

By Senator Latvala

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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 "community
4 service" and "reemployment services"; amending s.
5 443.091, F.S.; providing that an unemployed individual
6 is eligible to receive benefits if he or she
7 participates in a community service program
8 administered by a one-stop career center; amending ss.
9 443.1216 and 443.131, F.S.; conforming cross-
10 references; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Present subsections (13) through (36) of section
15 443.036, Florida Statutes, are renumbered as subsections (14)
16 through (37), respectively, present subsections (37) through
17 (45) of that subsection are renumbered as subsections (39)
18 through (47), respectively, and amended, and new subsections
19 (13) and (38) are added to that section, to read:

20 443.036 Definitions.—As used in this chapter, the term:

21 (13) "Community service" means any program operated by a
22 one-stop career center in which unemployed persons are required
23 to perform volunteer services for private nonprofit or public
24 entities.

25 ~~(14)~~ ~~(13)~~ "Contributing employer" means an employer who is
26 liable for contributions under this chapter.

27 ~~(15)~~ ~~(14)~~ "Contribution" means a payment of payroll tax to
28 the Unemployment Compensation Trust Fund ~~which is required under~~
29 ~~this chapter~~ to finance unemployment benefits.

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30 (16)~~(15)~~ "Crew leader" means an individual who:

31 (a) Furnishes individuals to perform service in
32 agricultural labor for another person.

33 (b) Pays, ~~either~~ on his or her own behalf or on behalf of
34 the other person, the individuals furnished by him or her for
35 the service in agricultural labor performed by those
36 individuals.

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

40 (17)~~(16)~~ "Earned income" means gross remuneration derived
41 from work, professional service, or self-employment. The term
42 includes commissions, bonuses, back pay awards, and the cash
43 value of all remuneration paid in a medium other than cash. The
44 term does not include income derived from invested capital or
45 ownership of property.

46 (18)~~(17)~~ "Educational institution" means an institution,
47 except for an institution of higher education:

48 (a) In which participants, trainees, or students are
49 offered an organized course of study or training designed to
50 transfer to them knowledge, skills, information, doctrines,
51 attitudes, or abilities from, by, or under the guidance of, an
52 instructor or teacher;

53 (b) Which ~~That~~ is approved, licensed, or issued a permit to
54 operate as a school by the Department of Education or other
55 governmental agency that is authorized within the state to
56 approve, license, or issue a permit for the operation of a
57 school; and

58 (c) Which ~~That~~ offers courses of study or training which

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59 are academic, technical, trade, or preparation for gainful
60 employment in a recognized occupation.

61 (19)~~(18)~~ "Employee leasing company" means an employing unit
62 that has a valid and active license under chapter 468, ~~and that~~
63 maintains the records required by s. 443.171(5), and produces~~7~~
64 ~~in addition, is responsible for producing~~ quarterly reports
65 concerning the clients and the internal staff of the employee
66 leasing company ~~and the internal staff of the employee leasing~~
67 ~~company~~. As used in this subsection, the term "client" means a
68 party who has contracted with an employee leasing company that
69 provides ~~to provide a worker, or workers,~~ to perform services
70 for the client. Leased employees include employees subsequently
71 placed on the payroll of the employee leasing company on behalf
72 of the client. An employee leasing company must notify the tax
73 collection service provider within 30 days after the initiation
74 or termination of the company's relationship with a ~~any~~ client
75 company under chapter 468.

76 (20)~~(19)~~ "Employer" means an employing unit subject to this
77 chapter under s. 443.1215.

78 (21)~~(20)~~ "Employing unit" means an individual; an ~~or type~~
79 ~~of~~ organization, including a partnership, limited liability
80 company, association, trust, estate, joint-stock company,
81 insurance company, or corporation, whether domestic or foreign;
82 the receiver, trustee in bankruptcy, trustee, or successor of
83 any of the foregoing; or the legal representative of a deceased
84 person, who ~~which~~ has or had in his or her ~~its~~ employ one or
85 more individuals performing services for it within this state.

86 (a) Each individual employed to perform or to assist in
87 performing the work of any agent or employee of an employing

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88 unit is deemed to be employed by the employing unit ~~for the~~
89 ~~purposes of this chapter~~, regardless of whether the individual
90 was hired or paid directly by the employing unit or by an agent
91 or employee of the employing unit, if the employing unit had
92 actual or constructive knowledge of the work.

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

97 (c) A person who is an officer of a corporation, or a
98 member of a limited liability company classified as a
99 corporation for federal income tax purposes, and who performs
100 services for the corporation or limited liability company in
101 this state, regardless of whether those services are continuous,
102 is deemed an employee of the corporation or the limited
103 liability company during all of each week of his or her tenure
104 of office, regardless of whether he or she is compensated for
105 those services. Services are presumed to be rendered for the
106 corporation if in cases in which the officer is compensated by
107 means other than dividends upon shares of stock of the
108 corporation owned by him or her.

109 (d) A limited liability company shall be treated as having
110 the same status as it is classified for federal income tax
111 purposes. However, a single-member limited liability company
112 shall be treated as the employer.

113 (22) ~~(21)~~ "Employment" means a service subject to ~~this~~
114 ~~chapter under~~ s. 443.1216 which is performed by an employee for
115 his or her employer ~~the person employing him or her~~.

116 (23) ~~(22)~~ "Farm" includes stock, dairy, poultry, fruit, fur-

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117 bearing animal, and truck farms, plantations, ranches,
118 nurseries, ranges, greenhouses or other similar structures used
119 primarily for the raising of agricultural or horticultural
120 commodities, and orchards.

121 (24)~~(23)~~ "Fund" means the Unemployment Compensation Trust
122 Fund ~~created under this chapter~~, into which all contributions
123 and reimbursements required under this chapter are deposited and
124 from which all benefits provided under this chapter are paid.

125 (25)~~(24)~~ "High quarter" means the quarter in an
126 individual's base period in which the individual has the
127 greatest amount of wages paid, regardless of the number of
128 employers paying wages in that quarter.

129 (26)~~(25)~~ "Hospital" means an establishment ~~institution that~~
130 ~~is~~ licensed as a hospital under chapter 395, ~~certified, or~~
131 ~~approved by the Agency for Health Care Administration as a~~
132 ~~hospital~~.

133 (27)~~(26)~~ "Institution of higher education" means an
134 educational institution that:

135 (a) Admits as regular students only individuals having a
136 certificate of graduation from a high school, or the recognized
137 equivalent of a certificate of graduation;

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

140 (c) Provides an educational program that ~~for which it~~
141 awards a bachelor's or higher degree, or ~~provides a program~~ that
142 is acceptable for full credit toward a bachelor's or higher
143 degree; a program of postgraduate or postdoctoral studies; or a
144 program of training to prepare students for gainful employment
145 in a recognized occupation; and

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

147

148 The term includes each community college and state university in
149 this state, and any ~~each other~~ institution in this state
150 authorized ~~under s. 1005.03~~ to use the designation "college" or
151 "university-" under s. 1005.03.

152 (28)~~(27)~~ "Insured work" means employment for employers.

153 (29)~~(28)~~ "Leave of absence" means a temporary break in
154 service to an employer, for a specified period of time, during
155 which the employing unit guarantees the same or a comparable
156 position to the worker at the expiration of the leave.

157 (30)~~(29)~~ "Misconduct" includes, but is not limited to, the
158 following, which may not be construed in pari materia with each
159 other:

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

164 (b) Carelessness or negligence to a degree or recurrence
165 that manifests culpability, wrongful intent, or evil design or
166 shows an intentional and substantial disregard of the employer's
167 interests or of the employee's duties and obligations to his or
168 her employer.

169 (31)~~(30)~~ "Monetary determination" means a determination of
170 whether and in what amount a claimant is eligible for benefits
171 based on the claimant's employment during the base period of the
172 claim.

173 (32)~~(31)~~ "Nonmonetary determination" means a determination
174 of the claimant's eligibility for benefits based on an issue

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175 other than monetary entitlement and benefit overpayment.

176 (33)~~(32)~~ "Not in the course of the employer's trade or
177 business" means not promoting or advancing the trade or business
178 of the employer.

179 (34)~~(33)~~ "One-stop career center" means a service site
180 established and maintained as part of the one-stop delivery
181 system under s. 445.009.

182 (35)~~(34)~~ "Pay period" means ~~a period of~~ 31 or fewer
183 consecutive days for which a payment or remuneration is
184 ordinarily made to the employee by the person employing him or
185 her.

186 (36)~~(35)~~ "Public employer" means:

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

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

190 (c) An instrumentality that is wholly owned by one or more
191 state agencies, political subdivisions, or instrumentalities of
192 the state and one or more state agencies or political
193 subdivisions of one or more other states.

194 (37)~~(36)~~ "Reasonable assurance" means a written or verbal
195 agreement, an agreement between an employer and a worker
196 understood through tradition within the trade or occupation, or
197 an agreement defined in an employer's policy.

198 (38) "Reemployment services" means all activities provided
199 to unemployed persons which are designed to assist them in
200 finding work, including, but not limited to:

201 (a) Job search, referral and placement assistance, and
202 provision of labor market information.

203 (b) Creation of an individualized employability development

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204 plan that is developed by a case manager and job seeker and
205 includes career goals, work history, certification, and services
206 required to meet such goals. The plan is agreed to by the job
207 seeker who must meet each goal in order to continue
208 participating in job training programs.

209 (c) Assessment of skill levels, abilities, and aptitudes.

210 (d) Career guidance, if appropriate, and referral to
211 training as required.

212 (e) Job search workshops such as resume writing and
213 interviewing classes.

214 (d) Community service programs operated by a one-stop
215 career center.

216 (39)-(37) "Reimbursement" means a payment of money to the
217 Unemployment Compensation Trust Fund in lieu of a contribution
218 which is required under this chapter to finance unemployment
219 benefits.

220 (40)-(38) "Reimbursing employer" means an employer who is
221 liable for reimbursements in lieu of contributions made under
222 this chapter.

223 (41)-(39) "State" includes the states of the United States,
224 the District of Columbia, Canada, the Commonwealth of Puerto
225 Rico, and the Virgin Islands.

226 (42)-(40) "State law" means the unemployment insurance law
227 of any state, approved by the United States Secretary of Labor
228 under s. 3304 of the Internal Revenue Code of 1954.

229 (43)-(41) "Tax collection service provider" or "service
230 provider" means the state agency providing unemployment tax
231 collection services under contract with the Agency for Workforce
232 Innovation through an interagency agreement pursuant to s.

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233 443.1316.

234 (44)~~(42)~~ "Temporary layoff" means a job separation due to
235 lack of work which does not exceed 8 consecutive weeks and which
236 has a fixed or approximate return-to-work date.

237 (45)~~(43)~~ "Unemployment" or "unemployed" means:

238 (a) An individual is "totally unemployed" in any week
239 during which he or she does not perform any services and for
240 which earned income is not payable to him or her. An individual
241 is "partially unemployed" in any week of less than full-time
242 work if the earned income payable to him or her for that week is
243 less than his or her weekly benefit amount. The Agency for
244 Workforce Innovation may adopt rules prescribing distinctions in
245 the procedures for unemployed individuals based on total
246 unemployment, part-time unemployment, partial unemployment of
247 individuals attached to their regular jobs, and other forms of
248 short-time work.

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

253 (46)~~(44)~~ "Wages" means remuneration subject to this chapter
254 under s. 443.1217.

255 (47)~~(45)~~ "Week" means ~~a period of~~ 7 consecutive days as
256 defined in the rules of the Agency for Workforce Innovation. The
257 Agency for Workforce Innovation may by rule prescribe that a
258 week is deemed to be "in," "within," or "during" the benefit
259 year that contains the greater part of the week.

260 Section 2. Subsection (1) of section 443.091, Florida
261 Statutes, is amended to read:

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262 443.091 Benefit eligibility conditions.—

263 (1) An unemployed individual is eligible to receive
264 benefits for any week only if the Agency for Workforce
265 Innovation finds that:

266 (a) She or he has made a claim for benefits for that week
267 in accordance with the rules adopted by the Agency for Workforce
268 Innovation.

269 (b) She or he has registered with the agency for work and
270 subsequently reports to the one-stop career center as directed
271 by the regional workforce board for reemployment services. This
272 requirement does not apply to persons who are:

- 273 1. Non-Florida residents;
- 274 2. On a temporary layoff, ~~as defined in s. 443.036(42);~~
- 275 3. Union members who customarily obtain employment through
276 a union hiring hall; or
- 277 4. Claiming benefits under an approved short-time
278 compensation plan as provided in s. 443.1116.

279 (c) To make continued claims for benefits, she or he is
280 reporting to the agency in accordance with its rules. These
281 rules may not conflict with s. 443.111(1)(b), including the
282 requirement that each claimant continue to report regardless of
283 any pending appeal relating to her or his eligibility or
284 disqualification for benefits.

285 (d) She or he is able to work and is available for work. In
286 order to assess eligibility for a claimed week of unemployment,
287 the agency shall develop criteria to determine a claimant's
288 ability to work and availability for work. However:

- 289 1. Notwithstanding any other provision of this paragraph or
290 paragraphs (b) and (e), an otherwise eligible individual may not

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291 be denied benefits for any week because she or he is in training
292 with the approval of the agency, or by reason of s. 443.101(2)
293 relating to failure to apply for, or refusal to accept, suitable
294 work. Training may be approved by the agency in accordance with
295 criteria prescribed by rule. A claimant's eligibility during
296 approved training is contingent upon satisfying eligibility
297 conditions prescribed by rule.

298 2. Notwithstanding any other provision of this chapter, an
299 otherwise eligible individual who is in training approved under
300 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
301 determined ineligible or disqualified for benefits due to her or
302 his enrollment in such training or because of leaving work that
303 is not suitable employment to enter such training. As used in
304 this subparagraph, the term "suitable employment" means work of
305 a substantially equal or higher skill level than the worker's
306 past adversely affected employment, as defined for purposes of
307 the Trade Act of 1974, as amended, the wages for which are at
308 least 80 percent of the worker's average weekly wage as
309 determined for purposes of the Trade Act of 1974, as amended.

310 3. Notwithstanding any other provision of this section, an
311 otherwise eligible individual may not be denied benefits for any
312 week because she or he is before any state or federal court
313 pursuant to a lawfully issued summons to appear for jury duty.

314 4. Notwithstanding any other provision of this section, an
315 otherwise eligible individual may not be denied benefits for any
316 week because she or he is participating in a community service
317 program as provided in paragraph (f).

318 (e) She or he participates in reemployment services, such
319 as job search assistance services if, ~~whenever~~ the individual

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320 has been determined, by a profiling system established by agency
321 rule, to be likely to exhaust regular benefits and to be in need
322 of reemployment services.

323 (f) She or he participates in a community service program
324 administered by a one-stop career center. This requirement
325 applies only to claims in which the 12th week of his or her
326 regular benefits falls after July 2, 2011.

327 (g)~~(f)~~ She or he has been unemployed for a waiting period
328 of 1 week. A week may not be counted as a week of unemployment
329 under this subsection unless:

330 1. ~~Unless~~ It occurs within the benefit year that includes
331 the week for which she or he claims payment of benefits.

332 2. ~~If~~ Benefits have been paid for that week.

333 3. ~~Unless~~ The individual was eligible for benefits for that
334 week as provided in this section and s. 443.101, except for the
335 requirements of this subsection and of s. 443.101(5).

336 (h)~~(g)~~ She or he has been paid wages for insured work equal
337 to 1.5 times her or his high quarter wages during her or his
338 base period, except that an unemployed individual is not
339 eligible to receive benefits if the base period wages are less
340 than \$3,400.

341 (i)~~(h)~~ She or he submitted to the agency a valid social
342 security number assigned to her or him. The agency may verify
343 the social security number with the United States Social
344 Security Administration and ~~may~~ deny benefits if the agency is
345 unable to verify the individual's social security number, the
346 social security number is invalid, or the social security number
347 is not assigned to the individual.

348 Section 3. Paragraph (a) of subsection (1) and paragraph

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349 (f) of subsection (13) of section 443.1216, Florida Statutes,
350 are amended to read:

351 443.1216 Employment.—Employment, as defined in s. 443.036,
352 is subject to this chapter under the following conditions:

353 (1) (a) The employment ~~subject to this chapter~~ includes a
354 service performed, including a service performed in interstate
355 commerce, by:

356 1. An officer of a corporation.

357 2. An individual who, under the usual common-law rules
358 applicable for ~~in~~ determining the employer-employee
359 relationship, is an employee. However, if ~~whenever~~ a client who
360 ~~as defined in s. 443.036(18),~~ which would otherwise be
361 designated as an employing unit has contracted with an employee
362 leasing company to supply it with workers, those workers are
363 considered employees of the employee leasing company. An
364 employee leasing company may lease corporate officers of the
365 client to the client and other workers to the client, except as
366 prohibited by regulations of the Internal Revenue Service.
367 Employees of an employee leasing company must be reported under
368 the employee leasing company's tax identification number and
369 contribution rate for work performed for the employee leasing
370 company.

371 a. In addition to any other report required to be filed by
372 law, an employee leasing company shall submit a report to the
373 Labor Market Statistics Center within the Agency for Workforce
374 Innovation which includes each client establishment and each
375 establishment of the employee leasing company, or as otherwise
376 directed by the agency. The report must include the following
377 information for each establishment:

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378 (I) The trade or establishment name;

379 (II) The former unemployment compensation account number,
380 if available;

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

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

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

387 (VI) The address of the physical location;

388 (VII) The number of full-time and part-time employees who
389 worked during, or received pay that was subject to unemployment
390 compensation taxes for, the pay period including the 12th of the
391 month for each month of the quarter;

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

394 (IX) An internal identification code to uniquely identify
395 each establishment of each client;

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

398 (XI) The month and year that the client terminated the
399 contract for services.

400 b. The report shall be submitted electronically or as in a
401 ~~manner~~ otherwise prescribed by the Agency for Workforce
402 Innovation and in the format specified by the Bureau of Labor
403 Statistics of the United States Department of Labor for its
404 Multiple Worksite Report for Professional Employer
405 Organizations. The report must be provided quarterly to the
406 Labor Market Statistics Center within the Agency for Workforce

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407 Innovation, or as otherwise directed by the agency, and must be
408 filed by the last day of the month immediately following the end
409 of the calendar quarter. The information required in sub-sub-
410 subparagraphs a.(X) and (XI) need be provided only in the
411 quarter in which the contract to which it relates was entered
412 into or terminated. The sum of the employment data and the sum
413 of the wage data in the ~~this~~ report must match the employment
414 and wages reported in the unemployment compensation quarterly
415 tax and wage report. A report is not required for any calendar
416 quarter preceding the third calendar quarter of 2010.

417 c. The Agency for Workforce Innovation shall adopt rules as
418 necessary to administer this subparagraph, and may administer,
419 collect, enforce, and waive the penalty imposed by s.
420 443.141(1)(b) for the report required by this subparagraph.

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

424 3. An individual other than an individual who is an
425 employee under subparagraph 1. or subparagraph 2., who performs
426 services for remuneration for any person:

427 a. As an agent-driver or commission-driver engaged in
428 distributing meat products, vegetable products, fruit products,
429 bakery products, beverages other than milk, or laundry or
430 drycleaning services for his or her principal.

431 b. As a traveling or city salesperson engaged on a full-
432 time basis in the solicitation on behalf of, and the
433 transmission to, his or her principal of orders from
434 wholesalers, retailers, contractors, or operators of hotels,
435 restaurants, or other similar establishments for merchandise for

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436 resale or supplies for use in their business operations. This
 437 sub-subparagraph does not apply to an agent-driver, ~~or~~ a
 438 commission-driver, or ~~and does not apply to~~ sideline sales
 439 activities performed on behalf of a person other than the
 440 salesperson's principal.

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

443 a. The contract of service contemplates that substantially
 444 all of the services are to be performed personally by the
 445 individual;

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

449 c. The services are not in the nature of a single
 450 transaction that is not part of a continuing relationship with
 451 the person for whom the services are performed.

452 (13) The following are exempt from coverage under this
 453 chapter:

454 (f) Service performed in the employ of a public employer ~~as~~
 455 ~~defined in s. 443.036~~, except as provided in subsection (2), and
 456 service performed in the employ of an instrumentality of a
 457 public employer as described in s. 443.036(36)(b) or (c) ~~s.~~
 458 ~~443.036(35)(b) or (c)~~, to the extent that the instrumentality is
 459 immune under the United States Constitution from the tax imposed
 460 by s. 3301 of the Internal Revenue Code for that service.

461 Section 4. Paragraph (f) of subsection (3) of section
 462 443.131, Florida Statutes, is amended to read:

463 443.131 Contributions.—

464 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT

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465 EXPERIENCE.—

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

467 1. For the purposes of this subsection, two or more
468 employers who are parties to a transfer of business or the
469 subject of a merger, consolidation, or other form of
470 reorganization, effecting a change in legal identity or form,
471 are deemed a single employer and are considered to be one
472 employer with a continuous employment record if the tax
473 collection service provider finds that the successor employer
474 continues to carry on the employing enterprises of all of the
475 predecessor employers, ~~and that the successor employer~~ has paid
476 all contributions required of and due from all of the
477 predecessor employers, ~~and~~ has assumed liability for all
478 contributions that may become due from all of the predecessor
479 employers. ~~In addition,~~ An employer may not be considered a
480 successor under this subparagraph if the employer purchases a
481 company with a lower rate into which employees with job
482 functions unrelated to the business endeavors of the predecessor
483 are transferred for the purpose of acquiring the low rate and
484 avoiding payment of contributions. ~~As used in this paragraph,~~
485 Notwithstanding s. 443.036(15) ~~s. 443.036(14)~~, the term
486 “contributions,” as used in this paragraph, means all
487 indebtedness to the tax collection service provider, including,
488 but not limited to, interest, penalty, collection fee, and
489 service fee.

490 2. A successor employer must accept the transfer of all of
491 the predecessor employers' employment records within 30 days
492 after the date of the official notification of liability by
493 succession. If a predecessor employer has unpaid contributions

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494 or outstanding quarterly reports, the successor employer must
495 pay the total amount with certified funds within 30 days after
496 the date of the notice listing the total amount due. After the
497 total indebtedness is paid, the tax collection service provider
498 shall transfer the employment records of all of the predecessor
499 employers to the successor employer's employment record. The tax
500 collection service provider shall determine the contribution
501 rate of the combined successor and predecessor employers upon
502 the transfer of the employment records, as prescribed by rule,
503 in order to calculate any change in the contribution rate
504 resulting from the transfer of the employment records.

505 ~~3.2.~~ Regardless of whether a predecessor employer's
506 employment record is transferred to a successor employer under
507 this paragraph, the tax collection service provider shall treat
508 the predecessor employer, if he or she subsequently employs
509 individuals, as an employer without a previous employment record
510 or, if his or her coverage is terminated under s. 443.121, as a
511 new employing unit.

512 ~~4.3.~~ The state agency providing unemployment tax collection
513 services may adopt rules governing the partial transfer of
514 experience rating when an employer transfers an identifiable and
515 segregable portion of his or her payrolls and business to a
516 successor employing unit. As a condition of each partial
517 transfer, these rules must require the following to be filed
518 with the tax collection service provider: an application by the
519 successor employing unit, an agreement by the predecessor
520 employer, and the evidence required by the tax collection
521 service provider to show the benefit experience and payrolls
522 attributable to the transferred portion through the date of the

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523 transfer. These rules must provide that the successor employing
524 unit, if not an employer subject to this chapter, becomes an
525 employer as of the date of the transfer and that the transferred
526 portion of the predecessor employer's employment record is
527 removed from the employment record of the predecessor employer.
528 For each calendar year after the date of the transfer of the
529 employment record in the records of the tax collection service
530 provider, the service provider shall compute the contribution
531 rate payable by the successor employer or employing unit based
532 on his or her employment record, combined with the transferred
533 portion of the predecessor employer's employment record. These
534 rules may also prescribe what contribution rates are payable by
535 the predecessor and successor employers for the period between
536 the date of the transfer of the transferred portion of the
537 predecessor employer's employment record in the records of the
538 tax collection service provider and the first day of the next
539 calendar year.

540 5.4. This paragraph does not apply to an employee leasing
541 company and client contractual agreement ~~as defined in s.~~
542 ~~443.036~~. The tax collection service provider shall, if the
543 contractual agreement is terminated or the employee leasing
544 company fails to submit reports or pay contributions as required
545 by the service provider, treat the client as a new employer
546 without previous employment record unless the client is
547 otherwise eligible for a variation from the standard rate.

548 Section 5. This act shall take effect July 1, 2011.