

The Senate Insurance and Labor Committee offered the following substitute to HB 714:

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 8 of Title 34 and Title 50 of the Official Code of Georgia Annotated,
 2 relating to employment security and state government, respectively, so as to change certain
 3 provisions, processes, and procedures affecting unemployment insurance and benefits; to
 4 change certain provisions relating to the disposition of fines, penalties, and interest collected;
 5 to change certain provisions relating to regular benefits paid to be charged against experience
 6 rating account; to change certain provisions relating to benefit claims; to provide changes to
 7 the determination of eligibility for unemployment benefits of certain persons performing
 8 certain services; to provide for definitions; to change certain provisions relating to review of
 9 a decision of a hearing officer by the board of review; to change certain provisions relating
 10 to procedures for judicial review; to change certain provisions relating to the process of
 11 issuing, quashing, modifying, or withdrawing subpoenas; to change certain provisions
 12 relating to overpayments of benefits; to change the penalty amount added to an overpayment
 13 as a result of a false statement or misrepresentation; to change certain provisions relating to
 14 hearings of the Department of Labor relative to unemployment benefits or overpayment of
 15 unemployment benefits; to provide for related matters; to provide for an effective date; to
 16 repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment
 20 security, is amended by revising Code Section 34-8-92, relating to the disposition of fines,
 21 penalties, and interest collected, by designating the existing language as subsection (a) and
 22 adding a new subsection to read as follows:

23 "(b) Notwithstanding subsection (a) of this Code section, any amounts collected pursuant
 24 to Code Section 34-8-255 shall be returned to the Unemployment Compensation Fund to
 25 be used exclusively for the purposes of this chapter as required by federal law."

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SECTION 2.

Said chapter is further amended by revising subsection (b) of Code Section 34-8-157, relating to regular benefits paid to be charged against experience rating account, as follows:

"(b) Regular benefits paid with respect to all benefit years that begin on or after January 1, 1992, shall be charged against the experience rating account or reimbursement account of employers in the following manner:

(1) Benefits paid shall be charged to the account of the most recent employer, as that term is defined in Code Section 34-8-43, including benefits paid based upon insured wages which were earned to requalify following a period of disqualification as provided in Code Section 34-8-194;

(2)(A) Benefits Except as otherwise provided in paragraph (3) of this subsection, benefits charged to the account of an employer shall not exceed the amount of wages paid by such employer during the period beginning with the base period of the individual's claim and continuing through the individual's benefit year.

(B) In the event the provisions of subparagraph (A) of this paragraph are determined by the United States secretary of labor or by a court of competent jurisdiction at a subsequent level of appeal, such appeal to be taken at the sole discretion of the Commissioner, to be out of conformity with federal law, the provisions of subparagraph (A) of this paragraph shall be considered null and void and the provisions of this subparagraph shall control. Benefits charged to the account of an employer shall not exceed the amount of wages paid by such employer during the period beginning with the base period of the individual's claim and continuing through the individual's benefit year; provided, however, the portion of such charges for benefits paid which exceed the amount of wages paid by such employer shall be charged against the experience rating account of all base period employers in the manner provided in subsection (a) of this Code section.

(C) Benefits Except as otherwise provided in paragraph (3) of this subsection, benefits shall not be charged to the account of an employer when an individual's overpayment is waived pursuant to Code Section 34-8-254.

(D) ~~Notwithstanding any other provision of this subsection to the contrary~~ Except as otherwise provided in paragraph (3) of this subsection, for the purposes of calculating an employer's contribution rate, an account of an employer shall not be charged for benefits paid to an individual for unemployment that is directly caused by a presidentially declared natural disaster;

(3)(A) ~~An employer's account may be charged for benefits paid due to the employer's failure to respond in a timely manner to the notice of claim filing even if the determination is later reversed on appeal~~ An employer shall respond in a timely and

63 adequate manner to a notice of a claim filing or a written request by the department for
 64 information relating to a claim for benefits.

65 (B) Any violation of subparagraph (A) of this paragraph by an employer or an officer
 66 or agent of an employer absent good cause may result in the employer's account being
 67 charged for overpayment of benefits paid due to such violation even if the
 68 determination is later reversed; provided, however, that upon the finding of three
 69 violations of subparagraph (A) of this paragraph within a calendar year resulting in an
 70 overpayment of benefits, an employer's account shall be charged for any additional
 71 overpayment and shall not be relieved of such charges unless good cause is shown; and

72 (4) Benefits paid to individuals shall be charged against the Unemployment Trust Fund
 73 when benefits are paid but not charged against an employer's experience rating account
 74 as provided in this Code section."

75 **SECTION 3.**

76 Said chapter is amended by revising paragraphs (1) and (2) of subsection (d) of Code Section
 77 34-8-193, relating to benefit claims, as follows:

78 "(d)(1) Except as otherwise provided in this subsection, the maximum benefits payable
 79 to an individual in a benefit year shall be the lesser of:

80 (A) Fourteen times the weekly benefit amount, if this state's average unemployment
 81 rate is at or below 6.5 percent, with an additional weekly amount added for each 0.5
 82 percent increment in this state's average unemployment rate above 6.5 percent up to a
 83 maximum of 20 times the weekly benefit amount if this state's average unemployment
 84 rate equals or exceeds 9 percent; or

85 (B) One-fourth of the base period wages.

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

89 (2) In addition to and subsequent to payment of all benefits otherwise allowed under
 90 paragraph (1) of this subsection ~~and without restriction with respect to an individual's~~
 91 ~~benefit year, for claims filed on or after January 1, 2010~~ whenever the average rate of
 92 total unemployment in this state, seasonally adjusted, as determined by the United States
 93 secretary of labor, for the period consisting of the most recent three months for which
 94 data for all states are published before the close of such week equals or exceeds 11
 95 percent, weekly unemployment compensation shall be payable under this subsection to
 96 any individual who is unemployed, has exhausted all rights to regular unemployment
 97 compensation under the provisions of Article 7 of this chapter, and is enrolled and
 98 making satisfactory progress, as determined by the Commissioner, in a training program

99 approved by the department, or in a job training program authorized under the Workforce
 100 Investment Act of 1998, Public Law 105-220, and not receiving similar stipends or other
 101 training allowances for nontraining costs. Each such training program approved by the
 102 department or job training program authorized under the Workforce Investment Act of
 103 1998 shall prepare individuals who have been separated from a declining occupation, as
 104 designated by the department from time to time, or who have been involuntarily and
 105 indefinitely separated from employment as a result of a permanent reduction of
 106 operations at the individual's place of employment, for entry into a high-demand
 107 occupation, as designated by the department from time to time. The amount of
 108 unemployment compensation payable under this subsection to an individual for a week
 109 of unemployment shall be equal to the individual's weekly benefit amount for the
 110 individual's most recent benefit year less deductible earnings, if any. The total amount
 111 of unemployment compensation payable under this subsection to any individual shall be
 112 equal to 14 times the individual's weekly benefit amount for the individual's most recent
 113 benefit year, if this state's average unemployment rate is at or below 6.5 percent, with an
 114 additional weekly amount added for each 0.5 percent increment in this state's average
 115 unemployment rate above 6.5 percent up to a maximum of 20 times the weekly benefit
 116 amount if this state's average unemployment rate equals or exceeds 9 percent. The
 117 provisions of subsection (d) of Code Section 34-8-195 shall apply to eligibility for
 118 benefits under this subsection. Except when the result would be inconsistent with other
 119 provisions of this subsection, all other provisions of Article 7 of this chapter shall apply
 120 to the administration of the provisions of this subsection."

121 **SECTION 4.**

122 Said chapter is further amended by revising Code Section 34-8-196, relating to determination
 123 of eligibility for benefits of aliens and other persons performing certain services, as follows:

124 "34-8-196.

125 (a) **Benefits based on service in educational institutions employment as defined in**
 126 **subsections (h) and (i) of Code Section 34-8-35.** Benefits based on service in
 127 employment as defined in subsections (h) and (i) of Code Section 34-8-35 shall be payable
 128 in the same amount, on the same terms, and subject to the same conditions as compensation
 129 payable on the basis of other services subject to this chapter, except as otherwise provided
 130 in this Code section.

131 (b) **Benefits based on service in educational institutions.**

132 (1) For the purposes of this subsection, the term:

133 (A) 'Educational institution' means any voluntary pre-kindergarten program,
 134 elementary or secondary school, postsecondary institution, or other provider of

135 educational services, irrespective of whether such program, school, institution, or other
 136 provider is public or private or nonprofit or operated for profit, provided that it:

137 (i) Is approved, licensed, or issued a permit, grant, or other authority to operate as a
 138 program, school, institution, or other provider of educational services by a federal,
 139 state, or local government or any of the instrumentalities, divisions, or agencies
 140 thereof with the authority to do so; and

141 (ii) Offers, by or under the guidance of teachers or instructors, an organized course
 142 of study or training in a facility or through distance learning which is academic,
 143 technical, trade related, or preparation for gainful employment in a recognized
 144 occupation.

145 The Commissioner is authorized to establish by rules or regulations such exceptions or
 146 exemptions from the term 'educational institution,' as defined in this paragraph, as he
 147 or she shall deem appropriate, consistent with any federal program requirements
 148 applicable to this chapter.

149 (B) 'Educational service contractor' means any public or private employer or other
 150 person or entity holding a contractual relationship with any educational institution or
 151 other person or entity to provide services to, for, with, or on behalf of any educational
 152 institution.

153 (C) 'Educational service worker' means any person who performs services to, for, with,
 154 or on behalf of any educational institution, regardless of whether such person is
 155 engaged to perform such services by the educational institution or through an
 156 educational service contractor.

157 ~~(1)~~(2) With respect to services performed by an educational service worker in an
 158 instructional, research, or principal administrative capacity to, for, with, or on behalf of
 159 any educational institution, including those operated by the United States government or
 160 any of its instrumentalities, divisions, or agencies, benefits shall not be paid during
 161 periods of unemployment if services in such educational service worker capacity were
 162 performed in the prior year, term, or vacation period and there is a contract or a
 163 reasonable assurance of returning to work for an any such educational institution or any
 164 educational service contractor immediately following the period of unemployment. Such
 165 periods of unemployment include those occurring:

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

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

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

170 (D) During a period of paid sabbatical leave provided for in the individual's contract;

171 and

172 ~~(2)~~(3) With respect to services performed by an educational service worker in any other
 173 capacity to, for, with, or on behalf of any educational institution, including those operated
 174 by the United States government or any of its instrumentalities, divisions, or agencies,
 175 benefits shall not be paid during periods of unemployment if services in such educational
 176 service worker capacity were performed in the prior year, term, or vacation period and
 177 there is a reasonable assurance of returning to work for ~~an~~ any such educational
 178 institution or any educational service contractor immediately following the period of
 179 unemployment. If compensation is denied pursuant to this paragraph to an individual,
 180 however, and ~~that~~ such individual is not offered an opportunity to perform services for
 181 ~~the~~ any educational institution or to provide services to, for, with, or on behalf of any
 182 educational institution for any educational service contractor following the unemployed
 183 period, such individual shall be entitled to retroactive payment for each week during that
 184 period of unemployment a timely claim was filed and benefits were denied solely by
 185 reason of this paragraph. Such periods of unemployment include those occurring:

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

187 (B) During an established and customary vacation period or holiday recess, ~~and~~

188 ~~(3)~~(4) Benefits shall not be paid as specified in paragraphs ~~(1) and (2)~~ and (3) of this
 189 subsection to any individual for any week of unemployment if the individual performs
 190 such services in an educational institution while in the employ of an educational service
 191 agency. For the purposes of this paragraph, the term 'educational service agency' means
 192 a governmental agency or governmental entity that is established and operated
 193 exclusively for the purpose of providing such services to one or more educational
 194 institutions.

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

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

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

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

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

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

217 **SECTION 5.**

218 Said chapter is further amended by revising Code Section 34-8-221, relating to review of
 219 decision of hearing officer by the board of review, as follows:

220 "34-8-221.

221 (a) The board of review may on its own motion affirm, modify, or set aside any decision
 222 of an administrative hearing officer on the basis of the evidence previously submitted in
 223 such case or direct the taking of additional evidence or may permit any of the parties to
 224 such decision to initiate further appeals before the board of review. The board of review
 225 shall promptly notify the parties to any proceedings of its findings and decision. The
 226 decision of the board shall ~~be~~ become final 15 days from the date the decision is mailed to
 227 the parties.

228 (b) The board of review may, in its discretion and on its own motion, reconsider its ~~final~~
 229 decision at any time within 15 days ~~of the release of the final decision of the board~~ from
 230 the date the decision is mailed to the parties. The board shall notify all concerned parties
 231 of its intent to reconsider a final decision. Such notice shall stay the process of judicial
 232 review until a final decision is released by the board.

233 (c) The quorum for the board of review shall be two members. No meeting of the board
 234 shall be scheduled when it is anticipated that less than two members will be present, and
 235 no hearing shall be held nor decision released by the board in which less than two members
 236 participated.

237 (d) In the event only two members are able to vote on a case and one member votes to
 238 affirm the decision of the administrative hearing officer but the other member votes to
 239 reverse the decision or remand the case for another hearing, the decision of the
 240 administrative hearing officer shall stand affirmed.

241 (e) The Commissioner shall provide the board of review and the office of administrative
 242 appeals with proper facilities and assistants for the execution of their functions."

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SECTION 6.

Said chapter is further amended by revising Code Section 34-8-223, relating to procedures for judicial review, as follows:

"34-8-223.

(a) Any decision of the board of review, in the absence of a reconsideration as provided in subsection ~~(d)~~ (b) of Code Section ~~34-8-192~~ 34-8-221, shall become final 15 days after the date of notification or mailing. Judicial review shall be permitted only after any party claiming to be aggrieved thereby has exhausted his or her administrative remedies as provided by this chapter. The Commissioner shall be deemed to be a party to any judicial action involving any such decision and shall be represented in any such judicial action by the Attorney General.

(b) Within 15 days after the decision of the board of review has become final, any party aggrieved thereby may secure judicial review by filing a petition against the Commissioner in the superior court of the county where the employee was last employed. In the event the individual was last employed in another state, such appeal shall be filed in Fulton County, Georgia. Any other party to the proceeding before the board of review shall be made a respondent. The petition, which need not be verified but which shall state specifically the grounds upon which a review is sought, shall be served upon the Commissioner ~~or upon such person as the Commissioner may designate, or upon his or her designee within 30 days from the date of filing.~~ Such service upon the Commissioner shall be made by certified mail or statutory overnight delivery, return receipt requested; hand delivery; or in a manner prescribed by the law of this state for service of process to Georgia Department of Labor, Unemployment Insurance Legal Section, Suite 826, 148 Andrew Young International Boulevard, N.E., Atlanta, GA 30303-1751. Such ~~and such~~ service shall be deemed completed service on all parties, but there shall be ~~left with the party~~ upon the Commissioner or his or her designee as many copies of the petition as there are respondents. The Commissioner shall mail one such copy to each such respondent. Within 30 days after the service of the petition, the Commissioner shall certify and file with the superior court all documents and papers and a transcript of all testimony taken in the matter, together with the board of review's findings of fact and decision therein. The Commissioner shall not be required to furnish any person with a copy of the aforementioned documents, papers, or transcripts or the original of these items prior to the Commissioner's filing these items with the court. The Commissioner may also, in his or her discretion, certify to such court questions of law involved in any decision. As a guide for future interpretation of the law, when the Commissioner is aggrieved by any decision of the board of review or deems such decision contrary to the law and no other party enters an appeal therefrom, the Commissioner may, within 20 days after such decision has

280 become final, appeal and certify to the superior court questions of law therein involved.
 281 The court shall consider and determine the same and enter a decree accordingly, which
 282 shall be subject to further appeal by the Commissioner. In any judicial proceeding under
 283 this Code section, the findings of the board of review as to the facts, if supported by
 284 evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the court
 285 shall be confined to questions of law. Such actions and the questions so certified shall be
 286 heard in a summary manner and shall be given precedence over all other civil cases except
 287 cases to which the state is a material party and cases arising under Chapter 9 of this title.
 288 An appeal may be taken from the decision of the superior court to the Court of Appeals in
 289 the same manner as is provided in civil cases but not inconsistent with this chapter. No
 290 bond shall be required for entering an appeal."

291 **SECTION 7.**

292 Said chapter is further amended by revising Code Section 34-8-253, relating to obedience to
 293 subpoena required and self-incrimination, as follows:

294 "34-8-253.

295 (a) No person shall be excused from attending and testifying or from producing books,
 296 papers, correspondence, memoranda, and other records before the Commissioner, the board
 297 of review, ~~an~~ the chief administrative hearing officer, or ~~any~~ their duly authorized
 298 representative of any of them ~~representatives~~ or in obedience to ~~the~~ a subpoena of any of
 299 issued by them in any cause or proceeding before the Commissioner, the board of review,
 300 or ~~an administrative hearing officer~~ on the ground that the testimony or evidence,
 301 documentary or otherwise, required of ~~him or her~~ a person may tend to incriminate ~~him or~~
 302 her or subject ~~him or her~~ such person to a penalty or forfeiture. However, no ~~individual~~
 303 person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any
 304 transaction, matter, or thing concerning which the ~~individual~~ person is compelled, after
 305 having claimed the privilege against self-incrimination, to testify or produce evidence,
 306 documentary or otherwise, except that such ~~individual~~ person testifying shall not be exempt
 307 from prosecution and punishment for perjury committed in testifying.

308 (b) ~~The Commissioner, the board of review, the chief administrative hearing officer, or any~~
 309 duly authorized representative of any of them may quash, modify, or withdraw a subpoena
 310 issued by them."

311 **SECTION 8.**

312 Said chapter is further amended by revising Code Section 34-8-254, relating to overpayments
 313 of benefits, as follows:

314 "34-8-254.

315 (a) Any person who has received any sum as benefits under this chapter while any
 316 conditions for the receipt of benefits imposed by this chapter were not fulfilled or while the
 317 person was disqualified from receiving benefits shall, in the discretion of the
 318 Commissioner; ~~either~~

319 (1) Be be liable to have such sums deducted from any future benefits payable to such
 320 person under this chapter, with no single deduction to exceed 50 percent of the amount
 321 of the payment from which such deduction is made; and, or

322 (2) Be shall be liable to repay the Commissioner for the Unemployment Compensation
 323 Fund a sum equal to the amount so received by ~~him~~ such person. Such sum shall be
 324 collectable in the manner provided by law for the collection of debts or any other method
 325 of collection specifically authorized by this chapter.

326 (b) For the purpose of collecting overpaid benefits when the ~~individual person~~ individual person who owes
 327 the payment resides or is employed outside ~~the State of Georgia~~ this state, the
 328 Commissioner may enter into an agreement with one or more private persons, companies,
 329 associations, or corporations providing debt collection services; provided, however, the
 330 Commissioner shall retain legal responsibility and authority for the collection of
 331 overpayments of benefits and any debt collection agency shall function merely as an agent
 332 of the Commissioner for this purpose. The agreement may provide, at the discretion of the
 333 Commissioner, the rate of payment and the manner in which compensation for services
 334 shall be paid. The Commissioner shall provide the necessary information for the contractor
 335 to fulfill its obligations under the agreement. Any funds recovered shall be transmitted
 336 promptly to the Commissioner for deposit into the Unemployment ~~Trust~~ Compensation
 337 Fund.

338 (c)(1) Except as provided in paragraph (2) of this subsection, the ~~The~~ Commissioner
 339 may waive the repayment of an overpayment of benefits if the Commissioner determines
 340 such repayment to be inequitable.

341 (2) If any person receives such overpayment because of false representations or willful
 342 failure to disclose a material fact by such individual person, inequity shall not be a
 343 consideration and the person shall be required to repay the entire overpayment; provided,
 344 however, that penalty and interest plus all applicable penalty and interest amounts. Such
 345 penalty amounts shall not be waived. Interest accrued on the overpayment ~~are~~ is subject
 346 to waiver if the Commissioner determines such waiver to be in the best interest of ~~the~~ this
 347 state.

348 (d) Any person who has received any sum as benefits under this chapter and is
 349 subsequently awarded or receives back wages from any employer for all or any portion of
 350 the same period of time for which such person has received such benefits shall be liable,
 351 in accordance with subsection (a) of this Code section, to repay a sum equal to the benefits

352 paid during the period for which such back wages were awarded, ~~as follows~~ and the
 353 employer shall be:

354 (1) ~~An employer shall be authorized~~ Authorized to deduct from an award of back wages
 355 ~~the an amount of equal to all~~ unemployment benefits received by such person under this
 356 chapter with respect to the same period of time. The employer shall remit the amount
 357 deducted to the Commissioner for the Unemployment Compensation Fund. Upon receipt
 358 of such payment the Commissioner shall then make appropriate adjustments in the
 359 unemployment contributions experience rating account of the employer as otherwise
 360 provided in this chapter; ~~and or~~

361 (2) ~~If the employer is a governmental entity or nonprofit organization that has elected to~~
 362 ~~make payments in lieu of contributions in accordance with Code Section 34-8-158 and~~
 363 ~~the employee is subsequently awarded or otherwise receives payment of back wages for~~
 364 ~~any period of time for which the employee received benefits under this chapter, said~~
 365 ~~employer shall be entitled~~ Entitled to a setoff against the award of back wages in an
 366 amount equal to all benefits paid to the employee during the period for which such back
 367 wages are awarded or received, if such employer is a governmental entity or nonprofit
 368 organization that has elected to make payments in lieu of contributions in accordance
 369 with Code Section 34-8-158 and the employee is subsequently awarded or otherwise
 370 receives payment of back wages for any period of time for which such employee received
 371 benefits under this chapter."

372 **SECTION 9.**

373 Said chapter is further amended by revising Code Section 34-8-255, relating to effect of false
 374 statements and misrepresentations made to obtain or increase benefits, as follows:

375 "34-8-255.
 376 Any person who knowingly makes a false statement or misrepresentation as to a material
 377 fact or who knowingly fails to disclose a material fact to obtain or increase benefits under
 378 this chapter, either for himself or herself or for any other person, or who knowingly accepts
 379 benefits under this chapter to which such person is not entitled shall, upon an appropriate
 380 finding by the Commissioner, cease to be eligible for such benefits and an overpayment of
 381 benefits shall be computed without the application of deductible earnings as otherwise
 382 provided in Code Section 34-8-193. A penalty of ~~10~~ 15 percent ~~may~~ shall be added to the
 383 overpayment and become part of the overpayment. Interest shall accrue on the unpaid
 384 portion of such overpayment at a rate of 1 percent per month until repaid to the
 385 Commissioner for the Unemployment Compensation Fund. Further, such person shall
 386 forfeit all unpaid benefits for any weeks of unemployment subsequent to the date of the
 387 determination issued by the Commissioner covering said act or omission. The ineligibility
 388 shall include any unpaid benefits to which the person would otherwise be entitled during
 389 the remainder of any incomplete calendar quarter in which said determination is made and
 390 the next four complete calendar quarters immediately following the date of said
 391 determination; provided, however, such person shall be required to repay benefits received
 392 for any week as specified in said determination. No determination may be made by the
 393 Commissioner more than four years after such occurrence, act, or omission. Any such
 394 determination by the Commissioner may be appealed in the same manner as provided for
 395 the appeal from an initial determination in Article 8 of this chapter. The provisions of this
 396 Code section shall be in addition to, and not in lieu of, any provision contained in any of
 397 the other Code sections in this chapter."

398 **SECTION 10.**

399 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
 400 by revising paragraph (1) of Code Section 50-13-2, relating to definitions relative to
 401 administrative procedure, as follows:

402 "(1) 'Agency' means each state board, bureau, commission, department, activity, or
 403 officer authorized by law expressly to make rules and regulations or to determine
 404 contested cases, except the General Assembly; the judiciary; the Governor; the State
 405 Board of Pardons and Paroles; the State Financing and Investment Commission; the State
 406 Properties Commission; the Board of Bar Examiners; the Board of Corrections and its
 407 penal institutions; the State Board of Workers' Compensation; all public authorities
 408 except as otherwise expressly provided by law; the State Personnel Board; the
 409 Department of Administrative Services or commissioner of administrative services; the
 410 Technical College System of Georgia; the Department of Labor when conducting

411 hearings related to unemployment benefits or overpayments of unemployment benefits;
 412 the Department of Revenue when conducting hearings relating to alcoholic beverages,
 413 tobacco, or bona fide coin operated amusement machines or any violations relating
 414 thereto; the Georgia Tobacco Community Development Board; the Georgia Higher
 415 Education Savings Plan; any school, college, hospital, or other such educational,
 416 eleemosynary, or charitable institution; or any agency when its action is concerned with
 417 the military or naval affairs of this state. The term 'agency' shall include the State Board
 418 of Education and Department of Education, subject to the following qualifications:

419 (A) Subject to the limitations of subparagraph (B) of this paragraph, all otherwise valid
 420 rules adopted by the State Board of Education and Department of Education prior to
 421 January 1, 1990, are ratified and validated and shall be effective until January 1, 1991,
 422 whether or not such rules were adopted in compliance with the requirements of this
 423 chapter; and

424 (B) Effective January 1, 1991, any rule of the State Board of Education or Department
 425 of Education which has not been proposed, submitted, and adopted in accordance with
 426 the requirements of this chapter shall be void and of no effect."

427 **SECTION 11.**

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

430 (b) Section 4 of this Act shall become effective on January 1, 2015.

431 **SECTION 12.**

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