PROPOSED COMMITTEE SUBSTITUTE

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Proposed Committee Substitute by the Committee on Commerce

A bill to be entitled

An act relating to unemployment compensation trust fund; amending s. 443.1217, F.S.; raising the amount of an employee’s wages subject to an employer’s contribution to the unemployment compensation trust fund with a reversion to current law after January 1, 2015; amending s. 443.131, F.S.; revising the rate and recoupment period for computing the employer contribution to the unemployment compensation trust fund with a reversion to current law for recoupment after January 1, 2015; providing the calculation for lowering an employer’s contribution to the unemployment compensation trust fund under certain circumstances beginning January 1, 2015; providing for a suspension of lowering the employer’s contribution under certain circumstances; providing a definition of taxable payroll; amending s. 443.191, F.S.; providing for advances to be credited to the unemployment compensation trust fund; providing authority to the Governor to request advances; adding reference to federal provision related to advances and that funds for advances may only be used for the payment of benefits or expenses; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 443.1217, Florida Statutes, is amended to read:

443.1217 Wages.—

(2) For the purpose of determining an employer’s contributions, the following wages are exempt from this chapter:

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(a) That part of remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $8,500 ~~$7,000~~ of remuneration paid to the individual by the employer or his or her predecessor during that calendar year, unless that part of the remuneration is subject to a tax, under a federal law imposing the tax, against which credit may be taken for contributions required to be paid into a state unemployment fund. As used in this section only, the term "employment" includes services constituting employment under any employment security law of another state or of the Federal Government. Beginning January 1, 2015, the part of remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000 is exempt from this chapter.

Section 2. Paragraph (e) of subsection (3) of section 443.131, Florida Statutes, is amended 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 contribution rate, varying from the standard rate to be assigned each employer, adjustment factors computed under sub-subparagraphs a.-c. shall be added to the benefit ratio. This addition shall be accomplished in two steps by adding a variable adjustment factor and a final adjustment factor. The sum of these adjustment factors computed under sub-subparagraphs a.-c.

shall first be algebraically summed. The sum of these adjustment factors shall next be divided by a gross benefit ratio determined as follows: Total benefit payments for the 3-year period described in subparagraph (b)2. shall be charged to employers eligible for a variation from the standard rate, minus excess payments for the same period, divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors computed under sub-subparagraphs a.-c. to the gross benefit ratio shall be multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that in any instance in which the sum of an employer’s individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor shall be reduced in order that the sum equals the maximum contribution rate. The variable adjustment factor for each of these employers is multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products shall be divided by the taxable payroll of the employers who entered into the computation of their benefit ratios. The resulting ratio shall be subtracted from the sum of the adjustment factors computed under sub-subparagraphs a.-c. to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor shall be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor shall be added to the variable adjustment factor and benefit ratio of each employer to obtain each employer’s contribution rate. An

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employer's contribution rate may not, however, be rounded to less than 0.1 percent.

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

b. An adjustment factor for excess payments shall be computed to the fifth decimal place, and rounded to the fourth decimal place by dividing the total excess payments during the 3-year period described in subparagraph (b)2. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the same figure used to compute the adjustment factor for noncharge benefits under sub-subparagraph a. As used in this sub-subparagraph, the term "excess payments" means the amount of benefits charged to the employment record of an employer during the 3-year period described in subparagraph (b)2., less the product of the maximum contribution rate and the employer's taxable payroll for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-subparagraph, the term "total excess payments" means the sum of the individual employer excess payments for those employers that were eligible to be considered for assignment of a contribution rate different from the standard rate.

c. If the balance of the Unemployment Compensation Trust Fund on June 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 4 ~~3.7~~ percent of the taxable payrolls for the year ending June 30 as reported to the tax collection service provider by September 30 of that calendar year, a positive adjustment factor shall be computed. The positive adjustment factor shall be computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-third ~~one-fourth~~ of the difference between the balance of the fund as of June 30 of that calendar year and the sum of 5 ~~4.7~~ percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 ~~3.7~~ percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year. Beginning January 1, 2015, and for each year thereafter, the positive adjustment authorized by this section shall be computed by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

d. If beginning January 1, 2015, and each year thereafter, the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 5 ~~4.7~~ percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year, a negative adjustment factor shall be computed. The negative adjustment factor shall be computed annually beginning on January 1, 2015, and each year thereafter, to the fifth decimal place and rounded to the fourth decimal place by dividing the

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sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of the current calendar year and 5 ~~4.7~~ percent of the total taxable payrolls of that year. The negative adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate is less than 5 ~~4.7~~ percent, but more than 4 ~~3.7~~ percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year. The negative adjustment authorized by this section is suspended in any calendar year in which repayment of the principal amount of an advance received from the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is due to the Federal government.

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

f. As used in this subsection, "taxable payroll" shall be determined by excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000.

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

Section 3. Subsection (1), subsection (3), and subsection (5) of section 443.191, Florida Statutes, are amended to read:

443.191 Unemployment Compensation Trust Fund; establishment and control.—

(1) There is established, as a separate trust fund apart from all other public funds of this state, an Unemployment Compensation Trust Fund, which shall be administered by the Agency for Workforce Innovation exclusively for the purposes of this chapter. The fund shall consist of:

(a) All contributions and reimbursements collected under this chapter;

(b) Interest earned on any moneys in the fund;

(c) Any property or securities acquired through the use of moneys belonging to the fund;

(d) All earnings of these properties or securities; and

(e) All money credited to this state’s account in the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1103;~~.~~ and

(f) Advances on the amount in the federal Unemployment Compensation Trust Fund credited to the state under 42 U.S.C. s. 1321, as requested by the Governor.

Except as otherwise provided in s. 443.1313(4), all moneys in the fund shall be mingled and undivided.

(3) Moneys may only be requisitioned from the state’s account in the federal Unemployment Compensation Trust Fund solely for the payment of benefits and extended benefits and for payment in accordance with rules prescribed by the Agency for Workforce Innovation, except that money credited to this state’s account under 42 U.S.C. ss. 1103 and 1321 may only be used exclusively as provided in subsection (5). The Agency for Workforce Innovation, through the Chief Financial Officer, shall requisition from the federal Unemployment Compensation Trust Fund amounts, not exceeding the amounts credited to this state’s account in the fund, as necessary for the payment of benefits and extended benefits for a reasonable future period. Upon receipt of these amounts, the Chief Financial Officer shall deposit the moneys in the benefit account in the State Treasury and warrants for the payment of benefits and extended benefits shall be drawn upon the order of the Agency for Workforce Innovation against the account. All warrants for benefits and extended benefits are payable directly to the ultimate beneficiary. Expenditures of these moneys in the benefit account and refunds from the clearing account are not subject to any law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued for the payment of benefits and refunds must bear the signature of the Chief Financial Officer. Any balance of moneys requisitioned from this state’s account in the federal Unemployment Compensation Trust Fund which remains unclaimed or

unpaid in the benefit account after the period for which the moneys were requisitioned shall be deducted from estimates for, and may be used for the payment of, benefits and extended benefits during succeeding periods, or, in the discretion of the Agency for Workforce Innovation, shall be redeposited with the Secretary of the Treasury of the United States, to the credit of this state's account in the federal Unemployment Compensation Trust Fund, as provided in subsection (2).

(5) MONEY CREDITED UNDER 42 U.S.C. SS. 1103 and 1321.—

(a) Money credited to this state's account in the federal Unemployment Compensation Trust Fund by the Secretary of the Treasury of the United States under 42 U.S.C. ss. 1103 and 1321 may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. These moneys may be requisitioned under subsection (3) for the payment of benefits. These moneys may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter, but only under a specific appropriation by the Legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriations law that:

1. Specifies the purposes for which the money is appropriated and the amounts appropriated;

2. Limits the period within which the money may be obligated to a period ending not more than 2 years after the date of the enactment of the appropriations law; and

3. Limits the amount that may be obligated during any 12-month period beginning on July 1 and ending on the next June 30

to an amount that does not exceed the amount by which the aggregate of the amounts credited to the state's account under 42 U.S.C. s. 1103 during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the state's account during those 35 12-month periods.

(b) Amounts credited to this state's account in the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1103 which are obligated for administration or paid out for benefits shall be charged against equivalent amounts that were first credited and that are not already charged, except that an amount obligated for administration during a 12-month period specified in this section may not be charged against any amount credited during that 12-month period earlier than the 34th 12-month period preceding that period. Any amount credited to the state's account under 42 U.S.C. s. 1103 which is appropriated for expenses of administration, regardless of whether this amount is withdrawn from the Unemployment Compensation Trust Fund, shall be excluded from the Unemployment Compensation Trust Fund balance for the purposes of s. 443.131(3).

(c) Money appropriated as provided in this section for the payment of expenses of administration may only be requisitioned as needed for the payment of obligations incurred under the appropriation and, upon requisition, must be deposited in the Employment Security Administration Trust Fund from which the payments are made. Money deposited, until expended, remains a part of the Unemployment Compensation Trust Fund and, if not expended, the money must be returned promptly to the state's

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account in the federal Unemployment Compensation Trust Fund.

Section 4. This act shall take effect upon becoming law.