STORAGE NAME: h0003s2.ft
DATE: March 10, 1997

HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/CS/HB 3

RELATING TO: Unemployment Compensation

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

STATUTE(S) AFFECTED: New language; amends sections 443.036 and 443.111, Florida Statutes

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 YEAS 13 NAYS 2
(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 0.11% 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 $32 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 reduces 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 for one year and decreases the initial rate charged new employers from 2.7% to 2.0% for one year. These tax reductions are effective for the 1998 calendar year so long as the trust fund balance is at least 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division. 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). For one year the first weekly amount is additionally increased by $25. The benefits to employees take effect July 1, 1997, but are repealed if the trust fund balance is below 4.0% of total taxable payroll when the 1998 tax rates are computed by the division. 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 bill is expected to reduce unemployment taxes by an estimated ($87.1 million) in FY 1997-98 and ($74.8 million) in FY 1998-99. The one-year first-week additional $25 benefit will cost ($6.8 million) in FY 1997-98 and the increase in the maximum benefit by $25 will cost ($23 million) annually.

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 contribution, commonly referred to as a tax, on wages paid by Florida employers for 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 -- 0.11% ($ 7.70 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 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 (FUTA). 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 $32 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.

B. EFFECT OF PROPOSED CHANGES:

The bill reduces 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 for one year. In addition, for new employers, those whose employment record has been chargeable with benefit payments for less than eight calendar quarters, the initial rate is reduced to 2.0 percent for one year. Based on these reductions, the following rates will apply during the period of January 1, 1998 to December 31, 1998.

Employers with rates of 0.5% or less	-- 0.00% ($0.0 per ee)
Average rate paid by employers	-- 0.53% ($ 47.10 per ee)
Rate paid by new employers	-- 2.00% ($140.00 per ee)
Rate paid by employers that paid 5.4% for less than 36 mos	-- 4.90% ($343.00 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	-- $7.70 (per ee)
Employers paying more than the minimum rate but no more than 0.5%	-- an amount varying from $7.70 to $35.00 (per ee)
Employers paying the average rate	-- $35.00 (per ee)
New employers	-- $49.00 (per ee)
Employers paying 5.4% for less than 36 mos.	-- $35.00 (per ee)
Employers paying 5.4% for more than 36 mos.	-- $ 0.00 (per ee)

The reductions in unemployment compensation tax are effective for the 1998 calendar year so long as the balance of the trust fund is not below 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division.

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). Further, an additional $25 is added for the first compensable week of benefits for benefit years beginning July 1, 1997 through June 30, 1998.

The increases in unemployment compensation benefits are effective beginning July 1, 1997. However, the increases are eliminated and the law regarding employee benefits reverts back to current law if the balance of the trust fund is below 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division.

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. In addition, for one year $25 is added to the first compensable week of benefits. However, the increases are eliminated and the law regarding employee benefits reverts back to current law if the balance of the trust fund is below 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division.

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, for the 1998 calendar year the bill reduces by five tenths percent the unemployment taxes for any employer except those employers who have been assigned the a contribution rate of 5.4 percent for more than 36 months. Also for one year, the rate charged new employers, those whose employment record has been chargeable with benefit payments for less than eight calendar quarters, is reduced from 2.7 to 2.0 percent. These reductions are contingent on the trust fund balance of at least 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division.

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 reduction in unemployment taxes for the 1998 calendar year. For the 1998 calendar year 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 receive a five tenths percent reduction in their rates. The rate for new employers, those which have been chargeable with benefit payments for less than eight calendar quarters, is reduced from 2.7% to 2.0%. Neither tax reduction takes effect if the trust fund balance is below 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division.

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 the payment of unemployment benefits. The bill 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 for benefit years beginning July 1, 1997. Also, an additional $25 is added for the first compensable week of benefits for benefit years beginning July 1, 1997 through June 1, 1998.

Section 4 repeals the amendments to s. 443.111, F.S., made in section 3 of the bill if the trust fund balance is below 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division.

Section 5 provides except as otherwise provide 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 bill is expected to reduce unemployment taxes by an estimated ($87.1 million) in FY 1997-98 and ($74.8 million) in FY. The one-year first-week additional $25 benefit will cost ($6.8 million) in FY 1997-98.

2. Recurring Effects:

The reduction in unemployment tax is effective solely for the 1998 calendar year. The increases in benefits are estimated to cost $23 million annually.

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:

   None.

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 one-year UC tax cut of five tenths percent. In addition, unemployed workers will receive an increase of $25 in the maximum amount of benefits that may receive weekly and a one year increase in the first weekly payment. These benefits are contingent on the trust fund balance being at least 4.0% of total taxable payroll when the 1998 tax rates are computed by the division.

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:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill requires counties or municipalities to spend funds. The provision to raise the maximum weekly benefit amount by $25 and to increase the first week benefit for one year will require those governmental entities which have elected to reimburse the unemployment benefit trust fund for benefits paid to incur additional expense. The expense is expected to be less than $1.4 million, and, therefore, the bill is exempt from the provisions of Article VII, section 18 of the Florida Constitution. Moreover, the bill applies to all persons similarly situated, including state and local governments.

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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Finance and Taxation adopted one delete everything after the enacting clause amendment and two technical amendments to the amendment and passed the bill as a committee substitute. The committee substitute differs from the prior committee substitute as follows:

1. It reduces for one year unemployment taxes for all employers except those paying a rate of 5.4% for more than 36 months by five tenths percent.

2. It reduces for one year the rate for new employers, those whose employment record has been chargeable with benefit payments for less than eight calendar quarters, from 2.7% to 2.0%.

3. Tax reductions are contingent on the trust fund balance being at least 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division.

4. It increases for one year the first weekly benefit by an additional $25.

5. All employee benefit increases are eliminated and the law regarding benefits reverts to current law, if the balance of the trust fund is below 4.0% of the total taxable payroll when the 1998 tax rates are computed by the division.

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. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:	Legislative Research Director:
Michael L. Rubin	Michael L. Rubin

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

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