

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 990

INTRODUCER: Rules Committee and Senator Gibson and others

SUBJECT: Unemployment Compensation

DATE: April 17, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>McKay</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 990 provides that an individual may not be disqualified from receiving reemployment assistance benefits if he or she voluntarily leaves work as a direct result of circumstances related to domestic violence.

The bill takes effect July 1, 2019.

II. Present Situation:

Reemployment Assistance Program

According to the United States Department of Labor, the purpose of the Federal-State Unemployment Insurance Program is to provide unemployment benefits to eligible workers who, through no fault of their own, are unemployed. Each state may determine eligibility requirements using its own criteria and laws.¹ The program is administered as a partnership between the federal government and state governments.

Florida's unemployment insurance program was created by the Legislature in 1937 during the Great Depression.² The Legislature noted that, after examining the widespread unemployment in

¹ United States Department of Labor, Employment and Training Administration, State Unemployment Insurance Benefits, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited March 22, 2019).

² Ch. 18402, s. 1, Laws of Fla. (1937).

the state and nation, the problem of unemployment could better be met by the “Compulsory Unemployment Insurance Plan” which was then handled by “poor relief, assistance and voluntary contributions.” The Legislature enacted a measure that required “the compulsory setting aside of financial reserves for the benefit of persons unemployed through no fault of their own.”³ The program was rebranded as the “Reemployment Assistance Program” in 2012.⁴

The Reemployment Assistance Program is described on its website as “What it is” and “What it is not.” The program is:

- Temporary, partial wage replacement benefits:
 - For qualified workers;
 - Who are unemployed, but due to no fault of their own;
- A support for economic stability for employers who depend on the spending of consumers;
- Funded entirely by employers who pay state and federal payroll taxes; and
- Provided without cost to the workers who actually receive the benefits.

The Reemployment Assistance Program is not:

- Social Security.
- An automatic entitlement or loan to the unemployed worker.
- Based upon the worker’s need.
- Intended as a full replacement for the worker’s previous income.
- Funded through deductions from the worker’s previous wages.⁵

The Department of Economic Opportunity (DEO) is responsible for administering Florida’s reemployment assistance laws, primarily through its Division of Workforce Services.⁶

An unemployed individual must apply to the DEO for benefits using Florida’s Online Reemployment Assistance System.⁷ To receive reemployment assistance (RA) benefits, a claimant must meet certain monetary and nonmonetary eligibility requirements and provide proof of identification.⁸ Key eligibility requirements involve a claimant’s earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant’s efforts to find new employment. A notice of claim is sent to a claimant’s most recent employer and all employers whose employment records are liable for benefits.⁹

Benefits

A qualified claimant may receive RA benefits equal to 25 percent of wages, not to exceed \$6,325 in a benefit year.¹⁰ Benefits range from a minimum of \$32 per week to a maximum weekly

³ *Id.*

⁴ Ch. 2012-30, s. 1, Laws of Fla.

⁵ Florida Department of Economic Opportunity, *Reemployment Assistance Handbook*, 6, http://www.floridajobs.org/unemployment/bri/bri_english.pdf.

⁶ Section 20.60(5)(c)3., F.S., and s. 443.171, F.S.

⁷ Fla. Admin Code R. 73B-11.013 (2019).

⁸ See s. 443.091, F.S., and Fla. Admin. Code R. 73B-11.013.

⁹ Section 443.151(3)(a), F.S.

¹⁰ Section 443.111(5)(b), F.S. The maximum amount of benefits available is calculated by multiplying an individual’s weekly benefit amount by the number of available benefit weeks.

benefit amount of \$275 for up to 23 weeks, depending on the claimant's length of prior employment, wages earned, and the unemployment rate.¹¹

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. For example, each week an individual is required to contact at least five prospective employers (three prospective employers if the individual resides in a small county) or report to the one-stop career center¹² for reemployment services.¹³

Disqualification for Benefits

Section 443.101(1)(a), F.S., specifies the circumstances under which an individual is disqualified from receiving RA benefits. An individual must be disqualified for benefits for the week in which he or she has voluntarily left work without good cause attributable to his or her employing unit or has been discharged by the employing unit for misconduct connected with his or her work, based on a finding by the DEO. Disqualification for voluntarily quitting continues for the full period of unemployment next ensuing after the individual has left his or her full-time, part-time, or temporary work voluntarily without good cause and until the individual has earned income equal to or greater than 17 times his or her weekly benefit amount.

An individual is not disqualified for voluntarily leaving temporary work to immediately return when called to work by the permanent employing unit that temporarily terminated his or her work within the previous 6 calendar months, or for voluntarily leaving work to relocate as a result of his or her military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders.

An individual will lose eligibility for benefits if DEO determines that he or she failed to apply for or accept suitable work when offered.¹⁴

Financing Reemployment Assistance

In Florida, RA benefits are financed solely through contributions by employers. Generally, a private employer is considered a contributory employer who pays a quarterly tax on the business into the Unemployment Compensation Trust Fund. In contrast, a reimbursable employer is generally a government employer such as the military, counties, and state and federal agencies. The reimbursable employer pays back the amount of benefits received by claimants. A public employer may choose to become a contributory employer, as provided by statute.¹⁵

¹¹ Section 443.111(3), F.S. Pursuant to s. 443.111(5), F.S., if the average unemployment rate for the 3 months in the most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12; for each 0.5 percent that the unemployment rate is above 5 percent, an additional week of benefits becomes available for up to 23 weeks at an unemployment rate of 10.5 percent.

¹² The one-stop delivery system is Florida's primary customer service strategy for offering access to job search, referral, and placement assistance; career counseling and educational planning; and other services. Section 445.009, F.S.

¹³ Section 443.091(1), F.S.

¹⁴ Section 443.101(2), F.S.

¹⁵ Section 443.1313, F.S. Pursuant to s. 443.131, F.S., employers are required to submit quarterly tax and wage reports. The calculation for determining each employer's tax rate is set in statute and takes into consideration several factors. However, only the first \$7,000 of an employee's wages paid in a calendar year is taxable for reemployment tax purposes. See also Florida Department of Revenue, *Florida Reemployment Tax*, <http://floridarevenue.com/taxes/taxesfees/Pages/reemployment.aspx>.

Domestic Violence

Section 741.28, F.S., defines domestic violence as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

The Florida Department of Law Enforcement (FDLE) data indicates that there were a total of 106,979 acts of domestic violence reported in 2017, and 64,781 arrests based on those acts.¹⁶ Currently, Florida has 42 certified domestic violence shelters.¹⁷ In Fiscal Year 2016-2017, the Florida Department of Children and Families reported that a total of 14,412 people were admitted to domestic violence shelters for the first time, while over 37,000 people received new non-residential services from a certified shelter.¹⁸

III. Effect of Proposed Changes:

The bill amends s. 443.101, F.S., to provide that an individual may not be disqualified from receiving reemployment assistance if he or she voluntarily leaves work and is able to prove that the discontinuation of employment is a direct result of circumstances related to domestic violence.

An individual who leaves voluntarily work as a result of domestic violence must:

- Make reasonable efforts to preserve employment or to decrease the risk of future incidents of domestic violence, unless such remedies are likely to be futile or to increase the risk of future incidents of domestic violence. Such efforts may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment.
- Provide evidence such as an injunction, a protective order or other documentation authorized by state law which reasonably proves that domestic violence has occurred.
- Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment.

An individual who is otherwise eligible for reemployment assistance under these criteria is ineligible for each week that he or she no longer meets these criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.

¹⁶ Florida Department of Law Enforcement, *Domestic Violence, Domestic Violence Offenses in Florida 1997-2017*, <http://www.fdle.state.fl.us/FSAC/Crime-Trends/Domestic-Violence> The FDLE includes murder, manslaughter, rape, fondling, aggravated assault, aggravated stalking, simple assault, threat/intimidation, and stalking in this data.

¹⁷ Florida Coalition Against Domestic Violence, *2016-2017 Annual Report to the Florida Legislature: 40th Anniversary Edition*, <http://www.dcf.state.fl.us/programs/domesticviolence/publications/docs/2017AnnualReport%2021%20DEC%2017.pdf> .

¹⁸ Department of Children and Families, *Domestic Violence Annual Report, 7/1/2016 - 6/30/2017*, <http://www.dcf.state.fl.us/programs/domesticviolence/publications/docs/2016-2017%20Annual%20Statistics.pdf> (last visited March 22, 2019).

The bill amends sections 443.101 and 443.131, F.S., to provide that for contributory employers, the employment record of an employing unit may not be charged for the payment of benefits to an individual who has voluntarily left work pursuant to the bill's provisions.

The bill has an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill prohibits charging the employment record of contributory employers for benefits paid pursuant to the bill's provisions.

C. Government Sector Impact:

According to the Department of Economic Opportunity's Fiscal Analysis, the changes required by this bill may increase Unemployment Benefit expenditures for direct bill governments. The Department did not have any relevant statistics for Florida at the time the analysis was published. The analysis, however, looked to Texas, a state that enacted a similar provision, and found that approximately 200 people were affected annually. If Florida experienced a similar number of claims for the full 12 weeks, the fiscal impact of the bill could be a \$660,000 increase in benefits paid annually. The bill would also

require an estimated 640 hours of staff and contract time to implement. That cost would be \$47,000 to implement, an amount that DEO stated it could absorb in its budget.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends sections 443.101 and 443.131 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Rules on April 17, 2019:

The committee substitute clarifies that reasonable efforts to preserve employment are not required if such efforts are likely to be futile or to increase the risk of future incidents of domestic violence, and clarifies that the employment record of an employer may not be charged for benefits paid to an individual who has voluntarily left work pursuant to the bill's provisions.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁹ Department of Economic Opportunity, House Bill 563 Fiscal Analysis (Feb. 14, 2019)
<http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=28647>.