

By Senator Detert

23-01063C-11

2011728

1 A bill to be entitled
2 An act relating to unemployment compensation; amending
3 s. 213.053, F.S.; increasing the number of employer
4 payroll service providers who qualify for access to
5 unemployment tax information by filing a memorandum of
6 understanding; amending s. 443.031, F.S.; revising
7 provisions relating to statutory construction;
8 defining the term "through no fault of his or her
9 own"; amending s. 443.036, F.S.; revising definitions;
10 providing that the term "misconduct" includes
11 reasonable standards expected of employees; amending
12 s. 443.091, F.S.; requiring that an applicant for
13 benefits complete an initial skills review; providing
14 exceptions; specifying criteria for determining an
15 applicant's availability for work; amending s.
16 443.101, F.S.; clarifying "good cause" for voluntarily
17 leaving employment; specifying acts that are "gross
18 misconduct" for purposes of discharging an employee
19 and disqualifying him or her for benefits; revising
20 the criteria for determining "suitable work";
21 disqualifying a person for benefits due to the receipt
22 of severance pay; revising provisions relating to the
23 effect of criminal acts on eligibility for benefits;
24 amending s. 443.1115, F.S.; conforming cross-
25 references; reviving, readopting, and amending s.
26 443.1117, F.S., relating to temporary extended
27 benefits; providing for retroactive application;
28 providing for applicability relating to extended
29 benefits for certain weeks and for periods of high

23-01063C-11

2011728

30 unemployment; providing for applicability; amending s.
31 443.1216, F.S.; providing that employee leasing
32 companies may make a one-time election to report
33 leased employees under the respective unemployment
34 account of each leasing company client; providing
35 procedures and application for such election; amending
36 s. 443.131, F.S.; increasing the employer's standard
37 rate of contributions; providing for retroactive
38 application; amending s. 443.141, F.S.; providing an
39 employer payment schedule for 2012, 2013, and 2014
40 contributions; requiring an employer to pay a fee for
41 paying contributions on a quarterly schedule;
42 providing penalties, interest, and fees on delinquent
43 contributions; amending s. 443.151, F.S.; authorizing
44 new claims to be submitted by telephone, mail, or
45 electronic means, and continuing claims to be
46 submitted by mail or electronic means; revising the
47 judicial venue for reviewing commission orders;
48 providing for repayment of benefits in cases of agency
49 error; providing that the act fulfills an important
50 state interest; providing an effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Subsection (4) of section 213.053, Florida
55 Statutes, as amended by chapter 2010-280, Laws of Florida, is
56 amended to read:

57 213.053 Confidentiality and information sharing.—

58 (4) The department, while providing unemployment tax

23-01063C-11

2011728

59 collection services under contract with the Agency for Workforce
 60 Innovation through an interagency agreement pursuant to s.
 61 443.1316, may release unemployment tax rate information to the
 62 agent of an employer, which ~~agent~~ provides payroll services for
 63 more than 100 ~~500~~ employers, pursuant to the terms of a
 64 memorandum of understanding. The memorandum of understanding
 65 must state that the agent affirms, subject to the criminal
 66 penalties contained in ss. 443.171 and 443.1715, that the agent
 67 will retain the confidentiality of the information, that the
 68 agent has in effect a power of attorney from the employer which
 69 permits the agent to obtain unemployment tax rate information,
 70 and that the agent shall provide the department with a copy of
 71 the employer's power of attorney upon request.

72 Section 2. Section 443.031, Florida Statutes, is amended to
 73 read:

74 443.031 Rule of ~~liberal~~ construction.—

75 (1) This chapter may not be shall be liberally construed to
 76 in favor or disfavor of a claimant of unemployment benefits who
 77 is unemployed through no fault of his or her own. The term
 78 "through no fault of his or her own" means that the employer or
 79 employing unit has released the claimant from employment for
 80 reasons unrelated to any action or inaction of the claimant.

81 (2) Any doubt as to the proper construction of this chapter
 82 shall be resolved in favor of conformity with federal law,
 83 including, but not limited to, the Federal Unemployment Tax Act,
 84 the Social Security Act, the Wagner-Peyser Act, and the
 85 Workforce Investment Act.

86 Section 3. Subsections (6), (9), (29), and (43) of section
 87 443.036, Florida Statutes, are amended to read:

23-01063C-11

2011728

88 443.036 Definitions.—As used in this chapter, the term:

89 (6) "Available for work" means actively seeking and being
90 ready and willing to accept suitable work ~~employment~~.

91 (9) "Benefit year" means, for an individual, the 1-year
92 period beginning with the first day of the first week for which
93 the individual first files a valid claim for benefits and,
94 thereafter, the 1-year period beginning with the first day of
95 the first week for which the individual next files a valid claim
96 for benefits after the termination of his or her last preceding
97 benefit year. Each claim for benefits made in accordance with s.
98 443.151(2) is a valid claim ~~under this subsection~~ if the
99 individual was paid wages for insured work in accordance with s.
100 443.091(1)(h) ~~443.091(1)(g)~~ and is unemployed ~~as defined in~~
101 ~~subsection (43)~~ at the time of filing the claim. However, the
102 Agency for Workforce Innovation may adopt rules providing for
103 the establishment of a uniform benefit year for all workers in
104 one or more groups or classes of service or within a particular
105 industry if the agency determines, after notice to the industry
106 and to the workers in the industry and an opportunity to be
107 heard in the matter, that those groups or classes of workers in
108 a particular industry periodically experience unemployment
109 resulting from layoffs or shutdowns for limited periods of time.

110 (29) "Misconduct" includes, but is not limited to, the
111 following, which may not be construed in pari materia with each
112 other:

113 (a) Conduct demonstrating conscious ~~willful or wanton~~
114 disregard of an employer's interests and found to be a
115 deliberate violation or disregard of reasonable ~~the~~ standards of
116 behavior which the employer expects ~~has a right to expect~~ of his

23-01063C-11

2011728

117 or her employee, including standards lawfully set forth in the
118 employer's written rules of conduct; or

119 (b) Carelessness or negligence to a degree or recurrence
120 that ~~manifests culpability, wrongful intent, or evil design or~~
121 shows an intentional and substantial disregard of the employer's
122 interests or of the employee's duties and obligations to his or
123 her employer.

124 (43) "Unemployment" or "unemployed" means:

125 (a) An individual is "totally unemployed" in any week
126 during which he or she does not perform any services and for
127 which earned income is not payable to him or her. An individual
128 is "partially unemployed" in any week of less than full-time
129 work if the earned income payable to him or her for that week is
130 less than his or her weekly benefit amount. The Agency for
131 Workforce Innovation may adopt rules prescribing distinctions in
132 the procedures for unemployed individuals based on total
133 unemployment, part-time unemployment, partial unemployment of
134 individuals attached to their regular jobs, and other forms of
135 short-time work.

136 (b) An individual's week of unemployment commences only
137 after ~~his or her~~ registration with the Agency for Workforce
138 Innovation as required in s. 443.091, ~~except as the agency may~~
139 ~~otherwise prescribe by rule.~~

140 Section 4. Subsection (1) of section 443.091, Florida
141 Statutes, is amended to read:

142 443.091 Benefit eligibility conditions.—

143 (1) An unemployed individual is eligible to receive
144 benefits for any week only if the Agency for Workforce
145 Innovation finds that:

23-01063C-11

2011728

146 (a) She or he has made a claim for benefits for that week
147 in accordance with ~~the~~ rules adopted by the agency ~~for Workforce~~
148 ~~Innovation~~.

149 (b) She or he has registered with the agency for work and
150 subsequently reports to the one-stop career center as directed
151 by the regional workforce board for reemployment services. This
152 requirement does not apply to persons who are:

- 153 1. Non-Florida residents;
- 154 2. On a temporary layoff, ~~as defined in s. 443.036(42)~~;
- 155 3. Union members who customarily obtain employment through
156 a union hiring hall; or
- 157 4. Claiming benefits under an approved short-time
158 compensation plan as provided in s. 443.1116.

159 (c) She or he has completed an initial skills review using
160 an online education or training program within 14 days after
161 making a new claim for benefits. An online education or training
162 program, such as that established in s. 1004.99, which is
163 approved by the agency and designed to measure an individual's
164 mastery level of workplace skills meets the requirement of this
165 paragraph.

- 166 1. This requirement does not apply to persons who are:
 - 167 a. Non-Florida residents;
 - 168 b. On a temporary layoff;
 - 169 c. Union members who customarily obtain employment through
170 a union hiring hall; or
 - 171 d. Claiming benefits under an approved short-time
172 compensation plan as provided in s. 443.1116.

173 2. The administrator or operator of the online education or
174 training program must notify the agency when the claimant

23-01063C-11

2011728

175 completes the initial skills review. The online education or
176 training program administrator or operator must report the
177 results of the claimant's initial skills review to the regional
178 workforce board or the one-stop career center as directed by the
179 workforce board for reemployment services.

180 (d)~~(e)~~ To make continued claims for benefits, she or he is
181 reporting to the agency in accordance with its rules. These
182 rules may not conflict with s. 443.111(1)(b), including the
183 requirement that each claimant continue to report regardless of
184 any pending appeal relating to her or his eligibility or
185 disqualification for benefits.

186 (e)~~(d)~~ She or he is able to work and is available for work.
187 In order to assess eligibility for a claimed week of
188 unemployment, the agency shall develop criteria to determine a
189 claimant's ability to work and availability for work. A claimant
190 must be actively seeking work in order to be considered
191 available for work. As part of a claimant's efforts to actively
192 seek work, she or he must make a reasonable and diligent effort
193 to contact multiple potential employers each week for the
194 purpose of securing suitable work. The claimant must furnish
195 tangible evidence to the agency that she or he is actively
196 engaged in a systematic and sustained effort to find work. The
197 agency may require the claimant to provide the proof to the one-
198 stop career center as part of reemployment services. However:

199 1. Notwithstanding any other provision of this paragraph or
200 paragraphs (b) and (f)~~(e)~~, an otherwise eligible individual may
201 not be denied benefits for any week because she or he is in
202 training with the approval of the agency, or by reason of s.
203 443.101(3) ~~443.101(2)~~ relating to failure to apply for, or

23-01063C-11

2011728

204 refusal to accept, suitable work. Training may be approved by
205 the agency in accordance with criteria prescribed by rule. A
206 claimant's eligibility during approved training is contingent
207 upon satisfying eligibility conditions prescribed by rule.

208 2. Notwithstanding any other provision of this chapter, an
209 otherwise eligible individual who is in training approved under
210 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
211 determined ineligible or disqualified for benefits due to ~~her or~~
212 ~~his~~ enrollment in such training or because of leaving work that
213 is not suitable employment to enter such training. As used in
214 this subparagraph, the term "suitable employment" means work of
215 a substantially equal or higher skill level than the worker's
216 past adversely affected employment, as defined for purposes of
217 the Trade Act of 1974, as amended, the wages for which are at
218 least 80 percent of the worker's average weekly wage as
219 determined for purposes of the Trade Act of 1974, as amended.

220 3. Notwithstanding any other provision of this section, an
221 otherwise eligible individual may not be denied benefits for any
222 week because she or he is before any state or federal court
223 pursuant to a lawfully issued summons to appear for jury duty.

224 (f) ~~(e)~~ She or he participates in reemployment services,
225 such as job search assistance services if, ~~whenever~~ the
226 individual has been determined, by a profiling system
227 established by agency rule, to be likely to exhaust regular
228 benefits and to be in need of reemployment services.

229 (g) ~~(f)~~ She or he has been unemployed for a waiting period
230 of 1 week. A week may not be counted as a week of unemployment
231 under this subsection unless:

232 1. ~~Unless~~ It occurs within the benefit year that includes

23-01063C-11

2011728

233 the week for which she or he claims payment of benefits.

234 2. ~~If~~ Benefits have been paid for that week.

235 3. ~~Unless~~ The individual was eligible for benefits for that
236 week as provided in this section and s. 443.101, except for the
237 requirements of this subsection and ~~of~~ s. 443.101(6) ~~443.101(5)~~.

238 (h) ~~(g)~~ She or he has been paid wages for insured work equal
239 to 1.5 times her or his high quarter wages during her or his
240 base period, except that an unemployed individual is not
241 eligible to receive benefits if the base period wages are less
242 than \$3,400.

243 (i) ~~(h)~~ She or he submitted to the agency a valid social
244 security number assigned to her or him. The agency may verify
245 the social security number with the United States Social
246 Security Administration and ~~may~~ deny benefits if the agency is
247 unable to verify the individual's social security number, the
248 social security number is invalid, or the social security number
249 is not assigned to the individual.

250 Section 5. Paragraph (a) of subsection (1) and present
251 subsections (2), (3), (9), and (11) of section 443.101, Florida
252 Statutes, are amended, present subsections (2) through (11) of
253 that section are redesignated as subsections (3) through (12),
254 respectively, and a new subsection (2) is added to that section,
255 to read:

256 443.101 Disqualification for benefits.—An individual shall
257 be disqualified for benefits:

258 (1) (a) For the week in which he or she has voluntarily left
259 work without good cause attributable to his or her employing
260 unit or ~~in which the individual~~ has been discharged by the
261 employing unit for misconduct connected with his or her work,

23-01063C-11

2011728

262 based on a finding by the Agency for Workforce Innovation. As
263 used in this paragraph, the term "work" means any work, whether
264 full-time, part-time, or temporary.

265 1. Disqualification for voluntarily quitting continues for
266 the full period of unemployment next ensuing after the
267 individual has left his or her ~~full-time, part-time, or~~
268 ~~temporary~~ work voluntarily without good cause and until the
269 individual has earned income equal to or greater than ~~in excess~~
270 ~~of~~ 17 times his or her weekly benefit amount. As used in this
271 subsection, the term "good cause" includes only that cause
272 attributable to the employing unit which would compel a
273 reasonable individual to cease working or attributable to which
274 ~~consists of~~ the individual's illness or disability requiring
275 separation from his or her work. Any other disqualification may
276 not be imposed. An individual is not disqualified ~~under this~~
277 ~~subsection~~ for voluntarily leaving temporary work to return
278 immediately when called to work by the permanent employing unit
279 that temporarily terminated his or her work within the previous
280 6 calendar months, or. ~~An individual is not disqualified under~~
281 ~~this subsection~~ for voluntarily leaving work to relocate as a
282 result of his or her military-connected spouse's permanent
283 change of station orders, activation orders, or unit deployment
284 orders.

285 2. Disqualification for being discharged for misconduct
286 connected with his or her work continues for the full period of
287 unemployment next ensuing after having been discharged and until
288 the individual is reemployed and has earned income of at least
289 17 times his or her weekly benefit amount and for not more than
290 52 weeks ~~that~~ immediately following ~~follow~~ that week, as

23-01063C-11

2011728

291 determined by the agency in each case according to the
292 circumstances ~~in each case~~ or the seriousness of the misconduct,
293 under the agency's rules adopted for determining ~~determinations~~
294 ~~of~~ disqualification for benefits for misconduct.

295 3. If an individual has provided notification to the
296 employing unit of his or her intent to voluntarily leave work
297 and the employing unit discharges the individual for reasons
298 other than misconduct before the date the voluntary quit was to
299 take effect, the individual, if otherwise entitled, shall
300 receive benefits from the date of the employer's discharge until
301 the effective date of his or her voluntary quit.

302 4. If an individual is notified by the employing unit of
303 the employer's intent to discharge the individual for reasons
304 other than misconduct and the individual quits without good
305 cause, ~~as defined in this section,~~ before the date the discharge
306 was to take effect, the claimant is ineligible for benefits
307 pursuant to s. 443.091(1)(e) ~~443.091(1)(d)~~ for failing to be
308 available for work for the week or weeks of unemployment
309 occurring before the effective date of the discharge.

310 (2) For the week the individual has been discharged by the
311 employing unit for gross misconduct, based on a finding by the
312 Agency for Workforce Innovation. Disqualification for being
313 discharged for gross misconduct continues for the full period of
314 unemployment next ensuing after having been discharged and until
315 the individual is reemployed and has earned income of at least
316 17 times his or her weekly benefit amount. As used in this
317 subsection, the term "gross misconduct" means any of the
318 following:

319 (a) Willful or reckless damage to an employer's property

23-01063C-11

2011728

320 which results in damage of more than \$50.

321 (b) Theft of the property of an employer, a customer, or an
322 invitee of the employer.

323 (c) Violation of an employer's policy relating to the
324 consumption of alcohol or drugs on the employer property, being
325 under the influence of alcohol or drugs on employer property, or
326 using alcohol or drugs while on the job or on duty. As used in
327 this paragraph, the term "alcohol or drugs" has the same meaning
328 as in s. 440.102(1)(c).

329 (d) Failure to comply with an employer's drug and alcohol
330 testing and use policies while on the job or on duty.

331 (e) Failure to comply with applicable state or federal drug
332 and alcohol testing and use regulations, including, but not
333 limited to, 49 C.F.R. part 40 and part 382 of the Federal Motor
334 Carrier Safety Regulations, while on the job or on duty, and
335 regulations applicable to employees performing transportation
336 and other safety-sensitive job functions as defined by the
337 Federal Government.

338 (f) Criminal assault or battery of another employee, or of
339 a customer or invitee of the employer.

340 (g) Abuse of a patient, resident, disabled person, elderly
341 person, or child in her or his professional care.

342 (h) Insubordination, which is defined as the willful
343 failure to comply with a lawful, reasonable order of a
344 supervisor which is directly related to the employee's
345 employment as described in an applicable written job
346 description, the written rules of conduct, or other lawful
347 directive of the employer.

348 (i) Willful neglect of duty directly related to the

23-01063C-11

2011728

349 employee's employment as described in an applicable written job
350 description or written rules of conduct.

351 (j) Failure to maintain a license, registration, or
352 certification required by law in order for the employee to
353 perform her or his assigned job duties as described in an
354 written job description.

355 (3)(2) If the Agency for Workforce Innovation finds that
356 the individual has failed without good cause to actively seek
357 work, to apply for available suitable work ~~when directed by the~~
358 ~~agency or the one-stop career center,~~ to accept suitable work
359 when offered to him or her, or to return to the individual's
360 customary self-employment when directed by the agency, the
361 disqualification continues for the full period of unemployment
362 next ensuing after he or she failed without good cause to apply
363 for available suitable work, to accept suitable work, or to
364 return to his or her customary self-employment, ~~under this~~
365 ~~subsection,~~ and until the individual has earned income of at
366 least 17 times his or her weekly benefit amount. The agency
367 shall determine "suitable work" pursuant to the following
368 criteria: ~~The Agency for Workforce Innovation shall by rule~~
369 ~~adopt criteria for determining the "suitability of work," as~~
370 ~~used in this section. The Agency for Workforce Innovation in~~
371 ~~developing these rules shall consider the duration of a~~
372 ~~claimant's unemployment in determining the suitability of work~~
373 ~~and the suitability of proposed rates of compensation for~~
374 ~~available work. Further, after an individual has received 25~~
375 ~~weeks of benefits in a single year, suitable work is a job that~~
376 ~~pays the minimum wage and is 120 percent or more of the weekly~~
377 ~~benefit amount the individual is drawing.~~

23-01063C-11

2011728

378 (a) The agency shall consider the duration of the
379 individual's unemployment. For the first 12 weeks of
380 unemployment, suitable work is employment of an equal or higher
381 skill level than the individual's previous employment which pays
382 wages that are at least 80 percent of the individual's average
383 weekly wage of the high quarter wages of his or her base period
384 employment. After 13 weeks of unemployment, suitable work is
385 employment that pays wages at least equal to the weekly benefit
386 amount that the individual is drawing.

387 ~~(b) (a) In determining whether or not any work is suitable~~
388 ~~for an individual, The agency for Workforce Innovation shall~~
389 ~~consider the degree of risk involved to the individual's his or~~
390 ~~her health, safety, and morals; the individual's his or her~~
391 ~~physical fitness, and prior training, the individual's~~
392 ~~experience, and prior earnings, his or her length of~~
393 ~~unemployment, and prospects for securing local work in his or~~
394 ~~her customary occupation; and the distance of the available work~~
395 ~~from his or her residence.~~

396 (c) (b) Notwithstanding any other provisions of this
397 chapter, work is not deemed suitable and benefits may not be
398 denied ~~under this chapter~~ to any otherwise eligible individual
399 for refusing to accept new work under any of the following
400 conditions:

401 1. ~~If~~ The position offered is vacant due directly to a
402 strike, lockout, or other labor dispute.

403 2. ~~If~~ The wages, hours, or other conditions of the work
404 offered are substantially less favorable to the individual than
405 those prevailing for similar work in the locality.

406 3. ~~If~~ As a condition of being employed, the individual is

23-01063C-11

2011728

407 ~~would be~~ required to join a company union or to resign from or
408 refrain from joining any bona fide labor organization.

409 (d) ~~(e)~~ If the agency ~~for Workforce Innovation~~ finds that an
410 individual was rejected for offered employment as the direct
411 result of a positive, confirmed drug test required as a
412 condition of employment, the individual is disqualified for
413 refusing to accept an offer of suitable work.

414 (4) ~~(3)~~ For any week with respect to which he or she is
415 receiving or has received remuneration in the form of:

416 (a) Wages in lieu of notice.

417 (b) Severance pay. The number of weeks that an individual's
418 severance pay disqualifies the individual is equal to the amount
419 of the severance pay divided by the individual's average weekly
420 wage received from her or his most recent employer, rounded down
421 to the nearest whole number, beginning with the week the
422 individual is separated from employment.

423 (c) ~~(b)1.~~ Compensation for temporary total disability or
424 permanent total disability under the workers' compensation law
425 of any state or under a similar law of the United States.

426
427 ~~2.~~ However, if the remuneration referred to in paragraphs (a),
428 ~~and (b), and (c)~~ and (b), and (c) is less than the benefits that would otherwise
429 be due under this chapter, an individual who is otherwise
430 eligible ~~he or she~~ is entitled to receive for that week, ~~if~~
431 ~~otherwise eligible,~~ benefits reduced by the amount of the
432 remuneration.

433 (10) ~~(9)~~ If the individual was terminated from ~~his or her~~
434 work for violation of any criminal law punishable by
435 imprisonment, or for any dishonest act, ~~in connection with his~~

23-01063C-11

2011728

436 ~~or her work,~~ as follows:

437 (a) If the Agency for Workforce Innovation or the
438 Unemployment Appeals Commission finds that the individual was
439 terminated from ~~his or her~~ work for violation of any criminal
440 law, under any jurisdiction, which was punishable by
441 imprisonment in connection with his or her work or affected his
442 or her ability to perform work, and the individual was
443 convicted, or entered a plea of guilty or nolo contendere found
444 guilty of the offense, made an admission of guilt in a court of
445 law, or entered a plea of no contest, the individual is not
446 entitled to unemployment benefits for up to 52 weeks, pursuant
447 to under rules adopted by the agency ~~for Workforce Innovation,~~
448 and until he or she has earned income of at least 17 times his
449 or her weekly benefit amount. If, before an adjudication of
450 guilt, an admission of guilt, or a plea of nolo contendere no
451 contest, the employer provides competent, substantial evidence
452 to shows the agency ~~for Workforce Innovation~~ that the arrest was
453 due to a crime against the employer or the employer's business,
454 customers, or invitees and, ~~after considering all the evidence,~~
455 ~~the Agency for Workforce Innovation finds misconduct in~~
456 ~~connection with the individual's work,~~ the individual is not
457 entitled to unemployment benefits.

458 (b) If the Agency for Workforce Innovation or the
459 Unemployment Appeals Commission finds that the individual was
460 unavailable for work due to incarceration or imprisonment,
461 regardless of whether the offense was committed in connection
462 with his or her work, the individual is not entitled to
463 unemployment benefits for up to 52 weeks, pursuant to rules
464 adopted by the agency, and until he or she has earned income of

23-01063C-11

2011728

465 at least 17 times his or her weekly benefit amount.

466 (c)~~(b)~~ If the Agency for Workforce Innovation or the
467 Unemployment Appeals Commission finds that the individual was
468 terminated from work for any dishonest act in connection with
469 his or her work, the individual is not entitled to unemployment
470 benefits for up to 52 weeks, pursuant to ~~under~~ rules adopted by
471 the agency ~~for Workforce Innovation~~, and until he or she has
472 earned income of at least 17 times his or her weekly benefit
473 amount. ~~In addition,~~ If the employer terminates an individual as
474 a result of a dishonest act in connection with his or her work
475 and the agency ~~for Workforce Innovation~~ finds misconduct in
476 connection with his or her work, the individual is not entitled
477 to unemployment benefits.

478
479 If ~~With respect to~~ an individual is disqualified for benefits,
480 the account of the terminating employer, if the employer is in
481 the base period, is noncharged at the time the disqualification
482 is imposed.

483 (12)~~(11)~~ If an individual is discharged from employment for
484 drug use as evidenced by a positive, confirmed drug test as
485 provided in paragraph (1) (d), or is rejected for offered
486 employment because of a positive, confirmed drug test as
487 provided in paragraph (3) (d) ~~(2) (e)~~, test results and chain of
488 custody documentation provided to the employer by a licensed and
489 approved drug-testing laboratory is self-authenticating and
490 admissible in unemployment compensation hearings, and such
491 evidence creates a rebuttable presumption that the individual
492 used, or was using, controlled substances, subject to the
493 following conditions:

23-01063C-11

2011728

494 (a) To qualify for the presumption ~~described in this~~
495 ~~subsection~~, an employer must have implemented a drug-free
496 workplace program under ss. 440.101 and 440.102, and ~~must~~ submit
497 proof that the employer has qualified for the insurance
498 discounts provided under s. 627.0915, as certified by the
499 insurance carrier or self-insurance unit. In lieu of these
500 requirements, an employer who does not fit the definition of
501 "employer" in s. 440.102 may qualify for the presumption if the
502 employer is in compliance with equivalent or more stringent
503 drug-testing standards established by federal law or regulation.

504 (b) Only laboratories licensed and approved as provided in
505 s. 440.102(9), or as provided by equivalent or more stringent
506 licensing requirements established by federal law or regulation
507 may perform the drug tests.

508 (c) Disclosure of drug test results and other information
509 pertaining to drug testing of individuals who claim or receive
510 compensation under this chapter is ~~shall be~~ governed by s.
511 443.1715.

512 Section 6. Paragraph (c) of subsection (3) of section
513 443.1115, Florida Statutes, is amended to read:

514 443.1115 Extended benefits.—

515 (3) ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.—

516 (c)1. An individual is disqualified from receiving extended
517 benefits if the Agency for Workforce Innovation finds that,
518 during any week of unemployment in her or his eligibility
519 period:

520 a. She or he failed to apply for suitable work or, if
521 offered, failed to accept suitable work, unless the individual
522 can furnish to the agency satisfactory evidence that her or his

23-01063C-11

2011728

523 prospects for obtaining work in her or his customary occupation
524 within a reasonably short period are good. If this evidence is
525 deemed satisfactory ~~for this purpose~~, the determination of
526 whether any work is suitable for the individual shall be made in
527 accordance with the definition of suitable work in s. 443.101(3)
528 ~~443.101(2)~~. This disqualification begins with the week the
529 failure occurred and continues until she or he is employed for
530 at least 4 weeks and receives earned income of at least 17 times
531 her or his weekly benefit amount.

532 b. She or he failed to furnish tangible evidence that she
533 or he actively engaged in a systematic and sustained effort to
534 find work. This disqualification begins with the week the
535 failure occurred and continues until she or he is employed for
536 at least 4 weeks and receives earned income of at least 4 times
537 her or his weekly benefit amount.

538 2. Except as otherwise provided in sub-subparagraph 1.a.,
539 as used in this paragraph, the term "suitable work" means any
540 work within the individual's capabilities to perform, if:

541 a. The gross average weekly remuneration payable for the
542 work exceeds the sum of the individual's weekly benefit amount
543 plus the amount, if any, of supplemental unemployment benefits,
544 as defined in s. 501(c)(17)(D) of the Internal Revenue Code of
545 1954, as amended, payable to the individual for that week;

546 b. The wages payable for the work equal the higher of the
547 minimum wages provided by s. 6(a)(1) of the Fair Labor Standards
548 Act of 1938, without regard to any exemption, or the state or
549 local minimum wage; and

550 c. The work otherwise meets the definition of suitable work
551 in s. 443.101(3) ~~443.101(2)~~ to the extent that the criteria for

23-01063C-11

2011728

552 suitability are not inconsistent with this paragraph.

553 Section 7. Notwithstanding the expiration date contained in
554 section 1 of chapter 2010-90, Laws of Florida, operating
555 retroactive to December 17, 2010, and expiring January 4, 2012,
556 section 443.1117, Florida Statutes, is revived, readopted, and
557 amended to read:

558 443.1117 Temporary extended benefits.—

559 (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.—Except if
560 the result is inconsistent with ~~the~~ other provisions of this
561 section, s. 443.1115(2), (3), (4), (6), and (7) apply to all
562 claims covered by this section.

563 (2) DEFINITIONS.—As used in ~~For the purposes of~~ this
564 section, the term:

565 (a) "Regular benefits" and "extended benefits" have the
566 same meaning as in s. 443.1115.

567 (b) "Eligibility period" means the weeks in an individual's
568 benefit year or emergency benefit period which begin in an
569 extended benefit period and, if the benefit year or emergency
570 benefit period ends within that extended benefit period, any
571 subsequent weeks beginning in that period.

572 (c) "Emergency benefits" means Emergency Unemployment
573 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
574 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, ~~and~~ Pub. L. No.
575 111-118, Pub. L. No. 111-144, ~~and~~ Pub. L. No. 111-157, Pub. L.
576 No. 111-205, and Pub. L. No. 111-312.

577 (d) "Extended benefit period" means a period that:

578 1. Begins with the third week after a week for which there
579 is a state "on" indicator; and

580 2. Ends with any of the following weeks, whichever occurs

23-01063C-11

2011728

581 later:

582 a. The third week after the first week for which there is a
583 state "off" indicator;

584 b. The 13th consecutive week of that period.

585

586 However, an extended benefit period may not begin by reason of a
587 state "on" indicator before the 14th week after the end of a
588 prior extended benefit period that was in effect for this state.

589 (e) "Emergency benefit period" means the period during
590 which an individual receives emergency benefits ~~as defined in~~
591 ~~paragraph (c)~~.

592 (f) "Exhaustee" means an individual who, for any week of
593 unemployment in her or his eligibility period:

594 1. Has received, before that week, all of the regular
595 benefits and emergency benefits, if any, available under this
596 chapter or any other law, including dependents' allowances and
597 benefits payable to federal civilian employees and ex-
598 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
599 benefit year or emergency benefit period that includes that
600 week. For the purposes of this subparagraph, an individual has
601 received all of the regular benefits and emergency benefits, if
602 any, available even if ~~although~~, as a result of a pending appeal
603 for wages paid for insured work which were not considered in the
604 original monetary determination in the benefit year, she or he
605 may subsequently be determined to be entitled to added regular
606 benefits;

607 2. Had a benefit year that ~~which~~ expired before that week,
608 and was paid no, or insufficient, wages for insured work on the
609 basis of which she or he could establish a new benefit year that

23-01063C-11

2011728

610 includes that week; and

611 3.a. Has no right to unemployment benefits or allowances
612 under the Railroad Unemployment Insurance Act or other federal
613 laws as specified in regulations issued by the United States
614 Secretary of Labor; and

615 b. Has not received and is not seeking unemployment
616 benefits under the unemployment compensation law of Canada; but
617 if an individual is seeking those benefits and the appropriate
618 agency finally determines that she or he is not entitled to
619 benefits under that law, she or he is considered an exhaustee.

620 (g) "State 'on' indicator" means, with respect to weeks of
621 unemployment ~~beginning on or after February 1, 2009, and ending~~
622 on or before December 10, 2011 ~~May 8, 2010~~, the occurrence of a
623 week in which the average total unemployment rate, seasonally
624 adjusted, as determined by the United States Secretary of Labor,
625 for the most recent 3 months for which data for all states are
626 published by the United States Department of Labor:

627 1. Equals or exceeds 110 percent of the average of those
628 rates for the corresponding 3-month period ending in any or all
629 ~~each~~ of the preceding 3 ~~2~~ calendar years; and

630 2. Equals or exceeds 6.5 percent.

631 (h) "High unemployment period" means, with respect to weeks
632 of unemployment ~~beginning on or after February 1, 2009, and~~
633 ending on or before December 10, 2011 ~~May 8, 2010~~, any week in
634 which the average total unemployment rate, seasonally adjusted,
635 as determined by the United States Secretary of Labor, for the
636 most recent 3 months for which data for all states are published
637 by the United States Department of Labor:

638 1. Equals or exceeds 110 percent of the average of those

23-01063C-11

2011728

639 rates for the corresponding 3-month period ending in any or all
640 ~~each~~ of the preceding 3 ~~2~~ calendar years; and

641 2. Equals or exceeds 8 percent.

642 (i) "State 'off' indicator" means the occurrence of a week
643 in which there is no state "on" indicator or which does not
644 constitute a high unemployment period.

645 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
646 subsection (4):

647 (a) For any week for which there is an "on" indicator
648 pursuant to paragraph (2)(g), the total extended benefit amount
649 payable to an eligible individual for her or his applicable
650 benefit year is the lesser of:

651 1. Fifty percent of the total regular benefits payable
652 under this chapter in the applicable benefit year; or

653 2. Thirteen times the weekly benefit amount payable under
654 this chapter for a week of total unemployment in the applicable
655 benefit year.

656 (b) For any high unemployment period, the total extended
657 benefit amount payable to an eligible individual for her or his
658 applicable benefit year is the lesser of:

659 1. Eighty percent of the total regular benefits payable
660 under this chapter in the applicable benefit year; or

661 2. Twenty times the weekly benefit amount payable under
662 this chapter for a week of total unemployment in the applicable
663 benefit year.

664 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other
665 provision of this chapter, if the benefit year of an individual
666 ends within an extended benefit period, the number of weeks of
667 extended benefits the individual is entitled to receive in that

23-01063C-11

2011728

668 extended benefit period for weeks of unemployment beginning
669 after the end of the benefit year, except as provided in this
670 section, is reduced, but not to below zero, by the number of
671 weeks for which the individual received, within that benefit
672 year, trade readjustment allowances under the Trade Act of 1974,
673 as amended.

674 Section 8. The provisions of s. 443.1117, Florida Statutes,
675 as revived, readopted, and amended by this act, apply only to
676 claims for weeks of unemployment in which an exhaustee
677 establishes entitlement to extended benefits pursuant to that
678 section which are established for the period between December
679 17, 2010 and January 4, 2012.

680 Section 9. Paragraph (a) of subsection (1) of section
681 443.1216, Florida Statutes, is amended to read:

682 443.1216 Employment.—Employment, as defined in s. 443.036,
683 is subject to this chapter under the following conditions:

684 (1) (a) The employment ~~subject to this chapter~~ includes a
685 service performed, including a service performed in interstate
686 commerce, by:

687 1. An officer of a corporation.

688 2. An individual who, under the usual common-law rules
689 applicable in determining the employer-employee relationship, is
690 an employee. However, if ~~whenever~~ a client, ~~as defined in s.~~
691 ~~443.036(18),~~ which would otherwise be designated as an employing
692 unit, has contracted with an employee leasing company to supply
693 it with workers, those workers are considered employees of the
694 employee leasing company and must be reported under the leasing
695 company's tax identification number and contribution rate for
696 work performed for the leasing company.

23-01063C-11

2011728

697 a. However, except for the internal employees of an
698 employee leasing company, a leasing company may make a one-time
699 election to report and pay contributions for all leased
700 employees under the respective unemployment account of each
701 client of the leasing company. This election applies only to
702 contributions for unemployment.

703 (I) Such election includes all of the leasing company's
704 clients.

705 (II) An employee leasing company must notify the Agency for
706 Workforce Innovation or the tax collection service provider of
707 its election by September 30, and such election applies to
708 reports and contributions due beginning the following January 1.

709 (III) Subsequent to such election, the employee leasing
710 company may not change its reporting method.

711 (IV) This sub-subparagraph applies to all employee leasing
712 companies, including each leasing company that is a group member
713 or group leader of an employee leasing company group licensed
714 pursuant to chapter 468. The election is binding on all employee
715 leasing companies and their related enterprises, subsidiaries,
716 or other entities that share common ownership, management, or
717 control with the leasing company. The election is also binding
718 on all clients of the leasing company for as long as a written
719 agreement is in effect between the client and the leasing
720 company pursuant to s. 468.525(3)(a).

721 b. An employee leasing company may lease corporate officers
722 of the client to the client and other workers to the client,
723 except as prohibited by regulations of the Internal Revenue
724 Service. ~~Employees of an employee leasing company must be~~
725 ~~reported under the employee leasing company's tax identification~~

23-01063C-11

2011728

726 ~~number and contribution rate for work performed for the employee~~
727 ~~leasing company.~~

728 c.a. In addition to any other report required to be filed
729 by law, an employee leasing company shall submit a report to the
730 Labor Market Statistics Center within the Agency for Workforce
731 Innovation which includes each client establishment and each
732 establishment of the ~~employee~~ leasing company, or as otherwise
733 directed by the agency. The report must include the following
734 information for each establishment:

735 (I) The trade or establishment name;

736 (II) The former unemployment compensation account number,
737 if available;

738 (III) The former federal employer's identification number
739 (FEIN), if available;

740 (IV) The industry code recognized and published by the
741 United States Office of Management and Budget, if available;

742 (V) A description of the client's primary business activity
743 in order to verify or assign an industry code;

744 (VI) The address of the physical location;

745 (VII) The number of full-time and part-time employees who
746 worked during, or received pay that was subject to unemployment
747 compensation taxes for, the pay period including the 12th of the
748 month for each month of the quarter;

749 (VIII) The total wages subject to unemployment compensation
750 taxes paid during the calendar quarter;

751 (IX) An internal identification code to uniquely identify
752 each establishment of each client;

753 (X) The month and year that the client entered into the
754 contract for services; and

23-01063C-11

2011728

755 (XI) The month and year that the client terminated the
756 contract for services.

757 ~~d.d.~~ The report shall be submitted electronically or in a
758 manner otherwise prescribed by the Agency for Workforce
759 Innovation in the format specified by the Bureau of Labor
760 Statistics of the United States Department of Labor for its
761 Multiple Worksite Report for Professional Employer
762 Organizations. The report must be provided quarterly to the
763 Labor Market Statistics Center within the agency ~~for Workforce~~
764 ~~Innovation~~, or as otherwise directed by the agency, and must be
765 filed by the last day of the month immediately following the end
766 of the calendar quarter. The information required in sub-sub-
767 subparagraphs c.(X) and (XI) a.(X) and ~~(XI)~~ need be provided
768 only in the quarter in which the contract to which it relates
769 was entered into or terminated. The sum of the employment data
770 and the sum of the wage data in this report must match the
771 employment and wages reported in the unemployment compensation
772 quarterly tax and wage report. A report is not required for any
773 calendar quarter preceding the third calendar quarter of 2010.

774 ~~e.e.~~ The Agency for Workforce Innovation shall adopt rules
775 as necessary to administer this subparagraph, and may
776 administer, collect, enforce, and waive the penalty imposed by
777 s. 443.141(1)(b) for the report required by this subparagraph.

778 ~~f.f.~~ For the purposes of this subparagraph, the term
779 "establishment" means any location where business is conducted
780 or where services or industrial operations are performed.

781 3. An individual other than an individual who is an
782 employee under subparagraph 1. or subparagraph 2., who performs
783 services for remuneration for any person:

23-01063C-11

2011728

784 a. As an agent-driver or commission-driver engaged in
785 distributing meat products, vegetable products, fruit products,
786 bakery products, beverages other than milk, or laundry or
787 drycleaning services for his or her principal.

788 b. As a traveling or city salesperson engaged on a full-
789 time basis in the solicitation on behalf of, and the
790 transmission to, his or her principal of orders from
791 wholesalers, retailers, contractors, or operators of hotels,
792 restaurants, or other similar establishments for merchandise for
793 resale or supplies for use in their business operations. This
794 sub-subparagraph does not apply to an agent-driver or a
795 commission-driver and does not apply to sideline sales
796 activities performed on behalf of a person other than the
797 salesperson's principal.

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

800 a. The contract of service contemplates that substantially
801 all of the services are to be performed personally by the
802 individual;

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

806 c. The services are not in the nature of a single
807 transaction that is not part of a continuing relationship with
808 the person for whom the services are performed.

809 Section 10. Effective upon this act becoming a law and
810 operating retroactively to January 1, 2011, paragraphs (c) and
811 (e) of subsection (3) of section 443.131, Florida Statutes, are
812 amended to read:

23-01063C-11

2011728

813 443.131 Contributions.—

814 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
815 EXPERIENCE.—

816 (c) *Standard rate.*—The standard rate of contributions
817 payable by each employer shall be 6.4 ~~5.4~~ percent.

818 (e) *Assignment of variations from the standard rate.*—For
819 the calculation of contribution rates effective January 1, 2010,
820 and thereafter:

821 1. The tax collection service provider shall assign a
822 variation from the standard rate of contributions for each
823 calendar year to each eligible employer. In determining the
824 contribution rate, varying from the standard rate to be assigned
825 each employer, adjustment factors computed under sub-
826 subparagraphs a.-d. are added to the benefit ratio. This
827 addition shall be accomplished in two steps by adding a variable
828 adjustment factor and a final adjustment factor. The sum of
829 these adjustment factors computed under sub-subparagraphs a.-d.
830 shall first be algebraically summed. The sum of these adjustment
831 factors shall next be divided by a gross benefit ratio
832 determined as follows: Total benefit payments for the 3-year
833 period described in subparagraph (b)2. are charged to employers
834 eligible for a variation from the standard rate, minus excess
835 payments for the same period, divided by taxable payroll
836 entering into the computation of individual benefit ratios for
837 the calendar year for which the contribution rate is being
838 computed. The ratio of the sum of the adjustment factors
839 computed under sub-subparagraphs a.-d. to the gross benefit
840 ratio is multiplied by each individual benefit ratio that is
841 less than the maximum contribution rate to obtain variable

23-01063C-11

2011728

842 adjustment factors; except that if the sum of an employer's
843 individual benefit ratio and variable adjustment factor exceeds
844 the maximum contribution rate, the variable adjustment factor is
845 reduced in order for the sum to equal the maximum contribution
846 rate. The variable adjustment factor for each of these employers
847 is multiplied by his or her taxable payroll entering into the
848 computation of his or her benefit ratio. The sum of these
849 products is divided by the taxable payroll of the employers who
850 entered into the computation of their benefit ratios. The
851 resulting ratio is subtracted from the sum of the adjustment
852 factors computed under sub-subparagraphs a.-d. to obtain the
853 final adjustment factor. The variable adjustment factors and the
854 final adjustment factor must be computed to five decimal places
855 and rounded to the fourth decimal place. This final adjustment
856 factor is added to the variable adjustment factor and benefit
857 ratio of each employer to obtain each employer's contribution
858 rate. An employer's contribution rate may not, however, be
859 rounded to less than 0.1 percent.

860 a. An adjustment factor for noncharge benefits is computed
861 to the fifth decimal place and rounded to the fourth decimal
862 place by dividing the amount of noncharge benefits during the 3-
863 year period described in subparagraph (b)2. by the taxable
864 payroll of employers eligible for a variation from the standard
865 rate who have a benefit ratio for the current year which is less
866 than the maximum contribution rate. For purposes of computing
867 this adjustment factor, the taxable payroll of these employers
868 is the taxable payrolls for the 3 years ending June 30 of the
869 current calendar year as reported to the tax collection service
870 provider by September 30 of the same calendar year. As used in

23-01063C-11

2011728

871 this sub-subparagraph, the term "noncharge benefits" means
872 benefits paid to an individual from the Unemployment
873 Compensation Trust Fund, but which were not charged to the
874 employment record of any employer.

875 b. An adjustment factor for excess payments is computed to
876 the fifth decimal place, and rounded to the fourth decimal place
877 by dividing the total excess payments during the 3-year period
878 described in subparagraph (b)2. by the taxable payroll of
879 employers eligible for a variation from the standard rate who
880 have a benefit ratio for the current year which is less than the
881 maximum contribution rate. For purposes of computing this
882 adjustment factor, the taxable payroll of these employers is the
883 same figure used to compute the adjustment factor for noncharge
884 benefits under sub-subparagraph a. As used in this sub-
885 subparagraph, the term "excess payments" means the amount of
886 benefits charged to the employment record of an employer during
887 the 3-year period described in subparagraph (b)2., less the
888 product of the maximum contribution rate and the employer's
889 taxable payroll for the 3 years ending June 30 of the current
890 calendar year as reported to the tax collection service provider
891 by September 30 of the same calendar year. As used in this sub-
892 subparagraph, the term "total excess payments" means the sum of
893 the individual employer excess payments for those employers that
894 were eligible for assignment of a contribution rate different
895 from the standard rate.

896 c. With respect to computing a positive adjustment factor:

897 (I) Beginning January 1, 2012, if the balance of the
898 Unemployment Compensation Trust Fund on September 30 of the
899 calendar year immediately preceding the calendar year for which

23-01063C-11

2011728

900 the contribution rate is being computed is less than 4 percent
901 of the taxable payrolls for the year ending June 30 as reported
902 to the tax collection service provider by September 30 of that
903 calendar year, a positive adjustment factor shall be computed.
904 The positive adjustment factor is computed annually to the fifth
905 decimal place and rounded to the fourth decimal place by
906 dividing the sum of the total taxable payrolls for the year
907 ending June 30 of the current calendar year as reported to the
908 tax collection service provider by September 30 of that calendar
909 year into a sum equal to one-third of the difference between the
910 balance of the fund as of September 30 of that calendar year and
911 the sum of 5 percent of the total taxable payrolls for that
912 year. The positive adjustment factor remains in effect for
913 subsequent years until the balance of the Unemployment
914 Compensation Trust Fund as of September 30 of the year
915 immediately preceding the effective date of the contribution
916 rate equals or exceeds 5 percent of the taxable payrolls for the
917 year ending June 30 of the current calendar year as reported to
918 the tax collection service provider by September 30 of that
919 calendar year.

920 (II) Beginning January 1, 2015, and for each year
921 thereafter, the positive adjustment shall be computed by
922 dividing the sum of the total taxable payrolls for the year
923 ending June 30 of the current calendar year as reported to the
924 tax collection service provider by September 30 of that calendar
925 year into a sum equal to one-fourth of the difference between
926 the balance of the fund as of September 30 of that calendar year
927 and the sum of 5 percent of the total taxable payrolls for that
928 year. The positive adjustment factor remains in effect for

23-01063C-11

2011728

929 subsequent years until the balance of the Unemployment
930 Compensation Trust Fund as of September 30 of the year
931 immediately preceding the effective date of the contribution
932 rate equals or exceeds 4 percent of the taxable payrolls for the
933 year ending June 30 of the current calendar year as reported to
934 the tax collection service provider by September 30 of that
935 calendar year.

936 d. If, beginning January 1, 2015, and each year thereafter,
937 the balance of the Unemployment Compensation Trust Fund as of
938 September 30 of the year immediately preceding the calendar year
939 for which the contribution rate is being computed exceeds 5
940 percent of the taxable payrolls for the year ending June 30 of
941 the current calendar year as reported to the tax collection
942 service provider by September 30 of that calendar year, a
943 negative adjustment factor must be computed. The negative
944 adjustment factor shall be computed annually beginning on
945 January 1, 2015, and each year thereafter, to the fifth decimal
946 place and rounded to the fourth decimal place by dividing the
947 sum of the total taxable payrolls for the year ending June 30 of
948 the current calendar year as reported to the tax collection
949 service provider by September 30 of the calendar year into a sum
950 equal to one-fourth of the difference between the balance of the
951 fund as of September 30 of the current calendar year and 5
952 percent of the total taxable payrolls of that year. The negative
953 adjustment factor remains in effect for subsequent years until
954 the balance of the Unemployment Compensation Trust Fund as of
955 September 30 of the year immediately preceding the effective
956 date of the contribution rate is less than 5 percent, but more
957 than 4 percent of the taxable payrolls for the year ending June

23-01063C-11

2011728

958 30 of the current calendar year as reported to the tax
959 collection service provider by September 30 of that calendar
960 year. The negative adjustment authorized by this section is
961 suspended in any calendar year in which repayment of the
962 principal amount of an advance received from the federal
963 Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is
964 due to the Federal Government.

965 e. The maximum contribution rate that may be assigned to an
966 employer is 6.4 ~~5.4~~ percent, except employers participating in
967 an approved short-time compensation plan may be assigned a
968 maximum contribution rate that is 1 percent greater than the
969 maximum contribution rate for other employers in any calendar
970 year in which short-time compensation benefits are charged to
971 the employer's employment record.

972 f. As used in this subsection, "taxable payroll" shall be
973 determined by excluding any part of the remuneration paid to an
974 individual by an employer for employment during a calendar year
975 in excess of the first \$7,000. Beginning January 1, 2012,
976 "taxable payroll" shall be determined by excluding any part of
977 the remuneration paid to an individual by an employer for
978 employment during a calendar year as described in s.
979 443.1217(2). For the purposes of the employer rate calculation
980 that will take effect in January 1, 2012, and in January 1,
981 2013, the tax collection service provider shall use the data
982 available for taxable payroll from 2009 based on excluding any
983 part of the remuneration paid to an individual by an employer
984 for employment during a calendar year in excess of the first
985 \$7,000, and from 2010 and 2011, the data available for taxable
986 payroll based on excluding any part of the remuneration paid to

23-01063C-11

2011728

987 an individual by an employer for employment during a calendar
988 year in excess of the first \$8,500.

989 2. If the transfer of an employer's employment record to an
990 employing unit under paragraph (f) which, before the transfer,
991 was an employer, the tax collection service provider shall
992 recompute a benefit ratio for the successor employer based on
993 the combined employment records and reassign an appropriate
994 contribution rate to the successor employer effective on the
995 first day of the calendar quarter immediately after the
996 effective date of the transfer.

997 Section 11. Present paragraph (f) of subsection (1) of
998 section 443.141, Florida Statutes, is redesignated as paragraph
999 (g), and a new paragraph (f) is added to that subsection, to
1000 read:

1001 443.141 Collection of contributions and reimbursements.—

1002 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
1003 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

1004 (f) *Payments for 2012, 2013, and 2014 Contributions.*—For an
1005 annual administrative fee not to exceed \$5, a contributing
1006 employer may pay its quarterly contributions due for wages paid
1007 in the first three quarters of 2012, 2013, and 2014 in equal
1008 installments if those contributions are paid as follows:

1009 1. For contributions due for wages paid in the first
1010 quarter of each year, one-fourth of the contributions due must
1011 be paid on or before April 30, one-fourth must be paid on or
1012 before July 31, one-fourth must be paid on or before October 31,
1013 and one-fourth must be paid on or before December 31.

1014 2. In addition to the payments specified in subparagraph
1015 1., for contributions due for wages paid in the second quarter

23-01063C-11

2011728

1016 of each year, one-third of the contributions due must be paid on
1017 or before July 31, one-third must be paid on or before October
1018 31, and one-third must be paid on or before December 31.

1019 3. In addition to the payments specified in subparagraphs
1020 1. and 2., for contributions due for wages paid in the third
1021 quarter of each year, one-half of the contributions due must be
1022 paid on or before October 31, and one-half must be paid on or
1023 before December 31.

1024 4. The annual administrative fee assessed for electing to
1025 pay under the installment method shall be collected at the time
1026 the employer makes the first installment payment each year. The
1027 fee shall be segregated from the payment and deposited into the
1028 Operating Trust Fund of the Department of Revenue.

1029 5. Interest does not accrue on any contribution that
1030 becomes due for wages paid in the first three quarters of each
1031 year if the employer pays the contribution in accordance with
1032 subparagraphs 1.-4. Interest and fees continue to accrue on
1033 prior delinquent contributions and commence accruing on all
1034 contributions due for wages paid in the first three quarters of
1035 each year which are not paid in accordance with subparagraphs
1036 1.-3. Penalties may be assessed in accordance with this chapter.
1037 The contributions due for wages paid in the fourth quarter of
1038 2012, 2013, and 2014 are not affected by this paragraph and are
1039 due and payable in accordance with this chapter.

1040 Section 12. Paragraph (a) of subsection (2), paragraphs
1041 (b), (d), and (e) of subsection (3), and paragraph (e) of
1042 subsection (4) of section 443.151, Florida Statutes, are
1043 amended, present paragraphs (c) through (f) of subsection (6) of
1044 that section are redesignated as paragraphs (d) through (g),

23-01063C-11

2011728

1045 respectively, and a new paragraph (c) is added to that
1046 subsection, to read:

1047 443.151 Procedure concerning claims.—

1048 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
1049 CLAIMANTS AND EMPLOYERS.—

1050 (a) *In general.*—Claims for benefits must be made in
1051 accordance with ~~the~~ rules adopted by the Agency for Workforce
1052 Innovation. New claims for benefits may be submitted by
1053 telephone, mail, or approved electronic means. Continuing claims
1054 for benefits may be submitted only by mail or approved
1055 electronic means. The agency must notify claimants and employers
1056 regarding monetary and nonmonetary determinations of
1057 eligibility. Investigations of issues raised in connection with
1058 a claimant which may affect a claimant's eligibility for
1059 benefits or charges to an employer's employment record shall be
1060 conducted by the agency through written, telephonic, or
1061 electronic means as prescribed by rule.

1062 (3) DETERMINATION OF ELIGIBILITY.—

1063 (b) *Monetary determinations.*—In addition to the notice of
1064 claim, the Agency for Workforce Innovation must ~~shall~~ also
1065 promptly provide an initial monetary determination to the
1066 claimant and each base period employer whose account is subject
1067 to being charged for its respective share of benefits on the
1068 claim. The monetary determination must include a statement of
1069 whether and in what amount the claimant is entitled to benefits,
1070 and, in the event of a denial, must state the reasons for the
1071 denial. A monetary determination for the first week of a benefit
1072 year must also include a statement of whether the claimant was
1073 paid the wages required under s. 443.091(1)(h) ~~443.091(1)(g)~~

23-01063C-11

2011728

1074 and, if so, the first day of the benefit year, the claimant's
1075 weekly benefit amount, and the maximum total amount of benefits
1076 payable to the claimant for a benefit year. The monetary
1077 determination is final unless within 20 days after the mailing
1078 of the notices to the parties' last known addresses, or in lieu
1079 of mailing, within 20 days after the delivery of the notices, an
1080 appeal or written request for reconsideration is filed by the
1081 claimant or other party entitled to notice. The agency may adopt
1082 rules as necessary to implement the processes described in this
1083 paragraph relating to notices of monetary determinations and the
1084 appeals or reconsideration requests filed in response to such
1085 notices.

1086 (d) *Determinations in labor dispute cases.*—If a ~~Whenever~~
1087 ~~any~~ claim involves a labor dispute described in s. 443.101(5)
1088 ~~443.101(4)~~, the Agency for Workforce Innovation shall promptly
1089 assign the claim to a special examiner who shall make a
1090 determination on the issues involving unemployment due to the
1091 labor dispute. The special examiner shall make the determination
1092 after an investigation, as necessary. The claimant or another
1093 party entitled to notice of the determination may appeal a
1094 determination under subsection (4).

1095 (e) *Redeterminations.*—

1096 1. The Agency for Workforce Innovation may reconsider a
1097 determination if it finds an error or if new evidence or
1098 information pertinent to the determination is discovered after a
1099 prior determination or redetermination. A redetermination may
1100 not be made more than 1 year after the last day of the benefit
1101 year unless the disqualification for making a false or
1102 fraudulent representation under s. 443.101(7) ~~443.101(6)~~ is

23-01063C-11

2011728

1103 applicable, in which case the redetermination may be made within
1104 2 years after the false or fraudulent representation. The agency
1105 must promptly give notice of redetermination to the claimant and
1106 to any employers entitled to notice in the manner prescribed in
1107 this section for the notice of an initial determination.

1108 2. If the amount of benefits is increased by the
1109 redetermination, an appeal of the redetermination based solely
1110 on the increase may be filed as provided in subsection (4). If
1111 the amount of benefits is decreased by the redetermination, the
1112 redetermination may be appealed by the claimant if a subsequent
1113 claim for benefits is affected in amount or duration by the
1114 redetermination. If the final decision on the determination or
1115 redetermination to be reconsidered was made by an appeals
1116 referee, the commission, or a court, the Agency for Workforce
1117 Innovation may apply for a revised decision from the body or
1118 court that made the final decision.

1119 3. If an appeal of an original determination is pending
1120 when a redetermination is issued, the appeal, unless withdrawn,
1121 is treated as an appeal from the redetermination.

1122 (4) APPEALS.—

1123 (e) *Judicial review.*—Orders of the commission entered under
1124 paragraph (c) are subject to appellate review ~~only by notice of~~
1125 ~~appeal~~ in the district court of appeal in the appellate district
1126 in which a claimant resides or the job separation arose ~~the~~
1127 ~~issues involved were decided by an appeals referee.~~ However, if
1128 the notice of appeal is submitted to the commission, the
1129 commission shall file the notice in the district court of appeal
1130 in the appellate district in which the order was issued.

1131 Notwithstanding chapter 120, the commission is a party

23-01063C-11

2011728

1132 respondent to every such proceeding. The Agency for Workforce
1133 Innovation may initiate judicial review of orders in the same
1134 manner and to the same extent as any other party.

1135 (6) RECOVERY AND RECOUPMENT.—

1136 (c) Any person who, by reason other than fraud, receives
1137 benefits under this chapter for which she or he is not entitled
1138 due to the failure of the Agency for Workforce Innovation to
1139 make and provide notice of a nonmonetary determination under
1140 paragraph (3)(c) within 30 days after filing a new claim, is
1141 liable for repaying up to 5 weeks of benefits received to the
1142 agency on behalf of the trust fund or may have those benefits
1143 deducted from any future benefits payable to her or him under
1144 this chapter.

1145 Section 13. The Legislature finds that this act fulfills an
1146 important state interest.

1147 Section 14. This act shall take effect July 1, 2011.