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Proposed Committee Substitute by the Committee on Commerce

A bill to be entitled

An act relating to unemployment compensation;
reviving, readopting, and amending s. 443.1117, F.S.;
providing for retroactive application; establishing
temporary state extended benefits for weeks of
unemployment; revising definitions; providing for
state extended benefits for certain weeks and for
periods of high unemployment; providing applicability;
amending s. 55.204, F.S.; specifying the duration of
liens securing the payment of unemployment
compensation tax obligations; amending s. 95.091,
F.S.; creating an exception to a limit on the duration
of tax liens for certain tax liens relating to
unemployment compensation taxes; amending s. 213.25,
F.S.; authorizing the Department of Revenue to reduce
a tax refund or credit owing to a taxpayer to the
extent of liability for unemployment compensation
taxes; amending s. 443.036, F.S.; revising
definitions; conforming cross-references; providing
for the treatment of a single-member limited liability
company as the employer for purposes of unemployment
compensation; amending s. 443.091, F.S.; requiring
claimants to register with the Agency for Workforce
Innovation and report to the local one-stop career
center; specifying exemptions; clarifying that an
individual must report regardless of any pending
appeals relating to eligibility; amending s. 443.1215,
F.S.; conforming a cross-reference; amending s.



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29 443.131, F.S.; conforming provisions to changes made
30 by the act; deleting a requirement for employer
31 response; revising a date triggering the calculating
32 of a positive adjustment factor based on the balance
33 of the Unemployment Compensation Trust Fund; amending
34 s. 443.141, F.S.; providing penalties for erroneous,
35 incomplete, or insufficient reports relating to
36 unemployment compensation taxes; authorizing a waiver
37 of the penalty under certain circumstances; defining a
38 term; authorizing the Agency for Workforce Innovation
39 and the state agency providing unemployment
40 compensation tax collection services to adopt rules;
41 providing an expiration date for liens for
42 contributions and reimbursements; updating a cross-
43 reference; amending s. 443.151, F.S.; requiring the
44 process for filing a claim to incorporate the process
45 for registering for work with the workforce
46 information system; authorizing the agency to adopt
47 rules; providing for monetary and nonmonetary
48 determinations as part of the notice of claim;
49 requiring employers to respond to a nonmonetary
50 determination within a certain period; providing for
51 chargeability of benefits; providing for rulemaking;
52 limiting collection of overpayments under certain
53 conditions; amending s. 443.163, F.S.; increasing
54 penalties for failing to file Employers Quarterly
55 Reports by means other than approved electronic means;
56 revising the conditions under which the electronic
57 filing requirement may be waived; deleting obsolete



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58 provisions related to telefile; amending s. 443.1715,
59 F.S.; specifying that an employer may obtain employee
60 wage information from the agency or its tax collection
61 services provider; amending s. 443.101, F.S.;
62 correcting a cross-reference; providing that the act
63 fulfills an important state interest; providing
64 effective dates.

65

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

67

68 Section 1. Notwithstanding the expiration date contained in
69 section 1 of chapter 2010-1, Laws of Florida, operating
70 retroactive to February 27, 2010, and expiring April 5, 2010,
71 section 443.1117, Florida Statutes, is revived, readopted, and
72 amended to read:

73 443.1117 Temporary extended benefits.—

74 (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.—Except if
75 ~~when~~ the result is inconsistent with ~~the~~ other provisions of
76 this section, s. 443.1115(2), (3) ~~the provisions of s.~~
77 ~~443.1115(3),~~ (4), (6), and (7) apply to all claims covered by
78 this section.

79 (2) DEFINITIONS.—For the purposes of this section, the
80 term:

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

83 (b) "Eligibility period" means the ~~period consisting of the~~
84 weeks in an individual's benefit year or emergency benefit
85 period which begin in an extended benefit period and, if the
86 benefit year or emergency benefit period ends within that



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87 extended benefit period, any subsequent weeks beginning in that
88 period.

89 (c) "Emergency benefits" means Emergency Unemployment
90 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
91 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, ~~and~~ Pub. L. No.
92 111-118, and Pub. L. No. 111-144.

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

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

96 2. Ends with any of the following weeks, whichever occurs
97 later:

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

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

101

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

105 (e) "Emergency benefit period" means the period during
106 which an individual receives emergency benefits as defined in
107 paragraph (c).

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

110 1. Has received, before that week, all of the regular
111 benefits and emergency benefits, if any, available under this
112 chapter or any other law, including dependents' allowances and
113 benefits payable to federal civilian employees and ex-
114 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
115 benefit year or emergency benefit period that includes that



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116 week. For the purposes of this subparagraph, an individual has
117 received all of the regular benefits and emergency benefits, if
118 any, available although, as a result of a pending appeal for
119 wages paid for insured work which were not considered in the
120 original monetary determination in the benefit year, she or he
121 may subsequently be determined to be entitled to added regular
122 benefits;

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

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

131 b. Has not received and is not seeking unemployment
132 benefits under the unemployment compensation law of Canada; but
133 if an individual is seeking those benefits and the appropriate
134 agency finally determines that she or he is not entitled to
135 benefits under that law, she or he is considered an exhaustee.

136 (g) "State 'on' indicator" means, with respect to weeks of
137 unemployment beginning on or after February 1, 2009, and ending
138 on or before March 13 ~~January 30~~, 2010, the occurrence of a week
139 in which the average total unemployment rate, seasonally
140 adjusted, as determined by the United States Secretary of Labor,
141 for the ~~period consisting of the~~ most recent 3 months for which
142 data for all states are published by the United States
143 Department of Labor:

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



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145 rates for the corresponding 3-month period ending in each of the
146 preceding 2 calendar years; and

147 2. Equals or exceeds 6.5 percent.

148 (h) "High unemployment period" means, with respect to weeks
149 of unemployment beginning on or after February 1, 2009, and
150 ending on or before March 13 ~~January 30~~, 2010, any week in which
151 the average total unemployment rate, seasonally adjusted, as
152 determined by the United States Secretary of Labor, for the
153 ~~period consisting of the~~ most recent 3 months for which data for
154 all states are published by the United States Department of
155 Labor:

156 1. Equals or exceeds 110 percent of the average of those
157 rates for the corresponding 3-month period ending in each of the
158 preceding 2 calendar years; and

159 2. Equals or exceeds 8 percent.

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

163 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
164 subsection (4):

165 (a) For any week for which there is an "on" indicator
166 pursuant to paragraph (2)(g), the total extended benefit amount
167 payable to an eligible individual for her or his applicable
168 benefit year is the lesser of:

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

171 2. Thirteen times the weekly benefit amount payable under
172 this chapter for a week of total unemployment in the applicable
173 benefit year.



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174 (b) For any high unemployment period ~~as defined in~~
175 ~~paragraph (2)(h)~~, the total extended benefit amount payable to
176 an eligible individual for her or his applicable benefit year is
177 the lesser of:

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

180 2. Twenty times the weekly benefit amount payable under
181 this chapter for a week of total unemployment in the applicable
182 benefit year.

183 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other
184 provision of this chapter, if the benefit year of an individual
185 ends within an extended benefit period, the number of weeks of
186 extended benefits the individual is entitled to receive in that
187 extended benefit period for weeks of unemployment beginning
188 after the end of the benefit year, except as provided in this
189 section, is reduced, but not to below zero, by the number of
190 weeks for which the individual received, within that benefit
191 year, trade readjustment allowances under the Trade Act of 1974,
192 as amended.

193 Section 2. The provisions of s. 443.1117, Florida Statutes,
194 as revived, readopted, and amended by this act, apply only to
195 claims for weeks of unemployment in which an exhaustee
196 establishes entitlement to extended benefits pursuant to that
197 section which are established for the period between February
198 22, 2009, and April 5, 2010.

199 Section 3. Section 55.204, Florida Statutes, is amended to
200 read:

201 55.204 Duration and continuation of judgment lien;
202 destruction of records.—



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203 (1) Except as provided in this section, a judgment lien
204 acquired under s. 55.202 lapses and becomes invalid 5 years
205 after the date of filing the judgment lien certificate.

206 (2) Liens securing the payment of child support or tax
207 obligations under ~~as set forth in~~ s. 95.091(1)(b) ~~shall not~~
208 lapse ~~until~~ 20 years after the date of the original filing of
209 the warrant or other document required by law to establish a
210 lien. Liens securing the payment of unemployment tax obligations
211 lapse 10 years after the date of the original filing of the
212 notice of lien. A ~~Ne~~ second lien based on the original filing
213 may not be obtained.

214 (3) At any time within 6 months before or 6 months after
215 the scheduled lapse of a judgment lien under subsection (1), the
216 judgment creditor may acquire a second judgment lien by filing a
217 new judgment lien certificate. The effective date of the second
218 judgment lien is the date and time on which the judgment lien
219 certificate is filed. The second judgment lien is a new judgment
220 lien and not a continuation of the original judgment lien. The
221 second judgment lien permanently lapses and becomes invalid 5
222 years after its filing date, and ~~ne~~ additional liens based on
223 the original judgment or any judgment based on the original
224 judgment may not be acquired.

225 (4) A judgment lien continues only as to itemized property
226 for an additional 90 days after lapse of the lien. Such judgment
227 lien continues ~~will continue~~ only if:

228 (a) The property was ~~had been~~ itemized and its location
229 described with sufficient particularity in the instructions for
230 levy to permit the sheriff to act;

231 (b) The instructions for the levy had been delivered to the



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232 sheriff before ~~prior to~~ the date of lapse of the lien; and

233 (c) The property was located in the county in which the
234 sheriff has jurisdiction at the time of delivery of the
235 instruction for levy. Subsequent removal of the property does
236 not defeat the lien. A court may order continuation of the lien
237 beyond the 90-day period on a showing that extraordinary
238 circumstances have prevented levy.

239 (5) The date of lapse of a judgment lien whose
240 enforceability has been temporarily stayed or enjoined as a
241 result of any legal or equitable proceeding is tolled until 30
242 days after the stay or injunction is terminated.

243 (6) If a ~~no~~ second judgment lien is not filed, the
244 Department of State shall maintain each judgment lien file and
245 all information contained therein for a minimum of 1 year after
246 the judgment lien lapses in accordance with this section. If a
247 second judgment lien is filed, the department shall maintain
248 both files and all information contained in such files for a
249 minimum of 1 year after the second judgment lien lapses.

250 (7) ~~Nothing in~~ This section does not ~~shall be construed to~~
251 extend the life of a judgment lien beyond the time that the
252 underlying judgment, order, decree, or warrant otherwise expires
253 or becomes invalid pursuant to law.

254 Section 4. Section 95.091, Florida Statutes, is amended to
255 read:

256 95.091 Limitation on actions to collect taxes.-

257 (1) (a) Except for ~~in the case of~~ taxes for which
258 certificates have been sold, taxes enumerated in s. 72.011, or
259 tax liens issued under s. 196.161 or s. 443.141, any tax lien
260 granted by law to the state or any of its political



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261 subdivisions, any municipality, any public corporation or body
262 politic, or any other entity having authority to levy and
263 collect taxes expires ~~shall expire~~ 5 years after the date the
264 tax is assessed or becomes delinquent, whichever is later. An ~~No~~
265 action ~~may be begun~~ to collect any tax may not be commenced
266 after the expiration of the lien securing the payment of the
267 tax.

268 (b) Any tax lien granted by law to the state or any of its
269 political subdivisions for any tax enumerated in s. 72.011 or
270 any tax lien imposed under s. 196.161 expires ~~shall expire~~ 20
271 years after the last date the tax may be assessed, after the tax
272 becomes delinquent, or after the filing of a tax warrant,
273 whichever is later. An action to collect any tax enumerated in
274 s. 72.011 may not be commenced after the expiration of the lien
275 securing the payment of the tax.

276 (2) If a ~~no~~ lien to secure the payment of a tax is not
277 provided by law, an ~~no~~ action ~~may be begun~~ to collect the tax
278 may not be commenced ~~after~~ 5 years after ~~from~~ the date the tax
279 is assessed or becomes delinquent, whichever is later.

280 (3) (a) With the exception of taxes levied under chapter 198
281 and tax adjustments made pursuant to ss. 220.23 and 624.50921,
282 the Department of Revenue may determine and assess the amount of
283 any tax, penalty, or interest due under any tax enumerated in s.
284 72.011 which it has authority to administer and the Department
285 of Business and Professional Regulation may determine and assess
286 the amount of any tax, penalty, or interest due under any tax
287 enumerated in s. 72.011 which it has authority to administer:

288 1.a. For taxes due before July 1, 1999, within 5 years
289 after the date the tax is due, any return with respect to the



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290 tax is due, or such return is filed, whichever occurs later; and
291 for taxes due on or after July 1, 1999, within 3 years after the
292 date the tax is due, any return with respect to the tax is due,
293 or such return is filed, whichever occurs later;

294 b. Effective July 1, 2002, notwithstanding sub-subparagraph
295 a., within 3 years after the date the tax is due, any return
296 with respect to the tax is due, or such return is filed,
297 whichever occurs later;

298 2. For taxes due before July 1, 1999, within 6 years after
299 the date the taxpayer ~~either~~ makes a substantial underpayment of
300 tax, or files a substantially incorrect return;

301 3. At any time while the right to a refund or credit of the
302 tax is available to the taxpayer;

303 4. For taxes due before July 1, 1999, at any time after the
304 taxpayer ~~has~~ filed a grossly false return;

305 5. At any time after the taxpayer ~~has~~ failed to make any
306 required payment of the tax, ~~has~~ failed to file a required
307 return, or ~~has~~ filed a fraudulent return, except that for taxes
308 due on or after July 1, 1999, the limitation prescribed in
309 subparagraph 1. applies if the taxpayer ~~has~~ disclosed in writing
310 the tax liability to the department before the department
311 contacts ~~has contacted~~ the taxpayer; or

312 6. In any case in which ~~there has been~~ a refund of tax has
313 erroneously been made for any reason:

314 a. For refunds made before July 1, 1999, within 5 years
315 after making such refund; and

316 b. For refunds made on or after July 1, 1999, within 3
317 years after making such refund,
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319 or at any time after making such refund if it appears that any
320 part of the refund was induced by fraud or the misrepresentation
321 of a material fact.

322 (b) For the purpose of this paragraph, a tax return filed
323 before the last day prescribed by law, including any extension
324 thereof, ~~is shall be~~ deemed to have been filed on such last day,
325 and payments made ~~before prior to~~ the last day prescribed by law
326 are shall be deemed to have been paid on such last day.

327 (4) If administrative or judicial proceedings for review of
328 the tax assessment or collection are initiated by a taxpayer
329 within the period of limitation prescribed in this section, the
330 running of the period ~~is shall be~~ tolled during the pendency of
331 the proceeding. Administrative proceedings ~~shall~~ include
332 taxpayer protest proceedings initiated under s. 213.21 and
333 department rules.

334 Section 5. Effective July 1, 2010, section 213.25, Florida
335 Statutes, is amended to read:

336 213.25 Refunds; credits; right of setoff. ~~-If In any~~
337 ~~instance that a taxpayer has a tax refund or tax credit is due~~
338 ~~to a taxpayer for an overpayment of taxes assessed under any of~~
339 ~~the chapters specified in s. 72.011(1), the department may~~
340 reduce ~~the such~~ refund or credit to the extent of any billings
341 not subject to protest under s. 213.21 or chapter 443 for ~~the~~
342 ~~same or any other~~ tax owed by the ~~same~~ taxpayer.

343 Section 6. Subsection (9) and paragraph (d) of subsection
344 (20) of section 443.036, Florida Statutes, are amended to read:

345 443.036 Definitions. ~~-As used in this chapter, the term:~~

346 (9) "Benefit year" means, for an individual, the 1-year
347 period beginning with the first day of the first week for which



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348 the individual first files a valid claim for benefits and,
349 thereafter, the 1-year period beginning with the first day of
350 the first week for which the individual next files a valid claim
351 for benefits after the termination of his or her last preceding
352 benefit year. Each claim for benefits made in accordance with s.
353 443.151(2) is a "valid claim" under this subsection if the
354 individual was paid wages for insured work in accordance with s.
355 443.091(1)(g) ~~the provisions of s. 443.091(1)(f)~~ and is
356 unemployed as defined in subsection (43) at the time of filing
357 the claim. However, the Agency for Workforce Innovation may
358 adopt rules providing for the establishment of a uniform benefit
359 year for all workers in one or more groups or classes of service
360 or within a particular industry if when the agency determines,
361 after notice to the industry and to the workers in the industry
362 and an opportunity to be heard in the matter, that those groups
363 or classes of workers in a particular industry periodically
364 experience unemployment resulting from layoffs or shutdowns for
365 limited periods of time.

366 (20) "Employing unit" means an individual or type of
367 organization, including a partnership, limited liability
368 company, association, trust, estate, joint-stock company,
369 insurance company, or corporation, whether domestic or foreign;
370 the receiver, trustee in bankruptcy, trustee, or successor of
371 any of the foregoing; or the legal representative of a deceased
372 person, which has or had in its employ one or more individuals
373 performing services for it within this state.

374 (d) A limited liability company shall be treated as having
375 the same status as it is classified for federal income tax
376 purposes. However, a single-member limited liability company



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377 shall be treated as the employer.

378 Section 7. Paragraphs (b) through (g) of subsection (1) of
379 section 443.091, Florida Statutes, are amended to read:

380 443.091 Benefit eligibility conditions.—

381 (1) An unemployed individual is eligible to receive
382 benefits for any week only if the Agency for Workforce
383 Innovation finds that:

384 (b) She or he has registered with the agency for work ~~with,~~
385 and subsequently reports to the one-stop career center as
386 directed by the regional workforce board for reemployment
387 services continued to report to, the Agency for Workforce
388 ~~Innovation in accordance with its rules. These rules must not~~
389 ~~conflict with the requirement in s. 443.111(1)(b) that each~~
390 ~~claimant must continue to report regardless of any appeal or~~
391 ~~pending appeal relating to her or his eligibility or~~
392 ~~disqualification for benefits. The Agency for Workforce~~
393 ~~Innovation may by rule waive this paragraph for individuals~~
394 ~~attached to regular jobs. These rules must not conflict with s.~~
395 ~~443.111(1). This requirement does not apply to persons who are:~~

- 396 1. Non-Florida residents;
397 2. On a temporary layoff, as defined in s. 443.036(42);
398 3. Union members who customarily obtain employment through a
399 union hiring hall; or
400 4. Claiming benefits under an approved short-time
401 compensation plan as provided in s. 443.1116.

402 (c) To make continued claims for benefits, she or he is
403 reporting to the agency in accordance with its rules. These
404 rules may not conflict with s. 443.111(1)(b), including the
405 requirement that each claimant continue to report regardless of



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406 any pending appeal relating to her or his eligibility or
407 disqualification for benefits.

408 ~~(d)(e)~~1. She or he is able to work and is available for
409 work. In order to assess eligibility for a claimed week of
410 unemployment, the agency ~~for Workforce Innovation~~ shall develop
411 criteria to determine a claimant's ability to work and
412 availability for work. However:

413 ~~1.2.~~ Notwithstanding any other provision of this paragraph
414 or paragraphs (b) and ~~(e)~~ ~~(d)~~, an otherwise eligible individual
415 may not be denied benefits for any week because she or he is in
416 training with the approval of the agency ~~for Workforce~~
417 ~~Innovation, and such an individual may not be denied benefits~~
418 ~~for any week in which she or he is in training with the approval~~
419 ~~of the Agency for Workforce Innovation by reason of subparagraph~~
420 ~~1. relating to availability for work, or by reason of s.~~

421 443.101(2) relating to failure to apply for, or refusal to
422 accept, suitable work. Training may be approved by the agency
423 ~~for Workforce Innovation~~ in accordance with criteria prescribed
424 by rule. A claimant's eligibility during approved training is
425 contingent upon satisfying eligibility conditions prescribed by
426 rule.

427 ~~2.3.~~ Notwithstanding any other provision of this chapter,
428 an otherwise eligible individual who is in training approved
429 under s. 236(a)(1) of the Trade Act of 1974, as amended, may not
430 be determined ~~to be~~ ineligible or disqualified for benefits due
431 ~~with respect~~ to her or his enrollment in such training or
432 because of leaving work that is not suitable employment to enter
433 such training. As used in this subparagraph, the term "suitable
434 employment" means, ~~for a worker,~~ work of a substantially equal



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435 or higher skill level than the worker's past adversely affected
436 employment, as defined for purposes of the Trade Act of 1974, as
437 amended, the wages for which are at least 80 percent of the
438 worker's average weekly wage as determined for purposes of the
439 Trade Act of 1974, as amended.

440 ~~3.4.~~ Notwithstanding any other provision of this section,
441 an otherwise eligible individual may not be denied benefits for
442 any week ~~by reason of subparagraph 1.~~ because she or he is
443 before any state or federal court pursuant to ~~of the United~~
444 ~~States or any state under~~ a lawfully issued summons to appear
445 for jury duty.

446 ~~(e)-(d)~~ She or he participates in reemployment services,
447 such as job search assistance services, whenever the individual
448 has been determined, by a profiling system established by agency
449 ~~rule of the Agency for Workforce Innovation,~~ to be likely to
450 exhaust regular benefits and to be in need of reemployment
451 services.

452 ~~(f)-(e)~~ She or he has been unemployed for a waiting period
453 of 1 week. A week may not be counted as a week of unemployment
454 under this subsection:

455 1. Unless it occurs within the benefit year that includes
456 the week for which she or he claims payment of benefits.

457 2. If benefits have been paid for that week.

458 3. Unless the individual was eligible for benefits for that
459 week as provided in this section and s. 443.101, except for the
460 requirements of this subsection and of s. 443.101(5).

461 ~~(g)-(f)~~ She or he has been paid wages for insured work equal
462 to 1.5 times her or his high quarter wages during her or his
463 base period, except that an unemployed individual is not



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464 eligible to receive benefits if the base period wages are less
465 than \$3,400.

466 ~~(h)~~ ~~(g)~~ She or he submitted to the agency ~~for Workforce~~
467 ~~Innovation~~ a valid social security number assigned to her or
468 him. The agency ~~for Workforce Innovation~~ may verify the social
469 security number with the United States Social Security
470 Administration and may deny benefits if the agency is unable to
471 verify the individual's social security number, ~~if~~ the social
472 security number is invalid, or ~~if~~ the social security number is
473 not assigned to the individual.

474 Section 8. Paragraph (b) of subsection (2) of section
475 443.1215, Florida Statutes, is amended to read:

476 443.1215 Employers.—

477 (2)

478 (b) In determining whether an employing unit for which
479 service, other than agricultural labor, is also performed is an
480 employer under paragraph (1)(a), paragraph (1)(b), paragraph
481 (1)(c), or subparagraph (1)(d)2., the wages earned or the
482 employment of an employee performing service in agricultural
483 labor may not be taken into account. If an employing unit is
484 determined to be an employer of agricultural labor, the
485 employing unit is considered an employer for purposes of
486 paragraph (1)(a) ~~subsection (1)~~.

487 Section 9. Paragraphs (a) and (e) of subsection (3) of
488 section 443.131, Florida Statutes, as amended by chapter 2010-1,
489 Laws of Florida, are amended to read:

490 443.131 Contributions.—

491 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
492 EXPERIENCE.—



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493 (a) *Employment records.*—The regular and short-time
494 compensation benefits paid to an eligible individual shall be
495 charged to the employment record of each employer who paid the
496 individual wages of at least \$100 during the individual's base
497 period in proportion to the total wages paid by all employers
498 who paid the individual wages during the individual's base
499 period. Benefits may not be charged to the employment record of
500 an employer who furnishes part-time work to an individual who,
501 because of loss of employment with one or more other employers,
502 is eligible for partial benefits while being furnished part-time
503 work by the employer on substantially the same basis and in
504 substantially the same amount as the individual's employment
505 during his or her base period, regardless of whether this part-
506 time work is simultaneous or successive to the individual's lost
507 employment. Further, as provided in s. 443.151(3), benefits may
508 not be charged to the employment record of an employer who
509 furnishes the Agency for Workforce Innovation with notice, as
510 prescribed in ~~the~~ agency's rules, that any of the following
511 apply:

512 1. If ~~When~~ an individual leaves his or her work without
513 good cause attributable to the employer or is discharged by the
514 employer for misconduct connected with his or her work, benefits
515 subsequently paid to the individual based on wages paid by the
516 employer before the separation may not be charged to the
517 employment record of the employer.

518 2. If ~~When~~ an individual is discharged by the employer for
519 unsatisfactory performance during an initial employment
520 probationary period, benefits subsequently paid to the
521 individual based on wages paid during the probationary period by



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522 the employer before the separation may not be charged to the
523 employer's employment record. ~~The employer must notify the~~
524 ~~Agency for Workforce Innovation of the discharge in writing~~
525 ~~within 10 days after the mailing date of the notice of initial~~
526 ~~determination of a claim.~~ As used in this subparagraph, the term
527 "initial employment probationary period" means an established
528 probationary plan that applies to all employees or a specific
529 group of employees and that does not exceed 90 calendar days
530 following the first day a new employee begins work. The employee
531 must be informed of the probationary period within the first 7
532 days of work. The employer must demonstrate by conclusive
533 evidence that the individual was separated because of
534 unsatisfactory work performance and not because of lack of work
535 due to temporary, seasonal, casual, or other similar employment
536 that is not of a regular, permanent, and year-round nature.

537 3. Benefits subsequently paid to an individual after his or
538 her refusal without good cause to accept suitable work from an
539 employer may not be charged to the employment record of the
540 employer ~~if when~~ any part of those benefits are based on wages
541 paid by the employer before the individual's refusal to accept
542 suitable work. As used in this subparagraph, the term "good
543 cause" does not include distance to employment caused by a
544 change of residence by the individual. The Agency for Workforce
545 Innovation shall adopt rules prescribing~~7~~ for the payment of all
546 benefits~~7~~ whether this subparagraph applies regardless of
547 whether a disqualification under s. 443.101 applies to the
548 claim.

549 4. If ~~When~~ an individual is separated from work as a direct
550 result of a natural disaster declared under the Robert T.



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551 Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.
552 ss. 5121 et seq., benefits subsequently paid to the individual
553 based on wages paid by the employer before the separation may
554 not be charged to the employment record of the employer.

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

558 1. The tax collection service provider shall assign a
559 variation from the standard rate of contributions for each
560 calendar year to each eligible employer. In determining the
561 contribution rate, varying from the standard rate to be assigned
562 each employer, adjustment factors computed under sub-
563 subparagraphs a.-d. are ~~shall be~~ added to the benefit ratio.
564 This addition shall be accomplished in two steps by adding a
565 variable adjustment factor and a final adjustment factor. The
566 sum of these adjustment factors computed under sub-subparagraphs
567 a.-d. shall first be algebraically summed. The sum of these
568 adjustment factors shall next be divided by a gross benefit
569 ratio determined as follows: Total benefit payments for the 3-
570 year period described in subparagraph (b)2. are ~~shall be~~ charged
571 to employers eligible for a variation from the standard rate,
572 minus excess payments for the same period, divided by taxable
573 payroll entering into the computation of individual benefit
574 ratios for the calendar year for which the contribution rate is
575 being computed. The ratio of the sum of the adjustment factors
576 computed under sub-subparagraphs a.-d. to the gross benefit
577 ratio is ~~shall be~~ multiplied by each individual benefit ratio
578 that is less than the maximum contribution rate to obtain
579 variable adjustment factors; except that if ~~in any instance in~~



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580 ~~which~~ the sum of an employer's individual benefit ratio and
581 variable adjustment factor exceeds the maximum contribution
582 rate, the variable adjustment factor is ~~shall be~~ reduced in
583 order ~~for that~~ the sum to equal ~~equals~~ the maximum contribution
584 rate. The variable adjustment factor for each of these employers
585 is multiplied by his or her taxable payroll entering into the
586 computation of his or her benefit ratio. The sum of these
587 products is ~~shall be~~ divided by the taxable payroll of the
588 employers who entered into the computation of their benefit
589 ratios. The resulting ratio is ~~shall be~~ subtracted from the sum
590 of the adjustment factors computed under sub-subparagraphs a.-d.
591 to obtain the final adjustment factor. The variable adjustment
592 factors and the final adjustment factor must ~~shall~~ be computed
593 to five decimal places and rounded to the fourth decimal place.
594 This final adjustment factor is ~~shall be~~ added to the variable
595 adjustment factor and benefit ratio of each employer to obtain
596 each employer's contribution rate. An employer's contribution
597 rate may not, however, be rounded to less than 0.1 percent.

598 a. An adjustment factor for noncharge benefits is ~~shall be~~
599 computed to the fifth decimal place and rounded to the fourth
600 decimal place by dividing the amount of noncharge benefits
601 during the 3-year period described in subparagraph (b)2. by the
602 taxable payroll of employers eligible for a variation from the
603 standard rate who have a benefit ratio for the current year
604 which is less than the maximum contribution rate. For purposes
605 of computing this adjustment factor, the taxable payroll of
606 these employers is the taxable payrolls for the 3 years ending
607 June 30 of the current calendar year as reported to the tax
608 collection service provider by September 30 of the same calendar



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609 year. As used in this sub-subparagraph, the term "noncharge
610 benefits" means benefits paid to an individual from the
611 Unemployment Compensation Trust Fund, but which were not charged
612 to the employment record of any employer.

613 b. An adjustment factor for excess payments is ~~shall be~~
614 computed to the fifth decimal place, and rounded to the fourth
615 decimal place by dividing the total excess payments during the
616 3-year period described in subparagraph (b)2. by the taxable
617 payroll of employers eligible for a variation from the standard
618 rate who have a benefit ratio for the current year which is less
619 than the maximum contribution rate. For purposes of computing
620 this adjustment factor, the taxable payroll of these employers
621 is the same figure used to compute the adjustment factor for
622 noncharge benefits under sub-subparagraph a. As used in this
623 sub-subparagraph, the term "excess payments" means the amount of
624 benefits charged to the employment record of an employer during
625 the 3-year period described in subparagraph (b)2., less the
626 product of the maximum contribution rate and the employer's
627 taxable payroll for the 3 years ending June 30 of the current
628 calendar year as reported to the tax collection service provider
629 by September 30 of the same calendar year. As used in this sub-
630 subparagraph, the term "total excess payments" means the sum of
631 the individual employer excess payments for those employers that
632 were eligible ~~to be considered~~ for assignment of a contribution
633 rate different from the standard rate.

634 c. With respect to computing a positive adjustment factor:

635 (I) Beginning January 1, 2012, if the balance of the
636 Unemployment Compensation Trust Fund on September 30 ~~June 30~~ of
637 the calendar year immediately preceding the calendar year for



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638 which the contribution rate is being computed is less than 4
639 percent of the taxable payrolls for the year ending June 30 as
640 reported to the tax collection service provider by September 30
641 of that calendar year, a positive adjustment factor shall be
642 computed. The positive adjustment factor is ~~shall be~~ computed
643 annually to the fifth decimal place and rounded to the fourth
644 decimal place by dividing the sum of the total taxable payrolls
645 for the year ending June 30 of the current calendar year as
646 reported to the tax collection service provider by September 30
647 of that calendar year into a sum equal to one-third of the
648 difference between the balance of the fund as of September 30
649 ~~June 30~~ of that calendar year and the sum of 5 percent of the
650 total taxable payrolls for that year. The positive adjustment
651 factor remains in effect for subsequent years until the balance
652 of the Unemployment Compensation Trust Fund as of September 30
653 ~~June 30~~ of the year immediately preceding the effective date of
654 the contribution rate equals or exceeds 5 percent of the taxable
655 payrolls for the year ending June 30 of the current calendar
656 year as reported to the tax collection service provider by
657 September 30 of that calendar year.

658 (II) Beginning January 1, 2015, and for each year
659 thereafter, the positive adjustment ~~authorized by this section~~
660 shall be computed by dividing the sum of the total taxable
661 payrolls for the year ending June 30 of the current calendar
662 year as reported to the tax collection service provider by
663 September 30 of that calendar year into a sum equal to one-
664 fourth of the difference between the balance of the fund as of
665 September 30 ~~June 30~~ of that calendar year and the sum of 5
666 percent of the total taxable payrolls for that year. The



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667 positive adjustment factor remains in effect for subsequent
668 years until the balance of the Unemployment Compensation Trust
669 Fund as of September 30 ~~June 30~~ of the year immediately
670 preceding the effective date of the contribution rate equals or
671 exceeds 4 percent of the taxable payrolls for the year ending
672 June 30 of the current calendar year as reported to the tax
673 collection service provider by September 30 of that calendar
674 year.

675 d. If, beginning January 1, 2015, and each year thereafter,
676 the balance of the Unemployment Compensation Trust Fund as of
677 September 30 ~~June 30~~ of the year immediately preceding the
678 calendar year for which the contribution rate is being computed
679 exceeds 5 percent of the taxable payrolls for the year ending
680 June 30 of the current calendar year as reported to the tax
681 collection service provider by September 30 of that calendar
682 year, a negative adjustment factor must ~~shall~~ be computed. The
683 negative adjustment factor shall be computed annually beginning
684 on January 1, 2015, and each year thereafter, to the fifth
685 decimal place and rounded to the fourth decimal place by
686 dividing the sum of the total taxable payrolls for the year
687 ending June 30 of the current calendar year as reported to the
688 tax collection service provider by September 30 of the calendar
689 year into a sum equal to one-fourth of the difference between
690 the balance of the fund as of September 30 ~~June 30~~ of the
691 current calendar year and 5 percent of the total taxable
692 payrolls of that year. The negative adjustment factor remains in
693 effect for subsequent years until the balance of the
694 Unemployment Compensation Trust Fund as of September 30 ~~June 30~~
695 of the year immediately preceding the effective date of the



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696 contribution rate is less than 5 percent, but more than 4
697 percent of the taxable payrolls for the year ending June 30 of
698 the current calendar year as reported to the tax collection
699 service provider by September 30 of that calendar year. The
700 negative adjustment authorized by this section is suspended in
701 any calendar year in which repayment of the principal amount of
702 an advance received from the federal Unemployment Compensation
703 Trust Fund under 42 U.S.C. s. 1321 is due to the Federal
704 Government.

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

712 f. As used in this subsection, "taxable payroll" shall be
713 determined by excluding any part of the remuneration paid to an
714 individual by an employer for employment during a calendar year
715 in excess of the first \$7,000. Beginning January 1, 2012,
716 "taxable payroll" shall be determined by excluding any part of
717 the remuneration paid to an individual by an employer for
718 employment during a calendar year as described in s.
719 443.1217(2). For the purposes of the employer rate calculation
720 that will take effect in January 1, 2012, and in January 1,
721 2013, the tax collection service provider shall use the data
722 available for taxable payroll from 2009 based on excluding any
723 part of the remuneration paid to an individual by an employer
724 for employment during a calendar year in excess of the first



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725 \$7,000, and from 2010 and 2011, the data available for taxable
726 payroll based on excluding any part of the remuneration paid to
727 an individual by an employer for employment during a calendar
728 year in excess of the first \$8,500.

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

737 Section 10. Subsection (1), paragraph (a) of subsection
738 (3), and subsection (5) of section 443.141, Florida Statutes, as
739 amended by chapter 2010-1, Laws of Florida, are amended to read:

740 443.141 Collection of contributions and reimbursements.—

741 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
742 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

743 (a) *Interest.*—Contributions or reimbursements unpaid on the
744 date due ~~shall~~ bear interest at the rate of 1 percent per month
745 from and after that date until payment plus accrued interest is
746 received by the tax collection service provider, unless the
747 service provider finds that the employing unit has ~~or had~~ good
748 reason for failing failure to pay the contributions or
749 reimbursements when due. Interest collected under this
750 subsection must be paid into the Special Employment Security
751 Administration Trust Fund.

752 (b) *Penalty for delinquent, erroneous, incomplete, or*
753 insufficient reports.—



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754 1. An employing unit that fails to file any report required
755 by the Agency for Workforce Innovation or its tax collection
756 service provider, in accordance with rules for administering
757 this chapter, shall pay to the ~~tax collection~~ service provider
758 for each delinquent report the sum of \$25 for each 30 days or
759 fraction thereof that the employing unit is delinquent, unless
760 the agency or its service provider, whichever required the
761 report, finds that the employing unit has ~~or had~~ good reason for
762 failing failure to file the report. The agency or its service
763 provider may assess penalties only through the date of the
764 issuance of the final assessment notice. However, additional
765 penalties accrue if the delinquent report is subsequently filed.

766 2. An employing unit that files an erroneous, incomplete,
767 or insufficient report with the Agency for Workforce Innovation
768 or its tax collection service provider shall pay a penalty of
769 \$50 or 10 percent of any tax due, whichever is greater, but no
770 more than \$300 per report. The penalty shall be added to any
771 tax, penalty, or interest otherwise due.

772 a. The agency or its tax collection service provider shall
773 waive the penalty if the employing unit files an accurate,
774 complete, and sufficient report within 30 days after a penalty
775 notice is issued to the employing unit. The penalty may not be
776 waived pursuant to this subparagraph more than once during a 12-
777 month period.

778 b. As used in this subsection, the term "erroneous,
779 incomplete, or insufficient report" means a report so lacking in
780 information, completeness, or arrangement that the report cannot
781 be readily understood, verified, or reviewed. Such reports
782 include, but are not limited to, reports having missing wage or



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783 employee information, missing or incorrect social security
784 numbers, or illegible entries; reports submitted in a format
785 that is not approved by the agency or its tax collection service
786 provider; and reports showing gross wages that do not equal the
787 total wages of each employee. The term does not include a report
788 that merely contains inaccurate data that was supplied to the
789 employer by the employee if the employer was unaware of the
790 inaccuracy.

791 ~~3.2. Sums collected as Penalties imposed pursuant to this~~
792 ~~paragraph under subparagraph 1.~~ must be deposited in the Special
793 Employment Security Administration Trust Fund.

794 ~~4.3.~~ The penalty and interest for a delinquent, erroneous,
795 incomplete, or insufficient report may be waived if ~~when~~ the
796 penalty or interest is inequitable. The provisions of s.
797 213.24(1) apply to any penalty or interest that is imposed under
798 this section.

799 (c) Application of partial payments.—~~If~~ ~~When~~ a delinquency
800 exists in the employment record of an employer not in
801 bankruptcy, a partial payment less than the total delinquency
802 amount shall be applied to the employment record as the payor
803 directs. In the absence of specific direction, the partial
804 payment shall be applied to the payor's employment record as
805 prescribed in the rules of the Agency for Workforce Innovation
806 or the state agency providing tax collection services.

807 (d) Adoption of rules.—The Agency for Workforce Innovation
808 and the state agency providing unemployment tax collection
809 services may adopt rules to administer this subsection.

810 (3) COLLECTION PROCEEDINGS.—

811 (a) Lien for payment of contributions or reimbursements.—



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812 1. ~~There is created~~ A lien exists in favor of the tax
813 collection service provider upon all the property, both real and
814 personal, of an ~~any~~ employer liable for payment of any
815 contribution or reimbursement levied and imposed under this
816 chapter for the amount of the contributions or reimbursements
817 due, together with any interest, costs, and penalties. If any
818 contribution or reimbursement imposed under this chapter or any
819 portion of that contribution, reimbursement, interest, or
820 penalty is not paid within 60 days after becoming delinquent,
821 the tax collection service provider may file ~~subsequently issue~~
822 a notice of lien ~~that may be filed~~ in the office of the clerk of
823 the circuit court of any county in which the delinquent employer
824 owns property or conducts or has conducted business. The notice
825 of lien must include the periods for which the contributions,
826 reimbursements, interest, or penalties are demanded and the
827 amounts due. A copy of the notice of lien must be mailed to the
828 employer at the employer's ~~her or his~~ last known address. The
829 notice of lien may not be filed ~~issued and recorded~~ until 15
830 days after the date the assessment becomes final under
831 subsection (2). Upon filing ~~presentation of the notice of lien,~~
832 the clerk of the circuit court shall record the notice of lien
833 ~~it~~ in a book maintained for that purpose., ~~and~~ The amount of the
834 ~~notice of~~ lien, together with the cost of recording and interest
835 accruing upon the amount of the contribution or reimbursement,
836 becomes a lien upon the title to and interest, whether legal or
837 equitable, in any real property, chattels real, or personal
838 property of the employer against whom the notice of lien is
839 issued, in the same manner as a judgment of the circuit court
840 docketed in the office of the circuit court clerk, with



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841 execution issued to the sheriff for levy. This lien is prior,
842 preferred, and superior to all mortgages or other liens filed,
843 recorded, or acquired after the notice of lien is filed. Upon
844 the payment of the amounts due, or upon determination by the tax
845 collection service provider that the notice of lien was
846 erroneously issued, the lien is satisfied when the service
847 provider acknowledges in writing that the lien is fully
848 satisfied. A lien's satisfaction does not need to be
849 acknowledged before any notary or other public officer, and the
850 signature of the director of the tax collection service provider
851 or ~~his or her~~ designee is conclusive evidence of the
852 satisfaction of the lien, which satisfaction shall be recorded
853 by the clerk of the circuit court who receives the fees for
854 those services.

855 2. The tax collection service provider may subsequently
856 issue a warrant directed to any sheriff in this state,
857 commanding him or her to levy upon and sell any real or personal
858 property of the employer liable for any amount under this
859 chapter within his or her jurisdiction, for payment, with the
860 added penalties and interest and the costs of executing the
861 warrant, together with the costs of the clerk of the circuit
862 court in recording and docketing the notice of lien, and to
863 return the warrant to the service provider with payment. The
864 warrant may only be issued and enforced for all amounts due to
865 the tax collection service provider on the date the warrant is
866 issued, together with interest accruing on the contribution or
867 reimbursement due from the employer to the date of payment at
868 the rate provided in this section. However, if there is a ~~In the~~
869 ~~event of~~ sale of any assets of the employer, ~~however,~~ priorities



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870 under the warrant shall be determined in accordance with the
871 priority established by any notices of lien filed by the tax
872 collection service provider and recorded by the clerk of the
873 circuit court. The sheriff shall execute the warrant in the same
874 manner prescribed by law for executions issued by the clerk of
875 the circuit court for judgments of the circuit court. The
876 sheriff is entitled to the same fees for executing the warrant
877 as for a writ of execution out of the circuit court, and these
878 fees must be collected in the same manner.

879 3. The lien expires 10 years after filing a notice of lien
880 with the clerk of court. An action to collect amounts due under
881 this chapter may not be commenced after the expiration of the
882 lien securing the payment of the amounts owed.

883 (5) PRIORITIES UNDER LEGAL DISSOLUTION OR DISTRIBUTIONS.—In
884 the event of any distribution of an any employer's assets
885 pursuant to an order of any court under the laws of this state,
886 including any receivership, assignment for the benefit of
887 creditors, adjudicated insolvency, composition, administration
888 of estates of decedents, or other similar proceeding,
889 contributions or reimbursements then or subsequently due must be
890 paid in full before all other claims except claims for wages of
891 \$250 or less to each claimant, earned within 6 months after the
892 commencement of the proceeding, and on a parity with all other
893 tax claims wherever those tax claims are given priority. In the
894 administration of the estate of a any decedent, the filing of
895 notice of lien is a proceeding required upon protest of the
896 claim filed by the tax collection service provider for
897 contributions or reimbursements due under this chapter, and the
898 claim must be allowed by the circuit judge. However, the



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899 personal representative of the decedent, ~~however,~~ may l by
900 petition to the circuit court, l object to the validity of the tax
901 collection service provider's claim, and proceedings shall be
902 conducted in the circuit court for the determination of the
903 validity of the service provider's claim. Further, the bond of
904 the personal representative may not be discharged until the
905 claim is finally determined by the circuit court. ~~If~~ ~~When~~ a bond
906 is not given by the personal representative, the assets of the
907 estate may not be distributed until the final determination by
908 the circuit court. Upon distribution of the assets of the estate
909 ~~of any decedent,~~ the tax collection service provider's claim has
910 a class 8 priority as established in s. 733.707(1)(h), subject
911 to the above limitations with reference to wages. In the event
912 of an ~~any~~ employer's adjudication in bankruptcy, judicially
913 confirmed extension proposal, or composition, under the Federal
914 Bankruptcy Reform Act of 1978 ~~1998~~, as amended, contributions or
915 reimbursements then or subsequently due are entitled to priority
916 as is provided in 11 U.S.C. s. 507(a)(8) ~~s. 64B of that act~~
917 ~~(U.S.C. Title II, s. 104(b), as amended).~~

918 Section 11. Subsections (2) and (3), paragraph (b) of
919 subsection (5), and subsection (6) of section 443.151, Florida
920 Statutes, are amended to read:

921 443.151 Procedure concerning claims.—

922 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
923 CLAIMANTS AND EMPLOYERS.—

924 (a) In general.—Claims for benefits must be made in
925 accordance with the rules adopted by the Agency for Workforce
926 Innovation. The agency ~~for Workforce Innovation~~ must notify
927 claimants and employers regarding monetary and nonmonetary



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928 determinations of eligibility. Investigations of issues raised
929 in connection with a claimant which may affect a claimant's
930 eligibility for benefits or charges to an employer's employment
931 record shall be conducted by the agency through written,
932 telephonic, or electronic means ~~for Workforce Innovation~~ as
933 prescribed by rule.

934 (b) Process.—When the Unemployment Compensation Claims and
935 Benefits Information System described in s. 443.1113 is fully
936 operational, the process for filing claims must incorporate the
937 process for registering for work with the workforce information
938 systems established pursuant to s. 445.011. A claim for benefits
939 may not be processed until the work registration requirement is
940 satisfied. The Agency for Workforce Innovation may adopt rules
941 as necessary to administer the work registration requirement set
942 forth in this paragraph.

943 (3) DETERMINATION OF ELIGIBILITY.—

944 (a) Monetary determination ~~In general~~.—The Agency for
945 Workforce Innovation shall promptly make an initial monetary
946 determination and notify the claimant and each base period
947 employer whose account is subject to being charged for its
948 respective share of benefits on the claim ~~for each claim filed~~
949 ~~under subsection (2)~~. The monetary determination must include a
950 statement of whether and in what amount the claimant is entitled
951 to benefits, and, in the event of a denial, must state the
952 reasons for the denial. A monetary determination for the first
953 week of a benefit year must also include a statement of whether
954 the claimant was paid the wages required under s. 443.091(1)(g)
955 ~~443.091(1)(f)~~ and, if so, the first day of the benefit year, the
956 claimant's weekly benefit amount, and the maximum total amount



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957 of benefits payable to the claimant for a benefit year. The
958 monetary determination is final unless within 20 days after the
959 mailing or delivery date of the notice to the parties' last
960 known addresses, an appeal or written request for
961 reconsideration is filed by the claimant or other party entitled
962 to notice.

963 (b) Nonmonetary determination.-

964 1. The Agency for Workforce Innovation shall promptly
965 notify the claimant, the claimant's most recent employing unit,
966 and all employers whose employment records are liable for
967 benefits under the determination of the initial determination.
968 If the claimant has been separated from his or her most recent
969 employer or any base period employer for any reason other than
970 lack of work, the Agency for Workforce Innovation must complete
971 an investigation of the claim required by subsection (2) and
972 provide notice of a nonmonetary determination to the claimant
973 and the employer from whom the claimant's reason for separation
974 affects his or her eligibility. The determination must state the
975 reason for the determination and whether the unemployment tax
976 account of the contributing employer is charged for benefits
977 paid on the claim. The employer must respond to the notice of
978 claim within 20 days after the mailing or delivery date of the
979 notice. The nonmonetary determination is final unless, within 20
980 days after the mailing or delivery date of the notices to the
981 parties' last known addresses, an appeal or written request for
982 reconsideration is filed by the claimant or other party entitled
983 to notice. The agency may adopt rules prescribing the manner and
984 procedure by which employers within the base period of a claim
985 are entitled to a nonmonetary determination.



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986 2. If a contributing employer fails to timely respond to
987 the notice of the claim described in subparagraph 1., the
988 employer's account may not be relieved of benefit charges as
989 provided in s. 443.131(3) (a), notwithstanding paragraph (5) (b).
990 The agency may adopt rules that prescribe the manner by which
991 the employer may timely respond to the notice of claim. The
992 determination is final unless within 20 days after the mailing
993 of the notices to the parties' last known addresses, or in lieu
994 of mailing, within 20 days after the delivery of the notices, an
995 appeal or written request for reconsideration is filed by the
996 claimant or other party entitled to notice.

997 ~~(c)(b)~~ *Determinations in labor dispute cases.*—~~If a~~ Whenever
998 any claim involves a labor dispute described in s. 443.101(4),
999 the Agency for Workforce Innovation shall promptly assign the
1000 claim to a special examiner who shall make a determination on
1001 the issues involving unemployment due to the labor dispute. The
1002 special examiner shall make the determination after an
1003 investigation, as necessary. The claimant or another party
1004 entitled to notice of the determination may appeal a
1005 determination under subsection (4).

1006 ~~(d)(e)~~ *Redeterminations.*—

1007 1. The Agency for Workforce Innovation may reconsider a
1008 determination if ~~when~~ it finds an error or if ~~when~~ new evidence
1009 or information pertinent to the determination is discovered
1010 after a prior determination or redetermination. A
1011 redetermination may not be made more than 1 year after the last
1012 day of the benefit year unless the disqualification for making a
1013 false or fraudulent representation under ~~in~~ s. 443.101(6) is
1014 applicable, in which case the redetermination may be made within



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1015 2 years after the false or fraudulent representation. The agency
1016 ~~for Workforce Innovation~~ must promptly give notice of
1017 redetermination to the claimant and to any employers entitled to
1018 notice in the manner prescribed in this section for the notice
1019 of an initial determination.

1020 2. If the amount of benefits is increased by the
1021 redetermination, an appeal of the redetermination based solely
1022 on the increase may be filed as provided in subsection (4). If
1023 the amount of benefits is decreased by the redetermination, the
1024 redetermination may be appealed by the claimant if ~~when~~ a
1025 subsequent claim for benefits is affected in amount or duration
1026 by the redetermination. If the final decision on the
1027 determination or redetermination to be reconsidered was made by
1028 an appeals referee, the commission, or a court, the Agency for
1029 Workforce Innovation may apply for a revised decision from the
1030 body or court that made the final decision.

1031 ~~3.2.~~ If an appeal of an original determination is pending
1032 when a redetermination is issued, the appeal unless withdrawn is
1033 treated as an appeal from the redetermination.

1034 ~~(d) Notice of determination or redetermination. Notice of~~
1035 ~~any monetary or nonmonetary determination or redetermination~~
1036 ~~under this chapter, together with the reasons for the~~
1037 ~~determination or redetermination, must be promptly given to the~~
1038 ~~claimant and to any employer entitled to notice in the manner~~
1039 ~~provided in this subsection. The Agency for Workforce Innovation~~
1040 ~~shall adopt rules prescribing the manner and procedure by which~~
1041 ~~employers within the base period of a claimant become entitled~~
1042 ~~to notice.~~

1043 (5) PAYMENT OF BENEFITS.—



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1044 (b) The Agency for Workforce Innovation shall promptly pay
1045 benefits, regardless of whether a determination is under appeal
1046 ~~if, when~~ the determination allowing benefits is affirmed in any
1047 amount by an appeals referee or is affirmed by the commission,
1048 or if a decision of an appeals referee allowing benefits is
1049 affirmed in any amount by the commission. In these instances, a
1050 court may not issue an injunction, supersedeas, stay, or other
1051 writ or process suspending payment of benefits. A contributing
1052 employer that responded to the notice of claim within the time
1053 limit provided in subsection (3) may not, however, be charged
1054 with benefits paid under an erroneous determination if the
1055 decision is ultimately reversed. Benefits are not paid for any
1056 subsequent weeks of unemployment involved in a reversal.

1057 (6) RECOVERY AND RECOUPMENT.—

1058 (a) Any person who, by reason of her or his fraud, receives
1059 benefits under this chapter to which she or he is not entitled
1060 is liable for repaying ~~to repay~~ those benefits to the Agency for
1061 Workforce Innovation on behalf of the trust fund or, in the
1062 agency's discretion, to have those benefits deducted from future
1063 benefits payable to her or him under this chapter. To enforce
1064 this paragraph, the agency ~~for Workforce Innovation~~ must find
1065 the existence of fraud through a redetermination or decision
1066 under this section within 2 years after the fraud was committed.
1067 Any recovery or recoupment of ~~these~~ benefits must be effected
1068 within 5 years after the redetermination or decision.

1069 (b) Any person who, by reason other than her or his fraud,
1070 receives benefits under this chapter to which, under a
1071 redetermination or decision pursuant to this section, she or he
1072 is ~~found~~ not entitled, is liable for repaying ~~to repay~~ those



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1073 benefits to the Agency for Workforce Innovation on behalf of the
1074 trust fund or, in the agency's discretion, to have those
1075 benefits deducted from any future benefits payable to her or him
1076 under this chapter. Any recovery or recoupment of benefits must
1077 be effected within 3 years after the redetermination or
1078 decision.

1079 (c) Any person who, by reason other than fraud, receives
1080 benefits under this chapter to which she or he is not entitled
1081 as a result of an employer's failure to respond to a claim
1082 within the timeframe provided in subsection (3) is not liable
1083 for repaying those benefits to the Agency for Workforce
1084 Innovation on behalf of the trust fund or to have those benefits
1085 deducted from any future benefits payable to her or him under
1086 this chapter.

1087 (d)~~(e)~~ Recoupment from future benefits is not permitted if
1088 the benefits are received by any ~~such~~ person without fault on
1089 the person's part and recoupment would defeat the purpose of
1090 this chapter or would be inequitable and against good
1091 conscience.

1092 (e)~~(d)~~ The Agency for Workforce Innovation shall collect
1093 the repayment of benefits without interest by the deduction of
1094 benefits through a redetermination or by a civil action.

1095 (f)~~(e)~~ Notwithstanding any other provision of this chapter,
1096 any person who is determined by this state, a cooperating state
1097 agency, the United States Secretary of Labor, or a court ~~of~~
1098 ~~competent jurisdiction~~ to have received any payments under the
1099 Trade Act of 1974, as amended, to which the person was not
1100 entitled shall have those payments deducted from any regular
1101 benefits, as defined in s. 443.1115(1) (e), payable to her or him



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1102 under this chapter. Each such deduction ~~under this paragraph~~ may
1103 not exceed 50 percent of the amount otherwise payable. The
1104 payments deducted shall be remitted to the agency that issued
1105 the payments under the Trade Act of 1974, as amended, for return
1106 to the United States Treasury. Except for overpayments
1107 determined by a court ~~of competent jurisdiction~~, a deduction may
1108 not be made under this paragraph until a determination by the
1109 state agency or the United States Secretary of Labor is final.

1110 Section 12. Effective July 1, 2010, subsection (2) of
1111 section 443.163, Florida Statutes, is amended to read:

1112 443.163 Electronic reporting and remitting of contributions
1113 and reimbursements.—

1114 (2) (a) An employer who is required by law to file an
1115 Employers Quarterly Report (UCT-6) by approved electronic means,
1116 but who files the report by a means other than approved
1117 electronic means, is liable for a penalty of \$50 ~~\$10~~ for that
1118 report and \$1 for each employee. This penalty, which is in
1119 addition to any other ~~applicable~~ penalty provided by this
1120 chapter. However, unless the penalty does not apply if employer
1121 first obtains a waiver of this requirement from the tax
1122 collection service provider waives the electronic filing
1123 requirement in advance. An employer who fails to remit
1124 contributions or reimbursements by approved electronic means as
1125 required by law is liable for a penalty of \$50 ~~\$10~~ for each
1126 remittance submitted by a means other than approved electronic
1127 means. This penalty, which is in addition to any other
1128 ~~applicable~~ penalty provided by this chapter.

1129 (b) A person who prepared and reported for 100 or more
1130 employers in any quarter during the preceding state fiscal year,



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1131 but who fails to file an Employers Quarterly Report (UCT-6) for
1132 each calendar quarter in the current calendar year by approved
1133 electronic means ~~as required by law~~, is liable for a penalty of
1134 \$50 \$10 for that report and \$1 for each employee. This penalty,
1135 ~~which~~ is in addition to any other ~~applicable~~ penalty provided by
1136 this chapter. However, unless the penalty does not apply if
1137 ~~person first obtains a waiver of this requirement from the tax~~
1138 ~~collection service provider~~ waives the electronic filing
1139 requirement in advance.

1140 Section 13. Paragraph (c) of subsection (3) of section
1141 443.163, Florida Statutes, is amended to read:

1142 443.163 Electronic reporting and remitting of contributions
1143 and reimbursements.—

1144 (3) The tax collection service provider may waive the
1145 requirement to file an Employers Quarterly Report (UCT-6) by
1146 electronic means for employers that are unable to comply despite
1147 good faith efforts or due to circumstances beyond the employer's
1148 reasonable control.

1149 (c) The Agency for Workforce Innovation or the state agency
1150 providing unemployment tax collection services may establish by
1151 rule the length of time a waiver is valid and may determine
1152 whether subsequent waivers will be authorized, based on this
1153 subsection; ~~however, the tax collection service provider may~~
1154 ~~only grant a waiver from electronic reporting if the employer~~
1155 ~~timely files the Employers Quarterly Report (UCT-6) by telefile,~~
1156 ~~unless the employer wage detail exceeds the service provider's~~
1157 ~~telefile system capabilities.~~

1158 Section 14. Paragraph (b) of subsection (2) of section
1159 443.1715, Florida Statutes, is amended to read:



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1160 443.1715 Disclosure of information; confidentiality.-

1161 (2) DISCLOSURE OF INFORMATION.-

1162 (b)~~1~~. The employer or the employer's workers' compensation
1163 carrier against whom a claim for benefits under chapter 440 has
1164 been made, or a representative of either, may request from the
1165 Agency for Workforce Innovation or its tax collection service
1166 provider division records of wages of the employee reported to
1167 the agency or its service provider division by any employer for
1168 the quarter that includes the date of the accident that is the
1169 subject of such claim and for subsequent quarters.

1170 1. The request must be made with the authorization or
1171 consent of the employee or any employer who paid wages to the
1172 employee after ~~subsequent to~~ the date of the accident.

1173 2. The employer or carrier shall make the request on a form
1174 prescribed by rule for such purpose by the agency or its service
1175 provider division. Such form shall contain a certification by
1176 the requesting party that it is a party entitled to the
1177 information requested ~~as authorized by this paragraph~~.

1178 3. The agency or its service provider division shall
1179 provide the most current information readily available within 15
1180 days after receiving the request.

1181 Section 15. Paragraph (a) of subsection (1) of section
1182 443.101, Florida Statutes, is amended to read:

1183 443.101 Disqualification for benefits.-An individual shall
1184 be disqualified for benefits:

1185 (1) (a) For the week in which he or she has voluntarily left
1186 ~~his or her~~ work without good cause attributable to his or her
1187 employing unit or in which the individual has been discharged by
1188 the ~~his or her~~ employing unit for misconduct connected with his



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1189 or her work, based on a finding by the Agency for Workforce
1190 Innovation. As used in this paragraph, the term "work" means any
1191 work, whether full-time, part-time, or temporary.

1192 1. Disqualification for voluntarily quitting continues for
1193 the full period of unemployment next ensuing after the
1194 individual ~~he or she~~ has left his or her full-time, part-time,
1195 or temporary work voluntarily without good cause and until the
1196 individual has earned income equal to or in excess of 17 times
1197 his or her weekly benefit amount. As used in this subsection,
1198 the term "good cause" includes only that cause attributable to
1199 the employing unit or which consists of the individual's illness
1200 or disability ~~of the individual~~ requiring separation from his or
1201 her work. Any other disqualification may not be imposed. An
1202 individual is not disqualified under this subsection for
1203 voluntarily leaving temporary work to return immediately when
1204 called to work by the permanent employing unit that temporarily
1205 terminated his or her work within the previous 6 calendar
1206 months. ~~For benefit years beginning on or after July 1, 2004,~~ An
1207 individual is not disqualified under this subsection for
1208 voluntarily leaving work to relocate as a result of his or her
1209 military-connected spouse's permanent change of station orders,
1210 activation orders, or unit deployment orders.

1211 2. Disqualification for being discharged for misconduct
1212 connected with his or her work continues for the full period of
1213 unemployment next ensuing after having been discharged and until
1214 the individual is ~~has become~~ reemployed and has earned income of
1215 at least 17 times his or her weekly benefit amount and for not
1216 more than 52 weeks that immediately follow that week, as
1217 determined by the agency ~~for Workforce Innovation~~ in each case



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1218 according to the circumstances in each case or the seriousness
1219 of the misconduct, under the agency's rules adopted for
1220 determinations of disqualification for benefits for misconduct.

1221 3. If ~~When~~ an individual has provided notification to the
1222 employing unit of his or her intent to voluntarily leave work
1223 and the employing unit discharges the individual for reasons
1224 other than misconduct before ~~prior to~~ the date the voluntary
1225 quit was to take effect, the individual, if otherwise entitled,
1226 shall ~~will~~ receive benefits from the date of the employer's
1227 discharge until the effective date of his or her voluntary quit.

1228 4. If ~~When~~ an individual is notified by the employing unit
1229 of the employer's intent to discharge the individual for reasons
1230 other than misconduct and the individual quits without good
1231 cause, as defined in this section, before ~~prior to~~ the date the
1232 discharge was to take effect, the claimant is ineligible for
1233 benefits pursuant to s. 443.091(1)(d) ~~443.091(1)(e)1.~~ for
1234 failing to be available for work for the week or weeks of
1235 unemployment occurring before ~~prior to~~ the effective date of the
1236 discharge.

1237 Section 16. The Legislature finds that this act fulfills an
1238 important state interest.

1239 Section 17. Except as otherwise expressly provided in this
1240 act, this act shall take effect upon becoming a law.