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LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
03/29/2013	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Effective January 1, 2014, paragraph (a) of subsection (4) of section 443.151, Florida Statutes, is amended to read:

(4) APPEALS.—

(a) Appeals referees.—The Department of Economic Opportunity shall appoint one or more impartial salaried appeals referees in accordance with s. 443.171(3) to hear and decide appealed claims. An appeals referee must be an attorney in good



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13 standing with the Florida Bar, or must be successfully admitted  
14 to the Florida Bar within 8 months of his or her date of  
15 employment with the department. A person may not participate on  
16 behalf of the department as an appeals referee in any case in  
17 which she or he is an interested party. The department may  
18 designate alternates to serve in the absence or disqualification  
19 of any appeals referee on a temporary basis. These alternates  
20 must have the same qualifications required of appeals referees.  
21 The department shall provide the commission and the appeals  
22 referees with proper facilities and assistance for the execution  
23 of their functions.

24 Section 2. A person who is an employee of the Department of  
25 Economic Opportunity as of the effective date of this act who  
26 acts as an appeals referee and who has received the degree of  
27 Bachelor of Laws or Juris Doctor from a law school accredited by  
28 the American Bar Association, but is not licensed with the  
29 Florida Bar, must become successfully admitted to the Florida  
30 Bar by September 30, 2014.

31 Section 3. Paragraphs (a) and (e) of subsection (30) of  
32 section 443.036, Florida Statutes, are amended to read:

33 443.036 Definitions.—As used in this chapter, the term:

34 (30) "Misconduct," irrespective of whether the misconduct  
35 occurs at the workplace or during working hours, includes, but  
36 is not limited to, the following, which may not be construed in  
37 pari materia with each other:

38 (a) Conduct demonstrating conscious disregard of an  
39 employer's interests and found to be a deliberate violation or  
40 disregard of the reasonable standards of behavior which the  
41 employer expects of his or her employee. Such conduct may



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42 include, but is not limited to, willful damage to an employer's  
43 property that results in damage of more than \$50; or theft of  
44 employer property or property of a customer or invitee of the  
45 employer.

46 (e)1. A violation of an employer's rule, unless the  
47 claimant can demonstrate that:

48 a.1. He or she did not know, and could not reasonably know,  
49 of the rule's requirements;

50 b.2. The rule is not lawful or not reasonably related to  
51 the job environment and performance; or

52 c.3. The rule is not fairly or consistently enforced.

53 2. Such conduct may include, but is not limited to,  
54 committing criminal assault or battery on another employee, or  
55 on a customer or invitee of the employer; or committing abuse or  
56 neglect of a patient, resident, disabled person, elderly person,  
57 or child in her or his professional care.

58 Section 4. Paragraph (d) of subsection (1) of section  
59 443.091, Florida Statutes, is amended to read:

60 443.091 Benefit eligibility conditions.—

61 (1) An unemployed individual is eligible to receive  
62 benefits for any week only if the Department of Economic  
63 Opportunity finds that:

64 (d) She or he is able to work and is available for work. In  
65 order to assess eligibility for a claimed week of unemployment,  
66 the department shall develop criteria to determine a claimant's  
67 ability to work and availability for work. A claimant must be  
68 actively seeking work in order to be considered available for  
69 work. This means engaging in systematic and sustained efforts to  
70 find work, including contacting at least five prospective



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71 employers for each week of unemployment claimed. The department  
72 may require the claimant to provide proof of such efforts to the  
73 one-stop career center as part of reemployment services. A  
74 claimant's proof of efforts may not include the same prospective  
75 employer at the same location for the duration of benefits,  
76 unless the employer has indicated since the time of the initial  
77 contact that the employer is hiring. The department shall  
78 conduct random reviews of work search information provided by  
79 claimants. As an alternative to contacting at least five  
80 prospective employers for any week of unemployment claimed, a  
81 claimant may, for that same week, report in person to a one-stop  
82 career center to meet with a representative of the center and  
83 access reemployment services of the center. The center shall  
84 keep a record of the services or information provided to the  
85 claimant and shall provide the records to the department upon  
86 request by the department. However:

87 1. Notwithstanding any other provision of this paragraph or  
88 paragraphs (b) and (e), an otherwise eligible individual may not  
89 be denied benefits for any week because she or he is in training  
90 with the approval of the department, or by reason of s.  
91 443.101(2) relating to failure to apply for, or refusal to  
92 accept, suitable work. Training may be approved by the  
93 department in accordance with criteria prescribed by rule. A  
94 claimant's eligibility during approved training is contingent  
95 upon satisfying eligibility conditions prescribed by rule.

96 2. Notwithstanding any other provision of this chapter, an  
97 otherwise eligible individual who is in training approved under  
98 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be  
99 determined ineligible or disqualified for benefits due to



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100 enrollment in such training or because of leaving work that is  
101 not suitable employment to enter such training. As used in this  
102 subparagraph, the term "suitable employment" means work of a  
103 substantially equal or higher skill level than the worker's past  
104 adversely affected employment, as defined for purposes of the  
105 Trade Act of 1974, as amended, the wages for which are at least  
106 80 percent of the worker's average weekly wage as determined for  
107 purposes of the Trade Act of 1974, as amended.

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

112 4. Union members who customarily obtain employment through  
113 a union hiring hall may satisfy the work search requirements of  
114 this paragraph by reporting daily to their union hall.

115 5. The work search requirements of this paragraph do not  
116 apply to persons who are unemployed as a result of a temporary  
117 layoff or who are claiming benefits under an approved short-time  
118 compensation plan as provided in s. 443.1116.

119 6. In small counties as defined in s. 120.52(19), a  
120 claimant engaging in systematic and sustained efforts to find  
121 work must contact at least three prospective employers for each  
122 week of unemployment claimed.

123 7. The work search requirements of this paragraph do not  
124 apply to persons required to participate in reemployment  
125 services under paragraph (e).

126 Section 5. Subsection (13) is added to section 443.101,  
127 Florida Statutes, to read:

128 443.101 Disqualification for benefits.—An individual shall



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129 be disqualified for benefits:

130 (13) For any week with respect to which the department  
131 finds that his or her unemployment is due to a discharge from  
132 employment for failure without good cause to maintain a license,  
133 registration, or certification required by applicable law  
134 necessary for the employee to perform her or his assigned job  
135 duties. For purposes of this paragraph, the term "good cause"  
136 includes, but is not limited to, failure of the employer to  
137 submit information required for a license, registration, or  
138 certification; short-term physical injury which prevents the  
139 employee from completing or taking a required test; and  
140 inability to take or complete a required test that is outside  
141 the employee's control.

142 Section 6. Subsection (5) of section 443.131, Florida  
143 Statutes, is amended to read:

144 443.131 Contributions.—

145 (5) ADDITIONAL RATE FOR INTEREST ON FEDERAL ADVANCES.—

146 (a) When the Unemployment Compensation Trust Fund has  
147 received advances from the Federal Government under the  
148 provisions of 42 U.S.C. s. 1321, each contributing employer  
149 shall be assessed an additional rate solely for the purpose of  
150 paying interest due on such federal advances. The additional  
151 rate shall be assessed no later than February 1 in each calendar  
152 year in which an interest payment is due.

153 (b) The Revenue Estimating Conference shall estimate the  
154 amount of ~~such~~ interest due on federal advances no later than  
155 December 1 of the calendar year preceding the calendar year in  
156 which an interest payment is due. The Revenue Estimating  
157 Conference shall, at a minimum, consider the following as the



158 basis for the estimate:

159 1. The amounts actually advanced to the trust fund.

160 2. Amounts expected to be advanced to the trust fund based  
161 on current and projected unemployment patterns and employer  
162 contributions.

163 3. The interest payment due date.

164 4. The interest rate that will be applied by the Federal  
165 Government to any accrued outstanding balances.

166 (c) ~~(b)~~ The tax collection service provider shall calculate  
167 the additional rate to be assessed against contributing  
168 employers. The additional rate assessed for a calendar year  
169 shall be determined by dividing the estimated amount of interest  
170 to be paid in that year by 95 percent of the taxable wages as  
171 described in s. 443.1217 paid by all employers for the year  
172 ending June 30 of the immediately preceding calendar year. The  
173 amount to be paid by each employer shall be the product obtained  
174 by multiplying such employer's taxable wages as described in s.  
175 443.1217 for the year ending June 30 of the immediately  
176 preceding calendar year by the rate as determined by this  
177 subsection. If the amount of assessments on deposit from  
178 previous years, plus any earned interest, is at least 80 percent  
179 of the estimated amount of interest, then an assessment may not  
180 be made.

181 (d) The tax collection service provider shall make a  
182 separate collection of such assessment, which may be collected  
183 at the time of employer contributions and subject to the same  
184 penalties for failure to file a report, imposition of the  
185 standard rate pursuant to paragraph (3) (h), and interest if the  
186 assessment is not received on or before June 30. Section



187 443.141(1)(d) and (e) does not apply to this separately  
188 collected assessment. The tax collection service provider shall  
189 maintain those funds in the tax collection service provider's  
190 Audit and Warrant Clearing Trust Fund until the provider is  
191 directed by the Governor or the Governor's designee to make the  
192 interest payment to the Federal Government. Assessments on  
193 deposit shall be available to pay the interest on advances  
194 received from the Federal Government under 42 U.S.C. s. 1321.  
195 Assessments on deposit may be invested and any interest earned  
196 shall be part of the balance available to pay the interest on  
197 advances received from the Federal Government under 42 U.S.C. s.  
198 1321.

199 (e) Four months after ~~In the calendar year that~~ all  
200 advances from the Federal Government under 42 U.S.C. s. 1321 and  
201 associated interest are repaid, ~~if there are assessment funds in~~  
202 ~~excess of the amount required to meet the final interest~~  
203 ~~payment,~~ any ~~such~~ excess assessed funds in the Audit and Warrant  
204 Clearing Trust Fund, including associated interest, shall be  
205 transferred to the Unemployment Compensation Trust Fund ~~credited~~  
206 ~~to employer accounts in the Unemployment Compensation Trust Fund~~  
207 ~~in an amount equal to the employer's contribution to the~~  
208 ~~assessment for that year divided by the total amount of the~~  
209 ~~assessment for that year, the result of which is multiplied by~~  
210 ~~the amount of excess assessed funds.~~ Any assessment amounts  
211 subsequently collected shall also be transferred to the  
212 Unemployment Compensation Trust Fund.

213 (f) However, If the state is permitted to defer interest  
214 payments due during a calendar year under 42 U.S.C. s. 1322,  
215 payment of the interest assessment shall not be due. If a





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216 deferral of interest expires or is subsequently disallowed by  
217 the Federal Government, either prospectively or retroactively,  
218 the interest assessment shall be immediately due and payable.  
219 Notwithstanding any other provision of this section, if interest  
220 due during a calendar year on federal advances is forgiven or  
221 postponed under federal law and is no longer due during that  
222 calendar year, no interest assessment shall be assessed against  
223 an employer for that calendar year, and any assessment already  
224 assessed and collected against an employer before the  
225 forgiveness or postponement of the interest for that calendar  
226 year shall be credited to such employer's account in the  
227 Unemployment Compensation Trust Fund. However, such funds may be  
228 used only to pay benefits or refunds of erroneous contributions.

229 (g) This subsection expires July 1, 2014.

230 Section 7. Except as otherwise expressly provided in this  
231 act and except for this section, which shall take effect upon  
232 this act becoming a law, this act shall take effect July 1,  
233 2013.

234  
235 ===== T I T L E A M E N D M E N T =====

236 And the title is amended as follows:

237 Delete everything before the enacting clause  
238 and insert:

239 A bill to be entitled

240 An act relating to reemployment assistance; amending  
241 s. 443.151, F.S.; requiring an appeals referee to be  
242 an attorney in good standing with the Florida Bar or  
243 successfully admitted within 8 months of hire;  
244 providing for a person who is an appeals referee as of



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245 the effective date of this act to become licensed by  
246 the Florida Bar by September 30, 2014; amending s.  
247 443.036, F.S.; providing examples of misconduct;  
248 amending s. 443.091, F.S.; limiting a claimant's use  
249 of the same prospective employer to meet work search  
250 requirements; providing an exception; providing that  
251 work search requirements do not apply to individuals  
252 required to participate in reemployment services;  
253 amending s. 443.101, F.S.; providing for  
254 disqualification in any week with respect to which the  
255 department finds that his or her unemployment is due  
256 to failure without good cause to maintain a license,  
257 registration, or certification required by applicable  
258 law necessary for the employee to perform her or his  
259 assigned job duties; providing examples of "good  
260 cause"; amending s. 443.131, F.S.; requiring the tax  
261 collection service provider to calculate a certain  
262 additional rate; providing for when an assessment may  
263 not be made; requiring assessments to be available to  
264 pay interest on federal advances; requiring certain  
265 excess funds to be transferred to the Unemployment  
266 Compensation Trust Fund after a certain time period;  
267 deleting the provision referring to crediting employer  
268 accounts; providing an expiration date; providing  
269 effective dates.