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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2011	.	
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The Committee on Commerce and Tourism (Detert) 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, as amended by chapter 2010-280, Laws of Florida, 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



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13 agent of an employer, which agent provides payroll services for
14 more than 100 ~~500~~ employers, pursuant to the terms of a
15 memorandum of understanding. The memorandum of understanding
16 must state that the agent affirms, subject to the criminal
17 penalties contained in ss. 443.171 and 443.1715, that the agent
18 will retain the confidentiality of the information, that the
19 agent has in effect a power of attorney from the employer which
20 permits the agent to obtain unemployment tax rate information,
21 and that the agent shall provide the department with a copy of
22 the employer's power of attorney upon request.

23 Section 2. Effective July 1, 2011, present subsections (26)
24 through (45) of section 443.036, Florida Statutes, are
25 redesignated as subsection (27) through (46) respectively, new
26 subsection (26) is added to that section, and present
27 subsections (6), (9), (16), (29), and (43) of that section are
28 amended, to read:

29 443.036 Definitions.—As used in this chapter, the term:

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

32 (9) "Benefit year" means, for an individual, the 1-year
33 period beginning with the first day of the first week for which
34 the individual first files a valid claim for benefits and,
35 thereafter, the 1-year period beginning with the first day of
36 the first week for which the individual next files a valid claim
37 for benefits after the termination of his or her last preceding
38 benefit year. Each claim for benefits made in accordance with s.
39 443.151(2) is a valid claim ~~under this subsection~~ if the
40 individual was paid wages for insured work in accordance with s.
41 443.091(1)(g) and is unemployed ~~as defined in subsection (43)~~ at



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42 the time of filing the claim. However, the Agency for Workforce
43 Innovation may adopt rules providing for the establishment of a
44 uniform benefit year for all workers in one or more groups or
45 classes of service or within a particular industry if the agency
46 determines, after notice to the industry and to the workers in
47 the industry and an opportunity to be heard in the matter, that
48 those groups or classes of workers in a particular industry
49 periodically experience unemployment resulting from layoffs or
50 shutdowns for limited periods of time.

51 (16) "Earned income" means gross remuneration derived from
52 work, professional service, or self-employment. The term
53 includes commissions, bonuses, back pay awards or back pay
54 settlements, front pay or front wages, and the cash value of all
55 remuneration paid in a medium other than cash. The term does not
56 include income derived from invested capital or ownership of
57 property.

58 (26) "Initial skills review" means an online education or
59 training program, such as that established under s. 1004.99,
60 which is approved by the Agency for Workforce Innovation and
61 designed to measure an individual's mastery level of workplace
62 skills.

63 (30)~~(29)~~ "Misconduct" includes, but is not limited to, the
64 following, which may not be construed in pari materia with each
65 other:

66 (a) Conduct demonstrating conscious willful or wanton
67 disregard of an employer's interests and found to be a
68 deliberate violation or disregard of reasonable ~~the~~ standards of
69 behavior which the employer has a right to expect of his or her
70 employee, including standards lawfully set forth in the



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71 employer's written rules of conduct; or

72 (b) Carelessness or negligence to a degree or recurrence
73 that manifests culpability or, wrongful intent, ~~or evil design~~
74 or shows an intentional and substantial disregard of the
75 employer's interests or of the employee's duties and obligations
76 to his or her employer.

77 (44)-(43) "Unemployment" or "unemployed" means:

78 (a) An individual is "totally unemployed" in any week
79 during which he or she does not perform any services and for
80 which earned income is not payable to him or her. An individual
81 is "partially unemployed" in any week of less than full-time
82 work if the earned income payable to him or her for that week is
83 less than his or her weekly benefit amount. The Agency for
84 Workforce Innovation may adopt rules prescribing distinctions in
85 the procedures for unemployed individuals based on total
86 unemployment, part-time unemployment, partial unemployment of
87 individuals attached to their regular jobs, and other forms of
88 short-time work.

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

93 Section 3. Effective July 1, 2011, paragraphs (b), (c),
94 (d), and (f) of subsection (1) of section 443.091, Florida
95 Statutes, are amended to read:

96 443.091 Benefit eligibility conditions.—

97 (1) An unemployed individual is eligible to receive
98 benefits for any week only if the Agency for Workforce
99 Innovation finds that:



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

- 104 1. Non-Florida residents;
105 2. On a temporary layoff, ~~as defined in s. 443.036(42)~~;
106 3. Union members who customarily obtain employment through
107 a union hiring hall; or
108 4. Claiming benefits under an approved short-time
109 compensation plan as provided in s. 443.1116.

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

118 1. For each week of unemployment claimed, each report must,
119 at a minimum, include the name, address, and telephone number of
120 each prospective employer contacted pursuant to paragraph (d).

121 2. The administrator or operator of the initial skills
122 review shall notify the agency when the individual completes the
123 initial skills review and report the results of the review to
124 the regional workforce board or the one-stop career center as
125 directed by the workforce board. The workforce board shall use
126 the initial skills review to develop a plan for referring
127 individuals to training and employment opportunities. The
128 failure of the individual to comply with this requirement will



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129 result in the individual being determined ineligible for
130 benefits for the week in which the noncompliance occurred and
131 for any subsequent week of unemployment until the requirement is
132 satisfied. However, this requirement does not apply if the
133 individual is able to affirmatively attest to being unable to
134 complete such review due to illiteracy or a language impediment.

135 (d) She or he is able to work and is available for work. In
136 order to assess eligibility for a claimed week of unemployment,
137 the agency shall develop criteria to determine a claimant's
138 ability to work and availability for work. A claimant must be
139 actively seeking work in order to be considered available for
140 work. This means engaging in systematic and sustained efforts to
141 find work, including contacting at least five prospective
142 employers for each week of unemployment claimed. The agency may
143 require the claimant to provide proof of such efforts to the
144 one-stop career center as part of reemployment services. The
145 agency shall conduct random reviews of work search information
146 provided by claimants. However:

147 1. Notwithstanding any other provision of this paragraph or
148 paragraphs (b) and (e), an otherwise eligible individual may not
149 be denied benefits for any week because she or he is in training
150 with the approval of the agency, or by reason of s. 443.101(3)
151 ~~443.101(2)~~ relating to failure to apply for, or refusal to
152 accept, suitable work. Training may be approved by the agency in
153 accordance with criteria prescribed by rule. A claimant's
154 eligibility during approved training is contingent upon
155 satisfying eligibility conditions prescribed by rule.

156 2. Notwithstanding any other provision of this chapter, an
157 otherwise eligible individual who is in training approved under



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158 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
159 determined ineligible or disqualified for benefits due to ~~her or~~
160 ~~his~~ enrollment in such training or because of leaving work that
161 is not suitable employment to enter such training. As used in
162 this subparagraph, the term "suitable employment" means work of
163 a substantially equal or higher skill level than the worker's
164 past adversely affected employment, as defined for purposes of
165 the Trade Act of 1974, as amended, the wages for which are at
166 least 80 percent of the worker's average weekly wage as
167 determined for purposes of the Trade Act of 1974, as amended.

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

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

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

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

178 3. ~~Unless~~ The individual was eligible for benefits for that
179 week as provided in this section and s. 443.101, except for the
180 requirements of this subsection and ~~of~~ s. 443.101(6) ~~443.101(5)~~.

181 Section 4. Effective July 1, 2011, paragraph (a) of
182 subsection (1) and present subsections (2), (3), (9), and (11)
183 of section 443.101, Florida Statutes, are amended, present
184 subsections (2) through (11) of that section are redesignated as
185 subsections (3) through (13), respectively, and new subsections
186 (2) and (12) are added to that section, to read:



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187 443.101 Disqualification for benefits.—An individual shall
188 be disqualified for benefits:

189 (1) (a) For the week in which he or she has voluntarily left
190 work without good cause attributable to his or her employing
191 unit or ~~in which the individual~~ has been discharged by the
192 employing unit for misconduct connected with his or her work,
193 based on a finding by the Agency for Workforce Innovation. As
194 used in this paragraph, the term “work” means any work, whether
195 full-time, part-time, or temporary.

196 1. Disqualification for voluntarily quitting continues for
197 the full period of unemployment next ensuing after the
198 individual has left his or her full-time, part-time, or
199 temporary work voluntarily without good cause and until the
200 individual has earned income equal to or greater than ~~in excess~~
201 ~~of~~ 17 times his or her weekly benefit amount. As used in this
202 subsection, the term “good cause” includes only that cause
203 attributable to the employing unit which would compel a
204 reasonable individual to cease working or attributable to which
205 ~~consists of~~ the individual’s illness or disability requiring
206 separation from his or her work. Any other disqualification may
207 not be imposed. An individual is not disqualified ~~under this~~
208 ~~subsection~~ for voluntarily leaving temporary work to return
209 immediately when called to work by the permanent employing unit
210 that temporarily terminated his or her work within the previous
211 6 calendar months, or. ~~An individual is not disqualified under~~
212 ~~this subsection~~ for voluntarily leaving work to relocate as a
213 result of his or her military-connected spouse’s permanent
214 change of station orders, activation orders, or unit deployment
215 orders.



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216 2. Disqualification for being discharged for misconduct
217 connected with his or her work continues for the full period of
218 unemployment next ensuing after having been discharged and until
219 the individual is reemployed and has earned income of at least
220 17 times his or her weekly benefit amount and for not more than
221 52 weeks ~~that~~ immediately following ~~follow~~ that week, as
222 determined by the agency in each case according to the
223 circumstances ~~in each case~~ or the seriousness of the misconduct,
224 under the agency's rules adopted for determining ~~determinations~~
225 ~~of~~ disqualification for benefits for misconduct.

226 3. If an individual has provided notification to the
227 employing unit of his or her intent to voluntarily leave work
228 and the employing unit discharges the individual for reasons
229 other than misconduct before the date the voluntary quit was to
230 take effect, the individual, if otherwise entitled, shall
231 receive benefits from the date of the employer's discharge until
232 the effective date of his or her voluntary quit.

233 4. If an individual is notified by the employing unit of
234 the employer's intent to discharge the individual for reasons
235 other than misconduct and the individual quits without good
236 cause, ~~as defined in this section,~~ before the date the discharge
237 was to take effect, the claimant is ineligible for benefits
238 pursuant to s. 443.091(1)(d) for failing to be available for
239 work for the week or weeks of unemployment occurring before the
240 effective date of the discharge.

241 (2) For the week the individual has been discharged by the
242 employing unit for gross misconduct, based on a finding by the
243 Agency for Workforce Innovation. Disqualification for being
244 discharged for gross misconduct continues for the full period of



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245 unemployment next ensuing after having been discharged and until
246 the individual is reemployed and has earned income of at least
247 17 times his or her weekly benefit amount. As used in this
248 subsection, the term "gross misconduct" means any of the
249 following:

250 (a) Willful or reckless damage to an employer's property
251 which results in damage of more than \$50.

252 (b) Theft of the property of an employer, a customer, or an
253 invitee of the employer.

254 (c) Violation of an employer's policy relating to the
255 consumption of alcohol or drugs on the employer property, being
256 under the influence of alcohol or drugs on employer property, or
257 using alcohol or drugs while on the job or on duty. As used in
258 this paragraph, the term "alcohol or drugs" has the same meaning
259 as in s. 440.102(1)(c).

260 (d) Failure to comply with an employer's drug and alcohol
261 testing and use policies while on the job or on duty.

262 (e) Failure to comply with applicable state or federal drug
263 and alcohol testing and use regulations, including, but not
264 limited to, 49 C.F.R. part 40 and part 382 of the Federal Motor
265 Carrier Safety Regulations, while on the job or on duty, and
266 regulations applicable to employees performing transportation
267 and other safety-sensitive job functions as defined by the
268 Federal Government.

269 (f) Criminal assault or battery of another employee or of a
270 customer or invitee of the employer.

271 (g) Abuse of a patient, resident, disabled person, elderly
272 person, or child in her or his professional care.

273 (h) Insubordination, which is defined as the willful



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274 failure to comply with a lawful, reasonable order of a
275 supervisor which is directly related to the employee's
276 employment as described in an applicable written job
277 description, the written rules of conduct, or other lawful
278 directive of the employer. The employee must have received at
279 least one written warning from the employer before being
280 discharged from employment.

281 (i) Willful neglect of duty directly related to the
282 employee's employment as described in an applicable written job
283 description or written rules of conduct. The employee must have
284 received at least one written warning from the employer before
285 being discharged from employment.

286 (j) Failure to maintain a license, registration, or
287 certification required by law in order for the employee to
288 perform her or his assigned job duties as described in an
289 written job description.

290 (3)(2) If the Agency for Workforce Innovation finds that
291 the individual has failed without good cause to apply for
292 available suitable work ~~when directed by the agency or the one-~~
293 ~~stop career center,~~ to accept suitable work when offered to him
294 or her, or to return to the individual's customary self-
295 employment when directed by the agency, the disqualification
296 continues for the full period of unemployment next ensuing after
297 he or she failed without good cause to apply for available
298 suitable work, to accept suitable work, or to return to his or
299 her customary self-employment, ~~under this subsection,~~ and until
300 the individual has earned income of at least 17 times his or her
301 weekly benefit amount. The Agency for Workforce Innovation shall
302 by rule adopt criteria for determining the "suitability of



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303 work," as used in this section. ~~The agency for Workforce~~
304 ~~Innovation~~ In developing these rules, the agency shall consider
305 the duration of a claimant's unemployment in determining the
306 suitability of work and the suitability of proposed rates of
307 compensation for available work. Further, after an individual
308 has received 19 ~~25~~ weeks of benefits in a single year, suitable
309 work is a job that pays the minimum wage and is 120 percent or
310 more of the weekly benefit amount the individual is drawing.

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

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

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

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

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



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332 (c) If the agency ~~for Workforce Innovation~~ finds that an
333 individual was rejected for offered employment as the direct
334 result of a positive, confirmed drug test required as a
335 condition of employment, the individual is disqualified for
336 refusing to accept an offer of suitable work.

337 ~~(4)~~⁽³⁾ For any week with respect to which he or she is
338 receiving or has received remuneration in the form of:

339 (a) Wages in lieu of notice.

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

346 ~~(c)~~^(b)~~1.~~ Compensation for temporary total disability or
347 permanent total disability under the workers' compensation law
348 of any state or under a similar law of the United States.

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

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

360 (a) If the Agency for Workforce Innovation or the



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

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



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390 and the agency ~~for Workforce Innovation~~ finds misconduct in
391 connection with his or her work, the individual is not entitled
392 to unemployment benefits.

393
394 If ~~With respect to~~ an individual is disqualified for benefits,
395 the account of the terminating employer, if the employer is in
396 the base period, is noncharged at the time the disqualification
397 is imposed.

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

400 (13) ~~(11)~~ If an individual is discharged from employment for
401 drug use as evidenced by a positive, confirmed drug test as
402 provided in paragraph (1) (d), or is rejected for offered
403 employment because of a positive, confirmed drug test as
404 provided in paragraph (3) (c) ~~(2) (e)~~, test results and chain of
405 custody documentation provided to the employer by a licensed and
406 approved drug-testing laboratory is self-authenticating and
407 admissible in unemployment compensation hearings, and such
408 evidence creates a rebuttable presumption that the individual
409 used, or was using, controlled substances, subject to the
410 following conditions:

411 (a) To qualify for the presumption ~~described in this~~
412 ~~subsection~~, an employer must have implemented a drug-free
413 workplace program under ss. 440.101 and 440.102, ~~and must~~ submit
414 proof that the employer has qualified for the insurance
415 discounts provided under s. 627.0915, as certified by the
416 insurance carrier or self-insurance unit. In lieu of these
417 requirements, an employer who does not fit the definition of
418 "employer" in s. 440.102 may qualify for the presumption if the



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419 employer is in compliance with equivalent or more stringent
420 drug-testing standards established by federal law or regulation.

421 (b) Only laboratories licensed and approved as provided in
422 s. 440.102(9), or as provided by equivalent or more stringent
423 licensing requirements established by federal law or regulation
424 may perform the drug tests.

425 (c) Disclosure of drug test results and other information
426 pertaining to drug testing of individuals who claim or receive
427 compensation under this chapter is ~~shall be~~ governed by s.
428 443.1715.

429 Section 5. Effective July 1, 2011, paragraph (b) of
430 subsection (1) of section 443.111, Florida Statutes, is amended
431 to read:

432 443.111 Payment of benefits.—

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

436 (b) As required under s. 443.091(1), each claimant must
437 ~~report in the manner prescribed by the agency for Workforce~~
438 ~~Innovation to certify for benefits that are paid and must~~
439 ~~continue to report~~ at least biweekly to receive unemployment
440 benefits and to attest to the fact that she or he is able and
441 available for work, has not refused suitable work, is seeking
442 work and has contacted at least five prospective employers for
443 each week of unemployment claimed, and, if she or he has worked,
444 to report earnings from that work. Each claimant must continue
445 to report regardless of any appeal or pending appeal relating to
446 her or his eligibility or disqualification for benefits.

447 Section 6. Effective July 1, 2011, paragraph (c) of



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448 subsection (3) of section 443.1115, Florida Statutes, is amended
449 to read:

450 443.1115 Extended benefits.—

451 (3) ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.—

452 (c)1. An individual is disqualified from receiving extended
453 benefits if the Agency for Workforce Innovation finds that,
454 during any week of unemployment in her or his eligibility
455 period:

456 a. She or he failed to apply for suitable work or, if
457 offered, failed to accept suitable work, unless the individual
458 can furnish to the agency satisfactory evidence that her or his
459 prospects for obtaining work in her or his customary occupation
460 within a reasonably short period are good. If this evidence is
461 deemed satisfactory ~~for this purpose~~, the determination of
462 whether any work is suitable for the individual shall be made in
463 accordance with the definition of suitable work in s. 443.101(3)
464 ~~443.101(2)~~. This disqualification begins with the week the
465 failure occurred and continues until she or he is employed for
466 at least 4 weeks and receives earned income of at least 17 times
467 her or his weekly benefit amount.

468 b. She or he failed to furnish tangible evidence that she
469 or he actively engaged in a systematic and sustained effort to
470 find work. This disqualification begins with the week the
471 failure occurred and continues until she or he is employed for
472 at least 4 weeks and receives earned income of at least 4 times
473 her or his weekly benefit amount.

474 2. Except as otherwise provided in sub-subparagraph 1.a.,
475 as used in this paragraph, the term "suitable work" means any
476 work within the individual's capabilities to perform, if:



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477 a. The gross average weekly remuneration payable for the
478 work exceeds the sum of the individual's weekly benefit amount
479 plus the amount, if any, of supplemental unemployment benefits,
480 as defined in s. 501(c)(17)(D) of the Internal Revenue Code of
481 1954, as amended, payable to the individual for that week;

482 b. The wages payable for the work equal the higher of the
483 minimum wages provided by s. 6(a)(1) of the Fair Labor Standards
484 Act of 1938, without regard to any exemption, or the state or
485 local minimum wage; and

486 c. The work otherwise meets the definition of suitable work
487 in s. 443.101(3) ~~443.101(2)~~ to the extent that the criteria for
488 suitability are not inconsistent with this paragraph.

489 Section 7. Notwithstanding the expiration date contained in
490 section 1 of chapter 2010-90, Laws of Florida, operating
491 retroactive to December 17, 2010, and expiring January 4, 2012,
492 section 443.1117, Florida Statutes, is revived, readopted, and
493 amended to read:

494 443.1117 Temporary extended benefits.—

495 (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.—Except if
496 the result is inconsistent with ~~the~~ other provisions of this
497 section, s. 443.1115(2), (3), (4), (6), and (7) apply to all
498 claims covered by this section.

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

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

503 (b) "Eligibility period" means the weeks in an individual's
504 benefit year or emergency benefit period which begin in an
505 extended benefit period and, if the benefit year or emergency



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506 benefit period ends within that extended benefit period, any
507 subsequent weeks beginning in that period.

508 (c) "Emergency benefits" means Emergency Unemployment
509 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
510 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, ~~and~~ Pub. L. No.
511 111-118, Pub. L. No. 111-144, ~~and~~ Pub. L. No. 111-157, Pub. L.
512 No. 111-205, and Pub. L. No. 111-312.

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

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

516 2. Ends with any of the following weeks, whichever occurs
517 later:

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

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

521

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

525 (e) "Emergency benefit period" means the period during
526 which an individual receives emergency benefits ~~as defined in~~
527 ~~paragraph (c).~~

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

530 1. Has received, before that week, all of the regular
531 benefits and emergency benefits, if any, available under this
532 chapter or any other law, including dependents' allowances and
533 benefits payable to federal civilian employees and ex-
534 servicemembers under 5 U.S.C. ss. 8501-8525, in the current



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535 benefit year or emergency benefit period that includes that
536 week. For the purposes of this subparagraph, an individual has
537 received all of the regular benefits and emergency benefits, if
538 any, available even if ~~although~~, as a result of a pending appeal
539 for wages paid for insured work which were not considered in the
540 original monetary determination in the benefit year, she or he
541 may subsequently be determined to be entitled to added regular
542 benefits;

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

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

551 b. Has not received and is not seeking unemployment
552 benefits under the unemployment compensation law of Canada; but
553 if an individual is seeking those benefits and the appropriate
554 agency finally determines that she or he is not entitled to
555 benefits under that law, she or he is considered an exhaustee.

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

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



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564 rates for the corresponding 3-month period ending in any or all
565 ~~each~~ of the preceding 3 2 calendar years; and

566 2. Equals or exceeds 6.5 percent.

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

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

577 2. Equals or exceeds 8 percent.

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

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

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

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

589 2. Thirteen times the weekly benefit amount payable under
590 this chapter for a week of total unemployment in the applicable
591 benefit year.

592 (b) For any high unemployment period, the total extended



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593 benefit amount payable to an eligible individual for her or his
594 applicable benefit year is the lesser of:

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

597 2. Twenty times the weekly benefit amount payable under
598 this chapter for a week of total unemployment in the applicable
599 benefit year.

600 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other
601 provision of this chapter, if the benefit year of an individual
602 ends within an extended benefit period, the number of weeks of
603 extended benefits the individual is entitled to receive in that
604 extended benefit period for weeks of unemployment beginning
605 after the end of the benefit year, except as provided in this
606 section, is reduced, but not to below zero, by the number of
607 weeks for which the individual received, within that benefit
608 year, trade readjustment allowances under the Trade Act of 1974,
609 as amended.

610 Section 8. The provisions of s. 443.1117, Florida Statutes,
611 as revived, readopted, and amended by this act, apply only to
612 claims for weeks of unemployment in which an exhaustee
613 establishes entitlement to extended benefits pursuant to that
614 section which are established for the period between December
615 17, 2010, and January 4, 2012.

616 Section 9. Effective July 1, 2011, paragraph (a) of
617 subsection (1) and paragraph (f) of subsection (13) of section
618 443.1216, Florida Statutes, are amended to read:

619 443.1216 Employment.—Employment, as defined in s. 443.036,
620 is subject to this chapter under the following conditions:

621 (1) (a) The employment ~~subject to this chapter~~ includes a



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622 service performed, including a service performed in interstate
623 commerce, by:

624 1. An officer of a corporation.

625 2. An individual who, under the usual common-law rules
626 applicable in determining the employer-employee relationship, is
627 an employee. However, if whenever a client, as defined in s.
628 443.036(18), which would otherwise be designated as an employing
629 unit, has contracted with an employee leasing company to supply
630 it with workers, those workers are considered employees of the
631 employee leasing company and must be reported under the leasing
632 company's tax identification number and contribution rate for
633 work performed for the leasing company.

634 a. However, except for the internal employees of an
635 employee leasing company, a leasing company may make a one-time
636 election to report and pay contributions for all leased
637 employees under the respective unemployment account of each
638 client of the leasing company. This election applies only to
639 contributions for unemployment.

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

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

647 (A) A list of each client company and its unemployment
648 account number;

649 (B) A list of each client company's current and previous
650 employees and their respective social security numbers for the



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651 prior 3 state fiscal years;

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

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

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

660 (V) For the purposes of calculating experience rates, the
661 election is treated like a total or partial succession,
662 depending on the percentage of employees leased. If the client
663 company leases only a portion of its employees from the leasing
664 company, the client company shall continue to report the
665 nonleased employees under its tax rate based on the experience
666 of the nonleased employees.

667 (VI) This sub-subparagraph applies to all employee leasing
668 companies, including each leasing company that is a group member
669 or group leader of an employee leasing company group licensed
670 pursuant to chapter 468. The election is binding on all employee
671 leasing companies and their related enterprises, subsidiaries,
672 or other entities that share common ownership, management, or
673 control with the leasing company. The election is also binding
674 on all clients of the leasing company for as long as a written
675 agreement is in effect between the client and the leasing
676 company pursuant to s. 468.525(3) (a). If the relationship
677 between the leasing company and the client terminates, the
678 client retains the wage and benefit history experienced under
679 the leasing company.



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680 **b.** An employee leasing company may lease corporate officers
681 of the client to the client and other workers to the client,
682 except as prohibited by regulations of the Internal Revenue
683 Service. ~~Employees of an employee leasing company must be~~
684 ~~reported under the employee leasing company's tax identification~~
685 ~~number and contribution rate for work performed for the employee~~
686 ~~leasing company.~~

687 ~~c.a.~~ In addition to any other report required to be filed
688 by law, an employee leasing company shall submit a report to the
689 Labor Market Statistics Center within the Agency for Workforce
690 Innovation which includes each client establishment and each
691 establishment of the ~~employee~~ leasing company, or as otherwise
692 directed by the agency. The report must include the following
693 information for each establishment:

- 694 (I) The trade or establishment name;
- 695 (II) The former unemployment compensation account number,
696 if available;
- 697 (III) The former federal employer's identification number
698 (FEIN), if available;
- 699 (IV) The industry code recognized and published by the
700 United States Office of Management and Budget, if available;
- 701 (V) A description of the client's primary business activity
702 in order to verify or assign an industry code;
- 703 (VI) The address of the physical location;
- 704 (VII) The number of full-time and part-time employees who
705 worked during, or received pay that was subject to unemployment
706 compensation taxes for, the pay period including the 12th of the
707 month for each month of the quarter;
- 708 (VIII) The total wages subject to unemployment compensation



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709 taxes paid during the calendar quarter;

710 (IX) An internal identification code to uniquely identify
711 each establishment of each client;

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

714 (XI) The month and year that the client terminated the
715 contract for services.

716 ~~d.d.~~ The report shall be submitted electronically or in a
717 manner otherwise prescribed by the Agency for Workforce
718 Innovation in the format specified by the Bureau of Labor
719 Statistics of the United States Department of Labor for its
720 Multiple Worksite Report for Professional Employer
721 Organizations. The report must be provided quarterly to the
722 Labor Market Statistics Center within the agency ~~for Workforce~~
723 ~~Innovation~~, or as otherwise directed by the agency, and must be
724 filed by the last day of the month immediately following the end
725 of the calendar quarter. The information required in sub-sub-
726 subparagraphs c.(X) and (XI) ~~a.(X) and (XI)~~ need be provided
727 only in the quarter in which the contract to which it relates
728 was entered into or terminated. The sum of the employment data
729 and the sum of the wage data in this report must match the
730 employment and wages reported in the unemployment compensation
731 quarterly tax and wage report. A report is not required for any
732 calendar quarter preceding the third calendar quarter of 2010.

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

737 ~~f.f.~~ For the purposes of this subparagraph, the term



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738 "establishment" means any location where business is conducted
739 or where services or industrial operations are performed.

740 3. An individual other than an individual who is an
741 employee under subparagraph 1. or subparagraph 2., who performs
742 services for remuneration for any person:

743 a. As an agent-driver or commission-driver engaged in
744 distributing meat products, vegetable products, fruit products,
745 bakery products, beverages other than milk, or laundry or
746 drycleaning services for his or her principal.

747 b. As a traveling or city salesperson engaged on a full-
748 time basis in the solicitation on behalf of, and the
749 transmission to, his or her principal of orders from
750 wholesalers, retailers, contractors, or operators of hotels,
751 restaurants, or other similar establishments for merchandise for
752 resale or supplies for use in their business operations. This
753 sub-subparagraph does not apply to an agent-driver or a
754 commission-driver and does not apply to sideline sales
755 activities performed on behalf of a person other than the
756 salesperson's principal.

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

759 a. The contract of service contemplates that substantially
760 all of the services are to be performed personally by the
761 individual;

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

765 c. The services are not in the nature of a single
766 transaction that is not part of a continuing relationship with



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767 the person for whom the services are performed.

768 (13) The following are exempt from coverage under this
769 chapter:

770 (f) Service performed in the employ of a public employer as
771 defined in s. 443.036, except as provided in subsection (2), and
772 service performed in the employ of an instrumentality of a
773 public employer as described in s. 443.036(36)(b) ~~443.036(35)(b)~~
774 or (c), to the extent that the instrumentality is immune under
775 the United States Constitution from the tax imposed by s. 3301
776 of the Internal Revenue Code for that service.

777 Section 10. Effective upon this act becoming a law and
778 operating retroactively to January 1, 2011, paragraphs (c) and
779 (e) of subsection (3) of section 443.131, Florida Statutes, are
780 amended to read:

781 443.131 Contributions.—

782 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
783 EXPERIENCE.—

784 (c) *Standard rate.*—The standard rate of contributions
785 payable by each employer shall be 6.4 ~~5.4~~ percent.

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

789 1. The tax collection service provider shall assign a
790 variation from the standard rate of contributions for each
791 calendar year to each eligible employer. In determining the
792 contribution rate, varying from the standard rate to be assigned
793 each employer, adjustment factors computed under sub-
794 subparagraphs a.-d. are added to the benefit ratio. This
795 addition shall be accomplished in two steps by adding a variable



796 adjustment factor and a final adjustment factor. The sum of
797 these adjustment factors computed under sub-subparagraphs a.-d.
798 shall first be algebraically summed. The sum of these adjustment
799 factors shall next be divided by a gross benefit ratio
800 determined as follows: Total benefit payments for the 3-year
801 period described in subparagraph (b)2. are charged to employers
802 eligible for a variation from the standard rate, minus excess
803 payments for the same period, divided by taxable payroll
804 entering into the computation of individual benefit ratios for
805 the calendar year for which the contribution rate is being
806 computed. The ratio of the sum of the adjustment factors
807 computed under sub-subparagraphs a.-d. to the gross benefit
808 ratio is multiplied by each individual benefit ratio that is
809 less than the maximum contribution rate to obtain variable
810 adjustment factors; except that if the sum of an employer's
811 individual benefit ratio and variable adjustment factor exceeds
812 the maximum contribution rate, the variable adjustment factor is
813 reduced in order for the sum to equal the maximum contribution
814 rate. The variable adjustment factor for each of these employers
815 is multiplied by his or her taxable payroll entering into the
816 computation of his or her benefit ratio. The sum of these
817 products is divided by the taxable payroll of the employers who
818 entered into the computation of their benefit ratios. The
819 resulting ratio is subtracted from the sum of the adjustment
820 factors computed under sub-subparagraphs a.-d. to obtain the
821 final adjustment factor. The variable adjustment factors and the
822 final adjustment factor must be computed to five decimal places
823 and rounded to the fourth decimal place. This final adjustment
824 factor is added to the variable adjustment factor and benefit



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825 ratio of each employer to obtain each employer's contribution
826 rate. An employer's contribution rate may not, however, be
827 rounded to less than 0.1 percent.

828 a. An adjustment factor for noncharge benefits is computed
829 to the fifth decimal place and rounded to the fourth decimal
830 place by dividing the amount of noncharge benefits during the 3-
831 year period described in subparagraph (b)2. by the taxable
832 payroll of employers eligible for a variation from the standard
833 rate who have a benefit ratio for the current year which is less
834 than the maximum contribution rate. For purposes of computing
835 this adjustment factor, the taxable payroll of these employers
836 is the taxable payrolls for the 3 years ending June 30 of the
837 current calendar year as reported to the tax collection service
838 provider by September 30 of the same calendar year. As used in
839 this sub-subparagraph, the term "noncharge benefits" means
840 benefits paid to an individual from the Unemployment
841 Compensation Trust Fund, but which were not charged to the
842 employment record of any employer.

843 b. An adjustment factor for excess payments is computed to
844 the fifth decimal place, and rounded to the fourth decimal place
845 by dividing the total excess payments during the 3-year period
846 described in subparagraph (b)2. by the taxable payroll of
847 employers eligible for a variation from the standard rate who
848 have a benefit ratio for the current year which is less than the
849 maximum contribution rate. For purposes of computing this
850 adjustment factor, the taxable payroll of these employers is the
851 same figure used to compute the adjustment factor for noncharge
852 benefits under sub-subparagraph a. As used in this sub-
853 subparagraph, the term "excess payments" means the amount of



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854 benefits charged to the employment record of an employer during
855 the 3-year period described in subparagraph (b)2., less the
856 product of the maximum contribution rate and the employer's
857 taxable payroll for the 3 years ending June 30 of the current
858 calendar year as reported to the tax collection service provider
859 by September 30 of the same calendar year. As used in this sub-
860 subparagraph, the term "total excess payments" means the sum of
861 the individual employer excess payments for those employers that
862 were eligible for assignment of a contribution rate different
863 from the standard rate.

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

865 (I) Beginning January 1, 2012, if the balance of the
866 Unemployment Compensation Trust Fund on September 30 of the
867 calendar year immediately preceding the calendar year for which
868 the contribution rate is being computed is less than 4 percent
869 of the taxable payrolls for the year ending June 30 as reported
870 to the tax collection service provider by September 30 of that
871 calendar year, a positive adjustment factor shall be computed.
872 The positive adjustment factor is computed annually to the fifth
873 decimal place and rounded to the fourth decimal place by
874 dividing the sum of the total taxable payrolls for the year
875 ending June 30 of the current calendar year as reported to the
876 tax collection service provider by September 30 of that calendar
877 year into a sum equal to one-third of the difference between the
878 balance of the fund as of September 30 of that calendar year and
879 the sum of 5 percent of the total taxable payrolls for that
880 year. The positive adjustment factor remains in effect for
881 subsequent years until the balance of the Unemployment
882 Compensation Trust Fund as of September 30 of the year



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883 immediately preceding the effective date of the contribution
884 rate equals or exceeds 5 percent of the taxable payrolls for the
885 year ending June 30 of the current calendar year as reported to
886 the tax collection service provider by September 30 of that
887 calendar year.

888 (II) Beginning January 1, 2015, and for each year
889 thereafter, the positive adjustment shall be computed by
890 dividing the sum of the total taxable payrolls for the year
891 ending June 30 of the current calendar year as reported to the
892 tax collection service provider by September 30 of that calendar
893 year into a sum equal to one-fourth of the difference between
894 the balance of the fund as of September 30 of that calendar year
895 and the sum of 5 percent of the total taxable payrolls for that
896 year. The positive adjustment factor remains in effect for
897 subsequent years until the balance of the Unemployment
898 Compensation Trust Fund as of September 30 of the year
899 immediately preceding the effective date of the contribution
900 rate equals or exceeds 4 percent of the taxable payrolls for the
901 year ending June 30 of the current calendar year as reported to
902 the tax collection service provider by September 30 of that
903 calendar year.

904 d. If, beginning January 1, 2015, and each year thereafter,
905 the balance of the Unemployment Compensation Trust Fund as of
906 September 30 of the year immediately preceding the calendar year
907 for which the contribution rate is being computed exceeds 5
908 percent of the taxable payrolls for the year ending June 30 of
909 the current calendar year as reported to the tax collection
910 service provider by September 30 of that calendar year, a
911 negative adjustment factor must be computed. The negative



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912 adjustment factor shall be computed annually beginning on
913 January 1, 2015, and each year thereafter, to the fifth decimal
914 place and rounded to the fourth decimal place by dividing the
915 sum of the total taxable payrolls for the year ending June 30 of
916 the current calendar year as reported to the tax collection
917 service provider by September 30 of the calendar year into a sum
918 equal to one-fourth of the difference between the balance of the
919 fund as of September 30 of the current calendar year and 5
920 percent of the total taxable payrolls of that year. The negative
921 adjustment factor remains in effect for subsequent years until
922 the balance of the Unemployment Compensation Trust Fund as of
923 September 30 of the year immediately preceding the effective
924 date of the contribution rate is less than 5 percent, but more
925 than 4 percent of the taxable payrolls for the year ending June
926 30 of the current calendar year as reported to the tax
927 collection service provider by September 30 of that calendar
928 year. The negative adjustment authorized by this section is
929 suspended in any calendar year in which repayment of the
930 principal amount of an advance received from the federal
931 Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is
932 due to the Federal Government.

933 e. The maximum contribution rate that may be assigned to an
934 employer is 6.4 ~~5.4~~ percent, except employers participating in
935 an approved short-time compensation plan may be assigned a
936 maximum contribution rate that is 1 percent greater than the
937 maximum contribution rate for other employers in any calendar
938 year in which short-time compensation benefits are charged to
939 the employer's employment record.

940 f. As used in this subsection, "taxable payroll" shall be



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941 determined by excluding any part of the remuneration paid to an
942 individual by an employer for employment during a calendar year
943 in excess of the first \$7,000. Beginning January 1, 2012,
944 "taxable payroll" shall be determined by excluding any part of
945 the remuneration paid to an individual by an employer for
946 employment during a calendar year as described in s.
947 443.1217(2). For the purposes of the employer rate calculation
948 that will take effect in January 1, 2012, and in January 1,
949 2013, the tax collection service provider shall use the data
950 available for taxable payroll from 2009 based on excluding any
951 part of the remuneration paid to an individual by an employer
952 for employment during a calendar year in excess of the first
953 \$7,000, and from 2010 and 2011, the data available for taxable
954 payroll based on excluding any part of the remuneration paid to
955 an individual by an employer for employment during a calendar
956 year in excess of the first \$8,500.

957 2. If the transfer of an employer's employment record to an
958 employing unit under paragraph (f) which, before the transfer,
959 was an employer, the tax collection service provider shall
960 recompute a benefit ratio for the successor employer based on
961 the combined employment records and reassign an appropriate
962 contribution rate to the successor employer effective on the
963 first day of the calendar quarter immediately after the
964 effective date of the transfer.

965 Section 11. Present paragraph (f) of subsection (1) of
966 section 443.141, Florida Statutes, is redesignated as paragraph
967 (g), and a new paragraph (f) is added to that subsection, to
968 read:

969 443.141 Collection of contributions and reimbursements.—



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

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

977 1. For contributions due for wages paid in the first
978 quarter of each year, one-fourth of the contributions due must
979 be paid on or before April 30, one-fourth must be paid on or
980 before July 31, one-fourth must be paid on or before October 31,
981 and one-fourth must be paid on or before December 31.

982 2. In addition to the payments specified in subparagraph
983 1., for contributions due for wages paid in the second quarter
984 of each year, one-third of the contributions due must be paid on
985 or before July 31, one-third must be paid on or before October
986 31, and one-third must be paid on or before December 31.

987 3. In addition to the payments specified in subparagraphs
988 1. and 2., for contributions due for wages paid in the third
989 quarter of each year, one-half of the contributions due must be
990 paid on or before October 31, and one-half must be paid on or
991 before December 31.

992 4. The annual administrative fee assessed for electing to
993 pay under the installment method shall be collected at the time
994 the employer makes the first installment payment each year. The
995 fee shall be segregated from the payment and deposited into the
996 Operating Trust Fund of the Department of Revenue.

997 5. Interest does not accrue on any contribution that
998 becomes due for wages paid in the first three quarters of each



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999 year if the employer pays the contribution in accordance with
1000 subparagraphs 1.-4. Interest and fees continue to accrue on
1001 prior delinquent contributions and commence accruing on all
1002 contributions due for wages paid in the first three quarters of
1003 each year which are not paid in accordance with subparagraphs
1004 1.-3. Penalties may be assessed in accordance with this chapter.
1005 The contributions due for wages paid in the fourth quarter of
1006 2012, 2013, and 2014 are not affected by this paragraph and are
1007 due and payable in accordance with this chapter.

1008 Section 12. Effective July 1, 2011, paragraph (a) of
1009 subsection (2), paragraphs (d) and (e) of subsection (3), and
1010 paragraphs (b) and (e) of subsection (4) of section 443.151,
1011 Florida Statutes, are amended, present paragraphs (c) through
1012 (f) of subsection (6) of that section are redesignated as
1013 paragraphs (d) through (g), respectively, and a new paragraph
1014 (c) is added to that subsection, to read:

1015 443.151 Procedure concerning claims.—

1016 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
1017 CLAIMANTS AND EMPLOYERS.—

1018 (a) *In general.*—Initial and continued claims for benefits
1019 must be made by approved electronic means and in accordance with
1020 ~~the~~ rules adopted by the Agency for Workforce Innovation. The
1021 agency must notify claimants and employers regarding monetary
1022 and nonmonetary determinations of eligibility. Investigations of
1023 issues raised in connection with a claimant which may affect a
1024 claimant's eligibility for benefits or charges to an employer's
1025 employment record shall be conducted by the agency through
1026 written, telephonic, or electronic means as prescribed by rule.

1027 (3) DETERMINATION OF ELIGIBILITY.—



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1028 (d) *Determinations in labor dispute cases.*—~~If a~~ ~~Whenever~~
1029 ~~any~~ claim involves a labor dispute described in s. 443.101(5)
1030 ~~443.101(4)~~, the Agency for Workforce Innovation shall promptly
1031 assign the claim to a special examiner who shall make a
1032 determination on the issues involving unemployment due to the
1033 labor dispute. The special examiner shall make the determination
1034 after an investigation, as necessary. The claimant or another
1035 party entitled to notice of the determination may appeal a
1036 determination under subsection (4).

1037 (e) *Redeterminations.*—

1038 1. The Agency for Workforce Innovation may reconsider a
1039 determination if it finds an error or if new evidence or
1040 information pertinent to the determination is discovered after a
1041 prior determination or redetermination. A redetermination may
1042 not be made more than 1 year after the last day of the benefit
1043 year unless the disqualification for making a false or
1044 fraudulent representation under s. 443.101(7) ~~443.101(6)~~ is
1045 applicable, in which case the redetermination may be made within
1046 2 years after the false or fraudulent representation. The agency
1047 must promptly give notice of redetermination to the claimant and
1048 to any employers entitled to notice in the manner prescribed in
1049 this section for the notice of an initial determination.

1050 2. If the amount of benefits is increased by the
1051 redetermination, an appeal of the redetermination based solely
1052 on the increase may be filed as provided in subsection (4). If
1053 the amount of benefits is decreased by the redetermination, the
1054 redetermination may be appealed by the claimant if a subsequent
1055 claim for benefits is affected in amount or duration by the
1056 redetermination. If the final decision on the determination or



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1057 redetermination to be reconsidered was made by an appeals
1058 referee, the commission, or a court, the Agency for Workforce
1059 Innovation may apply for a revised decision from the body or
1060 court that made the final decision.

1061 3. If an appeal of an original determination is pending
1062 when a redetermination is issued, the appeal, unless withdrawn,
1063 is treated as an appeal from the redetermination.

1064 (4) APPEALS.—

1065 (b) *Filing and hearing.*—

1066 1. The claimant or any other party entitled to notice of a
1067 determination may appeal an adverse determination to an appeals
1068 referee within 20 days after the date of mailing ~~of~~ the notice
1069 to her or his last known address or, if the notice is not
1070 mailed, within 20 days after the date of delivering ~~delivery of~~
1071 the notice.

1072 2. Unless the appeal is untimely or withdrawn, or review is
1073 initiated by the commission, the appeals referee, after mailing
1074 all parties and attorneys of record a notice of hearing at least
1075 10 days before the date of hearing, notwithstanding the 14-day
1076 notice requirement in s. 120.569(2)(b), may only affirm, modify,
1077 or reverse the determination. An appeal may not be withdrawn
1078 without the permission of the appeals referee.

1079 3. However, if ~~when~~ an appeal appears to have been filed
1080 after the permissible time limit, the Office of Appeals may
1081 issue an order to show cause to the appellant which requires,
1082 ~~requiring~~ the appellant to show why the appeal should not be
1083 dismissed as untimely. If ~~the appellant does not,~~ within 15 days
1084 after the mailing date of the order to show cause, the appellant
1085 does not provide written evidence of timely filing or good cause



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1086 for failure to appeal timely, the appeal shall be dismissed.

1087 4. ~~If~~ When an appeal involves a question of whether
1088 services were performed by a claimant in employment or for an
1089 employer, the referee must give special notice of the question
1090 and of the pendency of the appeal to the employing unit and to
1091 the Agency for Workforce Innovation, both of which become
1092 parties to the proceeding.

1093 5. Any part of the evidence may be received in written
1094 form, and all testimony of parties and witnesses must be made
1095 under oath.

1096 a. Irrelevant, immaterial, or unduly repetitious evidence
1097 shall be excluded, but all other evidence of a type commonly
1098 relied upon by reasonably prudent persons in the conduct of
1099 their affairs is admissible, whether or not such evidence would
1100 be admissible in a trial in state court.

1101 b. Hearsay evidence may be used for the purpose of
1102 supplementing or explaining other evidence, or to support a
1103 finding if it would be admissible over objection in civil
1104 actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may
1105 support a finding of fact if:

1106 (I) The party against whom it is offered has a reasonable
1107 opportunity to review it before the hearing; and

1108 (II) The appeals referee or special deputy determines,
1109 after considering all relevant facts and circumstances, that the
1110 evidence is trustworthy and probative and that the interests of
1111 justice are best served by its admission into evidence.

1112 ~~6.5.~~ The parties must be notified promptly of the referee's
1113 decision. The referee's decision is final unless further review
1114 is initiated under paragraph (c) within 20 days after the date



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1115 of mailing notice of the decision to the party's last known
1116 address or, in lieu of mailing, within 20 days after the
1117 delivery of the notice.

1118 (e) *Judicial review.*—Orders of the commission entered under
1119 paragraph (c) are subject to review only by notice of appeal in
1120 the district court of appeal ~~in the appellate district in which~~
1121 ~~the issues involved were decided by an appeals referee.~~ If the
1122 notice of appeal is filed by the claimant, it must be filed in
1123 the appellate district in which the claimant resides. If the
1124 notice of appeal is filed by the employer, it must be filed in
1125 the appellate district in which the business is located.

1126 However, if the claimant does not reside in this state or the
1127 business is not located in this state, the notice of appeal must
1128 be filed in the appellate district in which the order was
1129 issued. Notwithstanding chapter 120, the commission is a party
1130 respondent to every such proceeding. The Agency for Workforce
1131 Innovation may initiate judicial review of orders in the same
1132 manner and to the same extent as any other party.

1133 (6) RECOVERY AND RECOUPMENT.—

1134 (c) Any person who, by reason other than fraud, receives
1135 benefits under this chapter for which she or he is not entitled
1136 due to the failure of the Agency for Workforce Innovation to
1137 make and provide notice of a nonmonetary determination under
1138 paragraph (3) (c) within 30 days after filing a new claim, is
1139 liable for repaying up to 5 weeks of benefits received to the
1140 agency on behalf of the trust fund or may have those benefits
1141 deducted from any future benefits payable to her or him under
1142 this chapter.

1143 Section 13. Subsection (10) is added to section 443.171,



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1144 Florida Statutes, to read:

1145 443.171 Agency for Workforce Innovation and commission;
1146 powers and duties; records and reports; proceedings; state-
1147 federal cooperation.—

1148 (10) EVIDENCE OF MAILING.—A mailing date on any notice,
1149 determination, decision, order, or other document mailed by the
1150 Agency for Workforce Innovation or its tax collection service
1151 provider pursuant to this chapter creates a rebuttable
1152 presumption that such notice, determination, order, or other
1153 document was mailed on the date indicated.

1154 Section 14. The Legislature finds that this act fulfills an
1155 important state interest.

1156 Section 15. Except as otherwise expressly provided in this
1157 act, this act shall take effect upon becoming a law.

1158
1159 ===== T I T L E A M E N D M E N T =====

1160 And the title is amended as follows:

1161 Delete everything before the enacting clause
1162 and insert:

1163 A bill to be entitled
1164 An act relating to unemployment compensation; amending
1165 s. 213.053, F.S.; increasing the number of employer
1166 payroll service providers who qualify for access to
1167 unemployment tax information by filing a memorandum of
1168 understanding; amending s. 443.036, F.S.; revising the
1169 definitions for "available for work," "earned income,"
1170 "misconduct," and "unemployment"; adding a definition
1171 for "initial skills review"; amending s. 443.091,
1172 F.S.; revising requirements for making continued



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1173 claims for benefits; requiring that an individual
1174 claiming benefits report certain information and
1175 participate in an initial skills review; providing an
1176 exception; specifying criteria for determining an
1177 applicant's availability for work; amending s.
1178 443.101, F.S.; clarifying "good cause" for voluntarily
1179 leaving employment; specifying acts that are "gross
1180 misconduct" for purposes of discharging an employee
1181 and disqualifying him or her for benefits; revising
1182 the criteria for determining suitable work to reduce
1183 the number of weeks a person may receive benefits
1184 before having to accept a job that pays a certain
1185 amount; disqualifying a person for benefits due to the
1186 receipt of severance pay; revising provisions relating
1187 to the effect of criminal acts on eligibility for
1188 benefits; disqualifying an individual for benefits for
1189 any week he or she is incarcerated; amending s.
1190 443.111, F.S.; conforming provisions to changes made
1191 by the act; amending s. 443.1115, F.S.; conforming
1192 cross-references; reviving, readopting, and amending
1193 s. 443.1117, F.S., relating to temporary extended
1194 benefits; providing for retroactive application;
1195 providing for applicability relating to extended
1196 benefits for certain weeks and for periods of high
1197 unemployment; providing for applicability; amending s.
1198 443.1216, F.S.; providing that employee leasing
1199 companies may make a one-time election to report
1200 leased employees under the respective unemployment
1201 account of each leasing company client; providing



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1202 procedures and application for such election;
1203 conforming a cross-reference; amending s. 443.131,
1204 F.S.; increasing the employer's standard rate of
1205 contributions; providing for retroactive application;
1206 amending s. 443.141, F.S.; providing an employer
1207 payment schedule for 2012, 2013, and 2014
1208 contributions; requiring an employer to pay a fee for
1209 paying contributions on a quarterly schedule;
1210 providing penalties, interest, and fees on delinquent
1211 contributions; amending s. 443.151, F.S.; requiring
1212 claims to be submitted by electronic means; conforming
1213 cross-references; specifying the allowable forms of
1214 evidence in an appeal hearing; specifying the judicial
1215 venue for filing a notice of appeal; providing for
1216 repayment of benefits in cases of agency error;
1217 amending s. 443.171, F.S.; specifying that evidence of
1218 mailing an agency document creates a rebuttable
1219 presumption; providing that the act fulfills an
1220 important state interest; providing effective dates.