

Senate Bill 447

By: Senators Millar of the 40th, Bethel of the 54th, Goggans of the 7th, Williams of the 19th and Rogers of the 21st

AS PASSED SENATE

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 change certain provisions relating to unemployment
3 compensation; to change the amount of taxable wages; to change certain provisions relating
4 to determination of the weekly benefit amount; to change certain provisions relating to
5 determination of eligibility for unemployment benefits generally so as to require a waiting
6 period of one week; to provide for related matters; to provide for severability; to provide
7 effective dates; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment
11 security, is amended by revising paragraph (1) of subsection (b) of Code Section 34-8-49,
12 relating to wages, as follows:

13 "(1) For the purposes of Code Section 34-8-20 and Articles 5 and 6 of this chapter,
14 except Code Sections 34-8-156 and 34-8-157, any remuneration paid in excess of taxable
15 wages. For purposes of this chapter, 'taxable wages' means that portion of remuneration
16 paid by an employer to each employee, subject to unemployment insurance contributions
17 for each calendar year which does not exceed the following amounts:

18 (A) For the period January 1, 1976, through December 31, 1982 — \$6,000.00;

19 (B) For the period January 1, 1983, through December 31, 1985 — \$7,000.00;

20 (C) For the period January 1, 1986, through December 31, 1989 — \$7,500.00; ~~and~~

21 (D) For the period January 1, 1990, ~~and thereafter~~ through December 31, 2012 —
22 \$8,500.00; ~~and~~

23 (E) January 1, 2013, and thereafter — \$9,500.00;

24 provided, however, that in cases of successorship of an employer, the amount of wages
25 paid by the predecessor shall be considered for purposes of this provision as having been
26 paid by the successor employer;"

27 **SECTION 2.**

28 Said chapter is further amended by revising subparagraph (d)(4)(B) of Code
 29 Section 34-8-156, relating to the State-wide Reserve Ratio, as follows:

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

35 If the State-wide Reserve Ratio:

36	Equals or	But Is	Overall
37	<u>Exceeds</u>	<u>Less Than</u>	<u>Increase</u>
38	1.5 percent	1.7 percent	25 percent
39	1.25 percent	1.5 percent	50 percent
40	0.75 percent	1.25 percent	75 percent
41	Under 0.75 percent		100 percent

42 provided, however, that for the periods of January 1 through December 31, 2004;
 43 January 1 through December 31, 2005; and January 1 through December 31, 2006, the
 44 overall increase in the rate required under this subparagraph shall be suspended and the
 45 provisions of this subparagraph shall be null and void, except in the event the
 46 State-wide Reserve Ratio, as calculated above, is less than 1.00 percent on the
 47 computation date with respect to rates applicable to calendar year 2004, 2005, or 2006,
 48 then for each such year the Commissioner of Labor shall have the option of imposing
 49 an increase in the overall rate of up to 35 percent, as of the computation date, for each
 50 employer whose rate is computed under a rate table in Code Section 34-8-155; and
 51 provided, further, that for the periods of January 1 through December 31, 2007, January
 52 1 through December 31, 2008, January 1 through December 31, 2009, January 1
 53 through December 31, 2010, January 1 through December 31, 2011, and January 1
 54 through December 31, 2012, the overall increase in the rate required under this
 55 subparagraph shall be suspended and the provisions of this subparagraph shall be null
 56 and void, except in the event the State-wide Reserve Ratio, as calculated above, is less
 57 than 1.25 percent on the computation date with respect to rates applicable to calendar
 58 year 2007, 2008, 2009, 2010, 2011, or 2012, then for each such year the Commissioner
 59 of Labor shall have the option of imposing an increase in the overall rate of up to 50
 60 percent, as of the computation date, for each employer whose rate is computed under
 61 a rate table in Code Section 34-8-155; and provided, further, that for the period of
 62 January 1 through December 31, 2013, and for each calendar year period thereafter, the

63 overall increase in the rate required under this subparagraph shall be suspended and the
 64 provisions of this subparagraph shall be null and void, except in the event the
 65 State-wide Reserve Ratio, as calculated above, is less than 1.25 percent on the
 66 computation date with respect to rates applicable to calendar year 2013 or any calendar
 67 year thereafter, then for each such year the Commissioner of Labor shall have the
 68 option of imposing an increase in the overall rate of up to 50 percent, as of the
 69 computation date, for each employer whose rate is computed under a rate table in Code
 70 Section 34-8-155; provided, however, that if any funds borrowed by the Commissioner
 71 from the United States Treasury pursuant to Code Section 34-8-87 are unpaid or if the
 72 Unemployment Compensation Fund balance is less than \$1 billion, then the
 73 Commissioner of Labor shall impose an increase in the overall rate of 50 percent, as of
 74 the computation date, for each employer whose rate is computed under a rate table in
 75 Code Section 34-8-155."

76 **SECTION 3.**

77 Said chapter is further amended by revising subsection (d) of Code Section 34-8-193, relating
 78 to determination of weekly benefit amount, as follows:

79 "(d)(1) Except as otherwise provided in this subsection, the maximum benefits payable
 80 to an individual in a benefit year shall be the lesser of: ~~26 times the weekly amount or~~
 81 (A) Twelve times the weekly benefit amount, if this state's average unemployment rate
 82 is at or below 5.49 percent, with an additional weekly amount added for each 0.5
 83 percent increment in this state's average unemployment rate above 5.49 percent up to
 84 a maximum of 20 times the weekly benefit amount if this state's average unemployment
 85 rate equals or exceeds 9 percent; or
 86 (B) ~~one-fourth~~ One-fourth of the base period wages.

87 If the amount computed is not a multiple of the weekly benefit amount, the total will be
 88 adjusted to the nearest multiple of the weekly benefit amount. The duration of benefits
 89 shall be extended in accordance with Code Section 34-8-197.

90 (2) In addition to and subsequent to payment of all benefits otherwise allowed under
 91 paragraph (1) of this subsection and without restriction with respect to an individual's
 92 benefit year, for claims filed on or after January 1, 2010, weekly unemployment
 93 compensation shall be payable under this subsection to any individual who is
 94 unemployed, has exhausted all rights to regular unemployment compensation under the
 95 provisions of Article 7 of this chapter, and is enrolled and making satisfactory progress,
 96 as determined by the Commissioner, in a training program approved by the department,
 97 or in a job training program authorized under the Workforce Investment Act of 1998,
 98 Public Law 105-220, and not receiving similar stipends or other training allowances for

99 nontraining costs. Each such training program approved by the department or job
 100 training program authorized under the Workforce Investment Act of 1998 shall prepare
 101 individuals who have been separated from a declining occupation, as designated by the
 102 department from time to time, or who have been involuntarily and indefinitely separated
 103 from employment as a result of a permanent reduction of operations at the individual's
 104 place of employment, for entry into a high-demand occupation, as designated by the
 105 department from time to time. The amount of unemployment compensation payable
 106 under this subsection to an individual for a week of unemployment shall be equal to the
 107 individual's weekly benefit amount for the individual's most recent benefit year less
 108 deductible earnings, if any. The total amount of unemployment compensation payable
 109 under this subsection to any individual shall be equal to ~~at least 26~~ 12 times the
 110 individual's weekly benefit amount for the individual's most recent benefit year, if this
 111 state's average unemployment rate is at or below 5.49 percent, with an additional weekly
 112 amount added for each 0.5 percent increment in this state's average unemployment rate
 113 above 5.49 percent up to a maximum of 20 times the weekly benefit amount if this state's
 114 average unemployment rate equals or exceeds 9 percent. The provisions of subsection
 115 (d) of Code Section 34-8-195 shall apply to eligibility for benefits under this subsection.
 116 Except when the result would be inconsistent with other provisions of this subsection, all
 117 other provisions of Article 7 of this chapter shall apply to the administration of the
 118 provisions of this subsection.

119 (3) As used in this subsection, the term 'state's average unemployment rate' means the
 120 average of the adjusted state-wide unemployment rates as published by the department
 121 for the time periods of April 1 through April 30 and October 1 through October 31. The
 122 average of the adjusted state-wide unemployment rates for the time period of April 1
 123 through April 30 shall be effective on and after July 1 of each year and shall be effective
 124 through December 31. The average of the adjusted state-wide unemployment rates for the
 125 time period of October 1 through October 31 shall be effective on and after January 1 of
 126 each year and shall be effective through June 30."

127 SECTION 4.

128 Said chapter is further amended by revising subsection (a) of Code Section 34-8-195, relating
 129 to determination of eligibility for unemployment benefits generally, eligibility while in
 130 training, and deductions and withholdings from compensation, as follows:

131 "(a) An unemployed individual shall be eligible to receive benefits for any week only if
 132 such unemployed individual shows to the satisfaction of the Commissioner that each of the
 133 following conditions has been met:

134 (1) The individual has made a claim, has been unemployed or employed less than full
135 time during the regular work week, and has reported his or her deductible earnings in
136 accordance with Code Section 34-8-190;

137 (2) The individual has registered for work and has continued to report to an employment
138 office as required by regulations prescribed by the Commissioner. The Commissioner
139 may, by regulation, waive or alter either or both of the requirements of this paragraph for
140 cases or situations in which the Commissioner finds that compliance with the
141 requirements would be oppressive or inconsistent with the purposes of this chapter;

142 (3)(A) The individual is able to work, is available for work, is actively seeking work,
143 and is bona fide in the labor market; provided, however, that no individual shall be
144 considered available for work or receive benefits for any period that:

145 (i) The individual is away from work on vacation or leave of absence at the
146 individual's own request;

147 (ii) The individual is away from work for a vacation period as provided in an
148 employment contract or collective bargaining agreement; or

149 (iii) The individual is away from work for a vacation period in the absence of an
150 employment contract or collective bargaining agreement and such vacation period is
151 either pursuant to:

152 (I) An established employer custom, practice, or policy as evidenced by the
153 previous year or years; or

154 (II) A vacation policy and practice established by the employer by an
155 announcement, made at least 30 days before the beginning of the scheduled period,
156 of a paid vacation plan applicable to the employees who meet the eligibility
157 requirements of the plan.

158 (B) In no event shall an employee be held unavailable for work or ineligible for
159 benefits under divisions (ii) and (iii) of subparagraph (A) of this paragraph for any
160 period of more than two weeks in any calendar year when such employee is not paid
161 for such period directly or indirectly by the employer or from a fund to which the
162 employer contributes. The usual eligibility requirements shall apply to individuals laid
163 off due to lack of work or for a purported vacation not meeting the conditions set forth
164 in subparagraph (A) of this paragraph;

165 (4) The individual has participated in reemployment services, such as job search
166 assistance services, if the individual was determined to be likely to exhaust regular
167 benefits and to need reemployment services pursuant to a profiling system established by
168 the Commissioner unless the Commissioner determines that:

169 (A) Such individual has completed such reemployment services; or

170 (B) There is justifiable cause for such individual's failure to participate in such
171 reemployment services;

172 (5) The individual is willing to work under the same general terms and conditions as
173 existed since the beginning of the base period; ~~and~~

174 (6) The individual has been paid sufficient wages for insured work to qualify for a
175 weekly benefit amount as provided in Code Section 34-8-193; and

176 (7) The individual has served a required waiting period of one week during which no
177 benefits shall be payable; provided, however, that not more than one week of a waiting
178 period shall be required of any individual in any benefit year in order to establish the
179 individual's eligibility for benefits. Such waiting period shall commence on the first day
180 of the first week in which the individual first files a claim for benefits. This paragraph
181 shall apply to any claims filed on or after July 1, 2012."

182 **SECTION 5.**

183 In the event any section, subsection, paragraph, subparagraph, item, sentence, clause, phrase,
184 or word of this Act is declared or adjudged to be invalid or unconstitutional, the remaining
185 portions of this Act shall automatically be repealed upon the entry of such declaration or
186 adjudication and shall not remain of full force and effect after such declaration or
187 adjudication. The General Assembly declares that it would not have enacted the remaining
188 parts of this Act if it had known that such portion of this Act would be declared or adjudged
189 invalid or unconstitutional.

190 **SECTION 6.**

191 (a) Except as provided in subsection (b) of this section, this Act shall become effective upon
192 its approval by the Governor or upon its becoming law without such approval.

193 (b) Section 3 of this Act shall become effective on July 1, 2012.

194 **SECTION 7.**

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