

By Senator Hill

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1 A bill to be entitled
2 An act relating to unemployment compensation; amending
3 s. 443.036, F.S.; defining the terms "agency,"
4 "alternative base period," and "member of the
5 individual's immediate family"; redefining the term
6 "base period"; amending s. 443.091, F.S.; revising the
7 requirements for eligibility to receive benefits;
8 prohibiting a determination of ineligibility based
9 solely on the fact that the individual is available
10 only for part-time work; providing for an alternative
11 base period under certain circumstances; amending s.
12 443.101, F.S.; revising the definition of "good
13 cause"; prohibiting a determination of ineligibility
14 based solely on the fact that the individual is
15 available only for part-time work; amending ss.
16 443.1216 and 443.131, F.S.; conforming cross-
17 references; amending s. 443.151, F.S.; requiring an
18 employer to provide wage information to support an
19 individual's eligibility for benefits; authorizing the
20 Agency for Workforce Innovation to accept an affidavit
21 from the claimant to support eligibility for benefits;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 443.036, Florida Statutes, is amended to
27 read:

28 443.036 Definitions.—As used in this chapter, the term:

29 (1) "Able to work" means physically and mentally capable of

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30 performing the duties of the occupation in which work is being
31 sought.

32 (2) "Agency" means the Agency for Workforce Innovation.

33 (3)~~(2)~~ "Agricultural labor" means any remunerated service
34 performed:

35 (a) On a farm, in the employ of any person, in connection
36 with cultivating the soil or in connection with raising or
37 harvesting any agricultural or horticultural commodity,
38 including the raising, shearing, feeding, caring for, training,
39 and management of livestock, bees, poultry, and fur-bearing
40 animals and wildlife.

41 (b) In the employ of the owner or tenant or other operator
42 of a farm in connection with the operation, management,
43 conservation, improvement, or maintenance of such farm and its
44 tools and equipment, or in salvaging timber or clearing land of
45 brush and other debris left by a hurricane if the major part of
46 the service is performed on a farm.

47 (c) In connection with the production or harvesting of ~~any~~
48 ~~commodity defined as an agricultural commodity as defined in s.~~
49 15(f) in s. 15(g) of the Agricultural Marketing Act, as amended,
50 ~~(46 Stat. 1550, s. 3; 12 U.S.C. s. 1141j);~~ the ginning of
51 cotton; or the operation or maintenance of ditches, canals,
52 reservoirs, or waterways, not owned or operated for profit, used
53 exclusively for supplying and storing water for farming
54 purposes.

55 (d)1. In the employ of the operator of a farm in handling,
56 planting, drying, packing, packaging, processing, freezing,
57 grading, storing, or delivering to storage or to market or to a
58 carrier for transportation to market, in its unmanufactured

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59 state, any agricultural or horticultural commodity, but only if
60 the operator produced more than one-half of the commodity for
61 which the service is performed.

62 2. In the employ of a group of operators of farms, or a
63 cooperative organization of which the operators are members, in
64 the performance of service described in subparagraph 1., but
65 only if the operators produced more than one-half of the
66 commodity for which the service is performed.

67 3. Subparagraphs 1. and 2. do not apply to service
68 performed in connection with commercial canning or commercial
69 freezing or in connection with any agricultural or horticultural
70 commodity after its delivery to a terminal market for
71 distribution for consumption or in connection with grading,
72 packing, packaging, or processing fresh citrus fruits.

73 (e) On a farm operated for profit if the service is not in
74 the course of the employer's trade or business.

75 (4) "Alternative base period" means the last four completed
76 calendar quarters immediately preceding the first day of an
77 individual's benefit year.

78 (5)-(3) "American aircraft" means an aircraft registered
79 under the laws of the United States.

80 (6)-(4) "American employer" means:

81 (a) An individual who is a resident of the United States.

82 (b) A partnership, if two-thirds or more of the partners
83 are residents of the United States.

84 (c) A trust, if each of the trustees is a resident of the
85 United States.

86 (d) A corporation organized under the laws of the United
87 States or of any state.

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88 (7)~~(5)~~ "American vessel" means a ~~any~~ vessel documented or
89 numbered under the laws of the United States. The term includes
90 a ~~any~~ vessel that is not ~~neither~~ documented or numbered under
91 the laws of the United States or a, ~~nor documented under the~~
92 ~~laws of any~~ foreign country, if its crew is employed solely by
93 one or more citizens or residents of the United States or
94 corporations organized under the laws of the United States or ~~of~~
95 any state.

96 (8)~~(6)~~ "Available for work" means actively seeking and
97 being ready and willing to accept suitable employment.

98 (9)~~(7)~~ "Base period" means the first four of the last five
99 completed calendar quarters immediately preceding the first day
100 of an individual's benefit year. If the agency determines,
101 pursuant to s. 443.091(1)(f), that an alternative base period
102 will be used, the term has the same meaning as the alternative
103 base period.

104 (10)~~(8)~~ "Benefits" means the money payable to an
105 individual, as provided in this chapter, for his or her
106 unemployment.

107 (11)~~(9)~~ "Benefit year" means, for an individual, the 1-year
108 period beginning with the first day of the first week for which
109 the individual first files a valid claim for benefits and,
110 thereafter, the 1-year period beginning with the first day of
111 the first week for which the individual next files a valid claim
112 for benefits after the termination of his or her last preceding
113 benefit year. Each claim for benefits made in accordance with s.
114 443.151(2) is a "valid claim" ~~under this subsection~~ if the
115 individual was paid wages for insured work in accordance with
116 ~~the provisions of s. 443.091(1)(f) and is unemployed as defined~~

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117 ~~in subsection (43)~~ at the time of filing the claim. However, the
118 agency ~~for Workforce Innovation~~ may adopt rules providing for
119 the establishment of a uniform benefit year for all workers in
120 one or more groups or classes of service or within a particular
121 industry if ~~when~~ the agency determines, ~~after notice to the~~
122 ~~industry and to the workers in the industry and an opportunity~~
123 ~~to be heard in the matter,~~ that those groups or classes of
124 workers in a particular industry periodically experience
125 unemployment resulting from layoffs or shutdowns for limited
126 periods of time.

127 (12) ~~(10)~~ "Calendar quarter" means each period of 3
128 consecutive calendar months ending on March 31, June 30,
129 September 30, and December 31 of each year.

130 (13) ~~(11)~~ "Casual labor" means labor that is occasional,
131 incidental, or irregular, not exceeding 200 person-hours in
132 total duration. As used in this subsection, the term "duration"
133 means the period of time from the commencement to the completion
134 of the particular job or project. Services performed by an
135 employee for an ~~his or her~~ employer during ~~a period of~~ 1
136 calendar month or any 2 consecutive calendar months, ~~however,~~
137 are deemed to be casual labor only if the service is performed
138 on 10 or fewer calendar days, regardless of whether those days
139 are consecutive. If any of the services performed by an
140 individual on a particular labor project are not casual labor,
141 each of the services performed by the individual on that job or
142 project may not be deemed casual labor. Services must constitute
143 casual labor and may not be performed in the course of the
144 employer's trade or business in order for those services to be
145 exempt under this section.

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146 (14)~~(12)~~ "Commission" means the Unemployment Appeals
147 Commission.

148 (15)~~(13)~~ "Contributing employer" means an employer who is
149 liable for contributions under this chapter.

150 (16)~~(14)~~ "Contribution" means a payment of payroll tax to
151 the Unemployment Compensation Trust Fund ~~which is required under~~
152 ~~this chapter~~ to finance unemployment benefits.

153 (17)~~(15)~~ "Crew leader" means an individual who:

154 (a) Furnishes individuals to perform service in
155 agricultural labor for another person.

156 (b) Pays, ~~either~~ on his or her own behalf or on behalf of
157 the other person, the individuals furnished by him or her for
158 the service in agricultural labor performed by those
159 individuals.

160 (c) Has not entered into a written agreement with the other
161 person under which the individual is designated as an employee
162 of the other person.

163 (18)~~(16)~~ "Earned income" means gross remuneration derived
164 from work, professional service, or self-employment. The term
165 includes commissions, bonuses, back pay awards, and the cash
166 value of all remuneration paid in a medium other than cash. The
167 term does not include income derived from invested capital or
168 ownership of property.

169 (19)~~(17)~~ "Educational institution" means an institution,
170 except for an institution of higher education:

171 (a) In which participants, trainees, or students are
172 offered an organized course of study or training designed to
173 transfer to them knowledge, skills, information, doctrines,
174 attitudes, or abilities from, by, or under the guidance of, an

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175 instructor or teacher;

176 (b) Which ~~That~~ is approved, licensed, or issued a permit to
177 operate as a school by the Department of Education or other
178 governmental agency that is authorized within the state to
179 approve, license, or issue a permit for the operation of a
180 school; and

181 (c) Which ~~That~~ offers courses of study or training which
182 are academic, technical, trade, or preparation for gainful
183 employment in a recognized occupation.

184 (20) ~~(18)~~ "Employee leasing company" means an employing unit
185 that has a valid and active license under chapter 468, ~~and that~~
186 maintains the records required by s. 443.171(5), and produces,
187 ~~in addition, is responsible for producing~~ quarterly reports
188 concerning the clients and the internal staff of the employee
189 leasing company ~~and the internal staff of the employee leasing~~
190 ~~company~~. As used in this subsection, the term "client" means a
191 party who has contracted with an employee leasing company that
192 provides ~~to provide a worker, or workers,~~ to perform services
193 for the client. Leased employees include employees subsequently
194 placed on the payroll of the employee leasing company on behalf
195 of the client. An employee leasing company must notify the tax
196 collection service provider within 30 days after the initiation
197 or termination of the company's relationship with a ~~any~~ client
198 company under chapter 468.

199 (21) ~~(19)~~ "Employer" means an employing unit subject to this
200 chapter under s. 443.1215.

201 (22) ~~(20)~~ "Employing unit" means an individual; an ~~or type~~
202 ~~of~~ organization, including a partnership, limited liability
203 company, association, trust, estate, joint-stock company,

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204 insurance company, or corporation, whether domestic or foreign;
205 the receiver, trustee in bankruptcy, trustee, or successor of
206 any of the foregoing; or the legal representative of a deceased
207 person, who ~~which~~ has or had in his or her ~~its~~ employ one or
208 more individuals performing services for it within this state.

209 (a) Each individual employed to perform or to assist in
210 performing the work of any agent or employee of an employing
211 unit is deemed to be employed by the employing unit ~~for the~~
212 ~~purposes of this chapter~~, regardless of whether the individual
213 was hired or paid directly by the employing unit or by an agent
214 or employee of the employing unit, if the employing unit had
215 actual or constructive knowledge of the work.

216 (b) Each individual performing services in this state for
217 an employing unit maintaining at least two separate
218 establishments in this state is deemed to be performing services
219 for a single employing unit ~~for the purposes of this chapter~~.

220 (c) A person who is an officer of a corporation, or a
221 member of a limited liability company classified as a
222 corporation for federal income tax purposes, and who performs
223 services for the corporation or limited liability company in
224 this state, regardless of whether those services are continuous,
225 is deemed an employee of the corporation or the limited
226 liability company during all of each week of his or her tenure
227 of office, regardless of whether he or she is compensated for
228 those services. Services are presumed to be rendered for the
229 corporation if ~~in cases in which~~ the officer is compensated by
230 means other than dividends upon shares of stock of the
231 corporation owned by him or her.

232 (d) A limited liability company shall be treated as having

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233 the same status as it is classified for federal income tax
234 purposes.

235 (23)~~(21)~~ "Employment" means a service subject to ~~this~~
236 ~~chapter under~~ s. 443.1216 which is performed by an employee for
237 his or her employer ~~the person employing him or her.~~

238 (24)~~(22)~~ "Farm" includes stock, dairy, poultry, fruit, fur-
239 bearing animal, and truck farms, plantations, ranches,
240 nurseries, ranges, greenhouses or other similar structures used
241 primarily for the raising of agricultural or horticultural
242 commodities, and orchards.

243 (25)~~(23)~~ "Fund" means the Unemployment Compensation Trust
244 Fund ~~created under this chapter,~~ into which all contributions
245 and reimbursements required under this chapter are deposited and
246 from which all benefits provided under this chapter are paid.

247 (26)~~(24)~~ "High quarter" means the quarter in an
248 individual's base period in which the individual has the
249 greatest amount of wages paid, regardless of the number of
250 employers paying wages in that quarter.

251 (27)~~(25)~~ "Hospital" means an establishment ~~institution that~~
252 ~~is licensed as a hospital under chapter 395, certified, or~~
253 ~~approved by the Agency for Health Care Administration as a~~
254 ~~hospital.~~

255 (28)~~(26)~~ "Institution of higher education" means an
256 educational institution that:

257 (a) Admits as regular students only individuals having a
258 certificate of graduation from a high school, or the recognized
259 equivalent of a certificate of graduation;

260 (b) Is legally authorized in this state to provide a
261 program of education beyond high school;

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262 (c) Provides an educational program that ~~for which it~~
263 awards a bachelor's or higher degree, or ~~provides a program~~ that
264 is acceptable for full credit toward a bachelor's or higher
265 degree; a program of postgraduate or postdoctoral studies; or a
266 program of training to prepare students for gainful employment
267 in a recognized occupation; and

268 (d) Is a public or other nonprofit institution.

269

270 The term includes each community college and state university in
271 this state, and any ~~each other~~ institution in this state
272 authorized ~~under s. 1005.03~~ to use the designation "college" or
273 "university-" under s. 1005.03.

274 (29) ~~(27)~~ "Insured work" means employment for employers.

275 (30) ~~(28)~~ "Leave of absence" means a temporary break in
276 service to an employer, for a specified period of time, during
277 which the employing unit guarantees the same or a comparable
278 position to the worker at the expiration of the leave.

279 (31) "Member of the individual's immediate family" means an
280 individual's spouse, parent, or minor child.

281 (32) ~~(29)~~ "Misconduct" includes, but is not limited to, the
282 following, which may not be construed in pari materia with each
283 other:

284 (a) Conduct demonstrating willful or wanton disregard of an
285 employer's interests and found to be a deliberate violation or
286 disregard of the standards of behavior which the employer has a
287 right to expect of his or her employee; or

288 (b) Carelessness or negligence to a degree or recurrence
289 that manifests culpability, wrongful intent, or evil design or
290 shows an intentional and substantial disregard of the employer's

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291 interests or of the employee's duties and obligations to his or
292 her employer.

293 (33)~~(30)~~ "Monetary determination" means a determination of
294 whether and in what amount a claimant is eligible for benefits
295 based on the claimant's employment during the base period of the
296 claim.

297 (34)~~(31)~~ "Nonmonetary determination" means a determination
298 of the claimant's eligibility for benefits based on an issue
299 other than monetary entitlement and benefit overpayment.

300 (35)~~(32)~~ "Not in the course of the employer's trade or
301 business" means not promoting or advancing the trade or business
302 of the employer.

303 (36)~~(33)~~ "One-stop career center" means a service site
304 established and maintained as part of the one-stop delivery
305 system under s. 445.009.

306 (37)~~(34)~~ "Pay period" means ~~a period of~~ 31 or fewer
307 consecutive days for which a payment or remuneration is
308 ordinarily made to the employee by the person employing him or
309 her.

310 (38)~~(35)~~ "Public employer" means:

311 (a) A state agency or political subdivision of the state;

312 (b) An instrumentality that is wholly owned by one or more
313 state agencies or political subdivisions of the state; or

314 (c) An instrumentality that is wholly owned by one or more
315 state agencies, political subdivisions, or instrumentalities of
316 the state and one or more state agencies or political
317 subdivisions of one or more other states.

318 (39)~~(36)~~ "Reasonable assurance" means a written or verbal
319 agreement, an agreement between an employer and a worker

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320 understood through tradition within the trade or occupation, or
321 an agreement defined in an employer's policy.

322 (40)~~(37)~~ "Reimbursement" means a payment of money to the
323 Unemployment Compensation Trust Fund in lieu of a contribution
324 ~~which is~~ required under this chapter to finance unemployment
325 benefits.

326 (41)~~(38)~~ "Reimbursing employer" means an employer who is
327 liable for reimbursements in lieu of contributions made under
328 this chapter.

329 (42)~~(39)~~ "State" includes the states of the United States,
330 the District of Columbia, Canada, the Commonwealth of Puerto
331 Rico, and the Virgin Islands.

332 (43)~~(40)~~ "State law" means the unemployment insurance law
333 of any state, approved by the United States Secretary of Labor
334 under s. 3304 of the Internal Revenue Code of 1954.

335 (44)~~(41)~~ "Tax collection service provider" or "service
336 provider" means the state agency providing unemployment tax
337 collection services under contract with the agency ~~for Workforce~~
338 ~~Innovation~~ through an interagency agreement pursuant to s.
339 443.1316.

340 (45)~~(42)~~ "Temporary layoff" means a job separation due to
341 lack of work which does not exceed 8 consecutive weeks and which
342 has a fixed or approximate return-to-work date.

343 (46)~~(43)~~ "Unemployment" or "unemployed" means:

344 (a) An individual is "totally unemployed" in any week
345 during which he or she does not perform any services and for
346 which earned income is not payable to him or her. An individual
347 is "partially unemployed" in any week of less than full-time
348 work if the earned income payable to him or her for that week is

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349 less than his or her weekly benefit amount. The agency ~~for~~
350 ~~Workforce Innovation~~ may adopt rules prescribing distinctions in
351 the procedures for unemployed individuals based on total
352 unemployment, part-time unemployment, partial unemployment of
353 individuals attached to their regular jobs, and other forms of
354 short-time work.

355 (b) An individual's week of unemployment commences only
356 after ~~his or her~~ registration with the agency ~~for Workforce~~
357 ~~Innovation~~ as required in s. 443.091, except as the agency may
358 otherwise prescribe by rule.

359 ~~(47)(44)~~ "Wages" means remuneration ~~subject to this chapter~~
360 under s. 443.1217.

361 ~~(48)(45)~~ "Week" means ~~a period of~~ 7 consecutive days as
362 defined in agency ~~the rules of the Agency for Workforce~~
363 ~~Innovation~~. The agency ~~for Workforce Innovation~~ may by rule
364 prescribe that a week is deemed to be "in," "within," or
365 "during" the benefit year that contains the greater part of the
366 week.

367 Section 2. Paragraphs (c) and (f) of subsection (1) of
368 section 443.091, Florida Statutes, are amended to read:

369 443.091 Benefit eligibility conditions.—

370 (1) An unemployed individual is eligible to receive
371 benefits for any week only if the Agency for Workforce
372 Innovation finds that:

373 (c)~~1~~. She or he is able to work and is available for work.
374 In order to assess eligibility for a claimed week of
375 unemployment, the agency ~~for Workforce Innovation~~ shall develop
376 criteria to determine a claimant's ability to work and
377 availability for work.

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378 1. Notwithstanding any provisions of this paragraph, an
379 otherwise eligible individual may not be found ineligible for
380 benefits solely because he or she is available for only part-
381 time work. For the purposes of this paragraph, "available for
382 part-time work" means that the individual is available for the
383 number of weekly hours that are comparable to the number of
384 hours the individual worked during the majority of the base
385 period.

386 2. Notwithstanding any other provision of this paragraph,
387 including an individual's availability to work, or paragraphs
388 (b) and (d), an otherwise eligible individual may not be denied
389 benefits for any week because she or he is in training with the
390 approval of the agency ~~for Workforce Innovation, and such an~~
391 ~~individual may not be denied benefits for any week in which she~~
392 ~~or he is in training with the approval of the Agency for~~
393 ~~Workforce Innovation by reason of subparagraph 1. relating to~~
394 availability for work, or by reason of s. 443.101(2) relating to
395 failure to apply for, or refusal to accept, suitable work.
396 Training may be approved by the agency ~~for Workforce Innovation~~
397 in accordance with criteria prescribed by rule. A claimant's
398 eligibility during approved training is contingent upon
399 satisfying eligibility conditions prescribed by rule.

400 3. Notwithstanding any other provision of this chapter, an
401 otherwise eligible individual who is in training approved under
402 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
403 determined ~~to be~~ ineligible or disqualified for benefits due to
404 ~~with respect to~~ her or his enrollment in such training or
405 because of leaving work that is not suitable employment to enter
406 such training. As used in this subparagraph, the term "suitable

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407 employment" means, ~~for a worker,~~ work of a substantially equal
408 or higher skill level than the worker's past adversely affected
409 employment, as defined for purposes of the Trade Act of 1974, as
410 amended, the wages for which are at least 80 percent of the
411 worker's average weekly wage as determined for purposes of the
412 Trade Act of 1974, as amended.

413 4. Notwithstanding any other provision of this section, an
414 otherwise eligible individual may not be denied benefits for any
415 week ~~by reason of subparagraph 1.~~ because she or he is before
416 any federal or state court pursuant to a ~~of the United States or~~
417 ~~any state under a lawfully issued~~ summons to appear for jury
418 duty.

419 (f) She or he has been paid wages for insured work equal to
420 1.5 times her or his high quarter wages during her or his base
421 period, except that an unemployed individual is not eligible to
422 receive benefits if the base period wages are less than \$3,400.
423 If the individual is ineligible for benefits calculated on a
424 base period wage, wages must be calculated using an alternative
425 base period and the claimant must have the opportunity to choose
426 whether to establish a claim using such wages. Wages can be
427 calculated for an alternative base period only if the base
428 period wages are inadequate to establish eligibility under this
429 paragraph and only for benefit years that begin on or after
430 January 1, 2010. Wages used to establish a monetarily eligible
431 benefit year may not be used to establish monetary eligibility
432 in a subsequent benefit year.

433 Section 3. Paragraph (a) of subsection (1) and paragraph
434 (a) of subsection (2) of section 443.101, Florida Statutes, are
435 amended to read:

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436 443.101 Disqualification for benefits.—An individual shall
437 be disqualified for benefits:

438 (1) (a) For the week in which he or she has voluntarily left
439 his or her work without good cause attributable to his or her
440 employing unit or in which the individual has been discharged by
441 his or her employing unit for misconduct connected with his or
442 her work, based on a finding by the agency ~~for Workforce~~
443 ~~Innovation~~. As used in this paragraph, the term "work" means any
444 work, whether full-time, part-time, or temporary.

445 1. Disqualification for voluntarily quitting continues for
446 the full period of unemployment next ensuing after he or she has
447 ~~left his or her full-time, part-time, or temporary work~~
448 voluntarily without good cause and until the individual has
449 earned income equal to or in excess of 17 times his or her
450 weekly benefit amount. ~~As used in this subsection, the term~~
451 ~~"good cause" includes only that cause attributable to the~~
452 ~~employing unit or which consists of illness or disability of the~~
453 ~~individual requiring separation from his or her work.~~ Any other
454 disqualification may not be imposed. An individual is not
455 disqualified under this subsection for voluntarily leaving
456 temporary work to return immediately when called to work by the
457 permanent employing unit that temporarily terminated his or her
458 work within the previous 6 calendar months. For benefit years
459 beginning on or after July 1, 2004, an individual is not
460 disqualified under this subsection for voluntarily leaving work
461 to relocate as a result of his or her military-connected
462 spouse's permanent change of station orders, activation orders,
463 or unit deployment orders.

464 2. Disqualification for being discharged for misconduct

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465 connected with his or her work continues for the full period of
466 unemployment next ensuing after having been discharged and until
467 the individual has become reemployed and has earned income of at
468 least 17 times his or her weekly benefit amount and for not more
469 than 52 weeks that immediately follow that week, as determined
470 by the agency ~~for Workforce Innovation in each case~~ according to
471 the circumstances in each case or the seriousness of the
472 misconduct, under ~~the~~ agency's rules for determining ~~adopted for~~
473 ~~determinations of~~ disqualification for benefits for misconduct.

474 3. If ~~When~~ an individual has provided notification to the
475 employing unit of his or her intent to voluntarily leave work
476 and the employing unit discharges the individual for reasons
477 other than misconduct prior to the date the voluntary quit was
478 to take effect, the individual, if otherwise entitled, shall
479 ~~will~~ receive benefits from the date of the employer's discharge
480 until the effective date of his or her voluntary quit.

481 4. If ~~When~~ an individual is notified by the employing unit
482 of the employer's intent to discharge the individual for reasons
483 other than misconduct and the individual quits without good
484 cause before, ~~as defined in this section, prior to~~ the date the
485 discharge was to take effect, the claimant is ineligible for
486 benefits pursuant to s. 443.091(1)(c) ~~±~~ for failing to be
487 available for work for the week or weeks of unemployment
488 occurring prior to the effective date of the discharge.

489 5. As used in this paragraph, the term "good cause" means:

490 a. Cause attributable to the employing unit or an illness
491 or disability that requires separation from work;

492 b. Domestic violence, as defined in s. 741.28, and verified
493 by reasonable and confidential documentation that causes the

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494 individual to reasonably believe that continued employment will
495 jeopardize the individual's safety and the safety of a member of
496 his or her immediate family;

497 c. Illness or disability of a member of the individual's
498 immediate family; or

499 d. The individual's need to accompany her or his spouse if
500 the spouse's relocation resulted from a change in the spouse's
501 employment and the relocation makes it impractical for the
502 individual to commute to her or his workplace.

503 (2) If the Agency for Workforce Innovation finds that the
504 individual has failed without good cause to apply for available
505 suitable work when directed by the agency or the one-stop career
506 center, to accept suitable work when offered to him or her, or
507 to return to the individual's customary self-employment when
508 directed by the agency, the disqualification continues for the
509 full period of unemployment next ensuing after he or she failed
510 without good cause to apply for available suitable work, to
511 accept suitable work, or to return to his or her customary self-
512 employment, under this subsection, and until the individual has
513 earned income at least 17 times his or her weekly benefit
514 amount. The Agency for Workforce Innovation shall by rule adopt
515 criteria for determining the "suitability of work," as used in
516 this section. The Agency for Workforce Innovation in developing
517 these rules shall consider the duration of a claimant's
518 unemployment in determining the suitability of work and the
519 suitability of proposed rates of compensation for available
520 work. Further, after an individual has received 25 weeks of
521 benefits in a single year, suitable work is a job that pays the
522 minimum wage and is 120 percent or more of the weekly benefit

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523 amount the individual is drawing.

524 (a) In determining whether or not ~~any~~ work is suitable for
525 an individual, the agency ~~for Workforce Innovation~~ shall
526 consider the degree of risk involved to his or her health,
527 safety, and morals; the individual's ~~his or her~~ physical
528 fitness, and prior training, ~~the individual's~~ experience, and
529 prior earnings, ~~his or her~~ length of unemployment, and
530 prospects for securing local work in his or her customary
531 occupation; and the distance of the available work from his or
532 her residence. An unemployed individual may not be disqualified
533 for benefits solely because he or she is available for only
534 part-time work. For the purposes of this paragraph, "available
535 for part-time work" means that the individual is available for
536 the number of weekly hours that are comparable to the number of
537 hours the individual worked during the majority of the base
538 period.

539 Section 4. Paragraph (a) of subsection (1) and paragraph
540 (f) of subsection (13) of section 443.1216, Florida Statutes,
541 are amended to read:

542 443.1216 Employment.—Employment, as defined in s. 443.036,
543 is subject to this chapter under the following conditions:

544 (1) (a) The employment ~~subject to this chapter~~ includes a
545 service performed, including a service performed in interstate
546 commerce, by:

547 1. An officer of a corporation.

548 2. An individual who, under the usual common-law rules
549 applicable for ~~in~~ determining the employer-employee
550 relationship, is an employee. However, if ~~whenever~~ a client who
551 ~~as defined in s. 443.036(18),~~ which would otherwise be

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552 designated as an employing unit has contracted with an employee
553 leasing company to supply it with workers, those workers are
554 considered employees of the employee leasing company. An
555 employee leasing company may lease corporate officers of the
556 client to the client and other workers to the client, except as
557 prohibited by regulations of the Internal Revenue Service.
558 Employees of an employee leasing company must be reported under
559 the employee leasing company's tax identification number and
560 contribution rate for work performed for the employee leasing
561 company.

562 a. In addition to any other report required to be filed by
563 law, an employee leasing company shall submit a report to the
564 Labor Market Statistics Center within the agency ~~for Workforce~~
565 ~~Innovation~~ which includes each client establishment and each
566 establishment of the employee leasing company, or as otherwise
567 directed by the agency. The report must include the following
568 information for each establishment:

569 (I) The trade or establishment name;

570 (II) The former unemployment compensation account number,
571 if available;

572 (III) The former federal employer's identification number
573 (FEIN), if available;

574 (IV) The industry code recognized and published by the
575 United States Office of Management and Budget, if available;

576 (V) A description of the client's primary business activity
577 in order to verify or assign an industry code;

578 (VI) The address of the physical location;

579 (VII) The number of full-time and part-time employees who
580 worked during, or received pay that was subject to unemployment

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581 compensation taxes for, the pay period including the 12th of the
582 month for each month of the quarter;

583 (VIII) The total wages subject to unemployment compensation
584 taxes paid during the calendar quarter;

585 (IX) An internal identification code to uniquely identify
586 each establishment of each client;

587 (X) The month and year that the client entered into the
588 contract for services; and

589 (XI) The month and year that the client terminated the
590 contract for services.

591 b. The report shall be submitted electronically or as in a
592 ~~manner~~ otherwise prescribed by the agency and for Workforce
593 ~~Innovation~~ in the format specified by the Bureau of Labor
594 Statistics of the United States Department of Labor for its
595 Multiple Worksite Report for Professional Employer
596 Organizations. The report must be provided quarterly to the
597 Labor Market Statistics Center within the agency ~~for Workforce~~
598 ~~Innovation~~, or as otherwise directed by the agency, and must be
599 filed by the last day of the month immediately following the end
600 of the calendar quarter. The information required in sub-sub-
601 subparagraphs a.(X) and (XI) need be provided only in the
602 quarter in which the contract to which it relates was entered
603 into or terminated. The sum of the employment data and the sum
604 of the wage data in the ~~this~~ report must match the employment
605 and wages reported in the unemployment compensation quarterly
606 tax and wage report. A report is not required for any calendar
607 quarter preceding the third calendar quarter of 2010.

608 c. The agency ~~for Workforce Innovation~~ shall adopt rules as
609 necessary to administer this subparagraph, and may administer,

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610 collect, enforce, and waive the penalty imposed by s.
611 443.141(1)(b) for the report required by this subparagraph.

612 d. For the purposes of this subparagraph, the term
613 "establishment" means any location where business is conducted
614 or where services or industrial operations are performed.

615 3. An individual other than an individual who is an
616 employee under subparagraph 1. or subparagraph 2., who performs
617 services for remuneration for any person:

618 a. As an agent-driver or commission-driver engaged in
619 distributing meat products, vegetable products, fruit products,
620 bakery products, beverages other than milk, or laundry or
621 drycleaning services for his or her principal.

622 b. As a traveling or city salesperson engaged on a full-
623 time basis in the solicitation on behalf of, and the
624 transmission to, his or her principal of orders from
625 wholesalers, retailers, contractors, or operators of hotels,
626 restaurants, or other similar establishments for merchandise for
627 resale or supplies for use in their business operations. This
628 sub-subparagraph does not apply to an agent-driver, or a
629 commission-driver, or ~~and does not apply~~ to sideline sales
630 activities performed on behalf of a person other than the
631 salesperson's principal.

632 4. The services described in subparagraph 3. are employment
633 subject to this chapter only if:

634 a. The contract of service contemplates that substantially
635 all of the services are to be performed personally by the
636 individual;

637 b. The individual does not have a substantial investment in
638 facilities used in connection with the services, other than

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639 facilities used for transportation; and

640 c. The services are not in the nature of a single
641 transaction that is not part of a continuing relationship with
642 the person for whom the services are performed.

643 (13) The following are exempt from coverage under this
644 chapter:

645 (f) Service performed in the employ of a public employer ~~as~~
646 ~~defined in s. 443.036~~, except as provided in subsection (2), and
647 service performed in the employ of an instrumentality of a
648 public employer as described in s. 443.036(38) (b) or (c) ~~s.~~
649 ~~443.036(35) (b) or (c)~~, to the extent that the instrumentality is
650 immune under the United States Constitution from the tax imposed
651 by s. 3301 of the Internal Revenue Code for that service.

652 Section 5. Paragraph (f) of subsection (3) of section
653 443.131, Florida Statutes, is amended to read:

654 443.131 Contributions.—

655 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
656 EXPERIENCE.—

657 (f) *Transfer of employment records.*—

658 1. For the purposes of this subsection, two or more
659 employers who are parties to a transfer of business or the
660 subject of a merger, consolidation, or other form of
661 reorganization, effecting a change in legal identity or form,
662 are deemed a single employer and are considered to be one
663 employer with a continuous employment record if the tax
664 collection service provider finds that the successor employer
665 continues to carry on the employing enterprises of all of the
666 predecessor employers, ~~and that the successor employer~~ has paid
667 all contributions required of and due from all of the

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668 predecessor employers, and has assumed liability for all
669 contributions that may become due from all of the predecessor
670 employers. ~~In addition,~~ An employer may not be considered a
671 successor under this subparagraph if the employer purchases a
672 company with a lower rate into which employees with job
673 functions unrelated to the business endeavors of the predecessor
674 are transferred for the purpose of acquiring the low rate and
675 avoiding payment of contributions. ~~As used in this paragraph,~~
676 Notwithstanding s. 443.036(16) ~~s. 443.036(14)~~, the term
677 "contributions," as used in this paragraph, means all
678 indebtedness to the tax collection service provider, including,
679 but not limited to, interest, penalty, collection fee, and
680 service fee.

681 2. A successor employer must accept the transfer of all of
682 the predecessor employers' employment records within 30 days
683 after the date of the official notification of liability by
684 succession. If a predecessor employer has unpaid contributions
685 or outstanding quarterly reports, the successor employer must
686 pay the total amount with certified funds within 30 days after
687 the date of the notice listing the total amount due. After the
688 total indebtedness is paid, the tax collection service provider
689 shall transfer the employment records of all of the predecessor
690 employers to the successor employer's employment record. The tax
691 collection service provider shall determine the contribution
692 rate of the combined successor and predecessor employers upon
693 the transfer of the employment records, as prescribed by rule,
694 in order to calculate any change in the contribution rate
695 resulting from the transfer of the employment records.

696 3.2. Regardless of whether a predecessor employer's

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697 employment record is transferred to a successor employer under
698 this paragraph, the tax collection service provider shall treat
699 the predecessor employer, if he or she subsequently employs
700 individuals, as an employer without a previous employment record
701 or, if his or her coverage is terminated under s. 443.121, as a
702 new employing unit.

703 ~~4.3.~~ The state agency providing unemployment tax collection
704 services may adopt rules governing the partial transfer of
705 experience rating when an employer transfers an identifiable and
706 segregable portion of his or her payrolls and business to a
707 successor employing unit. As a condition of each partial
708 transfer, these rules must require the following to be filed
709 with the tax collection service provider: an application by the
710 successor employing unit, an agreement by the predecessor
711 employer, and the evidence required by the tax collection
712 service provider to show the benefit experience and payrolls
713 attributable to the transferred portion through the date of the
714 transfer. These rules must provide that the successor employing
715 unit, if not an employer subject to this chapter, becomes an
716 employer as of the date of the transfer and that the transferred
717 portion of the predecessor employer's employment record is
718 removed from the employment record of the predecessor employer.
719 For each calendar year after the date of the transfer of the
720 employment record in the records of the tax collection service
721 provider, the service provider shall compute the contribution
722 rate payable by the successor employer or employing unit based
723 on his or her employment record, combined with the transferred
724 portion of the predecessor employer's employment record. These
725 rules may also prescribe what contribution rates are payable by

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726 the predecessor and successor employers for the period between
 727 the date of the transfer of the transferred portion of the
 728 predecessor employer's employment record in the records of the
 729 tax collection service provider and the first day of the next
 730 calendar year.

731 5.4~~5.4~~. This paragraph does not apply to an employee leasing
 732 company and client contractual agreement ~~as defined in s.~~
 733 ~~443.036~~. The tax collection service provider shall, if the
 734 contractual agreement is terminated or the employee leasing
 735 company fails to submit reports or pay contributions as required
 736 by the service provider, treat the client as a new employer
 737 without previous employment record unless the client is
 738 otherwise eligible for a variation from the standard rate.

739 Section 6. Subsection (3) of section 443.151, Florida
 740 Statutes, is amended to read:

741 443.151 Procedure concerning claims.—

742 (3) DETERMINATION.—

743 (a) *In general*.—The agency ~~for Workforce Innovation~~ shall
 744 promptly make an initial determination for each claim filed
 745 under subsection (2). The determination must include a statement
 746 of whether and in what amount the claimant is entitled to
 747 benefits, and, if denied ~~in the event of a denial~~, must state
 748 the reasons for the denial. A determination for the first week
 749 of a benefit year must also include a statement of whether the
 750 claimant was paid the wages required under s. 443.091(1)(f) and,
 751 if so, the first day of the benefit year, the claimant's weekly
 752 benefit amount, and the maximum total amount of benefits payable
 753 to the claimant for a benefit year. The agency ~~for Workforce~~
 754 ~~Innovation~~ shall promptly notify the claimant, the claimant's

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755 most recent employing unit, and all employers whose employment
756 records are liable for benefits under the ~~determination of the~~
757 initial determination. The determination is final unless within
758 20 days after ~~the~~ mailing ~~of~~ the notices to the parties' last
759 known addresses, or in lieu of mailing, within 20 days after ~~the~~
760 delivery of the notices, an appeal or written request for
761 reconsideration is filed by the claimant or other party entitled
762 to notice.

763 (b) Determinations involving an alternative base period.—In
764 the case of a claim for benefits involving an alternative base
765 period under s. 443.091(1)(f), if the agency is unable to access
766 wage information through the database of its tax collection
767 service provider, the agency shall request the information from
768 the employer by mail. The employer must provide the requested
769 information within 10 days after the agency mails the request.
770 If wage information is unavailable, the agency may base the
771 determination on an affidavit submitted by the individual
772 attesting to her or his wages for those calendar quarters. The
773 individual must furnish payroll information, if available, in
774 support of the affidavit. Benefits based on an alternative base
775 period must be adjusted if the quarterly report of wage
776 information received from the employer under s. 443.141 results
777 in a change in the monetary determination.

778 (c) ~~(b)~~ Determinations in labor dispute cases.—If a ~~Whenever~~
779 ~~any~~ claim involves a labor dispute described in s. 443.101(4),
780 the agency ~~for Workforce Innovation~~ shall promptly assign the
781 claim to a special examiner who shall make a determination on
782 the issues involving unemployment due to the labor dispute. The
783 special examiner shall make the determination after an

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784 investigation, as necessary. The claimant or another party
785 entitled to notice of the determination may appeal a
786 determination under subsection (4).

787 (d)~~(e)~~ *Redeterminations.*—

788 1. The agency ~~for Workforce Innovation~~ may reconsider a
789 determination if ~~when~~ it finds an error or if ~~when~~ new evidence
790 or information pertinent to the determination is discovered
791 after a prior determination or redetermination. A
792 redetermination may not be made more than 1 year after the last
793 day of the benefit year unless a ~~the~~ disqualification for making
794 a false or fraudulent representation in s. 443.101(6) is
795 applicable, in which case the redetermination may be made within
796 2 years after the false or fraudulent representation. The agency
797 ~~for Workforce Innovation~~ must promptly give notice of
798 redetermination to the claimant and to any employers entitled to
799 notice in the manner prescribed in this section for the notice
800 of an initial determination.

801 2. If the amount of benefits is increased by the
802 redetermination, an appeal of the redetermination based solely
803 on the increase may be filed as provided in subsection (4). If
804 the amount of benefits is decreased by the redetermination, the
805 redetermination may be appealed by the claimant when a
806 subsequent claim for benefits is affected in amount or duration
807 by the redetermination. If the final decision on the
808 determination or redetermination to be reconsidered was made by
809 an appeals referee, the commission, or a court, the agency ~~for~~
810 ~~Workforce Innovation~~ may apply for a revised decision from the
811 body or court that made the final decision.

812 2. Unless it is withdrawn, ~~if~~ an appeal of an original

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813 determination that is pending when a redetermination is issued,
814 ~~the appeal unless withdrawn~~ is treated as an appeal from the
815 redetermination.

816 (e) ~~(d)~~ *Notice of determination or redetermination.*—Notice
817 of any monetary or nonmonetary determination or redetermination
818 under this chapter, together with the reasons for the
819 determination or redetermination, must be promptly given to the
820 claimant and to any employer entitled to notice in the manner
821 provided in this subsection. The agency ~~for Workforce Innovation~~
822 shall adopt rules prescribing the manner and procedure by which
823 employers within the base period of a claimant become entitled
824 to notice.

825 Section 7. This act shall take effect July 1, 2010.