

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 1238

INTRODUCER: Commerce and Tourism Committee and Senator Rodriguez

SUBJECT: Fraud in the Reemployment Assistance Program

DATE: March 31, 2025

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1238 mandates that the Florida Department of Commerce (department):

- Disqualify claimants from receiving reemployment benefits if they failed, without good cause:
 - To appear for a scheduled job interview three or more times without notifying the employer of the need to reschedule or cancel.
 - To accept suitable work within two business days of the offer.
 - To return to employment when recalled by their employer after a temporary layoff.
- Verify the identity of each claimant who applies for reemployment assistance benefits before paying them out.
- Cross-check each claimant's information to verify eligibility with the information in the Systematic Alien Verification for Entitlements (SAVE) database.
- Cross-check specified information every two weeks a claimant makes a claim for benefits and for the initial reemployment assistance claim.
- Investigate certain reemployment assistance claims with duplicative information and from foreign Internet protocol addresses.
- Refer suspected and attempted fraudulent reemployment assistance claims to the Department of Legal Affairs or a relevant state attorney.
- Maintain a web page and e-mail address for employers to report violations of ch. 443, F.S.
- Create a report on fraudulent reemployment assistance claims annually which must be available on its website.

The bill takes effect on July 1, 2025.

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.⁴ 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.⁵

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.⁶ Florida's program was created by the Legislature in 1937.⁷ The department is the current agency responsible for administering Florida's laws, primarily through its Division of Workforce Services.⁸ The department contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collections services.⁹

State Reemployment Assistance Benefits

In Florida, which rebranded the unemployment compensation program as the reemployment assistance program in 2012,¹⁰ a qualified claimant may receive benefits equal to 25 percent of

¹ USDOL, *State Unemployment Insurance Benefits*, available at <https://oui.doleta.gov/unemploy/uifactsheet.asp> (last visited Mar. 31, 2025).

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. 31, 2025).

³ FUTA is codified at 26 U.S.C. § 3301-3311.

⁴ Julie M. Whittaker, CONG. RSCH. SERV., *Unemployment Compensation: The Fundamentals of the Federal Unemployment Tax (FUTA)*, available at https://www.congress.gov/crs_external_products/R/PDF/R44527/R44527.5.pdf (last visited Mar. 31, 2025).

⁵ USDOL, *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 Mar. 31, 2025).

⁶ 26 U.S.C. § 3304.

⁷ Chapter 18,402, Acts of 1937 Laws of Fla.

⁸ Section 443.1316, F.S.

⁹ *Id.*

¹⁰ Chapter 2012-30, Laws of Fla.

wages, not to exceed \$6,325 in a benefit year.¹¹ Benefits range from a minimum of \$32 per week to a maximum weekly benefit amount¹² of \$275, for a maximum of between 12 weeks and 23 weeks,¹³ depending on the claimant's length of prior employment, wages earned, and the unemployment rate.¹⁴

The maximum number of weeks available is set at the beginning of the year and applies for the entire calendar year. The maximum number of weeks is based upon the average seasonally adjusted statewide unemployment rate for the months of July, August, and September.¹⁵ If the average rate for that most recent third calendar year quarter is at or below 5%, then the maximum number of weeks of benefits available is 12 weeks. For each 0.5% step about 5%, 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%. On January 1, 2021, the maximum number of 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%.¹⁶

To receive benefits, a claimant must meet certain monetary and non-monetary eligibility requirements, including 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.¹⁷

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:¹⁸

- Completing the department's online work registration;
- Reporting to the One-Stop Career Center when directed to do so by the local CareerSource board;
- Being able to and available for work;¹⁹
- Contacting at least five prospective employers each week or going to the One-Stop Career Center for reemployment services; and

¹¹ 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.

¹² 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.

¹³ Section 443.111(5)(c), F.S.

¹⁴ The average weekly benefit amount for each quarter in 2024 was: first quarter – \$264; second quarter – \$265; third quarter – \$263; and fourth quarter – \$265. USDOL, *Unemployment Insurance Data*, run report for Florida, available at https://oui.doleta.gov/unemploy/data_summary/DataSum.asp, (last visited Mar. 31, 2025).

¹⁵ Section 443.111(5)(a), 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 Dept. of Commerce, Unemployment – Local Area Unemployment Statistics (LAUS) – Release Schedule, (2025), available at <http://lmsresources.labormarketinfo.com/library/DataReleaseSchedule.pdf>, (last visited Mar. 31, 2025).

¹⁶ Dept. 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 Mar. 31, 2025).

¹⁷ See Section 443.091, F.S.

¹⁸ Section 443.091(1), F.S.,

¹⁹ "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 Section 443.036(1) and (6), F.S. See also Rule 73B-11.021(2), F.A.C.

- Participating in reemployment services.²⁰

For each week of benefits claimed, a claimant must submit to the department the name, address, and telephone number of each prospective employer contacted.²¹ 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.²² 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.²³ The department conducts random audits of the submitted information to verify that claimants are meeting these requirements.²⁴

Disqualification for Reemployment Assistance Benefits

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;²⁵
- 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;²⁶
- 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.

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.

Fraud Prevention Measures

Currently, the department employs multiple measures to combat fraud. The department:

- Uses software that blocks foreign or suspicious IP addresses to prevent claims from being filed outside the country and detects multiple claim attempts from different states.
- Verifies identities through ID.me at the time of filing and interfaces with the Division of Highway Safety and Motor Vehicles to verify identities.

²⁰ See Section 443.091(1)(b), F.S.; Employ Florida, available at <https://www.employflorida.com/vosnet/Default.aspx>, (last visited Mar. 31, 2025). Employ Florida Marketplace is a partnership of Workforce Florida, Inc., and the Department of Commerce. It provides job-matching and workforce resources.

²¹ Section 443.091(1)(c)1., F.S.

²² Section 443.091(1)(d), F.S. A “small county” is a county that has a non-incarcerated population of 75,000 or less according to the most recent decennial census. Section 120.52(19), F.S.

²³ Section 443.091(1)(d), F.S.

²⁴ *Id.*

²⁵ 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.

²⁶ Section 443.101(2), F.S.

- Uses ICON with the Social Security Administration to ensure no duplicate claims have been filed with other states.²⁷

Moreover, the department has enhanced its fraud detection procedures by developing the Fraud Initiative Rules and Ratings Engine (FIRRE) system, which is integrated with the National Association of State Workforce Agencies' (NASWA) Integrity Data Hub (IDH).²⁸ The FIRRE system, in combination with IDH, applies business rules designed to detect, flag, or lock suspicious claims for further investigation by fraud unit staff.²⁹

Additionally, the following cross-checks are performed regularly to verify claimant information:

- The United States Department of Health and Human Services National Directory of New Hires conducts a weekly cross-check.
- The State Directory of New Hires completes a daily review.
- Incarceration data is cross-checked weekly using a vendor separate from the Department of Corrections and the Social Security Administration, which gathers federal, state, and local incarceration records.
- SAVE is used upon filing an initial claim to confirm eligibility.³⁰

III. Effect of Proposed Changes:

Section 1 creates the act title “Promoting Work, Deterring Fraud Act of 2025.”

Disqualification for Benefits

Section 2 amends s. 443.101, F.S., to mandate that a claimant shall be disqualified from reemployment assistance benefits if the department finds that the claimant failed, without good cause:

- To appear for a scheduled job interview three or more times without notifying the prospective employer of the need to reschedule or cancel.
- To accept suitable work within two business days of the offer of employment.
- To return to employment when recalled by the individual’s employer after a temporary layoff.

Such disqualification continues for the full period of unemployment following one of these failures and until the claimant has earned an income of at least seventeen times their weekly benefit amount. The bill also gives the department rulemaking authority to implement this subsection.

²⁷ FLORIDA DEPT. OF COMMERCE, *2025 Agency Legislative Bill Analysis for SB 1238* (Mar. 27, 2025) (on file with the Senate Commerce and Tourism Committee).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*; “SAVE is an online service for registered federal, state, territorial, tribal, and local government agencies to verify immigration status and naturalized/acquired U.S. citizenship of applicants seeking benefits or licenses.” CITIZENSHIP AND IMMIGR. SERV., SAVE, available at <https://www.uscis.gov/save#:~:text=SAVE%20is%20an%20online%20service%20for%20registered%20federal%2C,U.S.%20citizenship%20of%20applicants%20seeking%20benefits%20or%20licenses>. (last visited Mar. 31, 2025).

Benefit Eligibility Conditions

Section 4 amends s. 443.091, F.S., to provide that the department may not deny benefits for any week because a claimant failed to appear for an interview.

Fraud Prevention

Section 3 creates s. 443.1112, F.S., to require the department to verify the identity of each claimant who applies for reemployment assistance benefit before paying out any benefits. For the initial claim for benefits made by a claimant, the department must cross-check the information contained in the claim with information in the SAVE database to verify the claimant's eligibility.

For every two weeks that a claimant makes a claim for benefits, the department must cross-check the information contained the claim to verify the claimant's eligibility and to make sure the claimant is living, not incarcerated, not already employed, and not filing fraudulent or duplicative claims.

Additionally, the bill requires the department to:

- Investigate any claim associated with a mailing address, a bank account, an e-mail address, a telephone number, or an Internet protocol address that is also associated with another existing claim in Florida or another state. The department must verify that the claim in Florida is not fraudulent before paying any benefits.
- Scrutinize claims filed from foreign Internet protocol addresses before paying any benefits.
- Refer any suspected or attempted fraudulent claims to the Department of Legal Affairs or the state attorney of the judicial circuit in which the suspected fraudulent claims originated for further investigation and potential prosecution.

Under the bill, the department must maintain a web page and e-mail address through which employers may report known or suspected violations of ch. 443, F.S., which includes identify theft, fraud, or reasons for which a claimant would be disqualified for benefits under s. 443.101, F.S. Every year, the department must notify employers in Florida of the web page and e-mail address for reporting violations.

Annually, the department must also make available on its website a report identifying:

- The number of fraudulent reemployment assistance claims identified for the year prior.
- The number of claims not paid due to successful detection of fraudulent intentions.
- The number of claims and the amount of benefits paid against claims subsequently identified as fraudulent.
- The amount of fraudulent overpayments recovered.
- The number of fraudulent claims referred for investigation and possible prosecution.

This report must list the sources of information that were used to cross-check claims during the reporting period.

Last, the bill does not limit the department's ability to adopt additional strategies to limit waste, fraud, and abuse in the reemployment assistance program.

Effective Date

Section 5 sets out an effective date of July 1, 2025.

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:

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

C. Government Sector Impact:

According to the department, the verifications required in the bill will increase its expenditure. There is a \$1.50 transaction fee charged per transaction with the SAVE system, which will increase each year. As the department receives an average of 30,000 claims per month, for the remainder of the 2025 calendar year, such expenditures could be as high as \$3.24 million. That department estimates that the increase in costs will be as high as \$8.64 million for 2026, \$10.8 million for 2027, and \$13.392 million for 2028.³¹

³¹ FLORIDA DEPT. OF COMMERCE, *supra* note 27.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Social Security Act (SSA) requires that state unemployment laws use “methods of administration... to [e]nsure full payment of unemployment compensation when due.”³² Federal regulation interprets this to mean that unemployment compensation benefits must be paid to eligible claimants with the greatest promptness as administratively feasible.³³ To comply with this, states must issue at least 87% of all first payments within fourteen or twenty-one days after the week ending date of the first compensable week in the benefit year.³⁴ The U.S. Supreme Court has determined that even when a claimant’s initial determination of eligibility is being appealed by an employer, a state must continue to pay unemployment benefits each week while the appeal process is taking place.³⁵ As a result of this interpretation of the “when due” provision of the SSA, a state cannot withhold benefits until a decision is made regarding a claimant’s continuing eligibility.³⁶

As the state must act promptly to verify an individual’s identity to ensure full payment of unemployment benefits, the cross-checks under the bill may hinder the department’s ability to ensure full payments when due. For continued claims, a timely payment requires that the department decides each claim no later than the end of the week following the week in which the issue is detected.³⁷ Further, the department noted that:

If the decision is not issued timely, the state must continue to pay the continued claim and issue a determination as soon as administratively feasible after payment is made. If the Department is unable to make a determination regarding the identity verification issue within the two-week benefit period for a continued claim where a claimant is already receiving benefits, the Department will not be able to comply with... the bill because i[t is] inconsistent with the “when due” provision of section 303 of the SSA.³⁸

VIII. Statutes Affected:

This bill creates section 443.1112 of the Florida Statutes.

³² 42 U.S.C. s. 503(a)(1).

³³ 20 C.F.R. s. 640.3-640.4.

³⁴ 20 C.F.R. s. 640.5.

³⁵ *California v. Java*, 402 U.S. 121, 132-135 (1971) (“Paying compensation to an unemployed worker promptly after an initial determination of eligibility accomplishes the congressional purposes of avoiding resort to welfare and stabilizing consumer demands; delaying compensation until months have elapsed defeats these purposes.”).

³⁶ *Id.*

³⁷ FLORIDA DEPT. OF COMMERCE, *supra* note 27.

³⁸ *Id.*

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 31, 2025:

The amendment mandates that a claimant shall be disqualified from reemployment assistance benefits if the department finds that the claimant failed, without good cause:

- To appear for a scheduled job interview three or more times without notifying the employer of the need to reschedule or cancel.
- To accept suitable work within two business days of the offer.
- To return to employment when recalled by their employer after a temporary layoff.

The amendment gives the department rulemaking power to implement these new disqualifiers. The amendment also clarifies that an otherwise eligible claimant may not be denied benefits for any week for failing to appear for an interview for suitable work.

Additionally, the amendment requires:

- The department to cross-check the claimant's initial claim information with the Systematic Alien Verification for Entitlements Program established by the United States Bureau of Citizenship and Immigration Services.
- For every two weeks that a claimant makes a claim for benefits, including the initial claim for benefits, to verify a claimant's eligibility for benefits, the department shall cross-check the information contained in the claim to make sure that the claimant is living, not incarcerated, not already employed, and not filing fraudulent or duplicate claims.
- The department to cross-check claims that are associated with existing claims in other states.
- The department to maintain a website and e-mail address for employers to report violations of ch. 443, F.S.
- The department to list the sources of information it uses to cross-check claims in its annual report.

B. Amendments:

None.