

By the Committees on Transportation and Economic Development  
 Appropriations; and Commerce; and Senator Fasano

606-02732-09

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1                                   A bill to be entitled  
 2           An act relating to unemployment compensation;  
 3           providing a short title; amending s. 443.036, F.S.;  
 4           redefining the term "employee leasing company" to  
 5           reflect reporting requirements imposed by the act;  
 6           amending s. 443.1216, F.S.; requiring an employee  
 7           leasing company to submit a report regarding its  
 8           establishments to the Labor Market Statistics Center  
 9           within the Agency for Workforce Innovation; providing  
 10          reporting requirements; requiring the agency to adopt  
 11          rules; providing definitions; providing an effective  
 12          date.

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

16           Section 1. This act may be cited as the "Accurate  
 17 Employment Statistics Enhancement Act."

18           Section 2. Subsection (18) of section 443.036, Florida  
 19 Statutes, is amended to read:

20           443.036 Definitions.—As used in this chapter, the term:

21           (18) "Employee leasing company" means an employing unit  
 22 that has a valid and active license under chapter 468 and that  
 23 maintains the records required by s. 443.171(5) and, in  
 24 addition, is responsible for producing quarterly reports  
 25 concerning the clients of the employee leasing company and the  
 26 internal staff of the employee leasing company ~~maintains a~~  
 27 ~~listing of the clients of the employee leasing company and of~~  
 28 ~~the employees, including their social security numbers, who have~~  
 29 ~~been assigned to work at each client company job site. Further,~~

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30 ~~each client company job site must be identified by industry,~~  
31 ~~products or services, and address. The client list must be~~  
32 ~~provided to the tax collection service provider by June 30 and~~  
33 ~~by December 31 of each year.~~ As used in this subsection, the  
34 term "client" means a party who has contracted with an employee  
35 leasing company to provide a worker, or workers, to perform  
36 services for the client. Leased employees include employees  
37 subsequently placed on the payroll of the employee leasing  
38 company on behalf of the client. An employee leasing company  
39 must notify the tax collection service provider within 30 days  
40 after the initiation or termination of the company's  
41 relationship with any client company under chapter 468.

42 Section 3. Paragraph (a) of subsection (1) of section  
43 443.1216, Florida Statutes, is amended to read:

44 443.1216 Employment.—Employment, as defined in s. 443.036,  
45 is subject to this chapter under the following conditions:

46 (1)(a) The employment subject to this chapter includes a  
47 service performed, including a service performed in interstate  
48 commerce, by:

49 1. An officer of a corporation.

50 2. An individual who, under the usual common-law rules  
51 applicable in determining the employer-employee relationship, is  
52 an employee. However, whenever a client, as defined in s.  
53 443.036(18), which would otherwise be designated as an employing  
54 unit has contracted with an employee leasing company to supply  
55 it with workers, those workers are considered employees of the  
56 employee leasing company. An employee leasing company may lease  
57 corporate officers of the client to the client and other workers  
58 to the client, except as prohibited by regulations of the

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59 Internal Revenue Service. Employees of an employee leasing  
60 company must be reported under the employee leasing company's  
61 tax identification number and contribution rate for work  
62 performed for the employee leasing company.

63 a. In addition to any other report required to be filed by  
64 law, an employee leasing company shall submit a report to the  
65 Labor Market Statistics Center within the Agency for Workforce  
66 Innovation which includes each client establishment and each  
67 establishment of the employee leasing company, or as otherwise  
68 directed by the agency. The report must include the following  
69 information for each establishment:

70 (I) The trade or establishment name;

71 (II) The former unemployment compensation account number,  
72 if available;

73 (III) The former federal employer's identification number  
74 (FEIN), if available;

75 (IV) The industry code recognized and published by the  
76 United States Office of Management and Budget, if available;

77 (V) A description of the client's primary business activity  
78 in order to verify or assign an industry code;

79 (VI) The address of the physical location;

80 (VII) The number of full-time and part-time employees who  
81 worked during, or received pay that was subject to unemployment  
82 compensation taxes for, the pay period including the 12th of the  
83 month for each month of the quarter;

84 (VIII) The total wages subject to unemployment compensation  
85 taxes paid during the calendar quarter;

86 (IX) An internal identification code to uniquely identify  
87 each establishment of each client;

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88       (X) The month and year that the client entered into the  
89 contract for services; and

90       (XI) The month and year that the client terminated the  
91 contract for services.

92       b. The report shall be submitted electronically or in a  
93 manner otherwise prescribed by the Agency for Workforce  
94 Innovation in the format specified by the Bureau of Labor  
95 Statistics of the United States Department of Labor for its  
96 Multiple Worksite Report for Professional Employer  
97 Organizations. The report must be provided quarterly to the  
98 Labor Market Statistics Center within the Agency for Workforce  
99 Innovation, or as otherwise directed by the agency, and must be  
100 filed by the last day of the month immediately following the end  
101 of the calendar quarter. The information required in sub-sub-  
102 subparagraphs a.(X) and (XI) need be provided only in the  
103 quarter in which the contract to which it relates was entered  
104 into or terminated. The sum of the employment data and the sum  
105 of the wage data in this report must match the employment and  
106 wages reported in the unemployment compensation quarterly tax  
107 and wage report. A report is not required for any calendar  
108 quarter preceding the third calendar quarter of 2010.

109       c. The Agency for Workforce Innovation shall adopt rules as  
110 necessary to administer this subparagraph, and may administer,  
111 collect, enforce, and waive the penalty imposed by s.  
112 443.141(1)(b) for the report required by this subparagraph.

113       d. For the purposes of this subparagraph, the term  
114 "establishment" means any location where business is conducted  
115 or where services or industrial operations are performed.

116       3. An individual other than an individual who is an

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117 employee under subparagraph 1. or subparagraph 2., who performs  
118 services for remuneration for any person:

119 a. As an agent-driver or commission-driver engaged in  
120 distributing meat products, vegetable products, fruit products,  
121 bakery products, beverages other than milk, or laundry or  
122 drycleaning services for his or her principal.

123 b. As a traveling or city salesperson engaged on a full-  
124 time basis in the solicitation on behalf of, and the  
125 transmission to, his or her principal of orders from  
126 wholesalers, retailers, contractors, or operators of hotels,  
127 restaurants, or other similar establishments for merchandise for  
128 resale or supplies for use in their business operations. This  
129 sub-subparagraph does not apply to an agent-driver or a  
130 commission-driver and does not apply to sideline sales  
131 activities performed on behalf of a person other than the  
132 salesperson's principal.

133 4. The services described in subparagraph 3. are employment  
134 subject to this chapter only if:

135 a. The contract of service contemplates that substantially  
136 all of the services are to be performed personally by the  
137 individual;

138 b. The individual does not have a substantial investment in  
139 facilities used in connection with the services, other than  
140 facilities used for transportation; and

141 c. The services are not in the nature of a single  
142 transaction that is not part of a continuing relationship with  
143 the person for whom the services are performed.

144 Section 4. This act shall take effect October 1, 2009.