

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1289 Verification of Reemployment Assistance Benefit Eligibility  
**SPONSOR(S):** Regulatory Reform & Economic Development Subcommittee, Abbott  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1260

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	8 Y, 5 N, As CS	Bauldree	Anstead
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

### SUMMARY ANALYSIS

The Federal-State Unemployment Insurance Program is administered as a partnership between the federal government and state governments, providing unemployment benefits to eligible workers who are unemployed through no-fault of their own and who meet the requirements of state law. The Department of Commerce (department) is the current agency responsible for administering Florida's reemployment assistance program. To receive weekly benefits, a claimant must meet certain monetary and non-monetary eligibility requirements.

The bill revises reemployment assistance eligibility requirements. The bill adds more conditions that can disqualify an individual from receiving benefits including:

- Failing to contact at least five prospective employers per week, unless otherwise exempt;
- Failing to appear on three or more occasions for a scheduled job interview;
- Failing to accept suitable work within 2 business days of being offered; or
- Failing to return to the individual's self-employment when directed by the department, or when recalled to work by his or her former employer.

The bill requires the department to maintain a web page and e-mail address for employers to report known or suspected violations of the disqualification for benefits provisions, and notify employers of the web page and e-mail address.

Additionally, the bill requires the department to verify the identity of each claimant who applies for reemployment assistance benefits before paying any benefits to that individual, and to weekly cross-check the information contained in the claim with various specified national and state databases.

The bill does not have a fiscal impact on state or local government revenues or local government expenditures. The bill may increase state expenditures. See Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Unemployment Compensation

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.<sup>1</sup> The program is administered as a partnership between the federal government and the states.<sup>2</sup> 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).<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> The Department of Commerce<sup>6</sup> (department) is the current agency responsible for administering Florida's laws, primarily through its Division of Workforce Services. The department contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collections services.<sup>7</sup>

##### Florida Reemployment Assistance Benefits

In Florida, which rebranded the unemployment compensation program as the reemployment assistance program in 2012,<sup>8</sup> a qualified claimant may receive benefits equal to 25 percent of wages, not to exceed \$6,325 in a benefit year.<sup>9</sup> Benefits range from a minimum of \$32 per week to a maximum weekly benefit amount<sup>10</sup> of \$275, for a maximum of between 12 weeks and 23 weeks,<sup>11</sup> depending on the claimant's length of prior employment and wages earned and the unemployment rate.<sup>12</sup>

The maximum available weeks is set at the beginning of the year and applies for the entire calendar

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<sup>1</sup> U.S. Department of Labor, State Unemployment Insurance Benefits, *available at* <https://oui.doleta.gov/unemploy/uifactsheet.asp> (last visited Feb. 2, 2024).

<sup>2</sup> There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia. U.S. Department of Labor, Unemployment Compensation, Federal – State Partnership, *available at* <https://oui.doleta.gov/unemploy/pdf/partnership.pdf> (last visited Feb. 2, 2024).

<sup>3</sup> FUTA is codified at 26 U.S.C. § 3301-3309.

<sup>4</sup> U.S. Department of Labor, Unemployment Insurance Tax Topic, *available at* <https://oui.doleta.gov/unemploy/uitaxtopic.asp#:~:text=FUTA%20taxes%20are%20calculated%20by,times%20the%20employer's%20taxable%20wages.&text=Employers%20who%20pay%20their%20state,tax%20paid%20to%20the%20state>, (last visited Feb. 2, 2024).

<sup>5</sup> Ch. 18402, Laws of Fla.

<sup>6</sup> Chapter 443, F.S., refers to the department as the “Department of Economic Opportunity”, however, HB 5 in 2023 changed the name of the department to the “Department of Commerce” and authorized the Division of Law Revision to update the name of the department throughout the Florida statutes. Ch. 2023-173, Las of Fla.

<sup>7</sup> S. 443.1316, F.S.

<sup>8</sup> Ch. 2012-30, Laws of Fla.

<sup>9</sup> S. 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.

<sup>10</sup> Pursuant to section 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.

<sup>11</sup> S. 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.

<sup>12</sup> The average weekly benefit amount for each quarter in 2020 was: first quarter – \$254; second quarter – \$236; third quarter – \$227; and fourth quarter – \$228. U.S. Department of Labor, Unemployment Insurance Data, run report for Florida, *available at* [https://oui.doleta.gov/unemploy/data\\_summary/DataSum.asp](https://oui.doleta.gov/unemploy/data_summary/DataSum.asp), (last visited Feb. 2, 2024).

year. The maximum available weeks is based upon the average seasonally adjusted statewide unemployment rate for the months of July, August, and September.<sup>13</sup> If the average rate for that most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12 weeks. For each 0.5 percent step about 5 percent, an additional week of benefits is added to the maximum duration, up to 23 weeks of benefits if that average third quarter unemployment rate is 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 8.6 percent.<sup>14</sup>

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.<sup>15</sup>

### *Benefit Eligibility Conditions*

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:<sup>16</sup>

- Completing the department's online work registration;<sup>17</sup>
- Reporting to the One-Stop Career Center when directed to do so by the local CareerSource board;
- Being able to and available for work;<sup>18</sup>
- 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 department the name, address, and telephone number of each prospective employer contacted.<sup>19</sup> A claimant must be actively seeking work to be considered available for work. "This means engaging in systematic and 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.<sup>20</sup> 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 department 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.<sup>21</sup>

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.<sup>22</sup>

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<sup>13</sup> S. 443.111(5)(c), F.S. Typically in the calculation of monthly unemployment rates, a rate is published about midway through the following month and the revised rate is published about midway through the next month. See The Department of Commerce, Unemployment – Local Area Unemployment Statistics (LAUS) – Release Schedule, (2021), available at <http://lmsresources.labormarketinfo.com/library/DataReleaseSchedule.pdf>, (last visited Feb. 2, 2024).

<sup>14</sup> The Department of Commerce, Florida Department of Economic Opportunity Announces Florida Achieves Six Consecutive Months of Month-Over-Month Job Growth, (November 20, 2020), available at <https://floridajobs.org/news-center/DEO-Press/2020/11/20/florida-department-of-economic-opportunity-announces-florida-achieves-six-consecutive-months-of-month-over-month-job-growth>, (last visited Feb. 2, 2024).

<sup>15</sup> See S. 443.101, F.S.

<sup>16</sup> S. 443.091(1), F.S.,

<sup>17</sup> See S. 443.091(1)(b), F.S., and Employ Florida, available at <https://www.employflorida.com/vosnet/Default.aspx>, (last visited Feb. 2, 2024).

Employ Florida Marketplace is a partnership of Workforce Florida, Inc., and the Department of Commerce. It provides job-matching and workforce resources.

<sup>18</sup> "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 R. 73B-11.021(2), F.A.C.

<sup>19</sup> S. 449.091(1)(c)1., F.S.

<sup>20</sup> S. 443.091(1)(d), F.S. A "small county" is a county that has an unincarcerated population of 75,000 or less. S. 120.52(19), F.S.

<sup>21</sup> R. 73B-11.021(2), F.A.C.

The department'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.<sup>23</sup> Current law requires the department to offer an online assessment aimed at identifying an individual's skills, abilities, and career aptitude and provides that the skills assessment must be voluntary.<sup>24</sup> This online assessment must be made available to any person seeking services from a One-Stop Career Center or from a local workforce development board.<sup>25</sup>

Currently, if you are a non-resident of Florida you are exempt from having to complete the department's online work registration and reporting to the one-stop career center as directed by the local workforce development board for reemployment services.

### *Disqualification for Reemployment Assistance Benefits*

Current law specifies the circumstances under which an individual would be disqualified from receiving benefits. These circumstances include:<sup>26</sup>

- Voluntarily leaving work without good cause, or being discharged by his or her employing unit for misconduct connected with the work;<sup>27</sup>
- Failing to apply for available suitable work when directed by the department or the One-Stop Career Center, to accept suitable work when offered, or to return to suitable self-employment when directed to do so;<sup>28</sup>
- Making false or fraudulent representations in filing for benefits;
- 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.

Current law also 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.<sup>29</sup>

### **Effect of the Bill**

The bill provides that it may be cited as the "Promoting Work, Deterring Fraud Act of 2024."

The bill amends the disqualification for benefits provisions in current law to add the following conditions that can disqualify an individual from receiving benefits:

- Failing to contact at least five prospective employers per week, in accordance with s. 443.091, F.S., unless otherwise exempt;
- Failing to appear on three or more occasions for a scheduled job interview;
- Failing to accept suitable work within 2 business days of being offered; or

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<sup>22</sup> R. 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.

<sup>23</sup> RESEA services may include an orientation, initial assessment, labor market information, employability development plan, and work search services. The Department of Commerce, Program Description, *available at* <https://floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/reemployment-services-and-eligibility-assessment-program>, (last visited Feb. 2, 2024). R. 73B-3.028, F.A.C., provides more information on reemployment services and requirements for participation.

<sup>24</sup> S. 443.091, F.S.

<sup>25</sup> *Id.*

<sup>26</sup> S. 443.101, F.S.

<sup>27</sup> 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.

<sup>28</sup> S. 443.101(2), F.S.

<sup>29</sup> S. 443.091, F.S.

- Failing to return to the individual's self-employment when directed by the department, or when recalled to work by their former employer.

The bill requires the department to maintain a web page and e-mail address for employers to report known or suspected violations and that the department shall notify employers of this state the web page and e-mail address.

The bill requires the department to verify the identity of each claimant who applies for reemployment assistance benefits before paying any benefits to that individual and to weekly cross-check the information contained in the claim with various specified national and state databases. The specified databases for the department to utilize include:

- The National Association of State Workforce Agencies Integrity Data Hub;<sup>30</sup>
- The United States Department of Health and Human Services National Directory of New Hires;<sup>31</sup>
- The State Directory of New Hires;<sup>32</sup>
- The Department of Corrections inmate database;
- The Social Security Administration (SSA) Prisoner Update Processing System<sup>33</sup>
- The Centers for Disease Control and Prevention National Vital Statistics System death records database;<sup>34</sup>
- The Department of Health Bureau of Vital Statistics death records database;<sup>35</sup>
- The United States Citizenship and Immigration Services SAVE database<sup>36</sup> – which allows federal, state, and local benefit-granting agencies to verify a benefit applicant's immigration status or naturalized/derived citizenship.

The bill prohibits the department from paying any claim that has not been cross-checked against all the sources listed above, or similar sources of information.

The bill also requires the department to do all of the following:

- Investigate any claim indicating suspicious activity associated with a mailing address, a bank account, an e-mail address, a telephone number, or an internet protocol address that is associated with another existing claim for reemployment assistance benefits and verify that the claim is legitimate and not fraudulent before paying any benefits for the claim.
- Scrutinize any claim filed from a foreign Internet protocol address before paying any benefits for the claim.
- Work with the United States Department of Labor, other workforce agencies outside the state, the Office of the Attorney General, the Department of Law Enforcement, or other relevant law enforcement entities to share information related to fraudulent claims to the extent feasible for further investigation and prosecution.
- Each year, submit to the Legislature and make available on its website, a report identifying the number of fraudulent reemployment assistance claims identified for the prior year, the number of claims not paid due to successful detection of fraudulent intentions, the number of claims and the

<sup>30</sup> This is a free resource to state workforce agency staff with advanced data cross-matching and analysis capabilities that detects and prevents unemployment insurance fraud and improper payments. National Association of State Workforce Agencies Integrity DataHub *available at* <https://www.naswa.org/integrity-center/integrity-data-hub>, (last visited Feb. 2, 2024).

<sup>31</sup> Which is a database that legally requires federal and state workforce agencies to report their new hires, quarterly wages, and unemployment insurance data, and is only available to authorized persons or entities for authorized purposes. A Guide to the National Directory of New Hires, (January 2023), *available at* [https://www.acf.hhs.gov/sites/default/files/documents/ocse/a\\_guide\\_to\\_the\\_national\\_directory\\_of\\_new\\_hires.pdf](https://www.acf.hhs.gov/sites/default/files/documents/ocse/a_guide_to_the_national_directory_of_new_hires.pdf), (last visited Feb. 2, 2024).

<sup>32</sup> The State Directory of New Hires is a database maintained by each state containing information regarding newly hired employees for the respective state. *See* S. 409.2576, F.S. and 42 U.S.C. § 653a.

<sup>33</sup> This system contains data reported to SSA and retained on the Prisoner Update Processing System. Examples of the data are confinement date, released date, reporter name and facility name and address. *See* the Social Security Administration Program Operations Manual System, Developing Prisoner Update Processing System Records and Alerts, GN 02607.600.

<sup>34</sup> This database collects and shares statistics about births, deaths, marriages, divorces, and fetal deaths. About the National Vital Statistics System, CTRS. FOR DISEASE CONTROL & PREVENTION, *available at* [https://www.cdc.gov/nchs/nvss/about\\_nvss.htm](https://www.cdc.gov/nchs/nvss/about_nvss.htm), (last visited Feb. 2, 2024).

<sup>35</sup> This database collects all birth, marriage, and death certificates in Florida. *See* S. 20.43(1)(c), F.S.

<sup>36</sup> Allows federal, state, and local benefit-granting agencies to verify a benefit applicant's immigration status or naturalized/derived citizenship. *See* 42 U.S.C. § 1320b-7.

amount of reemployment assistance benefits paid against claims subsequently identified as fraudulent, the amount of fraudulent overpayments recovered, and the number of fraudulent claims referred for investigation and possible prosecution. The report must also list the sources of information that were used to cross-check claims during the reporting period.

The bill requires the department, in alignment with the Federal Regulations public labor exchange services systems requirements, to procure a modernized online workforce search and match tool that includes artificial intelligence generation for the purpose of matching participants to jobs and training opportunities. The tool must be interoperable through an application programming interface with the consumer-first workplace system and the tool must include a knowledge, skills, and interests assessment for the purpose of guiding participants to jobs and training opportunities.

The bill provides an effective date of July 1, 2024.

**B. SECTION DIRECTORY:**

**Section 1:** Provides that the act may be cited as the “Promoting Work, Deterring Fraud Act of 2024.”

**Section 2:** Amends s. 443.101, F.S., relating to disqualification of benefits.

**Section 3:** Creates s. 443.1112, F.S., relating to verification of reemployment assistance benefit eligibility.

**Section 4:** Amends s. 445.003, F.S., relating to implementation of the federal Workforce Innovation and Opportunity Act.

**Section 5:** Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The department may incur initial and recurring costs to create and maintain the online workforce search and match tool, the website and e-mail address for employers to report suspected violations, and check the required databases. Provisions in the bill may also function to lower the amount of reemployment assistance benefits paid out.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Indeterminate. If provisions in the bill function to lower the amount of reemployment assistance benefits paid out, employers could see a reduction in their contribution rates over time.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 6, 2024, the Regulatory Reform & Economic Development Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Removed the provision from the bill requiring non-Florida residents who seek reemployment assistance benefits from the Department of Commerce to report to workforce centers in their state of residence.
- Retained the provision in current law stating that the online skills assessment offered by the department is voluntary.
- Removed the provision from the bill requiring a claimant to complete weekly at least one job application in person with an employer that has an expected job opening, and certify and attest biweekly that they will appear for all scheduled interviews and actively seek work.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.