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HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 3

RELATING TO: Unemployment Compensation

SPONSOR(S): Committee on Business Development and International Trade, Rep. Starks, and others

STATUTE(S) AFFECTED: New language; amends sections 443.036 and 443.111, F.S.

COMPANION BILL(S): SB 188 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 9 NAYS 0
(2) FINANCE AND TAXATION
(3)
(4)
(5)

I. SUMMARY:

Chapter 443, F.S., contains the statutory provisions of Florida's Unemployment Compensation (UC) Program. Section 443.131, F.S., imposes a tax on wages paid by Florida employers, to pay for unemployment benefits received by unemployed individuals. The tax is imposed on the first $7,000 of compensation paid to each employee, and the tax rate varies from 0.1% to 5.4%, depending upon the benefit experience of the employer and other statewide factors.

Qualified unemployed individuals are eligible to receive weekly benefits ranging from $10 to $250 for up to 26 weeks (not to exceed $6,500 during any benefit year), depending on their length of prior employment and wages earned.

The bill creates a one-year moratorium from paying unemployment taxes for any employer which would have been assigned the minimum tax rate during the 1998 calendar year. The bill creates a one-year reduction of 25 percent in the unemployment compensation rates paid by Florida employers. The bill also increases the maximum weekly amount an unemployed individual may receive from $250 to $275, with a corresponding change in the annual amount ($6,500 to $7,150). Finally, the bill raises the exemption for sole-proprietors from paying unemployment taxes on wages paid to their children from 18 to 21 years of age.

The Revenue Estimating Conference has not completed a fiscal analysis of this bill. Based on initial estimates provided by the Florida Department of Labor and Employment Security, the bill will have a total negative non-recurring impact of ($167.6 million) on the Unemployment Compensation Trust Fund.

The bill does not increase or otherwise change the rulemaking authority of a state agency.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Unemployment Compensation (UC) Program was established in 1939, after the Great Depression. The programs primary objectives are to give workers temporary and partial insurance against income loss resulting from unemployment, and to assist the counter cyclical stabilization of the economy during recessions by maintaining workers' purchasing power.

Chapter 443, F.S., contains the statutory provisions of Florida's UC law. Its provisions delineate how Florida carries out federal requirements especially with regards to the tax on employers, the duration and amount of benefits paid to eligible claimants, procedures to appeal benefit and tax determinations, and the Unemployment Compensation Trust Fund.

Section 443.131, F.S., imposes a tax on wages paid by Florida employers (the section actually describes the payment as a "contribution") to pay unemployment benefits to unemployed individuals. Generally, an employer must pay a tax on wages paid to each employee. Section 443.036, F.S., provides that sole proprietors do not have to pay unemployment taxes for employment performed by their child until they reach the age of 18. The tax is imposed on the first $7,000 of compensation paid, and the tax rate varies as follows (from 0.1% to 5.4%), depending upon the benefit experience of the employer and other statewide factors.

Minimum rate paid by employers -- 0.10% ($ 7.00 per employee (ee))
Average rate paid by employers -- 1.03% ($ 72.00 per ee)
Rate paid by new employers -- 2.70% ($189.00 per ee)
Maximum rate paid by employers -- 5.40% ($378.00 per ee)

The benefit experience of an employer is established over a three year period based on the employer's experience considering chargeable benefits paid to former employees and other factors. The following are the factors considered when setting employer UC tax rates:

Employer Experience. The principal factor is the employer's three year history of chargeable benefits paid to former employees and taxable payroll.

Non-chargeable Benefits. These are UC benefits that cannot be charged to a particular employer (e.g. out-of-state UC benefits that are above the Florida levels that are not charged to Florida employers) and, thus, must be shared among employers.

Excess. Since there is a maximum tax rate limit of 5.4 percent, those taxes that cannot be recouped from employers at the maximum rate and must be shared among other employers.

Monetary needs of the Trust Fund. When the Trust Fund balance goes below the statutory limit of 4 percent of the taxable payroll of contributory employers, then employers are assessed additional amounts to replenish the Fund. When the Trust

Fund balance exceeds 5 percent of the taxable payroll of contributory employers, then employers will be assessed at a lesser rate.

Delinquent Submission of Taxes or Reports. If an employer is delinquent in paying taxes or submitting required reports, then the employer is assigned the maximum tax rate of 5.4 percent.

In addition to the payment of the state tax rate, Florida businesses must pay a federal unemployment tax. The Internal Revenue Service (IRS) charges employers a federal unemployment tax of 6.2 percent on the first $7,000 of compensation paid, but allows employers to take a credit of up to 5.4 percent for timely reports and payments of state unemployment tax -- leaving a net federal tax of 0.8 percent ($56.00 per ee). The federal credit is capped at a state's maximum rate based upon experience. In Florida, the maximum statutory rate based upon experience is 5.4 percent. Thus, Florida employers are eligible to receive the maximum federal credit of 5.4 percent against the federal unemployment tax rate.

Taxes paid by employers are placed in the UC Trust Fund. Section 443.131(3)(e)1.c., F.S., requires individual tax rates to be increased or decreased by a fund balance factor depending on whether the balance exceeds 5 percent or drops below 4 percent of the total amount of taxable wages paid to Florida employees. If the balance falls below 4 percent, the Department of Labor and Employment Security is required to increase tax rates to replenish the Fund. If the balance exceeds 5 percent, the Department of Labor and Employment Security is required to decrease tax rates to bring the UC Trust Fund between 4 and 5 percent of total taxable wages.

Unemployment compensation benefits are paid to eligible claimants from the UC Trust Fund. To receive benefits, claimants must first apply at a Department of Labor and Employment Security field office located throughout the state. Applicants must meet both monetary and non-monetary eligibility requirements and be registered for employment opportunities. Once they qualify to receive benefits, claimants are required to seek employment and report job search efforts. Qualified applicants may receive weekly benefits ranging from $10 to $250 for up to 26 weeks (not to exceed $6,500 during any benefit year), depending on their length of prior employment and wages earned.

In FY 1994-95, Florida collected taxes of approximately $714.8 million. The amount of benefits paid from the UC Trust Fund in 1995 was approximately $658 million. Florida had a UC Trust Fund balance of $1.8 billion as of December 31, 1995. Based on U.S. Department of Labor figures, as of December 31, 1995, Florida had 5.8 million UC covered employees, and a capacity to cover 733,891 employees -- or 12.65 percent of all employees in Florida. Based on the current rate of claims, the trust fund contains approximately 34 months worth of benefit payments. Because the UC Trust Fund has a balance in excess of 5 percent of total taxable wages in Florida, employers should receive the statutorily required reduction in their tax rates.

B. EFFECT OF PROPOSED CHANGES:

The bill creates a one-year moratorium from paying unemployment taxes for any employer which would have been assigned the minimum tax rate during the 1998 calendar year. The bill also creates a one-year reduction of 25 percent in the unemployment compensation rates paid by Florida employers, except those employers that have paid at a rate of 5.4 percent for more than 36 months. Based on this reduction, the following rates will apply during the period of January 1, 1998 to December 31, 1998

Minimum rate paid by employers	--	0.0% ($0.0 per ee)
Average rate paid by employers	--	0.77% ($ 53.90 per ee)
Rate paid by new employers	--	2.03% ($142.10 per ee)
Rate paid by employers that paid 5.4% for less than 36 mos	--	4.05% ($283.50 per ee)
Maximum rate paid by employers (paid 5.4% for more than 36 mos)	--	5.40% ($378.00 per ee)

The actual monetary benefit received by Florida employers would vary as follows:

Employers paying the minimum rate	--	$ 7.00 (per ee)
Employers paying the average rate	--	$18.10 (per ee)
New employers	--	$46.90 (per ee)
Employers paying 5.4% for less than 36 mos.	--	$94.50 (per ee)
Employers paying 5.4% for more than 36 mos.	--	$ 0.0 (per ee)

The bill also increases the maximum weekly amount an unemployed individual may receive from $250 to $275, with a corresponding change in the annual amount ($6,500 to $7,150).

Finally, the bill raises the exemption for sole-proprietors from paying unemployment taxes on wages paid to their children from 18 to 21 years of age.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

Yes, the bill increases the maximum weekly amount of unemployment benefits an unemployed individual may receive from $250 to $275, and the annual amount from $6,500 to $7,150.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes, the bill creates a one-year moratorium from paying unemployment taxes for any employer which would have been assigned the minimum tax rate during the 1998 calendar year. The bill also authorizes a one-year reduction of 25 percent in the unemployment compensation rates paid by Florida employers. This reduction will have an indeterminate negative impact on the UC Trust Fund.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

N/A

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

Section 1 creates a one-year moratorium from paying unemployment taxes for any employer which would have been assigned the minimum tax rate during the 1998 calendar year. Creates a one-year reduction of 25 percent in the unemployment compensation rates paid by Florida employers, except those employers that have paid at a rate of 5.4% or higher for more than 36 months immediately preceding the 1998 calendar year. Provides the method for computing such reduction. Delineates that the period of such reduction shall be for a period of 1 year beginning January 1, 1998.

Section 2 amends s. 443.036(19)(n), F.S., relating to exclusions from the definition of employment for purposes of chapter 443, F.S. Increases the age for determining whether the child of a sole proprietor has performed taxable service under chapter 443 from 18 to 21 years of age.

Section 3 amends s. 443.111, F.S., relating to they payment of unemployment benefits. Increases the maximum “weekly benefit amount” an individual may receive from $250 to $275, and the annual benefit amount from $6,500 to $7,150.

Section 4 provides that this act shall take effect January 1, 1998.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Revenue Estimating Conference has not completed a fiscal analysis of this bill. Based on initial estimates provided by the Florida Department of Labor and Employment Security, the bill will have the following negative non-recurring impact on the Unemployment Compensation Trust Fund is as follows

	FY 1997/98
25% reduction in UC rate	($138.1m)
1 year moratorium	($ 6.5 m)
$25 increase in benefit amount	($ 23 m)
Total	($167.6 m)

2. Recurring Effects:

Indeterminate. Based on the current rate of benefit payments, the impact of a one-year reduction in the UC tax rate -- plus a $25 increase in the maximum weekly benefit amount should not require an increase in future UC tax rates applied to employers.

A one-year reduction in UC tax rates applied to employers and $25 increase in the maximum weekly benefit amount may also generate additional economic activity by employers and unemployed workers that would not have occurred otherwise. This additional economic activity may have a positive impact on state revenues.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See A.1 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   Indeterminate. If a one-year reduction in UC tax rates and a $25 increase in the maximum weekly benefit amount spurs additional economic activity that would not have occurred otherwise, then local governments may see a positive impact on local revenues.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   Florida businesses would receive a 25 percent UC tax cut totaling $153 million during FY 1997/98. In addition, unemployed workers will receive an increase of $25 in the maximum amount of benefits that may receive weekly -- totaling $23 million during FY 1997/98.

3. Effects on Competition, Private Enterprise and Employment Markets:

   To the extent that this bill spurs additional economic activity, this bill should have a positive impact on private enterprise and employment markets. Because this reduction is limited to one year, the effects on these markets may be limited.

D. FISCAL COMMENTS:

Because the UC Trust Fund currently has a surplus greater than 5 percent of the total taxable wages in Florida, employers should receive a reduction in their tax rates. This reduction will be computed at the end of the calendar year (November 1997), and applied to next year's rates. The net effect of this reduction should result in an across the board tax reduction for all employers, and potentially a reduction in the amount of taxes collected.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take and action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Because the federal tax credit for the payment of state unemployment taxes is capped at the maximum state rate, a reduction in the maximum state rate will result in a reduction in the amount of federal credit. If the maximum state rate is 4.5 percent, the maximum federal credit available will be 4.5 percent, and Florida employers will pay a federal unemployment tax of 2.15 percent.

According to the bill's sponsor, an amendment revising the method of computing the 25 percent reduction will be offered at the Committee on Business Development and International Trade hearing.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Business Development and International Trade considered the bill on February 11, 1996. The Committee passed the bill as a committee substitute. The committee substitute differs from the original bill as follows:

1. Creates a one-year moratorium from paying unemployment taxes for any employer which would have been assigned the minimum tax rate during the 1998 calendar year.

2. Amended the 25% tax reduction so that employer's paying a rate of 5.4% for more than 36 months prior to January 1, 1998, are not eligible for the reduction. This amendment should cure the concern over the loss of a portion of the FUTA credit.

3. Increased the annual amount of benefit an unemployed individual may receive from $6,500 to $7,150.

4. Increased the age for determining whether the child of a sole proprietor has performed taxable service under chapter 443 from 18 to 21 years of age.

5. Changed the effective date of the bill from July 1, 1997, to January 1, 1998.

VII. <u>SIGNATURES</u>:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

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