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/SB 470

SPONSOR: Commerce, Economic Opportunities, and Consumer Services Committee and Senators Wasserman Schultz and Diaz de la Portilla

SUBJECT: Economic Recovery

DATE: March 20, 2003 REVISED:

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

I. Summary:

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). The committee substitute temporarily increases the weekly amount of unemployment benefits and extends the total amount of benefits that an individual may receive by an amount corresponding to the individual's increase in weekly benefits. The committee substitute also provides for short-term economic-recovery training services to be provided on a competitive basis and a performance-based schedule.

This committee substitute substantially amends section 443.111, Florida Statutes. The committee substitute also creates s. 443.0915, F.S., and creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Economic-Recovery Training

In October 2001, in response to the state's weakened economy, the Governor established a new program of economic-recovery training known as "Operation Paycheck." Implemented by Workforce Florida, Inc., the Agency for Workforce Innovation, and the regional workforce boards, the program emphasized short-term job training for dislocated workers and job placement services in high-demand employment sectors experiencing worker shortages, such as information technology, health care, and construction. Participants in the program must have been determined eligible under the dislocated worker requirements in the federal Workforce

Investment Act and must have been deemed a dislocated worker as a result of the events on September 11, 2001.

Participants applied through one-stop career centers, at which a career manager reviewed each participant's work experience and skills, assisted the participant in developing a plan for rapid reemployment, and arranged for reemployment training appropriate to the participant's skills and experience through a training provider. Community colleges, technical centers, state universities, and private college were contracted as training providers to deliver the accelerated reemployment training for the program participants. Federal Workforce Investment Act funds paid for tuition, fees, books, childcare, and transportation for program participants. Workforce Development Education Funding was used for vocational certificate training.

Due to funding limitations, Operation Paycheck suspended enrollment of new participants on July 15, 2002.[1] As of February 14, 2003, Operation Paycheck had enrolled 8,876 authorized participants, and training providers had accepted 8,599 participants for classes.[2]

Performance-Based Principle of Florida's Workforce System

In 1998, the United States Congress enacted the Workforce Investment Act. The act established a nationwide system for providing workforce investment activities through statewide and local workforce investment systems. Each system is administered by a state workforce investment board and by local workforce investment boards. The federal act provides allotments of funds to states for certain youth activities and adult and dislocated worker employment and training activities. The federal act also establishes a system of performance accountability, which requires state and local performance measures, evaluation of these measures, and sanctions for failure to achieve the measures (29 U.S.C. s. 2871).

Under Florida's Workforce Innovation Act of 2000 (ch. 2000-165, L.O.F.), the Legislature created Workforce Florida, Inc., and revised the duties of the 24 regional workforce boards. Workforce Florida's board of directors serves as the state workforce investment board for purposes of the federal act, and the regional workforce boards serve as the local workforce investment boards. Under current law, the state workforce system is based upon principles for implementing the federal act. These principles include "increased accountability," which emphasizes that the state, localities, and training providers will be held accountable for their performance (s. 445.003(1)(d), F.S.). To implement this accountability principle, the regional workforce boards are required to enter into memoranda of understanding with the Agency for Workforce Innovation for the delivery of employment services, and these memoranda of understanding must be performance based (s. 445.009(3), F.S.). In addition, all contracts executed by Workforce Florida or a regional workforce board must include specific performance expectations and deliverables (ss. 445.004(5)(c) and 445.007(11), F.S.).

[1] Agency for Workforce Innovation, *New Enrollments in Operation Paycheck Have Been Suspended, at* http://www.floridajobs.org/pdg/Operation%20Paycheck/Default.htm (last visited Mar. 16, 2003).

[2] Agency for Workforce Innovation, *Operation Paycheck Status Report, Narrative Report* (Feb. 14, 2003), *available at* http://www.floridajobs.org/pdg/Operation%20Paycheck/Updates/Status021403.rtf (last visited Mar. 16, 2003).

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>
<tr><th colspan="10">(Table 1) Base Period Chart[3]</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
Aug.
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<tr><td></td><td colspan="4">BASE PERIOD (Oct. 1 – Sept. 30)</td><td>Lag quarter</td><td>Claim filed</td><td colspan="3"></td></tr>
<tr><td colspan="2"></td><td colspan="4">BASE PERIOD (Jan. 1 – Dec. 31)</td><td>Lag quarter</td><td>Claim filed</td><td colspan="2"></td></tr>
<tr><td colspan="3"></td><td colspan="4">BASE PERIOD (Apr. 1 – Mar. 31)</td><td>Lag quarter</td><td>Claim filed</td><td></td></tr>
<tr><td colspan="4"></td><td colspan="4">BASE PERIOD (July 1 – June 30)</td><td>Lag quarter</td><td>Claim filed</td></tr>
</table>

Weekly Benefit Amount and Total Amount of Benefits

The amount of unemployment benefits paid to a worker per week is cited as the "weekly benefit amount." Under current law, the weekly benefit amount is calculated by dividing the quarter in the base period with the highest earnings by 26 (s. 443.111(3), F.S.). For example, if a worker earned $3,000 in the calendar quarter with the highest earnings in the worker's base period, the worker's weekly benefit amount would be $115 ($3,000 divided by 26). By law, the minimum

[3] 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).

weekly benefit amount is $32, and the maximum is $275 (s. 443.111(3), F.S.). The following table tracks the changes in the minimum and maximum weekly benefit amounts from 1996 through current law. (*See* Table 2, below.)

(Table 2) Weekly Benefit Amount (1996-2003)			
Legislation Amending Policy	**Period of Policy**	**Minimum Weekly Benefit Amount**	**Maximum Weekly Benefit Amount**
CS/HB 1291 (ch. 96-378, L.O.F.) and HB 2723 (ch. 96-423, L.O.F.)	June 1, 1996, through June 30, 1997	$32	$250
CS/CS/HB 3 (ch. 97-29, L.O.F.)	July 1, 1997, through December 31, 1997	$33 for first 8 weeks of benefits, $32 thereafter	$262 for first 8 weeks of benefits, $250 thereafter
	January 1, 1998, through June 30, 1998	$33 for first 8 weeks of benefits, $32 thereafter	$288 for first 8 weeks of benefits, $275 thereafter
	July 1, 1998, through December 31, 1999	$32	$275
HB 1951 (ch. 99-131, L.O.F.)	January 1, 2000, through December 31, 2000	$33 for first 8 weeks of benefits, $32 thereafter	$288 for first 8 weeks of benefits, $275 thereafter
Current law (s. 443.111(3), F.S.)	Beginning January 1, 2001	$32	$275

Unemployment compensation is intended to be temporary and may not be received indefinitely. Under current law, a worker is eligible to receive benefits in an amount equal to 25 percent of the total wages paid in the worker's base period (s. 443.111(5), F.S.). For example, if a worker's base period earnings are $12,000, the worker's total amount of available benefits would be $3,000 ($12,000 multiplied by 0.25). However, under current law, the total amount of available benefits is capped, such that workers are eligible to receive benefits ranging from a minimum cap of $850 to a maximum cap of $7,150 (s. 443.111(5), F.S.). Because benefits are paid based on the weekly benefit amount, benefits can last up to 26 full weeks. The following table tracks the changes in the maximum amount of available benefits from 1996 through current law. (*See* Table 3, below.)

(Table 3) Total Amount of Benefits (1996-2003)		
Legislation Amending Policy	**Period of Policy**	**Total Amount of Benefits**
CS/HB 1291 (ch. 96-378, L.O.F.) and HB 2723 (ch. 96-423, L.O.F.)	June 1, 1996, through June 30, 1997	$6,500
CS/CS/HB 3 (ch. 97-29, L.O.F.)	July 1, 1997, through December 31, 1997	$6,596
	January 1, 1998, through June 30, 1998	$7,254
	July 1, 1998, through December 31, 1999	$7,150
HB 1951 (ch. 99-131, L.O.F.)	January 1, 2000, through December 31, 2000	$7,254
Current law (s. 443.111(5), F.S.)	Beginning January 1, 2001	$7,150

According to the Agency for Workforce Innovation, the average weekly benefit amount is currently about $225, and the average duration of benefits is approximately 14.2 weeks per claim.

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 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.[4] 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.

[4] 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).

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.[5] 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:

Legislative Findings (Section 1)

The committee substitute provides the legislative intent to establish policies designed to stimulate economic activity in this state and promote the economic security of the residents of this state. The committee substitute also makes the following legislative findings:

- Businesses and individuals in this state are experiencing significant economic hardship, and revenues critical to the delivery of vital public services are jeopardized.
- The need to retain and create jobs in this state in the current economic environment is great.
- A significant investment of state funds in reemployment and retraining programs is essential to economic recovery in this state.
- The state should invest in economic-recovery training programs that deliver a high expectation of continued employment after a reasonably short period of training is completed.
- Economic-recovery training funds should be expended on programs that enhance the skills of residents of this state who are employed by businesses based in this state.

Economic-Recovery Training (Section 2)

The committee substitute requires that economic-recovery training be awarded to providers of training services on a competitive basis and a performance-based payment schedule to provide training that does not exceed 12 months for any participant. The committee substitute also prohibits the continuation of contracts for training services with providers of training services who demonstrate a pattern of low training-completion rates or low job-placement rates for participants who complete the training. These requirements apply to training provided by, or under contract with, the Agency for Workforce Innovation, Workforce Florida, Inc., or a regional workforce board, which prepares dislocated workers for reemployment under the federal Workforce Investment Act.

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

Unemployment Compensation – Alternative Base Period (Section 3)

For unemployment compensation claims commencing on or after October 1, 2003, the committee substitute requires the Agency for Workforce Innovation to 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 4, below.)

<table>
<tr><th colspan="10">(Table 4) Base Period Chart with Overlay of Alternative Base Period[6]</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 Aug. Sept.</td><td>Oct. Nov. Dec.</td><td>Jan. Feb. Mar.</td><td>Apr. May June</td><td>July Aug. Sept.</td><td>Oct. Nov. Dec.</td><td>Jan. Feb. Mar.</td><td>Apr. May June</td><td>July Aug. Sept.</td><td>Oct. Nov. Dec.</td></tr>
<tr><td></td><td colspan="4">BASE PERIOD</td><td>Lag quarter</td><td rowspan="2">Claim filed</td><td colspan="3" rowspan="2"></td></tr>
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<tr><td colspan="4"></td><td colspan="4">BASE PERIOD</td><td>Lag quarter</td><td rowspan="2">Claim filed</td></tr>
<tr><td colspan="5"></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.

[6] Table 4 overlays the effect of the bill’s proposed changes on the base period chart in Table 1. (*See* Table 1, *supra* note 3.)

- *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.

Unemployment Compensation – Benefits (Section 4)

Effective October 1, 2003, the committee substitute temporarily increases the weekly benefit amount for an individual receiving unemployment benefits by $25 or 15 percent, whichever is greater. For individuals with a weekly benefit from $32 to $166, the committee substitute would increase the weekly benefit amount by $25. Individuals with a weekly benefit amount from $167 to $275 would have their weekly amount increase by 15 percent. Thus, the committee substitute would increase unemployment benefits from the current $32 minimum and $275 maximum to a $57 minimum and $316 maximum weekly benefit amount. These increased rates expire June 30, 2005.

The committee substitute also provides an equivalent increase in the total amount of benefits an individual may receive to accommodate the temporary increase in the weekly benefit amount.

Under current law, the total amount of benefits is capped at $7,150 (s. 443.111(5), F.S.), thereby providing enough benefits for up to 26 weeks paid at the maximum weekly benefit amount of $275. The committee substitute will allow an individual to receive a maximum amount of $8,216 in total benefits, thereby raising the cap enough to permit an individual to receive up to $316 per week for up to 26 weeks. Corresponding to the weekly benefit amount, the increase in total benefits is also effective October 1, 2003, and expires June 30, 2005.

Effective Date (Section 5)

The committee substitute provides an effective date of July 1, 2003, except as otherwise expressly provided in the committee substitute.

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 almost $193 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, increase in weekly benefit amounts, and corresponding increase in the total amount of benefits an individual may receive 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, the increase in weekly benefit amounts, and the corresponding increase in the total amount of benefits an individual may receive 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 (Section 3) 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.

The Agency for Workforce Innovation estimates the increase in the weekly benefit amount and the corresponding increase in the total amount of benefits an individual may receive (Section 4) would yield recurring costs in benefits from the Unemployment Compensation Trust Fund of approximately $165,143,000. This estimate is based on calculations that the $25 increase in weekly benefits for benefit amounts between $32 and $166 would yield $31,617,650 and that the 15-percent increase for benefit amounts between $167 and $275 would yield $133,525,350.

Accordingly, the committee substitute would generate an aggregate total recurring cost in benefits from the Unemployment Compensation Trust of approximately $192,866,920.

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.