~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 29, 2012

**H. 4786**

Introduced by Reps. Sandifer and D.C. Moss

S. Printed 5/29/12--S.

Read the first time March 28, 2012.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 4786) to amend Section 41‑35‑20, Code of Laws of South Carolina, 1976, relating to the payment of unemployment benefits based on certain services in schools or institutions, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking the bill in its entirety and inserting:

/ TO AMEND SECTION 41‑35‑20 OF THE 1976 CODE, RELATING TO THE PAYMENT OF UNEMPLOYMENT BENEFITS BASED ON CERTAIN SERVICES IN SCHOOLS OR INSTITUTIONS OF HIGHER EDUCATION, TO INCLUDE SERVICES PROVIDED BY SUBSTITUTE TEACHERS UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. Section 41‑35‑20 of the 1976 Code is amended to read:

“Section 41‑35‑20. (1) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in Section 41‑27‑290 or educational institution as defined in Section 41‑27‑340 must not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual’s contract, if the individual has a contract or a reasonable assurance that the individual will perform services in this capacity for both these academic years or both these terms.

(2) With respect to services performed after December 31, 1977, in any other capacity for an educational institution or institution of higher education, irrespective of whether the institution is a public, private, or nonprofit organization, benefits are not payable on the basis of these services to any individual for any week which commences during a period between two successive academic years or terms if the individual performs these services in the first of those academic years or terms and there is a reasonable assurance that the individual will perform these services in the second of those academic years or terms. However, if compensation is denied to any individual under this subsection and the individual was not offered an opportunity to perform these services for the educational institution or institution of higher education for the second of these academic years or terms, the individual is entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subsection.

(3) ~~The provisions of subsections (1) and (2) apply both to employees of the educational institution concerned or to persons employed by a governmental agency or entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions if these persons perform these services in the educational institution.~~ With respect to any services described in subsections (1) and (2), benefits are not payable on the basis of services in any such capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if the individual performs these services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform these services in the period immediately following the vacation period or holiday recess.

(4) With respect to any services described in subsections (1), ~~and~~ (2), and (3) of this section, benefits are not payable on the basis of services in any such capacities ~~as specified in subsections (1) and (2) of this section~~ to any individual who performed these services in an educational institution or institution of higher education while in the employ of an educational service agency. For purposes of this section, ‘educational service agency’ means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing these services to one or more educational institutions.

(5) With respect to any services described in subsections (1), (2), and ~~(4)~~ (3), benefits are not payable on the basis of services in any such capacities to any individual ~~for any week which commences during an established and customary vacation period or holiday recess if the individual performs these services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform these services in the period immediately following the vacation period or holiday recess~~ who performed these services for a private employer holding a contractual relationship with the educational institution and is providing the services to or on behalf of an educational institution or an institution of higher education, provided that the private employer notifies the Department of Employment and Workforce of the separation of an individual subject to this subsection.

(6) In this section ‘reasonable assurance’ means a written, verbal, or implied agreement that the employee will perform services in the same capacity during the ensuing academic year or term.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

W. GREG RYBERG for Committee.

**A** **BILL**

TO AMEND SECTION 41‑35‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PAYMENT OF UNEMPLOYMENT BENEFITS BASED ON CERTAIN SERVICES IN SCHOOLS OR INSTITUTIONS OF HIGHER EDUCATION, SO AS TO EXTEND CERTAIN PROVISIONS OF THIS SECTION TO SERVICES PROVIDED BY AN INSTITUTION FOR AN EDUCATIONAL INSTITUTION WHILE EMPLOYED BY A PRIVATE EMPLOYER HOLDING A CONTRACTUAL RELATIONSHIP WITH THE EDUCATIONAL INSTITUTION.

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

SECTION 1. Section 41‑35‑20(3) of the 1976 Code is amended to read:

“(3) The provisions of subsections (1) and (2) apply both to employees of the educational institution concerned or to persons employed by a governmental agency or entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions if these persons perform these services in the educational institution. The provisions of subsections (1) and (2) also apply to services provided by an individual for an educational institution employed by a private employer holding a contractual relationship with the educational institution.”

SECTION 2. This act takes effect upon approval by the Governor.

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