

House Bill 532 (AS PASSED HOUSE AND SENATE)

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 provide for service of certain documents; to change certain
4 provisions relating to the powers and duties of the Commissioner of Labor; to change certain
5 provisions relating to eligibility requirements for extended benefits; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
10 is amended by adding a new Code section to read as follows:

11 "34-2-16.

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

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

17 (2) By hand delivery; or

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

19 **SECTION 2.**

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

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

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

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

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

30 (D) Expedite the processing of claims; and

31 (E) Waive work search reporting requirements, except when such waiver would create
32 a conformity issue with federal law.

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

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

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

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

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

45 **SECTION 3.**

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

48 "34-8-197.

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

50 (1) 'Eligibility period' of an individual means the period consisting of the weeks in his
51 or her benefit year which begin in an extended benefit period ~~and, if his or her benefit~~
52 ~~year ends within such extended benefit period, any weeks thereafter which begin in such~~
53 ~~period; provided, however, that with respect to extended benefit periods established under~~
54 ~~division (a)(3)(B)(i) of this Code section pertaining to Section 2005 of Public Law 111-5~~
55 ~~and any extension thereof that does not impose any new condition upon receipt of 100~~
56 ~~percent federal funding, or division (a)(3)(B)(ii) of this Code section pertaining to Section~~
57 ~~502 of Public Law 111-312, 'eligibility period' of an individual also means the period~~
58 ~~consisting of the weeks during which such individual is eligible for Emergency~~
59 ~~Unemployment Compensation provided for by the Supplemental Appropriations Act of~~
60 ~~2008, Title IV Emergency Unemployment Compensation, Public Law 110-252, and the~~
61 ~~Unemployment Compensation Extension Act of 2008, Public Law 110-449, and any~~
62 ~~extension or expansion thereof, when such weeks begin in that extended benefit period~~
63 ~~and, if his or her eligibility for such emergency unemployment compensation ends within~~
64 ~~such extended benefit period, any weeks thereafter which begin in such period, except~~
65 ~~as otherwise limited by the provisions in division (a)(3)(B)(iii) of this Code section.~~

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

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

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

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

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

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

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

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

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

92 (II) The thirteenth consecutive week of such period.

93 However, no extended benefit period may begin by reason of a state 'on' indicator before
94 the fourteenth week following the end of a prior extended benefit period which was in

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

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

105 ~~(B)(i) With respect to weeks of unemployment beginning on or after February 1,~~
106 ~~2009,~~

107 (C) For weeks of unemployment ending four weeks prior to the last week for which
108 100 percent federal funding is authorized under the Federal-State Extended
109 Unemployment Compensation Act of 1970, as amended, there is a state 'on' indicator
110 for a week if:

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

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

120 ~~(ii) In accordance with the provisions of Section 502(a) of the Tax Relief,~~
121 ~~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

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

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

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

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

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

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

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

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

163 (b) **Applicability of provisions as to regular benefits to claims for and payment of**
164 **extended benefits.** Except when the result would be inconsistent with the other provisions
165 of this Code section, as provided in the regulations of the Commissioner, the provisions of
166 this chapter which apply to claims for, or the payment of, regular benefits shall apply to
167 claims for, and the payment of, extended benefits. To establish entitlement to extended
168 benefits, an individual must have been paid in at least two quarters of the base period and
169 total wages in the base period must equal or exceed 150 percent of the highest quarter base
170 period wages. The alternative computation for entitlement as required by Code Section
171 34-8-193 shall not apply to extended benefits.

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

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

177 (2) He or she has satisfied the requirements of this chapter for the receipt of regular
178 benefits that are applicable to individuals claiming extended benefits, including not being
179 subject to a disqualification for the receipt of benefits; provided, however, that the total
180 extended benefits otherwise payable to an individual who has filed an interstate claim
181 under the interstate benefit payment plan shall not exceed two weeks whenever an
182 extended benefit period is not in effect for such week in the state where the claim is filed;
183 provided, further, that if an individual has been disqualified in his or her most recent
184 benefit year or on his or her extended benefit claim, only those who are required to return
185 to work and to earn additional insured wages in employment in order to terminate this
186 disqualification and who satisfy this requirement shall be eligible to receive extended
187 benefits; provided, further, that if the benefit year of a claimant ends within an extended
188 benefit period, the number of weeks of extended benefits that such claimant would be
189 entitled to in that extended benefit period, but for this subsection, shall be reduced, but
190 not below zero, by the number of weeks for which the claimant was entitled to trade
191 readjustment allowances during such benefit year. For purposes of this subsection, the
192 terms 'benefit year' and 'extended benefit period' shall have the same respective meanings.

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

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

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

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

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

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

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

215 (h) **Nonpayment of extended benefits for failure to seek or accept work.**
216 Notwithstanding other provisions of this Code section, payment of extended benefits under
217 this Code section shall not be made to any individual for any week of unemployment in his
218 or her eligibility period during which he or she fails:

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

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

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

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

227 (i) **Period of nonpayment for extended benefits.** If any individual is ineligible for
228 extended benefits for any week by reason of a failure described in paragraph (1) or (2) of

229 subsection (h) of this Code section, the individual shall be ineligible to receive extended
230 benefits for any week which begins during a period which:

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

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

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

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

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

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

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

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

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

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

254 (B) The Georgia minimum wage.

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

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

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

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

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

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

274 (n) Subsections (l) and (m) of this Code section shall apply through the week ending four
275 weeks prior to the last week for which 100 percent federal funding is authorized ~~and~~
276 ~~provided pursuant to either Section 2005(a) of Public Law 111-5 or any extension thereof~~
277 ~~that does not impose any new condition upon receipt of such federal funding, without~~
278 ~~regard to the extension of federal sharing for certain claims as provided under Section~~
279 ~~2005(c) of such law~~ under the Federal-State Extended Unemployment Compensation Act
280 of 1970, as amended."

281

SECTION 4.

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