**South Carolina General Assembly**

124th Session, 2021-2022

**A229, R260, S1090**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Massey

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Introduced in the Senate on February 22, 2022

Introduced in the House on March 2, 2022

Last Amended on June 15, 2022

Passed by the General Assembly on June 15, 2022

Governor's Action: June 17, 2022, Signed

Summary: Unemployment benefits

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/22/2022 Senate Introduced and read first time ([Senate Journal‑page 4](file:///h:\sj\20220222.docx))

2/22/2022 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 4](file:///h:\sj\20220222.docx))

2/24/2022 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** ([Senate Journal‑page 8](file:///h:\sj\20220224.docx))

2/24/2022 Senate Special order, set for February 24, 2022 ([Senate Journal‑page 19](file:///h:\sj\20220224.docx))

2/28/2022 Senate Committee Amendment Adopted ([Senate Journal‑page 39](file:///h:\sj\20220228.docx))

3/1/2022 Senate Amended ([Senate Journal‑page 39](file:///h:\sj\20220301.docx))

3/1/2022 Senate Read second time ([Senate Journal‑page 39](file:///h:\sj\20220301.docx))

3/1/2022 Senate Roll call Ayes‑25 Nays‑9 ([Senate Journal‑page 39](file:///h:\sj\20220301.docx))

3/2/2022 Senate Read third time and sent to House ([Senate Journal‑page 18](file:///h:\sj\20220302.docx))

3/2/2022 House Introduced and read first time ([House Journal‑page 103](file:///h:\hj\20220302.docx))

3/2/2022 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 103](file:///h:\hj\20220302.docx))

3/22/2022 Amended

3/9/2022 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 2](file:///h:\hj\20220309.docx))

3/10/2022 House Amended ([House Journal‑page 16](file:///h:\hj\20220310.docx))

3/10/2022 House Read second time ([House Journal‑page 16](file:///h:\hj\20220310.docx))

3/10/2022 House Roll call Yeas‑91 Nays‑19 ([House Journal‑page 19](file:///h:\hj\20220310.docx))

3/10/2022 House Unanimous consent for third reading on next legislative day ([House Journal‑page 20](file:///h:\hj\20220310.docx))

3/11/2022 House Read third time and returned to Senate with amendments

3/11/2022 Scrivener's error corrected

3/22/2022 Senate House amendment amended ([Senate Journal‑page 27](file:///h:\sj\20220322.docx))

3/22/2022 Senate Roll call Ayes‑30 Nays‑7 ([Senate Journal‑page 27](file:///h:\sj\20220322.docx))

3/22/2022 Senate Returned to House with amendments ([Senate Journal‑page 27](file:///h:\sj\20220322.docx))

3/30/2022 House Debate adjourned until Tues., 4‑5‑22 ([House Journal‑page 23](file:///h:\hj\20220330.docx))

4/6/2022 House Debate adjourned until Tues., 4‑19‑22 ([House Journal‑page 169](file:///h:\hj\20220406.docx))

4/19/2022 House Non‑concurrence in Senate amendment ([House Journal‑page 225](file:///h:\hj\20220419.docx))

4/19/2022 House Roll call Yeas‑0 Nays‑107 ([House Journal‑page 225](file:///h:\hj\20220419.docx))

4/20/2022 Senate Senate insists upon amendment and conference committee appointed Massey, Bennett, K. Johnson ([Senate Journal‑page 19](file:///h:\sj\20220420.docx))

4/27/2022 House Conference committee appointed Wooten, Blackwell, Jefferson ([House Journal‑page 2](file:///h:\hj\20220427.docx))

6/15/2022 House Conference report received and adopted ([House Journal‑page 175](file:///h:\hj\20220615.docx))

6/15/2022 House Roll call Yeas‑101 Nays‑0 ([House Journal‑page 77](file:///h:\hj\20220615.docx))

6/15/2022 Senate Conference report received and adopted ([Senate Journal‑page 178](file:///h:\sj\20220615.docx))

6/15/2022 Senate Roll call Ayes‑34 Nays‑6

6/15/2022 House Ordered enrolled for ratification ([House Journal‑page 225](file:///h:\hj\20220615.docx))

6/16/2022 Ratified R 260

6/17/2022 Signed By Governor

6/28/2022 Effective date 06/17/22

6/28/2022 Act No.  229

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**VERSIONS OF THIS BILL**

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[3/1/2022](file:///p:\pprever\2021-22\1090_20220301.docx)

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(A229, R260, S1090)

**AN ACT** **TO AMEND SECTION 41‑35‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INSURED WORKERS’ WEEKLY UNEMPLOYMENT BENEFITS, SO AS TO PROVIDE THAT THE MAXIMUM WEEKLY BENEFIT AMOUNT SET EACH YEAR BY THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE WITHIN THE ESTABLISHED RANGE MUST BE PUBLISHED ON THE WEBSITE OF THE DEPARTMENT, TO PROVIDE THAT THE PROCEDURE FOR RECONSIDERING DETERMINATIONS OF WEEKLY BENEFIT AMOUNTS PURSUANT TO SECTION 41‑35‑640 IS THE SOLE AND EXCLUSIVE PROCEDURE AND REMEDY FOR DISPUTING SUCH DETERMINATIONS, TO RATIFY AND AFFIRM THAT THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE HAS FAITHFULLY EXECUTED THE PROVISIONS CONTAINED IN SECTION 41‑35‑40 IN ACCORDANCE WITH THE CLEAR LANGUAGE OF THE STATUTE AND THE INTENT OF THE GENERAL ASSEMBLY, APPLIED RETROACTIVELY TO JULY 1, 2007; AND TO AMEND SECTION 41‑31‑60, RELATING TO THE COMPUTATION OF EMPLOYERS’ TAX RATES WHEN DELINQUENT REPORTS ARE RECEIVED, SO AS TO PROVIDE THE TAX CLASS TWENTY RATE MUST BE ASSIGNED UNTIL THE NEXT COMPUTATION DATE OR UNTIL ALL OUTSTANDING TAX REPORTS HAVE BEEN FILED.**

Whereas, pursuant to Section 41‑27‑40, the General Assembly has the right to amend or repeal all or any part of Chapters 27 through 41 of this title at any time and there is no vested private right of any kind against such amendment or repeal; and

Whereas, the General Assembly intended to charge the department with the administration of Title 41, Chapters 27 through 41, which includes the enforcement, interpretation, and execution of Section 41‑35‑40; and

Whereas, the General Assembly has known of the department’s enforcement, interpretation, and execution of Section 41‑35‑40 regarding the weekly maximum benefit amounts paid to claimants; and

Whereas, the General Assembly has continuously approved the decades long practice by the department and its predecessor, the Employment Security Commission, of exercising its discretion to set a weekly maximum amount of unemployment benefits that an individual may receive in a week for the legitimate legislative purpose of ensuring the solvency of the unemployment insurance trust fund and that there are adequate funds to pay unemployment insurance benefits to individuals unemployed through no fault of their own; and

Whereas, the General Assembly believes that the department’s enforcement, interpretation, and execution of Section 41‑35‑40 has been and continues to be reasonable and consistent with the General Assembly’s intent and charge to administer Section 41‑35‑40; and

Whereas, the General Assembly intends to explicitly reaffirm that the department has always had the discretion to establish a maximum amount of unemployment benefits an individual may receive each week; and

Whereas, the General Assembly intends for this act to apply retroactively and govern all claims for unemployment insurance filed on or after July 1, 2007, and to apply to all proceedings disputing the department’s calculation of an unemployed individual’s maximum weekly benefit amount pending on or commenced after the date of the enactment of this act. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

**Maximum weekly unemployment benefits, ratification and affirmation of DEW actions applied retroactively**

SECTION 1. A. Section 41‑35‑40 of the 1976 Code is amended to read:

“Section 41‑35‑40. (A) An insured worker’s weekly benefit amount is fifty percent of his weekly average wage, as defined in Section 41‑27‑140, and the weekly benefit amount, if not a multiple of one dollar, must be computed to the next lower multiple of one dollar. However, no insured worker’s weekly benefit amount may be less than forty‑two dollars nor greater than sixty‑six and two‑thirds percent of the statewide average weekly wage most recently computed before the beginning of the individual’s benefit year.

(B) The maximum weekly benefit amount set each year by the department within the range established in subsection (A) must be published on the department’s website.

(C) The procedure for reconsideration of determinations pursuant to Section 41‑35‑640 is the sole and exclusive procedure and remedy for disputing the department’s determination of an insured worker’s weekly benefit amount.”

B. The General Assembly ratifies and affirms that the department has reasonably and faithfully interpreted, executed, and enforced the provisions contained in Section 41‑35‑40 in accordance with its charge of the administration of the statute and the General Assembly’s intent. The provisions of this SECTION shall apply retroactively to govern all claims for unemployment insurance benefits on or after July 1, 2007, so that all such claims are subject to the maximum weekly benefit amount set by the department at the time the claim was filed.

**Employers’ tax rate computations, delinquent reports**

SECTION 2. Section 41‑31‑60(A) of the 1976 Code is amended to read:

“(A) If on the computation date upon which an employer’s tax rate is to be computed as provided in Section 41‑31‑40 there is a delinquent report, the tax class twenty rate must be assigned to the employer until the next computation date or until all outstanding tax reports have been filed.”

**Severability**

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 16th day of June, 2022.

Approved the 17th day of June, 2022.

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