

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 Commerce and Tourism

BILL: CS/SB 1906

INTRODUCER: Commerce and Tourism Committee and Senator Brodeur and others

SUBJECT: Reemployment Assistance

DATE: March 30, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1906 changes the state's reemployment assistance weekly benefit amount from a range of \$32 to \$275 per week to \$100 to \$375 per week.

The bill removes the requirement that a claimant must include the telephone number of each prospective employer contacted for each week of unemployment claimed, clarifies that "address" means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted, and reduces the number of prospective employers that reemployment assistance claimants must contact each week from five to three.

The Revenue Estimating Conference has not yet estimated the impact of the bill.

The bill takes effect July 1, 2021.

II. Present Situation:

Unemployment Compensation Overview

According to the U.S. Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no-fault of their own (as determined under state law) and who meet the requirements of

state law.¹ The program is administered as a partnership of the federal government and the states.² The individual states collect unemployment compensation (UC) payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA).³ FUTA collections go to the states for costs of administering state UC and job service programs. In addition, FUTA pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.⁴

States are permitted to set benefit eligibility requirements, the amount and duration of benefits, and the state tax structure, as long as state law does not conflict with FUTA or Social Security Act requirements. Florida's UC program was created by the Legislature in 1937.⁵ The Department of Economic Opportunity (DEO) is the current agency responsible for administering Florida's UC laws, primarily through its Division of Workforce Services. DEO contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collections services.⁶

State Reemployment Assistance Benefits

In Florida, which rebranded the unemployment compensation program as the reemployment assistance (RA) program in 2012,⁷ a qualified claimant may receive RA benefits equal to 25 percent of wages, not to exceed \$6,325 in a benefit year.⁸ Benefits range from a minimum of \$32 per week to a maximum weekly benefit amount⁹ of \$275, for a minimum of 12 weeks and maximum of 23 weeks,¹⁰ depending on the claimant's length of prior employment and wages earned, and the unemployment rate.¹¹

¹ USDOL, *State Unemployment Insurance Benefits*, available at: <https://oui.doleta.gov/unemploy/uifactsheet.asp> (last visited Mar. 30, 2021).

² There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia. USDOL, *Unemployment Compensation, Federal – State Partnership*, available at: <https://oui.doleta.gov/unemploy/pdf/partnership.pdf> (last visited Mar. 30, 2021).

³ FUTA is codified at 26 U.S.C. § 3301-3309.

⁴ USDOL, *Unemployment Insurance Tax Topic*, available at: <https://oui.doleta.gov/unemploy/uitaxtopic.asp#:~:text=FUTA%20taxes%20are%20calculated%20by%20times%20the%20employer's%20taxable%20wages.&text=Employers%20who%20pay%20their%20state,tax%20paid%20to%20the%20state> (last visited Mar. 30, 2021).

⁵ Chapter 18402, Laws of Fla.

⁶ Section 443.1316, F.S.

⁷ Ch. 2012-30, Laws of Fla.

⁸ Section 443.111(5), 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.

⁹ Pursuant to s. 443.111(3), F.S., the "weekly benefit amount," is an amount equal to one twenty-sixth of the total wages for insured work paid during the quarter of the base period where the wages paid were highest.

¹⁰ Section 443.111(5)(c), 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 up to 23 weeks at an unemployment rate of 10.5 percent. On January 1, 2021, the maximum weeks of benefits increased from 12 weeks to 19 weeks based on the three month average of July, August, and September of 2020, which was 8.7 percent.

¹¹ The average weekly benefit amount for the first two quarters of 2020 was approximately \$252; the average weekly benefit amount for the third two quarter of 2020 was approximately \$236. USDOL data from report generated at UI Replacement Rates Report, available at: https://oui.doleta.gov/unemploy/ui_replacement_rates.asp (last visited Mar. 30, 2021).

To receive RA benefits, a claimant must meet certain monetary and non-monetary eligibility requirements. Key eligibility requirements involve a claimant's earnings during a certain period of time,¹² the manner in which the claimant became unemployed,¹³ and the claimant's efforts to find new employment.¹⁴

Able and Available for Work

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. These include a finding by DEO that the individual:¹⁵

- Has filed a claim for benefits;
- Is registered to work and reports to the One-Stop Career Center;
- Is reporting required information to the DEO;
- Is able to and available for work;¹⁶
- Contacts at least 5 prospective employers each week or reports to the One-Stop Career Center for reemployment services;
- Participates in reemployment services;
- Has been unemployed for a waiting period of 1 week;
- Has been paid total base period wages equal to the high quarter wages multiplied by 1.5, but at least \$3,400 in the base period; and
- Has submitted a valid social security number to the DEO.

Rule 73B-11.021(2), F.A.C., provides that in order to be eligible for benefits an individual must be able to work and available for work during the major portion of the individual's customary work week. Consequently, individuals whose benefits are not based on full-time work are not required to seek or be available to accept full-time work.

An individual must make a thorough and continued effort to obtain work and take positive actions to become reemployed. To aid unemployed individuals, free reemployment services and assistance are available.¹⁷

DEO's website provides links to local, state, and national employment databases. Claimants are automatically registered with their local One-Stop Career Center when their claims are filed and are required to report to the One-Stop Career Center as directed by the regional workforce board

¹² Section 443.091(g), F.S., requires an individual to have been paid wages for insured work equal to 1.5 times their high quarter wages during their "base period," except that an individual is not eligible to receive benefits if the base period wages are less than \$3,400. Section 443.036, F.S. defines "base period" as the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

¹³ See s. 443.101, F.S.

¹⁴ Section 443.091(d), F.S., requires RA claimant's to contact at least five prospective employers for each week of unemployment claimed.

¹⁵ Section 443.091(1), F.S.

¹⁶ "Able to work" means physically and mentally capable of performing the duties of the occupation in which work is being sought. "Available for work" means actively seeking and being ready and willing to accept suitable work. See s. 443.036(1) and (6), F.S.

¹⁷ Rule 73B-3.011(12), F.A.C. "Reemployment services" is defined as job search assistance, job and vocational training referrals, employment counseling and testing, labor market information, employability skills enhancement, needs assessment, orientation, and other related services provided by One-Stop Career Centers operated by local regional workforce boards

for reemployment services.¹⁸ The One-Stops provide job search counseling and workshops, occupational and labor market information, referral to potential employers, and job training assistance. Claimants may also receive an e-mail from the Employ Florida Marketplace with information about employment services or available jobs.¹⁹ Additionally, a claimant may be selected to participate in reemployment assistance services, such as the Reemployment Services and Eligibility Assessment (RESEA) program, designed to address the reemployment needs of RA claimants.²⁰

Disqualification for Unemployment Compensation

Section 443.101, F.S., specifies the circumstances under which an individual would be disqualified from receiving RA benefits, to include:

- Voluntarily leaving work without good cause, or being discharged by his or her employing unit for misconduct connected with the work;²¹
- Failing to apply for available suitable work when directed by the DEO or the One-Stop Career Center, to accept suitable work when offered, or to return to suitable self-employment when directed to do so;²²
- Receiving certain types of remuneration;
- Becoming unemployed due to an active labor dispute;
- Receiving unemployment or reemployment assistance from other government sources, with exceptions;
- Making false or fraudulent representations in filing for benefits;
- Unlawful presence in the U.S.;
- Receiving specified pension benefits;
- Termination from employment for a crime punishable by imprisonment, or any dishonest act in connection with his or her work;
- Being a certain type of leased employee;
- Being discharged from employment due to drug use or rejection from a job offer for failing a drug test;
- Becoming unavailable for work due to incarceration or imprisonment; and
- Being discharged for failure without cause to maintain required licenses or registrations.

The statute specifies the duration of the disqualification and the requirements for requalification for an individual's next benefit claim, depending on the reason for the disqualification.

¹⁸ Section 443.091(1)(b), F.S.

¹⁹ Employ Florida Marketplace is a partnership of Workforce Florida, Inc., and the DEO. It provides job-matching and workforce resources. See <https://www.employflorida.com>.

²⁰ RESEA services may include an orientation, initial assessment, labor market information, employability development plan, and work search services. See <https://floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/reemployment-services-and-eligibility-assessment-program> (last visited Mar. 30, 2021). Rule 73B-3.028, F.A.C., provides more information on reemployment services and requirements for participation.

²¹ An individual is not disqualified for voluntarily leaving temporary work to return to full time work, or to relocate with his or her military spouse due to relocation orders, or due to circumstances related to domestic violence.

²² Section 443.101(2), F.S., sets forth the requirements to determine "suitable work."

Financing Unemployment Compensation

State Unemployment Compensation Contributions

Florida sets its own taxable wage base and rate. The funds collected are paid into the UC Trust Fund, which is maintained at the U.S. Treasury.²³ The trust fund is primarily financed through the contributory method—by employers who pay taxes on employee wages.²⁴ Employers' state UC taxes are used solely to pay RA benefits to unemployed Floridians.

Currently, an employer pays taxes on the first \$7,000 of an employee's wages.²⁵ An employer's initial state tax rate is 2.7 percent.²⁶ After an employer is subject to benefit charges for 8-calendar quarters, the standard tax rate is 5.4 percent, but may be adjusted down to a low of 0.1 percent.²⁷ The adjustment in the tax rate is determined by calculating several factors, including benefit charges associated with the employer, socialized costs,²⁸ and the balance of the UC Trust Fund.

Employer contributions are due in the month following the end of the quarter (April 30, July 31, October 31, and January 31). Most employers will have paid the \$7,000 wage base to their employees in the first or second quarter of the year, making their total UC payments due early in the year.

State Unemployment Compensation Contribution – Trust Fund Triggers

Florida's tax calculation method, especially due to the benefit ratio, is closer to a "pay as you go" approach, in which taxes increase rapidly after a surge in benefit costs. Economic conditions resulting in abnormally high unemployment accompanied by high benefit charges can cause a severe drain on the UC Trust Fund. The effect triggers the positive fund balance adjustment factor, which consequently increases tax rates for all employers. Conversely, when unemployment is low, the negative fund balance adjustment factor triggers, and tax rates for employers are reduced accordingly.²⁹

²³ Section 443.191, F.S.

²⁴ Nonprofit employers may choose to finance compensation through either the contributory method or the reimbursement method. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. The employer is otherwise not required to make payments to the trust fund. *See s. 443.1312*, F.S. The state and local governments are reimbursing employers. Most employers are contributory employers.

²⁵ Section 443.1217(2), F.S.

²⁶ Section 443.131(2)(a), F.S.

²⁷ Section 443.131(2)(b) and (3)(d), F.S.

²⁸ Socialized costs include the noncharge ratio (benefits not attributable to any employer over the last 3 years, also called "overpayments"), the excess payments ratio (that portion of benefit charges which exceed the maximum rate of 5.4 percent), and the fund size factor (requires the trust fund maintain a certain balance, discussed below as "triggers"). *See also* DOR, *Reemployment Tax rate Information: How Rates are Calculated*, available at: https://floridarevenue.com/taxes/taxesfees/Pages/rt_rate.aspx (last visited Mar. 30, 2021).

²⁹ If the balance of the UC Trust Fund is below 4 percent of the taxable payrolls for the year immediately preceding the calendar year for which the contribution rate is being computed, then a positive adjustment factor is computed. The positive adjustment factor remains in effect for subsequent years until the balance of the UC Trust Fund equals or exceeds 4 percent of the taxable payrolls. However, if the balance of the UC Trust Fund is above 5 percent of the taxable payrolls for the year immediately preceding the calendar year for which the contribution rate is being computed, then a negative adjustment factor must be computed. The negative adjustment factor remains in effect for subsequent years until the balance of the UC Trust Fund exceeds 4 percent but is less than 5 percent of the taxable payrolls of that year. *See s. 443.131(3)(e)*, F.S.

The basis for the adjustment factors is the level of the trust fund on September 30 of each calendar year compared to the taxable payrolls for the previous year. Each adjustment factor remains in effect until the balance of the trust fund rises above or falls below the respective trigger percentage.³⁰

Other States

The maximum weekly benefit amount (WBA) and maximum weeks of assistance for unemployment compensation vary by state. For instance, California offers unemployment insurance applicants a maximum WBA of \$450 for up to 26 weeks; Texas offers a maximum WBA of \$535 for up to 26 weeks; New York offers a maximum WBA of \$504 for up to 26 weeks; Georgia offers a maximum WBA of \$365 for up to 20 weeks; North Carolina offers a maximum WBA of \$350 for up to 20 weeks; and Alabama offers a maximum WBA of \$275 for up to 14 weeks.³¹

Federal Unemployment Assistance Related to Covid-19

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law.³² It expanded states' abilities to provide unemployment benefits for workers impacted by the COVID-19 pandemic, and included assistance to workers who are not ordinarily eligible for unemployment benefits.³³ The CARES Act included Federal Pandemic Unemployment Compensation (FPUC),³⁴ Pandemic Unemployment Assistance (PUA),³⁵ and Pandemic Emergency Unemployment Compensation (PEUC)³⁶ to aid individuals whose employment was negatively impacted as a result of COVID-19.³⁷

On December 27, 2020, the federal COVID-19 relief package was extended to provide additional federal unemployment benefits to eligible claimants.³⁸ The package included an additional \$300

³⁰ For tax years 2010 and 2011, the Legislature turned the trust fund trigger "off" to avoid a significant rate increase for employers. Section 3, ch. 2010-1, Laws of Fla.

³¹ See USDOL, Significant Provisions of State Unemployment Insurance Laws Effective July 2020, available at: <https://oui.doleta.gov/unemploy/content/sigpros/2020-2029/July2020.pdf> (last visited Mar. 30, 2021).

³² See USDOL, *Unemployment Insurance Relief During COVID-19 Outbreak*, available at: <https://www.dol.gov/coronavirus/unemployment-insurance> (last visited Mar. 30, 2021).

³³ *Id.*

³⁴ The FPUC provided an additional \$600 per week to any individual eligible under Florida or Federal law for RA requested for the weeks between March 29, 2020 and July 25, 2020.

³⁵ The PUA provided benefits to those not ordinarily eligible for RA. Eligible individuals could receive up to \$275 per week in benefits for up to 39 weeks beginning February 2, 2020 through the week ending December 26, 2020, as well as the additional \$600 of FPUC benefits.

³⁶ The PEUC provided an additional 13 weeks of benefits to individuals who exhausted their regular benefits beginning on March 29, 2020 through the week ending December 26, 2020.

³⁷ See Department of Economic Opportunity, *Reemployment Assistance Resource Guide – COVID-19* at 13, available at: http://floridajobs.org/docs/default-source/reemployment-assistance-center/new-individual-faq-includes-cares-act-final.pdf?sfvrsn=5f2547b0_77 (last visited Mar. 30, 2021).

³⁸ See Department of Economic Opportunity, *COVID-19 Relief Provision – 2021*, available at: http://floridajobs.org/docs/default-source/reemployment-assistance-center/cares-act/covid-19-relief-provisions-2021.pdf?sfvrsn=2f5b4ab0_2 (last visited Mar. 30, 2021).

of FPUC benefits³⁹ for Floridians receiving state or federal RA benefits, an increase of 11 weeks under the PEUC for claimants who exhausted their state RA claim,⁴⁰ and a PUA extension.⁴¹

On March 11, 2021, the American Rescue Plan Act further extended unemployment benefits.⁴² The PEUC and PUA benefit programs are extended to September 6, 2021, and eligible claimants can also receive an additional \$300 under the FPUC.⁴³

Florida also opted to provide benefits under the Mixed Earner Unemployment Compensation (MEUC) program.⁴⁴ MEUC provides an additional \$100 to eligible claimants who receive RA benefits and earned at least \$5,000 from self-employment in the tax year immediately prior to when the claimant filed their initial RA claim.⁴⁵ Additionally, the Federal Lost Wages Assistance (LWA) program provided states with aid through the Federal Emergency Management Agency (FEMA).⁴⁶ This program was available to eligible Floridians for 4 weeks,⁴⁷ and provided an additional \$300.⁴⁸

III. Effect of Proposed Changes:

The bill amends s. 443.111, F.S., to change the state's reemployment assistance weekly benefit amount from a range of \$32 to \$275 per week to \$100 to \$375 per week, and makes the corresponding change for the maximum amount in any benefit year from \$6,325 to \$8,625.

The bill amends s. 443.091(1)(c), F.S., to remove the requirement that a claimant must include the telephone number of each prospective employer contacted for each week of unemployment claimed, and clarifies that "address" means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted.

³⁹ FPUC is available to eligible claimants for the week beginning December 27, 2020, through the week ending March 13, 2021. *See Id.*

⁴⁰ The PEUC allows up to an additional 24 weeks of benefits. It will also provide claimants with up to \$275 in weekly benefits available beginning December 27, 2020, through the week ending March 13, 2021, plus the FPUC (\$300) payments for weeks requested beginning December 27, 2020, through March 13, 2021. *See Id.*

⁴¹ This extension provides claimants with 50 weeks of PUA from the previous 39 weeks, which is an increase of 11 weeks. Additional weeks of PUA benefits paid pursuant to the Continued Assistance Act are only available for weeks of unemployment beginning on or after December 27, 2020. *See Id.*

⁴² *See* Department of Economic Opportunity, *Weekly Reemployment Assistance Update - March 24*, available at: <https://floridajobs.org/news-center/DEO-Press/2021/03/24/florida-department-of-economic-opportunity-provides-weekly-reemployment-assistance-update---march-24> (last visited Mar. 30, 2021).

⁴³ FPUC is extended through September 6, 2021. *See Id.*

⁴⁴ *See* Department of Economic Opportunity, *COVID-19 Relief Provision – 2021*, available at: http://floridajobs.org/docs/default-source/reemployment-assistance-center/cares-act/covid-19-relief-provisions-2021.pdf?sfvrsn=2f5b4ab0_2 (last visited Mar. 30, 2021).

⁴⁵ MEUC has been extended to Sep. 6, 2021. *See* Department of Economic Opportunity, *Guide for Reemployment Assistance Mixed Earners Unemployment Compensation (MEUC)*, available at: <http://www.floridajobs.org/docs/default-source/reemployment-assistance-center/cares-act/meuc-guide.pdf> (last visited Mar. 30, 2021).

⁴⁶ *See* Department of Economic Opportunity, *Federal Lost Wages Assistance Program FAQs*, available at: https://floridajobs.org/docs/default-source/reemployment-assistance-center/cares-act/lost-wages-assistance-faq.pdf?sfvrsn=9add4bb0_10 (last visited Mar. 30, 2021).

⁴⁷ LWA was available the week ending August 1, 2020 through the week ending August 22, 2020. Applicants had to be eligible for state or federal Reemployment Assistance benefits, be unemployed or partially unemployed due to COVID-19 and have a weekly benefit amount of at least \$100 in a state or Federal Reemployment Assistance. *See Id.*

⁴⁸ *Id.*

The bill amends s. 443.091(1)(d), F.S., to reduce the number of prospective employers that reemployment assistance claimants must contact each week from five to three, and provides that a claimant may meet this work search requirement by submitting a resume through an online job search service.

The bill reenacts related provisions in ss. 443.041 and 443.1116, F.S., to incorporate the amendments made by the bill.

The bill takes effect July 1, 2021.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

To the extent that the increase in the weekly benefit amount increases the amount of funds paid out to claimants from the Unemployment Compensation Trust Fund, it may require employer tax contributions be increased.

The Revenue Estimating Conference has not yet estimated the revenue impact of the bill.

B. Private Sector Impact:

Eligible reemployment assistance claimants could receive higher RA benefits.

Reimbursable employers, such as charities, could experience an increase in costs consistent with the amount of increased reemployment assistance claims paid.

C. **Government Sector Impact:**

Governmental employers could experience an increase in costs consistent with the amount of increased reemployment assistance claims paid.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends sections 443.111, 443.041, and 443.1116 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 Commerce and Tourism on March 29, 2021:

The committee substitute removes the requirement that a claimant must include the telephone number of each prospective employer contacted for each week of unemployment claimed, and clarifies that “address” means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted.

The committee substitute reduces the number of prospective employers that reemployment assistance claimants must contact each week from five to three, and provides that a claimant may meet this work search requirement by submitting a resume through an online job search service.

B. **Amendments:**

None.