

1 HB473
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3 By Representative Williams (J)
4 RFD: Commerce and Small Business
5 First Read: 07-APR-11

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ENROLLED, An Act,

To amend Section 25-4-75, Code of Alabama 1975; relating to unemployment compensation benefits; to extend the benefit period based on unemployment figures for weeks beginning after December 17, 2010, and remaining in effect until December 31, 2011.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 25-4-75, Code of Alabama 1975, is amended to read as follows:

"§25-4-75.

"(a) Applicability of section. Notwithstanding any other provisions of this chapter, the duration of benefits as provided in Section 25-4-74 shall be extended as provided in this section.

"(b) Definitions. As used in this section, unless the context clearly requires otherwise, the following terms shall mean:

"(1) EXTENDED BENEFIT PERIOD. A period which:

"a. Begins with the third week after a week for which there is a state "on" indicator; and

"b. Ends with either of the following weeks, whichever occurs later:

"1. The third week after the first week for which there is a state "off" indicator; or

1 "2. The thirteenth consecutive week of such period;
 2 provided, that no extended benefit period may begin by reason
 3 of a state "on" indicator before the fourteenth week following
 4 the end of a prior extended benefit period which was in effect
 5 with respect to this state.

6 "3. The eligibility period for the payment of
 7 extended benefits using the total unemployment rate begins on
 8 or after February 1, 2009, and ends four weeks prior to the
 9 last week for which 100 percent federal sharing funding is
 10 available under Section 2005(a) of Public Law No. 111-5,
 11 without regard to the extension of federal sharing for certain
 12 claims as provided under Section 2005(c) of such law.

13 "(2) STATE "ON" INDICATOR. There is a "state 'on'
 14 indicator" for this state for a week if the director
 15 determines, in accordance with the regulations of the U.S.
 16 Secretary of Labor, that for the period consisting of such
 17 week and the immediately preceding 12 weeks, the rate of
 18 insured unemployment (not seasonally adjusted) under this
 19 section:

20 "a. For any weeks beginning prior to September 26,
 21 1982, equaled or exceeded that required by this section prior
 22 to such date.

23 "b. For any week beginning on September 26, 1982, or
 24 thereafter:

1 "1. Equaled or exceeded 120 percent of the average
 2 of such rates for the corresponding 13-week period ending in
 3 each of the preceding two calendar years; and

4 "2. Equaled or exceeded five percent; provided, that
 5 with respect to benefits for weeks of unemployment beginning
 6 after September 25, 1982, the determination of whether there
 7 has been a "state 'on' indicator" beginning any extended
 8 benefit period shall be made under this paragraph b. as if
 9 this paragraph b. did not contain subparagraph 1 thereof and
 10 the "five" contained in subparagraph 2 thereof were "six"; or

11 "3. With respect to weeks of unemployment beginning
 12 on or after February 1, 2009, and remaining in effect until
 13 four weeks prior to the last week for which 100 percent
 14 federal sharing funding is available under Section 2005(a) of
 15 Public Law No. 111-5, without regard to the extension of
 16 federal sharing for certain claims as provided under Section
 17 2005(c) of such law:

18 "a. The average rate of total unemployment
 19 (seasonally adjusted), as determined by the United States
 20 Secretary of Labor, for the period consisting of the most
 21 recent 3 months for which data for all states are published
 22 before the close of such week equals or exceeds 6.5 percent.

23 "b. The average rate of total unemployment in the
 24 state (seasonally adjusted), as determined by the United
 25 States Secretary of Labor, for the 3-month period referred to

1 in paragraph a., equals or exceeds 110 percent of such average
2 for either or both of the corresponding 3-month periods ending
3 in the two preceding calendar years.

4 "c. With respect to compensation for weeks of
5 unemployment beginning after December 17, 2010, and remaining
6 in effect until December 31, 2011, or as permitted by federal
7 law, the average rate of total unemployment in the state
8 (seasonally adjusted), as determined by the United States
9 Secretary of Labor, for the three-month period referred to in
10 paragraph a., equals or exceeds 110 percent of such average
11 for any or all of the corresponding three-month periods ending
12 in the three preceding calendar years.

13 ~~"c.~~ d. For the purposes of this section, a "high
14 unemployment period" exists during any period during which an
15 extended benefit period would be in effect by substituting "8
16 percent" for "6.5 percent" in paragraph a.

17 "(3) STATE "OFF" INDICATOR. There is a "state 'off'
18 indicator" for this state for a week if the director
19 determines, in accordance with the regulations of the U.S.
20 Secretary of Labor, that for the period consisting of such
21 week and the immediately preceding 12 weeks:

22 "a. For any weeks beginning prior to September 26,
23 1982, the rate of insured unemployment under this section was
24 less than that required by this section prior to such date.

1 "b. For any weeks beginning on September 26, 1982,
2 or thereafter, the requirements of either subparagraph 1 or 2
3 of paragraph (2)b. of this subsection (b) were not satisfied,
4 except that the six percent provision does not apply in
5 determining an "off" indicator.

6 "(4) RATE OF INSURED UNEMPLOYMENT. For the purpose
7 of subdivisions (2) and (3) of this subsection (b), such term
8 means the percentage derived by dividing:

9 "a. The average weekly number of individuals filing
10 claims for regular state benefits in this state for weeks of
11 unemployment with respect to the most recent
12 13-consecutive-week period, as determined by the director on
13 the basis of his reports to the U.S. Secretary of Labor, by

14 "b. The average monthly employment covered under
15 this chapter for the first four of the most recent six
16 completed calendar quarters ending before the end of such
17 13-week period.

18 "(5) REGULAR BENEFITS. Benefits payable to an
19 individual under this chapter or under any other state law
20 (including benefits payable to federal civilian employees and
21 to ex-servicemen pursuant to 5 U.S.C. 85), other than extended
22 benefits.

23 "(6) EXTENDED BENEFITS. Benefits (including benefits
24 payable to federal civilian employees and to ex-servicemen
25 pursuant to 5 U.S.C. 85) payable to an individual under the

1 provisions of this subsection for weeks of unemployment in his
2 eligibility period.

3 "(7) ELIGIBILITY PERIOD OF AN INDIVIDUAL. The period
4 consisting of the weeks in his benefit year which begin in an
5 extended benefit period and, if his benefit year ends within
6 such extended benefit period, any weeks thereafter which begin
7 in such extended benefit period or during an extended benefit
8 period provided for in Section 2005(b) of Public Law No.
9 111-5.

10 "(8) EXHAUSTEE. An individual who, with respect to
11 any week of unemployment in his eligibility period:

12 "a. Has received, prior to such week, all of the
13 regular benefits that were available to him under this chapter
14 or any other state law (including dependents' allowances and
15 benefits payable to federal civilian employees and
16 ex-servicemen under 5 U.S.C. 85) in his current benefit year
17 that includes such week; provided, that for the purposes of
18 this subdivision (8), an individual shall be deemed to have
19 received all of the regular benefits that were available to
20 him although as a result of a pending appeal with respect to
21 wages and/or employment that were not considered in the
22 original monetary determination in his benefit year, he may
23 subsequently be determined to be entitled to added regular
24 benefits; or

1 "b. His benefit year having expired prior to such
2 week, has no, or insufficient, wages on the basis of which he
3 could establish a new benefit year that would include such
4 week; and

5 "c.1. Has no right to unemployment benefits or
6 allowances, as the case may be, under the Railroad
7 Unemployment Insurance Act, the Trade Expansion Act of 1962,
8 the Automotive Products Trade Act of 1965, and such other
9 federal laws as are specified in regulations issued by the
10 U.S. Secretary of Labor; and

11 "2. Has not received and is not seeking unemployment
12 benefits under the unemployment compensation law of Canada;
13 but, if he is seeking such benefits and the appropriate agency
14 finally determines that he is not entitled to benefits under
15 such law, he is considered an exhaustee.

16 "(9) STATE LAW. The unemployment insurance law of
17 any state, approved by the U.S. Secretary of Labor under
18 Section 3304 of the Internal Revenue Code of 1954.

19 "(c) Effect of state law provisions relating to
20 regular benefits on claims for, and the payment of, extended
21 benefits. Except when the result would be inconsistent with
22 the other provisions of this section, as provided in the
23 regulations of the director, the provisions of this chapter
24 which apply to claims for, or the payment of, regular benefits

1 shall apply to claims for, and the payment of, extended
2 benefits.

3 "(d) Eligibility requirements for extended benefits.
4 An individual shall be eligible to receive extended benefits
5 with respect to any week of unemployment in his eligibility
6 period only if the director finds that with respect to such
7 week:

8 "(1) He is an "exhaustee," as defined in subdivision
9 (b) (8) of this section.

10 "(2) He has satisfied the requirements of this
11 chapter for the receipt of regular benefits that are
12 applicable to individuals claiming extended benefits,
13 including not being subject to a disqualification for the
14 receipts of benefits.

15 "(e) Weekly extended benefit amount. The weekly
16 extended benefit amount payable to an individual for a week of
17 total unemployment in his eligibility period shall be an
18 amount equal to the weekly benefit amount payable to him
19 during his applicable benefit year.

20 "(f) Total extended benefit amount. The total
21 extended benefit amount payable to any eligible individual
22 with respect to his applicable benefit year shall be the
23 lesser of the following amounts:

1 "(1) 50 percent, rounded to the nearest multiple of
2 \$1, of the total amount of regular benefits which were payable
3 to him under this chapter in his applicable benefit year; or

4 "(2) Thirteen times the weekly benefit amount which
5 was payable to an individual under this chapter for a week of
6 total unemployment in the applicable benefit year.

7 "(3) Effective with respect for weeks in a high
8 unemployment period, the total extended benefit amounts shall
9 be applied by substituting "80 percent" for "50 percent" in
10 subdivision (1) and "Twenty" for "Thirteen" in subdivision
11 (2).

12 "(g) Beginning and termination of extended benefit
13 period.

14 "(1) Whenever an extended benefit period is to
15 become effective in this state, as a result of a state "on"
16 indicator, or an extended benefit period is to be terminated
17 in this state as a result of a state "off" indicator, the
18 director shall make an appropriate public announcement.

19 "(2) Computations required by the provisions of
20 subdivision (b) (4) of this section shall be made by the
21 director, in accordance with regulations prescribed by the
22 U.S. Secretary of Labor.

23 "(h) Cessation of extended benefits when paid under
24 an interstate claim in a state where extended benefit period
25 is not in effect.

1 "(1) Except as provided in subdivision (h) (2), an
2 individual shall not be eligible for extended benefits for any
3 week if:

4 "a. Extended benefits are payable for such week
5 pursuant to an interstate claim filed in any state under the
6 interstate benefit payment plan; and

7 "b. No extended benefit period is in effect for such
8 week in such state.

9 "(2) The provisions of subdivision (h) (1) shall not
10 apply with respect to the first two weeks for which extended
11 benefits are payable (determined without regard to this
12 subsection) pursuant to an interstate claim filed under the
13 interstate benefit payment plan to the individual from his
14 extended benefit amount established for the benefit year.

15 "(i) Restrictions on entitlement during eligibility
16 period.

17 "(1) Notwithstanding the other provisions of this
18 section, payment of any extended benefits under this section
19 shall not be made to any individual for any week of
20 unemployment in his eligibility period:

21 "a. during which he fails to accept any offer of
22 suitable work as defined in subdivision (i) (3) or fails to
23 apply for any such suitable work to which he was referred by
24 the director; or

1 "b. during which he fails to actively seek work,
2 except as provided in subdivision (a) (5) of Section 25-4-77,
3 but only with regard to the exception for the appearance for
4 jury duty as provided therein.

5 "(2) If any individual is ineligible for extended
6 benefits for any week by reason of a failure described in
7 subdivision (i) (1), the individual shall be ineligible to
8 receive extended benefits for any week during a period which:

9 "a. begins with the week following the week in which
10 such failure occurs and

11 "b. does not end until such individual has been
12 employed in at least four weeks which begin after such failure
13 and the total of the remuneration earned by the individual for
14 being so employed is not less than four times his extended
15 weekly benefit amount for his benefit year.

16 "(3) For the purposes of this subsection (i), the
17 term "suitable work" means, with respect to any individual,
18 any work which is within such individual's capabilities;
19 except that, if the individual furnishes evidence satisfactory
20 to the director that such individual's prospects for obtaining
21 work in his customary occupation within a reasonably short
22 period are good, the determination of whether any work is
23 suitable work shall be made in accordance with other
24 provisions of this chapter.

1 "(4) Extended benefits shall not be denied under
2 paragraph a. of subdivision (i)(1) to any individual for any
3 week by reason of a failure to accept an offer of, or apply
4 for, suitable work:

5 "a. If the gross average weekly remuneration payable
6 to such individual for the position does not exceed the sum
7 of:

8 "1. the individual's extended weekly benefit amount
9 for the benefit year plus;

10 "2. the amount if any of supplemental unemployment
11 benefits (as defined in 26 U.S.C. 501(c)(17)(D)) payable to
12 such individual for such week;

13 "b. if the position was not offered to such
14 individual in writing or was not listed with the state
15 employment service;

16 "c. if such failure would not result in a denial of
17 benefits under the other provisions of this chapter to the
18 extent that such provisions are not inconsistent with
19 subdivisions (4) and (5) of this subsection (i); or

20 "d. if the position pays wages less than the higher
21 of the minimum wages provided under Section 6 (a)(1) of the
22 Fair Labor Standards Act of 1938, as amended, without regard
23 to any exemption or the applicable state or local minimum
24 wage, if any.

1 "(5) For purposes of this subsection (i), an
2 individual shall be treated as actively engaged in seeking
3 work during any week if the individual has engaged in a
4 systematic and sustained effort to obtain work during such
5 week, and provides tangible evidence to the director that he
6 has engaged in such effort during such week.

7 "(j) Referral of extended claimant to job. Extended
8 benefit claimants shall be referred to any available suitable
9 work to which the definition in subdivision (i)(4) does not
10 apply.

11 "(k) Employment required after involuntary
12 separation. No provision of Section 25-4-78 which terminates a
13 disqualification for regular or extended benefits because he
14 or she has voluntarily left employment, was suspended or
15 discharged for misconduct (in any of the degrees defined in
16 Section 25-4-78) or failed to accept an offer of or apply for
17 suitable work shall apply for purposes of determining
18 eligibility for extended benefits unless the disqualification
19 imposed has been terminated based upon employment in four
20 weeks and remuneration of an amount which equals or exceeds
21 four times the individual's weekly benefit amount subsequent
22 to the effective date of such disqualification.

23 "(l) Effective date of added provisions. The
24 provisions of subsections (h), (i), (j), (k), and (l) of this
25 section shall apply to weeks of unemployment which begin after

1 March 31, 1981, except the provisions of subsection (i), (j),
2 and (k) shall not apply to claims for weeks of unemployment
3 beginning after March 6, 1993, and before January 1, 1995.
4 During this period, the provisions of this chapter applicable
5 to claims for regular compensation shall apply. For weeks
6 beginning on or after January 1, 1995, the provisions of
7 subsections (i), (j), and (k) shall apply.

8 "(m) Effect of receipt of trade readjustment
9 allowances. Notwithstanding any other provisions of this
10 section, if the benefit year of any individual ends within an
11 extended benefit period, the remaining balance of extended
12 benefits that such individual would, but for this subsection
13 (m), be entitled to receive in that extended benefit period,
14 with respect to weeks of unemployment beginning after the end
15 of the benefit year, shall be reduced (but not below zero) by
16 the product of the number of weeks for which the individual
17 received any amounts as trade readjustment allowances within
18 that benefit year, multiplied by the individual's weekly
19 benefit amount for extended benefits."

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.

