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: April 6, 1998 Revised:

Subject: Unemployment Compensation

	Analyst	Staff Director	Reference	Action
1.	Schmeling	Austin	CM	Favorable/CS
2.	Keating	Smith	WM	Favorable/CS
3.				
4.				
5.				

I. Summary:

This committee subsititute provides a reduction in unemployment compensation taxes paid by certain businesses for calendar year 1999. It clarifies disqualification of benefits for voluntarily quitting full-time, part-time or temporary work and reduces the amount of money a claimant must earn to re-qualify for unemployment compensation benefits from 17 times the weekly benefit amount to 10 times the weekly benefit amount. The committee substitute provides a weekly benefit increase of five percent for 1 year, beginning July 1, 1998, with a $288 maximum weekly benefit. The committee substitute provides for1 year, an increase of five percent in the amount of total annual benefits allowed, beginning July 1, 1998, with a $7,254 maximum total annual benefit. The committee substitute also provides for an alternative base period to be used when calculating unemployment benefits in circumstances in which the individual is not monetarily eligible in his or her base period to qualify for benefits.

This committee substitute amends section 1, chapter 97-29, Laws of Florida, and sections 443.101, 443.111, and 443.036, 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 regard 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 (division) in the

Department of Labor and Employment Security is responsible for implementing the provisions of ch. 443, F.S.

Section 443.101(1)(a), F.S., provides that an individual shall be disqualified for benefits for the week in which he or she has voluntarily left his or her work without good cause attributable to his or her employing unit or in which the individual has been discharged by his or her employing unit for misconduct connected with his or her work, if so found by the division. Under such circumstances, a claimant must earn 17 times their unemployment compensation weekly benefit amount at subsequent employment. The term "work," as used in this paragraph, means any work, whether full-time, part-time, or temporary. The definition of "work" was added by chapter 94-347, L.O.F., in response to appellate courts reversing the decisions of the Unemployment Appeals Commission (*Neese v. Sizzler Family Steak House*, 404 So.2d 371 and *Wright v. Florida Unemployment Appeals Commission*, 512 So.2d 333), through the creation of some exceptions to the statutory disqualification for voluntary quitting work. This language was intended to signal to the courts that their decisions regarding part-time work were inconsistent with the Legislature's intent. Since this time, in two separate court cases (*Alderman v. Unemployment Appeals Commission*, 664 So.2d 1160 and *Berger v. Aslo Center, Inc.*, 686 So.2d 649), the courts continue to create exceptions to disqualification, and in the Unemployment Appeals Commission's opinion, exceed their authority.

Varying unemployment compensation rates are assigned to tax paying businesses based on the business' own employment record and its relationship to the experience records of all other businesses. Unemployment compensation rates range from 0.1 percent (minimum) to 5.4 percent (maximum), with new businesses assigned an initial rate of 2.7 percent. Unemployment compensation benefits paid to eligible claimants are paid from the Unemployment Compensation Trust Fund and are charged to the employer on a percentage basis. The more unemployment compensation claims made against a business, the higher the business' unemployment compensation tax rate.

The permanent maximum weekly benefit amount is $275 per week not to exceed $7,150 during any benefit year. Weekly benefit amounts are equal to 1/26th of the total wages for insured work paid during that quarter of the base period in which the wages were the highest.

In 1997, the Legislature passed House Bill 3 (Ch. 97-29, L.O.F.), which reduced unemployment taxes for all Florida employers, except those employers that have paid at a rate of 5.4 percent for more than 36 months, by five tenths percent for1 year and decreased the initial rate charged new employers from 2.7 percent to 2.0 percent for 1 year. These tax reductions are effective for the 1998 calendar year. The bill also increased the maximum weekly amount an unemployed individual may receive from $250 to $275, with a corresponding change in the total annual benefit allowed ($6,500 to $7,150), effective January 1, 1998. For 1 year, an additional five percent of an individual's weekly benefit amount is to be added to the first eight compensable weeks of benefits that individual receives, and corresponding caps were increased as well. These additional benefits are effective for FY 1997-98 (s. 443.111, F.S.).

The impact of HB 3 based on the final 1998 rate data, is $169.8 million. The 1-year additional five percent benefit cost ($33.4 million) in FY 1997-98, and the increase in the maximum benefit by $25 will cost ($23 million) annually.

When an unemployed worker files a claim for unemployment compensation, they automatically establish a four-calendar quarter "base period" in the recent past for the purpose of measuring their employment experience. The amount of work performed and the wages they accrue over a base period determine if a worker has sufficient wages to meet the minimum qualifying requirements for any benefits, the amount of their weekly benefits, and the number of weeks they may receive in benefits.

Section 443.036, F.S., defines "base period" as the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year. "Benefit year" means the 1-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and, thereafter, the 1-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year.

III. Effect of Proposed Changes:

Section 1 amends s. 1, ch. 97-29, L.O.F., to provide in the 1999 calendar year, a 5/10ths percent rate reduction for employers other than new employers and those who have been assigned a contribution rate of 5.4 percent or higher for more than 36 months. The rate for new employers, those which have been chargeable with benefit payments for less than eight calendar quarters, would remain at 2 percent during the 1999 calendar year.

Section 2 amends s. 443.101, F.S., clarifying disqualification of benefits for voluntarily quitting full-time, part-time or temporary work, specifically stating that no other disqualification may be imposed and reduces the amount of money a claimant must earn to re-qualify for unemployment compensation benefits from 17 times the weekly benefit amount to 10 times the weekly benefit amount.

Section 3 amends s. 443.111, F.S., providing a benefit increase of five percent of the weekly benefit amount to be added to the first eight weeks of compensable benefits paid for benefit years beginning July 1, 1998 through June 30, 1999, with a maximum weekly benefit amount of $288. The committee substitute also provides a 1-year increase of five percent in the amount of total annual benefits allowed, beginning July 1, 1998, with a $7,254 maximum total annual benefit.

Section 4 amends s. 443.036, F.S., to provide for the designation of an alternative base period for individuals who are not monetarily eligible in their base period to qualify for benefits. "Alternative base period" is defined as the last four completed calendar quarters immediately preceding an individual's benefit year.

In determining eligibility for an alternative base period, if wage information is not available through regular means, state or federal sources, information on wages may be provided by the individual on affidavit. Employers will have 10 days in which to respond to wage requests from the division.

Section 5 provides that this act shall take effect July 1, 1998.

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:

Unemployment compensation taxes for calendar year 1999, would be reduced for qualified Florida employers by five-tenths percent and for new employers, those whose employment record has been chargeable with benefit payments for less than eight calendar quarters, the initial tax rate would be reduced to 2 percent.

B. Private Sector Impact:

Unemployment compensation taxes for calendar year 1999, would be reduced for qualified Florida employers by five-tenths percent and for new employers, those whose employment record has been chargeable with benefit payments for less than eight calendar quarters, the initial tax rate would be reduced to 2 percent. The average employer’s taxes will be reduced by approximately $35 per employer for the calendar year.

The continued temporary increase in the weekly benefit amount, totaling approximately $20 million, will help the buying power of some unemployed workers.

Reducing the disqualification requirement from 17 days to 10 days will result in more unemployed workers who would potentially be eligible to receive benefits.

According to a study done by the Department of Labor and Employment Securities, approximately 4,000 additional claimants per year would be monetarily eligible for unemployment compensation using the alternative base period.

C. Government Sector Impact:

The committee substitute will impact the Unemployment Compensation Trust Fund through the loss of tax collections deposited into the fund and the increase in the amount of benefits paid out from the fund. According to the Department of Labor and Employment Security (DLES), the reduction in tax collections for calendar year 1998 is estimated to be $169.8 million and the increase in weekly benefit amounts would result in an increase in benefit payments of $19.9 million. Reducing the disqualification requirement from 17 days to 10 days is estimated to result in a recurring loss to the trust fund of $9.0 million. Beginning in calendar year 2000, the estimated 4,000 additional claimants per year that would be monetarily eligible for unemployment compensation using the alternative base period will result in a recurring loss to the trust fund of $4 million.

Unemployment Compensation Trust Fund	**FY 98-99 (Millions)**	**FY 99-00 (Millions)**	**Annualized (Millions)**
Tax Reduction	$90.0	$79.8	0.0
Increased Benefits	10.0	9.9	0.0
Reduction of Disqualification Requirement	8.3	8.6	9.0
Alternative Base Period	0.0		4.0
Total Reduction to UC Benefit TF	**($108.3)**	**($98.3)**	**($13.0)**

DLES additionally offered the following on the committee substitute's impact on the Unemployment Compensation Trust Fund:

Trust Fund Balance

The trust fund balance as of the fourth quarter of 1997 is $2.0 billion. Attached are summaries of the trust fund balance assuming two different economic scenarios; (1) Trust Fund Forecast - Trend, and (2) Trust Fund Forecast - Cycle.

(1) The Trust Fund Forecast - Trend is based on the Revenue Estimating Conference Trend Forecast (Feb. 1998) and assumes current economic conditions with no recessionary periods.

The Trend forecast shows the year end trust fund balance exceeding $2.0 billion for calendar years 1998, 1999, and 2000. The fund balance ratio (trust fund balance as a percentage of taxable wages) is expected to exceed the four percent threshold through 2001. This is significant since a fund balance ratio less than four percent triggers an automatic increase in UC tax rates for all employers, even those that have experienced no benefit charges. The trust fund solvency measure, i.e., the high cost multiple, declines steadily throughout the forecast period. The current value is 0.81 which can generally be interpreted as the fund having 81 percent of the capacity needed for the benefits trust fund to withstand a severe recession during a 12 month period. This value declines to 56 percent by the end of 2003.

(2) The Cycle forecast is presented to show the impact on the trust fund balance of an average economic downturn.

In this alternative economic scenario, the end of year fund balance hovers around $2.0 billion until 2002 and then drops below $1.4 billion by the end of 2003. Likewise, the fund balance ratio falls below three percent triggering a tax increase for all employers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In a February 21, 1996 report of the Unemployment Compensation Program, the Office of Program Policy Analysis and Government Accountability (OPPAGA) found that:

> The capacity of the Unemployment Compensation Trust Fund to pay for benefit payments has declined since 1989. The Fund’s reserves in 1994 had the capacity to pay benefits for less than 1 year in a severe recession, while in 1989 the Fund’s reserves could have lasted almost 1½ years. Although the Trust Fund had a balance of $1.6 billion, solvency measures indicate the Fund’s capacity may be inadequate to finance the benefits that would have to be paid if a severe recession developed.

OPPAGA went on to recommend that the “Legislature should increase the reserves of the UC Trust Fund by changing how the Trust Fund size is determined.”

A September 1996 review of the Unemployment Compensation Program by the Executive Office of the Governor found OPPAGA’s “prescriptions too cautious given current economic forecasts for the state and the relative healthy balance in the Unemployment Compensation Fund.”

The U.S. Department of Labor is considering tying the ability of a state to borrow money “interest free” to pay benefits if the state depletes its funds in a severe recession to that state having made progress in increasing its High Cost Multiple to 1.0 prior to the recession. The idea being that states should accumulate the reserves in good economic times to support the payment of benefits in bad times.

VIII. Amendments:

None.