

The House Committee on Industry and Labor offers the following substitute to HB 714:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 7 of Chapter 8 of Title 34 of the Official Code of Georgia Annotated,  
2 relating to benefits relative to employment security, so as to provide changes to the  
3 determination of eligibility for unemployment benefits of certain persons performing certain  
4 services; to provide for related matters; to provide for an effective date; to repeal conflicting  
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 7 of Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to  
9 benefits relative to employment security, is amended by revising Code Section 34-8-196,  
10 relating to determination of eligibility for benefits of aliens and other persons performing  
11 certain services, as follows:

12 "34-8-196.

13 (a) ~~Benefits based on service in educational institutions.~~ Benefits based on service in  
14 employment as defined in subsections (h) and (i) of Code Section 34-8-35 shall be payable  
15 in the same amount, on the same terms, and subject to the same conditions as compensation  
16 payable on the basis of other services subject to this chapter, except as otherwise provided  
17 in this Code section.

18 (b)(1) With respect to services performed in an instructional, research, or principal  
19 administrative capacity for any educational institution, including those operated by the  
20 United States government or any of its instrumentalities, divisions, or agencies, benefits  
21 shall not be paid during periods of unemployment if services were performed in the prior  
22 year, term, or vacation period and there is a contract or a reasonable assurance of  
23 returning to work for an educational institution immediately following the period of  
24 unemployment. Such periods of unemployment include those occurring:

25 (A) Between two successive academic terms or years;

26 (B) During an established and customary vacation period or holiday recess;

27 (C) During the time period covered by an agreement that provides instead for a similar  
 28 period between two regular but not successive terms; or

29 (D) During a period of paid sabbatical leave provided for in the individual's contract;  
 30 ~~and~~

31 (2) With respect to services performed in any other capacity with any educational  
 32 institution, including those operated by the United States government or any of its  
 33 instrumentalities, divisions, or agencies, benefits shall not be paid during periods of  
 34 unemployment if services were performed in the prior year, term, or vacation period and  
 35 there is a reasonable assurance of returning to work for an educational institution  
 36 immediately following the period of unemployment. If compensation is denied pursuant  
 37 to this paragraph to an individual, however, and that individual is not offered an  
 38 opportunity to perform services for the educational institution following the unemployed  
 39 period, such individual shall be entitled to retroactive payment for each week during that  
 40 period of unemployment a timely claim was filed and benefits were denied solely by  
 41 reason of this paragraph. Such periods of unemployment include those occurring:

42 (A) Between two successive academic years or terms; or

43 (B) During an established and customary vacation period or holiday recess; ~~and~~

44 (3) Benefits shall not be paid as specified in paragraphs (1) and (2) of this subsection to  
 45 any individual for any week of unemployment if the individual performs such services  
 46 in an educational institution while in the employ of an educational service agency. For  
 47 the purposes of this paragraph, the term 'educational service agency' means a  
 48 governmental agency or governmental entity that is established and operated exclusively  
 49 for the purpose of providing such services to one or more educational institutions.

50 (4) For the purposes of this paragraph, the term 'educational institution' includes the  
 51 voluntary programs established in paragraph (1) of Code Section 20-1A-4. Benefits shall  
 52 not be paid as specified in paragraphs (1) and (2) of this subsection on the basis of  
 53 services in any such capacities to any individual who performed those services for any  
 54 employer holding a contractual relationship with the educational institution to provide  
 55 services to, for, with, or on behalf of an educational institution or an institution of higher  
 56 education during periods of unemployment if such services were performed in the prior  
 57 year, term, or vacation period and there is a reasonable assurance of returning to work for  
 58 an educational institution immediately following the period of unemployment. If  
 59 compensation is denied pursuant to this paragraph to an individual, however, and that  
 60 individual is not offered an opportunity to perform services for the educational institution  
 61 following the unemployed period, such individual shall be entitled to retroactive payment  
 62 for each week during that period of unemployment a timely claim was filed and benefits

63 were denied solely by reason of this paragraph. Such periods of unemployment include  
 64 those occurring:

65 (A) Between two successive academic years or terms; or

66 (B) During an established and customary vacation period or holiday recess.

67 ~~(b)(c)~~ **Benefits based on services in professional sports.** Benefits shall not be paid to an  
 68 individual on the basis of any services substantially all of which consist of participating in  
 69 professional sports or athletic events or of training or preparing to so participate for any  
 70 week which begins during the period between two successive sport seasons or similar  
 71 periods if such individual performed such services in the first of such seasons or similar  
 72 periods and there is a reasonable assurance that such individual will perform such services  
 73 in the ~~later~~ latter of such seasons or similar periods.

74 ~~(c)(d)~~ **Benefits based on services performed by aliens.**

75 (1) Benefits shall not be paid to an individual based on services performed by an alien  
 76 unless such alien was lawfully admitted for permanent residence at the time such services  
 77 were performed, was lawfully present for purposes of performing such services, or was  
 78 permanently residing in the United States under color of law at the time such services  
 79 were performed.

80 (2) Any data or information required of individuals applying for benefits to determine  
 81 whether benefits are payable because of their alien status shall be uniformly required  
 82 from all applicants for benefits.

83 (3) In the case of an individual whose application for benefits would otherwise be  
 84 approved, no determination that benefits to such individual are not payable because of the  
 85 individual's alien status shall be made except upon a preponderance of the evidence.

86 ~~(d)(e)~~ As used in this Code section, the term 'reasonable assurance' means a written,  
 87 verbal, or implied agreement between an employer and its employee that such employee  
 88 will be returned to employment following the period of unemployment."

89 **SECTION 2.**

90 This Act shall become effective on January 1, 2015.

91 **SECTION 3.**

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