

By the Committees on Judiciary; and Commerce and Tourism; and
Senators Detert and Gaetz

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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. 443.031, F.S.; revising
7 provisions relating to statutory construction;
8 amending s. 443.036, F.S.; revising the definitions
9 for "available for work," "earned income,"
10 "misconduct," and "unemployment"; adding a definition
11 for "initial skills review"; amending s. 443.091,
12 F.S.; revising requirements for making continued
13 claims for benefits; requiring that an individual
14 claiming benefits report certain information and
15 participate in an initial skills review; providing an
16 exception; specifying criteria for determining an
17 applicant's availability for work; amending s.
18 443.101, F.S.; clarifying "good cause" for voluntarily
19 leaving employment; specifying acts that are "gross
20 misconduct" for purposes of discharging an employee
21 and disqualifying him or her for benefits; revising
22 the criteria for determining suitable work to reduce
23 the number of weeks a person may receive benefits
24 before having to accept a job that pays a certain
25 amount; disqualifying a person for benefits due to the
26 receipt of severance pay; revising provisions relating
27 to the effect of criminal acts on eligibility for
28 benefits; disqualifying an individual for benefits for
29 any week he or she is incarcerated; amending s.

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30 443.111, F.S.; revising the manner in which benefits
31 are payable; eliminating payment by mail; providing an
32 exception; conforming provisions to changes made by
33 the act; amending s. 443.1115, F.S.; conforming cross-
34 references; reviving, readopting, and amending s.
35 443.1117, F.S., relating to temporary extended
36 benefits; providing for retroactive application;
37 providing for applicability relating to extended
38 benefits for certain weeks and for periods of high
39 unemployment; providing for applicability; amending s.
40 443.1216, F.S.; providing that employee leasing
41 companies may make a one-time election to report
42 leased employees under the respective unemployment
43 account of each leasing company client; providing
44 procedures and application for such election;
45 conforming a cross-reference; amending s. 443.141,
46 F.S.; providing an employer payment schedule for 2012,
47 2013, and 2014 contributions; requiring an employer to
48 pay a fee for paying contributions on a quarterly
49 schedule; providing penalties, interest, and fees on
50 delinquent contributions; amending s. 443.151, F.S.;
51 requiring claims to be submitted by electronic means;
52 conforming cross-references; specifying the allowable
53 forms of evidence in an appeal hearing; specifying the
54 judicial venue for filing a notice of appeal;
55 providing for repayment of benefits in cases of agency
56 error; amending s. 443.171, F.S.; specifying that
57 evidence of mailing an agency document creates a
58 rebuttable presumption; providing that the act

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59 fulfills an important state interest; providing
60 effective dates.

61
62 Be It Enacted by the Legislature of the State of Florida:

63
64 Section 1. Subsection (4) of section 213.053, Florida
65 Statutes, as amended by chapter 2010-280, Laws of Florida, is
66 amended to read:

67 213.053 Confidentiality and information sharing.—

68 (4) The department, while providing unemployment tax
69 collection services under contract with the Agency for Workforce
70 Innovation through an interagency agreement pursuant to s.
71 443.1316, may release unemployment tax rate information to the
72 agent of an employer, ~~which agent~~ provides payroll services for
73 more than 100 ~~500~~ employers, pursuant to the terms of a
74 memorandum of understanding. The memorandum of understanding
75 must state that the agent affirms, subject to the criminal
76 penalties contained in ss. 443.171 and 443.1715, that the agent
77 will retain the confidentiality of the information, that the
78 agent has in effect a power of attorney from the employer which
79 permits the agent to obtain unemployment tax rate information,
80 and that the agent shall provide the department with a copy of
81 the employer's power of attorney upon request.

82 Section 2. Section 443.031, Florida Statutes, is amended to
83 read:

84 443.031 Rule of liberal construction.—This chapter shall be
85 liberally construed to accomplish its purpose to promote
86 employment security by increasing opportunities for reemployment
87 and to provide, through the accumulation of reserves, for the

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88 payment of compensation to individuals with respect to their
89 unemployment. The Legislature hereby declares its intention to
90 provide for carrying out the purposes of this chapter in
91 cooperation with the appropriate agencies of other states and of
92 the Federal Government as part of a nationwide employment
93 security program, and particularly to provide for meeting the
94 requirements of Title III, the requirements of the Federal
95 Unemployment Tax Act, and the Wagner-Peyser Act of June 6, 1933,
96 entitled "An Act to provide for the establishment of a national
97 employment system and for cooperation with the states in the
98 promotion of such system, and for other purposes," each as
99 amended, in order to secure for this state and its citizens the
100 grants and privileges available under such acts. All doubts ~~in~~
101 ~~favor of a claimant of unemployment benefits who is unemployed~~
102 ~~through no fault of his or her own. Any doubt~~ as to the proper
103 construction of any provision of this chapter shall be resolved
104 in favor of conformity with such requirements ~~federal law,~~
105 ~~including, but not limited to, the Federal Unemployment Tax Act,~~
106 ~~the Social Security Act, the Wagner-Peyser Act, and the~~
107 ~~Workforce Investment Act.~~

108 Section 3. Effective July 1, 2011, present subsections (26)
109 through (45) of section 443.036, Florida Statutes, are
110 redesignated as subsection (27) through (46) respectively, new
111 subsection (26) is added to that section, and present
112 subsections (6), (9), (16), (29), and (43) of that section are
113 amended, to read:

114 443.036 Definitions.—As used in this chapter, the term:

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

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117 (9) "Benefit year" means, for an individual, the 1-year
118 period beginning with the first day of the first week for which
119 the individual first files a valid claim for benefits and,
120 thereafter, the 1-year period beginning with the first day of
121 the first week for which the individual next files a valid claim
122 for benefits after the termination of his or her last preceding
123 benefit year. Each claim for benefits made in accordance with s.
124 443.151(2) is a valid claim ~~under this subsection~~ if the
125 individual was paid wages for insured work in accordance with s.
126 443.091(1)(g) and is unemployed ~~as defined in subsection (43)~~ at
127 the time of filing the claim. However, the Agency for Workforce
128 Innovation may adopt rules providing for the establishment of a
129 uniform benefit year for all workers in one or more groups or
130 classes of service or within a particular industry if the agency
131 determines, after notice to the industry and to the workers in
132 the industry and an opportunity to be heard in the matter, that
133 those groups or classes of workers in a particular industry
134 periodically experience unemployment resulting from layoffs or
135 shutdowns for limited periods of time.

136 (16) "Earned income" means gross remuneration derived from
137 work, professional service, or self-employment. The term
138 includes commissions, bonuses, back pay awards or back pay
139 settlements, front pay or front wages, and the cash value of all
140 remuneration paid in a medium other than cash. The term does not
141 include income derived from invested capital or ownership of
142 property.

143 (26) "Initial skills review" means an online education or
144 training program, such as that established under s. 1004.99,
145 which is approved by the Agency for Workforce Innovation and

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146 designed to measure an individual's mastery level of workplace
147 skills.

148 ~~(30)(29)~~ "Misconduct" includes, but is not limited to, the
149 following, which may not be construed in pari materia with each
150 other:

151 (a) Conduct demonstrating conscious ~~willful or wanton~~
152 disregard of an employer's interests and found to be a
153 deliberate violation or disregard of reasonable ~~the~~ standards of
154 behavior which the employer has a right to expect of his or her
155 employee, including standards lawfully set forth in the
156 employer's written rules of conduct; or

157 (b) Carelessness or negligence to a degree or recurrence
158 that manifests culpability or, ~~or~~ wrongful intent, ~~or evil design~~
159 or shows an intentional and substantial disregard of the
160 employer's interests or of the employee's duties and obligations
161 to his or her employer.

162 ~~(44)(43)~~ "Unemployment" or "unemployed" means:

163 (a) An individual is "totally unemployed" in any week
164 during which he or she does not perform any services and for
165 which earned income is not payable to him or her. An individual
166 is "partially unemployed" in any week of less than full-time
167 work if the earned income payable to him or her for that week is
168 less than his or her weekly benefit amount. The Agency for
169 Workforce Innovation may adopt rules prescribing distinctions in
170 the procedures for unemployed individuals based on total
171 unemployment, part-time unemployment, partial unemployment of
172 individuals attached to their regular jobs, and other forms of
173 short-time work.

174 (b) An individual's week of unemployment commences only

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175 after ~~his or her~~ registration with the Agency for Workforce
176 Innovation as required in s. 443.091, ~~except as the agency may~~
177 ~~otherwise prescribe by rule.~~

178 Section 4. Effective July 1, 2011, paragraphs (b), (c),
179 (d), and (f) of subsection (1) of section 443.091, Florida
180 Statutes, are amended to read:

181 443.091 Benefit eligibility conditions.—

182 (1) An unemployed individual is eligible to receive
183 benefits for any week only if the Agency for Workforce
184 Innovation finds that:

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

- 189 1. Non-Florida residents;
- 190 2. On a temporary layoff, ~~as defined in s. 443.036(42);~~
- 191 3. Union members who customarily obtain employment through
192 a union hiring hall; or
- 193 4. Claiming benefits under an approved short-time
194 compensation plan as provided in s. 443.1116.

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

- 203 1. For each week of unemployment claimed, each report must,

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204 at a minimum, include the name, address, and telephone number of
205 each prospective employer contacted, or the date the claimant
206 reported to a one-stop career center, pursuant to paragraph (d).

207 2. The administrator or operator of the initial skills
208 review shall notify the agency when the individual completes the
209 initial skills review and report the results of the review to
210 the regional workforce board or the one-stop career center as
211 directed by the workforce board. The workforce board shall use
212 the initial skills review to develop a plan for referring
213 individuals to training and employment opportunities. The
214 failure of the individual to comply with this requirement will
215 result in the individual being determined ineligible for
216 benefits for the week in which the noncompliance occurred and
217 for any subsequent week of unemployment until the requirement is
218 satisfied. However, this requirement does not apply if the
219 individual is able to affirmatively attest to being unable to
220 complete such review due to illiteracy or a language impediment.

221 (d) She or he is able to work and is available for work. In
222 order to assess eligibility for a claimed week of unemployment,
223 the agency shall develop criteria to determine a claimant's
224 ability to work and availability for work. A claimant must be
225 actively seeking work in order to be considered available for
226 work. This means engaging in systematic and sustained efforts to
227 find work, including contacting at least five prospective
228 employers for each week of unemployment claimed. The agency may
229 require the claimant to provide proof of such efforts to the
230 one-stop career center as part of reemployment services. The
231 agency shall conduct random reviews of work search information
232 provided by claimants. As an alternative to contacting at least

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233 five prospective employers for any week of unemployment claimed,
234 a claimant may, for that same week, report in person to a one-
235 stop career center to meet with a representative of the center
236 and access reemployment services of the center. The center shall
237 keep a record of the services or information provided to the
238 claimant and shall provide the records to the agency upon
239 request by the agency. However:

240 1. Notwithstanding any other provision of this paragraph or
241 paragraphs (b) and (e), an otherwise eligible individual may not
242 be denied benefits for any week because she or he is in training
243 with the approval of the agency, or by reason of s. 443.101(3)
244 ~~443.101(2)~~ relating to failure to apply for, or refusal to
245 accept, suitable work. Training may be approved by the agency in
246 accordance with criteria prescribed by rule. A claimant's
247 eligibility during approved training is contingent upon
248 satisfying eligibility conditions prescribed by rule.

249 2. Notwithstanding any other provision of this chapter, an
250 otherwise eligible individual who is in training approved under
251 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
252 determined ineligible or disqualified for benefits due to ~~her or~~
253 ~~his~~ enrollment in such training or because of leaving work that
254 is not suitable employment to enter such training. As used in
255 this subparagraph, the term "suitable employment" means work of
256 a substantially equal or higher skill level than the worker's
257 past adversely affected employment, as defined for purposes of
258 the Trade Act of 1974, as amended, the wages for which are at
259 least 80 percent of the worker's average weekly wage as
260 determined for purposes of the Trade Act of 1974, as amended.

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

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

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

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

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

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

274 Section 5. Effective July 1, 2011, paragraph (a) of
275 subsection (1) and present subsections (2), (3), (9), and (11)
276 of section 443.101, Florida Statutes, are amended, present
277 subsections (2) through (11) of that section are redesignated as
278 subsections (3) through (13), respectively, and new subsections
279 (2) and (12) are added to that section, to read:

280 443.101 Disqualification for benefits.—An individual shall
281 be disqualified for benefits:

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

289 1. Disqualification for voluntarily quitting continues for
290 the full period of unemployment next ensuing after the

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291 individual has left his or her full-time, part-time, or
292 temporary work voluntarily without good cause and until the
293 individual has earned income equal to or greater than ~~in excess~~
294 ~~of~~ 17 times his or her weekly benefit amount. As used in this
295 subsection, the term "good cause" includes only that cause
296 attributable to the employing unit which would compel a
297 reasonable individual to cease working or attributable to ~~which~~
298 ~~consists of~~ the individual's illness or disability requiring
299 separation from his or her work. Any other disqualification may
300 not be imposed. An individual is not disqualified ~~under this~~
301 ~~subsection~~ for voluntarily leaving temporary work to return
302 immediately when called to work by the permanent employing unit
303 that temporarily terminated his or her work within the previous
304 6 calendar months, or. ~~An individual is not disqualified under~~
305 ~~this subsection~~ for voluntarily leaving work to relocate as a
306 result of his or her military-connected spouse's permanent
307 change of station orders, activation orders, or unit deployment
308 orders.

309 2. Disqualification for being discharged for misconduct
310 connected with his or her work continues for the full period of
311 unemployment next ensuing after having been discharged and until
312 the individual is reemployed and has earned income of at least
313 17 times his or her weekly benefit amount and for not more than
314 52 weeks ~~that~~ immediately following ~~follow~~ that week, as
315 determined by the agency in each case according to the
316 circumstances ~~in each case~~ or the seriousness of the misconduct,
317 under the agency's rules adopted for determining ~~determinations~~
318 ~~of~~ disqualification for benefits for misconduct.

319 3. If an individual has provided notification to the

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320 employing unit of his or her intent to voluntarily leave work
321 and the employing unit discharges the individual for reasons
322 other than misconduct before the date the voluntary quit was to
323 take effect, the individual, if otherwise entitled, shall
324 receive benefits from the date of the employer's discharge until
325 the effective date of his or her voluntary quit.

326 4. If an individual is notified by the employing unit of
327 the employer's intent to discharge the individual for reasons
328 other than misconduct and the individual quits without good
329 cause, ~~as defined in this section,~~ before the date the discharge
330 was to take effect, the claimant is ineligible for benefits
331 pursuant to s. 443.091(1)(d) for failing to be available for
332 work for the week or weeks of unemployment occurring before the
333 effective date of the discharge.

334 (2) For the week the individual has been discharged by the
335 employing unit for gross misconduct, based on a finding by the
336 Agency for Workforce Innovation. Disqualification for being
337 discharged for gross misconduct continues for the full period of
338 unemployment next ensuing after having been discharged and until
339 the individual is reemployed and has earned income of at least
340 17 times his or her weekly benefit amount. As used in this
341 subsection, the term "gross misconduct" means any of the
342 following:

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

345 (b) Theft of the property of an employer, a customer, or an
346 invitee of the employer.

347 (c) Violation of an employer's policy relating to the
348 consumption of alcohol or drugs on the employer property, being

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349 under the influence of alcohol or drugs on employer property, or
350 using alcohol or drugs while on the job or on duty. As used in
351 this paragraph, the term "alcohol or drugs" has the same meaning
352 as in s. 440.102(1)(c).

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

355 (e) Failure to comply with applicable state or federal drug
356 and alcohol testing and use regulations, including, but not
357 limited to, 49 C.F.R. part 40 and part 382 of the Federal Motor
358 Carrier Safety Regulations, while on the job or on duty, and
359 regulations applicable to employees performing transportation
360 and other safety-sensitive job functions as defined by the
361 Federal Government.

362 (f) Assault or battery of another employee or of a customer
363 or invitee of the employer.

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

366 (h) Insubordination, which is defined as the willful
367 failure to comply with a lawful, reasonable order of a
368 supervisor which is directly related to the employee's
369 employment as described in an applicable written job
370 description, the written rules of conduct, or other lawful
371 directive of the employer. Except in cases of severe
372 insubordination, the employee must have received at least one
373 written warning from the employer before being discharged from
374 employment.

375 (i) Willful neglect of duty directly related to the
376 employee's employment as described in an applicable written job
377 description or written rules of conduct. Except in cases of

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378 severe willful neglect, the employee must have received at least
379 one written warning from the employer before being discharged
380 from employment.

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

385 (3)(2) If the Agency for Workforce Innovation finds that
386 the individual has failed without good cause to apply for
387 available suitable work ~~when directed by the agency or the one-~~
388 ~~stop career center,~~ to accept suitable work when offered to him
389 or her, or to return to the individual's customary self-
390 employment when directed by the agency, the disqualification
391 continues for the full period of unemployment next ensuing after
392 he or she failed without good cause to apply for available
393 suitable work, to accept suitable work, or to return to his or
394 her customary self-employment, ~~under this subsection,~~ and until
395 the individual has earned income of at least 17 times his or her
396 weekly benefit amount. The Agency for Workforce Innovation shall
397 by rule adopt criteria for determining the "suitability of
398 work," as used in this section. ~~The agency for Workforce~~
399 ~~Innovation~~ In developing these rules, the agency shall consider
400 the duration of a claimant's unemployment in determining the
401 suitability of work and the suitability of proposed rates of
402 compensation for available work. Further, after an individual
403 has received 19 ~~25~~ weeks of benefits in a single year, suitable
404 work is a job that pays the minimum wage and is 120 percent or
405 more of the weekly benefit amount the individual is drawing.

406 (a) In determining whether or not any work is suitable for

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407 an individual, the agency ~~for Workforce Innovation~~ shall
408 consider the degree of risk ~~involved~~ to the individual's ~~his or~~
409 ~~her~~ health, safety, and morals; the individual's ~~his or her~~
410 physical fitness, and prior training, ~~the individual's~~
411 experience, and prior earnings, ~~his or her~~ length of
412 unemployment, and prospects for securing local work in his or
413 her customary occupation; and the distance of the available work
414 from his or her residence.

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

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

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

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

427 (c) If the agency ~~for Workforce Innovation~~ finds that an
428 individual was rejected for offered employment as the direct
429 result of a positive, confirmed drug test required as a
430 condition of employment, the individual is disqualified for
431 refusing to accept an offer of suitable work.

432 (4) ~~(3)~~ For any week with respect to which he or she is
433 receiving or has received remuneration in the form of:

434 (a) Wages in lieu of notice.

435 (b) Severance pay. The number of weeks that an individual's

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436 severance pay disqualifies the individual is equal to the amount
437 of the severance pay divided by the individual's average weekly
438 wage received from the employer that paid the severance pay,
439 rounded down to the nearest whole number, beginning with the
440 week the individual separated from that employer.

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

444
445 2. However, if the remuneration referred to in paragraphs (a),
446 and (b), and (c) is less than the benefits that would otherwise
447 be due under this chapter, an individual who is otherwise
448 eligible ~~he or she~~ is entitled to receive for that week, ~~if~~
449 ~~otherwise eligible,~~ benefits reduced by the amount of the
450 remuneration.

451 (10) ~~(9)~~ If the individual was terminated from ~~his or her~~
452 ~~work for violation of any criminal law punishable by~~
453 ~~imprisonment, or for any dishonest act, in connection with his~~
454 ~~or her work, as follows:~~

455 (a) If the Agency for Workforce Innovation or the
456 Unemployment Appeals Commission finds that the individual was
457 terminated from ~~his or her~~ work for violation of any criminal
458 law, under any jurisdiction, which was ~~punishable by~~
459 ~~imprisonment~~ in connection with his or her work or affected his
460 or her ability to perform work, and the individual was
461 convicted, or entered a plea of guilty or nolo contendere ~~found~~
462 ~~guilty of the offense, made an admission of guilt in a court of~~
463 ~~law, or entered a plea of no contest,~~ the individual is not
464 entitled to unemployment benefits for up to 52 weeks, pursuant

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465 to ~~under~~ rules adopted by the agency ~~for Workforce Innovation,~~
466 and until he or she has earned income of at least 17 times his
467 or her weekly benefit amount. If, before an adjudication of
468 guilt, an admission of guilt, or a plea of nolo contendere ~~no~~
469 ~~contest,~~ the employer proves by competent, substantial evidence
470 to shows the agency ~~for Workforce Innovation~~ that the arrest was
471 due to a crime against the employer or the employer's business,
472 customers, or invitees ~~and, after considering all the evidence,~~
473 ~~the Agency for Workforce Innovation finds misconduct in~~
474 ~~connection with the individual's work,~~ the individual is not
475 entitled to unemployment benefits.

476 (b) If the Agency for Workforce Innovation or the
477 Unemployment Appeals Commission finds that the individual was
478 terminated from work for any dishonest act in connection with
479 his or her work, the individual is not entitled to unemployment
480 benefits for up to 52 weeks, pursuant to ~~under~~ rules adopted by
481 the agency ~~for Workforce Innovation,~~ and until he or she has
482 earned income of at least 17 times his or her weekly benefit
483 amount. ~~In addition,~~ If the employer terminates an individual as
484 a result of a dishonest act in connection with his or her work
485 and the agency ~~for Workforce Innovation~~ finds misconduct in
486 connection with his or her work, the individual is not entitled
487 to unemployment benefits.

488
489 If ~~With respect to~~ an individual is disqualified for benefits,
490 the account of the terminating employer, if the employer is in
491 the base period, is noncharged at the time the disqualification
492 is imposed.

493 (12) For any week in which the individual is unavailable

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494 for work due to incarceration or imprisonment.

495 (13)~~(11)~~ If an individual is discharged from employment for
496 drug use as evidenced by a positive, confirmed drug test as
497 provided in paragraph (1) (d), or is rejected for offered
498 employment because of a positive, confirmed drug test as
499 provided in paragraph (3) (c) ~~(2) (e)~~, test results and chain of
500 custody documentation provided to the employer by a licensed and
501 approved drug-testing laboratory is self-authenticating and
502 admissible in unemployment compensation hearings, and such
503 evidence creates a rebuttable presumption that the individual
504 used, or was using, controlled substances, subject to the
505 following conditions:

506 (a) To qualify for the presumption ~~described in this~~
507 ~~subsection~~, an employer must have implemented a drug-free
508 workplace program under ss. 440.101 and 440.102, and ~~must~~ submit
509 proof that the employer has qualified for the insurance
510 discounts provided under s. 627.0915, as certified by the
511 insurance carrier or self-insurance unit. In lieu of these
512 requirements, an employer who does not fit the definition of
513 "employer" in s. 440.102 may qualify for the presumption if the
514 employer is in compliance with equivalent or more stringent
515 drug-testing standards established by federal law or regulation.

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

520 (c) Disclosure of drug test results and other information
521 pertaining to drug testing of individuals who claim or receive
522 compensation under this chapter is ~~shall be~~ governed by s.

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523 443.1715.

524 Section 6. Effective July 1, 2011, subsection (1) of
525 section 443.111, Florida Statutes, is amended to read:

526 443.111 Payment of benefits.—

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

530 (a) Benefits are payable ~~by mail or~~ electronically, except
531 that an individual being paid by paper warrant on July 1, 2011,
532 may continue to be paid in that manner until the expiration of
533 the claim. Notwithstanding s. 409.942(4), the agency may develop
534 a system for the payment of benefits by electronic funds
535 transfer, including, but not limited to, debit cards, electronic
536 payment cards, or any other means of electronic payment that the
537 agency deems to be commercially viable or cost-effective.
538 Commodities or services related to the development of such a
539 system shall be procured by competitive solicitation, unless
540 they are purchased from a state term contract pursuant to s.
541 287.056. The agency shall adopt rules necessary to administer
542 this paragraph ~~the system.~~

543 (b) As required under s. 443.091(1), each claimant must
544 ~~report in the manner prescribed by the agency for Workforce~~
545 ~~Innovation to certify for benefits that are paid and must~~
546 ~~continue to report~~ at least biweekly to receive unemployment
547 benefits and to attest to the fact that she or he is able and
548 available for work, has not refused suitable work, is seeking
549 work and has contacted at least five prospective employers or
550 reported in person to a one-stop career center for reemployment
551 services for each week of unemployment claimed, and, if she or

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552 he has worked, to report earnings from that work. Each claimant
553 must continue to report regardless of any appeal or pending
554 appeal relating to her or his eligibility or disqualification
555 for benefits.

556 Section 7. Effective July 1, 2011, paragraph (c) of
557 subsection (3) of section 443.1115, Florida Statutes, is amended
558 to read:

559 443.1115 Extended benefits.—

560 (3) ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.—

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

565 a. She or he failed to apply for suitable work or, if
566 offered, failed to accept suitable work, unless the individual
567 can furnish to the agency satisfactory evidence that her or his
568 prospects for obtaining work in her or his customary occupation
569 within a reasonably short period are good. If this evidence is
570 deemed satisfactory ~~for this purpose~~, the determination of
571 whether any work is suitable for the individual shall be made in
572 accordance with the definition of suitable work in s. 443.101(3)
573 ~~443.101(2)~~. This disqualification begins with the week the
574 failure occurred and continues until she or he is employed for
575 at least 4 weeks and receives earned income of at least 17 times
576 her or his weekly benefit amount.

577 b. She or he failed to furnish tangible evidence that she
578 or he actively engaged in a systematic and sustained effort to
579 find work. This disqualification begins with the week the
580 failure occurred and continues until she or he is employed for

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581 at least 4 weeks and receives earned income of at least 4 times
582 her or his weekly benefit amount.

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

586 a. The gross average weekly remuneration payable for the
587 work exceeds the sum of the individual's weekly benefit amount
588 plus the amount, if any, of supplemental unemployment benefits,
589 as defined in s. 501(c)(17)(D) of the Internal Revenue Code of
590 1954, as amended, payable to the individual for that week;

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

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

598 Section 8. Notwithstanding the expiration date contained in
599 section 1 of chapter 2010-90, Laws of Florida, operating
600 retroactive to December 17, 2010, and expiring January 4, 2012,
601 section 443.1117, Florida Statutes, is revived, readopted, and
602 amended to read:

603 443.1117 Temporary extended benefits.—

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

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

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

612 (b) "Eligibility period" means the weeks in an individual's
613 benefit year or emergency benefit period which begin in an
614 extended benefit period and, if the benefit year or emergency
615 benefit period ends within that extended benefit period, any
616 subsequent weeks beginning in that period.

617 (c) "Emergency benefits" means Emergency Unemployment
618 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
619 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, ~~and~~ Pub. L. No.
620 111-118, Pub. L. No. 111-144, ~~and~~ Pub. L. No. 111-157, Pub. L.
621 No. 111-205, and Pub. L. No. 111-312.

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

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

625 2. Ends with any of the following weeks, whichever occurs
626 later:

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

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

630

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

634 (e) "Emergency benefit period" means the period during
635 which an individual receives emergency benefits ~~as defined in~~
636 ~~paragraph (c).~~

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

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639 1. Has received, before that week, all of the regular
640 benefits and emergency benefits, if any, available under this
641 chapter or any other law, including dependents' allowances and
642 benefits payable to federal civilian employees and ex-
643 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
644 benefit year or emergency benefit period that includes that
645 week. For the purposes of this subparagraph, an individual has
646 received all of the regular benefits and emergency benefits, if
647 any, available even if ~~although~~, as a result of a pending appeal
648 for wages paid for insured work which were not considered in the
649 original monetary determination in the benefit year, she or he
650 may subsequently be determined to be entitled to added regular
651 benefits;

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

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

660 b. Has not received and is not seeking unemployment
661 benefits under the unemployment compensation law of Canada; but
662 if an individual is seeking those benefits and the appropriate
663 agency finally determines that she or he is not entitled to
664 benefits under that law, she or he is considered an exhaustee.

665 (g) "State 'on' indicator" means, with respect to weeks of
666 unemployment ~~beginning on or after February 1, 2009, and ending~~
667 on or before December 10, 2011 ~~May 8, 2010~~, the occurrence of a

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668 week in which the average total unemployment rate, seasonally
669 adjusted, as determined by the United States Secretary of Labor,
670 for the most recent 3 months for which data for all states are
671 published by the United States Department of Labor:

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

675 2. Equals or exceeds 6.5 percent.

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

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

686 2. Equals or exceeds 8 percent.

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

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

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

696 1. Fifty percent of the total regular benefits payable

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697 under this chapter in the applicable benefit year; or

698 2. Thirteen times the weekly benefit amount payable under
699 this chapter for a week of total unemployment in the applicable
700 benefit year.

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

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

706 2. Twenty times the weekly benefit amount payable under
707 this chapter for a week of total unemployment in the applicable
708 benefit year.

709 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other
710 provision of this chapter, if the benefit year of an individual
711 ends within an extended benefit period, the number of weeks of
712 extended benefits the individual is entitled to receive in that
713 extended benefit period for weeks of unemployment beginning
714 after the end of the benefit year, except as provided in this
715 section, is reduced, but not to below zero, by the number of
716 weeks for which the individual received, within that benefit
717 year, trade readjustment allowances under the Trade Act of 1974,
718 as amended.

719 Section 9. The provisions of s. 443.1117, Florida Statutes,
720 as revived, readopted, and amended by this act, apply only to
721 claims for weeks of unemployment in which an exhaustee
722 establishes entitlement to extended benefits pursuant to that
723 section which are established for the period between December
724 17, 2010, and January 4, 2012.

725 Section 10. Effective July 1, 2011, paragraph (a) of

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726 subsection (1) and paragraph (f) of subsection (13) of section
727 443.1216, Florida Statutes, are amended to read:

728 443.1216 Employment.—Employment, as defined in s. 443.036,
729 is subject to this chapter under the following conditions:

730 (1) (a) The employment ~~subject to this chapter~~ includes a
731 service performed, including a service performed in interstate
732 commerce, by:

733 1. An officer of a corporation.

734 2. An individual who, under the usual common-law rules
735 applicable in determining the employer-employee relationship, is
736 an employee. However, ~~if whenever~~ a client, ~~as defined in s.~~
737 ~~443.036(18)~~, which would otherwise be designated as an employing
738 unit, has contracted with an employee leasing company to supply
739 it with workers, those workers are considered employees of the
740 employee leasing company and must be reported under the leasing
741 company's tax identification number and contribution rate for
742 work performed for the leasing company.

743 a. However, except for the internal employees of an
744 employee leasing company, a leasing company may make a one-time
745 election to report and pay contributions under the client
746 method. Under the client method, a leasing company must assign
747 leased employees to the client company that is leasing the
748 employees. The client method is solely a method to report and
749 pay unemployment contributions. For all other purposes, the
750 leased employees are considered employees of the employee
751 leasing company. A leasing company that elects the client method
752 shall pay contributions at the rates assigned to each client
753 company.

754 (I) The election applies to all of the leasing company's

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755 current and future clients.

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

761 (A) A list of each client company and its unemployment
762 account number;

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

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

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

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

774 (V) For the purposes of calculating experience rates, the
775 election is treated like a total or partial succession,
776 depending on the percentage of employees leased. If the client
777 company leases only a portion of its employees from the leasing
778 company, the client company shall continue to report the
779 nonleased employees under its tax rate based on the experience
780 of the nonleased employees.

781 (VI) A leasing company that makes a one-time election under
782 this sub-subparagraph is not required to submit quarterly
783 Multiple Worksite Reports required by sub-subparagraphs c. and

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784 d.

785 (VII) This sub-subparagraph applies to all employee leasing
786 companies, including each leasing company that is a group member
787 or group leader of an employee leasing company group licensed
788 pursuant to chapter 468. The election is binding on all employee
789 leasing companies and their related enterprises, subsidiaries,
790 or other entities that share common ownership, management, or
791 control with the leasing company. The election is also binding
792 on all clients of the leasing company for as long as a written
793 agreement is in effect between the client and the leasing
794 company pursuant to s. 468.525(3)(a). If the relationship
795 between the leasing company and the client terminates, the
796 client retains the wage and benefit history experienced under
797 the leasing company.

798 b. An employee leasing company may lease corporate officers
799 of the client to the client and other workers to the client,
800 except as prohibited by regulations of the Internal Revenue
801 Service. ~~Employees of an employee leasing company must be~~
802 ~~reported under the employee leasing company's tax identification~~
803 ~~number and contribution rate for work performed for the employee~~
804 ~~leasing company.~~

805 c.a. In addition to any other report required to be filed
806 by law, an employee leasing company shall submit a report to the
807 Labor Market Statistics Center within the Agency for Workforce
808 Innovation which includes each client establishment and each
809 establishment of the ~~employee~~ leasing company, or as otherwise
810 directed by the agency. The report must include the following
811 information for each establishment:

812 (I) The trade or establishment name;

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813 (II) The former unemployment compensation account number,
814 if available;

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

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

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

821 (VI) The address of the physical location;

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

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

828 (IX) An internal identification code to uniquely identify
829 each establishment of each client;

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

832 (XI) The month and year that the client terminated the
833 contract for services.

834 d.b. The report shall be submitted electronically or in a
835 manner otherwise prescribed by the Agency for Workforce
836 Innovation in the format specified by the Bureau of Labor
837 Statistics of the United States Department of Labor for its
838 Multiple Worksite Report for Professional Employer
839 Organizations. The report must be provided quarterly to the
840 Labor Market Statistics Center within the agency ~~for Workforce~~
841 ~~Innovation~~, or as otherwise directed by the agency, and must be

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842 filed by the last day of the month immediately following the end
843 of the calendar quarter. The information required in sub-sub-
844 subparagraphs c.(X) and (XI) ~~a.(X) and (XI)~~ need be provided
845 only in the quarter in which the contract to which it relates
846 was entered into or terminated. The sum of the employment data
847 and the sum of the wage data in this report must match the
848 employment and wages reported in the unemployment compensation
849 quarterly tax and wage report. A report is not required for any
850 calendar quarter preceding the third calendar quarter of 2010.

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

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

858 3. An individual other than an individual who is an
859 employee under subparagraph 1. or subparagraph 2., who performs
860 services for remuneration for any person:

861 a. As an agent-driver or commission-driver engaged in
862 distributing meat products, vegetable products, fruit products,
863 bakery products, beverages other than milk, or laundry or
864 drycleaning services for his or her principal.

865 b. As a traveling or city salesperson engaged on a full-
866 time basis in the solicitation on behalf of, and the
867 transmission to, his or her principal of orders from
868 wholesalers, retailers, contractors, or operators of hotels,
869 restaurants, or other similar establishments for merchandise for
870 resale or supplies for use in their business operations. This

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871 sub-subparagraph does not apply to an agent-driver or a
872 commission-driver and does not apply to sideline sales
873 activities performed on behalf of a person other than the
874 salesperson's principal.

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

877 a. The contract of service contemplates that substantially
878 all of the services are to be performed personally by the
879 individual;

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

883 c. The services are not in the nature of a single
884 transaction that is not part of a continuing relationship with
885 the person for whom the services are performed.

886 (13) The following are exempt from coverage under this
887 chapter:

888 (f) Service performed in the employ of a public employer as
889 defined in s. 443.036, except as provided in subsection (2), and
890 service performed in the employ of an instrumentality of a
891 public employer as described in s. 443.036(36)(b) ~~443.036(35)(b)~~
892 or (c), to the extent that the instrumentality is immune under
893 the United States Constitution from the tax imposed by s. 3301
894 of the Internal Revenue Code for that service.

895 Section 11. Present paragraph (f) of subsection (1) of
896 section 443.141, Florida Statutes, is redesignated as paragraph
897 (g), and a new paragraph (f) is added to that subsection, to
898 read:

899 443.141 Collection of contributions and reimbursements.—

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

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

907 1. For contributions due for wages paid in the first
908 quarter of each year, one-fourth of the contributions due must
909 be paid on or before April 30, one-fourth must be paid on or
910 before July 31, one-fourth must be paid on or before October 31,
911 and one-fourth must be paid on or before December 31.

912 2. In addition to the payments specified in subparagraph
913 1., for contributions due for wages paid in the second quarter
914 of each year, one-third of the contributions due must be paid on
915 or before July 31, one-third must be paid on or before October
916 31, and one-third must be paid on or before December 31.

917 3. In addition to the payments specified in subparagraphs
918 1. and 2., for contributions due for wages paid in the third
919 quarter of each year, one-half of the contributions due must be
920 paid on or before October 31, and one-half must be paid on or
921 before December 31.

922 4. The annual administrative fee assessed for electing to
923 pay under the installment method shall be collected at the time
924 the employer makes the first installment payment each year. The
925 fee shall be segregated from the payment and deposited into the
926 Operating Trust Fund of the Department of Revenue.

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

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929 year if the employer pays the contribution in accordance with
930 subparagraphs 1.-4. Interest and fees continue to accrue on
931 prior delinquent contributions and commence accruing on all
932 contributions due for wages paid in the first three quarters of
933 each year which are not paid in accordance with subparagraphs
934 1.-3. Penalties may be assessed in accordance with this chapter.
935 The contributions due for wages paid in the fourth quarter of
936 2012, 2013, and 2014 are not affected by this paragraph and are
937 due and payable in accordance with this chapter.

938 Section 12. Effective July 1, 2011, paragraph (a) of
939 subsection (2), paragraphs (d) and (e) of subsection (3), and
940 paragraphs (b) and (e) of subsection (4) of section 443.151,
941 Florida Statutes, are amended, present paragraphs (c) through
942 (f) of subsection (6) of that section are redesignated as
943 paragraphs (d) through (g), respectively, and a new paragraph
944 (c) is added to that subsection, to read:

945 443.151 Procedure concerning claims.—

946 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
947 CLAIMANTS AND EMPLOYERS.—

948 (a) *In general.*—Initial and continued claims for benefits
949 must be made by approved electronic means and in accordance with
950 ~~the~~ rules adopted by the Agency for Workforce Innovation. The
951 agency must notify claimants and employers regarding monetary
952 and nonmonetary determinations of eligibility. Investigations of
953 issues raised in connection with a claimant which may affect a
954 claimant's eligibility for benefits or charges to an employer's
955 employment record shall be conducted by the agency through
956 written, telephonic, or electronic means as prescribed by rule.

957 (3) DETERMINATION OF ELIGIBILITY.—

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958 (d) *Determinations in labor dispute cases.*—~~If a~~ Whenever
959 ~~any~~ claim involves a labor dispute described in s. 443.101(5)
960 ~~443.101(4)~~, the Agency for Workforce Innovation shall promptly
961 assign the claim to a special examiner who shall make a
962 determination on the issues involving unemployment due to the
963 labor dispute. The special examiner shall make the determination
964 after an investigation, as necessary. The claimant or another
965 party entitled to notice of the determination may appeal a
966 determination under subsection (4).

967 (e) *Redeterminations.*—

968 1. The Agency for Workforce Innovation may reconsider a
969 determination if it finds an error or if new evidence or
970 information pertinent to the determination is discovered after a
971 prior determination or redetermination. A redetermination may
972 not be made more than 1 year after the last day of the benefit
973 year unless the disqualification for making a false or
974 fraudulent representation under s. 443.101(7) ~~443.101(6)~~ is
975 applicable, in which case the redetermination may be made within
976 2 years after the false or fraudulent representation. The agency
977 must promptly give notice of redetermination to the claimant and
978 to any employers entitled to notice in the manner prescribed in
979 this section for the notice of an initial determination.

980 2. If the amount of benefits is increased by the
981 redetermination, an appeal of the redetermination based solely
982 on the increase may be filed as provided in subsection (4). If
983 the amount of benefits is decreased by the redetermination, the
984 redetermination may be appealed by the claimant if a subsequent
985 claim for benefits is affected in amount or duration by the
986 redetermination. If the final decision on the determination or

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987 redetermination to be reconsidered was made by an appeals
988 referee, the commission, or a court, the Agency for Workforce
989 Innovation may apply for a revised decision from the body or
990 court that made the final decision.

991 3. If an appeal of an original determination is pending
992 when a redetermination is issued, the appeal, unless withdrawn,
993 is treated as an appeal from the redetermination.

994 (4) APPEALS.—

995 (b) *Filing and hearing.*—

996 1. The claimant or any other party entitled to notice of a
997 determination may appeal an adverse determination to an appeals
998 referee within 20 days after the date of mailing ~~of~~ the notice
999 to her or his last known address or, if the notice is not
1000 mailed, within 20 days after the date of delivering ~~delivery of~~
1001 the notice.

1002 2. Unless the appeal is untimely or withdrawn, or review is
1003 initiated by the commission, the appeals referee, after mailing
1004 all parties and attorneys of record a notice of hearing at least
1005 10 days before the date of hearing, notwithstanding the 14-day
1006 notice requirement in s. 120.569(2)(b), may only affirm, modify,
1007 or reverse the determination. An appeal may not be withdrawn
1008 without the permission of the appeals referee.

1009 3. However, if ~~when~~ an appeal appears to have been filed
1010 after the permissible time limit, the Office of Appeals may
1011 issue an order to show cause to the appellant which requires,
1012 ~~requiring~~ the appellant to show why the appeal should not be
1013 dismissed as untimely. If ~~the appellant does not,~~ within 15 days
1014 after the mailing date of the order to show cause, the appellant
1015 does not provide written evidence of timely filing or good cause

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1016 for failure to appeal timely, the appeal shall be dismissed.

1017 4. ~~If~~ When an appeal involves a question of whether
1018 services were performed by a claimant in employment or for an
1019 employer, the referee must give special notice of the question
1020 and of the pendency of the appeal to the employing unit and to
1021 the Agency for Workforce Innovation, both of which become
1022 parties to the proceeding.

1023 5. Any part of the evidence may be received in written
1024 form, and all testimony of parties and witnesses must be made
1025 under oath.

1026 a. Irrelevant, immaterial, or unduly repetitious evidence
1027 shall be excluded, but all other evidence of a type commonly
1028 relied upon by reasonably prudent persons in the conduct of
1029 their affairs is admissible, whether or not such evidence would
1030 be admissible in a trial in state court.

1031 b. Hearsay evidence may be used for the purpose of
1032 supplementing or explaining other evidence, or to support a
1033 finding if it would be admissible over objection in civil
1034 actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may
1035 support a finding of fact if:

1036 (I) The party against whom it is offered has a reasonable
1037 opportunity to review it before the hearing; and

1038 (II) The appeals referee or special deputy determines,
1039 after considering all relevant facts and circumstances, that the
1040 evidence is trustworthy and probative and that the interests of
1041 justice are best served by its admission into evidence.

1042 ~~6.5.~~ The parties must be notified promptly of the referee's
1043 decision. The referee's decision is final unless further review
1044 is initiated under paragraph (c) within 20 days after the date

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1045 of mailing notice of the decision to the party's last known
1046 address or, in lieu of mailing, within 20 days after the
1047 delivery of the notice.

1048 (e) *Judicial review.*—Orders of the commission entered under
1049 paragraph (c) are subject to review only by notice of appeal in
1050 the district court of appeal ~~in the appellate district in which~~
1051 ~~the issues involved were decided by an appeals referee.~~ If the
1052 notice of appeal is filed by the claimant, it must be filed in
1053 the appellate district in which the claimant resides. If the
1054 notice of appeal is filed by the employer, it must be filed in
1055 the appellate district in which the business is located.
1056 However, if the claimant does not reside in this state or the
1057 business is not located in this state, the notice of appeal must
1058 be filed in the appellate district in which the order was
1059 issued. Notwithstanding chapter 120, the commission is a party
1060 respondent to every such proceeding. The Agency for Workforce
1061 Innovation may initiate judicial review of orders in the same
1062 manner and to the same extent as any other party.

1063 (6) RECOVERY AND RECOUPMENT.—

1064 (c) Any person who, by reason other than fraud, receives
1065 benefits under this chapter for which she or he is not entitled
1066 due to the failure of the Agency for Workforce Innovation to
1067 make and provide notice of a nonmonetary determination under
1068 paragraph (3)(c) within 30 days after filing a new claim, is
1069 liable for repaying up to 5 weeks of benefits received to the
1070 agency on behalf of the trust fund or may have those benefits
1071 deducted from any future benefits payable to her or him under
1072 this chapter.

1073 Section 13. Subsection (10) is added to section 443.171,

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1074 Florida Statutes, to read:

1075 443.171 Agency for Workforce Innovation and commission;
1076 powers and duties; records and reports; proceedings; state-
1077 federal cooperation.-

1078 (10) EVIDENCE OF MAILING.-A mailing date on any notice,
1079 determination, decision, order, or other document mailed by the
1080 Agency for Workforce Innovation or its tax collection service
1081 provider pursuant to this chapter creates a rebuttable
1082 presumption that such notice, determination, order, or other
1083 document was mailed on the date indicated.

1084 Section 14. The Legislature finds that this act fulfills an
1085 important state interest.

1086 Section 15. Except as otherwise expressly provided in this
1087 act, this act shall take effect upon becoming a law.