

This is a draft of proposed legislation reforming Florida's unemployment system, available to be filed during the next legislative session if no special legislative session is called sooner.

It will be offered in the Senate by Sens. **Rodriguez, J., Berman, Cruz, Powell, Taddeo** and others; and in the House by Reps. Anna V. **Eskamani, Ben Diamond** and others.

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1 A bill to be entitled
2 An act relating to Reemployment Assistance;...; and
3 providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Section 443.013, Florida Statutes, is created to
8 read:

9 443.013 Reemployment Assistance Ombudsman Office.-

10 (1) A Reemployment Assistance Ombudsman Office is created
11 within the department to identify procedural hurdles relating to
12 the reemployment assistance process, to identify inefficiencies
13 in the administration of the department's functions under this
14 chapter and to identify improvements in assistance provided by
15 the department in assisting individuals seeking benefits under
16 this chapter.

17 (2) The Reemployment Assistance Ombudsman Office must be
18 granted full access to records and systems within the department
19 and individuals seeking benefits under this chapter must be told
20 about the possibility of contacting the Reemployment Assistance
21 Ombudsman Office to share their experience and perspective.

22 (3) The Reemployment Assistance Ombudsman Office shall
23 annually review the reemployment assistance process and provide
24 recommendations to the department and the Legislature on
25 addressing procedural hurdles relating to the reemployment
26 assistance process, inefficiencies in the administration of the
27 department's functions and the need for improvements in the
28 assistance provided by the department to individuals seeking
29 benefits under this chapter. Such review may include contact

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30 with individuals who have previously submitted a claim for
31 benefits, including by conducting surveys.

32 Section 2. Subsections (3) through (46) of section 443.036,
33 Florida Statutes, are redesignated as subsections (4) through
34 (47), respectively, a new subsection (3) is added to that
35 section, and present subsection (44) of that section is amended,
36 to read:

37 443.036 Definitions.—As used in this chapter, the term:

38 (3) "Alternative base period" means the four most recently
39 completed calendar quarters prior to an individual's benefit
40 year, if such quarters qualify the individual for benefits and
41 were not previously used to establish a prior valid benefit
42 year.

43 ~~(45)(44)~~ "Unemployment" or "unemployed" means:

44 (a) An individual is "totally unemployed" in any week
45 during which he or she does not perform any services and for
46 which earned income is not payable to him or her. An individual
47 is "partially unemployed" in any week of less than full-time
48 work if the total remuneration of any nature payable to him or
49 her for services of any kind during the week amounts to less
50 than \$100 or 1.5 times the individual's benefit rate for total
51 unemployment rounded to the next highest dollar, whichever is
52 greater ~~earned income payable to him or her for that week is~~
53 ~~less than his or her weekly benefit amount.~~ The Department of
54 Economic Opportunity may adopt rules prescribing distinctions in
55 the procedures for unemployed individuals based on total
56 unemployment, part-time unemployment, partial unemployment of
57 individuals attached to their regular jobs, and other forms of
58 short-time work.

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59 (b) An individual's ~~week of~~ unemployment commences from the
60 date of unemployment, regardless of the date of ~~only after~~
61 registration with the Department of Economic Opportunity as
62 required in s. 443.091.

63 Section 3. Paragraphs (c), (d), and (g) of subsection (1)
64 and subsection (2) of section 443.091, Florida Statutes, are
65 amended, and subsections (5) and (6) are added to that section,
66 to read:

67 443.091 Benefit eligibility conditions.—

68 (1) An unemployed individual is eligible to receive
69 benefits for any week only if the Department of Economic
70 Opportunity finds that:

71 (d) She or he is able to work and is available for work. In
72 order to assess eligibility for a claimed week of unemployment,
73 the department shall develop criteria to determine a claimant's
74 ability to work and availability for work. A claimant must be
75 actively seeking work in order to be considered available for
76 work. This means engaging in systematic and sustained efforts to
77 find work, including contacting at least five prospective
78 employers for each week of unemployment claimed. The department
79 may require the claimant to provide proof of such efforts to the
80 one-stop career center as part of reemployment services. A
81 claimant's proof of work search efforts may not include the same
82 prospective employer at the same location in 3 consecutive
83 weeks, unless the employer has indicated since the time of the
84 initial contact that the employer is hiring. The department
85 shall conduct random reviews of work search information provided
86 by claimants. As an alternative to contacting at least five
87 prospective employers for any week of unemployment claimed, a

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88 claimant may, for that same week, report in person, by phone, or
89 online to a one-stop career center to communicate ~~meet~~ with a
90 representative of the center and access reemployment services of
91 the center. The center shall keep a record of the services or
92 information provided to the claimant and shall provide the
93 records to the department upon request by the department.
94 However:

95 1. Notwithstanding any other provision of this paragraph,
96 an individual who is otherwise eligible for benefits may not be
97 deemed ineligible for benefits solely for the reason that the
98 individual seeks, applies for, or is willing to accept only
99 part-time work instead of full-time work if the part-time work
100 is for at least 20 hours per week.

101 ~~8.7.~~ The work search requirements of this paragraph do not
102 apply to persons required to participate in reemployment
103 services under paragraph (e) or to seasonal agricultural workers
104 in rural communities or regions as defined in section 288.0656,
105 during the off-season.

106 (g) She or he has been paid wages for insured work equal to
107 1.5 times her or his high quarter wages during her or his base
108 period, except that an unemployed individual is not eligible to
109 receive benefits if the base period wages are less than \$1,200.
110 If a worker is ineligible for benefits based on base period
111 wages, wages for the worker must be calculated using the
112 alternative base period and the worker must have the opportunity
113 to choose whether to establish a claim using such wages \$3,400.

114 ~~(2) An individual may not receive benefits in a benefit~~
115 ~~year unless, after the beginning of the next preceding benefit~~
116 ~~year during which she or he received benefits, she or he~~

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117 ~~performed service, regardless of whether in employment as~~
118 ~~defined in s. 443.036, and earned remuneration for that service~~
119 ~~of at least 3 times her or his weekly benefit amount as~~
120 ~~determined for her or his current benefit year.~~

121 (5) An individual may submit a claim for benefits through a
122 website designated by the department or an alternative method
123 established by the department. The department shall establish at
124 least two alternative methods for individuals to submit a claim
125 for benefits such as via telephone, e-mail or mail. The
126 department shall determine an individual's eligibility within 3
127 weeks after the individual submits a claim.

128 Section 4. Paragraph (a) of subsection (1) and subsections
129 (2), (9), and (10) of section 443.101, Florida Statutes, are
130 amended to read:

131 443.101 Disqualification for benefits.—An individual shall
132 be disqualified for benefits:

133 (1) (a) 1. As used in this paragraph, the term:

134 a. "Good cause" means cause attributable to:

135 (I) The employing unit or an illness or disability of the
136 individual that requires separation from work;

137 (II) Domestic violence or sexual assault that is verified
138 by reasonable documentation and that causes the individual to
139 reasonably believe that his or her continuing employment would
140 jeopardize the safety of the individual or an immediate family
141 member of the individual. Reasonable documentation of domestic
142 violence or sexual assault includes, but is not limited to, one
143 of the following:

144 (A) A court order for protection or other documentation of
145 equitable relief issued by a court;

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146 (B) A police record documenting domestic violence or sexual
147 assault;

148 (C) Medical documentation of domestic violence or sexual
149 assault;

150 (D) Documentation that the perpetrator of the domestic
151 violence or sexual assault has been convicted of a crime
152 involving domestic violence;

153 (E) A written statement provided by a social worker, member
154 of the clergy, shelter worker, attorney, or other professional
155 who has assisted the individual or his or her immediate family
156 member in dealing with domestic violence or sexual assault which
157 states that the individual or his or her immediate family member
158 is a victim of domestic violence or sexual assault;

159 (III) Illness or disability of the individual's spouse,
160 parent, minor child or sibling, or another person residing in
161 the same residence as the individual; or

162 (IV) The individual's need to accompany his or her spouse
163 if the spouse's relocation resulted from a change in the
164 spouse's employment and if the relocation increases the
165 individual's roundtrip commute by an hour or more.

166 (V) Changes in work scheduling rendering the scheduling
167 unpredictable, erratic, or irregular.

168 (VI) A change in location of the individual's workplace
169 that increases the individual's roundtrip commute by an hour or
170 more.

171 b. "Work" means any work, whether full-time, part-time, or
172 temporary.

173 2. For the week in which he or she has voluntarily left
174 work for good cause or without good cause attributable to his or

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175 her employing unit or for the week in which he or she has been
176 discharged by the employing unit for misconduct connected with
177 his or her work, based on a finding by the Department of
178 Economic Opportunity. ~~As used in this paragraph, the term "work"~~
179 ~~means any work, whether full-time, part-time, or temporary.~~

180 a.1. Disqualification for voluntarily quitting continues
181 for the full period of unemployment next ensuing after the
182 individual has left his or her full-time or, ~~part-time, or~~
183 ~~temporary~~ work voluntarily without good cause and until the
184 individual has earned income equal to or greater than 3 ~~17~~ times
185 his or her weekly benefit amount. ~~As used in this subsection,~~
186 ~~the term "good cause" includes only that cause attributable to~~
187 ~~the employing unit which would compel a reasonable employee to~~
188 ~~cease working or attributable to the individual's illness or~~
189 ~~disability requiring separation from his or her work.~~ Any other
190 disqualification may not be imposed.

191 b.2. An individual is not disqualified under this
192 subsection for:

193 (I)a. Voluntarily leaving temporary work to return
194 immediately when called to work by the permanent employing unit
195 that temporarily terminated his or her work within the previous
196 6 calendar months;

197 (II)b. Voluntarily leaving work to relocate as a result of
198 his or her military-connected spouse's permanent change of
199 station orders, activation orders, or unit deployment orders; or

200 (III)e. Voluntarily leaving work if he or she proves that
201 his or her discontinued employment is a direct result of
202 circumstances related to domestic violence as defined in s.
203 741.28. An individual who voluntarily leaves work under this

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204 sub-sub-subparagraph ~~sub-subparagraph~~ must:

205 (A) ~~(I)~~ Make reasonable efforts to preserve employment,
206 unless the individual establishes that such remedies are likely
207 to be futile or to increase the risk of future incidents of
208 domestic violence. Such efforts may include seeking a protective
209 injunction, relocating to a secure place, or seeking reasonable
210 accommodation from the employing unit, such as a transfer or
211 change of assignment;

212 (B) ~~(II)~~ Provide evidence such as an injunction, a
213 protective order, or other documentation authorized by state law
214 which reasonably proves that domestic violence has occurred; and

215 (C) ~~(III)~~ Reasonably believe that he or she is likely to be
216 the victim of a future act of domestic violence at, in transit
217 to, or departing from his or her place of employment. An
218 individual who is otherwise eligible for benefits under this
219 sub-sub-sub-subparagraph ~~sub-subparagraph~~ is ineligible for each
220 week that he or she no longer meets such criteria or refuses a
221 reasonable accommodation offered in good faith by his or her
222 employing unit.

223 c.3. The employment record of an employing unit may not be
224 charged for the payment of benefits to an individual who has
225 voluntarily left work under sub-sub-subparagraph 2.b. (III) ~~sub-~~
226 ~~subparagraph 2.c.~~

227 d.4. Disqualification for being discharged for misconduct
228 connected with his or her work continues for the full period of
229 unemployment next ensuing after having been discharged and until
230 the individual is reemployed and has earned income of at least 3
231 ~~17~~ times his or her weekly benefit amount and for not more than
232 52 weeks immediately following that week, as determined by the

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233 department in each case according to the circumstances or the
234 seriousness of the misconduct, under the department's rules for
235 determining disqualification for benefits for misconduct.

236 ~~e.5.~~ If an individual has provided notification to the
237 employing unit of his or her intent to voluntarily leave work
238 and the employing unit discharges the individual for reasons
239 other than misconduct before the date the voluntary quit was to
240 take effect, the individual, if otherwise entitled, shall
241 receive benefits from the date of the employer's discharge until
242 the effective date of his or her voluntary quit.

243 ~~f.6.~~ If an individual is notified by the employing unit of
244 the employer's intent to discharge the individual for reasons
245 other than misconduct and the individual quits without good
246 cause before the date the discharge was to take effect, the
247 claimant is ineligible for benefits pursuant to s. 443.091(1)(d)
248 for failing to be available for work for the week or weeks of
249 unemployment occurring before the effective date of the
250 discharge.

251 (d) For any week with respect to which the department finds
252 that his or her unemployment is due to a discharge for
253 misconduct connected with the individual's work, consisting of
254 drug use, as evidenced by a positive, confirmed drug test.

255 (2) If the Department of Economic Opportunity finds that
256 the individual has failed without good cause to apply for
257 available suitable work, accept suitable work when offered to
258 him or her, or return to the individual's customary self-
259 employment when directed by the department, the disqualification
260 continues for the full period of unemployment next ensuing after
261 he or she failed without good cause to apply for available

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262 suitable work, accept suitable work, or return to his or her
263 customary self-employment, and until the individual has earned
264 income of at least 3 ~~17~~ times his or her weekly benefit amount.
265 The department shall by rule adopt criteria for determining the
266 "suitability of work," as used in this section. In developing
267 these rules, the department shall consider the duration of a
268 claimant's unemployment in determining the suitability of work
269 and the suitability of proposed rates of compensation for
270 available work. ~~Further, after an individual has received 25~~
271 ~~weeks of benefits in a single year, suitable work is a job that~~
272 ~~pays the minimum wage and is 120 percent or more of the weekly~~
273 ~~benefit amount the individual is drawing.~~

274 (d) Notwithstanding any other provisions of this chapter,
275 work is not deemed suitable and benefits may not be denied under
276 this chapter to any otherwise eligible individual for refusing
277 in good faith to accept work in unsanitary or unhealthy
278 conditions or accept work that would jeopardize that
279 individual's health based on risk factors particular to that
280 individual after the employer did not or could not correct the
281 health hazard or assign other suitable work. The department, in
282 coordination with the Department of Health, shall adopt a set of
283 "workplace safety" rules necessary to administer this
284 subparagraph and provide guidance to employers on the impact of
285 employee health on the suitability of work. The department may
286 also issue guidance related to the impact of specific public
287 health threats impacting the workplace.

288 (10)(a) Subject to the requirements of this subsection, if
289 the claim is made based on the loss of employment as a leased
290 employee for an employee leasing company or as a temporary

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291 employee for a temporary help firm.

292 (b)~~(a)~~ As used in this subsection, the term:

293 1. "Temporary help firm" means a firm that hires its own
294 employees and assigns them to clients to support or supplement
295 the client's workforce in work situations such as employee
296 absences, temporary skill shortages, seasonal workloads, and
297 special assignments and projects, and includes a labor pool as
298 defined in s. 448.22. The term also includes a firm created by
299 an entity licensed under s. 125.012(6), which hires employees
300 assigned by a union for the purpose of supplementing or
301 supporting the workforce of the temporary help firm's clients.
302 The term does not include employee leasing companies regulated
303 under part XI of chapter 468.

304 2. "Temporary employee" means an employee assigned to work
305 for the clients of a temporary help firm. The term also includes
306 a day laborer performing day labor, as defined in s. 448.22, who
307 is employed by a labor pool as defined in s. 448.22.

308 3. "Leased employee" means an employee assigned to work for
309 the clients of an employee leasing company regulated under part
310 XI of chapter 468.

311 ~~(b) A temporary or leased employee is deemed to have~~
312 ~~voluntarily quit employment and is disqualified for benefits~~
313 ~~under subparagraph (1)(a)1. if, upon conclusion of his or her~~
314 ~~latest assignment, the temporary or leased employee, without~~
315 ~~good cause, failed to contact the temporary help or employee-~~
316 ~~leasing firm for reassignment, if the employer advised the~~
317 ~~temporary or leased employee at the time of hire and that the~~
318 ~~leased employee is notified also at the time of separation that~~
319 ~~he or she must report for reassignment upon conclusion of each~~

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320 ~~assignment, regardless of the duration of the assignment, and~~
321 ~~that reemployment assistance benefits may be denied for failure~~
322 ~~to report. For purposes of this section, the time of hire for a~~
323 ~~day laborer is upon his or her acceptance of the first~~
324 ~~assignment following completion of an employment application~~
325 ~~with the labor pool. The labor pool as defined in s. 448.22(1)~~
326 ~~must provide notice to the temporary employee upon conclusion of~~
327 ~~the latest assignment that work is available the next business~~
328 ~~day and that the temporary employee must report for reassignment~~
329 ~~the next business day. The notice must be given by means of a~~
330 ~~notice printed on the paycheck, written notice included in the~~
331 ~~pay envelope, or other written notification at the conclusion of~~
332 ~~the current assignment.~~

333 Section 5. Subsections (1), (2), and (3), paragraph (b) of
334 subsection (4), and subsection (5) of section 443.111, Florida
335 Statutes, are amended to read:

336 443.111 Payment of benefits.—

337 (1) MANNER OF PAYMENT.—Benefits are payable from the fund
338 in accordance with rules adopted by the Department of Economic
339 Opportunity, ~~subject to the following requirements:~~

340 ~~(a)~~ Benefits are payable electronically, except that an
341 individual being paid by paper warrant on July 1, 2011, may
342 continue to be paid in that manner until the expiration of the
343 claim. The department may develop a system for the payment of
344 benefits by electronic funds transfer, including, but not
345 limited to, debit cards, electronic payment cards, or any other
346 means of electronic payment that the department deems to be
347 commercially viable or cost-effective. Commodities or services
348 related to the development of such a system shall be procured by

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349 competitive solicitation, unless they are purchased from a state
350 term contract pursuant to s. 287.056. The department shall adopt
351 rules necessary to administer this subsection ~~paragraph~~.

352 (b) As required under s. 443.091(1), each claimant must
353 report at least biweekly to receive reemployment assistance
354 benefits and to attest to the fact that she or he is able and
355 available for work, has not refused suitable work, is seeking
356 work and has met the requirements of s. 443.091(1)(d), and, if
357 she or he has worked, to report earnings from that work. Each
358 claimant must continue to report regardless of any appeal or
359 pending appeal relating to her or his eligibility or
360 disqualification for benefits.

361 (2) QUALIFYING REQUIREMENTS.—

362 (a) To establish a benefit year for reemployment assistance
363 benefits, an individual must have:

364 1.(a) Wage credits in two or more calendar quarters of the
365 individual's base period or alternative base period.

366 2.(b) Minimum total base period wage credits equal to the
367 high quarter wages multiplied by 1.5, but at least \$1,200 ~~\$3,400~~
368 in the base period.

369 (b)1. If a worker is ineligible for benefits based on base
370 period wages, wages for that worker must be calculated using an
371 alternative base period and the worker must have the opportunity
372 to choose whether to establish a claim using such wages.

373 2. If the wage information for an individual's most
374 recently completed calendar quarter is unavailable to the
375 Department of Economic Opportunity from regular quarterly
376 reports of systematically accessible wage information, the
377 department must promptly contact the individual's employer to

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378 obtain the wage information.

379 3. Wages that fall within the base period of claims
380 established under this paragraph are not available for reuse in
381 qualifying for any subsequent benefit years.

382 4. The department shall adopt rules to administer this
383 paragraph.

384 (3) WEEKLY BENEFIT AMOUNT.—An individual's "weekly benefit
385 amount" is an amount equal to one twenty-sixth of the total
386 wages for insured work paid during that quarter of the base
387 period in which the total wages paid were the highest, but not
388 less than \$100 ~~\$32~~ or more than \$500 ~~\$275~~. The weekly benefit
389 amount, if not a multiple of \$1, is rounded upward ~~downward~~ to
390 the nearest full dollar amount. The maximum weekly benefit
391 amount in effect at the time the claimant establishes an
392 individual weekly benefit amount is the maximum benefit amount
393 applicable throughout the claimant's benefit year.

394 (4) WEEKLY BENEFIT FOR UNEMPLOYMENT.—

395 (b) *Partial*.—Each eligible individual who is partially
396 unemployed in any week is paid for the week a benefit equal to
397 her or his weekly benefit less two-thirds, rounded to the
398 nearest full dollar, of the total remuneration, rounded to the
399 nearest full dollar, payable to him or her for services of any
400 kind during the week ~~that part of the earned income, if any,~~
401 ~~payable to her or him for the week which is in excess of 8 times~~
402 ~~the federal hourly minimum wage.~~ These benefits, if not a
403 multiple of \$1, are rounded upward ~~downward~~ to the nearest full
404 dollar amount. For purposes of this paragraph, remuneration
405 includes any holiday pay payable during the week of partial
406 unemployment, whether or not any service was performed during

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407 the week or was required for receipt of the holiday pay.

408 (5) DURATION OF BENEFITS.—

409 ~~(a) As used in this section, the term "Florida average~~
410 ~~unemployment rate" means the average of the 3 months for the~~
411 ~~most recent third calendar year quarter of the seasonally~~
412 ~~adjusted statewide unemployment rates as published by the~~
413 ~~Department of Economic Opportunity.~~

414 ~~(b) Each otherwise eligible individual is entitled during~~
415 ~~any benefit year to a total amount of benefits equal to 25~~
416 ~~percent of the total wages in his or her base period, not to~~
417 ~~exceed \$6,325 or the product arrived at by multiplying the~~
418 ~~weekly benefit amount with the number of weeks determined in~~
419 ~~paragraph (c), whichever is less. However, the total amount of~~
420 ~~benefits, if not a multiple of \$1, is rounded downward to the~~
421 ~~nearest full dollar amount. These benefits are payable at a~~
422 ~~weekly rate no greater than the weekly benefit amount.~~

423 ~~(c) For claims submitted during a calendar year, the~~
424 ~~duration of benefits is limited to 26 weeks of the individual's~~
425 ~~weekly benefit amount.~~

426 ~~1. Twelve weeks if this state's average unemployment rate~~
427 ~~is at or below 5 percent.~~

428 ~~2. An additional week in addition to the 12 weeks for each~~
429 ~~0.5 percent increment in this state's average unemployment rate~~
430 ~~above 5 percent.~~

431 ~~3. Up to a maximum of 23 weeks if this state's average~~
432 ~~unemployment rate equals or exceeds 10.5 percent.~~

433 ~~(b)(d)~~ (b) For the purposes of this subsection, wages are
434 counted as "wages for insured work" for benefit purposes with
435 respect to any benefit year only if the benefit year begins

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436 after the date the employing unit by whom the wages were paid
437 has satisfied the conditions of this chapter for becoming an
438 employer.

439 (c)~~(e)~~ If the remuneration of an individual is not based
440 upon a fixed period or duration of time or if the individual's
441 wages are paid at irregular intervals or in a manner that does
442 not extend regularly over the period of employment, the wages
443 for any week or for any calendar quarter for the purpose of
444 computing an individual's right to employment benefits only are
445 determined in the manner prescribed by rule. These rules, to the
446 extent practicable, must secure results reasonably similar to
447 those that would prevail if the individual were paid her or his
448 wages at regular intervals.

449 Section 6. Paragraph (c) of subsection (2) and paragraph
450 (a) of subsection (5) of section 443.1116, Florida Statutes, is
451 amended to read:

452 443.1116 Short-time compensation.—

453 (2) APPROVAL OF SHORT-TIME COMPENSATION PLANS.—An employer
454 wishing to participate in the short-time compensation program
455 must submit a signed, written, short-time plan to the Department
456 of Economic Opportunity for approval. The director or his or her
457 designee shall approve the plan if:

458 (c) The normal weekly hours of work for individuals in the
459 affected unit are reduced by at least 10 percent and by not more
460 than ~~40~~ 60 percent;

461 (5) ELIGIBILITY REQUIREMENTS FOR SHORT-TIME COMPENSATION
462 BENEFITS.—

463 (a) Except as provided in this subsection, an individual is
464 eligible to receive short-time compensation benefits for any

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465 week only if she or he complies with this chapter and the
466 Department of Economic Opportunity finds that:

467 1. The individual is employed as a member of an affected
468 unit in an approved plan that was approved before the week and
469 is in effect for the week;

470 2. The individual is able to work and is available for
471 additional hours of work or for full-time work with the short-
472 time employer; and

473 3. The normal weekly hours of work of the individual are
474 reduced by at least 10 percent and by not more than ~~40~~ 60
475 percent, with a corresponding reduction in wages.

476 (10) The department must establish an outreach program to
477 educate employers on the existence of short-time compensation
478 plans and include information related to short-time compensation
479 in communications to employers at least biannually. The
480 department may choose to include education on any other layoff
481 aversion programs in its outreach efforts.

482 Section 7. Section 443.1118, Florida Statutes, is created
483 to read:

484 443.1118 Independent contractors and self-employed
485 workers.-

486 Section 8. Paragraph (a) of subsection (1), paragraphs (a)
487 and (b) of subsection (4), subsection (5), and paragraphs (c)
488 and (g) of subsection (13) of section 443.1216, Florida
489 Statutes, are amended to read:

490 ~~443.1216 Employment.-Employment, as defined in s. 443.036,~~
491 is subject to this chapter under the following conditions:

492 (1) (a) 1. The employment subject to this chapter includes a
493 service performed, including a service performed in interstate

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494 commerce, by:

495 ~~a.1.~~ An officer of a corporation.

496 ~~b.2.~~ An individual who is providing the services for
497 remuneration for the person employing him or her unless the
498 employer demonstrates that the following conditions are
499 satisfied:

500 (I) The individual is free from the control and direction
501 of the employer in connection with the performance of the
502 services;

503 (II) The individual performs services that are outside the
504 usual course of the employer's business; and

505 (III) The individual is customarily engaged in an
506 independently established trade, occupation, or business of the
507 same nature as that involved with the services rendered, under
508 the usual common-law rules applicable in determining the
509 employer-employee relationship, is an employee.

510 ~~2.~~ However, whenever a client, ~~as defined in s.~~
511 ~~443.036(18),~~ which would otherwise be designated as an employing
512 unit has contracted with an employee leasing company to supply
513 it with workers, those workers are considered employees of the
514 employee leasing company. An employee leasing company may lease
515 corporate officers of the client to the client and other workers
516 to the client, except as prohibited by regulations of the
517 Internal Revenue Service. Employees of an employee leasing
518 company must be reported under the employee leasing company's
519 tax identification number and contribution rate for work
520 performed for the employee leasing company.

521 (5) The employment subject to this chapter includes service
522 performed by an individual in agricultural labor if+

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523 ~~(a) the service is performed for a person who:~~
524 ~~1. Paid remuneration in cash of at least \$10,000 to~~
525 ~~individuals employed in agricultural labor in a calendar quarter~~
526 ~~during the current or preceding calendar year.~~
527 ~~2. employed in agricultural labor at least one individual~~
528 ~~five individuals for some portion of a day in each of 10 ~~20~~~~
529 ~~different calendar weeks during the current or preceding~~
530 ~~calendar year, regardless of whether the weeks were consecutive~~
531 ~~or whether the individuals were employed at the same time.~~
532 ~~(b) The service is performed by a member of a crew~~
533 ~~furnished by a crew leader to perform agricultural labor for~~
534 ~~another person.~~
535 ~~1. For purposes of this paragraph, a crew member is treated~~
536 ~~as an employee of the crew leader if:~~
537 ~~a. The crew leader holds a valid certificate of~~
538 ~~registration under the Migrant and Seasonal Agricultural Worker~~
539 ~~Protection Act of 1983 or substantially all of the crew members~~
540 ~~operate or maintain tractors, mechanized harvesting or crop-~~
541 ~~dusting equipment, or any other mechanized equipment provided by~~
542 ~~the crew leader; and~~
543 ~~b. The individual does not perform that agricultural labor~~
544 ~~as an employee of an employer other than the crew leader.~~
545 ~~2. For purposes of this paragraph, in the case of an~~
546 ~~individual who is furnished by a crew leader to perform~~
547 ~~agricultural labor for another person and who is not treated as~~
548 ~~an employee of the crew leader under subparagraph 1.:~~
549 ~~a. The other person and not the crew leader is treated as~~
550 ~~the employer of the individual; and~~
551 ~~b. The other person is treated as having paid cash~~

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552 ~~remuneration to the individual equal to the cash remuneration~~
553 ~~paid to the individual by the crew leader, either on his or her~~
554 ~~own behalf or on behalf of the other person, for the~~
555 ~~agricultural labor performed for the other person.~~

556 (13) The following are exempt from coverage under this
557 chapter:

558 ~~(c) Service performed by an individual engaged in, or as an~~
559 ~~officer or member of the crew of a vessel engaged in, the~~
560 ~~catching, taking, harvesting, cultivating, or farming of any~~
561 ~~kind of fish, shellfish, crustacea, sponges, seaweeds, or other~~
562 ~~aquatic forms of animal and vegetable life, including service~~
563 ~~performed by an individual as an ordinary incident to engaging~~
564 ~~in those activities, except:~~

565 1. ~~Service performed in connection with the catching or~~
566 ~~taking of salmon or halibut for commercial purposes.~~

567 2. ~~Service performed on, or in connection with, a vessel of~~
568 ~~more than 10 net tons, determined in the manner provided for~~
569 ~~determining the registered tonnage of merchant vessels under the~~
570 ~~laws of the United States.~~

571 Section 9. Paragraph (c) of subsection (2) of section
572 443.141, Florida Statutes, is amended to read:

573 443.141 Collection of contributions and reimbursements.—

574 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

575 (c) *Appeals.*—The department and the state agency providing
576 reemployment assistance tax collection services shall adopt
577 rules prescribing the procedures for an employing unit
578 determined to be an employer to file an appeal and be afforded
579 an opportunity for a hearing on the determination. The burden of
580 proof in an appeal filed by an employer is on the employer.

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581 Pending a hearing, the employing unit must file reports and pay
582 contributions in accordance with s. 443.131.

583 Section 12. Paragraph (b) of subsection (4) of section
584 443.151, Florida Statutes, is amended to read:

585 443.151 Procedure concerning claims.—

586 (4) APPEALS.—

587 (b) *Filing and hearing.*—

588 1. The claimant or any other party entitled to notice of a
589 determination may appeal an adverse determination to an appeals
590 referee within 20 days after the date of mailing of the notice
591 to her or his last known address or, if the notice is not
592 mailed, within 20 days after the date of delivering the notice.
593 The burden of proof in an appeal filed by an employer is on the
594 employer.

595 Section 12. This act shall take effect July 1, 2021.