The House Committee on Industry and Labor offers the following substitute to HB 402:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 9 of Title 33 and Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to regulation of insurance rates and workers' compensation, respectively, so as to encourage employers to provide work based learning opportunities for students age 16 and older; to provide for an optional reduction in workers' compensation premiums for employers that provide work based learning; to provide that work based learning students are covered under workers' compensation insurance; to establish criteria for employers providing work based learning; to provide for legislative findings; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
The General Assembly finds that it would be beneficial to students, employers, and the economic health of the state to assist in providing highly trained, technologically sophisticated, and career oriented students which will aid in the development of a successful twenty-first century work force. By opening their doors to work based learning opportunities, employers can play an active role in shaping the quality of their future work force, by preparing potential leaders for their company and their community, and by helping shape future curriculum to create an educated work force for their industry as a whole. Work based learning programs can provide students the opportunity to work and learn in a real-world environment and prepare them for future career opportunities. Such work based learning opportunities can be accomplished by developing partnerships between and among the business community, industry, students, parents, school systems, and postsecondary education institutions.
SECTION 2.

Chapter 9 of Title 33 of the Official Code of Georgia Annotated, relating to regulation of insurance rates, is amended by adding a new Code section to read as follows:

“33-9-40.3. (a) For each policy of workers’ compensation insurance issued or renewed in the state on and after July 1, 2016, there may be granted by the insurer up to a 5 percent reduction in the premium for such policy if the insured has been certified by the State Board of Education to the State Board of Workers’ Compensation as a work based learning employer pursuant to Article 12 of Chapter 9 of Title 34 and has notified its insurer in writing of such certification.

(b) If granted, the premium discount provided by this Code section shall be applied to an insured's policy of workers' compensation insurance pro rata as of the date the insured receives such certification and shall continue for as long as the insured maintains the certification; provided, however, that an insurer shall not be required to credit the actual amount of the premium discount to the account of the insured until the final premium audit under such policy. Certification of an insured shall be required for each year in which a premium discount is granted.

(c) If it is determined that an insured misrepresented its qualifications for certification pursuant to Article 12 of Chapter 9 of Title 34, the workers' compensation insurance policy of such insured may be subject to an additional premium for the purposes of reimbursement of a previously granted premium discount and to cancellation in accordance with the provisions of the policy.

(d) Each insurer shall make an annual report, in accordance with guidelines established by the Commissioner, to the rating and statistical organization designated by the Commissioner illustrating the total dollar amount of the premium discounts applied pursuant to this Code section.

(e) The Commissioner shall conduct a study to determine the impact of the premium discounts provided pursuant to this Code section in encouraging employers to provide work based learning opportunities for students age 16 or older.

(f) The Commissioner shall be authorized to promulgate rules and regulations necessary for the implementation and enforcement of this Code section.”
SECTION 3.

Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, is amended by adding a new Code section to read as follows:

"34-9-2.4.

(a) As used in this Code section, the term:

(1) 'Work based learning placement' or 'placement' shall have the same meaning as in Code Section 34-9-430.

(2) 'Work based learning student' or 'student' shall have the same meaning as in Code Section 34-9-430.

(b) Notwithstanding the provisions of paragraph (2) of Code Section 34-9-1:

(1) A work based learning student in a paid work based learning placement for an employer shall be deemed an employee of such employer for purposes of workers' compensation coverage; and

(2) A work based learning student in an unpaid work based learning placement for an employer shall be deemed an employee of such employer for purposes of workers' compensation coverage unless all of the following conditions apply:

(A) The placement, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;

(B) The placement is for the benefit of the student;

(C) The student does not displace regular employees, but works under close supervision of existing staff;

(D) The employer that provides the training derives no immediate advantage from the activities of the student; and on occasion its operations may actually be impeded;

(E) The student is not necessarily entitled to a job at the conclusion of the placement; and

(F) The employer and the student understand that the student is not entitled to wages for the time spent in the placement."

SECTION 4.

Said chapter is further amended by adding a new article to read as follows:

"ARTICLE 12

34-9-430.

As used in this article, the term:

(1) 'Employer' means a person or entity that is subject to the provisions of this chapter but shall not include the state or any department, agency, or instrumentality of the state;
any county; any county or independent school system; any municipal corporation; or any
employer which is self-insured for the purposes of this chapter.

(2) 'Employer member of a group self-insurance fund' means any employer who is a
member of a fund certified pursuant to Code Section 34-9-153.

(3) 'Self-insured employer' means any employer certified pursuant to Code
Section 34-9-127.

(4) 'Work based learning coordinator' means a school employee who coordinates and
supervises students in work based learning placements.

(5) 'Work based learning employer' means an employer who provides work based
learning placements in accordance with this article.

(6) 'Work based learning placement' or 'placement' means an arrangement between a
business or industry partner and a local school system in which students are released for
a portion of the school day for structured learning at an employer's job site in either a paid
or unpaid position while receiving academic credit. Work based learning placements
include, but are not limited to, employability skill development, service learning,
cooperative education, internship, youth apprenticeship, and clinical experiences.

(7) 'Work based learning student' means a student age 16 or older in a work based
learning placement for an employer.

34-9-431.

(a) A work based learning employer that has been certified pursuant to this Code section
may be eligible for a premium discount under such employer's workers' compensation
insurance policy pursuant to Code Section 33-9-40.3.

(b) The State Board of Education shall certify to the State Board of Workers'
Compensation that a work based learning employer meets the following requirements:

(1) Enters into a training agreement with one or more work based learning students, the
student's parent or guardian, and the school's work based learning coordinator;

(2) Develops, in conjunction with the school's work based learning coordinator, a
detailed training plan for the work based learning student that focuses on development
of technical skills and employability skills;

(3) Assigns a mentor to the work based learning student and assist in monitoring the
progress of such student;

(4) Provides workers' compensation insurance coverage for the work based learning
student;

(5) Complies with all federal, state, and local laws and regulations regarding the
employment of students; and

(6) Complies with the rules and regulations of the State Board of Education.
A self-insured employer or an employer member of a group self-insurance fund that provides work based learning placements for one or more work based learning students substantially in accordance with Code Section 34-9-431 and that complies with all other provisions of this article required of employers in order to qualify for insurance premium discounts may be certified by the State Board of Education to the State Board of Workers' Compensation as a work based learning employer in compliance with this article.

SECTION 5.

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