for the period consisting of the most recent
 157 three months for which data for all states are published before the close of such
 158 week equals or exceeds 6 1/2 percent; and

159 (II) The average rate of total unemployment in this state, seasonally adjusted, as
 160 determined by the United States secretary of labor, for the three-month period
 161 referred to in subdivision (I) of this subparagraph, equals or exceeds 110 percent of
 162 such average for either or both of the corresponding three-month periods ending in
 163 the two preceding calendar years.

164 (ii) In accordance with the provisions of Section 502(a) of the Tax Relief,
 165 Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L.

- 166 111-312, with respect to weeks of unemployment beginning on or after February 27,
 167 2011, and ending on December 31, 2011, there is a state 'on' indicator for a week if:
- 168 (I) The average rate of total unemployment, seasonally adjusted, as determined by
 169 the United States secretary of labor, for the period consisting of the most recent
 170 three months for which data for all states are published before the close of such
 171 week equals or exceeds 6 1/2 percent; and
- 172 (II) The average rate of total unemployment in this state, seasonally adjusted, as
 173 determined by the United States secretary of labor, for the three-month period
 174 referred to in subdivision (I) of this subparagraph, equals or exceeds 110 percent of
 175 such average for any or all of the corresponding three-month periods ending in the
 176 three preceding calendar years.
- 177 (iii) This subparagraph shall apply only through the week ending four weeks prior to
 178 the last week for which 100 percent federal funding is authorized and provided
 179 pursuant to either Section 2005(a) of Public Law 111-5 or any extension thereof that
 180 does not impose any new condition upon receipt of such federal funding, without
 181 regard to the extension of federal sharing for certain claims as provided under Section
 182 2005(c) of such law.
- 183 (C) There is a state 'off' indicator for a week if, for the period consisting of such week
 184 and the immediately preceding 12 weeks, none of the options specified in
 185 subparagraphs (A) and (B) of this paragraph result in an 'on' indicator.
- 186 (4) 'Rate of insured unemployment,' for purposes of paragraph (3) of this subsection,
 187 means the percentage derived by dividing:
- 188 (A) The average weekly number of individuals filing claims in this state, not including
 189 individuals filing claims for extended benefits or regular benefits claimed by federal
 190 civilian employees and ex-service personnel, for weeks of unemployment with respect
 191 to the most recent 13 consecutive week period, as determined by the Commissioner on
 192 the basis of the Commissioner's reports to the United States secretary of labor; by
- 193 (B) The average monthly employment covered under this chapter for the first four of
 194 the most recent six completed calendar quarters ending before the end of such 13 week
 195 period.
- 196 (5) 'Regular benefits' means benefits payable to an individual under this chapter or under
 197 any other state law, including benefits payable to federal civilian employees and to
 198 ex-service personnel pursuant to 5 U.S.C. Chapter 85, other than extended benefits.
- 199 (6) 'State law' means the unemployment insurance law of any state approved by the
 200 United States secretary of labor under Section 3304 of the Internal Revenue Code.
- 201 (7) 'Suitable work' means, with respect to any individual, any work which is within such
 202 individual's capabilities, provided that, if the individual furnishes evidence satisfactory

203 to the Commissioner that such individual's prospects for obtaining work in the customary
204 occupation of such individual within a reasonably short period are good, the
205 determination of whether any work is suitable work with respect to such individual shall
206 be made in accordance with this chapter.

207 **(b) Applicability of provisions as to regular benefits to claims for and payment of**
208 **extended benefits.** Except when the result would be inconsistent with the other provisions
209 of this Code section, as provided in the regulations of the Commissioner, the provisions of
210 this chapter which apply to claims for, or the payment of, regular benefits shall apply to
211 claims for, and the payment of, extended benefits. To establish entitlement to extended
212 benefits, an individual must have been paid in at least two quarters of the base period and
213 total wages in the base period must equal or exceed 150 percent of the highest quarter base
214 period wages. The alternative computation for entitlement as required by Code Section
215 34-8-193 shall not apply to extended benefits.

216 **(c) Eligibility requirements for extended benefits.** An individual shall be eligible to
217 receive extended benefits with respect to any week of unemployment in the eligibility
218 period of the individual only if the Commissioner finds that with respect to such week:

219 (1) He or she is an 'exhaustee' as defined in paragraph (2) of subsection (a) of this Code
220 section; and

221 (2) He or she has satisfied the requirements of this chapter for the receipt of regular
222 benefits that are applicable to individuals claiming extended benefits, including not being
223 subject to a disqualification for the receipt of benefits; provided, however, that the total
224 extended benefits otherwise payable to an individual who has filed an interstate claim
225 under the interstate benefit payment plan shall not exceed two weeks whenever an
226 extended benefit period is not in effect for such week in the state where the claim is filed;
227 provided, further, if an individual has been disqualified in his or her most recent benefit
228 year or on his or her extended benefit claim, only those who are required to return to
229 work and to earn additional insured wages in employment in order to terminate this
230 disqualification and who satisfy this requirement shall be eligible to receive extended
231 benefits; provided, further, if the benefit year of a claimant ends within an extended
232 benefit period, the number of weeks of extended benefits that such claimant would be
233 entitled to in that extended benefit period, but for this subsection, shall be reduced, but
234 not below zero, by the number of weeks for which the claimant was entitled to trade
235 readjustment allowances during such benefit year. For purposes of this subsection, the
236 terms 'benefit year' and 'extended benefit period' shall have the same respective meanings.

237 **(d) Weekly extended benefit amount.** The weekly extended benefit amount payable to
238 an individual for a week of total unemployment in the eligibility period of such individual

239 shall be an amount equal to the weekly benefit amount payable to him or her during his or
 240 her applicable benefit year.

241 (e) **Total extended benefit amount.** Except as provided in subsection (l) of this Code
 242 section, the total extended benefit amount payable to any eligible individual with respect
 243 to his or her applicable benefit year shall be the least of the following amounts:

244 (1) Fifty percent of the total amount of regular benefits which were payable to him or her
 245 under this chapter in his or her applicable benefit year;

246 (2) Thirteen times his or her weekly benefit amount which was payable to him or her
 247 under this chapter for a week of total unemployment in the applicable benefit year; or

248 (3) Thirty-nine times the individual's weekly benefit amount which was payable to the
 249 individual under this chapter for a week of total unemployment in the applicable benefit
 250 year, reduced by the total amount of regular benefits which were paid or deemed paid to
 251 him or her under this chapter with respect to the benefit year.

252 (f) **Notice as to beginning and termination of extended benefit period.** Whenever an
 253 extended benefit period is to become effective in this state as a result of the state 'on'
 254 indicator or whenever an extended benefit period is to be terminated in this state as a result
 255 of the state 'off' indicator, the Commissioner shall make an appropriate announcement.

256 (g) **Computations.** Computations required by paragraph (4) of subsection (a) of this Code
 257 section shall be made by the Commissioner in accordance with regulations prescribed by
 258 the United States secretary of labor.

259 (h) **Nonpayment of extended benefits for failure to seek or accept work.**
 260 Notwithstanding other provisions of this Code section, payment of extended benefits under
 261 this Code section shall not be made to any individual for any week of unemployment in his
 262 or her eligibility period during which he or she fails:

263 (1) To accept any offer of suitable work or fails to apply for any suitable work to which
 264 he or she was referred by the State Employment Service; or

265 (2) To engage actively in seeking work. For the purposes of this paragraph, an
 266 individual shall be treated as actively engaged in seeking work during any week if:

267 (A) The individual has engaged in a systematic and sustained effort to obtain work
 268 during such week; and

269 (B) The individual provides tangible evidence to the satisfaction of the Commissioner
 270 that he or she has engaged in such an effort during such week.

271 (i) **Period of nonpayment for extended benefits.** If any individual is ineligible for
 272 extended benefits for any week by reason of a failure described in paragraph (1) or (2) of
 273 subsection (h) of this Code section, the individual shall be ineligible to receive extended
 274 benefits for any week which begins during a period which:

275 (1) Begins with the week following the week in which such failure occurs; and

276 (2) Does not end until such individual has been employed during at least four weeks
 277 which begin after such failure and for which the total of the remuneration in insured
 278 wages for services in employment earned by the individual for being so employed is not
 279 less than the product of four multiplied by the individual's weekly benefit amount for his
 280 or her benefit year.

281 (j) **Exceptions to subsection (h) of this Code section.** No individual shall be denied
 282 extended benefits under paragraph (1) of subsection (h) of this Code section for any week
 283 by reason of a failure to accept an offer of or apply for suitable work:

284 (1) If the gross average weekly remuneration payable to such individual for the position
 285 does not exceed the sum of:

286 (A) The individual's weekly benefit amount for such individual's benefit year; and

287 (B) The amount, if any, of supplemental unemployment compensation benefits, as
 288 defined in Code Section 34-8-45, payable to such individual for such week;

289 (2) If the position was not offered to such individual in writing and was not listed with
 290 the State Employment Service;

291 (3) If such failure would not result in a denial of benefits under this chapter to the extent
 292 that such provisions are not inconsistent with paragraph (7) of subsection (a) of this Code
 293 section and the provisions of subsection (h) of this Code section which relate to
 294 individuals actively engaged in seeking work; or

295 (4) If the position pays wages less than the higher of:

296 (A) The minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act
 297 of 1938, without regard to any exemption; or

298 (B) The Georgia minimum wage.

299 (k) **Referral of claimants to suitable work.** A claimant for extended benefits shall be
 300 referred to any suitable work as provided for in paragraph (7) of subsection (a) of this Code
 301 section which is not excluded by subsection (j) of this Code section.

302 (l) Effective with respect to weeks beginning in a high-unemployment period, the total
 303 extended benefit amount payable to an eligible individual with respect to the applicable
 304 benefit year shall be the least of the following amounts:

305 (1) Eighty percent of the total amount of regular benefits that were payable to the
 306 individual pursuant to this chapter in the individual's applicable benefit year;

307 (2) Twenty times the individual's weekly benefit amount that was payable to the
 308 individual pursuant to this chapter for a week of total unemployment in the applicable
 309 benefit year; or

310 (3) Forty-six times the individual's weekly benefit amount which was payable to the
 311 individual under this chapter for a week of total unemployment in the applicable benefit

312 year, reduced by the total amount of regular benefits which were paid or deemed paid to
313 him or her under this chapter with respect to the benefit year.

314 (m) For purposes of subsection (l) of this Code section, 'high-unemployment period' means
315 a period during which an extended benefit period would be in effect if subdivision
316 (a)(3)(B)(i)(I) or, if applicable, subdivision (a)(3)(B)(ii)(I) of this Code section were
317 applied by substituting '8 percent' for '6 1/2 percent.'

318 (n) Subsections (l) and (m) of this Code section shall apply through the week ending four
319 weeks prior to the last week for which 100 percent federal funding is authorized and
320 provided pursuant to either Section 2005(a) of Public Law 111-5 or any extension thereof
321 that does not impose any new condition upon receipt of such federal funding, without
322 regard to the extension of federal sharing for certain claims as provided under Section
323 2005(c) of such law."

324 **SECTION 4.**

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

327 **SECTION 5.**

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