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LEGISLATIVE ACTION

Senate

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House

The Committee on Commerce and Tourism (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 73 - 216

and insert:

contributions at the initial rate of 2.7 percent. For tax rates effective on or after January 1, 2021, if the client company's employment record is chargeable with benefits for less than 8 calendar quarters while being a client of the employee leasing company, the client company must pay contributions at the initial rate of 1.0 percent. However, the tax collection service



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11 provider may not adjust the initial rate for any year in which
12 the balance in the Unemployment Compensation Trust Fund requires
13 the computation of a positive adjustment factor under s.
14 443.131(3)(e)2.a.(III); and

15 (D) The wage data and benefit charges for the prior 3 state
16 fiscal years that cannot be associated with a client company
17 must be reported and charged to the employee leasing company.

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

20 (IV) The employee leasing company shall file a Florida
21 Department of Revenue Employer's Quarterly Report for each
22 client company by approved electronic means, and pay all
23 contributions by approved electronic means.

24 (V) For the purposes of calculating experience rates when
25 the client method is chosen, each client's own benefit charges
26 and wage data experience while with the employee leasing company
27 determines each client's tax rate where the client has been a
28 client of the employee leasing company for at least 8 calendar
29 quarters before the election. The client company shall continue
30 to report the nonleased employees under its tax rate.

31 (VI) The election is binding on each client of the employee
32 leasing company for as long as a written agreement is in effect
33 between the client and the employee leasing company pursuant to
34 s. 468.525(3)(a). If the relationship between the employee
35 leasing company and the client terminates, the client retains
36 the wage and benefit history experienced under the employee
37 leasing company.

38 (VII) Notwithstanding which election method the employee
39 leasing company chooses, the applicable client company is an



40 employing unit for purposes of s. 443.071. The employee leasing
41 company or any of its officers or agents are liable for any
42 violation of s. 443.071 engaged in by such persons or entities.
43 The applicable client company or any of its officers or agents
44 are liable for any violation of s. 443.071 engaged in by such
45 persons or entities. The employee leasing company or its
46 applicable client company is not liable for any violation of s.
47 443.071 engaged in by the other party or by the other party's
48 officers or agents.

49 (VIII) If an employee leasing company fails to select the
50 client method of reporting not later than July 1, 2012, the
51 entity is required to report under the employee leasing
52 company's tax identification number and contribution rate.

53 (IX) After an employee leasing company is licensed pursuant
54 to part XI of chapter 468, each newly licensed entity has 30
55 days after the date the license is granted to notify the tax
56 collection service provider in writing of their selection of the
57 client method. A newly licensed employee leasing company that
58 fails to timely select reporting pursuant to the client method
59 of reporting must report under the employee leasing company's
60 tax identification number and contribution rate.

61 (X) Irrespective of the election, each transfer of trade or
62 business, including workforce, or a portion thereof, between
63 employee leasing companies is subject to the provisions of s.
64 443.131(3)(g) if, at the time of the transfer, there is common
65 ownership, management, or control between the entities.

66 b. In addition to any other report required to be filed by
67 law, an employee leasing company shall submit a report to the
68 Labor Market Statistics Center within the Department of Economic



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69 Opportunity which includes each client establishment and each
70 establishment of the leasing company, or as otherwise directed
71 by the department. The report must include the following
72 information for each establishment:

- 73 (I) The trade or establishment name;
- 74 (II) The former reemployment assistance account number, if
75 available;
- 76 (III) The former federal employer's identification number,
77 if available;
- 78 (IV) The industry code recognized and published by the
79 United States Office of Management and Budget, if available;
- 80 (V) A description of the client's primary business activity
81 in order to verify or assign an industry code;
- 82 (VI) The address of the physical location;
- 83 (VII) The number of full-time and part-time employees who
84 worked during, or received pay that was subject to reemployment
85 assistance taxes for, the pay period including the 12th of the
86 month for each month of the quarter;
- 87 (VIII) The total wages subject to reemployment assistance
88 taxes paid during the calendar quarter;
- 89 (IX) An internal identification code to uniquely identify
90 each establishment of each client;
- 91 (X) The month and year that the client entered into the
92 contract for services; and
- 93 (XI) The month and year that the client terminated the
94 contract for services.

95 c. The report must be submitted electronically or in a
96 manner otherwise prescribed by the Department of Economic
97 Opportunity in the format specified by the Bureau of Labor



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98 Statistics of the United States Department of Labor for its
99 Multiple Worksite Report for Professional Employer
100 Organizations. The report must be provided quarterly to the
101 Labor Market Statistics Center within the department, or as
102 otherwise directed by the department, and must be filed by the
103 last day of the month immediately after the end of the calendar
104 quarter. The information required in sub-sub-subparagraphs b.(X)
105 and (XI) need be provided only in the quarter in which the
106 contract to which it relates was entered into or terminated. The
107 sum of the employment data and the sum of the wage data in this
108 report must match the employment and wages reported in the
109 reemployment assistance quarterly tax and wage report.

110 d. The department shall adopt rules as necessary to
111 administer this subparagraph, and may administer, collect,
112 enforce, and waive the penalty imposed by s. 443.141(1)(b) for
113 the report required by this subparagraph.

114 e. For the purposes of this subparagraph, the term
115 "establishment" means any location where business is conducted
116 or where services or industrial operations are performed.

117 3. An individual other than an individual who is an
118 employee under subparagraph 1. or subparagraph 2., who performs
119 services for remuneration for any person:

120 a. As an agent-driver or commission-driver engaged in
121 distributing meat products, vegetable products, fruit products,
122 bakery products, beverages other than milk, or laundry or
123 drycleaning services for his or her principal.

124 b. As a traveling or city salesperson engaged on a full-
125 time basis in the solicitation on behalf of, and the
126 transmission to, his or her principal of orders from



127 wholesalers, retailers, contractors, or operators of hotels,
128 restaurants, or other similar establishments for merchandise for
129 resale or supplies for use in the business operations. This sub-
130 subparagraph does not apply to an agent-driver or a commission-
131 driver and does not apply to sideline sales activities performed
132 on behalf of a person other than the salesperson's principal.

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

135 a. The contract of service contemplates that substantially
136 all of the services are to be performed personally by the
137 individual;

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

141 c. The services are not in the nature of a single
142 transaction that is not part of a continuing relationship with
143 the person for whom the services are performed.

144 Section 2. Paragraph (a) of subsection (2) of section
145 443.131, Florida Statutes, is amended to read:

146 443.131 Contributions.—

147 (2) CONTRIBUTION RATES.—Each employer must pay
148 contributions equal to the following percentages of wages paid
149 by him or her for employment:

150 (a) *Initial rate.*—Each employer whose employment record is
151 chargeable with benefits for less than 8 calendar quarters shall
152 pay contributions at the initial rate of 2.7 percent. For tax
153 rates effective on or after

154
155 ===== T I T L E A M E N D M E N T =====



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156 And the title is amended as follows:
157 Delete line 4
158 and insert:
159 revising the initial rate that certain client