House Bill 1090 (AS PASSED HOUSE AND SENATE)

By: Representatives Silcox of the 52nd, Jones of the 47th, Cooper of the 43rd, Hatchett of the 150th, and Dempsey of the 13th

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

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

"34-1-6.

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

(b)(1) An employer ~~may provide reasonable unpaid break time each day~~ shall provide break time of a reasonable duration to an employee who ~~needs~~ desires to express breast milk at the worksite during work hours. ~~for her infant child. The employer may make reasonable efforts to provide a room or other location (in close proximity to the work~~

~~area), other than a toilet stall, where the employee can express her milk in privacy. The break time shall, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time under this Code section if to do so would unduly disrupt the operations of the employer.~~

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

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

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

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

SECTION 1-2.

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

"45-1-7.

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

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

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

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

PART II

SECTION 2-1.

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

"34-8-30.

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

SECTION 2-2.

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

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

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

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

(C) Waive charges to employers for benefits paid;

(D) Expedite the processing of claims; and

(E) Waive work search reporting requirements.

(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 2-3.

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

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

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

~~(A)~~(i) Fourteen times the weekly benefit amount, if this state's average unemployment rate is at or below 6.5 percent, with an additional weekly amount added for each 0.5 percent increment in this state's average unemployment rate above 6.5 percent up to a maximum of 20 times the weekly benefit amount if this state's average unemployment rate equals or exceeds 9 percent; or

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

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

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

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

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

(2) In addition to and subsequent to payment of all benefits otherwise allowed under paragraph (1) of this subsection whenever the average rate of total unemployment in this state, 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 11 percent, weekly unemployment compensation shall be payable under this subsection to any individual who is unemployed, has exhausted all rights to regular unemployment compensation

under the provisions of Article 7 of this chapter, and is enrolled and making satisfactory progress, as determined by the Commissioner, in a training program approved by the department, or in a job training program authorized under the Workforce Investment Act of 1998, Public Law 105-220, and not receiving similar stipends or other training allowances for nontraining costs. Each such training program approved by the department or job training program authorized under the Workforce Investment Act of 1998 shall prepare individuals who have been separated from a declining occupation, as designated by the department from time to time, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation, as designated by the department from time to time. The amount of unemployment compensation payable under this subsection to an individual for a week of unemployment shall be equal to the individual's weekly benefit amount for the individual's most recent benefit year less deductible earnings, if any. For claims filed prior to June 14, 2020, the ~~The~~ total amount of unemployment compensation payable under this subsection to any individual shall be equal to 14 times the individual's weekly benefit amount for the individual's most recent benefit year, if this state's average unemployment rate is at or below 6.5 percent, with an additional weekly amount added for each 0.5 percent increment in this state's average unemployment rate above 6.5 percent up to a maximum of 20 times the weekly benefit amount if this state's average unemployment rate equals or exceeds 9 percent. For claims filed on or after June 14, 2020, the total amount of unemployment compensation payable under this subsection to any individual shall be equal to 14 times the individual's weekly benefit amount for the individual's most recent benefit year, if this state's average unemployment rate is at or below 4.5 percent, with an additional weekly amount added for each 0.5 percent increment in this state's average unemployment rate above 4.5 percent up to a maximum of 26 times the weekly benefit amount if this state's average unemployment rate exceeds 10 percent. The provisions of subsection (d) of Code Section 34-8-195 shall apply to eligibility for benefits under this subsection. Except when the result would be inconsistent with other provisions of this subsection, all other provisions of Article 7 of this chapter shall apply to the administration of the provisions of this subsection.

(3) As used in this subsection, the term 'state's average unemployment rate' means the average of the adjusted state-wide unemployment rates as published by the department for the time periods of April 1 through April 30 and October 1 through October 31. The average of the adjusted state-wide unemployment rates for the time period of April 1 through April 30 shall be effective on and after July 1 of each year and shall be effective through December 31. The average of the adjusted state-wide unemployment rates for

the time period of October 1 through October 31 shall be effective on and after January 1 of each year and shall be effective through June 30.

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

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

SECTION 2-4.

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

"ARTICLE 11

34-8-290.

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

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

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

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

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

PART III

SECTION 3-1.

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

SECTION 3-2.

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