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LABOR AND INDUSTRIAL RELATIONS

Change Provisions Relating to the Base Period; Change the Provisions Relating to Deductible Earnings; Change Provisions Relating to Benefit Experience and Variations from the Standard Rate of Employer Contributions During Certain Periods; Change the Provisions Relating to State-wide Reserve Ratio and Reductions in Tax Rate; Change Certain Time Periods; Change the Provisions Relating to Determination of the Weekly Benefit Amount and Weekly Allowable Earning.

CODE SECTIONS:	O.C.G.A. §§ 34-8-21, -30, -155, -156, -193 (amended)
BILL NUMBER:	HB 342
ACT NUMBER:	915
GEORGIA LAWS:	1001 Ga. Laws 1119
SUMMARY:	The Act, called the Employment Security and Enhancement Act of 2002, amends unemployment coverage for workers by creating an alternative base period to qualify more people by including their most recent quarter of earnings for eligibility determination. The Act increases deductible earnings from thirty dollars each week to fifty dollars each week for claims filed after July 1, 2002. The Act also changes the provisions relating to benefit experience and variations from the standard rate of employer contributions and to the State-wide Reserve Ratio and reductions in tax rate. The Act also increases the maximum weekly benefit amount from \$284.00 for claims filed before July 1, 2002, to \$295.00 for claims filed after July 1, 2002, and to \$300.00 for claims filed after July 1, 2003.
EFFECTIVE DATE:	July 1, 2002

History

Created as part of the Social Security Act of 1935, the unemployment insurance program responded to the need for a government support system to help the large numbers of those unemployed.¹ Georgia's unemployment insurance system is funded by a payroll tax on employers.² The unemployment insurance tax schedules are designed to increase or decrease based on the solvency of the unemployment insurance trust fund.³

In order to qualify for unemployment insurance in Georgia, an unemployed worker must first establish a sufficient work history.⁴ An individual's work history is defined as an amount of time (base period) that covers the first four of the last five completed calendar quarters.⁵ However, the rules measuring eligibility based on earnings rather than hours of work affect the rate of unemployment compensation for low-wage workers. Likewise, the eligibility rules require earnings in at least two quarters during the base period, thereby penalizing part-time workers.⁶

A second qualification for unemployment insurance in Georgia provides that the unemployed worker not leave work for reasons that would be considered disqualifying.⁷ Disqualifying includes leaving a job "voluntarily without good cause in connection with the individual's most recent work."⁸ Compelling family circumstances that require a worker to take off from work for even a day, such as emergency child care problems or a court appearance to request a protective order in a domestic violence case, would also disqualify a worker because those events are not "connected" to the individual's work.⁹

1. Maurice Emsellem & Vicky Lovell, *The Georgia Unemployment Insurance System: Overcoming Barriers for Low-Wage, Part-Time and Women Workers*, 1 (Dec. 2000), 18.2.1 at www.nelp.org/ui/pubs.htm.

2. *Id.* at 12.

3. *Id.*

4. *Id.* at 5.

5. O.C.G.A. 34-8-21 (Supp. 2002).

6. Emsellem & Lovell, *supra* note 1, at 6.

7. *Id.*

8. O.C.G.A. § 34-8-194(1) (Supp. 2002).

9. Emsellem & Lovell, *supra* note 1, at 6.

A third requirement to receive unemployment insurance in Georgia insists that the worker be continuously “available for work.”¹⁰ For that reason, workers who must limit their hours to part-time work, whether due to domestic circumstances or other compelling reasons, are denied unemployment insurance.¹¹

In 1999, only one in five unemployed persons in Georgia collected unemployment benefits.¹² Also, part-time and female workers collected unemployment insurance at rates two to three times lower than the average worker due to outdated and restrictive eligibility rules.¹³ To address these issues, three main policy considerations were recommended: (1) adopt an “alternative base period,” recognizing the recent earnings of workers who otherwise do not have sufficient “base period” wages to qualify for unemployment insurance; (2) recognize compelling domestic reasons for leaving work, taking into account the changing circumstances of today’s working families; and (3) allow workers to receive unemployment insurance even if they are seeking part-time rather than full-time employment.¹⁴

Originally, two additional bills were introduced in the Senate addressing unemployment benefits, SB 508 and 518.¹⁵ SB 508, sponsored by Senators Steve Thompson of the 33rd District, Connie Stokes of the 43rd District, and Charlie Tanksley of the 32nd District, would have allowed an individual to receive unemployment benefits when the separation from work was due to circumstances resulting from the individual’s status as a victim of domestic violence.¹⁶ Businesses generally opposed this controversial bill, claiming that the Unemployment Insurance Program was not intended to be a social program.¹⁷ Employers pay taxes into the unemployment trust fund to assist unemployed workers laid off and not workers who quit their jobs without employer action, regardless of the employer’s reason for leaving.¹⁸

10. O.C.G.A. § 34-8-195(a)(3)(A) (Supp. 2002).

11. Emsellem & Lovell, *supra* note 1, at 7.

12. *Id.* at 3.

13. *Id.* at 6-7.

14. *Id.* at 17-20.

15. SB 508, as introduced, 2002 Ga. Gen. Assem.; SB 518, as introduced, 2002 Ga. Gen. Assem.

16. SB 508, as introduced, 2002 Ga. Gen. Assem.

17. Telephone Interview with Bert Fridlin, National Federation of Independent Businesses/Georgia State Director (Apr. 30, 2002)[hereinafter Fridlin Interview].

18. *Id.*

SB 518, sponsored by Senator Tim Golden of the 8th District, would have continued the moratorium on unemployment taxes for 2003 and suspended any unemployment tax surcharges to businesses in 2003 that might occur if the moratorium were also suspended by the Governor.¹⁹ However, SB 518 contained no language allowing victims of domestic violence to receive unemployment benefits.²⁰ The language of SB 518 is substantially similar to the language of HB 342.²¹

HB 342

Introduction

Representatives Nan Orrock of the 56th District, Calvin Smyre of the 136th District, Jim Martin (retired) of the 47th District, Terry Coleman of the 142nd District, Henrietta Turnquest of the 73rd District, and Buddy Childers of the 13th District introduced HB 342.²² Representative Orrock introduced the bill on the House floor on January 31, 2001.²³ The House assigned the bill to the House Committee on Industrial Relations, which favorably reported the bill, by substitute, on March 25, 2002.²⁴ The House adopted the Committee on Industrial Relations substitute and passed the bill on March 26, 2002.²⁵

On March 26, 2002, the Senate assigned HB 342 to its Committee on Insurance and Labor which favorably reported the House version of the bill on April 2, 2002.²⁶ The Senate adopted the House version and passed the bill on April 10, 2002.²⁷

19. SB 518, as introduced, 2002 Ga. Gen. Assem.

20. Compare SB 518, as introduced, 2002 Ga. Gen. Assem., with SB 508, as introduced, 2002 Ga. Gen. Assem.

21. Compare SB 518, as introduced, 2002 Ga. Gen. Assem., with HB 342, as introduced, 2002 Ga. Gen. Assem.

22. HB 342, as introduced, 2002 Ga. Gen. Assem.

23. State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002.

24. *Id.*

25. Georgia House of Representatives Voting Record, HB 342 (Mar. 26, 2002); State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002; see also Audio Recording of House Proceedings, Mar. 26, 2002, at <http://www.state.ga.us/services/leg/audio/2002archive.html> [hereinafter House Audio].

26. State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002.

27. See Georgia Senate Voting Record, HB 342 (Apr. 10, 2002); State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002; see also Audio Recording of Senate Proceedings, Apr. 10, 2002, at <http://www.state.ga.us/services/leg/audio/2002archive.html> [hereinafter Senate Audio].

The General Assembly forwarded the bill to Governor Roy Barnes, who signed HB 342 into law on May 15, 2002.²⁸

Consideration by the House Committee on Industrial Relations

After introduction, the House assigned the bill to its Committee on Industrial Relations.²⁹ The Committee favorably reported the bill, by substitute on March 25, 2002.³⁰ The Committee on Industrial Relations substitute substantially changed HB 342.³¹ The Committee substitute completely struck the portion of the proposed bill relating to disqualification of part-time workers from receiving benefits and the controversial proposal to extend unemployment benefits to those who lose their jobs because of domestic violence.³²

The House Committee substitute also added Sections 3, 4, 5, and 6 of the proposed bill.³³ The House Committee substitute proposed amending Code section 34-8-30 by increasing deductible earnings for claims filed after July 1, 2002 from \$30.00 per week to \$50.00 per week.³⁴ The Committee substitute also amended subsection (f) of Code section 34-8-155 with language relating to benefit experience and variations from standard rate of employer contributions for the time period of January 1, 2004, to December 31, 2004.³⁵ The Committee substitute also amended subparagraph (d)(4)(B) of Code section 34-8-156 with language eliminating an overall increase in the rate for employers for the period of January 1 through December 31, 2003.³⁶ Third, Committee substitute amended Code section 34-8-193 to increase the maximum weekly benefit for claims filed on or after July 1, 2002 from \$284.00 to \$295.00.³⁷ Also, the proposed change

28. State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002.

29. *Id.*

30. State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002.

31. *Compare* HB 342, as introduced, 2002 Ga. Gen. Assem., *with* HB 342 (HCS), 2002 Ga. Gen. Assem.

32. *Compare* HB 342, as introduced, 2002 Ga. Gen. Assem., *with* HB 342 (HCS), 2002 Ga. Gen. Assem.; *see also* *Benefits Increased for Unemployment*, ATLANTA J. CONST., Apr. 11, 2002.

33. *Compare* HB 342, as introduced, 2002 Ga. Gen. Assem., *with* HB 342 (HCS), 2002 Ga. Gen. Assem.

34. HB 342 (HCS), 2002 Ga. Gen. Assem.

35. *Id.*

36. *Id.*

37. *Id.*

would increase the maximum weekly benefit for claims filed on or after July 1, 2003 to \$300.00.³⁸

House and Senate Passage

The House passed the HB 342 Committee substitute on March 26, 2002.³⁹ The Senate assigned HB 342 to its Committee on Insurance and Labor, which favorably reported the House version of the bill on April 2, 2002.⁴⁰ The Senate passed the House version of HB 342 on April 10, 2002.⁴¹ Governor Roy Barnes signed HB 342 into law on May 15, 2002.

The Act

The Act is entitled the “Employment Security and Enhancement Act of 2002.”⁴² ⁴³ Section 2 amends Code section 34-8-21 with language providing for an alternative base period for calculating an individual’s eligibility for unemployment benefits.⁴⁴

Section 3 amends Code section 34-8-30 by providing for an increase in the weekly deductible earnings to \$50.00 from \$30.00.⁴⁵ Section 4 amends Code section 34-8-155 by continuing the unemployment tax moratorium for the year 2003.⁴⁶ Section 5 amends Code section 34-8-156 by providing suspended tax surcharges for 2003 even if the moratorium is suspended and normal tax rates are reinstated.⁴⁷ Section 6 amends Code section 34-8-193

38. *Id.*

39. Georgia House of Representatives Voting Record, HB 342 (Mar. 26, 2002); State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002; House Audio, *supra* note 25.

40. State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002.

41. Georgia Senate Voting Record, HB 342 (Apr. 10, 2002); State of Georgia Final Composite Status Sheet, HB 342, Apr. 12, 2002; *see also* Senate Audio, *supra* note 27.

42. O.C.G.A. § 34-8-21 (Supp. 2002).

43. *Id.*

44. *Compare* 1991 Ga. Laws 139, § 1, at 141 (formerly found at O.C.G.A. § 34-8-21 (Supp. 2001)), with O.C.G.A. § 34-8-21 (Supp. 2002).

45. *Compare* 1991 Ga. Laws 139, § 1, at 143 (formerly found at O.C.G.A. § 34-8-30 (Supp. 2001)), with O.C.G.A. § 34-8-30 (Supp. 2002).

46. *Compare* 1999 Ga. Laws 521, § 3, at 528 (formerly found at O.C.G.A. § 34-8-155(f) (Supp. 2001)), with O.C.G.A. § 34-8-155(f) (Supp. 2002).

47. *Compare* 1999 Ga. Laws 521, § 4, at 532 (formerly found at O.C.G.A. § 34-8-156(d)(4)(B) (Supp. 2001)), with O.C.G.A. § 34-8-156(d)(4)(B) (Supp. 2002).

by increasing the maximum weekly benefit for an unemployed worker to \$300 in 2003.⁴⁸

Opposition to HB 342

The Georgia Chamber of Commerce, the National Federation of Independent Businesses (NFIB), the textile and poultry manufacturers, and others opposed HB 342 as introduced.⁴⁹ The NFIB's primarily opposed the changes that would have allowed persons to draw unemployment benefits when they quit their jobs for personal reasons.⁵⁰ The NFIB urged that employers pay taxes into the unemployment trust fund to help unemployed workers laid off by employers, rather than to help unemployed workers who quit without any employer action.⁵¹

However, advocates of the changes in the unemployment insurance system pointed to the fact that Georgia has one of the largest unemployment trust funds, yet one of the smallest percentages of unemployed workers who collect from it.⁵² The Georgia Department of Labor estimates that the alternative base period will cost the trust fund \$9.1 million a year.⁵³ The Georgia Department of Labor, likewise, estimated that the provision recognizing compelling domestic reasons for leaving work—the main concern of the NFIB—would provide approximately \$10 million a year in unemployment benefits to eligible workers.⁵⁴ Finally, modifying Georgia unemployment laws to allow benefits to workers seeking part-time work would cost the unemployment trust fund \$432,000.⁵⁵ Altogether, the cost of the proposed reforms in HB 342 as introduced would cost approximately \$19.5 million a year.⁵⁶ As a concession to the impact of these costs on employers, HB 342 includes an extension

48. Compare 1999 Ga. Laws 521, § 8, at 535-36 (formerly found at O.C.G.A. § 34-8-193 (Supp. 2001)), with O.C.G.A. § 34-8-193 (Supp. 2002).

49. Elizabeth Appley, *Unemployment Insurance Victory in 2002* (on file with the *Georgia State University Law Review*).

50. Fridlin Interview, *supra* note 17; see also *Unemployment Benefits for Employees Who Quit for Personal Reasons*, at <http://www.nfib.com>.

51. Fridlin Interview, *supra* note 17.

52. Telephone Interview with Elizabeth Appley, Lobbyist, Women's Policy Group (Apr. 22, 2002).

53. Emsellem & Lovell, *supra* note 1, at 18.

54. *Id.* at 19.

55. *Id.* at 20.

56. *Id.* at 21.

of the “tax holiday” for employers, saving employers approximately \$139 million dollars in unemployment insurance taxes.⁵⁷

Bert Fridlin of the NFIB, however, countered that the amount of money in the trust fund does not relate to qualification.⁵⁸ Therefore, the fact that Georgia has one of the largest unemployment insurance trust funds should not be used as a basis for extending benefits to individuals leaving work without any employer action.⁵⁹ The unemployment insurance program was never intended as a social program assisting victims of domestic violence, or workers who quit their jobs for personal reasons.⁶⁰ Fridlin further argued that the solvency of the trust fund is vital to ensure enough money is there in case unemployment occurs.⁶¹

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57. Appley, *supra* note 49, at 2.

58. Fridlin Interview, *supra* note 17.

59. *Id.*

60. *Id.*

61. *Id.*