

**STORAGE NAME:** h3587.ted

**DATE:** April 22, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3587

**RELATING TO:** Unemployment Compensation

**SPONSOR(S):** Representative Livingston

**COMPANION BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE (W/D)
  - (2) FINANCE & TAXATION (W/D)
  - (3) TRANSPORTATION & ECONOMIC DEV. APPROPRIATIONS
  - (4)
  - (5)
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I. SUMMARY:

This bill revises the definition of employment to exclude from unemployment compensation coverage certain election workers and inmates of penal institutions and revises the definition of wages to exclude employer-provided educational assistance payments. This bill further conforms benefit eligibility conditions to federal law and specifies limited use of Reed Act distributions in certain years.

This bill amends sections 443.036, 443.091, and 443.191, Florida Statutes.

II. SUBSTANTIVE RESEARCH:

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

Section 443.036, F.S., provides for the definition of employment and wages applicable under ch. 443, F.S., and the exclusions to such. The Balanced Budget Act of 1997 (BBA) permitted states the option of adopting additional exemptions to unemployment compensation coverage. These exemptions included services performed as an election official or election worker if the amount of remuneration received by the individual during the calendar year for such service is less than \$1,000 and services performed by a person in a penal institution. The Taxpayer Relief Act of 1997 provided states the option of excluding from the definition of wages any employer-provided educational assistance payment made to or for an employee if it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under s. 127, Internal Revenue Code.

Section 443.091, F.S., establishes the benefit eligibility conditions under which an individual may be eligible for unemployment compensation. Section 443.091(3), F.S., provides exceptions to eligibility for public employees, specifically that benefits may not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs any services in an instructional, research, or principal administrative capacity for an educational institution or an institution of higher education or any other capacity for an educational institution or an institution of higher education in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform any such service in the period immediately following such vacation period or holiday recess. This provision has resulted in denial of benefits to individuals who could qualify for unemployment compensation based on non-educational employment wages alone. Because this paragraph completely disqualifies an individual for benefits based solely on educational employment wages, it is in conflict with federal law, and the U.S. Department of Labor has notified the state that Florida law must be changed.

Section 443.191, F.S., provides, in part, how the state is to credit money received by the federal government under s. 903 of the Social Security Act. Section 903, Social Security Act, provides that when, among other things, three accounts in the Unemployment Trust Fund reach their statutory limits, the excess amounts will be transferred to the states. These are called Reed Act distributions. The three accounts are the Employment Security Administration Account, which pays for the administration of the unemployment compensation and employment service programs; the Extended Unemployment Compensation Account, which pays for the federal share of extended benefits; and the Federal Unemployment Account, which provides for advances to states for the payment

of unemployment compensation. The BBA specified that the amount of Reed Act distributions made with respect to the federal fiscal years ending 1999, 2000, and 2001 will be capped at \$100 million. Reed Act distributions made to the state with respect to these fiscal years may be used "only to pay expenses incurred by [the state] for the administration of its" unemployment compensation law. This differs from previous Reed Act distributions in that the state is prohibited from using amounts transferred for the payment of unemployment compensation or the administration of the state public employment offices. Therefore, in order for Florida to access these monies, current law must be amended to prohibit the use of distributions made with respect to fiscal years 1999, 2000, and 2001 for anything other than the administration of unemployment compensation.

**B. EFFECT OF PROPOSED CHANGES:**

**Section 1** amends s. 443.036, F.S., excluding from unemployment compensation coverage, services performed as an election official or election worker if the amount of remuneration received by the individual during the calendar year for such service is less than \$1,000 and services performed by a person in a penal institution. This section also excludes from the definition of wages any employer-provided educational assistance payment made to or for an employee if it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127, Internal Revenue Code.

**Section 2** amends s. 443.091, F.S., clarifying that benefits will not be paid to any individual based on services provided to an educational institution or institutions of higher learning, for any week which commences during an established and customary vacation period or holiday recess based upon such individual performing such service in an instructional, research, or principal administrative capacity for an educational institution or an institution of higher education or any other capacity for an educational institution or an institution of higher education in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform any such service in the period immediately following such vacation period or holiday recess.

**Section 3** amends s. 443.191, F.S., specifying that Reed Act distributions credited with respect to federal fiscal years 1999, 2000, and 2001, may only be used for the administration of unemployment compensation.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

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

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

N/A

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

N/A

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

N/A

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. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

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:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

N/A

E. SECTION-BY-SECTION RESEARCH:

See Proposed Changes

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Consistent with federal law, certain claimants with both non-educational employment wages and educational employment wages may qualify for benefits under this bill.

Certain election officials or election workers would no longer be eligible for unemployment compensation.

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

N/A

D. FISCAL COMMENTS:

In some cases, certain governments would reduce costs, as they would not be liable for unemployment compensation contributions.

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As a result of this bill, the state will qualify to receive Reed Act distributions for the administration of unemployment compensation.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:  
Prepared by: \_\_\_\_\_ Legislative Research Director: \_\_\_\_\_

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Barry G. Brooks

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