

By the Committees on Finance & Taxation, Business Development & International Trade and Representatives Starks, Lippman, Bitner, Putnam, Arnall, Ball, Posey, Feeney, Lynn, Kosmas, Livingston, Trovillion, Dockery, Wallace, Byrd, Warner, Bainter, Fasano and Kelly

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.; increasing the maximum weekly benefit
9 amount for unemployment compensation benefits;
10 providing an additional amount under certain
11 circumstances; providing for a reversion of
12 weekly benefit amounts to certain levels under
13 certain circumstances; providing effective
14 dates.

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

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18 Section 1. Notwithstanding s. 443.131(3), Florida
19 Statutes, for the 1998 calendar year or any quarter thereof,
20 the division shall subtract 0.5 percent from each employer's
21 assigned tax rate, except for those employers who are assigned
22 the initial rate or who have been assigned a contribution rate
23 of 5.4 percent or higher for more than 36 months.
24 Notwithstanding s. 443.131(2), Florida Statutes, for the 1998
25 calendar year, each employer whose employment record has been
26 chargeable with benefit payments for less than eight calendar
27 quarters shall pay contributions at the initial rate of 2.0
28 percent. However, the provisions of this section shall not
29 become effective if the trust fund balance is below 4.0
30 percent of the total taxable payroll when the 1998 tax rates
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1 are computed by the division in accordance with the provisions
2 of s. 443.131, Florida Statutes.

3 Section 2. Paragraph (n) of subsection (19) of section
4 443.036, Florida Statutes, 1996 Supplement, is amended to
5 read:

6 443.036 Definitions.--As used in this chapter, unless
7 the context clearly requires otherwise:

8 (19) EMPLOYMENT.--"Employment," subject to the other
9 provisions of this chapter, means any service performed by an
10 employee for the person employing him.

11 (n) Exclusions generally.--The term "employment" does
12 not include:

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

16 2. Service performed on or in connection with a vessel
17 or aircraft not an American vessel or American aircraft, if
18 the employee is employed on and in connection with such vessel
19 or aircraft when outside the United States.

20 3. Service performed by an individual in, or as an
21 officer or member of the crew of a vessel while it is engaged
22 in, the catching, taking, harvesting, cultivating, or farming
23 of any kind of fish, shellfish, crustacea, sponges, seaweeds,
24 or other aquatic forms of animal and vegetable life, including
25 service performed by any such individual as an ordinary
26 incident to any such activity, except:

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

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

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

6 5. Service performed in the employ of the United
7 States Government or of an instrumentality of the United
8 States which is:

9 a. Wholly or partially owned by the United States.

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

29 6. Service performed in the employ of a state, or any
30 political subdivision thereof, or any instrumentality of any
31 one or more of the foregoing which is wholly owned by one or

1 more states or political subdivisions, except as provided in
2 paragraph (b), and any service performed in the employ of any
3 instrumentality of one or more states or political
4 subdivisions, to the extent that the instrumentality is, with
5 respect to such service, immune under the Constitution of the
6 United States from the tax imposed by s. 3301 of the Internal
7 Revenue Code.

8 7. Service performed in the employ of a corporation,
9 community chest, fund, or foundation, organized and operated
10 exclusively for religious, charitable, scientific, testing for
11 public safety, literary, or educational purposes, or for the
12 prevention of cruelty to children or animals, no part of the
13 net earnings of which inures to the benefit of any private
14 shareholder or individual, no substantial part of the
15 activities of which is carrying on propaganda or otherwise
16 attempting to influence legislation, and which does not
17 participate in, or intervene in (including the publishing or
18 distributing of statements), any political campaign on behalf
19 of any candidate for public office, except as provided in
20 paragraph (c).

21 8. Service with respect to which unemployment
22 compensation is payable under an unemployment compensation
23 system established by an Act of Congress.

24 9.a. Service performed in any calendar quarter in the
25 employ of any organization exempt from income tax under s.
26 501(a) of the Internal Revenue Code, other than an
27 organization described in s. 401(a), or under s. 521, if the
28 remuneration for such service is less than \$50.

29 b. Service performed in the employ of a school,
30 college, or university, if such service is performed by a
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1 student who is enrolled and is regularly attending classes at
2 such school, college, or university.

3 10. Service performed in the employ of a foreign
4 government, including service as a consular or other officer
5 or employee of a nondiplomatic representative.

6 11. Service performed in the employ of an
7 instrumentality wholly owned by a foreign government:

8 a. If the service is of a character similar to that
9 performed in foreign countries by employees of the United
10 States Government or of an instrumentality thereof; and

11 b. The Secretary of State shall certify to the
12 Secretary of the Treasury that the foreign government, with
13 respect to whose instrumentality exemption is claimed, grants
14 an equivalent exemption with respect to similar service
15 performed in the foreign country by employees of the United
16 States Government and of instrumentalities thereof.

17 12. Service performed as a student nurse in the employ
18 of a hospital or a nurses' training school by an individual
19 who is enrolled and is regularly attending classes in a
20 nurses' training school chartered or approved pursuant to a
21 state law; service performed as an intern in the employ of a
22 hospital by an individual who has completed a 4-year course in
23 a medical school chartered or approved pursuant to state law;
24 and service performed by a patient of a hospital for such
25 hospital.

26 13. Service performed by an individual for a person as
27 an insurance agent or as an insurance solicitor, if all such
28 service performed by such individual for such person is
29 performed for remuneration solely by way of commission, except
30 for such services performed in accordance with 26 U.S.C.S. s.
31 3306(c)(7) and (8). For purposes of this subsection, those

1 benefits excluded from the definition of wages pursuant to
2 subparagraphs (33)(b)2.-6., inclusive, shall not be considered
3 remuneration.

4 14. Service performed by an individual for a person as
5 a real estate salesman or agent, if all such service performed
6 by such individual for such person is performed for
7 remuneration solely by way of commission.

8 15. Service performed by an individual under the age
9 of 18 in the delivery or distribution of newspapers or
10 shopping news, not including delivery or distribution to any
11 point for subsequent delivery or distribution.

12 16. Service covered by an arrangement between the
13 division and the agency charged with the administration of any
14 other state or federal unemployment compensation law pursuant
15 to which all services performed by an individual for an
16 employing unit during the period covered by such employing
17 unit's duly approved election are deemed to be performed
18 entirely within such agency's state or under such federal law.

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

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1 18. Service performed by an individual for a person as
2 a barber, if all such service performed by such individual for
3 such person is performed for remuneration solely by way of
4 commission.

5 19. Casual labor not in the course of the employer's
6 trade or business.

7 20. Service performed by a speech therapist,
8 occupational therapist, or physical therapist who is
9 nonsalaried and working pursuant to a written contract with a
10 home health agency as defined in s. 400.462.

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

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

18 (II) Who is engaged in the trade or business of
19 selling or soliciting the sale of consumer products in the
20 home or in any other place that is not a permanent retail
21 establishment;

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

26 c. Who performs such services pursuant to a written
27 contract with the person for whom the services are performed,
28 which contract provides that the person will not be treated as
29 an employee with respect to such services for federal tax
30 purposes.

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1 22. Service performed by a nonresident alien
2 individual for the period he is temporarily present in the
3 United States as a nonimmigrant under subparagraph (F) or
4 subparagraph (J) of s. 101(a)(15) of the Immigration and
5 Nationality Act, and which is performed to carry out the
6 purpose specified in subparagraph (F) or subparagraph (J), as
7 the case may be.

8 23. Service performed by an individual for
9 remuneration for a private, for-profit delivery or messenger
10 service, if the individual:

11 a. Is free to accept or reject jobs from the delivery
12 or messenger service and the delivery or messenger service has
13 no control over when the individual works;

14 b. Is remunerated for each delivery, or the
15 remuneration is based on factors that relate to the work
16 performed, including receipt of a percentage of any rate
17 schedule;

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

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

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

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

26 g. Enters into a contract with the delivery or
27 messenger service which specifies the relationship of the
28 individual to the delivery or messenger service to be that of
29 an independent contractor and not that of an employee; and

30 h. Provides the vehicle used to perform the service.
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1 24. Service performed in agricultural labor by an
2 individual who is an alien admitted to the United States to
3 perform service in agricultural labor pursuant to ss.
4 101(a)(15)(H) and 214(c) of the Immigration and Nationality
5 Act.

6 Section 3. Effective for benefit years beginning July
7 1, 1997 and thereafter, subsection (3) and paragraph (a) of
8 subsection (5) of section 443.111, Florida Statutes, 1996
9 Supplement, are amended to read:

10 443.111 Payment of benefits.--

11 (3) WEEKLY BENEFIT AMOUNT.--An individual's "weekly
12 benefit amount" shall be an amount equal to one-twenty-sixth
13 of the total wages for insured work paid during that quarter
14 of the base period in which such total wages paid were the
15 highest, but not less than \$32 or more than ~~\$275~~\$250. For
16 claims with benefit years beginning July 1, 1997 through June
17 30, 1998, an additional amount of \$25 shall be added for the
18 first compensable week of benefits paid not to exceed \$300.
19 Such weekly benefit amount, if not a multiple of \$1, shall be
20 rounded downward to the nearest full dollar amount. The
21 maximum weekly benefit amount in effect at the time the
22 claimant establishes an individual weekly benefit amount shall
23 be the maximum benefit amount applicable throughout the
24 claimant's benefit year.

25 (5) DURATION OF BENEFITS.--

26 (a)1. Any otherwise eligible individual shall be
27 entitled during any benefit year to a total amount of benefits
28 equal to 25 percent of the total wages in the base period, not
29 to exceed ~~\$7,150~~\$6,500. For claims with benefit years
30 beginning July 1, 1997 through June 30, 1998, an additional
31 \$25 will be added to the calculated total amount of benefits.

1 However, such total amount of benefits, if not a multiple of
2 \$1, shall be rounded downward to the nearest full dollar
3 amount. Such benefits shall be payable at a weekly rate no
4 greater than the weekly benefit amount.

5 2. For the purposes of this subsection, wages shall be
6 counted as "wages for insured work" for benefit purposes with
7 respect to any benefit year only if such benefit year begins
8 subsequent to the date on which the employing unit by whom
9 such wages were paid has satisfied the conditions of this
10 chapter with respect to becoming an employer.

11 Section 4. (1) Subsection (3) and paragraph (a) of
12 subsection (5) of section 443.111, Florida Statutes, 1996
13 Supplement, as amended by this act, are amended to read:

14 443.111 Payment of benefits.--

15 (3) WEEKLY BENEFIT AMOUNT.--An individual's "weekly
16 benefit amount" shall be an amount equal to one-twenty-sixth
17 of the total wages for insured work paid during that quarter
18 of the base period in which such total wages paid were the
19 highest, but not less than \$32 or more than \$250~~\$275~~. ~~For~~
20 ~~claims with benefit years beginning July 1, 1997 through June~~
21 ~~30, 1998, an additional amount of \$25 shall be added for the~~
22 ~~first compensable week of benefits paid not to exceed \$300.~~

23 Such weekly benefit amount, if not a multiple of \$1, shall be
24 rounded downward to the nearest full dollar amount. The
25 maximum weekly benefit amount in effect at the time the
26 claimant establishes an individual weekly benefit amount shall
27 be the maximum benefit amount applicable throughout the
28 claimant's benefit year.

29 (5) DURATION OF BENEFITS.--

30 (a)1. Any otherwise eligible individual shall be
31 entitled during any benefit year to a total amount of benefits

1 equal to 25 percent of the total wages in the base period, not
2 to exceed \$6,500~~\$7,150~~. ~~For claims with benefit years~~
3 ~~beginning July 1, 1997 through June 30, 1998, an additional~~
4 ~~\$25 will be added to the calculated total amount of benefits.~~
5 However, such total amount of benefits, if not a multiple of
6 \$1, shall be rounded downward to the nearest full dollar
7 amount. Such benefits shall be payable at a weekly rate no
8 greater than the weekly benefit amount.

9 2. For the purposes of this subsection, wages shall be
10 counted as "wages for insured work" for benefit purposes with
11 respect to any benefit year only if such benefit year begins
12 subsequent to the date on which the employing unit by whom
13 such wages were paid has satisfied the conditions of this
14 chapter with respect to becoming an employer.

15 (2) This section shall take effect, and shall apply
16 for benefit years beginning November 1, 1997, and thereafter,
17 only if the balance in the Unemployment Compensation Trust
18 Fund is below 4.0 percent of the total taxable payroll when
19 the 1998 tax rates are computed by the division in accordance
20 with the provisions of s. 443.131, Florida Statutes. However,
21 the amendment to s. 443.111, Florida Statutes, by this section
22 shall not affect any payments made pursuant to such section
23 prior to such amendment.

24 Section 5. Except as otherwise provided herein, this
25 act shall take effect January 1, 1998.

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