

By the Committee on Commerce and Tourism; and Senator Detert

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1                   A bill to be entitled  
2           An act relating to unemployment compensation; amending  
3           s. 213.053, F.S.; increasing the number of employer  
4           payroll service providers who qualify for access to  
5           unemployment tax information by filing a memorandum of  
6           understanding; amending s. 443.036, F.S.; revising the  
7           definitions for "available for work," "earned income,"  
8           "misconduct," and "unemployment"; adding a definition  
9           for "initial skills review"; amending s. 443.091,  
10          F.S.; revising requirements for making continued  
11          claims for benefits; requiring that an individual  
12          claiming benefits report certain information and  
13          participate in an initial skills review; providing an  
14          exception; specifying criteria for determining an  
15          applicant's availability for work; amending s.  
16          443.101, F.S.; clarifying "good cause" for voluntarily  
17          leaving employment; specifying acts that are "gross  
18          misconduct" for purposes of discharging an employee  
19          and disqualifying him or her for benefits; revising  
20          the criteria for determining suitable work to reduce  
21          the number of weeks a person may receive benefits  
22          before having to accept a job that pays a certain  
23          amount; disqualifying a person for benefits due to the  
24          receipt of severance pay; revising provisions relating  
25          to the effect of criminal acts on eligibility for  
26          benefits; disqualifying an individual for benefits for  
27          any week he or she is incarcerated; amending s.  
28          443.111, F.S.; conforming provisions to changes made  
29          by the act; amending s. 443.1115, F.S.; conforming

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30 cross-references; reviving, readopting, and amending  
31 s. 443.1117, F.S., relating to temporary extended  
32 benefits; providing for retroactive application;  
33 providing for applicability relating to extended  
34 benefits for certain weeks and for periods of high  
35 unemployment; providing for applicability; amending s.  
36 443.1216, F.S.; providing that employee leasing  
37 companies may make a one-time election to report  
38 leased employees under the respective unemployment  
39 account of each leasing company client; providing  
40 procedures and application for such election;  
41 conforming a cross-reference; amending s. 443.141,  
42 F.S.; providing an employer payment schedule for 2012,  
43 2013, and 2014 contributions; requiring an employer to  
44 pay a fee for paying contributions on a quarterly  
45 schedule; providing penalties, interest, and fees on  
46 delinquent contributions; amending s. 443.151, F.S.;  
47 requiring claims to be submitted by electronic means;  
48 conforming cross-references; specifying the allowable  
49 forms of evidence in an appeal hearing; specifying the  
50 judicial venue for filing a notice of appeal;  
51 providing for repayment of benefits in cases of agency  
52 error; amending s. 443.171, F.S.; specifying that  
53 evidence of mailing an agency document creates a  
54 rebuttable presumption; providing that the act  
55 fulfills an important state interest; providing  
56 effective dates.

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58 Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

(9) "Benefit year" means, for an individual, the 1-year

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88 period beginning with the first day of the first week for which  
89 the individual first files a valid claim for benefits and,  
90 thereafter, the 1-year period beginning with the first day of  
91 the first week for which the individual next files a valid claim  
92 for benefits after the termination of his or her last preceding  
93 benefit year. Each claim for benefits made in accordance with s.  
94 443.151(2) is a valid claim ~~under this subsection~~ if the  
95 individual was paid wages for insured work in accordance with s.  
96 443.091(1)(g) and is unemployed ~~as defined in subsection (43)~~ at  
97 the time of filing the claim. However, the Agency for Workforce  
98 Innovation may adopt rules providing for the establishment of a  
99 uniform benefit year for all workers in one or more groups or  
100 classes of service or within a particular industry if the agency  
101 determines, after notice to the industry and to the workers in  
102 the industry and an opportunity to be heard in the matter, that  
103 those groups or classes of workers in a particular industry  
104 periodically experience unemployment resulting from layoffs or  
105 shutdowns for limited periods of time.

106 (16) "Earned income" means gross remuneration derived from  
107 work, professional service, or self-employment. The term  
108 includes commissions, bonuses, back pay awards or back pay  
109 settlements, front pay or front wages, and the cash value of all  
110 remuneration paid in a medium other than cash. The term does not  
111 include income derived from invested capital or ownership of  
112 property.

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

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117 skills.

118 ~~(30)-(29)~~ "Misconduct" includes, but is not limited to, the  
119 following, which may not be construed in pari materia with each  
120 other:

121 (a) Conduct demonstrating conscious ~~willful or wanton~~  
122 disregard of an employer's interests and found to be a  
123 deliberate violation or disregard of reasonable ~~the~~ standards of  
124 behavior which the employer has a right to expect of his or her  
125 employee, including standards lawfully set forth in the  
126 employer's written rules of conduct; or

127 (b) Carelessness or negligence to a degree or recurrence  
128 that manifests culpability or, ~~wrongful intent, or evil design~~  
129 or shows an intentional and substantial disregard of the  
130 employer's interests or of the employee's duties and obligations  
131 to his or her employer.

132 ~~(44)-(43)~~ "Unemployment" or "unemployed" means:

133 (a) An individual is "totally unemployed" in any week  
134 during which he or she does not perform any services and for  
135 which earned income is not payable to him or her. An individual  
136 is "partially unemployed" in any week of less than full-time  
137 work if the earned income payable to him or her for that week is  
138 less than his or her weekly benefit amount. The Agency for  
139 Workforce Innovation may adopt rules prescribing distinctions in  
140 the procedures for unemployed individuals based on total  
141 unemployment, part-time unemployment, partial unemployment of  
142 individuals attached to their regular jobs, and other forms of  
143 short-time work.

144 (b) An individual's week of unemployment commences only  
145 after ~~his or her~~ registration with the Agency for Workforce

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146 Innovation as required in s. 443.091, ~~except as the agency may~~  
147 ~~otherwise prescribe by rule.~~

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

151 443.091 Benefit eligibility conditions.—

152 (1) An unemployed individual is eligible to receive  
153 benefits for any week only if the Agency for Workforce  
154 Innovation finds that:

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

- 159 1. Non-Florida residents;
- 160 2. On a temporary layoff, ~~as defined in s. 443.036(42);~~
- 161 3. Union members who customarily obtain employment through  
162 a union hiring hall; or
- 163 4. Claiming benefits under an approved short-time  
164 compensation plan as provided in s. 443.1116.

165 (c) To make continued claims for benefits, she or he is  
166 reporting to the Agency for Workforce Innovation in accordance  
167 with this paragraph and agency its rules, and participating in  
168 an initial skills review as directed by the agency. ~~Agency These~~  
169 rules may not conflict with s. 443.111(1)(b), which requires  
170 ~~including the requirement~~ that each claimant continue to report  
171 regardless of any pending appeal relating to her or his  
172 eligibility or disqualification for benefits.

- 173 1. For each week of unemployment claimed, each report must,  
174 at a minimum, include the name, address, and telephone number of

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175 each prospective employer contacted pursuant to paragraph (d).

176 2. The administrator or operator of the initial skills  
177 review shall notify the agency when the individual completes the  
178 initial skills review and report the results of the review to  
179 the regional workforce board or the one-stop career center as  
180 directed by the workforce board. The workforce board shall use  
181 the initial skills review to develop a plan for referring  
182 individuals to training and employment opportunities. The  
183 failure of the individual to comply with this requirement will  
184 result in the individual being determined ineligible for  
185 benefits for the week in which the noncompliance occurred and  
186 for any subsequent week of unemployment until the requirement is  
187 satisfied. However, this requirement does not apply if the  
188 individual is able to affirmatively attest to being unable to  
189 complete such review due to illiteracy or a language impediment.

190 (d) She or he is able to work and is available for work. In  
191 order to assess eligibility for a claimed week of unemployment,  
192 the agency shall develop criteria to determine a claimant's  
193 ability to work and availability for work. A claimant must be  
194 actively seeking work in order to be considered available for  
195 work. This means engaging in systematic and sustained efforts to  
196 find work, including contacting at least five prospective  
197 employers for each week of unemployment claimed. The agency may  
198 require the claimant to provide proof of such efforts to the  
199 one-stop career center as part of reemployment services. The  
200 agency shall conduct random reviews of work search information  
201 provided by claimants. However:

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

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204 be denied benefits for any week because she or he is in training  
205 with the approval of the agency, or by reason of s. 443.101(3)  
206 ~~443.101(2)~~ relating to failure to apply for, or refusal to  
207 accept, suitable work. Training may be approved by the agency in  
208 accordance with criteria prescribed by rule. A claimant's  
209 eligibility during approved training is contingent upon  
210 satisfying eligibility conditions prescribed by rule.

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

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

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

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

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



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

236 Section 4. Effective July 1, 2011, paragraph (a) of  
237 subsection (1) and present subsections (2), (3), (9), and (11)  
238 of section 443.101, Florida Statutes, are amended, present  
239 subsections (2) through (11) of that section are redesignated as  
240 subsections (3) through (13), respectively, and new subsections  
241 (2) and (12) are added to that section, to read:

242 443.101 Disqualification for benefits.—An individual shall  
243 be disqualified for benefits:

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

251 1. Disqualification for voluntarily quitting continues for  
252 the full period of unemployment next ensuing after the  
253 individual has left his or her full-time, part-time, or  
254 temporary work voluntarily without good cause and until the  
255 individual has earned income equal to or greater than ~~in excess~~  
256 ~~of~~ 17 times his or her weekly benefit amount. As used in this  
257 subsection, the term "good cause" includes only that cause  
258 attributable to the employing unit which would compel a  
259 reasonable individual to cease working or attributable to which  
260 ~~consists of~~ the individual's illness or disability requiring  
261 separation from his or her work. Any other disqualification may

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262 not be imposed. An individual is not disqualified ~~under this~~  
263 ~~subsection~~ for voluntarily leaving temporary work to return  
264 immediately when called to work by the permanent employing unit  
265 that temporarily terminated his or her work within the previous  
266 6 calendar months, or. ~~An individual is not disqualified under~~  
267 ~~this subsection~~ for voluntarily leaving work to relocate as a  
268 result of his or her military-connected spouse's permanent  
269 change of station orders, activation orders, or unit deployment  
270 orders.

271 2. Disqualification for being discharged for misconduct  
272 connected with his or her work continues for the full period of  
273 unemployment next ensuing after having been discharged and until  
274 the individual is reemployed and has earned income of at least  
275 17 times his or her weekly benefit amount and for not more than  
276 52 weeks ~~that~~ immediately following ~~follow~~ that week, as  
277 determined by the agency in each case according to the  
278 circumstances ~~in each case~~ or the seriousness of the misconduct,  
279 under the agency's rules adopted for determining ~~determinations~~  
280 ~~of~~ disqualification for benefits for misconduct.

281 3. If an individual has provided notification to the  
282 employing unit of his or her intent to voluntarily leave work  
283 and the employing unit discharges the individual for reasons  
284 other than misconduct before the date the voluntary quit was to  
285 take effect, the individual, if otherwise entitled, shall  
286 receive benefits from the date of the employer's discharge until  
287 the effective date of his or her voluntary quit.

288 4. If an individual is notified by the employing unit of  
289 the employer's intent to discharge the individual for reasons  
290 other than misconduct and the individual quits without good

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291 ~~cause, as defined in this section,~~ before the date the discharge  
292 was to take effect, the claimant is ineligible for benefits  
293 pursuant to s. 443.091(1)(d) for failing to be available for  
294 work for the week or weeks of unemployment occurring before the  
295 effective date of the discharge.

296 (2) For the week the individual has been discharged by the  
297 employing unit for gross misconduct, based on a finding by the  
298 Agency for Workforce Innovation. Disqualification for being  
299 discharged for gross misconduct continues for the full period of  
300 unemployment next ensuing after having been discharged and until  
301 the individual is reemployed and has earned income of at least  
302 17 times his or her weekly benefit amount. As used in this  
303 subsection, the term "gross misconduct" means any of the  
304 following:

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

307 (b) Theft of the property of an employer, a customer, or an  
308 invitee of the employer.

309 (c) Violation of an employer's policy relating to the  
310 consumption of alcohol or drugs on the employer property, being  
311 under the influence of alcohol or drugs on employer property, or  
312 using alcohol or drugs while on the job or on duty. As used in  
313 this paragraph, the term "alcohol or drugs" has the same meaning  
314 as in s. 440.102(1)(c).

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

317 (e) Failure to comply with applicable state or federal drug  
318 and alcohol testing and use regulations, including, but not  
319 limited to, 49 C.F.R. part 40 and part 382 of the Federal Motor

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320 Carrier Safety Regulations, while on the job or on duty, and  
321 regulations applicable to employees performing transportation  
322 and other safety-sensitive job functions as defined by the  
323 Federal Government.

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

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

328 (h) Insubordination, which is defined as the willful  
329 failure to comply with a lawful, reasonable order of a  
330 supervisor which is directly related to the employee's  
331 employment as described in an applicable written job  
332 description, the written rules of conduct, or other lawful  
333 directive of the employer. The employee must have received at  
334 least one written warning from the employer before being  
335 discharged from employment.

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

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

345 (3)-(2) If the Agency for Workforce Innovation finds that  
346 the individual has failed without good cause to apply for  
347 available suitable work ~~when directed by the agency or the one-~~  
348 ~~stop career center,~~ to accept suitable work when offered to him

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349 or her, or to return to the individual's customary self-  
350 employment when directed by the agency, the disqualification  
351 continues for the full period of unemployment next ensuing after  
352 he or she failed without good cause to apply for available  
353 suitable work, to accept suitable work, or to return to his or  
354 her customary self-employment, ~~under this subsection,~~ and until  
355 the individual has earned income of at least 17 times his or her  
356 weekly benefit amount. The Agency for Workforce Innovation shall  
357 by rule adopt criteria for determining the "suitability of  
358 work," as used in this section. ~~The agency for Workforce~~  
359 ~~Innovation~~ In developing these rules, the agency shall consider  
360 the duration of a claimant's unemployment in determining the  
361 suitability of work and the suitability of proposed rates of  
362 compensation for available work. Further, after an individual  
363 has received 19 ~~25~~ weeks of benefits in a single year, suitable  
364 work is a job that pays the minimum wage and is 120 percent or  
365 more of the weekly benefit amount the individual is drawing.

366 (a) In determining whether or not any work is suitable for  
367 an individual, the agency ~~for Workforce Innovation~~ shall  
368 consider the degree of risk ~~involved~~ to the individual's ~~his or~~  
369 ~~her~~ health, safety, and morals; the individual's ~~his or her~~  
370 physical fitness, and prior training, ~~the individual's~~  
371 experience, and prior earnings, ~~his or her~~ length of  
372 unemployment, and prospects for securing local work in his or  
373 her customary occupation; and the distance of the available work  
374 from his or her residence.

375 (b) Notwithstanding any other provisions of this chapter,  
376 work is not deemed suitable and benefits may not be denied ~~under~~  
377 ~~this chapter~~ to any otherwise eligible individual for refusing

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378 to accept new work under any of the following conditions:

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

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

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

387 (c) If the agency ~~for Workforce Innovation~~ finds that an  
388 individual was rejected for offered employment as the direct  
389 result of a positive, confirmed drug test required as a  
390 condition of employment, the individual is disqualified for  
391 refusing to accept an offer of suitable work.

392 (4) ~~(3)~~ For any week with respect to which he or she is  
393 receiving or has received remuneration in the form of:

394 (a) Wages in lieu of notice.

395 (b) Severance pay. The number of weeks that an individual's  
396 severance pay disqualifies the individual is equal to the amount  
397 of the severance pay divided by the individual's average weekly  
398 wage received from the employer that paid the severance pay,  
399 rounded down to the nearest whole number, beginning with the  
400 week the individual separated from that employer.

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

404

405 ~~2.~~ However, if the remuneration referred to in paragraphs (a),  
406 and (b), and (c) is less than the benefits that would otherwise

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407 be due under this chapter, an individual who is otherwise  
408 eligible ~~he or she~~ is entitled to receive for that week, ~~if~~  
409 ~~otherwise eligible,~~ benefits reduced by the amount of the  
410 remuneration.

411 ~~(10)(9)~~ If the individual was terminated from ~~his or her~~  
412 ~~work for violation of any criminal law punishable by~~  
413 ~~imprisonment, or for any dishonest act, in connection with his~~  
414 ~~or her work,~~ as follows:

415 (a) If the Agency for Workforce Innovation or the  
416 Unemployment Appeals Commission finds that the individual was  
417 terminated from ~~his or her~~ work for violation of any criminal  
418 law, under any jurisdiction, which was punishable by  
419 ~~imprisonment~~ in connection with his or her work or affected his  
420 or her ability to perform work, and the individual was  
421 convicted, or entered a plea of guilty or nolo contendere found  
422 ~~guilty of the offense, made an admission of guilt in a court of~~  
423 ~~law, or entered a plea of no contest,~~ the individual is not  
424 entitled to unemployment benefits for up to 52 weeks, pursuant  
425 to under rules adopted by the agency ~~for Workforce Innovation,~~  
426 and until he or she has earned income of at least 17 times his  
427 or her weekly benefit amount. If, before an adjudication of  
428 guilt, an admission of guilt, or a plea of nolo contendere ~~no~~  
429 ~~contest,~~ the employer proves by competent, substantial evidence  
430 to shows the agency ~~for Workforce Innovation~~ that the arrest was  
431 due to a crime against the employer or the employer's business,  
432 customers, or invitees ~~and, after considering all the evidence,~~  
433 ~~the Agency for Workforce Innovation finds misconduct in~~  
434 ~~connection with the individual's work,~~ the individual is not  
435 entitled to unemployment benefits.

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436 (b) If the Agency for Workforce Innovation or the  
437 Unemployment Appeals Commission finds that the individual was  
438 terminated from work for any dishonest act in connection with  
439 his or her work, the individual is not entitled to unemployment  
440 benefits for up to 52 weeks, pursuant to ~~under~~ rules adopted by  
441 the agency ~~for Workforce Innovation~~, and until he or she has  
442 earned income of at least 17 times his or her weekly benefit  
443 amount. ~~In addition,~~ If the employer terminates an individual as  
444 a result of a dishonest act in connection with his or her work  
445 and the agency ~~for Workforce Innovation~~ finds misconduct in  
446 connection with his or her work, the individual is not entitled  
447 to unemployment benefits.

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449 If ~~With respect to~~ an individual is disqualified for benefits,  
450 the account of the terminating employer, if the employer is in  
451 the base period, is noncharged at the time the disqualification  
452 is imposed.

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

455 (13) ~~(11)~~ If an individual is discharged from employment for  
456 drug use as evidenced by a positive, confirmed drug test as  
457 provided in paragraph (1) (d), or is rejected for offered  
458 employment because of a positive, confirmed drug test as  
459 provided in paragraph (3) (c) ~~(2) (e)~~, test results and chain of  
460 custody documentation provided to the employer by a licensed and  
461 approved drug-testing laboratory is self-authenticating and  
462 admissible in unemployment compensation hearings, and such  
463 evidence creates a rebuttable presumption that the individual  
464 used, or was using, controlled substances, subject to the



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465 following ~~conditions~~:

466 (a) To qualify for the presumption ~~described in this~~  
467 ~~subsection~~, an employer must have implemented a drug-free  
468 workplace program under ss. 440.101 and 440.102, ~~and must~~ submit  
469 proof that the employer has qualified for the insurance  
470 discounts provided under s. 627.0915, as certified by the  
471 insurance carrier or self-insurance unit. In lieu of these  
472 requirements, an employer who does not fit the definition of  
473 "employer" in s. 440.102 may qualify for the presumption if the  
474 employer is in compliance with equivalent or more stringent  
475 drug-testing standards established by federal law or regulation.

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

480 (c) Disclosure of drug test results and other information  
481 pertaining to drug testing of individuals who claim or receive  
482 compensation under this chapter is ~~shall be~~ governed by s.  
483 443.1715.

484 Section 5. Effective July 1, 2011, paragraph (b) of  
485 subsection (1) of section 443.111, Florida Statutes, is amended  
486 to read:

487 443.111 Payment of benefits.—

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

491 (b) As required under s. 443.091(1), each claimant must  
492 report ~~in the manner prescribed by the agency for Workforce~~  
493 ~~Innovation to certify for benefits that are paid and must~~

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494 ~~continue to report~~ at least biweekly to receive unemployment  
495 benefits and to attest to the fact that she or he is able and  
496 available for work, has not refused suitable work, is seeking  
497 work and has contacted at least five prospective employers for  
498 each week of unemployment claimed, and, if she or he has worked,  
499 to report earnings from that work. Each claimant must continue  
500 to report regardless of any appeal or pending appeal relating to  
501 her or his eligibility or disqualification for benefits.

502 Section 6. Effective July 1, 2011, paragraph (c) of  
503 subsection (3) of section 443.1115, Florida Statutes, is amended  
504 to read:

505 443.1115 Extended benefits.—

506 (3) ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.—

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

511 a. She or he failed to apply for suitable work or, if  
512 offered, failed to accept suitable work, unless the individual  
513 can furnish to the agency satisfactory evidence that her or his  
514 prospects for obtaining work in her or his customary occupation  
515 within a reasonably short period are good. If this evidence is  
516 deemed satisfactory ~~for this purpose~~, the determination of  
517 whether any work is suitable for the individual shall be made in  
518 accordance with the definition of suitable work in s. 443.101(3)  
519 ~~443.101(2)~~. This disqualification begins with the week the  
520 failure occurred and continues until she or he is employed for  
521 at least 4 weeks and receives earned income of at least 17 times  
522 her or his weekly benefit amount.

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

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

532           a. The gross average weekly remuneration payable for the  
533 work exceeds the sum of the individual's weekly benefit amount  
534 plus the amount, if any, of supplemental unemployment benefits,  
535 as defined in s. 501(c)(17)(D) of the Internal Revenue Code of  
536 1954, as amended, payable to the individual for that week;

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

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

544           Section 7. Notwithstanding the expiration date contained in  
545 section 1 of chapter 2010-90, Laws of Florida, operating  
546 retroactive to December 17, 2010, and expiring January 4, 2012,  
547 section 443.1117, Florida Statutes, is revived, readopted, and  
548 amended to read:

549           443.1117 Temporary extended benefits.—

550           (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.—Except if  
551 the result is inconsistent with ~~the~~ other provisions of this

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552 section, s. 443.1115(2), (3), (4), (6), and (7) apply to all  
553 claims covered by this section.

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

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

558 (b) "Eligibility period" means the weeks in an individual's  
559 benefit year or emergency benefit period which begin in an  
560 extended benefit period and, if the benefit year or emergency  
561 benefit period ends within that extended benefit period, any  
562 subsequent weeks beginning in that period.

563 (c) "Emergency benefits" means Emergency Unemployment  
564 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.  
565 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, ~~and~~ Pub. L. No.  
566 111-118, Pub. L. No. 111-144, ~~and~~ Pub. L. No. 111-157, Pub. L.  
567 No. 111-205, and Pub. L. No. 111-312.

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

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

571 2. Ends with any of the following weeks, whichever occurs  
572 later:

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

575 b. The 13th consecutive week of that period.  
576

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

580 (e) "Emergency benefit period" means the period during

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581 which an individual receives emergency benefits ~~as defined in~~  
582 ~~paragraph (c)~~.

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

585 1. Has received, before that week, all of the regular  
586 benefits and emergency benefits, if any, available under this  
587 chapter or any other law, including dependents' allowances and  
588 benefits payable to federal civilian employees and ex-  
589 servicemembers under 5 U.S.C. ss. 8501-8525, in the current  
590 benefit year or emergency benefit period that includes that  
591 week. For the purposes of this subparagraph, an individual has  
592 received all of the regular benefits and emergency benefits, if  
593 any, available even if ~~although~~, as a result of a pending appeal  
594 for wages paid for insured work which were not considered in the  
595 original monetary determination in the benefit year, she or he  
596 may subsequently be determined to be entitled to added regular  
597 benefits;

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

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

606 b. Has not received and is not seeking unemployment  
607 benefits under the unemployment compensation law of Canada; but  
608 if an individual is seeking those benefits and the appropriate  
609 agency finally determines that she or he is not entitled to

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610 benefits under that law, she or he is considered an exhaustee.

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

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

621 2. Equals or exceeds 6.5 percent.

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

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

632 2. Equals or exceeds 8 percent.

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

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

638 (a) For any week for which there is an "on" indicator

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639 pursuant to paragraph (2) (g), the total extended benefit amount  
640 payable to an eligible individual for her or his applicable  
641 benefit year is the lesser of:

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

644 2. Thirteen times the weekly benefit amount payable under  
645 this chapter for a week of total unemployment in the applicable  
646 benefit year.

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

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

652 2. Twenty times the weekly benefit amount payable under  
653 this chapter for a week of total unemployment in the applicable  
654 benefit year.

655 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other  
656 provision of this chapter, if the benefit year of an individual  
657 ends within an extended benefit period, the number of weeks of  
658 extended benefits the individual is entitled to receive in that  
659 extended benefit period for weeks of unemployment beginning  
660 after the end of the benefit year, except as provided in this  
661 section, is reduced, but not to below zero, by the number of  
662 weeks for which the individual received, within that benefit  
663 year, trade readjustment allowances under the Trade Act of 1974,  
664 as amended.

665 Section 8. The provisions of s. 443.1117, Florida Statutes,  
666 as revived, readopted, and amended by this act, apply only to  
667 claims for weeks of unemployment in which an exhaustee

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668 establishes entitlement to extended benefits pursuant to that  
669 section which are established for the period between December  
670 17, 2010, and January 4, 2012.

671 Section 9. Effective July 1, 2011, paragraph (a) of  
672 subsection (1) and paragraph (f) of subsection (13) of section  
673 443.1216, Florida Statutes, are amended to read:

674 443.1216 Employment.—Employment, as defined in s. 443.036,  
675 is subject to this chapter under the following conditions:

676 (1) (a) The employment ~~subject to this chapter~~ includes a  
677 service performed, including a service performed in interstate  
678 commerce, by:

679 1. An officer of a corporation.

680 2. An individual who, under the usual common-law rules  
681 applicable in determining the employer-employee relationship, is  
682 an employee. However, if whenever a client, ~~as defined in s.~~  
683 ~~443.036(18),~~ which would otherwise be designated as an employing  
684 unit, has contracted with an employee leasing company to supply  
685 it with workers, those workers are considered employees of the  
686 employee leasing company and must be reported under the leasing  
687 company's tax identification number and contribution rate for  
688 work performed for the leasing company.

689 a. However, except for the internal employees of an  
690 employee leasing company, a leasing company may make a one-time  
691 election to report and pay contributions for all leased  
692 employees under the respective unemployment account of each  
693 client of the leasing company. This election applies only to  
694 contributions for unemployment.

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



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

702       (A) A list of each client company and its unemployment  
703 account number;

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

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

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

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

715       (V) For the purposes of calculating experience rates, the  
716 election is treated like a total or partial succession,  
717 depending on the percentage of employees leased. If the client  
718 company leases only a portion of its employees from the leasing  
719 company, the client company shall continue to report the  
720 nonleased employees under its tax rate based on the experience  
721 of the nonleased employees.

722       (VI) This sub-subparagraph applies to all employee leasing  
723 companies, including each leasing company that is a group member  
724 or group leader of an employee leasing company group licensed  
725 pursuant to chapter 468. The election is binding on all employee

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726 leasing companies and their related enterprises, subsidiaries,  
727 or other entities that share common ownership, management, or  
728 control with the leasing company. The election is also binding  
729 on all clients of the leasing company for as long as a written  
730 agreement is in effect between the client and the leasing  
731 company pursuant to s. 468.525(3)(a). If the relationship  
732 between the leasing company and the client terminates, the  
733 client retains the wage and benefit history experienced under  
734 the leasing company.

735       b. An employee leasing company may lease corporate officers  
736 of the client to the client and other workers to the client,  
737 except as prohibited by regulations of the Internal Revenue  
738 Service. ~~Employees of an employee leasing company must be~~  
739 ~~reported under the employee leasing company's tax identification~~  
740 ~~number and contribution rate for work performed for the employee~~  
741 ~~leasing company.~~

742       c.a. In addition to any other report required to be filed  
743 by law, an employee leasing company shall submit a report to the  
744 Labor Market Statistics Center within the Agency for Workforce  
745 Innovation which includes each client establishment and each  
746 establishment of the ~~employee~~ leasing company, or as otherwise  
747 directed by the agency. The report must include the following  
748 information for each establishment:

- 749           (I) The trade or establishment name;
- 750           (II) The former unemployment compensation account number,  
751 if available;
- 752           (III) The former federal employer's identification number  
753 (FEIN), if available;
- 754           (IV) The industry code recognized and published by the

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755 United States Office of Management and Budget, if available;  
756 (V) A description of the client's primary business activity  
757 in order to verify or assign an industry code;  
758 (VI) The address of the physical location;  
759 (VII) The number of full-time and part-time employees who  
760 worked during, or received pay that was subject to unemployment  
761 compensation taxes for, the pay period including the 12th of the  
762 month for each month of the quarter;  
763 (VIII) The total wages subject to unemployment compensation  
764 taxes paid during the calendar quarter;  
765 (IX) An internal identification code to uniquely identify  
766 each establishment of each client;  
767 (X) The month and year that the client entered into the  
768 contract for services; and  
769 (XI) The month and year that the client terminated the  
770 contract for services.  
771 d.b. The report shall be submitted electronically or in a  
772 manner otherwise prescribed by the Agency for Workforce  
773 Innovation in the format specified by the Bureau of Labor  
774 Statistics of the United States Department of Labor for its  
775 Multiple Worksite Report for Professional Employer  
776 Organizations. The report must be provided quarterly to the  
777 Labor Market Statistics Center within the agency ~~for Workforce~~  
778 ~~Innovation~~, or as otherwise directed by the agency, and must be  
779 filed by the last day of the month immediately following the end  
780 of the calendar quarter. The information required in sub-sub-  
781 subparagraphs c.(X) and (XI) ~~a.(X) and (XI)~~ need be provided  
782 only in the quarter in which the contract to which it relates  
783 was entered into or terminated. The sum of the employment data

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784 and the sum of the wage data in this report must match the  
785 employment and wages reported in the unemployment compensation  
786 quarterly tax and wage report. A report is not required for any  
787 calendar quarter preceding the third calendar quarter of 2010.

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

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

795 3. An individual other than an individual who is an  
796 employee under subparagraph 1. or subparagraph 2., who performs  
797 services for remuneration for any person:

798 a. As an agent-driver or commission-driver engaged in  
799 distributing meat products, vegetable products, fruit products,  
800 bakery products, beverages other than milk, or laundry or  
801 drycleaning services for his or her principal.

802 b. As a traveling or city salesperson engaged on a full-  
803 time basis in the solicitation on behalf of, and the  
804 transmission to, his or her principal of orders from  
805 wholesalers, retailers, contractors, or operators of hotels,  
806 restaurants, or other similar establishments for merchandise for  
807 resale or supplies for use in their business operations. This  
808 sub-subparagraph does not apply to an agent-driver or a  
809 commission-driver and does not apply to sideline sales  
810 activities performed on behalf of a person other than the  
811 salesperson's principal.

812 4. The services described in subparagraph 3. are employment

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813 subject to this chapter only if:

814 a. The contract of service contemplates that substantially  
815 all of the services are to be performed personally by the  
816 individual;

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

820 c. The services are not in the nature of a single  
821 transaction that is not part of a continuing relationship with  
822 the person for whom the services are performed.

823 (13) The following are exempt from coverage under this  
824 chapter:

825 (f) Service performed in the employ of a public employer as  
826 defined in s. 443.036, except as provided in subsection (2), and  
827 service performed in the employ of an instrumentality of a  
828 public employer as described in s. 443.036(36)(b) ~~443.036(35)(b)~~  
829 or (c), to the extent that the instrumentality is immune under  
830 the United States Constitution from the tax imposed by s. 3301  
831 of the Internal Revenue Code for that service.

832 Section 10. Present paragraph (f) of subsection (1) of  
833 section 443.141, Florida Statutes, is redesignated as paragraph  
834 (g), and a new paragraph (f) is added to that subsection, to  
835 read:

836 443.141 Collection of contributions and reimbursements.—

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

839 (f) *Payments for 2012, 2013, and 2014 Contributions.*—For an  
840 annual administrative fee not to exceed \$5, a contributing  
841 employer may pay its quarterly contributions due for wages paid

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842 in the first three quarters of 2012, 2013, and 2014 in equal  
843 installments if those contributions are paid as follows:

844 1. For contributions due for wages paid in the first  
845 quarter of each year, one-fourth of the contributions due must  
846 be paid on or before April 30, one-fourth must be paid on or  
847 before July 31, one-fourth must be paid on or before October 31,  
848 and one-fourth must be paid on or before December 31.

849 2. In addition to the payments specified in subparagraph  
850 1., for contributions due for wages paid in the second quarter  
851 of each year, one-third of the contributions due must be paid on  
852 or before July 31, one-third must be paid on or before October  
853 31, and one-third must be paid on or before December 31.

854 3. In addition to the payments specified in subparagraphs  
855 1. and 2., for contributions due for wages paid in the third  
856 quarter of each year, one-half of the contributions due must be  
857 paid on or before October 31, and one-half must be paid on or  
858 before December 31.

859 4. The annual administrative fee assessed for electing to  
860 pay under the installment method shall be collected at the time  
861 the employer makes the first installment payment each year. The  
862 fee shall be segregated from the payment and deposited into the  
863 Operating Trust Fund of the Department of Revenue.

864 5. Interest does not accrue on any contribution that  
865 becomes due for wages paid in the first three quarters of each  
866 year if the employer pays the contribution in accordance with  
867 subparagraphs 1.-4. Interest and fees continue to accrue on  
868 prior delinquent contributions and commence accruing on all  
869 contributions due for wages paid in the first three quarters of  
870 each year which are not paid in accordance with subparagraphs

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871 1.-3. Penalties may be assessed in accordance with this chapter.  
872 The contributions due for wages paid in the fourth quarter of  
873 2012, 2013, and 2014 are not affected by this paragraph and are  
874 due and payable in accordance with this chapter.

875 Section 11. Effective July 1, 2011, paragraph (a) of  
876 subsection (2), paragraphs (d) and (e) of subsection (3), and  
877 paragraphs (b) and (e) of subsection (4) of section 443.151,  
878 Florida Statutes, are amended, present paragraphs (c) through  
879 (f) of subsection (6) of that section are redesignated as  
880 paragraphs (d) through (g), respectively, and a new paragraph  
881 (c) is added to that subsection, to read:

882 443.151 Procedure concerning claims.—

883 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF  
884 CLAIMANTS AND EMPLOYERS.—

885 (a) *In general.*—Initial and continued claims for benefits  
886 must be made by approved electronic means and in accordance with  
887 ~~the~~ rules adopted by the Agency for Workforce Innovation. The  
888 agency must notify claimants and employers regarding monetary  
889 and nonmonetary determinations of eligibility. Investigations of  
890 issues raised in connection with a claimant which may affect a  
891 claimant's eligibility for benefits or charges to an employer's  
892 employment record shall be conducted by the agency through  
893 written, telephonic, or electronic means as prescribed by rule.

894 (3) DETERMINATION OF ELIGIBILITY.—

895 (d) *Determinations in labor dispute cases.*—If a ~~Whenever~~  
896 ~~any~~ claim involves a labor dispute described in s. 443.101(5)  
897 ~~443.101(4)~~, the Agency for Workforce Innovation shall promptly  
898 assign the claim to a special examiner who shall make a  
899 determination on the issues involving unemployment due to the

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900 labor dispute. The special examiner shall make the determination  
901 after an investigation, as necessary. The claimant or another  
902 party entitled to notice of the determination may appeal a  
903 determination under subsection (4).

904 (e) *Redeterminations.*—

905 1. The Agency for Workforce Innovation may reconsider a  
906 determination if it finds an error or if new evidence or  
907 information pertinent to the determination is discovered after a  
908 prior determination or redetermination. A redetermination may  
909 not be made more than 1 year after the last day of the benefit  
910 year unless the disqualification for making a false or  
911 fraudulent representation under s. 443.101(7) ~~443.101(6)~~ is  
912 applicable, in which case the redetermination may be made within  
913 2 years after the false or fraudulent representation. The agency  
914 must promptly give notice of redetermination to the claimant and  
915 to any employers entitled to notice in the manner prescribed in  
916 this section for the notice of an initial determination.

917 2. If the amount of benefits is increased by the  
918 redetermination, an appeal of the redetermination based solely  
919 on the increase may be filed as provided in subsection (4). If  
920 the amount of benefits is decreased by the redetermination, the  
921 redetermination may be appealed by the claimant if a subsequent  
922 claim for benefits is affected in amount or duration by the  
923 redetermination. If the final decision on the determination or  
924 redetermination to be reconsidered was made by an appeals  
925 referee, the commission, or a court, the Agency for Workforce  
926 Innovation may apply for a revised decision from the body or  
927 court that made the final decision.

928 3. If an appeal of an original determination is pending



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929 when a redetermination is issued, the appeal, unless withdrawn,  
930 is treated as an appeal from the redetermination.

931 (4) APPEALS.—

932 (b) *Filing and hearing.*—

933 1. The claimant or any other party entitled to notice of a  
934 determination may appeal an adverse determination to an appeals  
935 referee within 20 days after the date of mailing ~~of~~ the notice  
936 to her or his last known address or, if the notice is not  
937 mailed, within 20 days after the date of delivering ~~delivery of~~  
938 the notice.

939 2. Unless the appeal is untimely or withdrawn, or review is  
940 initiated by the commission, the appeals referee, after mailing  
941 all parties and attorneys of record a notice of hearing at least  
942 10 days before the date of hearing, notwithstanding the 14-day  
943 notice requirement in s. 120.569(2)(b), may only affirm, modify,  
944 or reverse the determination. An appeal may not be withdrawn  
945 without the permission of the appeals referee.

946 3. However, if ~~when~~ an appeal appears to have been filed  
947 after the permissible time limit, the Office of Appeals may  
948 issue an order to show cause to the appellant which requires,  
949 ~~requiring~~ the appellant to show why the appeal should not be  
950 dismissed as untimely. If ~~the appellant does not,~~ within 15 days  
951 after the mailing date of the order to show cause, the appellant  
952 does not provide written evidence of timely filing or good cause  
953 for failure to appeal timely, the appeal shall be dismissed.

954 4. If ~~When~~ an appeal involves a question of whether  
955 services were performed by a claimant in employment or for an  
956 employer, the referee must give special notice of the question  
957 and of the pendency of the appeal to the employing unit and to

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958 the Agency for Workforce Innovation, both of which become  
959 parties to the proceeding.

960 5. Any part of the evidence may be received in written  
961 form, and all testimony of parties and witnesses must be made  
962 under oath.

963 a. Irrelevant, immaterial, or unduly repetitious evidence  
964 shall be excluded, but all other evidence of a type commonly  
965 relied upon by reasonably prudent persons in the conduct of  
966 their affairs is admissible, whether or not such evidence would  
967 be admissible in a trial in state court.

968 b. Hearsay evidence may be used for the purpose of  
969 supplementing or explaining other evidence, or to support a  
970 finding if it would be admissible over objection in civil  
971 actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may  
972 support a finding of fact if:

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

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

979 6.5. The parties must be notified promptly of the referee's  
980 decision. The referee's decision is final unless further review  
981 is initiated under paragraph (c) within 20 days after the date  
982 of mailing notice of the decision to the party's last known  
983 address or, in lieu of mailing, within 20 days after the  
984 delivery of the notice.

985 (e) *Judicial review.*—Orders of the commission entered under  
986 paragraph (c) are subject to review only by notice of appeal in

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987 ~~the district court of appeal in the appellate district in which~~  
988 ~~the issues involved were decided by an appeals referee. If the~~  
989 ~~notice of appeal is filed by the claimant, it must be filed in~~  
990 ~~the appellate district in which the claimant resides. If the~~  
991 ~~notice of appeal is filed by the employer, it must be filed in~~  
992 ~~the appellate district in which the business is located.~~  
993 ~~However, if the claimant does not reside in this state or the~~  
994 ~~business is not located in this state, the notice of appeal must~~  
995 ~~be filed in the appellate district in which the order was~~  
996 ~~issued. Notwithstanding chapter 120, the commission is a party~~  
997 ~~respondent to every such proceeding. The Agency for Workforce~~  
998 ~~Innovation may initiate judicial review of orders in the same~~  
999 ~~manner and to the same extent as any other party.~~

1000 (6) RECOVERY AND RECOUPMENT.—

1001 (c) Any person who, by reason other than fraud, receives  
1002 benefits under this chapter for which she or he is not entitled  
1003 due to the failure of the Agency for Workforce Innovation to  
1004 make and provide notice of a nonmonetary determination under  
1005 paragraph (3)(c) within 30 days after filing a new claim, is  
1006 liable for repaying up to 5 weeks of benefits received to the  
1007 agency on behalf of the trust fund or may have those benefits  
1008 deducted from any future benefits payable to her or him under  
1009 this chapter.

1010 Section 12. Subsection (10) is added to section 443.171,  
1011 Florida Statutes, to read:

1012 443.171 Agency for Workforce Innovation and commission;  
1013 powers and duties; records and reports; proceedings; state-  
1014 federal cooperation.—

1015 (10) EVIDENCE OF MAILING.—A mailing date on any notice,

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1016 determination, decision, order, or other document mailed by the  
1017 Agency for Workforce Innovation or its tax collection service  
1018 provider pursuant to this chapter creates a rebuttable  
1019 presumption that such notice, determination, order, or other  
1020 document was mailed on the date indicated.

1021       Section 13. The Legislature finds that this act fulfills an  
1022 important state interest.

1023       Section 14. Except as otherwise expressly provided in this  
1024 act, this act shall take effect upon becoming a law.