

Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

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

Amendment (with title amendment)

5 Between lines 843 and 844, insert:

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

8 443.1216 Employment.—Employment, as defined in s. 443.036,
 9 is subject to this chapter under the following conditions:

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

13 1. An officer of a corporation.

14 2. An individual who, under the usual common-law rules
 15 applicable in determining the employer-employee relationship, is
 16 an employee. However, whenever a client, as defined in s.
 17 443.036(18), which would otherwise be designated as an employing
 18 unit has contracted with an employee leasing company to supply

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19 it with workers, those workers are considered employees of the
20 employee leasing company.

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

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

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

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

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

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47 prior 3 state fiscal years or, if the client company has not
48 been a client for the prior 3 state fiscal years, such portion
49 of the prior 3 state fiscal years that the client company has
50 been a client shall be supplied;

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

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

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

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

70 (V) For the purposes of calculating experience rates when
71 the client method is chosen, each client's own benefit charges
72 and wage data experience while with the employee leasing company
73 shall determine each client's tax rate where the client has been
74 a client of the employee leasing company for at least 8 calendar

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75 quarters prior to the election. The client company shall
76 continue to report the nonleased employees under its tax rate.

77 (VI) The election is binding on all clients of the
78 employee leasing company, for as long as a written agreement is
79 in effect between the client and the employee leasing company
80 pursuant to s. 468.525(3) (a). If the relationship between the
81 employee leasing company and the client terminates, the client
82 retains the wage and benefit history experienced under the
83 employee leasing company.

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

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

101 (IX) Following licensure of an employee leasing company, as
102 set forth in s. 468.520 et seq., such newly licensed entity

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

110 (X) Irrespective of the election, all transfers of trade
111 or business, including workforce, or a portion thereof, between
112 employee leasing companies are subject to the provisions of s.
113 443.131(3)(g) if, at the time of the transfer, there is common
114 ownership, management, or control between the entities.

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

117 443.131 Contributions.-

118 (3)

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

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T I T L E A M E N D M E N T

Remove line 20 and insert:

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