

1 HB71
2 164800-1
3 By Representative Williams (P)
4 RFD: Education Policy
5 First Read: 03-MAR-15

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8 SYNOPSIS: Under existing law, employees of private
9 companies that provide direct services to schools
10 may receive unemployment benefits during brief
11 breaks in employment.

12 This bill would provide that employees of
13 private companies that provide direct services to
14 schools may not receive unemployment benefits
15 during breaks in employment occasioned by holidays,
16 fall and winter breaks, and summer vacation.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Section 25-4-70, Code of Alabama 1975,
23 relating to unemployment compensation; to provide that
24 employees of private companies that provide direct services to
25 schools may not receive unemployment benefits during breaks in
26 employment occasioned by holidays, fall and winter breaks, and
27 summer vacation.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 25-4-70, Code of Alabama 1975, is
3 amended to read as follows:

4 "§25-4-70.

5 "(a) After contributions have been due under this
6 chapter for two years, benefits shall become payable from the
7 fund to any employee who thereafter is or becomes unemployed
8 and eligible for benefits, and shall be paid through
9 unemployment offices or such other agencies at such times and
10 in such manner as the director may prescribe.

11 "(b) Benefits based on service in employment defined
12 in subdivisions (a) (2) and (a) (3) of Section 25-4-10 shall be
13 payable in the same amount, on the same terms and subject to
14 the same conditions as compensation payable on the basis of
15 other service subject to this chapter; except, that:

16 "(1) With respect to any week of unemployment
17 beginning after December 31, 1977, benefits shall not be paid
18 based on service in an instructional, research, or principal
19 administrative capacity for any educational institution for
20 any such week commencing during the period between two
21 successive academic years, or during a similar period between
22 two regular terms, whether or not successive, or during a
23 period of paid sabbatical leave provided for in the
24 individual's contract, to any individual if such individual
25 performs such services in the first of such academic years (or
26 terms) and if there is a contract or reasonable assurance that
27 such individual will perform services in any such capacity for

1 any educational institution in the second of such academic
2 years or terms.

3 "(2) With respect to any week of unemployment
4 beginning after April 3, 1983, benefits shall not be paid on
5 the basis of service in any other capacity for an educational
6 institution, to any individual for any such week which
7 commences during a period between two successive academic
8 years or terms if such individual performs such services in
9 the first of such academic years or terms and there is a
10 reasonable assurance that such individual will perform such
11 services in the second of such academic years or terms, except
12 that if compensation is denied to any individual under this
13 subdivision (2) for weeks of unemployment beginning on or
14 after April 3, 1983, and such individual was not offered an
15 opportunity to perform such services for the educational
16 institution for the second of such academic years or terms,
17 such individual shall be entitled to a retroactive payment of
18 benefits for each week for which the individual filed a timely
19 claim for benefits and for which benefits were denied solely
20 by reason of this subdivision (2); provided further that such
21 individual has given notice that the opportunity to return was
22 not offered or was withdrawn to the director in such manner
23 and within such time as the director by regulation shall
24 prescribe.

25 "(3) With respect to any week of unemployment
26 beginning on or after April 1, 1984, benefits shall not be
27 paid based on services in any capacity described in

1 subdivisions (1) and (2) to any individual for any week which
2 commences during an established and customary vacation period
3 or holiday recess if such individual performs such services in
4 the period immediately before such vacation period or holiday
5 recess, and there is a reasonable assurance that such
6 individual will perform such services in the period
7 immediately following such vacation period or holiday recess.
8 The term "employment" shall include services performed in the
9 employ of an Indian tribe, as herein defined, provided such
10 service is excluded from employment as defined in FUTA by
11 reason of Section 3306(c)(7), and is not otherwise excluded
12 from employment under this chapter for purposes of this
13 section. The exclusion from employment in Section 25-4-10(b)
14 shall be applicable to services performed in the employ of an
15 Indian tribe.

16 "(4) With respect to any week of unemployment
17 beginning on or after April 1, 1984, benefits shall not be
18 paid on the basis of services described in subdivisions (1)
19 and (2) of this subsection in any such capacities as specified
20 in subdivisions (1), (2), and (3) to any individual who
21 performed such services in an educational institution while in
22 the employ of an educational service agency. For the purposes
23 of this subdivision the term "educational service agency"
24 shall mean a governmental agency or governmental entity which
25 is established and operated exclusively for the purpose of
26 providing such services to one or more educational
27 institutions.

1 "(5) With respect to weeks of unemployment beginning
2 on or after April 1, 1984, benefits shall not be paid with
3 respect to services to which Sections 25-4-8(a) (7),
4 25-4-8(a) (8), 25-4-10(a) (2) and 25-4-10(a) (3) apply, if such
5 services are provided to or on behalf of an educational
6 institution, under the same circumstances and subject to the
7 same terms and conditions as described in subdivisions (1),
8 (2), (3), and (4) of this subsection.

9 "(6) With respect to weeks of unemployment beginning
10 before April 1, 1984, benefits shall be paid on the basis of
11 this section prior to that date.

12 "(7) For the purposes of this subsection, the term
13 "reasonable assurance" means a written, verbal, or implied
14 agreement that the employee will perform services during the
15 ensuing academic year or term and the term "contract" is
16 intended to include tenure status.

17 "(c) Benefits paid based on services in the employ
18 of an Indian tribe shall be payable on the same terms and
19 subject to the same conditions as compensation payable on the
20 basis of other service subject to this chapter.

21 "(d) Notwithstanding any provision of law, with
22 respect to any week of unemployment beginning on or after May
23 1, 2015, benefits based on service in employment defined in
24 subdivision (1) of subsection (a) of Section 25-4-10 may not
25 be paid with respect to services rendered to an educational
26 institution, when the services are performed by an individual
27 employed by an employer primarily or exclusively engaged in

1 the provision of its employees to perform work for educational
2 institutions, for any week commencing during the period
3 between two successive academic years or terms, or for any
4 week which commences during an established and customary
5 vacation period or holiday recess, if the individual performs
6 services for the educational institution in the period
7 immediately before the vacation period or holiday recess, and
8 there is a reasonable assurance that such individual will
9 perform the same or similar services for the educational
10 institution in the period immediately following the vacation
11 period or holiday recess. This subsection applies regardless
12 of whether the employer qualifies for exemption from federal
13 employment tax under 26 U.S.C. 501(a) and regardless of
14 whether the employer is a religious, charitable, or
15 educational institution or organization. For purposes of this
16 subsection, the term reasonable assurance shall have the same
17 meaning as set out in subdivision (7) of subsection (b) of
18 this section."

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.