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1 A bill to be entitled
2 An act relating to unemployment compensation; amending
3 s. 443.1217, F.S.; raising the amount of an employee's
4 wages subject to an employer's contribution to the
5 trust fund, with a reversion to current law after
6 January 1, 2015; amending s. 443.131, F.S.; revising
7 the rate and recoupment period for computing the
8 employer contribution to the trust fund, with a
9 reversion to current law for recoupment after January
10 1, 2015; providing the calculation for lowering an
11 employer's contribution to the trust fund under
12 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 providing for retroactive application; establishing
21 temporary state extended benefits for weeks of
22 unemployment between February 22, 2009, and January 2,
23 2010; creating definitions; providing for state
24 extended benefits for certain weeks and for periods of
25 high unemployment; providing for applicability of s.
26 443.1117, F.S.; providing that the act fulfills an
27 important state interest; providing effective dates.

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

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Section 1. Effective January 1, 2010, 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:

(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. Effective January 1, 2010, 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.*—For the calculation of contribution rates effective January 1, 2010,

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59 and thereafter:

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

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88 or her benefit ratio. The sum of these products shall be divided
89 by the taxable payroll of the employers who entered into the
90 computation of their benefit ratios. The resulting ratio shall
91 be subtracted from the sum of the adjustment factors computed
92 under sub-subparagraphs a.-d. ~~a.-e.~~ to obtain the final
93 adjustment factor. The variable adjustment factors and the final
94 adjustment factor shall be computed to five decimal places and
95 rounded to the fourth decimal place. This final adjustment
96 factor shall be added to the variable adjustment factor and
97 benefit ratio of each employer to obtain each employer's
98 contribution rate. An employer's contribution rate may not,
99 however, be rounded to less than 0.1 percent.

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

115 b. An adjustment factor for excess payments shall be
116 computed to the fifth decimal place, and rounded to the fourth

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

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

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146 current calendar year as reported to the tax collection service
147 provider by September 30 of that calendar year into a sum equal
148 to one-third ~~one-fourth~~ of the difference between the balance of
149 the fund as of June 30 of that calendar year and the sum of 5
150 ~~4.7~~ percent of the total taxable payrolls for that year. The
151 positive adjustment factor remains in effect for subsequent
152 years until the balance of the Unemployment Compensation Trust
153 Fund as of June 30 of the year immediately preceding the
154 effective date of the contribution rate equals or exceeds 5 ~~3.7~~
155 percent of the taxable payrolls for the year ending June 30 of
156 the current calendar year as reported to the tax collection
157 service provider by September 30 of that calendar year.

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

174 d. If, beginning January 1, 2015, and each year thereafter,

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

203 e.d. The maximum contribution rate that may be assigned to

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

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

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

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

224 443.191 Unemployment Compensation Trust Fund; establishment
225 and control.—

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

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

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233 (b) Interest earned on any moneys in the fund;
234 (c) Any property or securities acquired through the use of
235 moneys belonging to the fund;
236 (d) All earnings of these properties or securities; ~~and~~
237 (e) All money credited to this state's account in the
238 federal Unemployment Compensation Trust Fund under 42 U.S.C. s.
239 1103; ~~and-~~
240 (f) Advances on the amount in the federal Unemployment
241 Compensation Trust Fund credited to the state under 42 U.S.C. s.
242 1321, as requested by the Governor or the Governor's designee.
243
244 Except as otherwise provided in s. 443.1313(4), all moneys in
245 the fund shall be mingled and undivided.
246 (3) Moneys may only be requisitioned from the state's
247 account in the federal Unemployment Compensation Trust Fund
248 solely for the payment of benefits and extended benefits and for
249 payment in accordance with rules prescribed by the Agency for
250 Workforce Innovation, or for the repayment of advances made
251 pursuant to 42 U.S.C. s. 1321, as authorized by the Governor or
252 the Governor's designee, except that money credited to this
253 state's account under 42 U.S.C. s. 1103 may only be used
254 exclusively as provided in subsection (5). The Agency for
255 Workforce Innovation, through the Chief Financial Officer, shall
256 requisition from the federal Unemployment Compensation Trust
257 Fund amounts, not exceeding the amounts credited to this state's
258 account in the fund, as necessary for the payment of benefits
259 and extended benefits for a reasonable future period. Upon
260 receipt of these amounts, the Chief Financial Officer shall
261 deposit the moneys in the benefit account in the State Treasury

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

282 Section 4. Effective upon becoming a law, and retroactive
283 to February 1, 2009, and expiring January 2, 2010, section
284 443.1117, Florida Statutes, is created to read:

285 443.1117 Temporary extended benefits.—

286 (1) 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 (2) DEFINITIONS.—For the purposes of this section the term:

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291 (a) "Regular benefits" and "extended benefits" have the
292 same meaning as in s. 443.1115.

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

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

302 (d) "Extended benefit period" means a period that:

303 1. Begins with the third week after a week for which there
304 is a state "on" indicator; and

305 2. Ends with any of the following weeks, whichever occurs
306 later:

307 a. The third week after the first week for which there is a
308 state "off" indicator;

309 b. The 13th consecutive week of that period.

310

311 However, an extended benefit period may not begin by reason of a
312 state "on" indicator before the 14th week after the end of a
313 prior extended benefit period that was in effect for this state.

314 (e) "Emergency benefit period" means the period during
315 which an individual receives emergency benefits as defined in
316 paragraph (c).

317 (f) "Exhaustee" means an individual who, for any week of
318 unemployment in her or his eligibility period:

319 1. Has received, before that week, all of the regular

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320 benefits and emergency benefits, if any, available under this
321 chapter or any other law, including dependents' allowances and
322 benefits payable to federal civilian employees and ex-
323 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
324 benefit year or emergency benefit period that includes that
325 week. For the purposes of this subparagraph, an individual has
326 received all of the regular benefits and emergency benefits, if
327 any, available although, as a result of a pending appeal for
328 wages paid for insured work which were not considered in the
329 original monetary determination in the benefit year, she or he
330 may subsequently be determined to be entitled to added regular
331 benefits;

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

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

340 b. Has not received and is not seeking unemployment
341 benefits under the unemployment compensation law of Canada; but
342 if an individual is seeking those benefits and the appropriate
343 agency finally determines that she or he is not entitled to
344 benefits under that law, she or he is considered an exhaustee.

345 (g) "State 'on' indicator" means, with respect to weeks of
346 unemployment beginning on or after February 1, 2009, and ending
347 on or before December 12, 2009, the occurrence of a week in
348 which the average total unemployment rate, seasonally adjusted,

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349 as determined by the United States Secretary of Labor, for the
350 period consisting of the most recent 3 months for which data for
351 all states are published by the United States Department of
352 Labor:

353 1. Equals or exceeds 110 percent of the average of those
354 rates for the corresponding 3 month period ending in each of the
355 preceding 2 calendar years; and

356 2. Equals or exceeds 6.5 percent.

357 (h) "High unemployment period" means, with respect to weeks
358 of unemployment beginning on or after February 1, 2009, and
359 ending on or before December 12, 2009, any week in which the
360 average total unemployment rate, seasonally adjusted, as
361 determined by the United States Secretary of Labor, for the
362 period consisting of the most recent 3 months for which data for
363 all states are published by the United States Department of
364 Labor:

365 1. Equals or exceeds 110 percent of the average of those
366 rates for the corresponding 3 month period ending in each of the
367 preceding 2 calendar years; and

368 2. Equals or exceeds 8 percent.

369 (i) "State 'off' indicator" means the occurrence of a week
370 in which there is no state "on" indicator or which does not
371 constitute a high unemployment period.

372 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
373 subsection (5):

374 (a) For any week for which there is an "on" indicator
375 pursuant to paragraph (3) (g), the total extended benefit amount
376 payable to an eligible individual for her or his applicable
377 benefit year is the lesser of:

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

380 2. Thirteen times the weekly benefit amount payable under
381 this chapter for a week of total unemployment in the applicable
382 benefit year.

383 (b) For any high unemployment period as defined in
384 paragraph (3)(h), the total extended benefit amount payable to
385 an eligible individual for her or his applicable benefit year is
386 the lesser of:

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

389 2. Twenty times the weekly benefit amount payable under
390 this chapter for a week of total unemployment in the applicable
391 benefit year.

392 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other
393 provision of this chapter, if the benefit year of an individual
394 ends within an extended benefit period, the number of weeks of
395 extended benefits the individual is entitled to receive in that
396 extended benefit period for weeks of unemployment beginning
397 after the end of the benefit year, except as provided in this
398 section, is reduced, but not to below zero, by the number of
399 weeks for which the individual received, within that benefit
400 year, trade readjustment allowances under the Trade Act of 1974,
401 as amended.

402 Section 5. The provisions of s. 443.1117, Florida Statutes,
403 as created by this act, apply only to claims for weeks of
404 unemployment, in which an exhaustee establishes entitlement to
405 extended benefits pursuant to that section, established for the
406 period between February 22, 2009, and January 2, 2010.

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407 Section 6. Paragraph (a) of subsection (1) of section
408 443.101, Florida Statutes, is amended to read:

409 443.101 Disqualification for benefits.—An individual shall
410 be disqualified for benefits:

411 (1) (a) For the week in which he or she has voluntarily left
412 his or her work without good cause attributable to his or her
413 employing unit or in which the individual has been discharged by
414 his or her employing unit for misconduct connected with his or
415 her work, based on a finding by the Agency for Workforce
416 Innovation. As used in this paragraph, the term "work" means any
417 work, whether full-time, part-time, or temporary.

418 1. Disqualification for voluntarily quitting continues for
419 the full period of unemployment next ensuing after he or she has
420 left his or her full-time, part-time, or temporary work
421 voluntarily without good cause and until the individual has
422 earned income equal to or in excess of 17 times his or her
423 weekly benefit amount. As used in this subsection, the term
424 "good cause" includes only that cause attributable to the
425 employing unit or which consists of illness or disability of the
426 individual requiring separation from his or her work. Any other
427 disqualification may not be imposed. An individual is not
428 disqualified under this subsection for voluntarily leaving
429 temporary work to return immediately when called to work by the
430 permanent employing unit that temporarily terminated his or her
431 work within the previous 6 calendar months. For benefit years
432 beginning on or after July 1, 2004, an individual is not
433 disqualified under this subsection for voluntarily leaving work
434 to relocate as a result of his or her military-connected
435 spouse's permanent change of station orders, activation orders,

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436 or unit deployment orders.

437 2. Disqualification for being discharged for misconduct
438 connected with his or her work continues for the full period of
439 unemployment next ensuing after having been discharged and until
440 the individual has become reemployed and has earned income of at
441 least 17 times his or her weekly benefit amount and for not more
442 than 52 weeks that immediately follow that week, as determined
443 by the Agency for Workforce Innovation in each case according to
444 the circumstances in each case or the seriousness of the
445 misconduct, under the agency's rules adopted for determinations
446 of disqualification for benefits for misconduct.

447 3. When an individual has provided notification to the
448 employing unit of his or her intent to voluntarily leave work
449 and the employing unit discharges the individual for reasons
450 other than misconduct prior to the date the voluntary quit was
451 to take effect, the individual, if otherwise entitled, will
452 receive benefits from the date of the employer's discharge until
453 the effective date of his or her voluntary quit.

454 4. When an individual is notified by the employing unit of
455 the employer's intent to discharge the individual for reasons
456 other than misconduct and the individual quits without good
457 cause, as defined in this section, prior to the date the
458 discharge was to take effect, the claimant is ineligible for
459 benefits pursuant to 443.091(1)(c)1. for failing to be available
460 for work for the week or weeks of unemployment occurring prior
461 to the effective date of the discharge.

462 Section 7. The Legislature finds that this act fulfills an
463 important state interest.

464 Section 8. Except as otherwise expressly provided in this

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465 | act, this act shall take effect upon becoming a law. |