

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 Appropriations

BILL: CS/SB 1906

INTRODUCER: Commerce and Tourism Committee and Senator Brodeur and others

SUBJECT: Reemployment Assistance

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/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; reduces the number of prospective employers that each reemployment assistance claimants must contact each week from five to three; and allows submittal of a resume to an employer through an online job search service to count as a contact.

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 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 unemployment compensation 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 program was created by the Legislature in 1937.⁵ The Department of Economic Opportunity (DEO) is the current agency responsible for administering Florida's 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 program in 2012,⁷ a qualified claimant may receive 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 maximum of between 12 weeks and 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 Apr. 8, 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 Apr. 8, 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 Chapter 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 each quarter in 2020 was: first quarter – \$254; second quarter – \$236; third quarter – \$227; and fourth quarter – \$228. USDOL, *Unemployment Insurance Data*, run report for Florida, available at: https://oui.doleta.gov/unemploy/data_summary/DataSum.asp (last visited Apr. 9, 2021).

To receive 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, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.¹²

Earnings Requirements

The "base period" is the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.¹³ A claimant must have earned wages in at least two quarters of the claimant's base period. The minimum total base period wages must be at least 1.5 times the wages earned in the individual's highest quarter, but at least \$3,400 in the base period.¹⁴ For example, the minimum amount a person could earn could be \$850 in all four quarters or \$1,700 in two of the base period quarters. A claimant's weekly benefit amount is calculated taking the quarter in the base period with the highest amount of wages and multiplying that amount by one twenty-sixth. The minimum weekly benefit amount is \$32 and the maximum is \$275. For example, a person whose highest quarter earnings were \$850, would be eligible for a weekly benefit amount of about \$32; a person whose highest quarter earnings were \$7,150, would be eligible for a weekly benefit amount of about \$275; a person whose highest quarter earnings were \$9,750, would be eligible for a weekly benefit amount of about \$275; and a person whose highest quarter earnings were \$12,936,¹⁵ would be eligible for a weekly benefit amount of about \$275.

Able and Available for Work

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. Generally, these include efforts related to finding new employment, such as:¹⁶

- Registering with Employ Florida;¹⁷
- Reporting to the One-Stop Career Center when directed to do so by the local CareerSource board;
- Being able to and available for work;¹⁸
- Contacting at least 5 prospective employers each week or going to the One-Stop Career Center for reemployment services; and
- Participating in reemployment services.

For each week of benefits claimed, a claimant must submit to the DEO the name, address, and telephone number of each prospective employer contacted.¹⁹ A claimant must be actively seeking work to be considered available for work. "This means engaging in systematic and

¹² See s. 443.101, F.S.

¹³ Section 443.036(7), F.S.

¹⁴ Section 443.091(1)(g), F.S.

¹⁵ The statewide average annual wage is \$51,744 (2019).

¹⁶ Section 443.091(1), F.S.

¹⁷ See s. 443.091(1)(b), F.S., and Employ Florida, available at: <https://www.employflorida.com/vosnet/Default.aspx> (last visited Apr. 8, 2021). Employ Florida Marketplace is a partnership of Workforce Florida, Inc., and the DEO. It provides job-matching and workforce resources.

¹⁸ "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. See also Rule 73B-11.021(2), F.A.C.

¹⁹ Section 449.091(1)(c)1., F.S.

sustained efforts to find work, including contacting at least five prospective employers for each week of unemployment claimed” or three prospective employers for individuals who live in small counties.²⁰ Proof of work search efforts cannot include the same prospective employer at the same location in three consecutive weeks, unless in the meantime the employer has indicated that it is hiring. The DEO conducts random audits of the submitted information to verify that claimants are meeting these requirements.

The requirement to be available for work and able to work applies to an individual 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.²¹

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.²²

The DEO’s website provides links to local, state, and national employment databases and to resources for job training or further educational opportunities. The One-Stop Career Centers 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. 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 claimants.²³

Disqualification for Unemployment Compensation

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

- Voluntarily leaving work without good cause, or being discharged by his or her employing unit for misconduct connected with the work;²⁴
- 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;²⁵
- Making false or fraudulent representations in filing for benefits;

²⁰ Section 443.091(1)(d), F.S. A “small county” is a county that has an unincarcerated population of 75,000 or less. Section 120.52(19), F.S.

²¹ Rule 73B-11.021(2), F.A.C.

²² Rule 73B-11.011(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.

²³ RESEA services may include an orientation, initial assessment, labor market information, employability development plan, and work search services. DEO, *Program Description*, available at: <https://floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/reemployment-services-and-eligibility-assessment-program> (last visited Apr. 8, 2021). Rule 73B-3.028, F.A.C., provides more information on reemployment services and requirements for participation.

²⁴ 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.

²⁵ Section 443.101(2), F.S., sets forth the requirements to determine “suitable work.”

- Being discharged from employment due to drug use or rejection from a job offer for failing a drug test; and
- Becoming unavailable for work due to incarceration or imprisonment.

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.

Financing Unemployment Compensation

State Unemployment Compensation Contributions

Florida sets its own taxable wage base and rate. The funds collected are paid into the Unemployment Compensation Trust Fund, which is maintained at the U.S. Treasury.²⁶ The trust fund is primarily financed through the contributory method—by employers who pay taxes on employee wages.²⁷ Employers' state taxes are used solely to pay benefits to unemployed Floridians.

Currently, an employer pays taxes on the first \$7,000 of an employee's wages.²⁸ An employer's initial state tax rate is 2.7 percent.²⁹ After an employer is subject to benefit charges for 8-calendar quarters, the standard tax rate is 5.4 percent, but it may be adjusted down to a low of 0.1 percent.³⁰ The adjustment in the tax rate is determined by calculating several factors, including benefit charges associated with the employer, socialized costs,³¹ and the balance of the Unemployment Compensation 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 payments due early in the year.

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 Unemployment Compensation Trust Fund.

²⁶ Section 443.191, F.S.

²⁷ 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.

²⁸ Section 443.1217(2)(a)2., F.S.

²⁹ Section 443.131(2)(a), F.S.

³⁰ Section 443.131(2)(b) and (3)(d), F.S.

³¹ 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). *See also* DOR, *Reemployment Tax rate Information: How Rates are Calculated*, available at: https://floridarevenue.com/taxes/taxesfees/Pages/rt_rate.aspx (last visited Apr. 8, 2021).

Other Unemployment Compensation Programs³²

The maximum weekly benefit amount (WBA) and maximum weeks of assistance for unemployment compensation vary by program. The average maximum WBA of all 53 programs is \$473. Sixteen programs offer a maximum WBA under \$400; seven programs offer a maximum WBA amount of \$275 or less. The average *minimum* WBA of all 53 programs is \$63. Sixteen programs offer a *minimum* WBA of \$32 or less; 44 programs offer a *minimum* WBA amount of \$100 or less.

A majority of states have variable weeks of assistance. Some are based on the base period wages, while others are based on the base period wages and the state's unemployment rate. There are 10 programs that offer a uniform number of weeks (generally 26). Most states offer up to a maximum of 26 based on a person's base period wages. Seven states offer up to a maximum of between 20 and 30 weeks, based on the claimant's base period wages and the state's unemployment rate.

Some examples of other states include:

- California offers unemployment insurance applicants a maximum WBA of \$450 for up to 26 weeks;
- New York offers a maximum WBA of \$504 for a total of 26 weeks;
- Texas offers a maximum WBA of \$521 for up to 26 weeks;
- Georgia offers a maximum WBA of \$365 for up to 14-20 weeks, depending on the state's unemployment rate;
- North Carolina offers a maximum WBA of \$365 for a total of 12-20 weeks, depending on the state's unemployment rate; and
- Alabama offers a maximum WBA of \$275 for up to 20 weeks, depending on the state's unemployment rate.

Federal Unemployment Assistance Related to COVID-19

In March 2020, Congress enacted several programs to assist workers who were impacted by the effects of COVID-19 on the economy. Programs took time to implement, as states waited on guidance from USDOL and worked to change the systems to enact the changes. The programs have been extended several times.³³

The programs provide additional weekly payments to eligible individuals. Payments to workers not typically eligible for benefits or those who had previously exhausted their states' programs;

³² Information from USDOL, *Comparison of State Unemployment Laws 2020, Chapter 3 Monetary Entitlement*, Table 3-5: Weekly Benefit Amounts and Table 3-12: Duration of Benefits, available at:

<https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/monetary.pdf> (last visited Apr. 9, 2021).

³³ See USDOL, *Unemployment Insurance Relief During COVID-19 Outbreak*, available at:

<https://www.dol.gov/coronavirus/unemployment-insurance> (last visited Mar. 30, 2021). The Families First Coronavirus Response Act (Pub. L. No. 116-127, Division D, Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISSA)); the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136, Title II, Subtitle A); the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. No. 117-X, Consolidated Appropriations Act, 2021, Division N, Title II, Subtitle A); and the American Rescue Plan Act of 2021 (Pub. L. No. 114-2, Title IX, Subtitle A, Crisis Support for Unemployed Workers).

and payments for additional weeks of benefits beyond states' programs. While program durations and amounts have started and expired or been changed in each extension, the currently available programs are:³⁴

- State reemployment assistance – up to 19 weeks, for claims filed after January 1, 2021
 - Maximum weekly benefit amount up to \$275
 - Additional \$300 per week up to the week ending September 4, 2021 (Federal Pandemic Unemployment Compensation (FPUC))
 - Additional \$100 per week up to the week ending September 4, 2021, for claimants eligible for state benefits who were also self-employed and earned at least \$5,000 in net earnings from their self-employment (Mixed Earners Unemployment Compensation (MEUC))
- Pandemic Emergency Unemployment Compensation (PEUC) – up to 53 weeks, for those who exhaust their state reemployment assistance benefits (through September 4, 2021)
 - Maximum weekly benefit amount up to \$275
 - Additional \$300 per week up to the week ending September 4, 2021 (FPUC)
 - Additional \$100 per week up to the week ending September 4, 2021 (MEUC)
- Pandemic Unemployment Assistance (PUA) – up to 79 weeks, for those who are not otherwise eligible for state reemployment assistance, including independent contractors, self-employed workers, and some who may have exhausted their state benefits (through September 4, 2021)
 - Maximum weekly benefit amount up to \$275
 - Additional \$300 per week up to the week ending September 4, 2021 (FPUC)

III. Effect of Proposed Changes:

Weekly Benefit Amount

The bill amends s. 443.111, F.S., (**Section 2**) 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.

For example, a person whose highest quarter earnings were \$850, would be eligible for a weekly benefit amount of about \$100; a person whose highest quarter earnings were \$7,150, would be eligible for a weekly benefit amount of about \$275; a person whose highest quarter earnings were \$9,750, would be eligible for a weekly benefit amount of about \$375; and a person whose highest quarter earnings were \$12,936, would be eligible for a weekly benefit amount of about \$375.

Able and Available for Work

The bill amends s. 443.091(1)(c), F.S., (**Section 1**) to remove the requirement that a claimant must provide the telephone number of each prospective employer contacted for each week of unemployment claimed. The bill also clarifies that "address" means a website address, a physical

³⁴ DEO, *Florida Reemployment Assistance Benefit Programs*, updated Apr. 6, 2021, available at: https://floridajobs.org/docs/default-source/reemployment-assistance-center/cares-act/ra-benefit-programs.pdf?sfvrsn=d9d24bb0_12 (last visited Apr. 9, 2021).

address, or an e-mail address for purposes of reporting the address of each prospective employer contacted.

The bill amends s. 443.091(1)(d), F.S., (**Section 1**) to reduce the number of prospective employers that reemployment assistance claimants must contact each week from five to three. Under current law, a claimant in a small county must contact at least three prospective employers for individuals who live in small counties. By reducing the required number of contacts from five to three for all other counties, the bill makes the requirement to contact at least three prospective employers standard across all counties

The bill also allows a claimant to meet the requirement to contact an employer by submitting a resume to an employer through an online job search service.

Miscellaneous

The bill reenacts related provisions in ss. 443.041 and 443.1116, F.S., (**Sections 3 and 4**) 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 identified.

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, the bill may indirectly cause increases in employer contributions. Employer contributions are

based upon employer experience with the system and other factors, including the balance of the trust fund.

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

B. Private Sector Impact:

Eligible reemployment assistance claimants could receive higher 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 the following sections of the Florida Statutes: 443.091 and 443.1116.

This bill reenacts the following sections of the Florida Statutes: 443.041 and 443.116.

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.

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