

By the Committee on Business Development & International Trade and Representatives Starks, Lippman, Bitner, Putnam, Arnall, Ball, Posey, Feeney, Lynn, Kosmas, Livingston, Trovillion, Dockery, Wallace, Byrd and Warner

1 A bill to be entitled
 2 An act relating to unemployment compensation;
 3 providing for temporary reductions in certain
 4 contribution rates for specified employers;
 5 amending s. 443.036, F.S.; revising exemption
 6 criteria for services performed by children
 7 employed by their parents; amending s. 443.111,
 8 F.S.; prescribing the maximum weekly benefit
 9 amount for unemployment compensation benefits;
 10 providing an effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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 14 Section 1. Notwithstanding the provisions of s.
 15 443.131(2) and (3), Florida Statutes, any employer which would
 16 have been assigned a minimum computed tax rate for any quarter
 17 of the 1998 calendar year shall be assigned a tax rate of zero
 18 for that quarter and for the remainder of the 1998 calendar
 19 year. All other businesses, except for businesses that have
 20 been assigned a contribution rate of 5.4 percent or higher for
 21 more than 36 months immediately preceding the 1998 calendar
 22 year, shall be assigned a tax rate 25 percent lower than the
 23 rate would have been assigned for the 1998 tax year pursuant
 24 to s. 443.131, Florida Statutes.

25 Section 2. Paragraph (n) of subsection (19) of section
 26 443.036, Florida Statutes, 1996 Supplement, is amended to
 27 read:

28 443.036 Definitions.--As used in this chapter, unless
 29 the context clearly requires otherwise:
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1 (19) EMPLOYMENT.--"Employment," subject to the other
2 provisions of this chapter, means any service performed by an
3 employee for the person employing him.

4 (n) Exclusions generally.--The term "employment" does
5 not include:

6 1. Domestic service in a private home, local college
7 club, or local chapter of a college fraternity or sorority,
8 except as provided in paragraph (g).

9 2. Service performed on or in connection with a vessel
10 or aircraft not an American vessel or American aircraft, if
11 the employee is employed on and in connection with such vessel
12 or aircraft when outside the United States.

13 3. Service performed by an individual in, or as an
14 officer or member of the crew of a vessel while it is engaged
15 in, the catching, taking, harvesting, cultivating, or farming
16 of any kind of fish, shellfish, crustacea, sponges, seaweeds,
17 or other aquatic forms of animal and vegetable life, including
18 service performed by any such individual as an ordinary
19 incident to any such activity, except:

20 a. Service performed in connection with the catching
21 or taking of salmon or halibut for commercial purposes.

22 b. Service performed on, or in connection with, a
23 vessel of more than 10 net tons, determined in the manner
24 provided for determining the register tonnage of merchant
25 vessels under the laws of the United States.

26 4. Service performed by an individual in the employ of
27 his son, daughter, or spouse, and service performed by a child
28 under the age of 21 ~~18~~ in the employ of his father or mother.

29 5. Service performed in the employ of the United
30 States Government or of an instrumentality of the United
31 States which is:

1 a. Wholly or partially owned by the United States.
2 b. Exempt from the tax imposed by s. 3301 of the
3 Internal Revenue Code by virtue of any provision of federal
4 law which specifically refers to such section, or the
5 corresponding section of prior law, in granting such
6 exemption; except that to the extent that the Congress shall
7 permit states to require any instrumentalities of the United
8 States to make payments into an unemployment fund under a
9 state unemployment compensation law, all of the provisions of
10 this law shall be applicable to such instrumentalities, and to
11 services performed for such instrumentalities, in the same
12 manner, to the same extent, and on the same terms as to all
13 other employers, employing units, individuals, and services.
14 If this state is not certified for any year by the Secretary
15 of Labor under s. 3304 of the federal Internal Revenue Code,
16 the payments required of such instrumentalities with respect
17 to such year shall be refunded by the division from the fund
18 in the same manner and within the same period as is provided
19 in s. 443.141(6) with respect to contributions erroneously
20 collected.

21 6. Service performed in the employ of a state, or any
22 political subdivision thereof, or any instrumentality of any
23 one or more of the foregoing which is wholly owned by one or
24 more states or political subdivisions, except as provided in
25 paragraph (b), and any service performed in the employ of any
26 instrumentality of one or more states or political
27 subdivisions, to the extent that the instrumentality is, with
28 respect to such service, immune under the Constitution of the
29 United States from the tax imposed by s. 3301 of the Internal
30 Revenue Code.
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1 7. Service performed in the employ of a corporation,
2 community chest, fund, or foundation, organized and operated
3 exclusively for religious, charitable, scientific, testing for
4 public safety, literary, or educational purposes, or for the
5 prevention of cruelty to children or animals, no part of the
6 net earnings of which inures to the benefit of any private
7 shareholder or individual, no substantial part of the
8 activities of which is carrying on propaganda or otherwise
9 attempting to influence legislation, and which does not
10 participate in, or intervene in (including the publishing or
11 distributing of statements), any political campaign on behalf
12 of any candidate for public office, except as provided in
13 paragraph (c).

14 8. Service with respect to which unemployment
15 compensation is payable under an unemployment compensation
16 system established by an Act of Congress.

17 9.a. Service performed in any calendar quarter in the
18 employ of any organization exempt from income tax under s.
19 501(a) of the Internal Revenue Code, other than an
20 organization described in s. 401(a), or under s. 521, if the
21 remuneration for such service is less than \$50.

22 b. Service performed in the employ of a school,
23 college, or university, if such service is performed by a
24 student who is enrolled and is regularly attending classes at
25 such school, college, or university.

26 10. Service performed in the employ of a foreign
27 government, including service as a consular or other officer
28 or employee of a nondiplomatic representative.

29 11. Service performed in the employ of an
30 instrumentality wholly owned by a foreign government:
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1 a. If the service is of a character similar to that
2 performed in foreign countries by employees of the United
3 States Government or of an instrumentality thereof; and

4 b. The Secretary of State shall certify to the
5 Secretary of the Treasury that the foreign government, with
6 respect to whose instrumentality exemption is claimed, grants
7 an equivalent exemption with respect to similar service
8 performed in the foreign country by employees of the United
9 States Government and of instrumentalities thereof.

10 12. Service performed as a student nurse in the employ
11 of a hospital or a nurses' training school by an individual
12 who is enrolled and is regularly attending classes in a
13 nurses' training school chartered or approved pursuant to a
14 state law; service performed as an intern in the employ of a
15 hospital by an individual who has completed a 4-year course in
16 a medical school chartered or approved pursuant to state law;
17 and service performed by a patient of a hospital for such
18 hospital.

19 13. Service performed by an individual for a person as
20 an insurance agent or as an insurance solicitor, if all such
21 service performed by such individual for such person is
22 performed for remuneration solely by way of commission, except
23 for such services performed in accordance with 26 U.S.C.S. s.
24 3306(c)(7) and (8). For purposes of this subsection, those
25 benefits excluded from the definition of wages pursuant to
26 subparagraphs (33)(b)2.-6., inclusive, shall not be considered
27 remuneration.

28 14. Service performed by an individual for a person as
29 a real estate salesman or agent, if all such service performed
30 by such individual for such person is performed for
31 remuneration solely by way of commission.

1 15. Service performed by an individual under the age
2 of 18 in the delivery or distribution of newspapers or
3 shopping news, not including delivery or distribution to any
4 point for subsequent delivery or distribution.

5 16. Service covered by an arrangement between the
6 division and the agency charged with the administration of any
7 other state or federal unemployment compensation law pursuant
8 to which all services performed by an individual for an
9 employing unit during the period covered by such employing
10 unit's duly approved election are deemed to be performed
11 entirely within such agency's state or under such federal law.

12 17. Service performed by an individual who is enrolled
13 at a nonprofit or public educational institution which
14 normally maintains a regular faculty and curriculum and
15 normally has a regularly organized body of students in
16 attendance at the place where its educational activities are
17 carried on as a student in a full-time program, taken for
18 credit at such institution, which combines academic
19 instruction with work experience, if such service is an
20 integral part of such program, and such institution has so
21 certified to the employer, except that this subparagraph does
22 not apply to service performed in a program established for or
23 on behalf of an employer or group of employers.

24 18. Service performed by an individual for a person as
25 a barber, if all such service performed by such individual for
26 such person is performed for remuneration solely by way of
27 commission.

28 19. Casual labor not in the course of the employer's
29 trade or business.

30 20. Service performed by a speech therapist,
31 occupational therapist, or physical therapist who is

1 nonsalaried and working pursuant to a written contract with a
2 home health agency as defined in s. 400.462.

3 21. Service performed by a direct seller. For purposes
4 of this subparagraph, the term "direct seller" means a person:

5 a.(I) Who is engaged in the trade or business of
6 selling or soliciting the sale of consumer products to buyers
7 on a buy-sell basis or a deposit-commission basis, or on any
8 similar basis, for resale in the home or in any other place
9 that is not a permanent retail establishment; or

10 (II) Who is engaged in the trade or business of
11 selling or soliciting the sale of consumer products in the
12 home or in any other place that is not a permanent retail
13 establishment;

14 b. Substantially all of whose remuneration for
15 services described in sub-subparagraph a., whether or not paid
16 in cash, is directly related to sales or other output, rather
17 than to the number of hours worked; and

18 c. Who performs such services pursuant to a written
19 contract with the person for whom the services are performed,
20 which contract provides that the person will not be treated as
21 an employee with respect to such services for federal tax
22 purposes.

23 22. Service performed by a nonresident alien
24 individual for the period he is temporarily present in the
25 United States as a nonimmigrant under subparagraph (F) or
26 subparagraph (J) of s. 101(a)(15) of the Immigration and
27 Nationality Act, and which is performed to carry out the
28 purpose specified in subparagraph (F) or subparagraph (J), as
29 the case may be.

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1 23. Service performed by an individual for
2 remuneration for a private, for-profit delivery or messenger
3 service, if the individual:

4 a. Is free to accept or reject jobs from the delivery
5 or messenger service and the delivery or messenger service has
6 no control over when the individual works;

7 b. Is remunerated for each delivery, or the
8 remuneration is based on factors that relate to the work
9 performed, including receipt of a percentage of any rate
10 schedule;

11 c. Pays all expenses and the opportunity for profit or
12 loss rests solely with the individual;

13 d. Is responsible for operating costs, including fuel,
14 repairs, supplies, and motor vehicle insurance;

15 e. Determines the method of performing the service,
16 including selection of routes and order of deliveries;

17 f. Is responsible for the completion of a specific job
18 and is liable for any failure to complete that job;

19 g. Enters into a contract with the delivery or
20 messenger service which specifies the relationship of the
21 individual to the delivery or messenger service to be that of
22 an independent contractor and not that of an employee; and

23 h. Provides the vehicle used to perform the service.

24 24. Service performed in agricultural labor by an
25 individual who is an alien admitted to the United States to
26 perform service in agricultural labor pursuant to ss.
27 101(a)(15)(H) and 214(c) of the Immigration and Nationality
28 Act.

29 Section 3. Subsection (3) and paragraph (a) of
30 subsection (5) of section 443.111, Florida Statutes, 1996
31 Supplement, are amended to read:

1 443.111 Payment of benefits.--

2 (3) WEEKLY BENEFIT AMOUNT.--An individual's "weekly
3 benefit amount" shall be an amount equal to one-twenty-sixth
4 of the total wages for insured work paid during that quarter
5 of the base period in which such total wages paid were the
6 highest, but not less than \$32 or more than ~~\$275~~\$250. Such
7 weekly benefit amount, if not a multiple of \$1, shall be
8 rounded downward to the nearest full dollar amount. The
9 maximum weekly benefit amount in effect at the time the
10 claimant establishes an individual weekly benefit amount shall
11 be the maximum benefit amount applicable throughout the
12 claimant's benefit year. This subsection applies to benefit
13 years beginning on or after January 1, 1998.

14 (5) DURATION OF BENEFITS.--

15 (a)1. Any otherwise eligible individual shall be
16 entitled during any benefit year to a total amount of benefits
17 equal to 25 percent of the total wages in the base period, not
18 to exceed ~~\$7,150~~\$6,500. However, such total amount of
19 benefits, if not a multiple of \$1, shall be rounded downward
20 to the nearest full dollar amount. Such benefits shall be
21 payable at a weekly rate no greater than the weekly benefit
22 amount. This paragraph applies to benefit years beginning on
23 or after January 1, 1998.

24 2. For the purposes of this subsection, wages shall be
25 counted as "wages for insured work" for benefit purposes with
26 respect to any benefit year only if such benefit year begins
27 subsequent to the date on which the employing unit by whom
28 such wages were paid has satisfied the conditions of this
29 chapter with respect to becoming an employer.

30 Section 4. This act shall take effect January 1, 1998.

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