

Bill No. CS for SB 1708

Amendment No. ____

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Harris moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 45, lines 24-31, through page 48, lines 1-19,		
15	delete those lines		
16			
17	and insert:		
18	Section 5. Subsection (1), paragraph (g) of subsection		
19	(3), paragraph (a) of subsection (4), paragraphs (a), (b), and		
20	(d) of subsection (5), and paragraph (b) of subsection (6) of		
21	section 443.131, Florida Statutes, are amended to read:		
22	443.131 Contributions.--		
23	(1) WHEN PAYABLE.--Contributions shall accrue and		
24	become payable by each employer for each calendar quarter in		
25	which he or she is subject to this chapter, with respect to		
26	wages paid during such calendar quarter for employment. Such		
27	contributions shall become due and be paid by each employer to		
28	the division for the fund, in accordance with such rules as		
29	the division may prescribe. However, nothing in this		
30	subsection shall be construed to prohibit the division from		
31	allowing, on a limited basis, at the request of the employer,		

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1 certain employers of employees performing domestic services,
2 as defined in s. 443.036(21)(19)(g) and by rule of the
3 division, to pay contributions or report wages at intervals
4 other than quarterly when such payment or reporting is to the
5 advantage of the division and the employers, and when such
6 nonquarterly payment and reporting is authorized under federal
7 law. This provision gives employers of employees performing
8 domestic services the option to elect to report wages and pay
9 taxes annually, with a due date of April 1 and a delinquency
10 date of April 30. In order to qualify for this election, the
11 employer must have only domestic employees, be in good
12 standing, apply to this program no later than December 30 of
13 the preceding calendar year, and agree to provide the division
14 with any special reports which might be requested, as required
15 by rule 38B-2.025(5), including copies of all federal
16 employment tax forms. Failure to furnish any information when
17 required may result in the employer's loss of the privilege to
18 elect participation in this program. Contributions shall not
19 be deducted, in whole or in part, from the wages of
20 individuals in such employer's employ. In the payment of any
21 contributions, a fractional part of a cent shall be
22 disregarded unless it amounts to one-half cent or more, in
23 which case it shall be increased to 1 cent.

24 (3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.--

25 (g)1. For the purposes of this subsection, two or more
26 employers who are parties to a transfer of business or the
27 subject of a merger, consolidation, or other form of
28 reorganization, effecting a change in legal identity or form,
29 shall be deemed to be a single employer and shall be
30 considered as one employer with a continuous employment record
31 if the division finds that the successor employer continues to

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1 carry on the employing enterprises of the predecessor employer
2 or employers and that the successor employer has paid all
3 contributions required of and due from the predecessor
4 employer or employers and has assumed liability for all
5 contributions that may become due from the predecessor
6 employer or employers. As used in this paragraph, the term
7 "contributions" means all indebtedness to the division,
8 including, but not limited to, interest, penalty, collection
9 fee, and service fee. A successor has 30 days from the date of
10 the official notification of liability by succession to accept
11 the transfer of the predecessor's or predecessors' employment
12 record or records. If the predecessor or predecessors have
13 unpaid contributions or outstanding quarterly reports, the
14 successor has 30 days from the date of the notice listing the
15 total amount due to pay the total amount with certified funds.
16 After the total indebtedness has been paid, the employment
17 record or records of the predecessor or predecessors will be
18 transferred to the successor. Employment records may be
19 transferred by the division. The tax rate of total successor
20 and predecessor upon the transfer of employment records shall
21 be determined by the division as prescribed by rule in order
22 to calculate any tax rate change resulting from the transfer
23 of employment records.

24 2. Whether or not there is a transfer of employment
25 record as contemplated in this paragraph, the predecessor
26 shall in the event he or she again employs persons be treated
27 as an employer without previous employment record or, if his
28 or her coverage has been terminated as provided in s. 443.121,
29 as a new employing unit.

30 3. The division may provide by rule for partial
31 transfer of experience rating when an employer has transferred

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1 at any time an identifiable and segregable portion of his or
2 her payrolls and business to a successor employing unit. As a
3 condition of such partial transfer of experience, the rules
4 shall require an application by the successor, agreement by
5 the predecessor, and such evidence as the division may
6 prescribe of the experience and payrolls attributable to the
7 transferred portion up to the date of transfer. The rules
8 shall provide that the successor employing unit, if not
9 already an employer, shall become an employer as of the date
10 of the transfer and that the experience of the transferred
11 portion of the predecessor's account shall be removed from the
12 experience-rating record of the predecessor, and for each
13 calendar year following the date of the transfer of the
14 employment record on the books of the division, the division
15 shall compute the rate of contribution payable by the
16 successor on the basis of his or her experience, if any,
17 combined with the experience of the portion of the record
18 transferred. The rules may also provide what rates shall be
19 payable by the predecessor and successor employers for the
20 period between the date of the transfer of the employment
21 record of the transferred unit on the books of the division
22 and the first day of the next calendar year.

23 4. This paragraph shall not apply to the employee
24 leasing company and client contractual agreement as defined in
25 s. 443.036. The client shall, in the event of termination of
26 the contractual agreement or failure by the employee leasing
27 company to submit reports or pay contributions as required by
28 the division, be treated as a new employer without previous
29 employment record unless otherwise eligible for a rate
30 computation.

31 (4) FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT

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1 ORGANIZATIONS.--Benefits paid to employees of nonprofit
 2 organizations shall be financed in accordance with the
 3 provisions of this subsection. For the purpose of this
 4 subsection, a "nonprofit" organization is an organization or
 5 group of organizations described in s. 501(c)(3) of the United
 6 States Internal Revenue Code which is exempt from income tax
 7 under s. 501(a) of such code.

8 (a) Liability for contributions and election of
 9 reimbursement.--Any nonprofit organization which, pursuant to
 10 s. 443.036(19)(~~17~~)(c) or s. 443.121(3)(a) is, or becomes,
 11 subject to this chapter shall pay contributions under the
 12 provisions of subsection (1), unless it elects, in accordance
 13 with this paragraph, to pay to the division for the
 14 Unemployment Compensation Trust Fund an amount equal to the
 15 amount of regular benefits and of one-half of the extended
 16 benefits paid, that is attributable to service in the employ
 17 of such nonprofit organization, to individuals for weeks of
 18 unemployment which begin during the effective period of such
 19 election.

20 1. Any nonprofit organization which becomes subject to
 21 this chapter may elect to become liable for payments in lieu
 22 of contributions for not less than the period beginning with
 23 the date on which such subjectivity begins and ending at the
 24 end of the next calendar year by filing a written notice of
 25 its election with the division not later than 30 days
 26 immediately following the date of the determination of such
 27 subjectivity.

28 2. Any nonprofit organization which makes an election
 29 in accordance with subparagraph 1. will continue to be liable
 30 for payments in lieu of contributions until it files with the
 31 division a written notice terminating its election not later

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1 than 30 days prior to the beginning of the calendar year for
2 which such termination shall first be effective.

3 3. Any nonprofit organization which has been paying
4 contributions under this chapter may change to a reimbursable
5 basis by filing with the division not later than 30 days prior
6 to the beginning of any calendar year a written notice of
7 election to become liable for payments in lieu of
8 contributions. Such election shall not be terminable by the
9 organization for that and the next calendar year.

10 4. The division, in accordance with such rules as the
11 division may prescribe, shall notify each nonprofit
12 organization of any determination of its status as an employer
13 and of the effective date of any election which it makes and
14 of any termination of such election. Such determinations
15 shall be subject to reconsideration, appeal, and review in
16 accordance with the provisions of s. 443.141(2)(b).

17 (5) FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE
18 AND POLITICAL SUBDIVISIONS OF THE STATE.--Benefits paid to
19 employees of this state or any instrumentality of this state,
20 or to employees of any political subdivision of this state or
21 any instrumentality thereof, based upon service defined in s.
22 443.036(21)(19)(b), shall be financed in accordance with this
23 subsection.

24 (a)1. Unless an election is made as provided in
25 paragraph (c), the state or any political subdivision of the
26 state shall pay into the Unemployment Compensation Trust Fund
27 an amount equivalent to the amount of regular benefits,
28 short-time compensation benefits, and extended benefits paid
29 to individuals, based on wages paid by the state or the
30 political subdivision for service defined in s.
31 443.036(21)(19)(b).

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1 2. Should any state agency become more than 120 days
2 delinquent on reimbursements due to the Unemployment
3 Compensation Trust Fund, the division shall certify to the
4 Comptroller the amount due and the Comptroller shall transfer
5 the amount due to the Unemployment Compensation Trust Fund
6 from the funds of such agency that may legally be used for
7 such purpose. In the event any political subdivision of the
8 state or any instrumentality thereof becomes more than 120
9 days delinquent on reimbursements due to the Unemployment
10 Compensation Trust Fund, then, upon request by the division
11 after a hearing, the Department of Revenue or the Department
12 of Banking and Finance, as the case may be, shall deduct the
13 amount owed by the political subdivision or instrumentality
14 from any funds to be distributed by it to the county, city,
15 special district, or consolidated form of government for
16 further distribution to the trust fund in accordance with this
17 chapter. Should any employer for whom the city or county tax
18 collector collects taxes fail to make the reimbursements to
19 the Unemployment Compensation Trust Fund required by this
20 chapter, the tax collector after a hearing, at the request of
21 the division and upon receipt of a certificate showing the
22 amount owed by the employer, shall deduct the amount so
23 certified from any taxes collected for the employer and remit
24 same to the Department of Labor and Employment Security for
25 further distribution to the trust fund in accordance with this
26 chapter. This subparagraph does not apply to those amounts due
27 for benefits paid prior to October 1, 1979. This subparagraph
28 does not apply to amounts owed by a political subdivision for
29 benefits erroneously paid where the claimant is required to
30 repay to the division under s. 443.151(6)(a) or (b) any sum as
31 benefits received.

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1 (b) The provisions of paragraphs (4)(b), (d), and (e),
2 relating to reimbursement payments, allocation of benefit
3 costs, and group accounts with respect to nonprofit
4 organizations, are applicable also, to the extent allowed by
5 federal law, with respect to the duties of this state or any
6 political subdivision of this state as an employer by reason
7 of s. 443.036(~~19~~)(~~17~~)(b).

8 (d) Upon establishing a financing method as provided
9 by this subsection, such financing method shall be applicable
10 for not less than 2 calendar years. Nothing herein shall be
11 construed to prevent an employer subject to the provisions of
12 this subsection from electing to change its method of
13 financing or its method of reporting after completing 2
14 calendar years under another financing method, so long as such
15 new election is timely filed. The division may prescribe by
16 rule the procedures for changing methods of reporting.

17 (6) PUBLIC EMPLOYERS UNEMPLOYMENT COMPENSATION BENEFIT
18 ACCOUNT.--

19 (b) Governmental entities subject to the Florida
20 Unemployment Compensation Law under s. 443.036(~~21~~)(~~19~~)(b) who
21 exercise the option to elect the contributory system of
22 financing unemployment compensation benefits shall have their
23 accounts maintained and shall be subject to the provisions of
24 subsections (1), (2), and (3), except that:

25 1. The term "taxable wages" means total gross wages.

26 2. The initial contribution rate shall be 0.25
27 percent.

28 3. Any election by an employer to be taxed under this
29 subsection shall be effective January 1 and shall be taxed at
30 the initial rate. Effective January 1 of the following year,
31 the rate shall be computed based on 2 calendar quarters of

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1 chargeability and payroll; effective January 1 of the second
 2 year after such election, the rate shall be computed based on
 3 6 quarters of chargeability and payroll; and effective January
 4 1 of the third year after such election, the rate shall be
 5 computed based on 10 quarters of chargeability and payrolls.
 6 Each January 1 thereafter, the tax rates shall be computed
 7 based on 12 quarters of chargeability and payroll.

8 4. An employer electing to be taxed under the
 9 provisions of this subsection shall make such election not
 10 later than 30 days prior to January 1 of the year for which
 11 the election is to be effective. Upon electing this financing
 12 method, such method shall be applicable for not less than 2
 13 years.

14 5. Any election under this subsection may be
 15 terminated by filing with the division, not later than 30 days
 16 prior to January 1, a written notice of termination.

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19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 On page 1, line 10, after the semicolon

22
 23 insert:

24 correcting cross references;

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