

By the Committee on Commerce; and Senator Garcia

577-05000-09

2009810c1

1 A bill to be entitled
2 An act relating to the Unemployment Compensation Trust
3 Fund; amending s. 443.1217, F.S.; raising the amount
4 of an employee's wages subject to an employer's
5 contribution to the trust fund, with a reversion to
6 current law after January 1, 2015; amending s.
7 443.131, F.S.; revising the rate and recoupment period
8 for computing the employer contribution to the trust
9 fund, with a reversion to current law for recoupment
10 after January 1, 2015; providing the calculation for
11 lowering an employer's contribution to the trust fund
12 under certain circumstances beginning January 1, 2015;
13 providing for a suspension of lowering the employer's
14 contribution under certain circumstances; providing a
15 definition of taxable payroll; amending s. 443.191,
16 F.S.; providing for advances to be credited to the
17 Unemployment Compensation Trust Fund; providing
18 authority to the Governor or the Governor's designee
19 to request advances; providing effective dates.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Effective October 1, 2009, paragraph (a) of
24 subsection (2) of section 443.1217, Florida Statutes, is amended
25 to read:

26 443.1217 Wages.—

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

29 (a) That part of remuneration paid to an individual by an

577-05000-09

2009810c1

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

43 Section 2. Effective October 1, 2009, paragraph (e) of
44 subsection (3) of section 443.131, Florida Statutes, is amended
45 to read:

46 443.131 Contributions.—

47 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
48 EXPERIENCE.—

49 (e) *Assignment of variations from the standard rate.*—

50 1. The tax collection service provider shall assign a
51 variation from the standard rate of contributions for each
52 calendar year to each eligible employer. In determining the
53 contribution rate, varying from the standard rate to be assigned
54 each employer, adjustment factors computed under sub-
55 subparagraphs a.-c. shall be added to the benefit ratio. This
56 addition shall be accomplished in two steps by adding a variable
57 adjustment factor and a final adjustment factor. The sum of
58 these adjustment factors computed under sub-subparagraphs a.-c.

577-05000-09

2009810c1

59 shall first be algebraically summed. The sum of these adjustment
60 factors shall next be divided by a gross benefit ratio
61 determined as follows: Total benefit payments for the 3-year
62 period described in subparagraph (b)2. shall be charged to
63 employers eligible for a variation from the standard rate, minus
64 excess payments for the same period, divided by taxable payroll
65 entering into the computation of individual benefit ratios for
66 the calendar year for which the contribution rate is being
67 computed. The ratio of the sum of the adjustment factors
68 computed under sub-subparagraphs a.-c. to the gross benefit
69 ratio shall be multiplied by each individual benefit ratio that
70 is less than the maximum contribution rate to obtain variable
71 adjustment factors; except that in any instance in which the sum
72 of an employer's individual benefit ratio and variable
73 adjustment factor exceeds the maximum contribution rate, the
74 variable adjustment factor shall be reduced in order that the
75 sum equals the maximum contribution rate. The variable
76 adjustment factor for each of these employers is multiplied by
77 his or her taxable payroll entering into the computation of his
78 or her benefit ratio. The sum of these products shall be divided
79 by the taxable payroll of the employers who entered into the
80 computation of their benefit ratios. The resulting ratio shall
81 be subtracted from the sum of the adjustment factors computed
82 under sub-subparagraphs a.-c. to obtain the final adjustment
83 factor. The variable adjustment factors and the final adjustment
84 factor shall be computed to five decimal places and rounded to
85 the fourth decimal place. This final adjustment factor shall be
86 added to the variable adjustment factor and benefit ratio of
87 each employer to obtain each employer's contribution rate. An

577-05000-09

2009810c1

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

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

105 b. An adjustment factor for excess payments shall be
106 computed to the fifth decimal place, and rounded to the fourth
107 decimal place by dividing the total excess payments during the
108 3-year period described in subparagraph (b)2. by the taxable
109 payroll of employers eligible for a variation from the standard
110 rate who have a benefit ratio for the current year which is less
111 than the maximum contribution rate. For purposes of computing
112 this adjustment factor, the taxable payroll of these employers
113 is the same figure used to compute the adjustment factor for
114 noncharge benefits under sub-subparagraph a. As used in this
115 sub-subparagraph, the term "excess payments" means the amount of
116 benefits charged to the employment record of an employer during

577-05000-09

2009810c1

117 the 3-year period described in subparagraph (b)2., less the
118 product of the maximum contribution rate and the employer's
119 taxable payroll for the 3 years ending June 30 of the current
120 calendar year as reported to the tax collection service provider
121 by September 30 of the same calendar year. As used in this sub-
122 subparagraph, the term "total excess payments" means the sum of
123 the individual employer excess payments for those employers that
124 were eligible to be considered for assignment of a contribution
125 rate different from the standard rate.

126 c. If the balance of the Unemployment Compensation Trust
127 Fund on June 30 of the calendar year immediately preceding the
128 calendar year for which the contribution rate is being computed
129 is less than 4 ~~3.7~~ percent of the taxable payrolls for the year
130 ending June 30 as reported to the tax collection service
131 provider by September 30 of that calendar year, a positive
132 adjustment factor shall be computed. The positive adjustment
133 factor shall be computed annually to the fifth decimal place and
134 rounded to the fourth decimal place by dividing the sum of the
135 total taxable payrolls for the year ending June 30 of the
136 current calendar year as reported to the tax collection service
137 provider by September 30 of that calendar year into a sum equal
138 to one-third ~~one-fourth~~ of the difference between the balance of
139 the fund as of June 30 of that calendar year and the sum of 5
140 ~~4.7~~ percent of the total taxable payrolls for that year. The
141 positive adjustment factor remains in effect for subsequent
142 years until the balance of the Unemployment Compensation Trust
143 Fund as of June 30 of the year immediately preceding the
144 effective date of the contribution rate equals or exceeds 5 ~~3.7~~
145 percent of the taxable payrolls for the year ending June 30 of

577-05000-09

2009810c1

146 the current calendar year as reported to the tax collection
147 service provider by September 30 of that calendar year.
148 Beginning January 1, 2015, and for each year thereafter, the
149 positive adjustment authorized by this section shall be computed
150 by dividing the sum of the total taxable payrolls for the year
151 ending June 30 of the current calendar year as reported to the
152 tax collection service provider by September 30 of that calendar
153 year into a sum equal to one-fourth of the difference between
154 the balance of the fund as of June 30 of that calendar year and
155 the sum of 5 percent of the total taxable payrolls for that
156 year. The positive adjustment factor remains in effect for
157 subsequent years until the balance of the Unemployment
158 Compensation Trust Fund as of June 30 of the year immediately
159 preceding the effective date of the contribution rate equals or
160 exceeds 4 percent of the taxable payrolls for the year ending
161 June 30 of the current calendar year as reported to the tax
162 collection service provider by September 30 of that calendar
163 year.

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

577-05000-09

2009810c1

175 sum of the total taxable payrolls for the year ending June 30 of
176 the current calendar year as reported to the tax collection
177 service provider by September 30 of the calendar year into a sum
178 equal to one-fourth of the difference between the balance of the
179 fund as of June 30 of the current calendar year and 5 4.7
180 percent of the total taxable payrolls of that year. The negative
181 adjustment factor remains in effect for subsequent years until
182 the balance of the Unemployment Compensation Trust Fund as of
183 June 30 of the year immediately preceding the effective date of
184 the contribution rate is less than 5 4.7 percent, but more than
185 4 3.7 percent of the taxable payrolls for the year ending June
186 30 of the current calendar year as reported to the tax
187 collection service provider by September 30 of that calendar
188 year. The negative adjustment authorized by this section is
189 suspended in any calendar year in which repayment of the
190 principal amount of an advance received from the federal
191 Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is
192 due to the Federal government.

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

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

577-05000-09

2009810c1

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

212 Section 3. Subsections (1) and (3) of section 443.191,
213 Florida Statutes, are amended to read:

214 443.191 Unemployment Compensation Trust Fund; establishment
215 and control.—

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

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

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

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

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

227 (e) All money credited to this state's account in the
228 federal Unemployment Compensation Trust Fund under 42 U.S.C. s.
229 1103; and—

230 (f) Advances on the amount in the federal Unemployment
231 Compensation Trust Fund credited to the state under 42 U.S.C. s.
232 1321, as requested by the Governor or the Governor's designee.

577-05000-09

2009810c1

233

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

236 (3) Moneys may only be requisitioned from the state's
237 account in the federal Unemployment Compensation Trust Fund
238 solely for the payment of benefits and extended benefits and for
239 payment in accordance with rules prescribed by the Agency for
240 Workforce Innovation, or for the repayment of advances made
241 pursuant to 42 U.S.C. s. 1321, as authorized by the Governor or
242 the Governor's designee, except that money credited to this
243 state's account under 42 U.S.C. s. 1103 may only be used
244 exclusively as provided in subsection (5). The Agency for
245 Workforce Innovation, through the Chief Financial Officer, shall
246 requisition from the federal Unemployment Compensation Trust
247 Fund amounts, not exceeding the amounts credited to this state's
248 account in the fund, as necessary for the payment of benefits
249 and extended benefits for a reasonable future period. Upon
250 receipt of these amounts, the Chief Financial Officer shall
251 deposit the moneys in the benefit account in the State Treasury
252 and warrants for the payment of benefits and extended benefits
253 shall be drawn upon the order of the Agency for Workforce
254 Innovation against the account. All warrants for benefits and
255 extended benefits are payable directly to the ultimate
256 beneficiary. Expenditures of these moneys in the benefit account
257 and refunds from the clearing account are not subject to any law
258 requiring specific appropriations or other formal release by
259 state officers of money in their custody. All warrants issued
260 for the payment of benefits and refunds must bear the signature
261 of the Chief Financial Officer. Any balance of moneys

577-05000-09

2009810c1

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

272 Section 4. Except as otherwise expressly provided in this
273 act, this act shall take effect upon becoming a law.