

House Bill 1665

By: Representative Lim of the 99<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 34 and 45 of the Official Code of Georgia Annotated, relating to labor and  
2 industrial relations and public officers and employees, respectively, so as to provide for  
3 changes related to employment in this state; to prohibit retaliation against employees who  
4 follow workplace safety laws, rules, or regulations; to provide for a civil cause of action and  
5 certain relief and costs for any such retaliation; to enact the "Temporary Workers Bill of  
6 Rights Act"; to provide certain notices to temporary workers; to require and prohibit certain  
7 practices of temporary services companies; to provide for enforcement and remedies; to  
8 provide certain protections to temporary workers; to provide eligibility for unemployment  
9 benefits for voluntary separation from employment for certain immunocompromised  
10 individuals; to change certain provisions related to workers' compensation; to remove the  
11 exemption for farm workers; to specify that the exclusive remedy provisions of workers'  
12 compensation do not preclude the recovery of damages arising from intentional wrongdoing,  
13 willful misconduct, or gross negligence; to provide for the appointment, removal, and salary  
14 of a workplace safety director within the State Board of Workers' Compensation; to provide  
15 for definitions; to provide for the State Workforce Development Board to require each local  
16 workforce development area to provide an annual workforce analysis; to provide for the  
17 development of workforce programs in various languages; to prohibit a public employer from  
18 discriminating against an individual with respect to such individual's joint employment; to

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19 change the definition of public employer to include joint employees; to provide for related  
20 matters; to provide for an effective date and for applicability; to repeal conflicting laws; and  
21 for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
25 is amended by adding a new Code section to read as follows:

26 "34-1-11.

27 (a) As used in this Code section, the term:

28 (1) 'Employer' means any individual or entity that employs one or more employees.

29 (2) 'Retaliate' or 'retaliation' refers to the discharge, suspension, demotion, or any other  
30 adverse employment action taken as to terms or conditions of employment.

31 (b) No employer shall retaliate against an employee for such employee's compliance with  
32 a federal or state law, rule, or regulation governing workplace safety that pertains to such  
33 employee.

34 (c)(1) An employee who has been the object of retaliation in violation of this Code  
35 section may institute a civil action in superior court for relief as set forth in paragraph (2)  
36 of this subsection within one year after discovering the retaliation or within three years  
37 after the retaliation, whichever is earlier.

38 (2) In any action brought pursuant to this subsection, the court may order any or all of  
39 the following relief:

40 (A) An injunction restraining continued violation of this Code section;

41 (B) Reinstatement of the employee to the same position held before the retaliation or  
42 to an equivalent position;

43 (C) Reinstatement of full fringe benefits and seniority rights;

- 44 (D) Compensation for lost wages, benefits, and other remuneration; and  
45 (E) Any other compensatory damages allowable at law.  
46 (3) A court may award reasonable attorney's fees, court costs, and expenses to a  
47 prevailing employee."

48 **SECTION 2.**

49 Said title is further amended by adding a new part to Article 1 of Chapter 7, relating to  
50 general provisions regarding employment generally and employer's liability, to read as  
51 follows:

52 "Part 3

53 34-7-10.

54 This Act shall be known and may be cited as the 'Temporary Workers Bill of Rights Act.'

55 34-7-11.

56 As used in this part, the term:

57 (1) 'Client company' or 'client' means any person, including any natural person, sole  
58 proprietorship, partnership, limited partnership, corporation, limited liability company,  
59 or joint venture, for which a temporary services company procures or provides temporary  
60 workers.

61 (2) 'Temporary services company' means any person or firm that regularly procures  
62 temporary workers for other persons or firms or that finds temporary work for other  
63 persons.

64 (3) 'Temporary worker' means any worker who is not a permanent employee.

65 34-7-12.

66 (a) A temporary services company shall post in its office where temporary workers are  
67 required to appear for assignment to work or for payment of compensation, or if it does not  
68 have such an office, shall provide to each person seeking work, a list of all client  
69 companies at which work is available through the temporary services company that shall  
70 include the following for each job opportunity posted:

71 (1) The name and address of the client and the exact address of the worksite, directions  
72 to the worksite, and a telephone number at the worksite where a temporary worker can  
73 be reached for emergency purposes;

74 (2) The type of job opportunity for temporary workers;

75 (3) A detailed description of the work to be performed by the temporary worker,  
76 including, but not limited to, any requirements for special attire, accessories, tools, or  
77 safety equipment;

78 (4) The method of computing compensation, the amount of compensation and employee  
79 benefits to be paid for the work, and the overtime rate of pay;

80 (5) The hourly rate and any other fees or charges paid or payable to the temporary  
81 services agency by or on behalf of the client with respect to the work to be performed;

82 (6) If transportation is to be provided to the worksite, either by the temporary services  
83 company or its client, the cost of the transportation, if any, and whether the worksite is  
84 accessible by public or personal transportation and, if so, the approximate commute time  
85 to and from the worksite from the temporary services company's office;

86 (7) The duration of the assignment, including the time of day the work will begin and  
87 end and the schedule of days on which the work will be performed, and whether there is  
88 any possibility of overtime work or of extension of the work past the anticipated end date;

89 (8) A complete and accurate description of worksite hazards to which the temporary  
90 worker may become exposed, including any hazardous materials which the worker may

91 be required to use or handle, and any physical conditions or work practices which do not  
92 comply with applicable occupational health and safety standards;  
93 (9) Whether a meal is provided, either by the temporary services company or its client,  
94 and the cost of the meal, if any; and  
95 (10) Whether the temporary worker will be charged for using special attire, accessories,  
96 tools, or safety equipment.  
97 (b) Before any temporary worker is given any new job assignment, regardless of whether  
98 the assignment is with the same client company, a temporary services company shall  
99 provide the temporary worker with a copy of the notice that meets the requirements of  
100 subsection (a) of this Code section for the new assignment.  
101 (c) The notices required under this Code section shall be written in English and any other  
102 languages generally used in the locale or locales of the temporary services company or its  
103 clients. Copies of notices required under this Code section shall be kept on file for a period  
104 of one year by the temporary services companies and shall be made available for inspection  
105 by any affected temporary worker, who shall be given a copy of such notices, without  
106 charge, within ten days of his or her request.

107 34-7-13.

108 A temporary services company shall:

109 (1) Compensate temporary workers for work performed in the form of cash, or in  
110 commonly accepted negotiable instruments that are payable in cash, on demand at a  
111 financial institution and without discount regardless of the form or manner of payment;  
112 (2) Pay equal compensation and employee benefits to temporary workers who are  
113 performing substantially equivalent work as are employees of the client company where  
114 they work; provided, however, that this paragraph shall not apply to a temporary worker  
115 who earns more pay than substantially equivalent client company employees, unless such

116 temporary worker has replaced a client company employee who is on strike or who has  
117 been locked out by the client company subject to a labor dispute;

118 (3) Subject to paragraph (2) of this Code section, compensate temporary workers at or  
119 above the federal or state minimum wage, whichever is greater. In no event shall any  
120 deductions, other than those permitted by federal or state law, bring a temporary worker's  
121 pay below minimum wage for the hours worked;

122 (4) Compensate each temporary worker using his or her own motor vehicle for  
123 transportation to a worksite for the fair market value of such use, including the value of  
124 transporting other workers to the worksite in the vehicle;

125 (5) At the time of each payment of wages, furnish each temporary worker with a written,  
126 itemized statement showing in detail each deduction made from such wages and a written  
127 notification, which shall be included on the temporary worker's statement of earnings and  
128 deductions, specifying the hourly rate and any other fees or charges paid or payable to the  
129 temporary services company by or on behalf of the recipient of the worker's services,  
130 with respect to the hours compensated by that wage payment; and

131 (6) Provide each temporary worker with an annual earnings summary within a  
132 reasonable period of time after the end of the preceding calendar year, but no later than  
133 February 1 of each year.

134 34-7-14.

135 No temporary services company shall charge a temporary worker:

136 (1) For safety equipment, clothing, tools, accessories, or any other items required by the  
137 nature of the work, either by law, custom, or as a requirement of the client company;  
138 provided, however, that this paragraph shall not preclude the temporary services company  
139 from charging the temporary worker the market value of items temporarily provided to  
140 the worker by the temporary services company in the event that the worker willfully fails  
141 to return such items to the company; provided further, however, that no charge may be

142 made for items damaged through ordinary use or lost through no fault of the temporary  
143 worker;

144 (2) For items other than those referenced in paragraph (1) of this Code section that the  
145 temporary services company makes available for purchase, more than the actual cost of  
146 the item or market value of such item, whichever is less;

147 (3) More than a reasonable amount to transport a temporary worker to or from the  
148 designated worksite; provided, however, that such amount shall not exceed the prevailing  
149 rate for public transportation in the geographic area;

150 (4) For directly or indirectly cashing a temporary worker's paycheck; or

151 (5) More than the actual cost of providing lunch, if lunch is provided by the temporary  
152 services company; provided, however, that the purchase of lunch shall not be a condition  
153 of employment.

154 34-7-15.

155 (a) A temporary services company that operates an office where temporary workers are  
156 required to appear for assignment to work or for payment of compensation shall provide  
157 restroom facilities, drinking water, and sufficient seating for temporary workers.

158 (b) A temporary services company shall insure any motor vehicle it owns or operates and  
159 uses to transport temporary workers.

160 (c) No temporary services company shall restrict the right of a temporary worker to accept  
161 a permanent position with a client company to which the temporary worker was referred  
162 for temporary work or restrict the right of such a client to offer permanent employment to  
163 a temporary worker procured or provided by the temporary services company; provided,  
164 however, that nothing in this subsection shall restrict the temporary services company from  
165 charging a client a reasonable placement fee.

166 (d) The workers' compensation premiums of the temporary services company shall be  
167 determined and paid based on the experience rating of the client company for which the

168 temporary worker performs services, provided that the client company has sufficient  
169 workers' compensation premium volume to be experience rated; otherwise, the premiums  
170 shall be the rate approved for an employer that cannot be experience rated.

171 (e) No temporary services company shall make or give, or cause to be made or given, any  
172 false, misleading, or deceptive advertisements, information, or representations concerning  
173 the services, compensation, benefits, or work opportunities that the temporary services  
174 company or client company will provide to temporary workers.

175 (f) All advertisements of a temporary services company shall contain the correct name of  
176 the temporary services company, the street address of the temporary services company's  
177 place of business, or the correct telephone number of the temporary services company at  
178 its place of business.

179 34-7-16.

180 (a) A temporary services company or client company shall not discharge, reduce the  
181 compensation of, or otherwise discriminate against any temporary worker for making a  
182 complaint of a violation of this part, participating in any proceedings under this part, using  
183 any civil remedies to enforce his or her rights under this part, or otherwise asserting his or  
184 her rights under this part.

185 (b) Any waiver by a temporary worker of any provision of this part shall be deemed  
186 contrary to public policy and shall be void and unenforceable. Any attempt by a temporary  
187 services company or client company to have a temporary worker waive rights provided by  
188 this part shall constitute a violation of this part.

189 (c) The provisions of this part are not exclusive and shall not relieve any person subject  
190 to this part from the duty to comply with all other applicable laws.

191 34-7-17.

192 (a) Any person who violates any provision of this part shall be guilty of a misdemeanor.



193 (b) Actions for violation of this part, including, but not limited to, equity proceedings to  
194 restrain and enjoin such a violation, may be instituted by the Attorney General, any district  
195 attorney, or any city or county attorney.

196 (c) Any person injured by a violation of this part may bring an action for the recovery of  
197 damages, an equity proceeding to restrain and enjoin such violations, or both. The amount  
198 awarded may be up to three times the damages actually incurred. If the plaintiff prevails,  
199 the plaintiff shall be awarded reasonable attorneys' fees and costs. If the court determines  
200 by clear and convincing evidence that the violation was willful, it may in its discretion  
201 award punitive damages in addition to the other amounts provided in this subsection.

202 (d) The remedies provided in this Code section are not exclusive and shall be in addition  
203 to any other remedies or procedures provided in any other law."

204

### SECTION 3.

205 Said title is further amended by revising paragraph (1) of Code Section 34-8-194, relating  
206 to grounds for disqualification of benefits, as follows:

207 "(1)(A) For the week or fraction thereof in which the individual has filed an otherwise  
208 valid claim for benefits after such individual has left the most recent employer  
209 voluntarily without good cause in connection with the individual's most recent work.

210 (B) Good cause in connection with the individual's most recent work shall be  
211 determined by the Commissioner according to the circumstances in the case; provided,  
212 however, that the following circumstances shall be deemed to establish such good cause  
213 and the employer's account shall not be charged for any benefits paid out to an  
214 individual who leaves an employer:

215 (i) To accompany a spouse who has been reassigned from one military assignment  
216 to another; or

217 (ii) Due to family violence verified by reasonable documentation demonstrating that:

218 (I) Leaving the employer was a condition of receiving services from a family  
219 violence shelter;

220 (II) Leaving the employer was a condition of receiving shelter as a resident of a  
221 family violence shelter; or

222 (III) Such family violence caused the individual to reasonably believe that the  
223 claimant's continued employment would jeopardize the safety of the claimant or the  
224 safety of any member of the claimant's immediate family.

225 For purposes of this ~~subparagraph~~ division, the term 'family violence' shall have the  
226 same meaning as in Code Section 19-13-1 and the term 'family violence shelter' shall  
227 have the same meaning as in Code Section 19-13-20; or

228 (iii) Due to his or her underlying health condition of being immunocompromised  
229 verified by reasonable documentation demonstrating that such health condition caused  
230 the individual to reasonably believe that the claimant's continued employment would  
231 put him or her especially at risk for severe illness or death from COVID-19. As used  
232 in this division, the term 'COVID-19' means severe acute respiratory syndrome  
233 coronavirus 2 (SARS-CoV-2), and any mutation or viral fragments thereof, or any  
234 disease or condition caused by severe acute respiratory syndrome coronavirus 2  
235 (SARS-CoV-2).

236 (C) To requalify following a disqualification, an individual must secure subsequent  
237 employment for which the individual earns insured wages equal to at least ten times the  
238 weekly benefit amount of the claim and then becomes unemployed through no fault on  
239 the part of the individual.

240 (D) When voluntarily leaving an employer, the burden of proof of good cause in  
241 connection with the individual's most recent work shall be on the individual.

242 (E) Benefits shall not be denied under this paragraph to an individual for separation  
243 from employment pursuant to a labor management contract or agreement or pursuant

244 to an established employer plan, program, policy, layoff, or recall which permits the  
245 individual, because of lack of work, to accept a separation from employment;"

246 **SECTION 4.**

247 Said title is further amended by revising subsection (a) of Code Section 34-9-2, relating to  
248 applicability of workers' compensation chapter to employers and employees generally, as  
249 follows:

250 ~~"(a)(1) As used in this subsection, the term 'farm laborer' shall include, without~~  
251 ~~limitation, any person employed by an employer in connection with the raising and~~  
252 ~~feeding of and caring for wildlife, as such term is defined in paragraph (77) of Code~~  
253 ~~Section 27-1-2.~~

254 (2) This chapter shall not apply to common carriers by railroad engaged in intrastate  
255 trade or commerce; nor shall this chapter be construed to lessen the liability of such  
256 common carriers or take away or diminish any right that any employee of such common  
257 carrier or, in case of his or her death, the personal representative of such employee may  
258 have under the laws of this state; nor shall this chapter apply to employees whose  
259 employment is not in the usual course of trade, business, occupation, or profession of the  
260 employer or not incidental thereto; nor to ~~farm laborers~~ or domestic servants; nor to  
261 employers of such employees; nor to any person, firm, or private corporation, including  
262 any public service corporation, that has regularly in service less than three employees in  
263 the same business within this state, unless such employees and their employers  
264 voluntarily elect to be bound; nor to any person performing services as a licensed real  
265 estate salesperson or associate broker who has a written contract of employment  
266 providing that he or she shall perform all services as an independent contractor."

267 **SECTION 5.**

268 Said title is further amended by revising Code Section 34-9-2.3, relating to election to  
269 provide workers' compensation coverage to farm laborers, as follows:

270 "34-9-2.3.

271 ~~Notwithstanding the provisions of subsection (a) of Code Section 34-9-2, relative to the~~  
272 ~~exempt status of individuals employed as farm laborers, an employer of farm laborers may~~  
273 ~~elect to provide workers' compensation coverage to individuals employed as farm laborers~~  
274 ~~by giving written notice to the board in such manner and form as provided by rule of the~~  
275 ~~board. Upon the filing of the notice with the board, the employer of farm laborers shall be~~  
276 ~~deemed an employer for the purposes of this chapter and each individual employed as a~~  
277 ~~farm laborer shall be deemed an employee for the purposes of this chapter. An employer~~  
278 ~~of farm laborers who has filed a notice pursuant to this Code section shall not discontinue~~  
279 ~~the provision of workers' compensation insurance coverage for individuals employed as~~  
280 ~~farm laborers until the notice filed with the board is revoked in a manner to be specified~~  
281 ~~by rule of the board and written notice is given to each affected employee in a manner to~~  
282 ~~be specified by rule of the board~~ Reserved."

283 **SECTION 6.**

284 Said title is further amended by revising Code Section 34-9-9, relating to relief from penalty  
285 for failure or neglect to perform statutory duty, as follows:

286 "34-9-9.

287 Nothing in this chapter shall be construed to relieve any employer or employee from any  
288 penalty for failure or neglect to perform any statutory duty, or to relieve any employer or  
289 employee from any damages arising from intentional wrongdoing, willful misconduct, or  
290 gross negligence."

291 **SECTION 7.**

292 Said title is further amended by amended by revising subsection (b) of Code Section 34-9-49,  
293 relating to appointment and removal of executive director and salaries of board positions, as  
294 follows:

295 "(b) All of the salaries and expenses of the board members, executive director,  
296 administrative law judges, workplace safety director, and assistants of the board shall be  
297 audited and paid out of funds appropriated by the General Assembly as prescribed by law  
298 and in accordance with rules and regulations prescribed by the board."

299 **SECTION 8.**

300 Said title is further amended by revising Code Section 34-9-50, which was previously  
301 reserved, as follows:

302 "34-9-50.

303 There is created within the board the position of workplace safety director. The workplace  
304 safety director shall be both appointed and removed by the board. Subject to the general  
305 policies established by the board, the workplace safety director shall implement initiatives  
306 to assist employers that are required to provide workers' compensation in reducing and  
307 preventing employee accidents, occupational illnesses, and exposure to long-term health  
308 hazards Reserved."

309 **SECTION 9.**

310 Said title is further amended by revising Chapter 14, relating to the State Workforce  
311 Development Board, as follows:

## 312 "CHAPTER 14

313 34-14-1.

314 (a)(1) Pursuant to Public Law 105-220 and any subsequent amendment to such law, the  
315 State Workforce Development Board is hereby created.

316 (2) The State Workforce Development Board shall meet federal composition  
317 requirements. The Lieutenant Governor and the Speaker of the House of Representatives  
318 shall each have the authority to appoint members as federal law allows. The Governor  
319 shall be responsible for selecting the remainder of the members.

320 (3) The State Workforce Development Board's members' terms of service shall be  
321 established by the Governor and shall be at the discretion of the appointing authority.

322 (4) The State Workforce Development Board shall have powers and duties as specified  
323 by the Governor and as provided for in federal law.

324 (5) The State Workforce Development Board shall be authorized to establish, alter, or  
325 amend local workforce development areas in this state and shall be authorized to  
326 promulgate rules implementing and governing such local workforce development areas  
327 that are compliant with federal law. Such rules shall include the requirement that each  
328 local workforce development area create and make annual revisions to a workforce  
329 analysis of its respective area, including, but not limited to:

330 (A) The demographic, cultural, and language diversity of its workforce; and

331 (B) The transportation, child care, financial difficulties, and other factors that hinder  
332 access to employment and workforce development programs.

333 (6) The State Workforce Development Board shall meet quarterly or when otherwise  
334 requested by the chairperson and shall be governed by a set of bylaws which shall be  
335 voted on and approved by the State Workforce Development Board.

336 (7) The State Workforce Development Board shall be funded by federal law.

337 (8) The State Workforce Development Board shall be authorized to promulgate rules and  
338 regulations for purposes of implementing the state's workforce policy that are compliant  
339 with federal law.

340 (b)(1) The Technical College System of Georgia is designated as the administrator of all  
341 programs for which the state is responsible pursuant to Public Law 105-220 and any  
342 subsequent amendment to such law.

343 (2) The Technical College System of Georgia shall administer such programs and their  
344 associated funds pursuant to the policies and methods of implementation which are  
345 promulgated by the State Workforce Development Board and the Governor.

346 34-14-2.

347 (a) The State Workforce Development Board is hereby authorized to develop and facilitate  
348 the workforce programs in this state, including, but not limited to workforce programs in  
349 various languages. A local workforce development area's chief local elected official may  
350 designate a local fiscal agent or a grant recipient which shall be either a municipal  
351 government, county government, consolidated government, or regional commission located  
352 within the physical boundaries of the local workforce development area and who shall be  
353 approved by the State Workforce Development Board in a procedure established through  
354 rule.

355 (b) The State Workforce Development Board may enforce the provisions of this chapter  
356 and the applicable federal law if the provisions of either are violated."

357 **SECTION 10.**

358 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
359 is amended by revising paragraph (5) of Code Section 45-19-22, relating to definitions  
360 relative to fair employment practices, as follows:

361 "(5) 'Public employer' or 'employer' means any department, board, bureau, commission,  
362 authority, or other agency of the state which employs 15 or more employees, including  
363 employees with a joint employer, within the state for each working day in each of 20 or  
364 more calendar weeks in the current or preceding calendar year. A person elected to  
365 public office in this state is a public employer with respect to persons holding positions  
366 or individuals applying for positions which are subject to the state system of personnel  
367 administration created by Chapter 20 of this title, including the rules and regulations  
368 promulgated by the State Personnel Board or any personnel merit system of any agency  
369 or authority of this state. A person elected to public office in this state is not a public  
370 employer with respect to persons holding positions or individuals applying for positions  
371 on such officer's personal staff or on the policy-making level or as immediate advisers  
372 with respect to the exercise of the constitutional or legal powers of the office held by such  
373 officer."

374 **SECTION 11.**

375 Said title is further amended by revising paragraph (1) of Code Section 45-19-29, relating  
376 to unlawful practices generally, as follows:

377 "(1) To fail or refuse to hire, to discharge, or otherwise to discriminate against any  
378 individual with respect to the individual's compensation, terms, conditions, or privileges  
379 of employment, including with respect to employment with another employer, because  
380 of such individual's race, color, religion, national origin, sex, disability, or age;"

381 **SECTION 12.**

382 This Act shall become effective on July 1, 2022, and Section 3 of this Act shall apply to any  
383 claims for benefits filed on or after such date.



384

**SECTION 13.**

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