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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/27/2011	.	
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The Committee on Budget (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) of section 213.053, Florida
Statutes, is amended to read:

213.053 Confidentiality and information sharing.-

(4) The department, while providing unemployment tax
collection services under contract with the Agency for Workforce
Innovation through an interagency agreement pursuant to s.
443.1316, may release unemployment tax rate information to the
agent of an employer who, ~~which agent~~ provides payroll services
for more than 100 ~~500~~ employers, pursuant to the terms of a



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14 memorandum of understanding. The memorandum of understanding
15 must state that the agent affirms, subject to the criminal
16 penalties contained in ss. 443.171 and 443.1715, that the agent
17 will retain the confidentiality of the information, that the
18 agent has in effect a power of attorney from the employer which
19 permits the agent to obtain unemployment tax rate information,
20 and that the agent shall provide the department with a copy of
21 the employer's power of attorney upon request.

22 Section 2. Section 443.031, Florida Statutes, is amended to
23 read:

24 443.031 Rule of liberal construction.—This chapter shall be
25 liberally construed to accomplish its purpose to promote
26 employment security by increasing opportunities for reemployment
27 and to provide, through the accumulation of reserves, for the
28 payment of compensation to individuals with respect to their
29 unemployment. The Legislature hereby declares its intention to
30 provide for carrying out the purposes of this chapter in
31 cooperation with the appropriate agencies of other states and of
32 the Federal Government as part of a nationwide employment
33 security program, and particularly to provide for meeting the
34 requirements of Title III, the requirements of the Federal
35 Unemployment Tax Act, and the Wagner-Peyser Act of June 6, 1933,
36 entitled "An Act to provide for the establishment of a national
37 employment system and for cooperation with the states in the
38 promotion of such system, and for other purposes," each as
39 amended, in order to secure for this state and its citizens the
40 grants and privileges available under such acts. All doubts ~~in~~
41 favor of a claimant of unemployment benefits who is unemployed
42 through no fault of his or her own. Any doubt as to the proper



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43 construction of any provision of this chapter shall be resolved
44 in favor of conformity with such requirements ~~federal law,~~
45 ~~including, but not limited to, the Federal Unemployment Tax Act,~~
46 ~~the Social Security Act, the Wagner-Peyser Act, and the~~
47 ~~Workforce Investment Act.~~

48 Section 3. Present subsections (26) through (45) of section
49 443.036, Florida Statutes, are renumbered as subsections (28)
50 through (47), respectively, new subsections (26) and (27) are
51 added to that section, and present subsections (6), (9), (29),
52 and (43) of that section are amended, to read:

53 443.036 Definitions.—As used in this chapter, the term:

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

56 (9) "Benefit year" means, for an individual, the 1-year
57 period beginning with the first day of the first week for which
58 the individual first files a valid claim for benefits and,
59 thereafter, the 1-year period beginning with the first day of
60 the first week for which the individual next files a valid claim
61 for benefits after the termination of his or her last preceding
62 benefit year. Each claim for benefits made in accordance with s.
63 443.151(2) is a valid claim under this subsection if the
64 individual was paid wages for insured work in accordance with s.
65 443.091(1)(g) and is unemployed as defined in subsection (45)
66 ~~(43)~~ at the time of filing the claim. However, the Agency for
67 Workforce Innovation may adopt rules providing for the
68 establishment of a uniform benefit year for all workers in one
69 or more groups or classes of service or within a particular
70 industry if the agency determines, after notice to the industry
71 and to the workers in the industry and an opportunity to be



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72 heard in the matter, that those groups or classes of workers in
73 a particular industry periodically experience unemployment
74 resulting from layoffs or shutdowns for limited periods of time.

75 (26) "Individual in continued reporting status" means an
76 individual who has been determined to be eligible pursuant to s.
77 443.091 who is reporting to the Agency for Workforce Innovation
78 in accordance with s. 443.091(1) (c).

79 (27) "Initial skills review" means an online education or
80 training program, such as that established under s. 1004.99,
81 that is approved by the Agency for Workforce Innovation and
82 designed to measure an individual's mastery level of workplace
83 skills.

84 (31)~~(29)~~ "Misconduct," irrespective of whether the
85 misconduct occurs at the workplace or during working hours,
86 includes, but is not limited to, the following, which may not be
87 construed in pari materia with each other:

88 (a) Conduct demonstrating conscious ~~willful or wanton~~
89 disregard of an employer's interests and found to be a
90 deliberate violation or disregard of the reasonable standards of
91 behavior which the employer expects ~~has a right to expect~~ of his
92 or her employee. ~~;~~ ~~or~~

93 (b) Carelessness or negligence to a degree or recurrence
94 that manifests culpability, wrongful intent, ~~or evil design~~ or
95 shows an intentional and substantial disregard of the employer's
96 interests or of the employee's duties and obligations to his or
97 her employer.

98 (c) Chronic absenteeism or tardiness in deliberate
99 violation of a known policy of the employer or one or more
100 unapproved absences following a written reprimand or warning



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101 relating to more than one unapproved absence.

102 (d) A willful and deliberate violation of a standard or
103 regulation of this state by an employee of an employer licensed
104 or certified by this state, which violation would cause the
105 employer to be sanctioned or have its license or certification
106 suspended by this state.

107 (e) A violation of an employer's rule, unless the claimant
108 can demonstrate that:

109 1. He or she did not know, and could not reasonably know,
110 of the rule's requirements;

111 2. The rule is not lawful or not reasonably related to the
112 job environment and performance; or

113 3. The rule is not fairly or consistently enforced.

114 (45)-(43) "Unemployment" or "unemployed" means:

115 (a) An individual is "totally unemployed" in any week
116 during which he or she does not perform any services and for
117 which earned income is not payable to him or her. An individual
118 is "partially unemployed" in any week of less than full-time
119 work if the earned income payable to him or her for that week is
120 less than his or her weekly benefit amount. The Agency for
121 Workforce Innovation may adopt rules prescribing distinctions in
122 the procedures for unemployed individuals based on total
123 unemployment, part-time unemployment, partial unemployment of
124 individuals attached to their regular jobs, and other forms of
125 short-time work.

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



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130 Section 4. Effective August 1, 2011, paragraphs (b), (c),
131 (d), and (f) of subsection (1) of section 443.091, Florida
132 Statutes, are amended to read:

133 443.091 Benefit eligibility conditions.—

134 (1) An unemployed individual is eligible to receive
135 benefits for any week only if the Agency for Workforce
136 Innovation finds that:

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

- 141 1. Non-Florida residents;
- 142 2. On a temporary layoff, ~~as defined in s. 443.036(42);~~
- 143 3. Union members who customarily obtain employment through
144 a union hiring hall; or
- 145 4. Claiming benefits under an approved short-time
146 compensation plan as provided in s. 443.1116.

147 (c) To make continued claims for benefits, she or he is
148 reporting to the Agency for Workforce Innovation in accordance
149 with this paragraph and agency its rules, and participating in
150 an initial skills review as directed by the agency. Agency These
151 rules may not conflict with s. 443.111(1)(b), which requires
152 including the requirement that each claimant continue to report
153 regardless of any pending appeal relating to her or his
154 eligibility or disqualification for benefits.

155 1. For each week of unemployment claimed, each report must,
156 at a minimum, include the name, address, and telephone number of
157 each prospective employer contacted, or the date the claimant
158 reported to a one-stop career center, pursuant to paragraph (d).



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159 2. An individual in continued reporting status must
160 participate in an initial skills review as directed by the
161 agency. The administrator or operator of the initial skills
162 review shall notify the agency when the individual completes the
163 initial skills review and report the results of the review to
164 the regional workforce board or the one-stop career center as
165 directed by the workforce board. The workforce board shall use
166 the initial skills review to develop a plan for referring
167 individuals to training and employment opportunities. The
168 failure of the individual to comply with this requirement will
169 result in the individual being determined ineligible for
170 benefits for the week in which the noncompliance occurred and
171 for any subsequent week of unemployment until the requirement is
172 satisfied. However, this requirement does not apply if the
173 individual is able to affirmatively attest to being unable to
174 complete such review due to illiteracy, a language impediment,
175 or a technological impediment.

176 (d) She or he is able to work and is available for work. In
177 order to assess eligibility for a claimed week of unemployment,
178 the agency shall develop criteria to determine a claimant's
179 ability to work and availability for work. A claimant must be
180 actively seeking work in order to be considered available for
181 work. This means engaging in systematic and sustained efforts to
182 find work, including contacting at least five prospective
183 employers for each week of unemployment claimed. The agency may
184 require the claimant to provide proof of such efforts to the
185 one-stop career center as part of reemployment services. The
186 agency shall conduct random reviews of work search information
187 provided by claimants. As an alternative to contacting at least



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188 five prospective employers for any week of unemployment claimed,
189 a claimant may, for that same week, report in person to a one-
190 stop career center to meet with a representative of the center
191 and access reemployment services of the center. The center shall
192 keep a record of the services or information provided to the
193 claimant and shall provide the records to the agency upon
194 request by the agency. However:

195 1. Notwithstanding any other provision of this paragraph or
196 paragraphs (b) and (e), an otherwise eligible individual may not
197 be denied benefits for any week because she or he is in training
198 with the approval of the agency, or by reason of s. 443.101(2)
199 relating to failure to apply for, or refusal to accept, suitable
200 work. Training may be approved by the agency in accordance with
201 criteria prescribed by rule. A claimant's eligibility during
202 approved training is contingent upon satisfying eligibility
203 conditions prescribed by rule.

204 2. Notwithstanding any other provision of this chapter, an
205 otherwise eligible individual who is in training approved under
206 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
207 determined ineligible or disqualified for benefits due to ~~her or~~
208 ~~his~~ enrollment in such training or because of leaving work that
209 is not suitable employment to enter such training. As used in
210 this subparagraph, the term "suitable employment" means work of
211 a substantially equal or higher skill level than the worker's
212 past adversely affected employment, as defined for purposes of
213 the Trade Act of 1974, as amended, the wages for which are at
214 least 80 percent of the worker's average weekly wage as
215 determined for purposes of the Trade Act of 1974, as amended.

216 3. Notwithstanding any other provision of this section, an



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217 otherwise eligible individual may not be denied benefits for any
218 week because she or he is before any state or federal court
219 pursuant to a lawfully issued summons to appear for jury duty.

220 (f) She or he has been unemployed for a waiting period of 1
221 week. A week may not be counted as a week of unemployment under
222 this subsection unless:

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

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

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

229 Section 5. Effective August 1, 2011, paragraph (a) of
230 subsection (1) and subsections (2), (3), and (9) of section
231 443.101, Florida Statutes, are amended, and subsection (12) is
232 added to that section, to read:

233 443.101 Disqualification for benefits.—An individual shall
234 be disqualified for benefits:

235 (1) (a) For the week in which he or she has voluntarily left
236 work without good cause attributable to his or her employing
237 unit or ~~in which the individual~~ has been discharged by the
238 employing unit for misconduct connected with his or her work,
239 based on a finding by the Agency for Workforce Innovation. As
240 used in this paragraph, the term "work" means any work, whether
241 full-time, part-time, or temporary.

242 1. Disqualification for voluntarily quitting continues for
243 the full period of unemployment next ensuing after the
244 individual has left his or her full-time, part-time, or
245 temporary work voluntarily without good cause and until the



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246 individual has earned income equal to or greater than ~~in excess~~
247 ~~of~~ 17 times his or her weekly benefit amount. As used in this
248 subsection, the term "good cause" includes only that cause
249 attributable to the employing unit which would compel a
250 reasonable employee to cease working or attributable to ~~which~~
251 ~~consists of~~ the individual's illness or disability requiring
252 separation from his or her work. Any other disqualification may
253 not be imposed. An individual is not disqualified under this
254 subsection for voluntarily leaving temporary work to return
255 immediately when called to work by the permanent employing unit
256 that temporarily terminated his or her work within the previous
257 6 calendar months, or. ~~An individual is not disqualified under~~
258 ~~this subsection~~ for voluntarily leaving work to relocate as a
259 result of his or her military-connected spouse's permanent
260 change of station orders, activation orders, or unit deployment
261 orders.

262 2. Disqualification for being discharged for misconduct
263 connected with his or her work continues for the full period of
264 unemployment next ensuing after having been discharged and until
265 the individual is reemployed and has earned income of at least
266 17 times his or her weekly benefit amount and for not more than
267 52 weeks ~~that~~ immediately following ~~follow~~ that week, as
268 determined by the agency in each case according to the
269 circumstances ~~in each case~~ or the seriousness of the misconduct,
270 under the agency's rules adopted for determinations of
271 disqualification for benefits for misconduct.

272 3. If an individual has provided notification to the
273 employing unit of his or her intent to voluntarily leave work
274 and the employing unit discharges the individual for reasons



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275 other than misconduct before the date the voluntary quit was to
276 take effect, the individual, if otherwise entitled, shall
277 receive benefits from the date of the employer's discharge until
278 the effective date of his or her voluntary quit.

279 4. If an individual is notified by the employing unit of
280 the employer's intent to discharge the individual for reasons
281 other than misconduct and the individual quits without good
282 cause, ~~as defined in this section,~~ before the date the discharge
283 was to take effect, the claimant is ineligible for benefits
284 pursuant to s. 443.091(1)(d) for failing to be available for
285 work for the week or weeks of unemployment occurring before the
286 effective date of the discharge.

287 (2) If the Agency for Workforce Innovation finds that the
288 individual has failed without good cause to apply for available
289 suitable work ~~when directed by the agency or the one-stop career~~
290 ~~center,~~ ~~to~~ accept suitable work when offered to him or her, or
291 ~~to~~ return to the individual's customary self-employment when
292 directed by the agency, the disqualification continues for the
293 full period of unemployment next ensuing after he or she failed
294 without good cause to apply for available suitable work, ~~to~~
295 accept suitable work, or ~~to~~ return to his or her customary self-
296 employment, ~~under this subsection,~~ and until the individual has
297 earned income of at least 17 times his or her weekly benefit
298 amount. The Agency for Workforce Innovation shall by rule adopt
299 criteria for determining the "suitability of work," as used in
300 this section. ~~The Agency for Workforce Innovation~~ In developing
301 these rules, the agency shall consider the duration of a
302 claimant's unemployment in determining the suitability of work
303 and the suitability of proposed rates of compensation for



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304 available work. Further, after an individual has received 19 ~~25~~
305 weeks of benefits in a single year, suitable work is a job that
306 pays the minimum wage and is 120 percent or more of the weekly
307 benefit amount the individual is drawing.

308 (a) In determining whether or not any work is suitable for
309 an individual, the Agency ~~for Workforce Innovation~~ shall
310 consider the degree of risk ~~involved~~ to the individual's ~~his or~~
311 ~~her~~ health, safety, and morals; the individual's ~~his or her~~
312 physical fitness, and prior training, ~~;~~ ~~the individual's~~
313 experience, and prior earnings, ~~;~~ ~~his or her~~ length of
314 unemployment, and prospects for securing local work in his or
315 her customary occupation; and the distance of the available work
316 from his or her residence.

317 (b) Notwithstanding any other provisions of this chapter,
318 work is not deemed suitable and benefits may not be denied ~~under~~
319 ~~this chapter~~ to any otherwise eligible individual for refusing
320 to accept new work under any of the following conditions:

321 1. ~~If~~ The position offered is vacant due directly to a
322 strike, lockout, or other labor dispute.

323 2. ~~If~~ The wages, hours, or other conditions of the work
324 offered are substantially less favorable to the individual than
325 those prevailing for similar work in the locality.

326 3. ~~If~~ As a condition of being employed, the individual is
327 ~~would be~~ required to join a company union or to resign from or
328 refrain from joining any bona fide labor organization.

329 (c) If the Agency ~~for Workforce Innovation~~ finds that an
330 individual was rejected for offered employment as the direct
331 result of a positive, confirmed drug test required as a
332 condition of employment, the individual is disqualified for



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333 refusing to accept an offer of suitable work.

334 (3) For any week with respect to which he or she is
335 receiving or has received remuneration in the form of:

336 (a) Wages in lieu of notice.

337 (b) Severance pay. The number of weeks that an individual's
338 severance pay disqualifies the individual is equal to the amount
339 of the severance pay divided by that individual's average weekly
340 wage received from the employer that paid the severance pay,
341 rounded down to the nearest whole number, beginning with the
342 week the individual is separated from employment.

343 (c) ~~(b)~~ 1. Compensation for temporary total disability or
344 permanent total disability under the workers' compensation law
345 of any state or under a similar law of the United States.

346
347 ~~2. However,~~ If the remuneration referred to in this subsection
348 ~~paragraphs (a) and (b)~~ is less than the benefits that would
349 otherwise be due under this chapter, an individual who is
350 otherwise eligible ~~he or she~~ is entitled to receive for that
351 week, ~~if otherwise eligible,~~ benefits reduced by the amount of
352 the remuneration.

353 (9) If the individual was terminated from his or her work
354 ~~for violation of any criminal law punishable by imprisonment, or~~
355 ~~for any dishonest act, in connection with his or her work,~~ as
356 follows:

357 (a) If the Agency for Workforce Innovation or the
358 Unemployment Appeals Commission finds that the individual was
359 terminated from ~~his or her~~ work for violation of any criminal
360 law, under any jurisdiction, which was punishable by
361 ~~imprisonment~~ in connection with his or her work, and the



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362 individual was convicted ~~found guilty of the offense, made an~~
363 ~~admission of guilt in a court of law,~~ or entered a plea of
364 guilty or nolo contendere ~~no contest,~~ the individual is not
365 entitled to unemployment benefits for up to 52 weeks, pursuant
366 to ~~under~~ rules adopted by the agency ~~for Workforce Innovation,~~
367 and until he or she has earned income of at least 17 times his
368 or her weekly benefit amount. If, before an adjudication of
369 guilt, an admission of guilt, or a plea of nolo contendere ~~no~~
370 ~~contest,~~ the employer proves by competent substantial evidence
371 to ~~shows~~ the agency ~~for Workforce Innovation~~ that the arrest was
372 due to a crime against the employer or the employer's business,
373 customers, or invitees ~~and, after considering all the evidence,~~
374 ~~the Agency for Workforce Innovation finds misconduct in~~
375 ~~connection with the individual's work,~~ the individual is not
376 entitled to unemployment benefits.

377 (b) If the Agency for Workforce Innovation or the
378 Unemployment Appeals Commission finds that the individual was
379 terminated from work for any dishonest act in connection with
380 his or her work, the individual is not entitled to unemployment
381 benefits for up to 52 weeks, pursuant to ~~under~~ rules adopted by
382 the Agency ~~for Workforce Innovation,~~ and until he or she has
383 earned income of at least 17 times his or her weekly benefit
384 amount. ~~In addition,~~ If the employer terminates an individual as
385 a result of a dishonest act in connection with his or her work
386 and the Agency ~~for Workforce Innovation~~ finds misconduct in
387 connection with his or her work, the individual is not entitled
388 to unemployment benefits.

389
390 If ~~With respect to~~ an individual is disqualified for benefits,



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391 the account of the terminating employer, if the employer is in
392 the base period, is noncharged at the time the disqualification
393 is imposed.

394 (12) For any week in which the individual is unavailable
395 for work due to incarceration or imprisonment.

396 Section 6. Effective August 1, 2011, subsection (1) of
397 section 443.111, Florida Statutes, is amended to read:

398 443.111 Payment of benefits.—

399 (1) MANNER OF PAYMENT.—Benefits are payable from the fund
400 in accordance with rules adopted by the Agency for Workforce
401 Innovation, subject to the following requirements:

402 (a) Benefits are payable ~~by mail or~~ electronically, except
403 that an individual being paid by paper warrant on July 1, 2011,
404 may continue to be paid in that manner until the expiration of
405 the claim. Notwithstanding s. 409.942(4), the agency may develop
406 a system for the payment of benefits by electronic funds
407 transfer, including, but not limited to, debit cards, electronic
408 payment cards, or any other means of electronic payment that the
409 agency deems to be commercially viable or cost-effective.
410 Commodities or services related to the development of such a
411 system shall be procured by competitive solicitation, unless
412 they are purchased from a state term contract pursuant to s.
413 287.056. The agency shall adopt rules necessary to administer
414 this paragraph ~~the system.~~

415 (b) As required under s. 443.091(1), each claimant must
416 ~~report in the manner prescribed by the agency for Workforce~~
417 ~~Innovation to certify for benefits that are paid and must~~
418 ~~continue to report~~ at least biweekly to receive unemployment
419 benefits and to attest to the fact that she or he is able and



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420 available for work, has not refused suitable work, is seeking
421 work and has contacted at least five prospective employers or
422 reported in person to a one-stop career center for reemployment
423 services for each week of unemployment claimed, and, if she or
424 he has worked, to report earnings from that work. Each claimant
425 must continue to report regardless of any appeal or pending
426 appeal relating to her or his eligibility or disqualification
427 for benefits.

428 Section 7. Effective July 1, 2011, paragraph (a) of
429 subsection (1) and paragraph (f) of subsection (13) of section
430 443.1216, Florida Statutes, are amended to read:

431 443.1216 Employment.—Employment, as defined in s. 443.036,
432 is subject to this chapter under the following conditions:

433 (1) (a) The employment ~~subject to this chapter~~ includes a
434 service performed, including a service performed in interstate
435 commerce, by:

436 1. An officer of a corporation.

437 2. An individual who, under the usual common-law rules
438 applicable in determining the employer-employee relationship, is
439 an employee. However, if ~~whenever~~ a client, ~~as defined in s.~~
440 ~~443.036(18),~~ which would otherwise be designated as an employing
441 unit, has contracted with an employee leasing company to supply
442 it with workers, those workers are considered employees of the
443 employee leasing company and must be reported under the leasing
444 company's tax identification number and contribution rate for
445 work performed for the leasing company.

446 a. However, except for the internal employees of an
447 employee leasing company, a leasing company may make a one-time
448 election to report and pay contributions under the client



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449 method. Under the client method, a leasing company must assign
450 leased employees to the client company that is leasing the
451 employees. The client method is solely a method to report and
452 pay unemployment contributions. For all other purposes, the
453 leased employees are considered employees of the employee
454 leasing company. A leasing company that elects the client method
455 shall pay contributions at the rates assigned to each client
456 company.

457 (I) The election applies to all of the leasing company's
458 current and future clients.

459 (II) The leasing company must notify the Agency for
460 Workforce Innovation or the tax collection service provider of
461 its election by August 1, and such election applies to reports
462 and contributions for the first quarter of the following
463 calendar year. The notification must include:

464 (A) A list of each client company and its unemployment
465 account number;

466 (B) A list of each client company's current and previous
467 employees and their respective social security numbers for the
468 prior 3 state fiscal years; and

469 (C) All wage data and benefit charges for the prior 3 state
470 fiscal years.

471 (III) Subsequent to such election, the employee leasing
472 company may not change its reporting method.

473 (IV) The employee leasing company must file a Florida
474 Department of Revenue Employer's Quarterly Report (UCT-6) for
475 each client company and pay all contributions by approved
476 electronic means.

477 (V) For the purposes of calculating experience rates, the



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478 election is treated like a total or partial succession,
479 depending on the percentage of employees leased. If the client
480 company leases only a portion of its employees from the leasing
481 company, the client company shall continue to report the
482 nonleased employees under its tax rate based on the experience
483 of the nonleased employees.

484 (VI) A leasing company that makes a one-time election under
485 this sub-subparagraph is not required to submit quarterly
486 Multiple Worksite Reports required by sub-subparagraphs c. and
487 d.

488 (VII) This sub-subparagraph applies to all employee leasing
489 companies, including each leasing company that is a group member
490 or group leader of an employee leasing company group licensed
491 pursuant to chapter 468. The election is binding on all employee
492 leasing companies and their related enterprises, subsidiaries,
493 or other entities that share common ownership, management, or
494 control with the leasing company. The election is also binding
495 on all clients of the leasing company for as long as a written
496 agreement is in effect between the client and the leasing
497 company pursuant to s. 468.525(3) (a). If the relationship
498 between the leasing company and the client terminates, the
499 client retains the wage and benefit history experienced under
500 the leasing company.

501 b. An employee leasing company may lease corporate officers
502 of the client to the client and other workers to the client,
503 except as prohibited by regulations of the Internal Revenue
504 Service. ~~Employees of an employee leasing company must be~~
505 ~~reported under the employee leasing company's tax identification~~
506 ~~number and contribution rate for work performed for the employee~~



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507 ~~leasing company.~~

508 c.a. In addition to any other report required to be filed
509 by law, an employee leasing company shall submit a report to the
510 Labor Market Statistics Center within the Agency for Workforce
511 Innovation which includes each client establishment and each
512 establishment of the ~~employee~~ leasing company, or as otherwise
513 directed by the agency. The report must include the following
514 information for each establishment:

515 (I) The trade or establishment name;

516 (II) The former unemployment compensation account number,
517 if available;

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

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

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

524 (VI) The address of the physical location;

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

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

531 (IX) An internal identification code to uniquely identify
532 each establishment of each client;

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

535 (XI) The month and year that the client terminated the



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536 contract for services.

537 ~~d.b.~~ The report shall be submitted electronically or in a
538 manner otherwise prescribed by the Agency for Workforce
539 Innovation in the format specified by the Bureau of Labor
540 Statistics of the United States Department of Labor for its
541 Multiple Worksite Report for Professional Employer
542 Organizations. The report must be provided quarterly to the
543 Labor Market Statistics Center within the agency ~~for Workforce~~
544 ~~Innovation~~, or as otherwise directed by the agency, and must be
545 filed by the last day of the month immediately following the end
546 of the calendar quarter. The information required in sub-sub-
547 subparagraphs c.(X) and (XI) ~~a.(X) and (XI)~~ need be provided
548 only in the quarter in which the contract to which it relates
549 was entered into or terminated. The sum of the employment data
550 and the sum of the wage data in this report must match the
551 employment and wages reported in the unemployment compensation
552 quarterly tax and wage report. A report is not required for any
553 calendar quarter preceding the third calendar quarter of 2010.

554 ~~e.e.~~ The Agency for Workforce Innovation shall adopt rules
555 as necessary to administer this subparagraph, and may
556 administer, collect, enforce, and waive the penalty imposed by
557 s. 443.141(1)(b) for the report required by this subparagraph.

558 ~~f.d.~~ For the purposes of this subparagraph, the term
559 "establishment" means any location where business is conducted
560 or where services or industrial operations are performed.

561 3. An individual other than an individual who is an
562 employee under subparagraph 1. or subparagraph 2., who performs
563 services for remuneration for any person:

564 a. As an agent-driver or commission-driver engaged in



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565 distributing meat products, vegetable products, fruit products,
566 bakery products, beverages other than milk, or laundry or
567 drycleaning services for his or her principal.

568 b. As a traveling or city salesperson engaged on a full-
569 time basis in the solicitation on behalf of, and the
570 transmission to, his or her principal of orders from
571 wholesalers, retailers, contractors, or operators of hotels,
572 restaurants, or other similar establishments for merchandise for
573 resale or supplies for use in their business operations. This
574 sub-subparagraph does not apply to an agent-driver or a
575 commission-driver and does not apply to sideline sales
576 activities performed on behalf of a person other than the
577 salesperson's principal.

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

580 a. The contract of service contemplates that substantially
581 all of the services are to be performed personally by the
582 individual;

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

586 c. The services are not in the nature of a single
587 transaction that is not part of a continuing relationship with
588 the person for whom the services are performed.

589 (13) The following are exempt from coverage under this
590 chapter:

591 (f) Service performed in the employ of a public employer as
592 defined in s. 443.036, except as provided in subsection (2), and
593 service performed in the employ of an instrumentality of a



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594 public employer as described in s. 443.036 (37) (b) ~~(35) (b)~~ or (c),
595 to the extent that the instrumentality is immune under the
596 United States Constitution from the tax imposed by s. 3301 of
597 the Internal Revenue Code for that service.

598 Section 8. Effective upon this act becoming a law, for tax
599 rates effective on or after January 1, 2012, paragraphs (b) and
600 (e) of subsection (3) of section 443.131, Florida Statutes, are
601 amended to read:

602 443.131 Contributions.—

603 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
604 EXPERIENCE.—

605 (b) *Benefit ratio*.—

606 1. As used in this paragraph, the term "annual payroll"
607 means the calendar quarter taxable payroll reported to the tax
608 collection service provider for the quarters used in computing
609 the benefit ratio. The term does not include a penalty resulting
610 from the untimely filing of required wage and tax reports. All
611 of the taxable payroll reported to the tax collection service
612 provider by the end of the quarter preceding the quarter for
613 which the contribution rate is to be computed must be used in
614 the computation.

615 2. As used in this paragraph, the term "benefits charged to
616 the employer's employment record" means the amount of benefits
617 paid to individuals multiplied by:

618 a. For benefits paid prior to July 1, 2007, 1.

619 b. For benefits paid during the period beginning on July 1,
620 2007, and ending July 31, 2011, 0.95.

621 c. For benefits paid after July 31, 2011, 1.

622 3.2- For each calendar year, the tax collection service



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623 provider shall compute a benefit ratio for each employer whose
624 employment record was chargeable for benefits during the 12
625 consecutive quarters ending June 30 of the calendar year
626 preceding the calendar year for which the benefit ratio is
627 computed. An employer's benefit ratio is the quotient obtained
628 by dividing the total benefits charged to the employer's
629 employment record during the 3-year period ending June 30 of the
630 preceding calendar year by the total of the employer's annual
631 payroll for the 3-year period ending June 30 of the preceding
632 calendar year. The benefit ratio shall be computed to the fifth
633 decimal place and rounded to the fourth decimal place.

634 ~~4.3.~~ The tax collection service provider shall compute a
635 benefit ratio for each employer who was not previously eligible
636 under subparagraph ~~3. 2.~~, whose contribution rate is set at the
637 initial contribution rate in paragraph (2) (a), and whose
638 employment record was chargeable for benefits during at least 8
639 calendar quarters immediately preceding the calendar quarter for
640 which the benefit ratio is computed. The employer's benefit
641 ratio is the quotient obtained by dividing the total benefits
642 charged to the employer's employment record during the first 6
643 of the 8 completed calendar quarters immediately preceding the
644 calendar quarter for which the benefit ratio is computed by the
645 total of the employer's annual payroll during the first 7 of the
646 9 completed calendar quarters immediately preceding the calendar
647 quarter for which the benefit ratio is computed. The benefit
648 ratio shall be computed to the fifth decimal place and rounded
649 to the fourth decimal place and applies for the remainder of the
650 calendar year. The employer must subsequently be rated on an
651 annual basis using up to 12 calendar quarters of benefits



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652 charged and up to 12 calendar quarters of annual payroll. That
653 employer's benefit ratio is the quotient obtained by dividing
654 the total benefits charged to the employer's employment record
655 by the total of the employer's annual payroll during the
656 quarters used in his or her first computation plus the
657 subsequent quarters reported through June 30 of the preceding
658 calendar year. Each subsequent calendar year, the rate shall be
659 computed under subparagraph 3. ~~2.~~ The tax collection service
660 provider shall assign a variation from the standard rate of
661 contributions in paragraph (c) on a quarterly basis to each
662 eligible employer in the same manner as an assignment for a
663 calendar year under paragraph (e).

664 (e) *Assignment of variations from the standard rate.*-

665 1. As used in this paragraph, the terms "total benefit
666 payments," "benefits paid to an individual," and "benefits
667 charged to the employment record of an employer" mean the amount
668 of benefits paid to individuals multiplied by:

669 a. For benefits paid prior to July 1, 2007, 1.

670 b. For benefits paid during the period beginning on July 1,
671 2007, and ending July 31, 2011, 0.95.

672 c. For benefits paid after July 31, 2011, 1.

673 2. For the calculation of contribution rates effective
674 January 1, 2010, and thereafter:

675 a.~~1.~~ The tax collection service provider shall assign a
676 variation from the standard rate of contributions for each
677 calendar year to each eligible employer. In determining the
678 contribution rate, varying from the standard rate to be assigned
679 each employer, adjustment factors computed under sub-sub-
680 subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ are added to the



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681 benefit ratio. This addition shall be accomplished in two steps
682 by adding a variable adjustment factor and a final adjustment
683 factor. The sum of these adjustment factors computed under sub-
684 sub-subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ shall first
685 be algebraically summed. The sum of these adjustment factors
686 shall next be divided by a gross benefit ratio determined as
687 follows: Total benefit payments for the 3-year period described
688 in subparagraph (b)3. ~~(b)2.~~ are charged to employers eligible
689 for a variation from the standard rate, minus excess payments
690 for the same period, divided by taxable payroll entering into
691 the computation of individual benefit ratios for the calendar
692 year for which the contribution rate is being computed. The
693 ratio of the sum of the adjustment factors computed under sub-
694 sub-subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ to the gross
695 benefit ratio is multiplied by each individual benefit ratio
696 that is less than the maximum contribution rate to obtain
697 variable adjustment factors; except that if the sum of an
698 employer's individual benefit ratio and variable adjustment
699 factor exceeds the maximum contribution rate, the variable
700 adjustment factor is reduced in order for the sum to equal the
701 maximum contribution rate. The variable adjustment factor for
702 each of these employers is multiplied by his or her taxable
703 payroll entering into the computation of his or her benefit
704 ratio. The sum of these products is divided by the taxable
705 payroll of the employers who entered into the computation of
706 their benefit ratios. The resulting ratio is subtracted from the
707 sum of the adjustment factors computed under sub-sub-
708 subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ to obtain the
709 final adjustment factor. The variable adjustment factors and the



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710 final adjustment factor must be computed to five decimal places
711 and rounded to the fourth decimal place. This final adjustment
712 factor is added to the variable adjustment factor and benefit
713 ratio of each employer to obtain each employer's contribution
714 rate. An employer's contribution rate may not, however, be
715 rounded to less than 0.1 percent.

716 (I)~~a.~~ An adjustment factor for noncharge benefits is
717 computed to the fifth decimal place and rounded to the fourth
718 decimal place by dividing the amount of noncharge benefits
719 during the 3-year period described in subparagraph (b)3. ~~(b)2.~~
720 by the taxable payroll of employers eligible for a variation
721 from the standard rate who have a benefit ratio for the current
722 year which is less than the maximum contribution rate. For
723 purposes of computing this adjustment factor, the taxable
724 payroll of these employers is the taxable payrolls for the 3
725 years ending June 30 of the current calendar year as reported to
726 the tax collection service provider by September 30 of the same
727 calendar year. As used in this sub-sub-subparagraph ~~sub-~~
728 ~~subparagraph~~, the term "noncharge benefits" means benefits paid
729 to an individual from the Unemployment Compensation Trust Fund,
730 but which were not charged to the employment record of any
731 employer.

732 (II)~~b.~~ An adjustment factor for excess payments is computed
733 to the fifth decimal place, and rounded to the fourth decimal
734 place by dividing the total excess payments during the 3-year
735 period described in subparagraph (b)3. ~~(b)2.~~ by the taxable
736 payroll of employers eligible for a variation from the standard
737 rate who have a benefit ratio for the current year which is less
738 than the maximum contribution rate. For purposes of computing



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739 this adjustment factor, the taxable payroll of these employers
740 is the same figure used to compute the adjustment factor for
741 noncharge benefits under sub-sub-subparagraph (I) ~~sub-~~
742 ~~subparagraph a.~~ As used in this sub-subparagraph, the term
743 "excess payments" means the amount of benefits charged to the
744 employment record of an employer during the 3-year period
745 described in subparagraph (b)3. ~~(b)2.~~, less the product of the
746 maximum contribution rate and the employer's taxable payroll for
747 the 3 years ending June 30 of the current calendar year as
748 reported to the tax collection service provider by September 30
749 of the same calendar year. As used in this sub-sub-subparagraph
750 ~~sub-subparagraph~~, the term "total excess payments" means the sum
751 of the individual employer excess payments for those employers
752 that were eligible for assignment of a contribution rate
753 different from the standard rate.

754 (III)e. With respect to computing a positive adjustment
755 factor:

756 (A) ~~(I)~~ Beginning January 1, 2012, if the balance of the
757 Unemployment Compensation Trust Fund on September 30 of the
758 calendar year immediately preceding the calendar year for which
759 the contribution rate is being computed is less than 4 percent
760 of the taxable payrolls for the year ending June 30 as reported
761 to the tax collection service provider by September 30 of that
762 calendar year, a positive adjustment factor shall be computed.
763 The positive adjustment factor is computed annually to the fifth
764 decimal place and rounded to the fourth decimal place by
765 dividing the sum of the total taxable payrolls for the year
766 ending June 30 of the current calendar year as reported to the
767 tax collection service provider by September 30 of that calendar



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768 year into a sum equal to one-third of the difference between the
769 balance of the fund as of September 30 of that calendar year and
770 the sum of 5 percent of the total taxable payrolls for that
771 year. The positive adjustment factor remains in effect for
772 subsequent years until the balance of the Unemployment
773 Compensation Trust Fund as of September 30 of the year
774 immediately preceding the effective date of the contribution
775 rate equals or exceeds 5 percent of the taxable payrolls for the
776 year ending June 30 of the current calendar year as reported to
777 the tax collection service provider by September 30 of that
778 calendar year.

779 (B) ~~(II)~~ Beginning January 1, 2015, and for each year
780 thereafter, the positive adjustment shall be computed by
781 dividing the sum of the total taxable payrolls for the year
782 ending June 30 of the current calendar year as reported to the
783 tax collection service provider by September 30 of that calendar
784 year into a sum equal to one-fourth of the difference between
785 the balance of the fund as of September 30 of that calendar year
786 and the sum of 5 percent of the total taxable payrolls for that
787 year. The positive adjustment factor remains in effect for
788 subsequent years until the balance of the Unemployment
789 Compensation Trust Fund as of September 30 of the year
790 immediately preceding the effective date of the contribution
791 rate equals or exceeds 4 percent of the taxable payrolls for the
792 year ending June 30 of the current calendar year as reported to
793 the tax collection service provider by September 30 of that
794 calendar year.

795 (IV) ~~d.~~ If, beginning January 1, 2015, and each year
796 thereafter, the balance of the Unemployment Compensation Trust



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797 Fund as of September 30 of the year immediately preceding the
798 calendar year for which the contribution rate is being computed
799 exceeds 5 percent of the taxable payrolls for the year ending
800 June 30 of the current calendar year as reported to the tax
801 collection service provider by September 30 of that calendar
802 year, a negative adjustment factor must be computed. The
803 negative adjustment factor shall be computed annually beginning
804 on January 1, 2015, and each year thereafter, to the fifth
805 decimal place and rounded to the fourth decimal place by
806 dividing the sum of the total taxable payrolls for the year
807 ending June 30 of the current calendar year as reported to the
808 tax collection service provider by September 30 of the calendar
809 year into a sum equal to one-fourth of the difference between
810 the balance of the fund as of September 30 of the current
811 calendar year and 5 percent of the total taxable payrolls of
812 that year. The negative adjustment factor remains in effect for
813 subsequent years until the balance of the Unemployment
814 Compensation Trust Fund as of September 30 of the year
815 immediately preceding the effective date of the contribution
816 rate is less than 5 percent, but more than 4 percent of the
817 taxable payrolls for the year ending June 30 of the current
818 calendar year as reported to the tax collection service provider
819 by September 30 of that calendar year. The negative adjustment
820 authorized by this section is suspended in any calendar year in
821 which repayment of the principal amount of an advance received
822 from the federal Unemployment Compensation Trust Fund under 42
823 U.S.C. s. 1321 is due to the Federal Government.

824 (V)~~e~~. The maximum contribution rate that may be assigned to
825 an employer is 5.4 percent, except employers participating in an



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826 approved short-time compensation plan may be assigned a maximum
827 contribution rate that is 1 percent greater than the maximum
828 contribution rate for other employers in any calendar year in
829 which short-time compensation benefits are charged to the
830 employer's employment record.

831 (VI)~~f.~~ As used in this subsection, "taxable payroll" shall
832 be determined by excluding any part of the remuneration paid to
833 an individual by an employer for employment during a calendar
834 year in excess of the first \$7,000. Beginning January 1, 2012,
835 "taxable payroll" shall be determined by excluding any part of
836 the remuneration paid to an individual by an employer for
837 employment during a calendar year as described in s.

838 443.1217(2). For the purposes of the employer rate calculation
839 that will take effect in January 1, 2012, and in January 1,
840 2013, the tax collection service provider shall use the data
841 available for taxable payroll from 2009 based on excluding any
842 part of the remuneration paid to an individual by an employer
843 for employment during a calendar year in excess of the first
844 \$7,000, and from 2010 and 2011, the data available for taxable
845 payroll based on excluding any part of the remuneration paid to
846 an individual by an employer for employment during a calendar
847 year in excess of the first \$8,500.

848 b.2~~.~~ If the transfer of an employer's employment record to
849 an employing unit under paragraph (f) which, before the
850 transfer, was an employer, the tax collection service provider
851 shall recompute a benefit ratio for the successor employer based
852 on the combined employment records and reassign an appropriate
853 contribution rate to the successor employer effective on the
854 first day of the calendar quarter immediately after the



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855 effective date of the transfer.

856 Section 9. Present paragraph (f) of subsection (1) of
857 section 443.141, Florida Statutes, is redesignated as paragraph
858 (g), and new paragraph (f) is added to that subsection to read:
859 443.141 Collection of contributions and reimbursements.—

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

862 (f) Payments for 2012, 2013, and 2014 Contributions.—For an
863 annual administrative fee not to exceed \$5, a contributing
864 employer may pay its quarterly contributions due for wages paid
865 in the first three quarters of 2012, 2013, and 2014 in equal
866 installments if those contributions are paid as follows:

867 1. For contributions due for wages paid in the first
868 quarter of each year, one-fourth of the contributions due must
869 be paid on or before April 30, one-fourth must be paid on or
870 before July 31, one-fourth must be paid on or before October 31,
871 and one-fourth must be paid on or before December 31.

872 2. In addition to the payments specified in subparagraph
873 1., for contributions due for wages paid in the second quarter
874 of each year, one-third of the contributions due must be paid on
875 or before July 31, one-third must be paid on or before October
876 31, and one-third must be paid on or before December 31.

877 3. In addition to the payments specified in subparagraphs
878 1. and 2., for contributions due for wages paid in the third
879 quarter of each year, one-half of the contributions due must be
880 paid on or before October 31, and one-half must be paid on or
881 before December 31.

882 4. The annual administrative fee assessed for electing to
883 pay under the installment method shall be collected at the time



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884 the employer makes the first installment payment each year. The
885 fee shall be segregated from the payment and deposited into the
886 Operating Trust Fund of the Department of Revenue.

887 5. Interest does not accrue on any contribution that
888 becomes due for wages paid in the first three quarters of each
889 year if the employer pays the contribution in accordance with
890 subparagraphs 1.-4. Interest and fees continue to accrue on
891 prior delinquent contributions and commence accruing on all
892 contributions due for wages paid in the first three quarters of
893 each year which are not paid in accordance with subparagraphs
894 1.-3. Penalties may be assessed in accordance with this chapter.
895 The contributions due for wages paid in the fourth quarter of
896 2012, 2013, and 2014 are not affected by this paragraph and are
897 due and payable in accordance with this chapter.

898 Section 10. Effective August 1, 2011, paragraph (a) of
899 subsection (2) and paragraphs (b) and (e) of subsection (4) of
900 section 443.151, Florida Statutes, are amended to read:

901 443.151 Procedure concerning claims.—

902 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
903 CLAIMANTS AND EMPLOYERS.—

904 (a) *In general.*—Initial and continued claims for benefits
905 must be made by approved electronic means and in accordance with
906 ~~the~~ rules adopted by the Agency for Workforce Innovation. The
907 agency must notify claimants and employers regarding monetary
908 and nonmonetary determinations of eligibility. Investigations of
909 issues raised in connection with a claimant which may affect a
910 claimant's eligibility for benefits or charges to an employer's
911 employment record shall be conducted by the agency through
912 written, telephonic, or electronic means as prescribed by rule.



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913 (4) APPEALS.—

914 (b) *Filing and hearing.*—

915 1. The claimant or any other party entitled to notice of a
916 determination may appeal an adverse determination to an appeals
917 referee within 20 days after the date of mailing of the notice
918 to her or his last known address or, if the notice is not
919 mailed, within 20 days after the date of delivering ~~delivery of~~
920 the notice.

921 2. Unless the appeal is untimely or withdrawn or review is
922 initiated by the commission, the appeals referee, after mailing
923 all parties and attorneys of record a notice of hearing at least
924 10 days before the date of hearing, notwithstanding the 14-day
925 notice requirement in s. 120.569(2)(b), may only affirm, modify,
926 or reverse the determination. An appeal may not be withdrawn
927 without the permission of the appeals referee.

928 3. However, if ~~when~~ an appeal appears to have been filed
929 after the permissible time limit, the Office of Appeals may
930 issue an order to show cause to the appellant which requires,
931 ~~requiring~~ the appellant to show why the appeal should not be
932 dismissed as untimely. If ~~the appellant does not~~, within 15 days
933 after the mailing date of the order to show cause, the appellant
934 does not provide written evidence of timely filing or good cause
935 for failure to appeal timely, the appeal shall be dismissed.

936 4. If ~~When~~ an appeal involves a question of whether
937 services were performed by a claimant in employment or for an
938 employer, the referee must give special notice of the question
939 and of the pendency of the appeal to the employing unit and to
940 the Agency for Workforce Innovation, both of which become
941 parties to the proceeding.



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942 5.a. Any part of the evidence may be received in written
943 form, and all testimony of parties and witnesses shall be made
944 under oath.

945 b. Irrelevant, immaterial, or unduly repetitious evidence
946 shall be excluded, but all other evidence of a type commonly
947 relied upon by reasonably prudent persons in the conduct of
948 their affairs is admissible, whether or not such evidence would
949 be admissible in a trial in state court.

950 c. Hearsay evidence may be used for the purpose of
951 supplementing or explaining other evidence, or to support a
952 finding if it would be admissible over objection in civil
953 actions. Notwithstanding s. 120.57(1) (c), hearsay evidence may
954 support a finding of fact if:

955 (I) The party against whom it is offered has a reasonable
956 opportunity to review such evidence prior to the hearing; and

957 (II) The appeals referee or special deputy determines,
958 after considering all relevant facts and circumstances, that the
959 evidence is trustworthy and probative and that the interests of
960 justice are best served by its admission into evidence.

961 6.5. The parties must be notified promptly of the referee's
962 decision. The referee's decision is final unless further review
963 is initiated under paragraph (c) within 20 days after the date
964 of mailing notice of the decision to the party's last known
965 address or, in lieu of mailing, within 20 days after the
966 delivery of the notice.

967 (e) Judicial review.—Orders of the commission entered under
968 paragraph (c) are subject to review only by notice of appeal in
969 the district court of appeal in the appellate district in which
970 a claimant resides or the job separation arose or in the



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971 appellate district where the order was issued ~~the issues~~
972 ~~involved were decided by an appeals referee.~~ However, if the
973 notice of appeal is filed solely with the commission, the appeal
974 shall be filed in the district court of appeal in the appellate
975 district in which the order was issued. Notwithstanding chapter
976 120, the commission is a party respondent to every such
977 proceeding. The Agency for Workforce Innovation may initiate
978 judicial review of orders in the same manner and to the same
979 extent as any other party.

980 Section 11. Section (10) is added to section 443.171,
981 Florida Statutes, to read:

982 443.171 Agency for Workforce Innovation and commission;
983 powers and duties; records and reports; proceedings; state-
984 federal cooperation.-

985 (10) EVIDENCE OF MAILING.-A mailing date on any notice,
986 determination, decision, order, or other document mailed by the
987 Agency for Workforce Innovation or its tax collection service
988 provider pursuant to this chapter creates a rebuttable
989 presumption that such notice, determination, order, or other
990 document was mailed on the date indicated.

991 Section 12. Notwithstanding the expiration date contained
992 in section 1 of chapter 2010-90, Laws of Florida, operating
993 retroactive to June 2, 2010, and expiring January 4, 2012,
994 section 443.1117, Florida Statutes, is revived, readopted, and
995 amended to read:

996 443.1117 Temporary extended benefits.-

997 (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.-Except if
998 the result is inconsistent with other provisions of this
999 section, s. 443.1115(2), (3), (4), (6), and (7) apply to all



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1000 claims covered by this section.

1001 (2) DEFINITIONS.—As used in ~~For the purposes of~~ this
1002 section, the term:

1003 (a) "Regular benefits" and "extended benefits" have the
1004 same meaning as in s. 443.1115.

1005 (b) "Eligibility period" means the weeks in an individual's
1006 benefit year or emergency benefit period which begin in an
1007 extended benefit period and, if the benefit year or emergency
1008 benefit period ends within that extended benefit period, any
1009 subsequent weeks beginning in that period.

1010 (c) "Emergency benefits" means Emergency Unemployment
1011 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
1012 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, Pub. L. No. 111-
1013 118, Pub. L. No. 111-144, ~~and~~ Pub. L. No. 111-157, Pub. L. No.
1014 111-205, and Pub. L. No. 111-312.

1015 (d) "Extended benefit period" means a period that:

1016 1. Begins with the third week after a week for which there
1017 is a state "on" indicator; and

1018 2. Ends with any of the following weeks, whichever occurs
1019 later:

1020 a. The third week after the first week for which there is a
1021 state "off" indicator; or

1022 b. The 13th consecutive week of that period.

1023

1024 However, an extended benefit period may not begin by reason of a
1025 state "on" indicator before the 14th week after the end of a
1026 prior extended benefit period that was in effect for this state.

1027 (e) "Emergency benefit period" means the period during
1028 which an individual receives emergency benefits ~~as defined in~~



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1029 ~~paragraph (c).~~

1030 (f) "Exhaustee" means an individual who, for any week of
1031 unemployment in her or his eligibility period:

1032 1. Has received, before that week, all of the regular
1033 benefits and emergency benefits, if any, available under this
1034 chapter or any other law, including dependents' allowances and
1035 benefits payable to federal civilian employees and ex-
1036 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
1037 benefit year or emergency benefit period that includes that
1038 week. For the purposes of this subparagraph, an individual has
1039 received all of the regular benefits and emergency benefits, if
1040 any, available even if ~~although~~, as a result of a pending appeal
1041 for wages paid for insured work which were not considered in the
1042 original monetary determination in the benefit year, she or he
1043 may subsequently be determined to be entitled to added regular
1044 benefits;

1045 2. Had a benefit year that ~~which~~ expired before that week,
1046 and was paid no, or insufficient, wages for insured work on the
1047 basis of which she or he could establish a new benefit year that
1048 includes that week; and

1049 3.a. Has no right to unemployment benefits or allowances
1050 under the Railroad Unemployment Insurance Act or other federal
1051 laws as specified in regulations issued by the United States
1052 Secretary of Labor; and

1053 b. Has not received and is not seeking unemployment
1054 benefits under the unemployment compensation law of Canada; but
1055 if an individual is seeking those benefits and the appropriate
1056 agency finally determines that she or he is not entitled to
1057 benefits under that law, she or he is considered an exhaustee.



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1058 (g) "State 'on' indicator" means, with respect to weeks of
1059 unemployment ~~beginning on or after February 1, 2009, and ending~~
1060 on or before December 10, 2011 ~~May 8, 2010~~, the occurrence of a
1061 week in which the average total unemployment rate, seasonally
1062 adjusted, as determined by the United States Secretary of Labor,
1063 for the most recent 3 months for which data for all states are
1064 published by the United States Department of Labor:

1065 1. Equals or exceeds 110 percent of the average of those
1066 rates for the corresponding 3-month period ending in any or all
1067 ~~each~~ of the preceding 3 ~~2~~ calendar years; and

1068 2. Equals or exceeds 6.5 percent.

1069 (h) "High unemployment period" means, with respect to weeks
1070 of unemployment ~~beginning on or after February 1, 2009, and~~
1071 ending on or before December 10, 2011 ~~May 8, 2010~~, any week in
1072 which the average total unemployment rate, seasonally adjusted,
1073 as determined by the United States Secretary of Labor, for the
1074 most recent 3 months for which data for all states are published
1075 by the United States Department of Labor:

1076 1. Equals or exceeds 110 percent of the average of those
1077 rates for the corresponding 3-month period ending in any or all
1078 ~~each~~ of the preceding 3 ~~2~~ calendar years; and

1079 2. Equals or exceeds 8 percent.

1080 (i) "State 'off' indicator" means the occurrence of a week
1081 in which there is no state "on" indicator or which does not
1082 constitute a high unemployment period.

1083 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
1084 subsection (4):

1085 (a) For any week for which there is an "on" indicator
1086 pursuant to paragraph (2)(g), the total extended benefit amount



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1087 payable to an eligible individual for her or his applicable
1088 benefit year is the lesser of:

1089 1. Fifty percent of the total regular benefits payable
1090 under this chapter in the applicable benefit year; or

1091 2. Thirteen times the weekly benefit amount payable under
1092 this chapter for a week of total unemployment in the applicable
1093 benefit year.

1094 (b) For any high unemployment period, the total extended
1095 benefit amount payable to an eligible individual for her or his
1096 applicable benefit year is the lesser of:

1097 1. Eighty percent of the total regular benefits payable
1098 under this chapter in the applicable benefit year; or

1099 2. Twenty times the weekly benefit amount payable under
1100 this chapter for a week of total unemployment in the applicable
1101 benefit year.

1102 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other
1103 provision of this chapter, if the benefit year of an individual
1104 ends within an extended benefit period, the number of weeks of
1105 extended benefits the individual is entitled to receive in that
1106 extended benefit period for weeks of unemployment beginning
1107 after the end of the benefit year, except as provided in this
1108 section, is reduced, but not to below zero, by the number of
1109 weeks for which the individual received, within that benefit
1110 year, trade readjustment allowances under the Trade Act of 1974,
1111 as amended.

1112 Section 13. If any provision of this act or its application
1113 to any person or circumstance is held invalid, the invalidity
1114 does not affect other provisions or applications of the act
1115 which can be given effect without the invalid provision or



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1116 application, and to this end the provisions of this act are
1117 severable.

1118 Section 14. The provisions of s. 443.1117, Florida
1119 Statutes, as revived, readopted, and amended by this act, apply
1120 only to claims for weeks of unemployment in which an exhaustee
1121 establishes entitlement to extended benefits pursuant to that
1122 section which are established for the period between June 2,
1123 2010, and January 4, 2012.

1124 Section 15. Section 443.17161, Florida Statutes, is created
1125 to read:

1126 443.17161 Authorized electronic access to employer
1127 information.-

1128 (1) Notwithstanding any other provision of this chapter,
1129 the Agency for Workforce Innovation shall contract with one or
1130 more consumer-reporting agencies to provide users with secured
1131 electronic access to employer-provided information relating to
1132 the quarterly wages report submitted in accordance with the
1133 state's unemployment compensation law. The access is limited to
1134 the wage reports for the appropriate amount of time for the
1135 purpose the information is requested.

1136 (2) Users must obtain consent in writing or by electronic
1137 signature from an applicant for credit, employment, or other
1138 permitted purposes. Any written or electronic signature consent
1139 from an applicant must be signed and must include the following:

1140 (a) Specific notice that information concerning the
1141 applicant's wage and employment history will be released to a
1142 consumer-reporting agency;

1143 (b) Notice that the release is made for the sole purpose of
1144 reviewing the specific application for credit, employment, or



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1145 other permitted purpose made by the applicant;

1146 (c) Notice that the files of the Agency for Workforce
1147 Innovation or its tax collection service provider containing
1148 information concerning wage and employment history which is
1149 submitted by the applicant or his or her employers may be
1150 accessed; and

1151 (d) A listing of the parties authorized to receive the
1152 released information.

1153 (3) Consumer-reporting agencies and users accessing
1154 information under this section must safeguard the
1155 confidentiality of the information. A consumer-reporting agency
1156 or user may use the information only to support a single
1157 transaction for the user to satisfy its standard underwriting or
1158 eligibility requirements or for those requirements imposed upon
1159 the user, and to satisfy the user's obligations under applicable
1160 state or federal laws, rules, or regulations.

1161 (4) If a consumer-reporting agency or user violates this
1162 section, the Agency for Workforce Innovation shall, upon 30 days
1163 written notice to the consumer-reporting agency, terminate the
1164 contract established between the Agency for Workforce Innovation
1165 and the consumer-reporting agency or require the consumer-
1166 reporting agency to terminate the contract established between
1167 the consumer-reporting agency and the user under this section.

1168 (5) The Agency for Workforce Innovation shall establish
1169 minimum audit, security, net-worth, and liability-insurance
1170 standards, technical requirements, and any other terms and
1171 conditions considered necessary in the discretion of the state
1172 agency to safeguard the confidentiality of the information
1173 released under this section and to otherwise serve the public



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1174 interest. The Agency for Workforce Innovation shall also
1175 include, in coordination with any necessary state agencies,
1176 necessary audit procedures to ensure that these rules are
1177 followed.

1178 (6) In contracting with one or more consumer-reporting
1179 agencies under this section, any revenues generated by the
1180 contract must be used to pay the entire cost of providing access
1181 to the information. Further, in accordance with federal
1182 regulations, any additional revenues generated by the Agency for
1183 Workforce Innovation or the state under this section must be
1184 paid into the Administrative Trust Fund of the Agency for
1185 Workforce Innovation for the administration of the unemployment
1186 compensation system or be used as program income.

1187 (7) The Agency for Workforce Innovation may not provide
1188 wage and employment history information to any consumer-
1189 reporting agency before the consumer-reporting agency or
1190 agencies under contract with the Agency for Workforce Innovation
1191 pay all development and other startup costs incurred by the
1192 state in connection with the design, installation, and
1193 administration of technological systems and procedures for the
1194 electronic-access program.

1195 (8) The release of any information under this section must
1196 be for a purpose authorized by and in the manner permitted by
1197 the United States Department of Labor and any subsequent rules
1198 or regulations adopted by that department.

1199 (9) As used in this section, the term:

1200 (a) "Consumer-reporting agency" has the same meaning as
1201 that set forth in the Federal Fair Credit Reporting Act, 15
1202 U.S.C. s. 1681a.



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1203 (b) "Creditor" has the same meaning as that set forth in
1204 the Federal Fair Debt Collection Practices Act, 15 U.S.C. ss.
1205 1692 et seq.

1206 (c) "User" means a creditor, employer, or other entity with
1207 a permissible purpose that is allowed under the Federal Fair
1208 Credit Reporting Act, 15 U.S.C. ss. 1681 et seq. to access the
1209 data contained in the wage reports though a consumer-reporting
1210 agency.

1211 Section 16. The Legislature finds that this act fulfills an
1212 important state interest.

1213 Section 17. Except as otherwise expressly provided in this
1214 act, this act shall take effect upon becoming a law.

1215
1216 ===== T I T L E A M E N D M E N T =====

1217 And the title is amended as follows:

1218 Delete everything before the enacting clause
1219 and insert:

1220 A bill to be entitled
1221 An act relating to unemployment compensation; amending
1222 s. 213.053, F.S.; increasing the number of employer
1223 payroll service providers who qualify for access to
1224 unemployment tax information by filing a memorandum of
1225 understanding; amending s. 443.031, F.S.; revising
1226 provisions relating to statutory construction;
1227 amending s. 443.036, F.S.; revising the definitions
1228 for "available for work," "misconduct," and
1229 "unemployment"; adding definitions for "individual in
1230 continued reporting status" and "initial skills
1231 review"; amending s. 443.091, F.S.; revising



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1232 requirements for making continued claims for benefits;
1233 requiring that an individual claiming benefits report
1234 certain information and participate in an initial
1235 skills review; providing an exception; specifying
1236 criteria for determining an applicant's availability
1237 for work; amending s. 443.101, F.S.; clarifying "good
1238 cause" for voluntarily leaving employment;
1239 disqualifying a person for benefits due to the receipt
1240 of severance pay; revising provisions relating to the
1241 effects of criminal acts on eligibility for benefits;
1242 amending s. 443.111, F.S.; revising the manner in
1243 which benefits are payable; eliminating payment by
1244 mail; providing an exception; conforming provisions to
1245 changes made by the act; amending s. 443.1216, F.S.;
1246 providing that employee leasing companies may make a
1247 one-time election to report leased employees under the
1248 respective unemployment account of each leasing
1249 company client; providing procedures and application
1250 for such election; conforming a cross-reference;
1251 amending s. 443.131, F.S.; providing definitions;
1252 revising an employer's unemployment compensation
1253 contribution rate by certain factors; amending s.
1254 443.141, F.S.; providing an employer payment schedule
1255 for 2012, 2013, and 2014 contributions; requiring an
1256 employer to pay a fee for paying contributions on a
1257 quarterly schedule; providing penalties, interest, and
1258 fees on delinquent contributions; amending s. 443.151,
1259 F.S.; requiring claims to be submitted by electronic
1260 means; revising allowable forms of evidence in benefit



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1261 appeals; revising the judicial venue for reviewing
1262 commission orders; amending s. 443.171, F.S. ;
1263 specifying that evidence of mailing an agency document
1264 is based on the date stated on the document; reviving,
1265 readopting, and amending s. 443.1117, F.S., relating
1266 to temporary extended benefits; providing for
1267 retroactive application; establishing temporary state
1268 extended benefits for weeks of unemployment; revising
1269 definitions; providing for state extended benefits for
1270 certain weeks and for periods of high unemployment;
1271 providing severability; providing applicability;
1272 creating s. 443.17161, F.S.; requiring the Agency for
1273 Workforce Innovation to contract with one or more
1274 consumer-reporting agencies to provide creditors,
1275 employers, and other entities with a permissible
1276 purpose with secured electronic access to employer-
1277 provided information relating to the quarterly wages
1278 reports; providing conditions; requiring consent from
1279 the applicant for credit, employment, or other
1280 permitted purpose; prescribing information that must
1281 be included in the written consent; providing for
1282 confidentiality; limiting use of the information
1283 released; providing for termination of contracts under
1284 certain circumstances; requiring the agency to
1285 establish minimum audit, security, net worth, and
1286 liability insurance standards and other requirements
1287 it considers necessary; providing that any revenues
1288 generated from a contract with a consumer reporting
1289 agency must be used to pay the entire cost of



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1290 providing access to the information; providing that
1291 any additional revenues generated must be paid into
1292 the Administrative Trust Fund of the Agency for
1293 Workforce Innovation or used for program purposes;
1294 providing restrictions on the release of information
1295 under the act; defining the terms "consumer-reporting
1296 agency," "creditor," and "user"; providing
1297 appropriations for purposes of implementation;
1298 providing that the act fulfills an important state
1299 interest; providing effective dates.