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1
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.; amending s. 443.101, F.S.; providing
27 additional provisions dealing with disqualification
28 for benefits under certain conditions; providing that
29 the act fulfills an important state interest;

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30 providing effective dates.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Effective January 1, 2010, paragraph (a) of
35 subsection (2) of section 443.1217, Florida Statutes, is amended
36 to read:

37 443.1217 Wages.—

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

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

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

57 443.131 Contributions.—

58 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT

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59 EXPERIENCE.—

60 (e) *Assignment of variations from the standard rate.*—For
61 the calculation of contribution rates effective January 1, 2010,
62 and thereafter:

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

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

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

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117 to the employment record of any employer.

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

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

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

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175 collection service provider by September 30 of that calendar
176 year.

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

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204 Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is
205 due to the Federal government.

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

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

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

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

227 443.191 Unemployment Compensation Trust Fund; establishment
228 and control.—

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

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233 this chapter. The fund shall consist of:

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

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

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

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

240 (e) All money credited to this state's account in the
241 federal Unemployment Compensation Trust Fund under 42 U.S.C. s.
242 1103; ~~and~~.

243 (f) Advances on the amount in the federal Unemployment
244 Compensation Trust Fund credited to the state under 42 U.S.C. s.
245 1321, as requested by the Governor or the Governor's designee.

246

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

249 (3) Moneys may only be requisitioned from the state's
250 account in the federal Unemployment Compensation Trust Fund
251 solely for the payment of benefits and extended benefits and for
252 payment in accordance with rules prescribed by the Agency for
253 Workforce Innovation, or for the repayment of advances made
254 pursuant to 42 U.S.C. s. 1321, as authorized by the Governor or
255 the Governor's designee, except that money credited to this
256 state's account under 42 U.S.C. s. 1103 may only be used
257 exclusively as provided in subsection (5). The Agency for
258 Workforce Innovation, through the Chief Financial Officer, shall
259 requisition from the federal Unemployment Compensation Trust
260 Fund amounts, not exceeding the amounts credited to this state's
261 account in the fund, as necessary for the payment of benefits

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

285 Section 4. Effective upon becoming a law, and retroactive
286 to February 1, 2009, and expiring January 2, 2010, section
287 443.1117, Florida Statutes, is created to read:

288 443.1117 Temporary extended benefits.-

289 (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.-Except when
290 the result is inconsistent with the other provisions of this

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291 section, the provisions of s. 443.1115(3), (4), (6), and (7)
292 apply to all claims covered by this section.

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

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

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

302 (c) "Emergency benefits" means Emergency Unemployment
303 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
304 110-449, and Pub. L. No. 111-5.

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

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

308 2. Ends with any of the following weeks, whichever occurs
309 later:

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

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

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

317 (e) "Emergency benefit period" means the period during
318 which an individual receives emergency benefits as defined in
319 paragraph (c).

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

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

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

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

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

348 (g) "State 'on' indicator" means, with respect to weeks of

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349 unemployment beginning on or after February 1, 2009, and ending
350 on or before December 12, 2009, the occurrence of a week in
351 which the average total unemployment rate, seasonally adjusted,
352 as determined by the United States Secretary of Labor, for the
353 period consisting of the most recent 3 months for which data for
354 all states are published by the United States Department of
355 Labor:

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

359 2. Equals or exceeds 6.5 percent.

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

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

371 2. Equals or exceeds 8 percent.

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

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

377 (a) For any week for which there is an "on" indicator

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378 pursuant to paragraph (3)(g), the total extended benefit amount
379 payable to an eligible individual for her or his applicable
380 benefit year is the lesser of:

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

383 2. Thirteen times the weekly benefit amount payable under
384 this chapter for a week of total unemployment in the applicable
385 benefit year.

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

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

392 2. Twenty times the weekly benefit amount payable under
393 this chapter for a week of total unemployment in the applicable
394 benefit year.

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

405 Section 5. The provisions of s. 443.1117, Florida Statutes,
406 as created by this act, apply only to claims for weeks of

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407 unemployment, in which an exhaustee establishes entitlement to
408 extended benefits pursuant to that section, established for the
409 period between February 22, 2009, and January 2, 2010.

410 Section 6. Paragraph (a) of subsection (1) of section
411 443.101, Florida Statutes, is amended to read:

412 443.101 Disqualification for benefits.—An individual shall
413 be disqualified for benefits:

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

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

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436 disqualified under this subsection for voluntarily leaving work
437 to relocate as a result of his or her military-connected
438 spouse's permanent change of station orders, activation orders,
439 or unit deployment orders.

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

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

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

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465 Section 7. The Legislature finds that this act fulfills an
466 important state interest.

467 Section 8. Except as otherwise expressly provided in this
468 act, this act shall take effect upon becoming a law.