SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 470

SPONSOR: Appropriations Subcommittee on Transportation and Economic Development, Commerce, Economic Opportunities, and Consumer Services Committee and Senators Wasserman Schultz and Diaz de la Portilla

SUBJECT: Economic Recovery

DATE: April 23, 2003 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gillespie	Maclure	CM	Favorable/CS
2.	Johnson	Deffenbaugh	BI	Favorable
3.	Kelly	Kelly	ATD	Fav/CS
4.			AP	
5.			RC	
6.				

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 470 requires that monetary eligibility for unemployment benefits be determined using wages from an "alternative base period" (the last four completed calendar quarters) for those individuals who are ineligible to receive benefits under current law using wages from the "base period" (the first four of the last five completed calendar quarters). Implementation is contingent on a specific appropriation in the annual General Appropriations Act to the Agency for Workforce Innovation for operating costs necessary to implement the alternative base period provision.

This committee substitute creates s. 443.0915, F.S.

II. Present Situation:

Eligibility for Unemployment Benefits

Under current law, eligibility for unemployment benefits is based on the work performed by an individual during a 1-year period cited as the "base period." The base period is the first four of the last five completed calendar quarters immediately before the individual filed a valid claim for benefits (s. 443.036(7) and (8), F.S.). The fifth completed calendar quarter – the "lag quarter" – is not used to determine monetary eligibility. (*See* Table 1, below.) To qualify for unemployment benefits, an individual must:

- Have been paid wages in two or more calendar quarters in the base period,

- Have total base period wages of at least 1.5 times the wages in the quarter of the base period with the highest earnings, and
- Have been paid at least $3,400 during the base period (ss. 443.091(1)(f) and 443.111(2), F.S.).

Because the most recent quarter of work counts neither toward the two-quarter requirement nor the $3,400 requirement, workers who have been employed in only two quarters may not be able to establish eligibility. For example, an employee who has only worked during the two quarters immediately before filing of a claim would not qualify for benefits even if he or she earned more than $3,400. Consequently, some seasonal workers and short-term members of the labor market may not be able to establish monetary eligibility for benefits calculated using the base period under current law.

(Table 1) Base Period Chart[1]									
Year preceding prior year		Prior year				Current year			
July Aug. Sept.	Oct. Nov. Dec.	Jan. Feb. Mar.	Apr. May June	July Aug. Sept.	Oct. Nov. Dec.	Jan. Feb. Mar.	Apr. May June	July Aug. Sept.	Oct. Nov. Dec.
	BASE PERIOD (Oct. 1 – Sept. 30)				Lag quarter	Claim filed			
		BASE PERIOD (Jan. 1 – Dec. 31)				Lag quarter	Claim filed		
			BASE PERIOD (Apr. 1 – Mar. 31)				Lag quarter	Claim filed	
				BASE PERIOD (July 1 – June 30)				Lag quarter	Claim filed

Employer Wage and Tax Reports

Under current law, unemployment taxes are collected by the Department of Revenue under contract with the Agency for Workforce Innovation (s. 443.1316, F.S.). Contributory employers are required to file quarterly wage and tax reports with the department no later than the last day of the month following each calendar quarter (first month of the three-month lag quarter). (Rule 60BB-2.025, F.A.C.) Similarly, reimbursable employers are required to file quarterly reports. Both types of reports identify the wages paid at regular and irregular intervals, including commissions and bonuses and the cash value of all remuneration paid in any medium other than cash. The reports, therefore, provide the wage data for each individual's base period, which is used to determine the amount of benefits that are paid to an individual worker. According to the Agency for Workforce Innovation, the Department of Revenue generally uses the second and third months of the lag quarter to process the approximately 391,000 employer reports it receives and enter the wage information into its database in preparation for claims that will be filed during the next quarter. Thus, under current law, the lag quarter is not used to determine monetary

[1] Agency for Workforce Innovation, *Florida's Unemployment Compensation Claims Book,* 7 (Jan. 2003), *available at* http://www.floridajobs.org/unemployment/claimsservices/clbook%20FL.pdf (last visited Mar. 16, 2003) and http://www.floridajobs.org/unemployment/claimsservices/clbookTal.pdf (last visited Mar. 16, 2003).

eligibility for unemployment benefits because the agency lacks the necessary wage data at the time a claim is filed.

For example, employer reports for the fourth quarter of 2002 were due by the end of January 2003. Data entry of wage data began in February and is due to be completed at the end of March 2003. The earliest filing date for a claim incorporating the wages an individual earned during the fourth quarter of 2002 currently is April 1, 2003. The base period established during the second quarter of 2003 (April through June) will be based on employment during the four calendar quarters from January through December 2002. The lag quarter for those claims will be the first calendar quarter of 2003 (January through March).

Unemployment Compensation Trust Fund

Economic conditions resulting in high unemployment accompanied by high benefit charges can cause a severe drain on the Unemployment Compensation Trust Fund. The effect is an increase in adjustment factors, which consequently increase unemployment tax rates for all contributory employers. Conversely, when unemployment is low, adjustment factors decrease tax rates. A 2002 Senate interim project report predicted the trust fund's balance would likely fall below the 4-percent "trigger" by June 30, 2002, causing an adjustment factor to increase employer tax rates beginning January 1, 2003.[2] During the 2002 Regular Session, the Legislature reduced the trust fund trigger to 3.7 percent (s. 50, ch. 2002-218, L.O.F.). In addition, the Federal Government deposited approximately $447 million in the trust fund under the federal Temporary Extended Unemployment Compensation Act of 2002 (commonly cited as "Reed Act" funds). These actions averted the automatic unemployment tax increase predicted by the interim project report. The trust fund trigger has not increased employer tax rates since 1984.

Study of Monetary Eligibility Feasibility

In 1997, the former Department of Labor and Employment Security conducted a study for the United States Department of Labor which analyzed the unemployment benefits paid to claimants and estimated the impact on employers of using an alternative base period to calculate unemployment benefits.[3] The study estimated that implementing an alternative base period would result in monetary eligibility for an additional 4,000 claimants. At the time of the study, this number represented 8 percent of the ineligible claimants and 1 percent of the total number of claimants. The study further predicted that an alternative base period would impact 1.1 percent of the total number of liable employers. The study acknowledged that a major concern surrounding use of an alternative base period to determine monetary eligibility for unemployment benefits is obtaining and retrieving employer wage information for the most recent calendar quarter.

III. Effect of Proposed Changes:

Unemployment Compensation – Alternative Base Period

[2] Committee on Commerce and Economic Opportunities, Florida Senate, *Solvency of the Unemployment Compensation Trust Fund and the Tax "Trigger,"* Interim Project Report No. 2002-122 (Oct. 2001).

[3] Division of Unemployment Compensation, Florida Department of Labor and Employment Security, *Monetary Eligibility Study: Variable Base Period Final Report* (June 1997).

Section 1 requires that for unemployment compensation claims commencing on or after October 1, 2003, the Agency for Workforce Innovation must determine monetary eligibility for unemployment benefits using wages from an "alternative base period" (the last four completed calendar quarters) for those individuals who are ineligible to receive benefits under current law using wages from the "base period" (the first four of the last five completed calendar quarters). (*See* Table 2, below.)

<table>
<tr><th colspan="10">(Table 2) Base Period Chart with Overlay of Alternative Base Period[4]</th></tr>
<tr><th colspan="2">Year preceding prior year</th><th colspan="4">Prior year</th><th colspan="4">Current year</th></tr>
<tr><td>July
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<tr><td rowspan="2"></td><td colspan="4">BASE PERIOD</td><td>Lag quarter</td><td rowspan="2">Claim filed</td><td rowspan="2" colspan="3"></td></tr>
<tr><td></td><td colspan="4">ALTERNATIVE BASE PERIOD</td></tr>
<tr><td rowspan="2" colspan="2"></td><td colspan="4">BASE PERIOD</td><td>Lag quarter</td><td rowspan="2">Claim filed</td><td rowspan="2" colspan="2"></td></tr>
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<tr><td></td><td colspan="4">ALTERNATIVE BASE PERIOD</td></tr>
</table>

Using the alternative base period, an individual's most recent quarter of work would count toward the two-quarter requirement and the $3,400 requirement. As a result, individuals could qualify for benefits if they worked for the two quarters immediately preceding the filing of a claim, rather than for the three quarters required under current law.

The effect of the committee substitute is illustrated by the following example: An individual is employed on January 1, 2004, and is terminated through no fault of his or her own on July 1, 2004. The employee earned a total of $2,000 during the months of January, February, and March 2004 and a total of $2,000 during the months of April, May, and June 2004. The employee filed a claim for unemployment benefits on July 2, 2004:

- *Under current law:* Not eligible for benefits – The employee's base period would be April 1, 2003, through March 30, 2004 (the first four of the last five completed calendar quarters). Since the employee neither worked for at least two quarters, nor earned at least $3,400 during the base period, the employee would be ineligible for benefits.

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[4] Table 2 overlays the effect of the bill's proposed changes on the base period chart in Table 1. (*See* Table 1, *supra* note 1.)

- *Under the committee substitute:* Eligible for benefits – The employee would use the "alternative base period" because the employee is not eligible for benefits under the current base period. The employee's alternative base period would be July 1, 2003, through June 30, 2004. Since the employee both worked for at least two quarters and earned at least $3,400 within the alternative base period, the employee would be eligible for benefits.

The committee substitute also provides that wages used in a base period to establish monetary eligibility for unemployment benefits may not be used to establish eligibility for claims in a subsequent benefit year.

When an individual files a claim under the alternative base period, if the necessary wage information has not been input by the Department of Revenue into the Agency for Workforce Innovation's mainframe database from the employer's quarterly wage and tax reports or is otherwise unavailable, the committee substitute specifies that the agency will request the wage information from the employer. According to the Agency for Workforce Innovation, the volume of these requests cannot be determined because it would be contingent upon the speed with which the Department of Revenue is able to input wage information into the agency's database and the number of claims filed under the alternative base period.

If the Agency for Workforce Innovation is unable to access the wage information through its mainframe database, the committee substitute allows the agency to make a monetary determination of eligibility under the alternative base period based upon an affidavit submitted by the unemployed individual, together with any available payroll information. After the official wage information from the employer's quarterly wage and tax reports is processed and input into the agency's mainframe database, the committee substitute authorizes the Agency for Workforce Innovation to adjust the unemployed individual's eligibility determination to reflect any corrected data.

The committee substitute further requires an employer to respond to a request for wage information within 10 days after receiving the request. If an employer fails to respond within the required time, the employer is subject to the $25 penalty for filing a delinquent report as provided in s. 443.141(1)(b), F.S. The $25 penalty is assessed for each 30 days or fraction thereof that the request is delinquent.

The committee substitute provides that implementation is contingent on a specific appropriation in the annual General Appropriations Act to the Agency for Workforce Innovation for operating costs necessary to implement the alternative base period provision.

Effective Date

Section 2 provides an effective date of July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Agency for Workforce Innovation estimates that $27.7 million in additional unemployment benefits would be paid each year from the Unemployment Compensation Trust Fund. The committee substitute's payment of benefits using the alternative base period would cause increases in the benefit experience of many employers who layoff employees and, consequently, would cause increases in these employers' unemployment tax rates to replenish the trust fund.

B. Private Sector Impact:

Because the last completed quarter immediately before an individual files a claim for unemployment benefits would be included in determining monetary eligibility for benefits, some seasonal workers and other short-term members of the labor force would be able to establish eligibility for these benefits. Additionally, employers would incur the costs associated with more frequent reporting of wage information submitted in addition to the existing quarterly wage and tax reports. The increased costs attributable to the payment of benefits using the alternative base period would likely cause an increase in unemployment compensation taxes for many employers.

C. Government Sector Impact:

Unemployment Compensation Trust Fund

According to the Agency for Workforce Innovation, implementation of the alternative base period would yield recurring costs in benefits from the Unemployment Compensation Trust Fund of approximately $27,723,920. This estimate is based upon calculations that predict 8,680 unemployed individuals would be eligible under the alternative base period and would be paid an average 14.2 weeks of benefits at an average weekly benefit amount of $225 per claim.

Operational Costs

The Agency for Workforce Innovation also estimates that an additional 13 full-time-equivalent positions; $544,707 in recurring salaries, benefits, and related expenses; $438,069 in non-recurring salaries, benefits, and related expenses; and $19,500 in non-recurring operating capital outlay would be needed to update its information management systems and implement the committee substitute.

Under current law, unemployment taxes are collected by the Department of Revenue under contract with the Agency for Workforce Innovation (s. 443.1316, F.S.). According to the Department of Revenue, implementation of the committee substitute would require an additional 2 full-time-equivalent positions; $89,710 in recurring salaries, benefits, and related expenses; and $9,122 in non-recurring operating capital outlay and related expenses. The additional funding is mostly attributable to the department obtaining wage information from employers whose quarterly wage and tax reports have not been received or processed in order to implement the alternative base period.

Although administration of the Unemployment Compensation Program is predominantly funded through administrative resource grants provided by the United States Department of Labor, the Agency for Workforce Innovation reports that additional grant funding is not expected to implement the committee substitute.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.