

House Bill 532

By: Representative Werkheiser of the 157th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to change certain provisions relating the Department of Labor and
3 employment security; to authorize the Commissioner of Labor to designate peace officers
4 to carry out and enforce provisions relating to labor and industrial relations; to provide for
5 service of certain documents; to change certain provisions relating to the powers and duties
6 of the Commissioner of Labor; to change certain provisions relating to eligibility
7 requirements for extended benefits; to provide for related matters; to repeal conflicting laws;
8 and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
12 is amended in Code Section 34-2-4, relating to establishment by Commissioner of divisions
13 within Department of Labor, appointment, fixing of salaries and duties, and removal of
14 employees, by adding a new subsection to read as follows:

15 "(c) The Commissioner is authorized to confer on such employees as the Commissioner
16 may designate the full authority of peace officers, whom shall have the powers necessary

17 for the enforcement and administration of this title including the power to make arrests,
18 serve process, and appear in court."

19 **SECTION 2.**

20 Said title is further amended by adding a new Code section to read as follows:

21 "34-2-16.

22 Unless otherwise provided by law, all legal documents to be served on the Commissioner
23 of Labor or the Department of Labor shall be served at Georgia Department of Labor,
24 Legal Section, Suite 600, 148 Andrew Young International Boulevard, N.E., Atlanta,
25 Georgia 30303-1751:

26 (1) By certified mail or statutory overnight delivery, return receipt requested;

27 (2) By hand delivery; or

28 (3) In a manner prescribed by law for service of process."

29 **SECTION 3.**

30 Said title is further amended by revising subsection (i) of Code Section 34-8-70, relating to
31 duties and powers of Commissioner, as follows:

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

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

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

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

40 (D) Expedite the processing of claims; and

(E) Waive work search reporting requirements so as not to create a conformity issue with federal law.

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

(A) A date specified by the Commissioner not to exceed 120 days from the date of the adoption of such emergency rule; or

(B) The date on which the state-wide emergency ends as declared by the Governor.

(3) Any emergency rule adopted pursuant to this subsection shall be published on the website of the department and submitted as promptly as reasonably practicable to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chairpersons of the House Committee on Industry and Labor and the Senate Insurance and Labor Committee.

(4) Any rule promulgated under this Code section shall not supersede an executive order of the Governor."

SECTION 4.

Said title is further amended by revising Code Section 34-8-197, relating to eligibility requirements for extended benefits, as follows:

"34-8-197.

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

(1) 'Eligibility period' of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period ~~and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period; provided, however, that with respect to extended benefit periods established under division (a)(3)(B)(i) of this Code section pertaining to Section 2005 of Public Law 111-5 and any extension thereof that does not impose any new condition upon receipt of 100 percent federal funding, or division (a)(3)(B)(ii) of this Code section pertaining to Section~~

~~502 of Public Law 111-312, 'eligibility period' of an individual also means the period consisting of the weeks during which such individual is eligible for Emergency Unemployment Compensation provided for by the Supplemental Appropriations Act of 2008, Title IV Emergency Unemployment Compensation, Public Law 110-252, and the Unemployment Compensation Extension Act of 2008, Public Law 110-449, and any extension or expansion thereof, when such weeks begin in that extended benefit period and, if his or her eligibility for such emergency unemployment compensation ends within such extended benefit period, any weeks thereafter which begin in such period, except as otherwise limited by the provisions in division (a)(3)(B)(iii) of this Code section.~~

(2) 'Exhaustee' means an individual who, with respect to any week of unemployment in his or her eligibility period:

(A) Has received, prior to such week, all of the regular benefits that were available to him or her under this chapter or any other state law, including dependents' allowances and benefits payable to federal civilian employees and ex-service personnel under 5 U.S.C. Chapter 85, in his or her current benefit year that includes such week, provided that for the purposes of this subparagraph an individual shall be deemed to have received all of the regular benefits that were available to him or her, although, as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his or her benefit year, he or she may subsequently be determined to be entitled to added regular benefits;

(B) His or her benefit year having expired prior to such week, has no or insufficient wages on the basis of which he or she could establish a new benefit year that would include such week; and

(C)(i) Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act and such other federal laws as are specified in regulations issued by the United States secretary of labor.

(ii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law, he or she is considered an exhaustee.

(3)(A) 'Extended benefit period' means a period which:

(i) Begins with the third week after a week for which there is a state 'on' indicator; and

(ii) Ends with either of the following weeks, whichever occurs later:

(I) The third week after the first week for which there is a state 'off' indicator; or

(II) The thirteenth consecutive week of such period.

However, no extended benefit period may begin by reason of a state 'on' indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state. With respect to determining whether the state is in an extended benefit period beginning on November 1, 2020, through December 31, 2021, the requirement that no extended benefit period may begin before the fourteenth week following the end of a prior extended benefit period which was in effect shall be disregarded.

(B) There is a state 'on' indicator for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment under the state law for the period equaled or exceeded 120 percent of the average of such rates for the corresponding 13 week period ending in each of the preceding two calendar years and equaled or exceeded 5 percent.

~~(B)(i) With respect to weeks of unemployment beginning on or after February 1, 2009,~~

(C) For weeks of unemployment ending four weeks prior to the last week for which 100 percent federal funding is authorized under the Federal-State Extended

Unemployment Compensation Act of 1970, as amended, there is a state 'on' indicator for a week if:

~~(I) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds 6 1/2 percent; and~~

~~(II) The average rate of total unemployment in this state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in subdivision (I) of this subparagraph, equals or exceeds 110 percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.~~

~~(ii) In accordance with the provisions of Section 502(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, with respect to weeks of unemployment beginning on or after February 27, 2011, and ending on December 31, 2011, there is a state 'on' indicator for a week if:~~

~~(f)(i) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds 6 1/2 percent; and~~

~~(f)(ii) The average rate of total unemployment in this state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in ~~subdivision (f)~~ division (i) of this subparagraph, equals or exceeds 110 percent of such average for any or all of the corresponding three-month periods ending in the ~~three~~ two preceding calendar years.~~

~~(iii) This subparagraph shall apply only through the week ending four weeks prior to the last week for which 100 percent federal funding is authorized and provided pursuant to either Section 2005(a) of Public Law 111-5 or any extension thereof that~~

146 ~~does not impose any new condition upon receipt of such federal funding, without~~
147 ~~regard to the extension of federal sharing for certain claims as provided under Section~~
148 ~~2005(c) of such law.~~

149 ~~(C)(D)~~ There is a state 'off' indicator for a week if, for the period consisting of such
150 week and the immediately preceding 12 weeks, none of the options specified in
151 subparagraphs ~~(A) and (B)~~ (B) and (C) of this paragraph result in an 'on' indicator.

152 (4) 'Rate of insured unemployment,' for purposes of paragraph (3) of this subsection,
153 means the percentage derived by dividing:

154 (A) The average weekly number of individuals filing claims in this state, not including
155 individuals filing claims for extended benefits or regular benefits claimed by federal
156 civilian employees and ex-service personnel, for weeks of unemployment with respect
157 to the most recent 13 consecutive week period, as determined by the Commissioner on
158 the basis of the Commissioner's reports to the United States secretary of labor; by

159 (B) The average monthly employment covered under this chapter for the first four of
160 the most recent six completed calendar quarters ending before the end of such 13 week
161 period.

162 (5) 'Regular benefits' means benefits payable to an individual under this chapter or under
163 any other state law, including benefits payable to federal civilian employees and to
164 ex-service personnel pursuant to 5 U.S.C. Chapter 85, other than extended benefits.

165 (6) 'State law' means the unemployment insurance law of any state approved by the
166 United States secretary of labor under Section 3304 of the Internal Revenue Code.

167 (7) 'Suitable work' means, with respect to any individual, any work which is within such
168 individual's capabilities, provided that, if the individual furnishes evidence satisfactory
169 to the Commissioner that such individual's prospects for obtaining work in the customary
170 occupation of such individual within a reasonably short period are good, the
171 determination of whether any work is suitable work with respect to such individual shall
172 be made in accordance with this chapter.

(b) **Applicability of provisions as to regular benefits to claims for and payment of extended benefits.** Except when the result would be inconsistent with the other provisions of this Code section, as provided in the regulations of the Commissioner, the provisions of this chapter which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits. To establish entitlement to extended benefits, an individual must have been paid in at least two quarters of the base period and total wages in the base period must equal or exceed 150 percent of the highest quarter base period wages. The alternative computation for entitlement as required by Code Section 34-8-193 shall not apply to extended benefits.

(c) **Eligibility requirements for extended benefits.** An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the eligibility period of the individual only if the Commissioner finds that with respect to such week:

(1) He or she is an 'exhaustee' as defined in paragraph (2) of subsection (a) of this Code section; and

(2) He or she has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; provided, however, that the total extended benefits otherwise payable to an individual who has filed an interstate claim under the interstate benefit payment plan shall not exceed two weeks whenever an extended benefit period is not in effect for such week in the state where the claim is filed; provided, further, that if an individual has been disqualified in his or her most recent benefit year or on his or her extended benefit claim, only those who are required to return to work and to earn additional insured wages in employment in order to terminate this disqualification and who satisfy this requirement shall be eligible to receive extended benefits; provided, further, that if the benefit year of a claimant ends within an extended benefit period, the number of weeks of extended benefits that such claimant would be entitled to in that extended benefit period, but for this subsection, shall be reduced, but

not below zero, by the number of weeks for which the claimant was entitled to trade readjustment allowances during such benefit year. For purposes of this subsection, the terms 'benefit year' and 'extended benefit period' shall have the same respective meanings.

(d) **Weekly extended benefit amount.** The weekly extended benefit amount payable to an individual for a week of total unemployment in the eligibility period of such individual shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year.

(e) **Total extended benefit amount.** Except as provided in subsection (l) of this Code section, the total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the least of the following amounts:

(1) Fifty percent of the total amount of regular benefits which were payable to him or her under this chapter in his or her applicable benefit year;

(2) Thirteen times his or her weekly benefit amount which was payable to him or her under this chapter for a week of total unemployment in the applicable benefit year; or

(3) Thirty-nine times the individual's weekly benefit amount which was payable to the individual under this chapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid or deemed paid to him or her under this chapter with respect to the benefit year.

(f) **Notice as to beginning and termination of extended benefit period.** Whenever an extended benefit period is to become effective in this state as a result of the state 'on' indicator or whenever an extended benefit period is to be terminated in this state as a result of the state 'off' indicator, the Commissioner shall make an appropriate announcement.

(g) **Computations.** Computations required by paragraph (4) of subsection (a) of this Code section shall be made by the Commissioner in accordance with regulations prescribed by the United States secretary of labor.

(h) **Nonpayment of extended benefits for failure to seek or accept work.** Notwithstanding other provisions of this Code section, payment of extended benefits under

227 this Code section shall not be made to any individual for any week of unemployment in his
228 or her eligibility period during which he or she fails:

229 (1) To accept any offer of suitable work or fails to apply for any suitable work to which
230 he or she was referred by the State Employment Service; or

231 (2) To engage actively in seeking work. For the purposes of this paragraph, an
232 individual shall be treated as actively engaged in seeking work during any week if:

233 (A) The individual has engaged in a systematic and sustained effort to obtain work
234 during such week; and

235 (B) The individual provides tangible evidence to the satisfaction of the Commissioner
236 that he or she has engaged in such an effort during such week.

237 (i) **Period of nonpayment for extended benefits.** If any individual is ineligible for
238 extended benefits for any week by reason of a failure described in paragraph (1) or (2) of
239 subsection (h) of this Code section, the individual shall be ineligible to receive extended
240 benefits for any week which begins during a period which:

241 (1) Begins with the week following the week in which such failure occurs; and

242 (2) Does not end until such individual has been employed during at least four weeks
243 which begin after such failure and for which the total of the remuneration in insured
244 wages for services in employment earned by the individual for being so employed is not
245 less than the product of four multiplied by the individual's weekly benefit amount for his
246 or her benefit year.

247 (j) **Exceptions to subsection (h) of this Code section.** No individual shall be denied
248 extended benefits under paragraph (1) of subsection (h) of this Code section for any week
249 by reason of a failure to accept an offer of or apply for suitable work:

250 (1) If the gross average weekly remuneration payable to such individual for the position
251 does not exceed the sum of:

252 (A) The individual's weekly benefit amount for such individual's benefit year; and

(B) The amount, if any, of supplemental unemployment compensation benefits, as defined in Code Section 34-8-45, payable to such individual for such week;

(2) If the position was not offered to such individual in writing and was not listed with the State Employment Service;

(3) If such failure would not result in a denial of benefits under this chapter to the extent that such provisions are not inconsistent with paragraph (7) of subsection (a) of this Code section and the provisions of subsection (h) of this Code section which relate to individuals actively engaged in seeking work; or

(4) If the position pays wages less than the higher of:

(A) The minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

(B) The Georgia minimum wage.

(k) **Referral of claimants to suitable work.** A claimant for extended benefits shall be referred to any suitable work as provided for in paragraph (7) of subsection (a) of this Code section which is not excluded by subsection (j) of this Code section.

(l) Effective with respect to weeks beginning in a high-unemployment period, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year shall be the least of the following amounts:

(1) Eighty percent of the total amount of regular benefits that were payable to the individual pursuant to this chapter in the individual's applicable benefit year;

(2) Twenty times the individual's weekly benefit amount that was payable to the individual pursuant to this chapter for a week of total unemployment in the applicable benefit year; or

(3) Forty-six times the individual's weekly benefit amount which was payable to the individual under this chapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid or deemed paid to him or her under this chapter with respect to the benefit year.

280 (m) For purposes of subsection (l) of this Code section, 'high-unemployment period' means
281 a period during which an extended benefit period would be in effect if ~~subdivision~~
282 ~~(a)(3)(B)(i)(I) or, if applicable, subdivision (a)(3)(B)(ii)(I)~~ subparagraph (a)(3)(C) of this
283 Code section were applied by substituting '8 percent' for '6 1/2 percent.'

284 (n) Subsections (l) and (m) of this Code section shall apply through the week ending four
285 weeks prior to the last week for which 100 percent federal funding is authorized ~~and~~
286 ~~provided pursuant to either Section 2005(a) of Public Law 111-5 or any extension thereof~~
287 ~~that does not impose any new condition upon receipt of such federal funding, without~~
288 ~~regard to the extension of federal sharing for certain claims as provided under Section~~
289 ~~2005(c) of such law~~ under the Federal-State Extended Unemployment Compensation Act
290 of 1970, as amended."

291 **SECTION 5.**

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