

The Senate Committee on Insurance and Labor offered the following substitute to HB 1090:

**MOOT**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Titles 34 and 45 of the Official Code of Georgia Annotated, relating to labor and  
 2 industrial relations and public officers and employees, respectively, so as to change certain  
 3 provisions and to provide certain benefits and procedures affecting employment and  
 4 separation from employment; to provide for employers, including state entities and local  
 5 governments, to satisfy certain requirements for break times to allow employees to express  
 6 breast milk; to provide for certain exceptions from liability; to revise and provide for  
 7 definitions; to change the definition of the term "deductible earnings"; to provide for  
 8 emergency adjustments to the "Employment Security Law" during a state-wide emergency  
 9 declared by the Governor; to extend the maximum benefit weeks; to provide the  
 10 Commissioner with the authority to establish a short-time compensation program; to provide  
 11 for related matters; to provide for an effective date; to repeal conflicting laws; and for other  
 12 purposes.

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

14 **PART I**  
 15 **SECTION 1-1.**

16 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
 17 is amended by revising Code Section 34-1-6, relating to employer obligation to provide time  
 18 for women to express breast milk for infant child, as follows:

19 "34-1-6.

20 (a) As used in this Code section, the term 'employer' means any person or entity that  
 21 employs one or more employees ~~and shall include; provided, however, that such term shall~~  
 22 not include the state and its political subdivisions.

23 (b)(1) ~~An employer may provide reasonable unpaid break time each day shall provide~~  
 24 break time of a reasonable duration to an employee who ~~needs~~ desires to express breast  
 25 milk at the worksite during work hours. ~~The employer may make~~

26 ~~reasonable efforts to provide a room or other location (in close proximity to the work~~  
 27 ~~area), other than a toilet stall, where the employee can express her milk in privacy. The~~  
 28 ~~break time shall, if possible, run concurrently with any break time already provided to the~~  
 29 ~~employee. An employer is not required to provide break time under this Code section if~~  
 30 ~~to do so would unduly disrupt the operations of the employer.~~

31 (2) Any break time provided for under this Code section shall be paid at the employee's  
 32 regular rate of compensation. If the employee is paid on a salary basis, the employer shall  
 33 neither require the salaried employee to use paid leave during any break time nor reduce  
 34 the employee's salary as a result of the salaried employee taking a break to express breast  
 35 milk during the workday.

36 (3) No employer shall be required to provide paid break time to an employee on any day  
 37 that the employee is working away from any of the employer's worksites.

38 (4) The employer shall provide a private location, other than a restroom, where such  
 39 employee can express breast milk in privacy at the worksite.

40 (c) An employer that employs fewer than 50 employees shall not be subject to any  
 41 requirement of this Code section that would impose an undue hardship by causing the  
 42 employer significant difficulty or expense when considered in relation to the size, financial  
 43 resources, nature, or structure of the employer's business.

44 (d) An employer is not liable for any harm caused by or arising from the expressing of an  
 45 employee's breast milk or the storage of expressed breast milk."

46 **SECTION 1-2.**

47 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 48 is amended by adding a new Code section to read as follows:

49 "45-1-7.

50 (a) As used in this Code section, the term 'agency' means a branch, department, agency,  
 51 board, bureau, office, commission, public corporation, authority, county, municipal  
 52 corporation, school district, or other political subdivision of this state.

53 (b) Each agency shall provide paid break time of a reasonable duration to an employee  
 54 who desires to express breast milk during work hours at the agency's worksite. Such break  
 55 time shall be paid at the employee's regular rate of compensation. If the employee is paid  
 56 on a salary basis, the agency shall neither require the salaried employee to use paid leave  
 57 during any break nor reduce the employee's salary as a result of the salaried employee  
 58 taking a break to express breast milk during the workday. No agency shall be required to  
 59 provide paid break time to an employee on any day that the employee is working away  
 60 from the agency's worksite.

61 (c) Each agency shall provide a room or other location, other than a restroom, in close  
 62 proximity to the employee's work area where an employee described in subsection (b) of  
 63 this Code section can express breast milk in privacy at the agency's worksite.

64 (d) No agency shall have liability under this Code section for making reasonable efforts  
 65 to comply with this Code section."

66 **PART II**

67 **SECTION 2-1.**

68 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
 69 is amended by revising Code Section 34-8-30, relating to deductible earnings, as follows:

70 "34-8-30.

71 As used in this chapter, the term 'deductible earnings' means all money ~~in excess of \$30.00~~  
 72 earned each week ~~earned~~ by a claimant for services performed, whether or not received by  
 73 such claimant, in excess of an amount established by the Commissioner as promulgated by  
 74 rules and regulations. The amount established by the Commissioner shall not be less than  
 75 \$50.00 nor shall it exceed \$300.00. For claims filed on or after July 1, 2002, the term  
 76 ~~'deductible earnings' means all money in excess of \$50.00 each week earned by a claimant~~  
 77 ~~for services performed, whether or not received by such claimant.~~ Deductible earnings  
 78 shall be subtracted from the weekly benefit amount of the claim."

79 **SECTION 2-2.**

80 Said title is further amended in Code Section 34-8-70, relating to duties and powers of  
 81 Commissioner, by adding a new subsection to read as follows:

82 "(i)(1) Notwithstanding any other provision of law, the Commissioner shall have the  
 83 authority to adopt emergency rules when a state-wide emergency declared by the  
 84 Governor is in effect and the General Assembly is not in session. Such rules may  
 85 temporarily:

86 (A) Modify the maximum benefit amount for regular state benefits, not to exceed 26  
 87 times the weekly benefit amount;

88 (B) Suspend unemployment insurance tax filing and payment deadlines and penalties;

89 (C) Waive charges to employers for benefits paid;

90 (D) Expedite the processing of claims; and

91 (E) Waive work search reporting requirements.

92 (2) Any emergency rule adopted by the Commissioner pursuant to this subsection shall  
 93 expire the earlier of:

- 94 (A) A date specified by the Commissioner not to exceed 120 days from the date of the  
 95 adoption of such emergency rule; or
- 96 (B) The date on which the state-wide emergency ends as declared by the Governor.
- 97 (3) Any emergency rule adopted pursuant to this subsection shall be published on the  
 98 website of the department and submitted as promptly as reasonably practicable to the  
 99 Governor, the Speaker of the House of Representatives, the President Pro Tempore of the  
 100 Senate, and the chairpersons of the House Committee on Industry and Labor and the  
 101 Senate Insurance and Labor Committee.
- 102 (4) Any rule promulgated under this Code section shall not supersede an executive order  
 103 of the Governor."

104 **SECTION 2-3.**

105 Said title is further amended in Code Section 34-8-193, relating to determination of weekly  
 106 benefit amount, by revising subsections (d) and (e) as follows:

107 "(d)(1) Except as otherwise provided in this subsection, the maximum benefits payable  
 108 to an individual in a benefit year shall:

109 (A) For claims filed prior to June 14, 2020, be the lesser of:

110 ~~(A)~~(i) Fourteen times the weekly benefit amount, if this state's average  
 111 unemployment rate is at or below 6.5 percent, with an additional weekly amount  
 112 added for each 0.5 percent increment in this state's average unemployment rate above  
 113 6.5 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; or

115 ~~(B)~~(ii) One-fourth of the base period wages; and

116 (B) For claims filed on or after June 14, 2020, be the lesser of:

117 (i) Fourteen times the weekly benefit amount, if this state's average unemployment  
 118 rate is at or below 4.5 percent, with an additional weekly amount added for each  
 119 0.5 percent increment in this state's average unemployment rate above 4.5 percent up  
 120 to a maximum of 26 times the weekly benefit amount if this state's average  
 121 unemployment rate exceeds 10 percent; or

122 (ii) One-fourth of the base period wages.

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

126 (2) In addition to and subsequent to payment of all benefits otherwise allowed under  
 127 paragraph (1) of this subsection whenever the average rate of total unemployment in this  
 128 state, seasonally adjusted, as determined by the United States secretary of labor, for the  
 129 period consisting of the most recent three months for which data for all states are

130 published before the close of such week equals or exceeds 11 percent, weekly  
131 unemployment compensation shall be payable under this subsection to any individual  
132 who is unemployed, has exhausted all rights to regular unemployment compensation  
133 under the provisions of Article 7 of this chapter, and is enrolled and making satisfactory  
134 progress, as determined by the Commissioner, in a training program approved by the  
135 department, or in a job training program authorized under the Workforce Investment Act  
136 of 1998, Public Law 105-220, and not receiving similar stipends or other training  
137 allowances for nontraining costs. Each such training program approved by the  
138 department or job training program authorized under the Workforce Investment Act of  
139 1998 shall prepare individuals who have been separated from a declining occupation, as  
140 designated by the department from time to time, or who have been involuntarily and  
141 indefinitely separated from employment as a result of a permanent reduction of  
142 operations at the individual's place of employment, for entry into a high-demand  
143 occupation, as designated by the department from time to time. The amount of  
144 unemployment compensation payable under this subsection to an individual for a week  
145 of unemployment shall be equal to the individual's weekly benefit amount for the  
146 individual's most recent benefit year less deductible earnings, if any. For claims filed  
147 prior to June 14, 2020, the ~~The~~ total amount of unemployment compensation payable  
148 under this subsection to any individual shall be equal to 14 times the individual's weekly  
149 benefit amount for the individual's most recent benefit year, if this state's average  
150 unemployment rate is at or below 6.5 percent, with an additional weekly amount added  
151 for each 0.5 percent increment in this state's average unemployment rate above 6.5  
152 percent up to a maximum of 20 times the weekly benefit amount if this state's average  
153 unemployment rate equals or exceeds 9 percent. For claims filed on or after June 14,  
154 2020, the total amount of unemployment compensation payable under this subsection to  
155 any individual shall be equal to 14 times the individual's weekly benefit amount for the  
156 individual's most recent benefit year, if this state's average unemployment rate is at or  
157 below 4.5 percent, with an additional weekly amount added for each 0.5 percent  
158 increment in this state's average unemployment rate above 4.5 percent up to a maximum  
159 of 26 times the weekly benefit amount if this state's average unemployment rate exceeds  
160 10 percent. The provisions of subsection (d) of Code Section 34-8-195 shall apply to  
161 eligibility for benefits under this subsection. Except when the result would be  
162 inconsistent with other provisions of this subsection, all other provisions of Article 7 of  
163 this chapter shall apply to the administration of the provisions of this subsection.

164 (3) As used in this subsection, the term 'state's average unemployment rate' means the  
165 average of the adjusted state-wide unemployment rates as published by the department  
166 for the time periods of April 1 through April 30 and October 1 through October 31. The

167 average of the adjusted state-wide unemployment rates for the time period of April 1  
 168 through April 30 shall be effective on and after July 1 of each year and shall be effective  
 169 through December 31. The average of the adjusted state-wide unemployment rates for  
 170 the time period of October 1 through October 31 shall be effective on and after January 1  
 171 of each year and shall be effective through June 30.

172 (e)(1) An otherwise eligible individual shall be paid the weekly benefit amount, less gross  
 173 earnings in excess of ~~\$30.00~~ an amount established by the Commissioner as promulgated  
 174 by rules and regulations, payable to the individual applicable to the week for which benefits  
 175 are claimed. Such remaining benefit, if not a multiple of \$1.00, shall be computed to the  
 176 nearest multiple of \$1.00. Earnings of ~~\$30.00 or less~~ equal to or less than the amount  
 177 established by the Commissioner will not affect entitlement to benefits. The amount  
 178 established by the Commissioner shall not be less than \$50.00 nor shall it exceed \$300.00.

179 For the purpose of this subsection, jury duty pay shall not be considered as earnings.

180 ~~(2) For claims filed on or after July 1, 2002, an otherwise eligible individual shall be paid~~  
 181 ~~the weekly benefit amount, less gross earnings in excess of \$50.00, payable to the~~  
 182 ~~individual applicable to the week for which benefits are claimed. Such remaining benefit,~~  
 183 ~~if not a multiple of \$1.00, shall be computed to the nearest multiple of \$1.00. Earnings~~  
 184 ~~of \$50.00 or less will not affect entitlement to benefits. For the purpose of this paragraph,~~  
 185 ~~jury duty pay shall not be considered as earnings."~~

186 **SECTION 2-4.**

187 Said title is further amended in Chapter 8, relating to employment security, by adding a new  
 188 article to read as follows:

189 "ARTICLE 11

190 34-8-290.

191 (a) The Commissioner shall have the authority to adopt, amend, or rescind rules and  
 192 regulations and to take such other action as deemed necessary or suitable in order to  
 193 establish a work-sharing program that provides employers with an alternative to layoffs.

194 (b) Any work-sharing program so established shall:

195 (1) Allow employers to voluntarily reduce employees' hours by 10 to 60 percent in lieu  
 196 of layoffs and provide employees with a corresponding prorated share of unemployment  
 197 benefits;

198 (2) Conform to the provisions of the definition of short-time compensation program  
 199 provided in 26 U.S.C. Section 3306(v) of the Federal Unemployment Tax Act; and

200 (3) Include such provisions as are necessary to qualify for available federal  
201 reimbursement of benefits and federal short-time compensation administrative grants  
202 available, including, but not limited to, any funds available under Title II, Subtitle A of  
203 the CARES Act (Public Law 116-136), as amended."

204 **PART III**

205 **SECTION 3-1.**

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

208 **SECTION 3-2.**

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