

House Bill 1493

By: Representatives Jackson of the 68th, McClain of the 109th, Mitchell of the 88th, Holly of the 116th, and McQueen of the 61st

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 provide for certain employee rights; to establish employee union freedoms;
3 to provide for definitions; to revise at-will employment; to revise employee status
4 regulations; to provide for a short title; to provide for conforming changes; to provide for
5 worker standards boards; to provide for such boards to report to the Department of Labor;
6 to require the Department of Labor to make an annual report; to authorize certain civil
7 penalties; to amend Code Section 16-8-16 of the Official Code of Georgia Annotated,
8 relating to theft by extortion, so as to exclude lawful good faith bargaining from the
9 definition of criminal extortion; to repeal and reserve Code Section 20-2-989.10 of the
10 Official Code of Georgia Annotated, relating to collective bargaining not permitted or
11 fostered; to repeal and reserve Chapter 5 of Title 25 of the Official Code of Georgia
12 Annotated, relating to resolution of wages, hours, and working conditions of firefighters; to
13 amend Code Section 45-7-54 of the Official Code of Georgia Annotated, relating to
14 voluntary contributions by state employees through payroll deductions to certain not for
15 profit organizations, so as to provide that voluntary contributions by state employees may be
16 deducted for organizations which engage in collective bargaining with this state; to amend
17 Chapter 19 of Title 45 of the Official Code of Georgia Annotated, relating to labor practices
18 of public officers and employees, so as to repeal and reserve Article 1, relating to strikes by

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19 public employees; to amend Code Section 50-5-72 of the Official Code of Georgia
20 Annotated, relating to construction and public works contracts conducted by department,
21 advertising costs, and exceptions, so as to require contractors of certain public works
22 contracts to pay the prevailing wage; to provide for related matters; to provide for an
23 effective date; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 **PART I**

26 *Georgia Worker Empowerment Act*

27 **SECTION 1-1.**

28 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
29 is amended by revising Chapter 11, which is reserved, as follows:

30 "CHAPTER 11

31 34-11-1.

32 This chapter shall be known and may be cited as the 'Georgia Worker Empowerment Act.'

33 34-11-2.

34 As used in this chapter, the term:

35 (1) 'Automated quotas' means a technology system that monitors, tracks, and enforces
36 specific productivity metrics for employees in real time, including, but not limited to, the
37 number of items picked or packages sorted per hour.

38 (2) 'Collective bargaining' means the process of employees negotiating contracts with
39 their employers to meet at reasonable times, to negotiate in good faith, and to execute a

40 written contract with respect to agreements reached concerning the terms and conditions
41 of employment, including, but not limited to, pay, benefits, hours, leave, job health, and
42 safety policies.

43 (3) 'Commissioner' means the Commissioner of Labor of the State of Georgia.

44 (4) 'Department' means the Department of Labor of the State of Georgia.

45 (5) 'Employee' shall have the same meaning as set forth in Code Section 34-9-1.

46 (6) 'Employer' shall have the same meaning as set forth in Code Section 34-9-1.

47 (7) 'Strike' means the failure to report for duty, the willful absence from one's position,
48 the stoppage or deliberate slowing down of work, or the withholding in whole or in part
49 of the full, faithful, and proper performance of the duties of employment for the purpose
50 of inducing, influencing, or coercing a change in the conditions, compensation, rights,
51 privileges, or obligations of employment.

52 34-11-3.

53 This chapter shall only apply to employees and employers not subject to the federal
54 National Labor Relations Act.

55 34-11-4.

56 (a) Employees shall have the right to self-organization; to form, join, or assist labor
57 organizations; and to participate in collective bargaining through representatives of their
58 own choosing at any time.

59 (b) No employer shall discharge, permanently replace, or otherwise discriminate against
60 an employee because the employee has engaged in an activity for the purpose of collective
61 bargaining or other mutual aid or protection, including but not limited to, providing notices,
62 recruiting members, boycotting, picketing, or a strike.

63 34-11-5.

64 (a) No employer shall require an employee to attend a meeting or participate in any
65 communication where the primary purpose is to communicate the employer's opinion about
66 religious or political matters, including the decision to join or support a labor organization.

67 (b) Any such meeting shall be strictly voluntary, and no adverse action shall be taken
68 against an employee for choosing not to attend.

69 34-11-6.

70 Warehouse employers using automated quotas shall provide employees with a written
71 description of each automated quota. No automated quota shall be enforced that prevents
72 an employee from taking mandated meal or rest breaks or using restroom facilities.

73 34-11-7.

74 (a) There is created the Construction Worker Standards Board.

75 (b)(1) Such board shall consist of seven members and shall be composed of three
76 construction employee representatives, three construction employer representatives, and
77 one representative of the public at large as appointed by the Commissioner.

78 (2) The Commissioner shall designate the initial terms of the members of such board as
79 follows: two members shall be appointed for one year; three members shall be appointed
80 for two years; and two members shall be appointed for three years. Thereafter, all
81 succeeding appointments shall be for three-year terms from the expiration of the previous
82 term.

83 (3) There shall be a chairperson of such board elected by and from the membership of
84 the board who shall be the presiding officer of the board.

85 (4) Such board shall meet at least quarterly and at the call of the presiding officer and
86 follow all policies and procedures of Chapter 14 of Title 50.

- 87 (5) Such board shall review and make recommendations to the Commissioner, including,
88 but not limited to, minimum standards for wages, hours, and safety of construction
89 workers.
- 90 (6) Vacancies in office shall be filled by appointment by the Commissioner and shall be
91 for the same representative category as the position that becomes vacant. An
92 appointment to fill a vacancy other than by expiration of a term of office shall be for the
93 balance of the unexpired term.
- 94 (7) The Commissioner may remove from office any member for inability or neglect to
95 perform the duties required of members; incompetence; or dishonest conduct.
- 96 (8) Each member of such board who is not otherwise a state officer or employee shall
97 receive for each day that such member is in attendance at a meeting of the board a daily
98 expense allowance and reimbursement for transportation costs as provided for in Code
99 Section 45-7-21. Each member of the board who is otherwise an officer or employee of
100 a state agency or authority may be reimbursed by that agency or authority for meals,
101 transportation, and lodging in the usual manner authorized by law for such officers and
102 employees. The members of the board shall not receive any duplicate or other
103 compensation for their services as such.

104 34-11-8.

105 (a) There is created the Healthcare Worker Standards Board.

106 (b)(1) Such board shall consist of 13 members and shall be composed as follows:

107 (A) One certified nursing assistants employee representative and one certified nursing
108 assistants employer representative;

109 (B) One home health aides employee representative and one home health aides
110 employer representative;

111 (C) One nursing home employee representative and one nursing home employer
112 representative;

- 113 (D) One emergency medical technician employee representative and one emergency
114 medical technician employer representative;
- 115 (E) One behavioral health technician employee representative and one behavioral
116 health technician employer representative; and
- 117 (F) Three representatives of the public at large as appointed by the Commissioner.
- 118 (2) The Commissioner shall designate the initial terms of the members of such board as
119 follows: four members shall be appointed for one year; five members shall be appointed
120 for two years; and four members shall be appointed for three years. Thereafter, all
121 succeeding appointments shall be for three-year terms from the expiration of the previous
122 term.
- 123 (3) There shall be a chairperson of such board elected by and from the membership of
124 the board who shall be the presiding officer of the board.
- 125 (4) Such board shall meet at least quarterly and at the call of the presiding officer and
126 follow all policies and procedures of Chapter 14 of Title 50.
- 127 (5) Such board shall review and make recommendations to the Commissioner, including,
128 but not limited to, minimum standards for wages, hours, and safety of healthcare workers.
- 129 (6) Vacancies in office shall be filled by appointment by the Commissioner and shall be
130 for the same representative category as the position that becomes vacant. An
131 appointment to fill a vacancy other than by expiration of a term of office shall be for the
132 balance of the unexpired term.
- 133 (7) The Commissioner may remove from office any member for inability or neglect to
134 perform the duties required of members; incompetence; or dishonest conduct.
- 135 (8) Each member of such board who is not otherwise a state officer or employee shall
136 receive for each day that such member is in attendance at a meeting of the board a daily
137 expense allowance and reimbursement for transportation costs as provided for in Code
138 Section 45-7-21. Each member of the board who is otherwise an officer or employee of
139 a state agency or authority may be reimbursed by that agency or authority for meals,

140 transportation, and lodging in the usual manner authorized by law for such officers and
141 employees. The members of the board shall not receive any duplicate or other
142 compensation for their services as such.

143 34-11-9.

144 (a) There is created the Hospitality Worker Standards Board.

145 (b)(1) Such board shall consist of seven members and shall be composed of three
146 hospitality employee representatives, three hospitality employer representatives, and one
147 representative of the public at large as appointed by the Commissioner.

148 (2) The Commissioner shall designate the initial terms of the members of such board as
149 follows: two members shall be appointed for one year; three members shall be appointed
150 for two years; and two members shall be appointed for three years. Thereafter, all
151 succeeding appointments shall be for three-year terms from the expiration of the previous
152 term.

153 (3) There shall be a chairperson of such board elected by and from the membership of
154 the board who shall be the presiding officer of the board.

155 (4) Such board shall meet at least quarterly and at the call of the presiding officer and
156 follow all policies and procedures of Chapter 14 of Title 50.

157 (5) Such board shall review and make recommendations to the Commissioner, including,
158 but not limited to, minimum standards for wages, hours, and safety of hospitality
159 workers.

160 (6) Vacancies in office shall be filled by appointment by the Commissioner and shall be
161 for the same representative category as the position that becomes vacant. An
162 appointment to fill a vacancy other than by expiration of a term of office shall be for the
163 balance of the unexpired term.

164 (7) The Commissioner may remove from office any member for inability or neglect to
165 perform the duties required of members; incompetence; or dishonest conduct.

166 (8) Each member of such board who is not otherwise a state officer or employee shall
167 receive for each day that such member is in attendance at a meeting of the board a daily
168 expense allowance and reimbursement for transportation costs as provided for in Code
169 Section 45-7-21. Each member of the board who is otherwise an officer or employee of
170 a state agency or authority may be reimbursed by that agency or authority for meals,
171 transportation, and lodging in the usual manner authorized by law for such officers and
172 employees. The members of the board shall not receive any duplicate or other
173 compensation for their services as such.

174 34-11-10.

175 (a) There is created the Manufacturer and Warehouse Worker Standards Board.

176 (b)(1) Such board shall consist of seven members and shall be composed of three
177 manufacturer and warehouse employee representatives, three manufacturer and
178 warehouse employer representatives, and one representative of the public at large as
179 appointed by the Commissioner.

180 (2) The Commissioner shall designate the initial terms of the members of such board as
181 follows: two members shall be appointed for one year; three members shall be appointed
182 for two years; and two members shall be appointed for three years. Thereafter, all
183 succeeding appointments shall be for three-year terms from the expiration of the previous
184 term.

185 (3) There shall be a chairperson of such board elected by and from the membership of
186 the board who shall be the presiding officer of the board.

187 (4) Such board shall meet at least quarterly and at the call of the presiding officer and
188 follow all policies and procedures of Chapter 14 of Title 50.

189 (5) Such board shall review and make recommendations to the Commissioner, including,
190 but not limited to, minimum standards for wages, hours, and safety of manufacturer and
191 warehouse workers.

192 (6) Vacancies in office shall be filled by appointment by the Commissioner and shall be
193 for the same representative category as the position that becomes vacant. An
194 appointment to fill a vacancy other than by expiration of a term of office shall be for the
195 balance of the unexpired term.

196 (7) The Commissioner may remove from office any member for inability or neglect to
197 perform the duties required of members; incompetence; or dishonest conduct.

198 (8) Each member of such board who is not otherwise a state officer or employee shall
199 receive for each day that such member is in attendance at a meeting of the board a daily
200 expense allowance and reimbursement for transportation costs as provided for in Code
201 Section 45-7-21. Each member of the board who is otherwise an officer or employee of
202 a state agency or authority may be reimbursed by that agency or authority for meals,
203 transportation, and lodging in the usual manner authorized by law for such officers and
204 employees. The members of the board shall not receive any duplicate or other
205 compensation for their services as such.

206 34-11-11.

207 (a) There is created the Retail and Food Service Worker Standards Board.

208 (b)(1) Such board shall consist of nine members and shall be composed as follows:

209 (A) Two food service employee representatives;

210 (B) Two food service employer representatives;

211 (C) Two retail worker employee representatives;

212 (D) Two retail worker employer representatives; and

213 (E) One representative of the public at large as appointed by the Commissioner.

214 (2) The Commissioner shall designate the initial terms of the members of such board as
215 follows: three members shall be appointed for one year; three members shall be appointed
216 for two years; and three members shall be appointed for three years. Thereafter, all

217 succeeding appointments shall be for three-year terms from the expiration of the previous
218 term.

219 (3) There shall be a chairperson of such board elected by and from the membership of
220 the board who shall be the presiding officer of the board.

221 (4) Such board shall meet at least quarterly and at the call of the presiding officer and
222 follow all policies and procedures of Chapter 14 of Title 50.

223 (5) Such board shall review and make recommendations to the Commissioner, including,
224 but not limited to, minimum standards for wages, hours, and safety of retail and food
225 service workers.

226 (6) Vacancies in office shall be filled by appointment by the Commissioner and shall be
227 for the same representative category as the position that becomes vacant. An
228 appointment to fill a vacancy other than by expiration of a term of office shall be for the
229 balance of the unexpired term.

230 (7) The Commissioner may remove from office any member for inability or neglect to
231 perform the duties required of members; incompetence; or dishonest conduct.

232 (8) Each member of such board who is not otherwise a state officer or employee shall
233 receive for each day that such member is in attendance at a meeting of the board a daily
234 expense allowance and reimbursement for transportation costs as provided for in Code
235 Section 45-7-21. Each member of the board who is otherwise an officer or employee of
236 a state agency or authority may be reimbursed by that agency or authority for meals,
237 transportation, and lodging in the usual manner authorized by law for such officers and
238 employees. The members of the board shall not receive any duplicate or other
239 compensation for their services as such.

240 34-11-12.

241 (a) There is created the Trucking and Transportation Worker Standards Board.

242 (b)(1) Such board shall consist of seven members and shall be composed of three
243 trucking or transportation employee representatives, three trucking or transportation
244 employer representatives, and one representative of the public at large as appointed by
245 the Commissioner.

246 (2) The Commissioner shall designate the initial terms of the members of such board as
247 follows: two members shall be appointed for one year; three members shall be appointed
248 for two years; and two members shall be appointed for three years. Thereafter, all
249 succeeding appointments shall be for three-year terms from the expiration of the previous
250 term.

251 (3) There shall be a chairperson of such board elected by and from the membership of
252 the board who shall be the presiding officer of the board.

253 (4) Such board shall meet at least quarterly and at the call of the presiding officer and
254 follow all policies and procedures of Chapter 14 of Title 50.

255 (5) Such board shall review and make recommendations to the Commissioner, including,
256 but not limited to, minimum standards for wages, hours, and safety of trucking and
257 transportation workers.

258 (6) Vacancies in office shall be filled by appointment by the Commissioner and shall be
259 for the same representative category as the position that becomes vacant. An
260 appointment to fill a vacancy other than by expiration of a term of office shall be for the
261 balance of the unexpired term.

262 (7) The Commissioner may remove from office any member for inability or neglect to
263 perform the duties required of members; incompetence; or dishonest conduct.

264 (8) Each member of such board who is not otherwise a state officer or employee shall
265 receive for each day that such member is in attendance at a meeting of the board a daily
266 expense allowance and reimbursement for transportation costs as provided for in Code
267 Section 45-7-21. Each member of the board who is otherwise an officer or employee of
268 a state agency or authority may be reimbursed by that agency or authority for meals,

269 transportation, and lodging in the usual manner authorized by law for such officers and
270 employees. The members of the board shall not receive any duplicate or other
271 compensation for their services as such.

272 34-11-13.

273 (a) Any employer which is found by the department, after notice and an opportunity for
274 a hearing, to have willfully violated any provision of this chapter shall be subject to an
275 administrative fine not to exceed \$5,000.00 for each separate violation. Each day during
276 which any such violation occurs shall constitute a separate violation.

277 (b) Any determination by the department that an employer has willfully violated any
278 provision of this chapter shall be subject to appeal. Any hearing conducted pursuant to this
279 Code section shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia
280 Administrative Procedure Act.'

281 34-11-14.

282 If federal enforcement of the National Labor Relations Act is diminished or the National
283 Labor Relations Act is narrowed by judicial review, the Georgia Department of Labor shall
284 assume jurisdiction to certify bargaining units and adjudicate unfair labor practices for
285 private sector employees.

286 34-11-15.

287 Any employee damaged by a violation of Code Sections 34-11-4 through 34-11-6 shall
288 have the right to bring a civil action in a court of competent jurisdiction against the person
289 or persons responsible for such violation. In any action commenced pursuant to this Code
290 section, the plaintiff shall be entitled to recover actual damages, reasonable attorneys' fees,
291 costs of litigation, and punitive damages where appropriate.

292 34-11-16.

293 (a) Beginning June 30, 2027, and annually thereafter, the department shall make an annual
 294 report to the Governor, the Speaker of the House of Representatives, the President of the
 295 Senate, the chairperson of the House Committee on Industry and Labor, and the
 296 chairperson of the Senate Insurance and Labor Committee on the findings of all boards
 297 established pursuant to this chapter.

298 (b) The department shall make publicly available all annual reports submitted pursuant to
 299 this Code section on the department's website.

300 34-11-17.

301 The department may make reasonable rules and regulations, not inconsistent with law, for
 302 the interpretation and enforcement of the provisions of this chapter. Reserved."

303

PART II

304

Conforming changes in Title 34

305

SECTION 2-1.

306 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
 307 is amended in Chapter 6, relating to labor organizations and labor relations, by repealing and
 308 reserving:

309 (1) Code Section 34-6-21, relating to membership in or resignation from labor
 310 organization as condition of employment or continuation of employment and application
 311 of federal law;

312 (2) Code Section 34-6-22, relating to payment to labor organization of fee or assessment
 313 as condition of employment;

314 (3) Code Section 34-6-24, relating to contracts requiring membership in or payments to
 315 labor organizations as condition of employment; and

316 (4) Code Section 34-6-25, relating to deductions from employees' earnings of fees of labor
317 organizations and exceptions.

318 **SECTION 2-2.**

319 Said title is further amended in Part 1 of Article 1 of Chapter 7, relating to wages generally,
320 by revising Code Section 34-7-1, relating to determination of term of employment and
321 manner of termination of indefinite hiring, as follows:

322 "34-7-1.

323 (a) As used in this Code section, the term 'just cause' means a bona fide reason or a failure
324 of the employee to satisfactorily perform job duties after receiving progressive discipline.

325 (b) If a contract of employment provides that wages are payable at a stipulated period, the
326 presumption shall arise that the hiring is for such period, provided that, if anything else in
327 the contract indicates that the hiring was for a longer term, the mere reservation of wages
328 for a lesser time will not control. ~~An indefinite hiring may be terminated at will by either~~
329 party. ~~No employer may terminate an employee except for just cause.~~"

330 **SECTION 2-3.**

331 Said title is further amended in said part by adding a new Code section to read as follows:

332 "34-7-5.1.

333 (a) As used in this Code section, the term 'predictability pay' means one hour of pay.

334 (b) Employers in the retail, food service, and hospitality industries with over 100
335 employees shall:

336 (1) Provide work schedules at least 14 days in advance of each employee's shift;

337 (2) Provide predictability pay for any employer initiated shift changes made within less
338 than 14 days notice; and

339 (3) Allow a ten-hour rest period between shifts for each employee, unless such employee
340 consents in writing to work for 1.5 times pay."

341 **SECTION 2-4.**

342 Said title is further amended in Chapter 9, relating to workers' compensation, by revising
343 paragraph (2) of Code Section 34-9-1, relating to definitions, as follows:

344 "(2) 'Employee' means every person in the service of another under any contract of hire
345 or apprenticeship, written or implied, except a person whose employment is not in the
346 usual course of the trade, business, occupation, or profession of the employer; and, except
347 as otherwise provided in this chapter, minors are included even though working in
348 violation of any child labor law or other similar statute; provided, however, that nothing
349 contained in this chapter shall be construed as repealing or altering any such law or
350 statute. Any reference to any employee who has been injured shall, if the employee dies,
351 include such employee's legal representatives, dependents, and other persons to whom
352 compensation may be payable pursuant to this chapter. All firefighters, law enforcement
353 personnel, and personnel of emergency management or civil defense agencies, emergency
354 medical services, and rescue organizations whose compensation is paid by the state or
355 any county or municipality, regardless of the method of appointment, and all full-time
356 county employees and employees of elected salaried county officials are specifically
357 included in this definition. There shall also be included within such term any volunteer
358 firefighter of any county or municipality of this state, but only for services rendered in
359 such capacity which are not prohibited by Code Section 38-3-36 and only if the
360 governing authority of the county or municipality for which such services are rendered
361 shall provide by appropriate resolution for inclusion of such volunteer firefighters; any
362 volunteer law enforcement personnel of any county or municipality of this state who are
363 certified by the Georgia Peace Officer Standards and Training Council, for volunteer law
364 enforcement services rendered in such capacity which are not prohibited by Code
365 Section 38-3-36 and only if the governing authority of the county or municipality for
366 which such services are rendered shall provide by appropriate resolution for inclusion of
367 such volunteer law enforcement personnel; any person who is a volunteer member or

368 worker of an emergency management or civil defense organization, emergency medical
369 service, or rescue organization, whether governmental or not, of any county or
370 municipality of this state for volunteer services, which are not prohibited by Code
371 Section 38-3-36, rendered in such capacity and only if the governing authority of the
372 county or municipality for which such services are rendered shall provide by appropriate
373 resolution for inclusion of such volunteer members or workers; and any person certified
374 by the Department of Public Health or the Georgia Composite Medical Board and
375 registered with any county or municipality of this state as a medical first responder for
376 any volunteer first responder services rendered in such capacity, which are not prohibited
377 by Code Section 38-3-36 and only if the governing authority of the county or
378 municipality for which such services are rendered shall provide by appropriate resolution
379 for inclusion of such responders. The various elected county officers and elected
380 members of the governing authority of an individual county shall also be included in this
381 definition, if the governing authority of such county shall provide therefor by appropriate
382 resolution. For the purposes of workers' compensation coverage, employees of county
383 and district health agencies established under Chapter 3 of Title 31 are deemed and shall
384 be considered employees of the State of Georgia and employees of community service
385 boards established under Chapter 2 of Title 37 shall be considered to be employees of the
386 state. For the purpose of workers' compensation coverage, members of the Georgia
387 National Guard and the State Defense Force serving on state active duty pursuant to an
388 order by the Governor are deemed and shall be considered to be employees of this state.
389 ~~A person shall be an independent contractor and not an employee if such person has a~~
390 ~~written contract as an independent contractor and if such person buys a product and~~
391 ~~resells it, receiving no other compensation, or provides an agricultural service or such~~
392 ~~person otherwise qualifies as an independent contractor.~~ Notwithstanding the foregoing
393 provisions of this paragraph, any officer of a corporation may elect to be exempt from
394 coverage under this chapter by filing written certification of such election with the insurer

395 or, if there is no insurer, the State Board of Workers' Compensation as provided in Code
396 Section 34-9-2.1. For purposes of this chapter, an owner-operator as such term is defined
397 in Code Section 40-2-87 shall be deemed to be an independent contractor. Inmates or
398 persons participating in a work release program, community service program, or similar
399 program as part of the punishment for violation of a municipal ordinance pursuant to
400 Code Section 36-32-5 or a county ordinance or a state law shall not be deemed to be an
401 employee while participating in work or training or while going to and from the work site
402 or training site, unless such inmate or person is employed for private gain in violation of
403 Code Section 42-1-5 or Code Section 42-3-50 or unless the municipality or county had
404 voluntarily established a policy, on or before January 1, 1993, to provide workers'
405 compensation benefits to such individuals. Individuals who are parties to a franchise
406 agreement as set out by the Federal Trade Commission franchise disclosure rule,
407 16 C.F.R. 436.1 through 436.11, shall not be deemed employees for purposes of this
408 chapter."

409 SECTION 2-5.

410 Said chapter of said title is further amended by revising subsection (e) of Code
411 Section 34-9-2, relating to applicability of chapter to employers and employees generally,
412 as follows:

413 "(e)(1) A person providing labor for payment shall be considered an employee unless the
414 hiring entity demonstrates:

415 (A) The person is free from the control and direction of the hiring entity;

416 (B) The person performs work that is outside the usual course of the hiring entity's
417 business; and

418 (C) The person is customarily engaged in an independently established trade of the
419 same nature as the work performed.

420 (2) If the hiring entity demonstrates all of the criteria set forth in paragraph (1) of this
 421 subsection, the person shall be considered an independent contractor unless otherwise
 422 determined by an administrative law judge to be an employee.

423 ~~(e) A person or entity shall otherwise qualify as an independent contractor and not an~~
 424 ~~employee if such person or entity meets all of the following criteria:~~

425 ~~(1) Is a party to a contract, written or implied, which intends to create an independent~~
 426 ~~contractor relationship;~~

427 ~~(2) Has the right to exercise control over the time, manner, and method of the work to~~
 428 ~~be performed; and~~

429 ~~(3) Is paid on a set price per job or a per unit basis, rather than on a salary or hourly~~
 430 ~~basis.~~

431 ~~A person who does not meet all of the above listed criteria shall be considered an employee~~
 432 ~~unless otherwise determined by an administrative law judge to be an independent~~
 433 ~~contractor."~~

434

PART III

435

Conforming changes throughout Code

436

SECTION 3-1.

437 Code Section 16-8-16 of the Official Code of Georgia Annotated, relating to theft by
 438 extortion, is amended by revising paragraph (5) of subsection (a) as follows:

439 "(5) Bring about or continue a strike, boycott, or other collective unofficial action if the
 440 property is not demanded or received for the benefit of the group in whose interest the
 441 actor purports to act; provided, however, that this paragraph shall not apply to lawful
 442 interactions conducted as part of good faith bargaining as provided for in Code
 443 Section 34-11-4; or"

444 **SECTION 3-2.**

445 Code Section 20-2-989.10 of the Official Code of Georgia Annotated, relating to collective
446 bargaining not permitted or fostered, is amended as follows:

447 "20-2-989.10.

448 ~~Nothing in this part shall be construed to permit or foster collective bargaining as part of~~
449 ~~the state rules or local unit of administration policies.~~ Reserved."

450 **SECTION 3-3.**

451 Title 25 of the Official Code of Georgia Annotated, relating to fire protection and safety, is
452 amended by repealing Chapter 5, relating to resolution of wages, hours, and working
453 conditions of firefighters, and designating said chapter as reserved.

454 **SECTION 3-4.**

455 Code Section 45-7-54 of the Official Code of Georgia Annotated, relating to voluntary
456 contributions by state government employees through payroll deductions to certain not for
457 profit organizations, is amended by repealing and reserving subsection (e).

458 **SECTION 3-5.**

459 Chapter 19 of Title 45 of the Official Code of Georgia Annotated, relating to labor practices,
460 is amended by repealing Article 1, relating to strikes by public employees, and designating
461 said article as reserved.

462 **SECTION 3-6.**

463 Code Section 50-5-72 of the Official Code of Georgia Annotated, relating to construction and
464 public works contracts conducted by department, advertising costs, and exceptions, is
465 amended by adding a new subsection to read as follows:

466 "(f) Notwithstanding any other provision of this part or any other law dealing with the
467 subject matter contained in this Code section to the contrary, all public works contracts
468 exceeding a total expenditure of \$25,000.00 shall require contractors to pay the prevailing
469 wage, including fringe benefits, as determined by the Commissioner of Labor based on
470 local collective bargaining agreements."

471

PART IV

472

Effective Date and Repealer

473

SECTION 4-1.

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

476

SECTION 4-2.

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