

1 HB473
2 128768-1
3 By Representative Williams (J)
4 RFD: Commerce and Small Business
5 First Read: 07-APR-11

2
3
4
5
6
7
8 SYNOPSIS: This bill extends the unemployment
9 compensation benefit period based on whether
10 unemployment exceeds a certain percentage for weeks
11 beginning after December 17, 2010, and remaining in
12 effect until December 31, 2011.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

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

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 "§25-4-75.

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

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

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

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

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

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

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

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

1 "(2) STATE "ON" INDICATOR. There is a "state 'on'
2 indicator" for this state for a week if the director
3 determines, in accordance with the regulations of the U.S.
4 Secretary of Labor, that for the period consisting of such
5 week and the immediately preceding 12 weeks, the rate of
6 insured unemployment (not seasonally adjusted) under this
7 section:

8 "a. For any weeks beginning prior to September 26,
9 1982, equaled or exceeded that required by this section prior
10 to such date.

11 "b. For any week beginning on September 26, 1982, or
12 thereafter:

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

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

23 "3. With respect to weeks of unemployment beginning
24 on or after February 1, 2009, and remaining in effect until
25 four weeks prior to the last week for which 100 percent
26 federal sharing funding is available under Section 2005(a) of
27 Public Law No. 111-5, without regard to the extension of

1 federal sharing for certain claims as provided under Section
2 2005(c) of such law:

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

8 "b. The average rate of total unemployment in the
9 state (seasonally adjusted), as determined by the United
10 States Secretary of Labor, for the 3-month period referred to
11 in paragraph a., equals or exceeds 110 percent of such average
12 for either or both of the corresponding 3-month periods ending
13 in the two preceding calendar years.

14 "c. With respect to compensation for weeks of
15 unemployment beginning after December 17, 2010, and remaining
16 in effect until December 31, 2011, or as permitted by federal
17 law, the average rate of total unemployment in the state
18 (seasonally adjusted), as determined by the United States
19 Secretary of Labor, for the three-month period referred to in
20 paragraph a., equals or exceeds 110 percent of such average
21 for any or all of the corresponding three-month periods ending
22 in the three preceding calendar years.

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

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

6 "a. For any weeks beginning prior to September 26,
7 1982, the rate of insured unemployment under this section was
8 less than that required by this section prior to such date.

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

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

17 "a. The average weekly number of individuals filing
18 claims for regular state benefits in this state for weeks of
19 unemployment with respect to the most recent
20 13-consecutive-week period, as determined by the director on
21 the basis of his reports to the U.S. Secretary of Labor, by

22 "b. The average monthly employment covered under
23 this chapter for the first four of the most recent six
24 completed calendar quarters ending before the end of such
25 13-week period.

26 "(5) REGULAR BENEFITS. Benefits payable to an
27 individual under this chapter or under any other state law

1 (including benefits payable to federal civilian employees and
2 to ex-servicemen pursuant to 5 U.S.C. 85), other than extended
3 benefits.

4 "(6) EXTENDED BENEFITS. Benefits (including benefits
5 payable to federal civilian employees and to ex-servicemen
6 pursuant to 5 U.S.C. 85) payable to an individual under the
7 provisions of this subsection for weeks of unemployment in his
8 eligibility period.

9 "(7) ELIGIBILITY PERIOD OF AN INDIVIDUAL. The period
10 consisting of the weeks in his benefit year which begin in an
11 extended benefit period and, if his benefit year ends within
12 such extended benefit period, any weeks thereafter which begin
13 in such extended benefit period or during an extended benefit
14 period provided for in Section 2005(b) of Public Law No.
15 111-5.

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

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

1 original monetary determination in his benefit year, he may
2 subsequently be determined to be entitled to added regular
3 benefits; or

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

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

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

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

22 "(c) Effect of state law provisions relating to
23 regular benefits on claims for, and the payment of, extended
24 benefits. Except when the result would be inconsistent with
25 the other provisions of this section, as provided in the
26 regulations of the director, the provisions of this chapter
27 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:

24 "(1) 50 percent, rounded to the nearest multiple of
25 \$1, of the total amount of regular benefits which were payable
26 to him under this chapter in his applicable benefit year; or

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

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

9 "(g) Beginning and termination of extended benefit
10 period.

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

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

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

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

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

4 "b. No extended benefit period is in effect for such
5 week in such state.

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

12 "(i) Restrictions on entitlement during eligibility
13 period.

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

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

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

26 "(2) If any individual is ineligible for extended
27 benefits for any week by reason of a failure described in

1 subdivision (i)(1), the individual shall be ineligible to
2 receive extended benefits for any week during a period which:

3 "a. begins with the week following the week in which
4 such failure occurs and

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

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

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

23 "a. If the gross average weekly remuneration payable
24 to such individual for the position does not exceed the sum
25 of:

26 "1. the individual's extended weekly benefit amount
27 for the benefit year plus;

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

4 "b. if the position was not offered to such
5 individual in writing or was not listed with the state
6 employment service;

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

11 "d. if the position pays wages less than the higher
12 of the minimum wages provided under Section 6 (a)(1) of the
13 Fair Labor Standards Act of 1938, as amended, without regard
14 to any exemption or the applicable state or local minimum
15 wage, if any.

16 "(5) For purposes of this subsection (i), an
17 individual shall be treated as actively engaged in seeking
18 work during any week if the individual has engaged in a
19 systematic and sustained effort to obtain work during such
20 week, and provides tangible evidence to the director that he
21 has engaged in such effort during such week.

22 "(j) Referral of extended claimant to job. Extended
23 benefit claimants shall be referred to any available suitable
24 work to which the definition in subdivision (i)(4) does not
25 apply.

26 "(k) Employment required after involuntary
27 separation. No provision of Section 25-4-78 which terminates a

1 disqualification for regular or extended benefits because he
2 or she has voluntarily left employment, was suspended or
3 discharged for misconduct (in any of the degrees defined in
4 Section 25-4-78) or failed to accept an offer of or apply for
5 suitable work shall apply for purposes of determining
6 eligibility for extended benefits unless the disqualification
7 imposed has been terminated based upon employment in four
8 weeks and remuneration of an amount which equals or exceeds
9 four times the individual's weekly benefit amount subsequent
10 to the effective date of such disqualification.

11 "(l) Effective date of added provisions. The
12 provisions of subsections (h), (i), (j), (k), and (l) of this
13 section shall apply to weeks of unemployment which begin after
14 March 31, 1981, except the provisions of subsection (i), (j),
15 and (k) shall not apply to claims for weeks of unemployment
16 beginning after March 6, 1993, and before January 1, 1995.
17 During this period, the provisions of this chapter applicable
18 to claims for regular compensation shall apply. For weeks
19 beginning on or after January 1, 1995, the provisions of
20 subsections (i), (j), and (k) shall apply.

21 "(m) Effect of receipt of trade readjustment
22 allowances. Notwithstanding any other provisions of this
23 section, if the benefit year of any individual ends within an
24 extended benefit period, the remaining balance of extended
25 benefits that such individual would, but for this subsection
26 (m), be entitled to receive in that extended benefit period,
27 with respect to weeks of unemployment beginning after the end

1 of the benefit year, shall be reduced (but not below zero) by
2 the product of the number of weeks for which the individual
3 received any amounts as trade readjustment allowances within
4 that benefit year, multiplied by the individual's weekly
5 benefit amount for extended benefits."

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.