

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative Holder offered the following:

3
4 **Amendment with Title Amendment**

5
6 Between lines 843 and 844 insert:

7
8 Section 13. Section 443.1216, Florida Statutes, is amended
9 to read:

10 443.1216 Employment.—Employment, as defined in s. 443.036,
11 is subject to this chapter under the following conditions:

12 (1) (a) The employment subject to this chapter includes a
13 service performed, including a service performed in interstate
14 commerce, by:

15 1. An officer of a corporation.

16 2. An individual who, under the usual common-law rules
17 applicable in determining the employer-employee relationship, is
18 an employee. However, whenever a client, as defined in s.

19 443.036(18), which would otherwise be designated as an employing

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20 unit has contracted with an employee leasing company to supply
21 it with workers, those workers are considered employees of the
22 employee leasing company.

23 a. However, except for the internal employees of an
24 employee leasing company, each employee leasing company may make
25 a separate one-time election to report and pay contributions
26 under the tax identification number and contribution rate for
27 each client of the employee leasing company. Under the client
28 method, an employee leasing company choosing this option must
29 assign leased employees to the client company that is leasing
30 the employees. The client method is solely a method to report
31 and pay unemployment contributions and whichever method is
32 chosen, such election shall not impact any other aspect of state
33 law. An employee leasing company that elects the client method
34 shall pay contributions at the rates assigned to each client
35 company.

36 (I) The election applies to all of the employee leasing
37 company's current and future clients.

38 (II) The employee leasing company must notify the
39 Department of Revenue of its election by July 1, 2012 and such
40 election applies to reports and contributions for the first
41 quarter of the following calendar year. The notification must
42 include:

43 (A) A list of each client company and the unemployment
44 account number or, if one has not yet been issued, the FEIN
45 number, as established by the employee leasing company upon the
46 election to file by client method;

47 (B) A list of each client company's current and previous
48 employees and their respective social security numbers for the
49 prior 3 state fiscal years or, if the client company has not
50 been a client for the prior 3 state fiscal years, such portion

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51 of the prior 3 state fiscal years that the client company has
52 been a client shall be supplied;

53 (C) All wage data and benefit charges associated with
54 each client company for the prior 3 state fiscal years (or, if
55 the client company has not been a client for the prior 3 state
56 fiscal years, such portion of the prior 3 state fiscal years
57 that the client company has been a client shall be supplied).
58 If the client company's employment record is chargeable with
59 benefits for less than 8 calendar quarters while being a client
60 of the employee leasing company, the client company shall pay
61 contributions at the initial rate of 2.7 percent; and

62 (D) All wage data and benefit charges for the prior 3
63 state fiscal years that cannot be associated with a client
64 company must be reported and charged to the employee leasing
65 company.

66 (III) Subsequent to choosing the client method, the
67 employee leasing company may not change its reporting method.

68 (IV) The employee leasing company must file a Florida
69 Department of Revenue Employer's Quarterly Report (UCT-6) for
70 each client company by approved electronic means, and pay all
71 contributions by approved electronic means.

72 (V) For the purposes of calculating experience rates, the
73 election is treated as a total or partial succession, depending
74 on the percentage of employees leased. If the client company
75 leases only a portion of its employees from the employee leasing
76 company, the client company shall continue to report the
77 nonleased employees under its tax rate.

78 (VI) The election is binding on all clients of the
79 employee leasing company, for as long as a written agreement is
80 in effect between the client and the employee leasing company
81 pursuant to s. 468.525(3) (a). If the relationship between the

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82 employee leasing company and the client terminates, the client
83 retains the wage and benefit history experienced under the
84 employee leasing company.

85 (VII) No matter which election method has been chosen by
86 the employee leasing company, the applicable client company
87 shall be considered an employing unit for purposes of s.
88 443.071. The employee leasing company or any of its officers or
89 agents shall be liable for any violation of s. 443.071 engaged
90 in by such persons or entities. The applicable client company
91 or any of its officers or agents shall be liable for any
92 violation of s. 443.071 engaged in by such persons or entities.
93 Neither the employee leasing company nor its applicable client
94 company shall be liable for any violation of s. 443.071 engaged
95 in by the other party or by the other party's officers or
96 agents.

97 (VIII) The failure of an employee leasing company to select
98 the client method of reporting no later than July 1, 2012 shall
99 result in such entity being required to report under the
100 employee leasing company's tax identification number and
101 contribution rate.

102 (IX) Following licensure of an employee leasing company, as
103 set forth in s. 468.520 et seq., such newly licensed entity
104 shall have thirty (30) days from the date of their licensure to
105 notify the tax collection service provider in writing of their
106 selection of the client method. The failure of a newly licensed
107 employee leasing company to timely select reporting pursuant to
108 the client method of reporting shall result in such entity being
109 required to report under the employee leasing company's tax
110 identification number and contribution rate.

111 (X) Irrespective of the election, all transfers of trade
112 or business, including workforce, or a portion thereof, between

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113 employee leasing companies are subject to the provisions of s.
114 443.131(3)(g) if, at the time of the transfer, there is common
115 ownership, management, or control between the entities.

116 Section 2. Subsection (3) of section 443.131, Florida
117 Statutes is amended to read:

118 443.131 Contributions.-

119 (3)

120 (f) 4. This paragraph does not apply to an employee
121 leasing company and client contractual agreement as defined in
122 s.443.036 except as provided in s. 443.1216(1)(a)2.a.The tax
123 collection service provider shall, if the contractual agreement
124 is terminated or the employee leasing company fails to submit
125 reports or pay contributions as required by the service
126 provider, treat the client as a new employer without previous
127 employment record unless the client is otherwise eligible for a
128 variation from the standard rate.
129

130 -----TITLE AMENDMENT-----

131
132 Remove line 20 and insert:

133 act; amending s. 443.1216, F.S.; providing that employee leasing
134 companies may make a one-time election to report leased
135 employees under the respective unemployment account of each
136 leasing company client; providing procedures and application for
137 such election; amending s. 443.151, F.S.; revising the statute