

By the Policy and Steering Committee on Ways and Means; the Committee on Commerce; and Senators Garcia and Hill

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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; creating s. 443.1117, F.S.;
20 establishing temporary state extended benefits for
21 claims between July 5, 2009, and December 26, 2009;
22 creating definitions; providing for state extended
23 benefits for certain weeks and for periods of high
24 unemployment; providing that the act fulfills an
25 important state interest; providing effective dates.

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

28
29 Section 1. Effective January 1, 2010, paragraph (a) of

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30 subsection (2) of section 443.1217, Florida Statutes, is amended
31 to read:

32 443.1217 Wages.—

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

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

49 Section 2. Effective January 1, 2010, paragraph (e) of
50 subsection (3) of section 443.131, Florida Statutes, is amended
51 to read:

52 443.131 Contributions.—

53 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
54 EXPERIENCE.—

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

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

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

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88 under sub-subparagraphs a.-d. ~~a.-e.~~ to obtain the final
89 adjustment factor. The variable adjustment factors and the final
90 adjustment factor shall be computed to five decimal places and
91 rounded to the fourth decimal place. This final adjustment
92 factor shall be added to the variable adjustment factor and
93 benefit ratio of each employer to obtain each employer's
94 contribution rate. An employer's contribution rate may not,
95 however, be rounded to less than 0.1 percent.

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

111 b. An adjustment factor for excess payments shall be
112 computed to the fifth decimal place, and rounded to the fourth
113 decimal place by dividing the total excess payments during the
114 3-year period described in subparagraph (b)2. by the taxable
115 payroll of employers eligible for a variation from the standard
116 rate who have a benefit ratio for the current year which is less

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117 than the maximum contribution rate. For purposes of computing
118 this adjustment factor, the taxable payroll of these employers
119 is the same figure used to compute the adjustment factor for
120 noncharge benefits under sub-subparagraph a. As used in this
121 sub-subparagraph, the term "excess payments" means the amount of
122 benefits charged to the employment record of an employer during
123 the 3-year period described in subparagraph (b)2., less the
124 product of the maximum contribution rate and the employer's
125 taxable payroll for the 3 years ending June 30 of the current
126 calendar year as reported to the tax collection service provider
127 by September 30 of the same calendar year. As used in this sub-
128 subparagraph, the term "total excess payments" means the sum of
129 the individual employer excess payments for those employers that
130 were eligible to be considered for assignment of a contribution
131 rate different from the standard rate.

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

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146 4.7 percent of the total taxable payrolls for that year. The
147 positive adjustment factor remains in effect for subsequent
148 years until the balance of the Unemployment Compensation Trust
149 Fund as of June 30 of the year immediately preceding the
150 effective date of the contribution rate equals or exceeds 5 3.7
151 percent of the taxable payrolls for the year ending June 30 of
152 the current calendar year as reported to the tax collection
153 service provider by September 30 of that calendar year.
154 Beginning January 1, 2015, and for each year thereafter, the
155 positive adjustment authorized by this section shall be computed
156 by dividing the sum of the total taxable payrolls for the year
157 ending June 30 of the current calendar year as reported to the
158 tax collection service provider by September 30 of that calendar
159 year into a sum equal to one-fourth of the difference between
160 the balance of the fund as of June 30 of that calendar year and
161 the sum of 5 percent of the total taxable payrolls for that
162 year. The positive adjustment factor remains in effect for
163 subsequent years until the balance of the Unemployment
164 Compensation Trust Fund as of June 30 of the year immediately
165 preceding the effective date of the contribution rate equals or
166 exceeds 4 percent of the taxable payrolls for the year ending
167 June 30 of the current calendar year as reported to the tax
168 collection service provider by September 30 of that calendar
169 year.

170 d. If, beginning January 1, 2015, and each year thereafter,
171 the balance of the Unemployment Compensation Trust Fund as of
172 June 30 of the year immediately preceding the calendar year for
173 which the contribution rate is being computed exceeds 5 4.7
174 percent of the taxable payrolls for the year ending June 30 of

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175 the current calendar year as reported to the tax collection
176 service provider by September 30 of that calendar year, a
177 negative adjustment factor shall be computed. The negative
178 adjustment factor shall be computed annually beginning on
179 January 1, 2015, and each year thereafter, to the fifth decimal
180 place and rounded to the fourth decimal place by dividing the
181 sum of the total taxable payrolls for the year ending June 30 of
182 the current calendar year as reported to the tax collection
183 service provider by September 30 of the calendar year into a sum
184 equal to one-fourth of the difference between the balance of the
185 fund as of June 30 of the current calendar year and 5 4.7
186 percent of the total taxable payrolls of that year. The negative
187 adjustment factor remains in effect for subsequent years until
188 the balance of the Unemployment Compensation Trust Fund as of
189 June 30 of the year immediately preceding the effective date of
190 the contribution rate is less than 5 4.7 percent, but more than
191 4 3.7 percent of the taxable payrolls for the year ending June
192 30 of the current calendar year as reported to the tax
193 collection service provider by September 30 of that calendar
194 year. The negative adjustment authorized by this section is
195 suspended in any calendar year in which repayment of the
196 principal amount of an advance received from the federal
197 Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is
198 due to the Federal government.

199 e.d. The maximum contribution rate that may be assigned to
200 an employer is 5.4 percent, except employers participating in an
201 approved short-time compensation plan may be assigned a maximum
202 contribution rate that is 1 percent greater than the maximum
203 contribution rate for other employers in any calendar year in

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204 which short-time compensation benefits are charged to the
205 employer's employment record.

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

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

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

220 443.191 Unemployment Compensation Trust Fund; establishment
221 and control.—

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

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

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

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

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

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233 (e) All money credited to this state's account in the
234 federal Unemployment Compensation Trust Fund under 42 U.S.C. s.
235 1103; ~~and-~~

236 (f) Advances on the amount in the federal Unemployment
237 Compensation Trust Fund credited to the state under 42 U.S.C. s.
238 1321, as requested by the Governor or the Governor's designee.

239
240 Except as otherwise provided in s. 443.1313(4), all moneys in
241 the fund shall be mingled and undivided.

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

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262 beneficiary. Expenditures of these moneys in the benefit account
263 and refunds from the clearing account are not subject to any law
264 requiring specific appropriations or other formal release by
265 state officers of money in their custody. All warrants issued
266 for the payment of benefits and refunds must bear the signature
267 of the Chief Financial Officer. Any balance of moneys
268 requisitioned from this state's account in the federal
269 Unemployment Compensation Trust Fund which remains unclaimed or
270 unpaid in the benefit account after the period for which the
271 moneys were requisitioned shall be deducted from estimates for,
272 and may be used for the payment of, benefits and extended
273 benefits during succeeding periods, or, in the discretion of the
274 Agency for Workforce Innovation, shall be redeposited with the
275 Secretary of the Treasury of the United States, to the credit of
276 this state's account in the federal Unemployment Compensation
277 Trust Fund, as provided in subsection (2).

278 Section 4. Effective July 5, 2009, and expiring December
279 26, 2009, section 443.1117, Florida Statutes, is created to
280 read:

281 443.1117 Temporary extended benefits.-

282 (1) PERIOD OF APPLICABILITY.-The provisions of this section
283 apply only to claims in which entitlement to extended benefits
284 pursuant to this section are established for the weeks between
285 July 5, 2009, and December 26, 2009.

286 (2) APPLICABILITY OF EXTENDED BENEFITS STATUTE.-Except when
287 the result is inconsistent with the other provisions of this
288 section, the provisions of s. 443.1115(3), (4), (6), and (7)
289 apply to all claims covered by this section.

290 (3) DEFINITIONS.-As used in this section, the term:

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291 (a) "Extended benefit period," "regular benefits," and
292 "extended benefits" have the same meaning as provided in s.
293 443.1115.

294 (b) "Eligibility period" means the period consisting of the
295 weeks in an individual's benefit year or emergency benefit
296 period which begin in an extended benefit period and, if the
297 benefit year or emergency benefit period ends within that
298 extended benefit period, any subsequent weeks beginning in that
299 period.

300 (c) "Emergency benefits" means Emergency Unemployment
301 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
302 110-449, and Pub. L. No. 111-5.

303 (d) "Emergency benefit period" means the period during
304 which an individual receives emergency benefits as defined in
305 paragraph (c).

306 (e) "Exhaustee" means an individual who, for any week of
307 unemployment in her or his eligibility period:

308 1. Has received, before that week, all of the regular
309 benefits and emergency benefits, if any, available under this
310 chapter or any other law, including dependents' allowances and
311 benefits payable to federal civilian employees and ex-
312 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
313 benefit year or emergency benefit period that includes that
314 week. For the purposes of this subparagraph, an individual has
315 received all of the regular benefits and emergency benefits, if
316 any, available although, as a result of a pending appeal for
317 wages paid for insured work which were not considered in the
318 original monetary determination in the benefit year, she or he
319 may subsequently be determined to be entitled to added regular

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320 benefits;

321 2. Had a benefit year which expired before that week, and
322 was paid no, or insufficient, wages for insured work on the
323 basis of which she or he could establish a new benefit year that
324 includes that week; and

325 3.a. Has no right to unemployment benefits or allowances
326 under the Railroad Unemployment Insurance Act or other federal
327 laws as specified in regulations issued by the United States
328 Secretary of Labor; and

329 b. Has not received and is not seeking unemployment
330 benefits under the unemployment compensation law of Canada; but
331 if an individual is seeking those benefits and the appropriate
332 agency finally determines that she or he is not entitled to
333 benefits under that law, she or he is considered an exhaustee.

334 (f) "State 'on' indicator" means the occurrence of a week
335 in which the average total unemployment rate under state law,
336 seasonally adjusted, as determined by the United States
337 Secretary of Labor, for the period consisting of that week and
338 the 12 weeks immediately preceding it:

339 1. Equals or exceeds 110 percent of the average of those
340 rates for the corresponding 13-week period ending in each of the
341 preceding 2 calendar years; and

342 2. Equals or exceeds 6.5 percent.

343 (g) "High unemployment period" means any week in which the
344 average total unemployment rate under state law, seasonally
345 adjusted, as determined by the United States Secretary of Labor,
346 for the period consisting of that week and the 12 weeks
347 immediately preceding it:

348 1. Equals or exceeds 110 percent of the average of those

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349 rates for the corresponding 13-week period ending in each of the
350 preceding 2 calendar years; and

351 2. Equals or exceeds 8 percent.

352 (h) "State 'off' indicator" means the occurrence of a week
353 in which there is no state "on" indicator or which does not
354 constitute a high unemployment period.

355 (4) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
356 subsection (5):

357 (a) For any week for which there is an "on" indicator
358 pursuant to paragraph (3) (f), the total extended benefit amount
359 payable to an eligible individual for her or his applicable
360 benefit year is the lesser of:

361 1. Fifty percent of the total regular benefits payable
362 under this chapter in the applicable benefit year; or

363 2. Thirteen times the weekly benefit amount payable under
364 this chapter for a week of total unemployment in the applicable
365 benefit year.

366 (b) For any high unemployment period as defined in
367 paragraph (3) (g), the total extended benefit amount payable to
368 an eligible individual for her or his applicable benefit year is
369 the lesser of:

370 1. Eighty percent of the total regular benefits payable
371 under this chapter in the applicable benefit year; or

372 2. Twenty times the weekly benefit amount payable under
373 this chapter for a week of total unemployment in the applicable
374 benefit year.

375 (c) In the case of any individual who receives extended
376 compensation with respect to 1 or more weeks of unemployment
377 beginning after July 5, 2009, and before December 26, 2009, the

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378 individual shall continue to receive any benefits to which she
379 or he is entitled under this section, except that the individual
380 may not receive any benefits for any week ending after May 29,
381 2010.

382 (5) READJUSTMENT.—Notwithstanding any other provision of
383 this chapter, if the benefit year of an individual ends within
384 an extended benefit period, the number of weeks of extended
385 benefits the individual is entitled to receive in that extended
386 benefit period for weeks of unemployment beginning after the end
387 of the benefit year, except as provided in this section, is
388 reduced, but not to below zero, by the number of weeks for which
389 the individual received, within that benefit year, trade
390 readjustment allowances under the Trade Act of 1974, as amended.

391 Section 5. The Legislature finds that this act fulfills an
392 important state interest.

393 Section 6. Except as otherwise expressly provided in this
394 act, this act shall take effect upon becoming a law.