

Bill No. SB 2032

Barcode 624948

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Government Efficiency Appropriations
(Atwater) recommended the following amendment:

Senate Amendment

On page 25, line 11, through
page 28, line 14, delete those lines

and insert:

Section 21. Effective January 1, 2006, paragraph (e)
of subsection (3) of section 443.131, Florida Statutes, is
amended, present paragraphs (g), (h), (i), and (j) of that
subsection are redesignated as paragraphs (h), (i), (j), and
(k), respectively, and a new paragraph (g) is added to that
subsection to read:

443.131 Contributions.--

(3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
EXPERIENCE.--

(e) Assignment of variations from the standard rate.--

1. The tax collection service provider shall assign a
variation from the standard rate of contributions for each
calendar year to each eligible employer. In determining the

Bill No. SB 2032

Barcode 624948

1 contribution rate, varying from the standard rate to be
2 assigned each employer, adjustment factors computed under
3 sub-subparagraphs a.-c. shall be added to the benefit ratio.
4 This addition shall be accomplished in two steps by adding a
5 variable adjustment factor and a final adjustment factor. The
6 sum of these adjustment factors computed under
7 sub-subparagraphs a.-c. shall first be algebraically summed.
8 The sum of these adjustment factors shall next be divided by a
9 gross benefit ratio determined as follows: Total benefit
10 payments for the 3-year period described in subparagraph (b)2.
11 shall be charged to employers eligible for a variation from
12 the standard rate, minus excess payments for the same period,
13 divided by taxable payroll entering into the computation of
14 individual benefit ratios for the calendar year for which the
15 contribution rate is being computed. The ratio of the sum of
16 the adjustment factors computed under sub-subparagraphs a.-c.
17 to the gross benefit ratio shall be multiplied by each
18 individual benefit ratio that is less than the maximum
19 contribution rate to obtain variable adjustment factors;
20 except that in any instance in which the sum of an employer's
21 individual benefit ratio and variable adjustment factor
22 exceeds the maximum contribution rate, the variable adjustment
23 factor shall be reduced in order that the sum equals the
24 maximum contribution rate. The variable adjustment factor for
25 each of these employers is multiplied by his or her taxable
26 payroll entering into the computation of his or her benefit
27 ratio. The sum of these products shall be divided by the
28 taxable payroll of the employers who entered into the
29 computation of their benefit ratios. The resulting ratio shall
30 be subtracted from the sum of the adjustment factors computed
31 under sub-subparagraphs a.-c. to obtain the final adjustment

Bill No. SB 2032

Barcode 624948

1 factor. The variable adjustment factors and the final
 2 adjustment factor shall be computed to five decimal places and
 3 rounded to the fourth decimal place. This final adjustment
 4 factor shall be added to the variable adjustment factor and
 5 benefit ratio of each employer to obtain each employer's
 6 contribution rate. An employer's contribution rate may not,
 7 however, be rounded to less than 0.1 percent.

8 a. An adjustment factor for noncharge benefits shall
 9 be computed to the fifth decimal place and rounded to the
 10 fourth decimal place by dividing the amount of noncharge
 11 benefits during the 3-year period described in subparagraph
 12 (b)2. by the taxable payroll of employers eligible for a
 13 variation from the standard rate who have a benefit ratio for
 14 the current year which is less than the maximum contribution
 15 rate. For purposes of computing this adjustment factor, the
 16 taxable payroll of these employers is the taxable payrolls for
 17 the 3 years ending June 30 of the current calendar year as
 18 reported to the tax collection service provider by September
 19 30 of the same calendar year. As used in this
 20 sub-subparagraph, the term "noncharge benefits" means benefits
 21 paid to an individual from the Unemployment Compensation Trust
 22 Fund, but which were not charged to the employment record of
 23 any employer.

24 b. An adjustment factor for excess payments shall be
 25 computed to the fifth decimal place, and rounded to the fourth
 26 decimal place by dividing the total excess payments during the
 27 3-year period described in subparagraph (b)2. by the taxable
 28 payroll of employers eligible for a variation from the
 29 standard rate who have a benefit ratio for the current year
 30 which is less than the maximum contribution rate. For purposes
 31 of computing this adjustment factor, the taxable payroll of

Bill No. SB 2032

Barcode 624948

1 these employers is the same figure used to compute the
2 adjustment factor for noncharge benefits under
3 sub-subparagraph a. As used in this sub-subparagraph, the term
4 "excess payments" means the amount of benefits charged to the
5 employment record of an employer during the 3-year period
6 described in subparagraph (b)2., less the product of the
7 maximum contribution rate and the employer's taxable payroll
8 for the 3 years ending June 30 of the current calendar year as
9 reported to the tax collection service provider by September
10 30 of the same calendar year. As used in this
11 sub-subparagraph, the term "total excess payments" means the
12 sum of the individual employer excess payments for those
13 employers that were eligible to be considered for assignment
14 of a contribution rate different a variation from the standard
15 rate.

16 c. If the balance of the Unemployment Compensation
17 Trust Fund on June 30 of the calendar year immediately
18 preceding the calendar year for which the contribution rate is
19 being computed is less than 3.7 percent of the taxable
20 payrolls for the year ending June 30 as reported to the tax
21 collection service provider by September 30 of that calendar
22 year, a positive adjustment factor shall be computed. The
23 positive adjustment factor shall be computed annually to the
24 fifth decimal place and rounded to the fourth decimal place by
25 dividing the sum of the total taxable payrolls for the year
26 ending June 30 of the current calendar year as reported to the
27 tax collection service provider by September 30 of that
28 calendar year into a sum equal to one-fourth of the difference
29 between the balance of the fund as of June 30 of that calendar
30 year and the sum of 4.7 percent of the total taxable payrolls
31 for that year. The positive adjustment factor remains in

Bill No. SB 2032

Barcode 624948

1 effect for subsequent years until the balance of the
 2 Unemployment Compensation Trust Fund as of June 30 of the year
 3 immediately preceding the effective date of the contribution
 4 rate equals or exceeds 3.7 percent of the taxable payrolls for
 5 the year ending June 30 of the current calendar year as
 6 reported to the tax collection service provider by September
 7 30 of that calendar year. If the balance of the Unemployment
 8 Compensation Trust Fund as of June 30 of the year immediately
 9 preceding the calendar year for which the contribution rate is
 10 being computed exceeds 4.7 percent of the taxable payrolls for
 11 the year ending June 30 of the current calendar year as
 12 reported to the tax collection service provider by September
 13 30 of that calendar year, a negative adjustment factor shall
 14 be computed. The negative adjustment factor shall be computed
 15 annually to the fifth decimal place and rounded to the fourth
 16 decimal place by dividing the sum of the total taxable
 17 payrolls for the year ending June 30 of the current calendar
 18 year as reported to the tax collection service provider by
 19 September 30 of the calendar year into a sum equal to
 20 one-fourth of the difference between the balance of the fund
 21 as of June 30 of the current calendar year and 4.7 percent of
 22 the total taxable payrolls of that year. The negative
 23 adjustment factor remains in effect for subsequent years until
 24 the balance of the Unemployment Compensation Trust Fund as of
 25 June 30 of the year immediately preceding the effective date
 26 of the contribution rate is less than 4.7 percent, but more
 27 than 3.7 percent of the taxable payrolls for the year ending
 28 June 30 of the current calendar year as reported to the tax
 29 collection service provider by September 30 of that calendar
 30 year.

31 d. The maximum contribution rate that may be assigned

Bill No. SB 2032

Barcode 624948

1 to an employer is 5.4 percent, except employers participating
 2 in an approved short-time compensation plan may be assigned a
 3 maximum contribution rate that is 1 percent greater than the
 4 maximum contribution rate for other employers in any calendar
 5 year in which short-time compensation benefits are charged to
 6 the employer's employment record.

7 2. If the transfer of an employer's employment record
 8 to an employing unit under paragraph (f) which, before the
 9 transfer, was an employer, the tax collection service provider
 10 shall recompute a benefit ratio for the successor employer
 11 based on the combined employment records and reassign an
 12 appropriate contribution rate to the successor employer
 13 effective on the first day of the calendar quarter immediately
 14 after the effective date of the transfer.

15 (g) Notwithstanding any other provision of law, upon
 16 transfer or acquisition of a business, the following
 17 conditions apply to the assignment of rates and to transfers
 18 of unemployment experience:

19 1.a. If an employer transfers its trade or business,
 20 or a portion thereof, to another employer and, at the time of
 21 the transfer, there is any common ownership, management, or
 22 control of the two employers, the unemployment experience
 23 attributable to the transferred trade or business shall be
 24 transferred to the employer to whom the business is so
 25 transferred. The rates of both employers shall be
 26 recalculated and made effective as of the beginning of the
 27 calendar quarter immediately following the date of the
 28 transfer of the trade or business unless the transfer occurred
 29 on the first day of a calendar quarter, in which case the rate
 30 shall be recalculated as of that date.

31 b. If, following a transfer of experience under

Bill No. SB 2032

Barcode 624948

1 sub-subparagraph a., the Agency for Workforce Innovation or
 2 the tax collection service provider determines that a
 3 substantial purpose of the transfer of trade or business was
 4 to obtain a reduced liability for contributions, the
 5 experience rating account of the employers involved shall be
 6 combined into a single account and a single rate assigned to
 7 the account.

8 2. Whenever a person who is not at the time an
 9 employer under this chapter acquires the trade or business of
 10 an employer, the unemployment experience of the acquired
 11 business shall not be transferred to the person if the Agency
 12 for Workforce Innovation or the tax collection service
 13 provider finds that such person acquired the business solely
 14 or primarily for the purpose of obtaining a lower rate of
 15 contributions. Instead, such person shall be assigned the new
 16 employer rate under paragraph (2)(a). In determining whether
 17 the business was acquired solely or primarily for the purpose
 18 of obtaining a lower rate of contributions, the tax collection
 19 service provider shall consider:

- 20 a. Whether the person continued the business
- 21 enterprise of the acquired business;
- 22 b. How long such business enterprise was continued; or
- 23 c. Whether a substantial number of new employees was
- 24 hired for performance of duties unrelated to the business
- 25 activity conducted before the acquisition.

26 3. If a person knowingly violates or attempts to
 27 violate subparagraph 1. or subparagraph 2. or any other
 28 provision of this chapter relating to determining the
 29 assignment of a contribution rate, or if a person knowingly
 30 advises another person to violate the law, the person shall be
 31 subject to the following penalties:

Bill No. SB 2032

Barcode 624948

1 a. If the person is an employer, the employer shall be
 2 assigned the highest rate assignable under this chapter for
 3 the rate year during which such violation or attempted
 4 violation occurred and for the 3 rate years immediately
 5 following this rate year. However, if the person's business is
 6 already at the highest rate for any year, or if the amount of
 7 increase in the person's rate would be less than 2 percent for
 8 such year, then a penalty rate of contribution of 2 percent of
 9 taxable wages shall be imposed for such year.

10 b. If the person is not an employer, the person shall
 11 be subject to a civil penalty of not more than \$5,000. The
 12 procedures for the assessment of a penalty shall be in
 13 accordance with the procedures set forth in s. 443.141(2), and
 14 the provisions of s. 443.141(3) shall apply to the collection
 15 of the penalty. Any such penalty shall be deposited in the
 16 penalty and interest account established under s. 443.211(2).

17 4. For the purposes of this paragraph, the term:

18 a. "Knowingly" means having actual knowledge of or
 19 acting with deliberate ignorance or reckless disregard for the
 20 prohibition involved.

21 b. "Violates or attempts to violate" includes, but is
 22 not limited to, intent to evade, misrepresent, or willfully
 23 nondisclose.

24 c. "Person" has the meaning given to the term by s.
 25 7701(a)(1) of the Internal Revenue Code of 1986.

26 d. "Trade or business" includes the employer's
 27 workforce.

28 5. In addition to the penalty imposed by subparagraph
 29 3., any person who violates this paragraph commits a felony of
 30 the third degree, punishable as provided in s. 775.082, s.
 31 775.083, or s. 775.084.

Bill No. SB 2032

Barcode 624948

1 6. The Agency for Workforce Innovation and the tax
2 collection service provider shall establish procedures to
3 identify the transfer or acquisition of a business for the
4 purposes of this paragraph and shall adopt any rules necessary
5 to administer this paragraph.

6 7. This paragraph shall be interpreted and applied in
7 such a manner as to meet the minimum requirements contained in
8 any guidance or regulations issued by the United States
9 Department of Labor.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31