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

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Section 443.036, Florida Statutes, is amended
30 to read:

31 443.036 Definitions.—As used in this chapter, the term:

32 (1) "Able to work" means physically and mentally capable
33 of performing the duties of the occupation in which work is
34 being sought.

35 (2) "Agricultural labor" means any remunerated service
36 performed:

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

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

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

56 (d)1. In the employ of the operator of a farm in handling,

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57 | planting, drying, packing, packaging, processing, freezing,
58 | grading, storing, or delivering to storage or to market or to a
59 | carrier for transportation to market, in its unmanufactured
60 | state, any agricultural or horticultural commodity, but only if
61 | the operator produced more than one-half of the commodity for
62 | which the service is performed.

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

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

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

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

79 | ~~(4)-(3)~~ "American aircraft" means an aircraft registered
80 | under the laws of the United States.

81 | ~~(5)-(4)~~ "American employer" means:

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

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

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

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

89 (6)~~(5)~~ "American vessel" means any vessel documented or
90 numbered under the laws of the United States. The term includes
91 any vessel that is neither documented or numbered under the laws
92 of the United States, nor documented under the laws of any
93 foreign country, if its crew is employed solely by one or more
94 citizens or residents of the United States or corporations
95 organized under the laws of the United States or of any state.

96 (7)~~(6)~~ "Available for work" means actively seeking and
97 being ready and willing to accept suitable employment.

98 (8)~~(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 for Workforce
101 Innovation determines, pursuant to s. 443.091(1)(f), that an
102 alternative base period will be used, the term has the same
103 meaning as the alternative base period.

104 (9)~~(8)~~ "Benefits" means the money payable to an
105 individual, as provided in this chapter, for his or her
106 unemployment.

107 (10)~~(9)~~ "Benefit year" means, for an individual, the 1-
108 year period beginning with the first day of the first week for
109 which 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

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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
117 in subsection (46) ~~(43)~~ at the time of filing the claim.

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

127 (11) ~~(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 (12) ~~(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 his or her employer during a period of 1 calendar
136 month or any 2 consecutive calendar months, however, are deemed
137 to be casual labor only if the service is performed on 10 or
138 fewer calendar days, regardless of whether those days are
139 consecutive. If any of the services performed by an individual
140 on a particular labor project are not casual labor, each of the

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141 services performed by the individual on that job or project may
 142 not be deemed casual labor. Services must constitute casual
 143 labor and may not be performed in the course of the employer's
 144 trade or business for those services to be exempt under this
 145 section.

146 (13)~~(12)~~ "Commission" means the Unemployment Appeals
 147 Commission.

148 (14)~~(13)~~ "Contributing employer" means an employer who is
 149 liable for contributions under this chapter.

150 (15)~~(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 (16)~~(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
 161 other person under which the individual is designated as an
 162 employee of the other person.

163 (17)~~(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 (18)~~(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
 175 instructor or teacher;

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

184 (19)~~(18)~~ "Employee leasing company" means an employing
 185 unit that has a valid and active license under chapter 468 and
 186 that maintains the records required by s. 443.171(5) and, in
 187 addition, is responsible for producing quarterly reports
 188 concerning the clients of the employee leasing company and the
 189 internal staff of the employee leasing company. As used in this
 190 subsection, the term "client" means a party who has contracted
 191 with an employee leasing company to provide a worker, or
 192 workers, to perform services for the client. Leased employees
 193 include employees subsequently placed on the payroll of the
 194 employee leasing company on behalf of the client. An employee
 195 leasing company must notify the tax collection service provider
 196 within 30 days after the initiation or termination of the

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197 company's relationship with any client company under chapter
198 468.

199 (20)~~(19)~~ "Employer" means an employing unit subject to
200 this chapter under s. 443.1215.

201 (21)~~(20)~~ "Employing unit" means an individual or type of
202 organization, including a partnership, limited liability
203 company, association, trust, estate, joint-stock company,
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, which has or had in its employ one or more individuals
208 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,

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

235 (22)~~(21)~~ "Employment" means a service subject to this
 236 chapter under s. 443.1216 which is performed by an employee for
 237 the person employing him or her.

238 (23)~~(22)~~ "Farm" includes stock, dairy, poultry, fruit,
 239 fur-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 (24)~~(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 (25) "Good cause" for voluntarily quitting employment, as
 248 used in s. 443.101(1)(a), means:

249 (a) Cause attributable to the employing unit or an illness
 250 or disability of the individual that requires separation from
 251 work;

252 (b) Domestic violence, as defined in s. 741.28, verified

253 by reasonable and confidential documentation which causes the
 254 individual reasonably to believe that such individual's
 255 continued employment would jeopardize his or her safety or the
 256 safety of any member of his or her immediate family;

257 (c) Illness or disability of a member of the individual's
 258 immediate family; or

259 (d) The individual's need to accompany his or her spouse,
 260 if the spouse's relocation resulted from a change in the
 261 spouse's employment and if the relocation makes it impractical
 262 for the individual to commute to his or her workplace.

263 ~~(26)~~~~(24)~~ "High quarter" means the quarter in an
 264 individual's base period in which the individual has the
 265 greatest amount of wages paid, regardless of the number of
 266 employers paying wages in that quarter.

267 ~~(27)~~~~(25)~~ "Hospital" means an institution that is licensed,
 268 certified, or approved by the Agency for Health Care
 269 Administration as a hospital.

270 ~~(28)~~~~(26)~~ "Institution of higher education" means an
 271 educational institution that:

272 (a) Admits as regular students only individuals having a
 273 certificate of graduation from a high school, or the recognized
 274 equivalent of a certificate of graduation;

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

277 (c) Provides an educational program for which it awards a
 278 bachelor's or higher degree, or provides a program that is
 279 acceptable for full credit toward a bachelor's or higher degree;
 280 a program of postgraduate or postdoctoral studies; or a program

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281 of training to prepare students for gainful employment in a
 282 recognized occupation; and

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

284
 285 The term includes each community college and state university in
 286 this state, and each other institution in this state authorized
 287 under s. 1005.03 to use the designation "college" or
 288 "university."

289 (29)~~(27)~~ "Insured work" means employment for employers.

290 (30)~~(28)~~ "Leave of absence" means a temporary break in
 291 service to an employer, for a specified period of time, during
 292 which the employing unit guarantees the same or a comparable
 293 position to the worker at the expiration of the leave.

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

296 (32)~~(29)~~ "Misconduct" includes, but is not limited to, the
 297 following, which may not be construed in pari materia with each
 298 other:

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

303 (b) Carelessness or negligence to a degree or recurrence
 304 that manifests culpability, wrongful intent, or evil design or
 305 shows an intentional and substantial disregard of the employer's
 306 interests or of the employee's duties and obligations to his or
 307 her employer.

308 (33)~~(30)~~ "Monetary determination" means a determination of

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309 whether and in what amount a claimant is eligible for benefits
310 based on the claimant's employment during the base period of the
311 claim.

312 (34)~~(31)~~ "Nonmonetary determination" means a determination
313 of the claimant's eligibility for benefits based on an issue
314 other than monetary entitlement and benefit overpayment.

315 (35)~~(32)~~ "Not in the course of the employer's trade or
316 business" means not promoting or advancing the trade or business
317 of the employer.

318 (36)~~(33)~~ "One-stop career center" means a service site
319 established and maintained as part of the one-stop delivery
320 system under s. 445.009.

321 (37)~~(34)~~ "Pay period" means a period of 31 or fewer
322 consecutive days for which a payment or remuneration is
323 ordinarily made to the employee by the person employing him or
324 her.

325 (38)~~(35)~~ "Public employer" means:

- 326 (a) A state agency or political subdivision of the state;
327 (b) An instrumentality that is wholly owned by one or more
328 state agencies or political subdivisions of the state; or
329 (c) An instrumentality that is wholly owned by one or more
330 state agencies, political subdivisions, or instrumentalities of
331 the state and one or more state agencies or political
332 subdivisions of one or more other states.

333 (39)~~(36)~~ "Reasonable assurance" means a written or verbal
334 agreement, an agreement between an employer and a worker
335 understood through tradition within the trade or occupation, or
336 an agreement defined in an employer's policy.

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337 (40)~~(37)~~ "Reimbursement" means a payment of money to the
 338 Unemployment Compensation Trust Fund in lieu of a contribution
 339 ~~which is~~ required under this chapter to finance unemployment
 340 benefits.

341 (41)~~(38)~~ "Reimbursing employer" means an employer who is
 342 liable for reimbursements in lieu of contributions under this
 343 chapter.

344 (42)~~(39)~~ "State" includes the states of the United States,
 345 the District of Columbia, Canada, the Commonwealth of Puerto
 346 Rico, and the Virgin Islands.

347 (43)~~(40)~~ "State law" means the unemployment insurance law
 348 of any state, approved by the United States Secretary of Labor
 349 under s. 3304 of the Internal Revenue Code of 1954.

350 (44)~~(41)~~ "Tax collection service provider" or "service
 351 provider" means the state agency providing unemployment tax
 352 collection services under contract with the Agency for Workforce
 353 Innovation through an interagency agreement pursuant to s.
 354 443.1316.

355 (45)~~(42)~~ "Temporary layoff" means a job separation due to
 356 lack of work which does not exceed 8 consecutive weeks and which
 357 has a fixed or approximate return-to-work date.

358 (46)~~(43)~~ "Unemployment" means:

359 (a) An individual is "totally unemployed" in any week
 360 during which he or she does not perform any services and for
 361 which earned income is not payable to him or her. An individual
 362 is "partially unemployed" in any week of less than full-time
 363 work if the earned income payable to him or her for that week is
 364 less than his or her weekly benefit amount. The Agency for

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365 Workforce Innovation may adopt rules prescribing distinctions in
 366 the procedures for unemployed individuals based on total
 367 unemployment, part-time unemployment, partial unemployment of
 368 individuals attached to their regular jobs, and other forms of
 369 short-time work.

370 (b) An individual's week of unemployment commences only
 371 after his or her registration with the Agency for Workforce
 372 Innovation as required in s. 443.091, except as the agency may
 373 otherwise prescribe by rule.

374 ~~(47)~~~~(44)~~ "Wages" means remuneration subject to this
 375 chapter under s. 443.1217.

376 ~~(48)~~~~(45)~~ "Week" means a period of 7 consecutive days as
 377 defined in the rules of the Agency for Workforce Innovation. The
 378 Agency for Workforce Innovation may by rule prescribe that a
 379 week is deemed to be "in," "within," or "during" the benefit
 380 year that contains the greater part of the week.

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

383 443.091 Benefit eligibility conditions.—

384 (1) An unemployed individual is eligible to receive
 385 benefits for any week only if the Agency for Workforce
 386 Innovation finds that:

387 ~~(c)1-~~ She or he is able to work and is available for work.
 388 In order to assess eligibility for a claimed week of
 389 unemployment, the Agency for Workforce Innovation shall develop
 390 criteria to determine a claimant's ability to work and
 391 availability for work.

392 1. Notwithstanding any other provision of this paragraph,

393 an otherwise eligible individual may not be found ineligible for
 394 benefits if she or he is available for part-time work. For
 395 purposes of this subparagraph, "available for part-time work"
 396 means the claimant is available for a number of weekly hours
 397 that are comparable to the number of hours the individual worked
 398 during the majority of the base period of her or his claim.

399 2. Notwithstanding any other provision of this paragraph
 400 or paragraphs (b) and (d), an otherwise eligible individual may
 401 not be denied benefits for any week because she or he is in
 402 training with the approval of the Agency for Workforce
 403 Innovation, and such an individual may not be denied benefits
 404 for any week in which she or he is in training with the approval
 405 of the Agency for Workforce Innovation by reason of subparagraph
 406 1. relating to availability for work, or s. 443.101(2) relating
 407 to failure to apply for, or refusal to accept, suitable work.
 408 Training may be approved by the Agency for Workforce Innovation
 409 in accordance with criteria prescribed by rule. A claimant's
 410 eligibility during approved training is contingent upon
 411 satisfying eligibility conditions prescribed by rule.

412 3. Notwithstanding any other provision of this chapter, an
 413 otherwise eligible individual who is in training approved under
 414 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
 415 determined to be ineligible or disqualified for benefits with
 416 respect to her or his enrollment in such training or because of
 417 leaving work that is not suitable employment to enter such
 418 training. As used in this subparagraph, the term "suitable
 419 employment" means, for a worker, work of a substantially equal
 420 or higher skill level than the worker's past adversely affected

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421 employment, as defined for purposes of the Trade Act of 1974, as
422 amended, the wages for which are at least 80 percent of the
423 worker's average weekly wage as determined for purposes of the
424 Trade Act of 1974, as amended.

425 4. Notwithstanding any other provision of this section, an
426 otherwise eligible individual may not be denied benefits for any
427 week by reason of subparagraph 1. because she or he is before
428 any court of the United States or any state under a lawfully
429 issued summons to appear for jury duty.

430 (f) She or he has been paid wages for insured work equal
431 to 1.5 times her or his high quarter wages during her or his
432 base period, except that an unemployed individual is not
433 eligible to receive benefits if the base period wages are less
434 than \$3,400. If a worker is ineligible for benefits based on
435 base period wages, wages for that worker must be calculated
436 using an alternative base period and the worker must have the
437 opportunity to choose whether to establish a claim using such
438 wages. Wages may be computed for an alternative base period in
439 cases in which base period wages are inadequate to establish
440 eligibility under this section and only for benefit years that
441 commence on or after January 1, 2010. Wages used to establish a
442 monetarily eligible benefit year may not be used to establish
443 monetary eligibility in a subsequent benefit year.

444 Section 3. Paragraph (a) of subsection (1) and paragraph
445 (a) of subsection (2) of section 443.101, Florida Statutes, are
446 amended to read:

447 443.101 Disqualification for benefits.—An individual shall
448 be disqualified for benefits:

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449 (1) (a) For the week in which he or she has voluntarily
450 left his or her work without good cause attributable to his or
451 her employing unit or in which the individual has been
452 discharged by his or her employing unit for misconduct connected
453 with his or her work, based on a finding by the Agency for
454 Workforce Innovation. As used in this paragraph, the term "work"
455 means any work, whether full-time, part-time, or temporary.

456 1. Disqualification for voluntarily quitting continues for
457 the full period of unemployment next ensuing after he or she has
458 left his or her full-time, part-time, or temporary work
459 voluntarily without good cause and until the individual has
460 earned income equal to or in excess of 17 times his or her
461 weekly benefit amount. As used in this subsection, the term
462 "good cause" has the same meaning as in s. 443.036(25) ~~includes~~
463 ~~only that cause attributable to the employing unit or which~~
464 ~~consists of illness or disability of the individual requiring~~
465 ~~separation from his or her work.~~ Any other disqualification may
466 not be imposed. An individual is not disqualified under this
467 subsection for voluntarily leaving temporary work to return
468 immediately when called to work by the permanent employing unit
469 that temporarily terminated his or her work within the previous
470 6 calendar months. For benefit years beginning on or after July
471 1, 2004, an individual is not disqualified under this subsection
472 for voluntarily leaving work to relocate as a result of his or
473 her military-connected spouse's permanent change of station
474 orders, activation orders, or unit deployment orders.

475 2. Disqualification for being discharged for misconduct
476 connected with his or her work continues for the full period of

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477 unemployment next ensuing after having been discharged and until
478 the individual has become reemployed and has earned income of at
479 least 17 times his or her weekly benefit amount and for not more
480 than 52 weeks that immediately follow that week, as determined
481 by the Agency for Workforce Innovation in each case according to
482 the circumstances in each case or the seriousness of the
483 misconduct, under the agency's rules adopted for determinations
484 of disqualification for benefits for misconduct.

485 3. When an individual has provided notification to the
486 employing unit of his or her intent to voluntarily leave work
487 and the employing unit discharges the individual for reasons
488 other than misconduct prior to the date the voluntary quit was
489 to take effect, the individual, if otherwise entitled, will
490 receive benefits from the date of the employer's discharge until
491 the effective date of his or her voluntary quit.

492 4. When an individual is notified by the employing unit of
493 the employer's intent to discharge the individual for reasons
494 other than misconduct and the individual quits without good
495 cause, as defined in this section, prior to the date the
496 discharge was to take effect, the claimant is ineligible for
497 benefits pursuant to s. 443.091(1)(c)~~1~~ for failing to be
498 available for work for the week or weeks of unemployment
499 occurring prior to the effective date of the discharge.

500 (2) If the Agency for Workforce Innovation finds that the
501 individual has failed without good cause to apply for available
502 suitable work when directed by the agency or the one-stop career
503 center, to accept suitable work when offered to him or her, or
504 to return to the individual's customary self-employment when

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

521 (a) In determining whether or not any work is suitable for
522 an individual, the Agency for Workforce Innovation shall
523 consider the degree of risk involved to the individual's ~~his or~~
524 ~~her~~ health, safety, and morals; the individual's ~~his or her~~
525 physical fitness, and prior training, ~~the individual's~~
526 experience, and prior earnings, ~~his or her~~ length of
527 unemployment, and prospects for securing local work in his or
528 her customary occupation; and the distance of the available work
529 from the individual's ~~his or her~~ residence. An unemployed
530 individual may not be disqualified for benefits solely because
531 he or she is available for only part-time work. For purposes of
532 this paragraph, "available for part-time work" means the

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533 claimant is available for a number of weekly hours that are
534 comparable to the number of hours the individual worked during
535 the majority of the base period of his or her claim.

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

539 443.1216 Employment.—Employment, as defined in s. 443.036,
540 is subject to this chapter under the following conditions:

541 (1)(a) The employment subject to this chapter includes a
542 service performed, including a service performed in interstate
543 commerce, by:

544 1. An officer of a corporation.

545 2. An individual who, under the usual common-law rules
546 applicable in determining the employer-employee relationship, is
547 an employee. However, whenever a client, as defined in s.
548 443.036 ~~(19)(18)~~, which would otherwise be designated as an
549 employing unit has contracted with an employee leasing company
550 to supply it with workers, those workers are considered
551 employees of the employee leasing company. An employee leasing
552 company may lease corporate officers of the client to the client
553 and other workers to the client, except as prohibited by
554 regulations of the Internal Revenue Service. Employees of an
555 employee leasing company must be reported under the employee
556 leasing company's tax identification number and contribution
557 rate for work performed for the employee leasing company.

558 a. In addition to any other report required to be filed by
559 law, an employee leasing company shall submit a report to the
560 Labor Market Statistics Center within the Agency for Workforce

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561 Innovation which includes each client establishment and each
 562 establishment of the employee leasing company, or as otherwise
 563 directed by the agency. The report must include the following
 564 information for each establishment:

- 565 (I) The trade or establishment name;
- 566 (II) The former unemployment compensation account number,
 567 if available;
- 568 (III) The former federal employer's identification number
 569 (FEIN), if available;
- 570 (IV) The industry code recognized and published by the
 571 United States Office of Management and Budget, if available;
- 572 (V) A description of the client's primary business
 573 activity in order to verify or assign an industry code;
- 574 (VI) The address of the physical location;
- 575 (VII) The number of full-time and part-time employees who
 576 worked during, or received pay that was subject to unemployment
 577 compensation taxes for, the pay period including the 12th of the
 578 month for each month of the quarter;
- 579 (VIII) The total wages subject to unemployment
 580 compensation taxes paid during the calendar quarter;
- 581 (IX) An internal identification code to uniquely identify
 582 each establishment of each client;
- 583 (X) The month and year that the client entered into the
 584 contract for services; and
- 585 (XI) The month and year that the client terminated the
 586 contract for services.

587 b. The report shall be submitted electronically or in a
 588 manner otherwise prescribed by the Agency for Workforce

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

604 c. The Agency for Workforce Innovation shall adopt rules
605 as necessary to administer this subparagraph, and may
606 administer, collect, enforce, and waive the penalty imposed by
607 s. 443.141(1)(b) for the report required by this subparagraph.

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

611 3. An individual other than an individual who is an
612 employee under subparagraph 1. or subparagraph 2., who performs
613 services for remuneration for any person:

614 a. As an agent-driver or commission-driver engaged in
615 distributing meat products, vegetable products, fruit products,
616 bakery products, beverages other than milk, or laundry or

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617 drycleaning services for his or her principal.

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

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

630 a. The contract of service contemplates that substantially
 631 all of the services are to be performed personally by the
 632 individual;

633 b. The individual does not have a substantial investment
 634 in facilities used in connection with the services, other than
 635 facilities used for transportation; and

636 c. The services are not in the nature of a single
 637 transaction that is not part of a continuing relationship with
 638 the person for whom the services are performed.

639 (13) The following are exempt from coverage under this
 640 chapter:

641 (f) Service performed in the employ of a public employer
 642 as defined in s. 443.036, except as provided in subsection (2),
 643 and service performed in the employ of an instrumentality of a
 644 public employer as described in s. 443.036 (38) ~~(35)~~ (b) or (c), to

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645 the extent that the instrumentality is immune under the United
 646 States Constitution from the tax imposed by s. 3301 of the
 647 Internal Revenue Code for that service.

648 Section 5. Paragraph (f) of subsection (3) of section
 649 443.131, Florida Statutes, is amended to read:

650 443.131 Contributions.—

651 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
 652 EXPERIENCE.—

653 (f) Transfer of employment records.—

654 1. For the purposes of this subsection, two or more
 655 employers who are parties to a transfer of business or the
 656 subject of a merger, consolidation, or other form of
 657 reorganization, effecting a change in legal identity or form,
 658 are deemed a single employer and are considered to be one
 659 employer with a continuous employment record if the tax
 660 collection service provider finds that the successor employer
 661 continues to carry on the employing enterprises of all of the
 662 predecessor employers and that the successor employer has paid
 663 all contributions required of and due from all of the
 664 predecessor employers and has assumed liability for all
 665 contributions that may become due from all of the predecessor
 666 employers. In addition, An employer may not be considered a
 667 successor under this subparagraph if the employer purchases a
 668 company with a lower rate into which employees with job
 669 functions unrelated to the business endeavors of the predecessor
 670 are transferred for the purpose of acquiring the low rate and
 671 avoiding payment of contributions. As used in this paragraph,
 672 Notwithstanding s. 443.036 (15) ~~(14)~~, the term "contributions"

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673 means all indebtedness to the tax collection service provider,
674 including, but not limited to, interest, penalty, collection
675 fee, and service fee. A successor employer must accept the
676 transfer of all of the predecessor employers' employment records
677 within 30 days after the date of the official notification of
678 liability by succession. If a predecessor employer has unpaid
679 contributions or outstanding quarterly reports, the successor
680 employer must pay the total amount with certified funds within
681 30 days after the date of the notice listing the total amount
682 due. After the total indebtedness is paid, the tax collection
683 service provider shall transfer the employment records of all of
684 the predecessor employers to the successor employer's employment
685 record. The tax collection service provider shall determine the
686 contribution rate of the combined successor and predecessor
687 employers upon the transfer of the employment records, as
688 prescribed by rule, in order to calculate any change in the
689 contribution rate resulting from the transfer of the employment
690 records.

691 2. Regardless of whether a predecessor employer's
692 employment record is transferred to a successor employer under
693 this paragraph, the tax collection service provider shall treat
694 the predecessor employer, if he or she subsequently employs
695 individuals, as an employer without a previous employment record
696 or, if his or her coverage is terminated under s. 443.121, as a
697 new employing unit.

698 3. The state agency providing unemployment tax collection
699 services may adopt rules governing the partial transfer of
700 experience rating when an employer transfers an identifiable and

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

726 4. This paragraph does not apply to an employee leasing
727 company and client contractual agreement as defined in s.
728 443.036. The tax collection service provider shall, if the

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729 contractual agreement is terminated or the employee leasing
 730 company fails to submit reports or pay contributions as required
 731 by the service provider, treat the client as a new employer
 732 without previous employment record unless the client is
 733 otherwise eligible for a variation from the standard rate.

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

736 443.151 Procedure concerning claims.—

737 (3) DETERMINATION.—

738 (a) In general.—The Agency for Workforce Innovation shall
 739 promptly make an initial determination for each claim filed
 740 under subsection (2). The determination must include a statement
 741 of whether and in what amount the claimant is entitled to
 742 benefits, and, in the event of a denial, must state the reasons
 743 for the denial. A determination for the first week of a benefit
 744 year must also include a statement of whether the claimant was
 745 paid the wages required under s. 443.091(1)(f) and, if so, the
 746 first day of the benefit year, the claimant's weekly benefit
 747 amount, and the maximum total amount of benefits payable to the
 748 claimant for a benefit year. The Agency for Workforce Innovation
 749 shall promptly notify the claimant, the claimant's most recent
 750 employing unit, and all employers whose employment records are
 751 liable for benefits under the determination of the initial
 752 determination. The determination is final unless within 20 days
 753 after the mailing of the notices to the parties' last known
 754 addresses, or in lieu of mailing, within 20 days after ~~the~~
 755 delivery of the notices, an appeal or written request for
 756 reconsideration is filed by the claimant or other party entitled

757 to notice.

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

774 (c) ~~(b)~~ Determinations in labor dispute cases.—Whenever any
 775 claim involves a labor dispute described in s. 443.101(4), the
 776 Agency for Workforce Innovation shall promptly assign the claim
 777 to a special examiner who shall make a determination on the
 778 issues involving unemployment due to the labor dispute. The
 779 special examiner shall make the determination after an
 780 investigation, as necessary. The claimant or another party
 781 entitled to notice of the determination may appeal a
 782 determination under subsection (4).

783 (d) ~~(c)~~ Redeterminations.—

784 1. The Agency for Workforce Innovation may reconsider a

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785 determination when it finds an error or when new evidence or
786 information pertinent to the determination is discovered after a
787 prior determination or redetermination. A redetermination may
788 not be made more than 1 year after the last day of the benefit
789 year unless the disqualification for making a false or
790 fraudulent representation in s. 443.101(6) is applicable, in
791 which case the redetermination may be made within 2 years after
792 the false or fraudulent representation. The Agency for Workforce
793 Innovation must promptly give notice of redetermination to the
794 claimant and to any employers entitled to notice in the manner
795 prescribed in this section for the notice of an initial
796 determination. If the amount of benefits is increased by the
797 redetermination, an appeal of the redetermination based solely
798 on the increase may be filed as provided in subsection (4). If
799 the amount of benefits is decreased by the redetermination, the
800 redetermination may be appealed by the claimant when a
801 subsequent claim for benefits is affected in amount or duration
802 by the redetermination. If the final decision on the
803 determination or redetermination to be reconsidered was made by
804 an appeals referee, the commission, or a court, the Agency for
805 Workforce Innovation may apply for a revised decision from the
806 body or court that made the final decision.

807 2. If an appeal of an original determination is pending
808 when a redetermination is issued, the appeal unless withdrawn is
809 treated as an appeal from the redetermination.

810 (e) ~~(d)~~ Notice of determination or redetermination.—Notice
811 of any monetary or nonmonetary determination or redetermination
812 under this chapter, together with the reasons for the

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813 | determination or redetermination, must be promptly given to the
814 | claimant and to any employer entitled to notice in the manner
815 | provided in this subsection. The Agency for Workforce Innovation
816 | shall adopt rules prescribing the manner and procedure by which
817 | employers within the base period of a claimant become entitled
818 | to notice.

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