

By the Committee on Commerce; and Senator Hill

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1 A bill to be entitled
2 An act relating to unemployment compensation; amending
3 s. 443.036, F.S.; defining the terms "alternative base
4 period," "good cause," and "member of the individual's
5 immediate family"; redefining the term "base period";
6 amending s. 443.091, F.S.; revising the requirements
7 for eligibility to receive benefits; prohibiting
8 unemployed individuals from being ineligible for
9 unemployment benefits based solely on the individual's
10 availability to work certain hours; providing for an
11 alternative base period after a certain date; amending
12 s. 443.101, F.S.; prohibiting an individual from being
13 disqualified from benefits if he or she leaves work
14 due to good cause; prohibiting unemployed individuals
15 from being disqualified for unemployment benefits
16 based solely on the individual's availability for only
17 part-time work under certain circumstances; amending
18 s. 443.151, F.S.; requiring an employer to provide
19 wage information to support an individual's
20 eligibility for benefits; authorizing the Agency for
21 Workforce Innovation to accept an affidavit from the
22 claimant to support eligibility for benefits; amending
23 ss. 443.1216 and 443.131, F.S.; conforming cross-
24 references to changes made by the act; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 443.036, Florida Statutes, is amended to

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30 read:

31 443.036 Definitions.—As used in this chapter, the term:

32 (1) "Able to work" means physically and mentally capable of
33 performing the duties of the occupation in which work is being
34 sought.

35 (2) "Agricultural labor" means any remunerated service
36 performed:

37 (a) On a farm, in the employ of any person, in connection
38 with cultivating the soil or in connection with raising or
39 harvesting any agricultural or horticultural commodity,
40 including the raising, shearing, feeding, caring for, training,
41 and management of livestock, bees, poultry, and fur-bearing
42 animals and wildlife.

43 (b) In the employ of the owner or tenant or other operator
44 of a farm in connection with the operation, management,
45 conservation, improvement, or maintenance of such farm and its
46 tools and equipment, or in salvaging timber or clearing land of
47 brush and other debris left by a hurricane if the major part of
48 the service is performed on a farm.

49 (c) In connection with the production or harvesting of any
50 commodity defined as an agricultural commodity in s. 15(g) of
51 the Agricultural Marketing Act, as amended (46 Stat. 1550, s. 3;
52 12 U.S.C. s. 1141j); the ginning of cotton; or the operation or
53 maintenance of ditches, canals, reservoirs, or waterways, not
54 owned or operated for profit, used exclusively for supplying and
55 storing water for farming purposes.

56 (d)1. In the employ of the operator of a farm in handling,
57 planting, drying, packing, packaging, processing, freezing,
58 grading, storing, or delivering to storage or to market or to a

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59 carrier for transportation to market, in its unmanufactured
60 state, any agricultural or horticultural commodity, but only if
61 the operator produced more than one-half of the commodity for
62 which the service is performed.

63 2. In the employ of a group of operators of farms, or a
64 cooperative organization of which the operators are members, in
65 the performance of service described in subparagraph 1., but
66 only if the operators produced more than one-half of the
67 commodity for which the service is performed.

68 3. Subparagraphs 1. and 2. do not apply to service
69 performed in connection with commercial canning or commercial
70 freezing or in connection with any agricultural or horticultural
71 commodity after its delivery to a terminal market for
72 distribution for consumption or in connection with grading,
73 packing, packaging, or processing fresh citrus fruits.

74 (e) On a farm operated for profit if the service is not in
75 the course of the employer's trade or business.

76 (3) "Alternative base period" means the last four completed
77 calendar quarters immediately preceding the first day of an
78 individual's benefit year.

79 (4)~~(3)~~ "American aircraft" means an aircraft registered
80 under the laws of the United States.

81 (5)~~(4)~~ "American employer" means:

82 (a) An individual who is a resident of the United States.

83 (b) A partnership, if two-thirds or more of the partners
84 are residents of the United States.

85 (c) A trust, if each of the trustees is a resident of the
86 United States.

87 (d) A corporation organized under the laws of the United

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88 States or of any state.

89 (6)~~(5)~~ "American vessel" means any vessel documented or
90 numbered under the laws of the United States. The term includes
91 any vessel that is neither documented or numbered under the laws
92 of the United States, nor documented under the laws of any
93 foreign country, if its crew is employed solely by one or more
94 citizens or residents of the United States or corporations
95 organized under the laws of the United States or of any state.

96 (7)~~(6)~~ "Available for work" means actively seeking and
97 being ready and willing to accept suitable employment.

98 (8)~~(7)~~ "Base period" means the first four of the last five
99 completed calendar quarters immediately preceding the first day
100 of an individual's benefit year. In any case in which the Agency
101 for Workforce Innovation determines, pursuant to s.
102 443.091(1)(f), that an alternative base period will be used, the
103 term "base period" means alternative base period.

104 (9)~~(8)~~ "Benefits" means the money payable to an individual,
105 as provided in this chapter, for his or her unemployment.

106 (10)~~(9)~~ "Benefit year" means, for an individual, the 1-year
107 period beginning with the first day of the first week for which
108 the individual first files a valid claim for benefits and,
109 thereafter, the 1-year period beginning with the first day of
110 the first week for which the individual next files a valid claim
111 for benefits after the termination of his or her last preceding
112 benefit year. Each claim for benefits made in accordance with s.
113 443.151(2) is a "valid claim" under this subsection if the
114 individual was paid wages for insured work in accordance with
115 the provisions of s. 443.091(1)(f) and is unemployed as defined
116 in subsection (46) ~~(43)~~ at the time of filing the claim.

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117 However, the Agency for Workforce Innovation may adopt rules
118 providing for the establishment of a uniform benefit year for
119 all workers in one or more groups or classes of service or
120 within a particular industry when the agency determines, after
121 notice to the industry and to the workers in the industry and an
122 opportunity to be heard in the matter, that those groups or
123 classes of workers in a particular industry periodically
124 experience unemployment resulting from layoffs or shutdowns for
125 limited periods of time.

126 (11)~~(10)~~ "Calendar quarter" means each period of 3
127 consecutive calendar months ending on March 31, June 30,
128 September 30, and December 31 of each year.

129 (12)~~(11)~~ "Casual labor" means labor that is occasional,
130 incidental, or irregular, not exceeding 200 person-hours in
131 total duration. As used in this subsection, the term "duration"
132 means the period of time from the commencement to the completion
133 of the particular job or project. Services performed by an
134 employee for his or her employer during a period of 1 calendar
135 month or any 2 consecutive calendar months, however, are deemed
136 to be casual labor only if the service is performed on 10 or
137 fewer calendar days, regardless of whether those days are
138 consecutive. If any of the services performed by an individual
139 on a particular labor project are not casual labor, each of the
140 services performed by the individual on that job or project may
141 not be deemed casual labor. Services must constitute casual
142 labor and may not be performed in the course of the employer's
143 trade or business for those services to be exempt under this
144 section.

145 (13)~~(12)~~ "Commission" means the Unemployment Appeals

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146 Commission.

147 (14)~~(13)~~ "Contributing employer" means an employer who is
148 liable for contributions under this chapter.

149 (15)~~(14)~~ "Contribution" means a payment of payroll tax to
150 the Unemployment Compensation Trust Fund which is required under
151 this chapter to finance unemployment benefits.

152 (16)~~(15)~~ "Crew leader" means an individual who:

153 (a) Furnishes individuals to perform service in
154 agricultural labor for another person.

155 (b) Pays, either on his or her own behalf or on behalf of
156 the other person, the individuals furnished by him or her for
157 the service in agricultural labor performed by those
158 individuals.

159 (c) Has not entered into a written agreement with the other
160 person under which the individual is designated as an employee
161 of the other person.

162 (17)~~(16)~~ "Earned income" means gross remuneration derived
163 from work, professional service, or self-employment. The term
164 includes commissions, bonuses, back pay awards, and the cash
165 value of all remuneration paid in a medium other than cash. The
166 term does not include income derived from invested capital or
167 ownership of property.

168 (18)~~(17)~~ "Educational institution" means an institution,
169 except for an institution of higher education:

170 (a) In which participants, trainees, or students are
171 offered an organized course of study or training designed to
172 transfer to them knowledge, skills, information, doctrines,
173 attitudes, or abilities from, by, or under the guidance of, an
174 instructor or teacher;

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175 (b) That is approved, licensed, or issued a permit to
176 operate as a school by the Department of Education or other
177 governmental agency that is authorized within the state to
178 approve, license, or issue a permit for the operation of a
179 school; and

180 (c) That offers courses of study or training which are
181 academic, technical, trade, or preparation for gainful
182 employment in a recognized occupation.

183 (19)~~(18)~~ "Employee leasing company" means an employing unit
184 that has a valid and active license under chapter 468 and that
185 maintains the records required by s. 443.171(5) and, in
186 addition, maintains a listing of the clients of the employee
187 leasing company and of the employees, including their social
188 security numbers, who have been assigned to work at each client
189 company job site. Further, each client company job site must be
190 identified by industry, products or services, and address. The
191 client list must be provided to the tax collection service
192 provider by June 30 and by December 31 of each year. As used in
193 this subsection, the term "client" means a party who has
194 contracted with an employee leasing company to provide a worker,
195 or workers, to perform services for the client. Leased employees
196 include employees subsequently placed on the payroll of the
197 employee leasing company on behalf of the client. An employee
198 leasing company must notify the tax collection service provider
199 within 30 days after the initiation or termination of the
200 company's relationship with any client company under chapter
201 468.

202 (20)~~(19)~~ "Employer" means an employing unit subject to this
203 chapter under s. 443.1215.

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204 (21)~~(20)~~ "Employing unit" means an individual or type of
205 organization, including a partnership, limited liability
206 company, association, trust, estate, joint-stock company,
207 insurance company, or corporation, whether domestic or foreign;
208 the receiver, trustee in bankruptcy, trustee, or successor of
209 any of the foregoing; or the legal representative of a deceased
210 person, which has or had in its employ one or more individuals
211 performing services for it within this state.

212 (a) Each individual employed to perform or to assist in
213 performing the work of any agent or employee of an employing
214 unit is deemed to be employed by the employing unit for the
215 purposes of this chapter, regardless of whether the individual
216 was hired or paid directly by the employing unit or by an agent
217 or employee of the employing unit, if the employing unit had
218 actual or constructive knowledge of the work.

219 (b) Each individual performing services in this state for
220 an employing unit maintaining at least two separate
221 establishments in this state is deemed to be performing services
222 for a single employing unit for the purposes of this chapter.

223 (c) A person who is an officer of a corporation, or a
224 member of a limited liability company classified as a
225 corporation for federal income tax purposes, and who performs
226 services for the corporation or limited liability company in
227 this state, regardless of whether those services are continuous,
228 is deemed an employee of the corporation or the limited
229 liability company during all of each week of his or her tenure
230 of office, regardless of whether he or she is compensated for
231 those services. Services are presumed to be rendered for the
232 corporation in cases in which the officer is compensated by

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233 means other than dividends upon shares of stock of the
234 corporation owned by him or her.

235 (d) A limited liability company shall be treated as having
236 the same status as it is classified for federal income tax
237 purposes.

238 (22)~~(21)~~ "Employment" means a service subject to this
239 chapter under s. 443.1216 which is performed by an employee for
240 the person employing him or her.

241 (23)~~(22)~~ "Farm" includes stock, dairy, poultry, fruit, fur-
242 bearing animal, and truck farms, plantations, ranches,
243 nurseries, ranges, greenhouses or other similar structures used
244 primarily for the raising of agricultural or horticultural
245 commodities, and orchards.

246 (24)~~(23)~~ "Fund" means the Unemployment Compensation Trust
247 Fund created under this chapter, into which all contributions
248 and reimbursements required under this chapter are deposited and
249 from which all benefits provided under this chapter are paid.

250 (25) "Good cause" for voluntarily quitting employment as
251 used in s. 443.101(1)(a) means:

252 (a) Cause attributable to the employing unit or which
253 consists of illness or disability of the individual requiring
254 separation from her or his work;

255 (b) Domestic violence, as defined in s. 741.28, and
256 substantiated by evidence that reasonably proves that domestic
257 violence has occurred, such as an injunction, protective order,
258 or other such reasonable and confidential documentation
259 authorized by state law, including statements from qualified
260 professionals, such as counselors, shelter workers, clergy,
261 attorneys, or health workers, which causes the individual to

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262 reasonably believe that continued employment will jeopardize the
263 individual's safety, the safety of a member of her or his
264 immediate family, or the safety of other employees;

265 (c) Illness or disability of a member of the individual's
266 immediate family; or

267 (d) The need of the individual to accompany her or his
268 spouse, if the spouse's relocation resulted from a change in the
269 spouse's employment and if the relocation makes it impractical
270 for the individual to commute to her or his workplace.

271 (26)-(24) "High quarter" means the quarter in an
272 individual's base period in which the individual has the
273 greatest amount of wages paid, regardless of the number of
274 employers paying wages in that quarter.

275 (27)-(25) "Hospital" means an institution that is licensed,
276 certified, or approved by the Agency for Health Care
277 Administration as a hospital.

278 (28)-(26) "Institution of higher education" means an
279 educational institution that:

280 (a) Admits as regular students only individuals having a
281 certificate of graduation from a high school, or the recognized
282 equivalent of a certificate of graduation;

283 (b) Is legally authorized in this state to provide a
284 program of education beyond high school;

285 (c) Provides an educational program for which it awards a
286 bachelor's or higher degree, or provides a program that is
287 acceptable for full credit toward a bachelor's or higher degree;
288 a program of postgraduate or postdoctoral studies; or a program
289 of training to prepare students for gainful employment in a
290 recognized occupation; and

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291 (d) Is a public or other nonprofit institution.

292

293 The term includes each community college and state university in
294 this state, and each other institution in this state authorized
295 under s. 1005.03 to use the designation "college" or
296 "university."

297 (29)~~(27)~~ "Insured work" means employment for employers.

298 (30)~~(28)~~ "Leave of absence" means a temporary break in
299 service to an employer, for a specified period of time, during
300 which the employing unit guarantees the same or a comparable
301 position to the worker at the expiration of the leave.

302 (31) "Member of the individual's immediate family," for
303 purposes of s. 443.101, means an individual's spouse, parent, or
304 minor child younger than 18 years of age.

305 (32)~~(29)~~ "Misconduct" includes, but is not limited to, the
306 following, which may not be construed in pari materia with each
307 other:

308 (a) Conduct demonstrating willful or wanton disregard of an
309 employer's interests and found to be a deliberate violation or
310 disregard of the standards of behavior which the employer has a
311 right to expect of his or her employee; or

312 (b) Carelessness or negligence to a degree or recurrence
313 that manifests culpability, wrongful intent, or evil design or
314 shows an intentional and substantial disregard of the employer's
315 interests or of the employee's duties and obligations to his or
316 her employer.

317 (33)~~(30)~~ "Monetary determination" means a determination of
318 whether and in what amount a claimant is eligible for benefits
319 based on the claimant's employment during the base period of the

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320 claim.

321 (34)~~(31)~~ "Nonmonetary determination" means a determination
322 of the claimant's eligibility for benefits based on an issue
323 other than monetary entitlement and benefit overpayment.

324 (35)~~(32)~~ "Not in the course of the employer's trade or
325 business" means not promoting or advancing the trade or business
326 of the employer.

327 (36)~~(33)~~ "One-stop career center" means a service site
328 established and maintained as part of the one-stop delivery
329 system under s. 445.009.

330 (37)~~(34)~~ "Pay period" means a period of 31 or fewer
331 consecutive days for which a payment or remuneration is
332 ordinarily made to the employee by the person employing him or
333 her.

334 (38)~~(35)~~ "Public employer" means:

335 (a) A state agency or political subdivision of the state;

336 (b) An instrumentality that is wholly owned by one or more
337 state agencies or political subdivisions of the state; or

338 (c) An instrumentality that is wholly owned by one or more
339 state agencies, political subdivisions, or instrumentalities of
340 the state and one or more state agencies or political
341 subdivisions of one or more other states.

342 (39)~~(36)~~ "Reasonable assurance" means a written or verbal
343 agreement, an agreement between an employer and a worker
344 understood through tradition within the trade or occupation, or
345 an agreement defined in an employer's policy.

346 (40)~~(37)~~ "Reimbursement" means a payment of money to the
347 Unemployment Compensation Trust Fund in lieu of a contribution
348 which is required under this chapter to finance unemployment

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349 benefits.

350 (41)~~(38)~~ "Reimbursing employer" means an employer who is
351 liable for reimbursements in lieu of contributions under this
352 chapter.

353 (42)~~(39)~~ "State" includes the states of the United States,
354 the District of Columbia, Canada, the Commonwealth of Puerto
355 Rico, and the Virgin Islands.

356 (43)~~(40)~~ "State law" means the unemployment insurance law
357 of any state, approved by the United States Secretary of Labor
358 under s. 3304 of the Internal Revenue Code of 1954.

359 (44)~~(41)~~ "Tax collection service provider" or "service
360 provider" means the state agency providing unemployment tax
361 collection services under contract with the Agency for Workforce
362 Innovation through an interagency agreement pursuant to s.
363 443.1316.

364 (45)~~(42)~~ "Temporary layoff" means a job separation due to
365 lack of work which does not exceed 8 consecutive weeks and which
366 has a fixed or approximate return-to-work date.

367 (46)~~(43)~~ "Unemployment" means:

368 (a) An individual is "totally unemployed" in any week
369 during which he or she does not perform any services and for
370 which earned income is not payable to him or her. An individual
371 is "partially unemployed" in any week of less than full-time
372 work if the earned income payable to him or her for that week is
373 less than his or her weekly benefit amount. The Agency for
374 Workforce Innovation may adopt rules prescribing distinctions in
375 the procedures for unemployed individuals based on total
376 unemployment, part-time unemployment, partial unemployment of
377 individuals attached to their regular jobs, and other forms of

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378 short-time work.

379 (b) An individual's week of unemployment commences only
380 after his or her registration with the Agency for Workforce
381 Innovation as required in s. 443.091, except as the agency may
382 otherwise prescribe by rule.

383 ~~(47)-(44)~~ "Wages" means remuneration subject to this chapter
384 under s. 443.1217.

385 ~~(48)-(45)~~ "Week" means a period of 7 consecutive days as
386 defined in the rules of the Agency for Workforce Innovation. The
387 Agency for Workforce Innovation may by rule prescribe that a
388 week is deemed to be "in," "within," or "during" the benefit
389 year that contains the greater part of the week.

390 Section 2. Paragraphs (c) and (f) of subsection (1) of
391 section 443.091, Florida Statutes, are amended to read:

392 443.091 Benefit eligibility conditions.—

393 (1) An unemployed individual is eligible to receive
394 benefits for any week only if the Agency for Workforce
395 Innovation finds that:

396 (c)1. She or he is able to work and is available for work.
397 In order to assess eligibility for a claimed week of
398 unemployment, the Agency for Workforce Innovation shall develop
399 criteria to determine a claimant's ability to work and
400 availability for work. However, an individual may not be found
401 ineligible for benefits when he or she is able and available for
402 work for a number of weekly hours of work which are comparable
403 to the number of hours the individual worked during the majority
404 of the base period of his or her claim.

405 2. Notwithstanding any other provision of this paragraph or
406 paragraphs (b) and (d), an otherwise eligible individual may not

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407 be denied benefits for any week because she or he is in training
408 with the approval of the Agency for Workforce Innovation, and
409 such an individual may not be denied benefits for any week in
410 which she or he is in training with the approval of the Agency
411 for Workforce Innovation by reason of subparagraph 1. relating
412 to availability for work, or s. 443.101(2) relating to failure
413 to apply for, or refusal to accept, suitable work. Training may
414 be approved by the Agency for Workforce Innovation in accordance
415 with criteria prescribed by rule. A claimant's eligibility
416 during approved training is contingent upon satisfying
417 eligibility conditions prescribed by rule.

418 3. Notwithstanding any other provision of this chapter, an
419 individual who is in training approved under s. 236(a)(1) of the
420 Trade Act of 1974, as amended, may not be determined to be
421 ineligible or disqualified for benefits with respect to her or
422 his enrollment in such training or because of leaving work that
423 is not suitable employment to enter such training. As used in
424 this subparagraph, the term "suitable employment" means, for a
425 worker, work of a substantially equal or higher skill level than
426 the worker's past adversely affected employment, as defined for
427 purposes of the Trade Act of 1974, as amended, the wages for
428 which are at least 80 percent of the worker's average weekly
429 wage as determined for purposes of the Trade Act of 1974, as
430 amended.

431 4. Notwithstanding any other provision of this section, an
432 otherwise eligible individual may not be denied benefits for any
433 week by reason of subparagraph 1. because she or he is before
434 any court of the United States or any state under a lawfully
435 issued summons to appear for jury duty.

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436 (f) She or he has been paid wages for insured work equal to
437 1.5 times her or his high quarter wages during her or his base
438 period, except that an unemployed individual is not eligible to
439 receive benefits if the base period wages are less than \$3,400.
440 Wages must be computed for an alternative base period only in
441 cases in which base period wages are inadequate to establish
442 eligibility under this section and only for benefit years that
443 commence on or after January 1, 2010. Wages in a base period
444 used to establish a monetarily eligible benefit year may not be
445 used to establish monetary eligibility in a subsequent benefit
446 year.

447 Section 3. Paragraph (a) of subsection (1) and paragraph
448 (a) of subsection (2) of section 443.101, Florida Statutes, are
449 amended to read:

450 443.101 Disqualification for benefits.—An individual shall
451 be disqualified for benefits:

452 (1) (a) For the week in which he or she has voluntarily left
453 his or her work without good cause attributable to his or her
454 employing unit or in which the individual has been discharged by
455 his or her employing unit for misconduct connected with his or
456 her work, based on a finding by the Agency for Workforce
457 Innovation. As used in this paragraph, the term "work" means any
458 work, whether full-time, part-time, or temporary.

459 1. Disqualification for voluntarily quitting continues for
460 the full period of unemployment next ensuing after he or she has
461 left his or her full-time, part-time, or temporary work
462 voluntarily without good cause and until the individual has
463 earned income equal to or in excess of 17 times his or her
464 weekly benefit amount. As used in this subsection, the term

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465 "good cause" means good cause as defined in s. 443.036(25)
466 ~~includes only that cause attributable to the employing unit or~~
467 ~~which consists of illness or disability of the individual~~
468 ~~requiring separation from his or her work.~~ Any other
469 disqualification may not be imposed. An individual is not
470 disqualified under this subsection for voluntarily leaving
471 temporary work to return immediately when called to work by the
472 permanent employing unit that temporarily terminated his or her
473 work within the previous 6 calendar months. For benefit years
474 beginning on or after July 1, 2004, an individual is not
475 disqualified under this subsection for voluntarily leaving work
476 to relocate as a result of his or her military-connected
477 spouse's permanent change of station orders, activation orders,
478 or unit deployment orders.

479 2. Disqualification for being discharged for misconduct
480 connected with his or her work continues for the full period of
481 unemployment next ensuing after having been discharged and until
482 the individual has become reemployed and has earned income of at
483 least 17 times his or her weekly benefit amount and for not more
484 than 52 weeks that immediately follow that week, as determined
485 by the Agency for Workforce Innovation in each case according to
486 the circumstances in each case or the seriousness of the
487 misconduct, under the agency's rules adopted for determinations
488 of disqualification for benefits for misconduct.

489 (2) If the Agency for Workforce Innovation finds that the
490 individual has failed without good cause to apply for available
491 suitable work when directed by the agency or the one-stop career
492 center, to accept suitable work when offered to him or her, or
493 to return to the individual's customary self-employment when

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494 directed by the agency, the disqualification continues for the
495 full period of unemployment next ensuing after he or she failed
496 without good cause to apply for available suitable work, to
497 accept suitable work, or to return to his or her customary self-
498 employment, under this subsection, and until the individual has
499 earned income at least 17 times his or her weekly benefit
500 amount. The Agency for Workforce Innovation shall by rule adopt
501 criteria for determining the "suitability of work," as used in
502 this section. The Agency for Workforce Innovation in developing
503 these rules shall consider the duration of a claimant's
504 unemployment in determining the suitability of work and the
505 suitability of proposed rates of compensation for available
506 work. Further, after an individual has received 25 weeks of
507 benefits in a single year, suitable work is a job that pays the
508 minimum wage and is 120 percent or more of the weekly benefit
509 amount the individual is drawing.

510 (a) In determining whether or not any work is suitable for
511 an individual, the Agency for Workforce Innovation shall
512 consider the degree of risk involved to his or her health,
513 safety, and morals; the individual's ~~his or her~~ physical
514 fitness, and prior training, ~~the individual's~~ experience, and
515 ~~prior earnings,~~ his or her length of unemployment, and
516 prospects for securing local work in his or her customary
517 occupation, and the distance of the available work from his or
518 her residence. An unemployed individual may not be disqualified
519 for benefits solely because he or she is available for only
520 part-time work if he or she is able and available for work for a
521 number of weekly hours of work which are comparable to the
522 number of hours the individual worked during the majority of the

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523 base period of his or her claim.

524 Section 4. Subsection (3) of section 443.151, Florida
525 Statutes, is amended to read:

526 443.151 Procedure concerning claims.—

527 (3) DETERMINATION.—

528 (a) *In general.*—The Agency for Workforce Innovation shall
529 promptly make an initial determination for each claim filed
530 under subsection (2). The determination must include a statement
531 of whether and in what amount the claimant is entitled to
532 benefits, and, in the event of a denial, must state the reasons
533 for the denial. A determination for the first week of a benefit
534 year must also include a statement of whether the claimant was
535 paid the wages required under s. 443.091(1)(f) and, if so, the
536 first day of the benefit year, the claimant's weekly benefit
537 amount, and the maximum total amount of benefits payable to the
538 claimant for a benefit year. The Agency for Workforce Innovation
539 shall promptly notify the claimant, the claimant's most recent
540 employing unit, and all employers whose employment records are
541 liable for benefits under the determination of the initial
542 determination. The determination is final unless within 20 days
543 after the mailing of the notices to the parties' last known
544 addresses, or in lieu of mailing, within 20 days after the
545 delivery of the notices, an appeal or written request for
546 reconsideration is filed by the claimant or other party entitled
547 to notice.

548 (b) Determinations involving an alternative base period.—

549 If, in the case of a claim for benefits involving an alternative
550 base period under s. 443.091(1)(f), the Agency for Workforce
551 Innovation is unable to access wage information through the

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552 database of its tax collection service provider, the agency
553 shall request the information from the employer by mail. The
554 employer must provide the requested information within 10 days
555 after the Agency for Workforce Innovation mails the request. If
556 wage information is unavailable, the Agency for Workforce
557 Innovation may base the determination on an affidavit submitted
558 by the individual attesting to her or his wages for those
559 calendar quarters. The individual must furnish payroll
560 information, if available, in support of the affidavit. Benefits
561 based on an alternative base period must be adjusted if the
562 quarterly report of wage information received from the employer
563 under s. 443.141 results in a change in the monetary
564 determination.

565 (c)~~(b)~~ *Determinations in labor dispute cases.*—Whenever any
566 claim involves a labor dispute described in s. 443.101(4), the
567 Agency for Workforce Innovation shall promptly assign the claim
568 to a special examiner who shall make a determination on the
569 issues involving unemployment due to the labor dispute. The
570 special examiner shall make the determination after an
571 investigation, as necessary. The claimant or another party
572 entitled to notice of the determination may appeal a
573 determination under subsection (4).

574 (d)~~(e)~~ *Redeterminations.*—

575 1. The Agency for Workforce Innovation may reconsider a
576 determination when it finds an error or when new evidence or
577 information pertinent to the determination is discovered after a
578 prior determination or redetermination. A redetermination may
579 not be made more than 1 year after the last day of the benefit
580 year unless the disqualification for making a false or

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581 fraudulent representation in s. 443.101(6) is applicable, in
582 which case the redetermination may be made within 2 years after
583 the false or fraudulent representation. The Agency for Workforce
584 Innovation must promptly give notice of redetermination to the
585 claimant and to any employers entitled to notice in the manner
586 prescribed in this section for the notice of an initial
587 determination. If the amount of benefits is increased by the
588 redetermination, an appeal of the redetermination based solely
589 on the increase may be filed as provided in subsection (4). If
590 the amount of benefits is decreased by the redetermination, the
591 redetermination may be appealed by the claimant when a
592 subsequent claim for benefits is affected in amount or duration
593 by the redetermination. If the final decision on the
594 determination or redetermination to be reconsidered was made by
595 an appeals referee, the commission, or a court, the Agency for
596 Workforce Innovation may apply for a revised decision from the
597 body or court that made the final decision.

598 2. If an appeal of an original determination is pending
599 when a redetermination is issued, the appeal unless withdrawn is
600 treated as an appeal from the redetermination.

601 (e)~~(d)~~ *Notice of determination or redetermination.*—Notice
602 of any monetary or nonmonetary determination or redetermination
603 under this chapter, together with the reasons for the
604 determination or redetermination, must be promptly given to the
605 claimant and to any employer entitled to notice in the manner
606 provided in this subsection. The Agency for Workforce Innovation
607 shall adopt rules prescribing the manner and procedure by which
608 employers within the base period of a claimant become entitled
609 to notice.

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610 Section 5. Paragraph (a) of subsection (1) and paragraph
611 (f) of subsection (13) of section 443.1216, Florida Statutes,
612 are amended to read:

613 443.1216 Employment.—Employment, as defined in s. 443.036,
614 is subject to this chapter under the following conditions:

615 (1)(a) The employment subject to this chapter includes a
616 service performed, including a service performed in interstate
617 commerce, by:

618 1. An officer of a corporation.

619 2. An individual who, under the usual common-law rules
620 applicable in determining the employer-employee relationship, is
621 an employee. However, whenever a client, as defined in s.
622 443.036(19)~~(18)~~, which would otherwise be designated as an
623 employing unit has contracted with an employee leasing company
624 to supply it with workers, those workers are considered
625 employees of the employee leasing company. An employee leasing
626 company may lease corporate officers of the client to the client
627 and other workers to the client, except as prohibited by
628 regulations of the Internal Revenue Service. Employees of an
629 employee leasing company must be reported under the employee
630 leasing company's tax identification number and contribution
631 rate for work performed for the employee leasing company.

632 3. An individual other than an individual who is an
633 employee under subparagraph 1. or subparagraph 2., who performs
634 services for remuneration for any person:

635 a. As an agent-driver or commission-driver engaged in
636 distributing meat products, vegetable products, fruit products,
637 bakery products, beverages other than milk, or laundry or
638 drycleaning services for his or her principal.

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639 b. As a traveling or city salesperson engaged on a full-
640 time basis in the solicitation on behalf of, and the
641 transmission to, his or her principal of orders from
642 wholesalers, retailers, contractors, or operators of hotels,
643 restaurants, or other similar establishments for merchandise for
644 resale or supplies for use in their business operations. This
645 sub-subparagraph does not apply to an agent-driver or a
646 commission-driver and does not apply to sideline sales
647 activities performed on behalf of a person other than the
648 salesperson's principal.

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

651 a. The contract of service contemplates that substantially
652 all of the services are to be performed personally by the
653 individual;

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

657 c. The services are not in the nature of a single
658 transaction that is not part of a continuing relationship with
659 the person for whom the services are performed.

660 (13) The following are exempt from coverage under this
661 chapter:

662 (f) Service performed in the employ of a public employer as
663 defined in s. 443.036, except as provided in subsection (2), and
664 service performed in the employ of an instrumentality of a
665 public employer as described in s. 443.036 (38) ~~(35)~~ (b) or (c), to
666 the extent that the instrumentality is immune under the United
667 States Constitution from the tax imposed by s. 3301 of the

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668 Internal Revenue Code for that service.

669 Section 6. Paragraph (f) of subsection (3) of section
670 443.131, Florida Statutes, is amended to read:

671 443.131 Contributions.—

672 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
673 EXPERIENCE.—

674 (f) *Transfer of employment records.*—

675 1. For the purposes of this subsection, two or more
676 employers who are parties to a transfer of business or the
677 subject of a merger, consolidation, or other form of
678 reorganization, effecting a change in legal identity or form,
679 are deemed a single employer and are considered to be one
680 employer with a continuous employment record if the tax
681 collection service provider finds that the successor employer
682 continues to carry on the employing enterprises of all of the
683 predecessor employers and that the successor employer has paid
684 all contributions required of and due from all of the
685 predecessor employers and has assumed liability for all
686 contributions that may become due from all of the predecessor
687 employers. In addition, an employer may not be considered a
688 successor under this subparagraph if the employer purchases a
689 company with a lower rate into which employees with job
690 functions unrelated to the business endeavors of the predecessor
691 are transferred for the purpose of acquiring the low rate and
692 avoiding payment of contributions. As used in this paragraph,
693 notwithstanding s. 443.036 (15) ~~(14)~~, the term "contributions"
694 means all indebtedness to the tax collection service provider,
695 including, but not limited to, interest, penalty, collection
696 fee, and service fee. A successor employer must accept the

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697 transfer of all of the predecessor employers' employment records
698 within 30 days after the date of the official notification of
699 liability by succession. If a predecessor employer has unpaid
700 contributions or outstanding quarterly reports, the successor
701 employer must pay the total amount with certified funds within
702 30 days after the date of the notice listing the total amount
703 due. After the total indebtedness is paid, the tax collection
704 service provider shall transfer the employment records of all of
705 the predecessor employers to the successor employer's employment
706 record. The tax collection service provider shall determine the
707 contribution rate of the combined successor and predecessor
708 employers upon the transfer of the employment records, as
709 prescribed by rule, in order to calculate any change in the
710 contribution rate resulting from the transfer of the employment
711 records.

712 2. Regardless of whether a predecessor employer's
713 employment record is transferred to a successor employer under
714 this paragraph, the tax collection service provider shall treat
715 the predecessor employer, if he or she subsequently employs
716 individuals, as an employer without a previous employment record
717 or, if his or her coverage is terminated under s. 443.121, as a
718 new employing unit.

719 3. The state agency providing unemployment tax collection
720 services may adopt rules governing the partial transfer of
721 experience rating when an employer transfers an identifiable and
722 segregable portion of his or her payrolls and business to a
723 successor employing unit. As a condition of each partial
724 transfer, these rules must require the following to be filed
725 with the tax collection service provider: an application by the

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726 successor employing unit, an agreement by the predecessor
727 employer, and the evidence required by the tax collection
728 service provider to show the benefit experience and payrolls
729 attributable to the transferred portion through the date of the
730 transfer. These rules must provide that the successor employing
731 unit, if not an employer subject to this chapter, becomes an
732 employer as of the date of the transfer and that the transferred
733 portion of the predecessor employer's employment record is
734 removed from the employment record of the predecessor employer.
735 For each calendar year after the date of the transfer of the
736 employment record in the records of the tax collection service
737 provider, the service provider shall compute the contribution
738 rate payable by the successor employer or employing unit based
739 on his or her employment record, combined with the transferred
740 portion of the predecessor employer's employment record. These
741 rules may also prescribe what contribution rates are payable by
742 the predecessor and successor employers for the period between
743 the date of the transfer of the transferred portion of the
744 predecessor employer's employment record in the records of the
745 tax collection service provider and the first day of the next
746 calendar year.

747 4. This paragraph does not apply to an employee leasing
748 company and client contractual agreement as defined in s.
749 443.036. The tax collection service provider shall, if the
750 contractual agreement is terminated or the employee leasing
751 company fails to submit reports or pay contributions as required
752 by the service provider, treat the client as a new employer
753 without previous employment record unless the client is
754 otherwise eligible for a variation from the standard rate.

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Section 7. This act shall take effect October 1, 2009.