COMMITTEE REPORT

February 24, 2022

**S. 1090**

Introduced by Senators Massey and McLeod

S. Printed 2/24/22--S.

Read the first time February 22, 2022.

**THE COMMITTEE ON LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 1090) to amend Section 41-35-40 of the 1976 code, relating to an insured worker’s weekly benefit amount, to provide that the Department of Employment and Workforce must annually, 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, on page 2, by striking lines 35 - 40 and inserting:

/ “(B) The department must annually adjust the maximum weekly benefit amount set pursuant to the department’s authority as provided in subsection (A) by an amount at least equal to the rate of inflation as measured by the national consumer price index published by the Bureau of Labor Statistics for the most recently completed calendar year prior to the date that the maximum weekly benefit amount goes into effect.” /

Renumber sections to conform.

Amend title to conform.

TOM C. DAVIS for Committee.

**A** **BILL**

TO AMEND SECTION 41-35-40 OF THE 1976 CODE, RELATING TO AN INSURED WORKER’S WEEKLY BENEFIT AMOUNT, TO PROVIDE THAT THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE MUST ANNUALLY ADJUST THE MAXIMUM WEEKLY BENEFIT AMOUNT BY AN AMOUNT BY THE RATE OF INFLATION AND TO RETROACTIVELY RATIFY AND AFFIRM THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE’S INTERPRETATION AND EXECUTION OF SECTION 41-35-40 OF THE 1976 CODE.

Whereas, it is the policy of the State of South Carolina that its unemployment benefits are intended to lighten the burden of economic insecurity for unemployed workers and their families; and

Whereas, the rate of inflation is increasing at a pace not seen in the United States for at least forty years, making it more difficult for individuals and families to make ends meet; and

Whereas, the spike in inflation has been particularly difficult to absorb by unemployed workers receiving unemployment benefits; and

Whereas, increasing the maximum weekly unemployment benefit amount in order to account for inflation is necessary to lighten the burden of economic insecurity for unemployed workers and their families; and

Whereas, Section 41-35-40 sets the weekly benefit amounts that an employee may receive and allows the Department of Employment and Workforce to set a maximum weekly benefit amount; and

Whereas, there have been questions raised concerning the Department of Employment and Workforce’s execution of, and the General Assembly’s intent regarding, Section 41‑35‑40; and

Whereas, the General Assembly believes that any questions concerning the application of Section 41-35-40 need to be resolved in order to provide certainty to workers and employers; and

Whereas, the interpretation of Section 41-35-40 espoused by those critical of the Department of Employment and Workforce’s execution would lead to the absurd result of allowing for weekly benefit amounts higher than those found in states like California and New York, much less our neighbors in North Carolina and Georgia; and

Whereas, the General Assembly finds that the long-standing interpretation of this statute by the Department of Employment and Workforce is in complete accordance with the unambiguous language contained in Section 41-35-40 and the policy intended by the legislature; and

Whereas, the General Assembly finds that its ratification of the interpretation of the statute given by the Department of Employment and Workforce is important so as to provide certainty that the actions of the department on behalf of our state’s workers and businesses have been in accordance with the intent of the legislature; Now, therefore:

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

SECTION 1. A. Section 41-35-40 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

“(B) The department must annually adjust the maximum weekly benefit amount set pursuant to the department’s authority as provided in subsection (A) by an amount at least equal to the rate of inflation in South Carolina, as determined by the Revenue and Fiscal Affairs Office, during the twelve months prior to the date that the maximum weekly benefit amount goes into effect.”

B. This SECTION takes effect July 1, 2022.

SECTION 2. A. The General Assembly ratifies and affirms that the Department of Employment of Workforce has faithfully executed the provisions contained in Section 41‑35‑40 in accordance with the clear language of the statute and the General Assembly’s intent and that this resolution be applied affirming the intent of the General Assembly be retroactive July 1, 2007.

B. The provisions contained in this SECTION are retroactive to July 1, 2007.

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑