

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 19, 1998 Revised: _____

Subject: Unemployment Compensation

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmeling</u>	<u>Austin</u>	<u>CM</u>	<u>Favorable</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill revises the definition of employment to exclude from unemployment compensation coverage certain election workers and inmates of penal institutions and revises the definition of wages to exclude employer-provided educational assistance payments. This bill further conforms benefit eligibility conditions to federal law and specifies limited use of Reed Act distributions in certain years.

This bill amends sections 443.036, 443.091, and 443.191, Florida Statutes.

II. Present Situation:

Chapter 443, F.S., the unemployment compensation law, was established to implement the provisions of the Federal Unemployment Tax Act (FUTA), Chapter 23 of the Internal Revenue Code. The chapter delineates how Florida carries out these federal requirements especially with regards to the tax on businesses, the duration and amount of benefits paid to eligible claimants, procedures to appeal benefit and tax determinations, and the regulation of the Unemployment Compensation Trust Fund. The Division of Unemployment Compensation in the Department of Labor and Employment Security is responsible for implementing the provisions of ch. 443, F.S.

Section 443.036, F.S., provides for the definition of employment and wages applicable under ch. 443, F.S., and the exclusions to such. The Balanced Budget Act of 1997 (BBA) permitted states the option of adopting additional exemptions to unemployment compensation coverage. These exemptions included services performed as an election official or election worker if the amount of remuneration received by the individual during the calendar year for such service is less than \$1,000 and services performed by a person in a penal institution. The Taxpayer Relief Act of 1997 provided states the option of excluding from the definition of wages any employer-provided

educational assistance payment made to or for an employee if it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under s. 127, Internal Revenue Code.

Section 443.091, F.S., establishes the benefit eligibility conditions under which an individual may be eligible for unemployment compensation. Section 443.091(3), F.S., provides exceptions to eligibility for public employees, specifically that benefits may not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs any services in an instructional, research, or principal administrative capacity for an educational institution or an institution of higher education or any other capacity for an educational institution or an institution of higher education in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform any such service in the period immediately following such vacation period or holiday recess. This provision has resulted in denial of benefits to individuals who could qualify for unemployment compensation based on non-educational employment wages alone. Because this paragraph completely disqualifies an individual for benefits based solely on educational employment wages, it is in conflict with federal law, and the U.S. Department of Labor has notified the state that Florida law must be changed.

Section 443.191, F.S., provides, in part, how the state is to credit money received by the federal government under s. 903 of the Social Security Act. Section 903, Social Security Act, provides that when, among other things, three accounts in the Unemployment Trust Fund reach their statutory limits, the excess amounts will be transferred to the states. These are called Reed Act distributions. The three accounts are the Employment Security Administration Account, which pays for the administration of the unemployment compensation and employment service programs; the Extended Unemployment Compensation Account, which pays for the federal share of extended benefits; and the Federal Unemployment Account, which provides for advances to states for the payment of unemployment compensation. The BBA specified that the amount of Reed Act distributions made with respect to the federal fiscal years ending 1999, 2000, and 2001 will be capped at \$100 million. Reed Act distributions made to the state with respect to these fiscal years may be used "only to pay expenses incurred by [the state] for the administration of its" unemployment compensation law. This differs from previous Reed Act distributions in that the state is prohibited from using amounts transferred for the payment of unemployment compensation or the administration of the state public employment offices. Therefore, in order for Florida to access these monies, current law must be amended to prohibit the use of distributions made with respect to fiscal years 1999, 2000, and 2001 for anything other than the administration of unemployment compensation.

III. Effect of Proposed Changes:

Section 1 amends s. 443.036, F.S., excluding from unemployment compensation coverage, services performed as an election official or election worker if the amount of remuneration received by the individual during the calendar year for such service is less than \$1,000 and services performed by a person in a penal institution. This section also excludes from the

definition of wages any employer-provided educational assistance payment made to or for an employee if it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127, Internal Revenue Code.

Section 2 amends s. 443.091, F.S., clarifying that benefits will not be paid to any individual based on services provided to an educational institution or institutions of higher learning, for any week which commences during an established and customary vacation period or holiday recess based upon such individual performing such service in an instructional, research, or principal administrative capacity for an educational institution or an institution of higher education or any other capacity for an educational institution or an institution of higher education in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform any such service in the period immediately following such vacation period or holiday recess.

Section 3 amends s. 443.191, F.S., specifying that Reed Act distributions credited with respect to federal fiscal years 1999, 2000, and 2001, may only be used for the administration of unemployment compensation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Consistent with federal law, certain claimants with both non-educational employment wages and educational employment wages may qualify for benefits under this bill.

Certain election officials or election workers would no longer be eligible for unemployment compensation.

C. Government Sector Impact:

In some cases, certain governments would reduce costs, as they would not be liable for unemployment compensation contributions.

As a result of this bill, the state will qualify to receive Reed Act distributions for the administration of unemployment compensation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.