

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 Rules

BILL: CS/CS/SB 1948

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Bean and others

SUBJECT: Department of Economic Opportunity

DATE: April 19, 2021

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1948 modifies provisions related to the Department of Economic Opportunity (DEO), including:

- Changing the title for the head of the DEO from “Executive Director” to the “Secretary of Economic Opportunity;”
- Creating the Office of Economic Accountability and Transparency within the DEO;
- Adding the Secretary of Economic Opportunity or his or her designee to the Enterprise Florida Board of Directors and the CareerSource Board of Directors;
- Authorizing additional grant categories under the Community Development Block Grant (CDBG) program;
- Increasing the percentage of CDBG funding that the DEO may set aside annually for use in local government jurisdictions when an emergency or natural disaster has been declared by executive order;
- Repealing provisions that limit the number of grant applications a local government may submit during each CDBG application cycle;
- Requiring local governments to expedite the approval of building permits applied for by contractors on behalf of a property owner participating in the CDBG-Disaster Recovery program;
- Allowing regional workforce boards to conduct level 2 background screenings;

- Repealing a provision making a domestic violence claimant ineligible for reemployment assistance benefits if the claimant refuses an employer’s reasonable accommodation;
- Revising the requirements for the reemployment assistance computer system and requiring the DEO, for Fiscal Year 2021-2022, to modernize the reemployment assistance system as provided in the General Appropriations Act;
- Requiring employers to respond to a notice of claim within 14 days, instead of 20 days;
- Clarifying when monetary determinations are final;
- Imposing a 5-year statute of limitations on RA appeals;
- Removing the requirement that reemployment assistance appeals referees be Florida attorneys;
- Expands the definition of “temporary layoff” to include an employer-initiated furlough; and
- Creates a process to allow employer-assisted claims.

The bill takes effect upon becoming a law.

II. Present Situation:

The Department of Economic Opportunity

The DEO was created in 2011 by combining the Agency for Workforce Innovation, the Department of Community Affairs, and the Governor’s Office of Tourism, Trade, and Economic Development.¹ The head of the DEO is the executive director, who is appointed by the Governor and confirmed by the Senate.² The purpose of the DEO is to formulate and implement policies designed to promote economic opportunities for Floridians.³ Formally in the statute, the DEO has five divisions: Strategic Business Development; Community Development; Workforce Services; Finance and Administration; and Information Technology.⁴

The Community Development Block Grant Program

The Community Development Block Grant (CDBG) Program was created by Title I of the federal Housing and Community Development Act of 1974. The CDBG program works to ensure the availability of decent affordable housing, to provide services to the most vulnerable in Florida communities, and to create jobs through the expansion and retention of businesses.⁵

Florida Small Cities Community Development Block Grant Program

The DEO administers the Small Cities CDBG program and distributes funds to eligible non-entitlement communities. To be eligible, a city must have a population under 50,000 or a county must have a population under 200,000. The program awards subgrants to communities in four funding categories: economic development, neighborhood revitalization, housing

¹ See ch. 2011-142, Laws of Fla.

² Section 20.60(2), F.S.

³ See s. 20.60(4), F.S.

⁴ Section 20.60(3), F.S.

⁵ The Department of Economic Opportunity, *Community Development Block Grant Program*, available at <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/community-development-block-grant-program> (last visited April 10, 2021).

rehabilitation, and commercial revitalization.⁶ Currently, the DEO may annually set aside 5 percent of CDBG funds for use in local government jurisdictions for which an emergency or natural disaster has been declared by executive order.⁷

Except for applications for economic development, an eligible local government may only submit one application for a grant during each application cycle.⁸ Additionally, if economic development funds remain available after the application cycle closes, the remaining funds must be awarded to eligible projects on a first-come, first served basis.⁹

Disaster Recovery

The Community Development Block Grant – Disaster Recovery (CDBG-DR) program is a federally funded program administered by the U.S. Department of Housing and Urban Development that is designed to address housing, infrastructure, economic development, and mitigation needs that remain after other assistance, such as federal assistance or private insurance, has been exhausted.¹⁰

The DEO administers the CDBG-DR program through its Division of Community Development's Office of Long-Term Resiliency. Currently, single-family residential housing repair and replacement projects are underway for Florida residents whose homes still have unrepaired damage from Hurricanes Hermine, Matthew, Irma, and Michael.¹¹ These projects must comply with the Florida Building Code Act by applying for and receiving Florida building permits. A building permit for a single-family residential home must be issued within 30 days of application.¹²

Enterprise Florida, Inc.

Enterprise Florida, Inc., (EFI) serves as the principle economic development organization for the state. Among its numerous duties, EFI markets the state for business creation, expansion, and retention.¹³ EFI's is governed by a board of directors, of which the Governor is the chairperson, made up of 19 appointed members, a number of at-large members, and ex officio members of the Legislature. Appointed members include the agency heads from the Department of Education, Department of Financial Services, Department of Legal Affairs, Department of Agriculture,

⁶ The Department of Economic Opportunity, *Florida Small Cities Development Block Grant Program*, available at <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/florida-small-cities-community-development-block-grant-program> (last visited April 10, 2021).

⁷ Section 290.044(5), F.S.

⁸ See s. 290.046(2)(a), F.S. An eligible local government may apply up to three times in any one annual funding cycle for an economic development grant but may not receive more than one such grant per annual funding cycle. A local government may have more than one open economic development grant.

⁹ Section 290.046(3)(b), F.S.

¹⁰ The Department of Economic Opportunity, *Office of Disaster Recovery*, available at <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited April 10, 2021).

¹¹ See *id.*

¹² See s. 553.79(14), F.S.

¹³ Section 288.901(2), F.S.

Department of State, and CareerSource and 12 members from the private sector appointed by the Governor and the Legislature.¹⁴

Space Florida

Space Florida is an independent special district, created to foster the growth and development of the aerospace industry in Florida. The entity promotes aerospace business development by facilitating financing, research and development, spaceport operations, workforce development, and other programs.¹⁵ Space Florida's 13-member board of directors is the same 12 private sector members appointed by the Governor and the Legislature and the Governor, who serves ex officio as the chair and a voting member of the board.¹⁶

CareerSource Florida, Inc.

CareerSource is the state's principal organization to set the workforce policy for the state. The state board works to design and implement strategies to help Floridians enter the workforce, stay employed, and advance in their employment. Members of the board are appointed by the Governor pursuant to federal law; however, there are several members of state agencies appointed to the board by state law. These include the vice chair of EFI, the director of DEO, and the Commissioner of Education.¹⁷

Workforce Development Boards

Twenty-four local workforce development boards (local boards) deliver Florida's workforce development services through over 100 one-stop service providers.¹⁸ The one-stop service providers give Floridians access to available workforce services, including job placement, career counseling, and skills training.¹⁹ Each local board formulates a local budget and oversees the one-stop delivery system within its local area.²⁰

Background Screening

An employer²¹ may not hire, select, or otherwise allow an employee to have contact with a vulnerable person²² that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the

¹⁴ Section 288.901(4), (5), (6), and (7), F.S.

¹⁵ Section 331.302, F.S.

¹⁶ Section 331.3081, F.S.

¹⁷ Section 445.004, F.S.

¹⁸ The Department of Economic Opportunity, *CareerSource Florida Network Directory*, available at <http://lcd.floridajobs.org/> (last visited April 10, 2021).

¹⁹ See s. 445.009, F.S.

²⁰ Section 445.007(12), F.S.

²¹ Section 435.02(3), F.S., defines "employer" as any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S.

²² A vulnerable person is a minor or a vulnerable adult. Section 435.02(6), F.S., Section 415.102(28), F.S., defines "vulnerable adult" as a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

denial or termination of employment.²³ If any grounds for the denial or termination of employment arise during the screening process, then the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency.^{24, 25}

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening.

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website²⁶ and may include criminal records checks through local law enforcement agencies.²⁷
- Level 2 screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation and may include local criminal records checks through local law enforcement agencies.²⁸

Reemployment Assistance

Florida's unemployment insurance program was created by the Legislature in 1937.²⁹ The program was rebranded as the "reemployment assistance program" in 2012.³⁰ The DEO is responsible for administering the program, and the DEO contracts with the Florida Department of Revenue, as the tax collection service provider, for the collection of unemployment taxes.³¹

Work Search Requirement

To receive RA benefits, a claimant must meet certain monetary and non-monetary eligibility requirements. Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.³²

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. For example, each week an individual is required to contact at least five

²³ Section 435.06(2)(a), F.S.

²⁴ Section 435.02(1), F.S., defines "agency" as any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer, or is itself an employer, or that otherwise facilitates the screening of employees pursuant to ch. 435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, "agency" means the Department of Children and Families.

²⁵ Section 435.06(2)(a), F.S. See s. 435.07, F.S., for the exemptions for disqualification.

²⁶ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at <https://www.nsopw.gov/> (last visited April 10, 2021).

²⁷ Section 435.03(1), F.S.

²⁸ Section 435.04(1)(a), F.S.

²⁹ Chapter 18402, Laws of Fla.

³⁰ Chapter 2012-30, Laws of Fla.

³¹ Section 443.1316, F.S.

³² See s. 443.091, F.S.

prospective employers (three prospective employers if the individual resides in a small county) or report to a one-stop career center for reemployment services.³³

Domestic Violence³⁴ Victims

Sometimes victims of domestic violence must leave their jobs due to the impact that the violence has had on their lives. Employers are required to permit an employee to request and take up to 3 working days of leave from work in any 12-month period if the employee or a family or household member of an employee is the victim of domestic violence or sexual violence.³⁵

Except in cases of imminent danger to the health or safety of the employee, or a family or household member, an employee seeking leave from work must provide his or her employer with appropriate advance notice of the leave as required by the employer's policy along with sufficient documentation of the act of domestic violence or sexual violence as required by the employer.³⁶ An employer must keep all information relating to an employee's leave confidential.³⁷ Additionally, an employer may not fire, demote, suspend, retaliate, or otherwise discriminate against an individual for taking leave.³⁸

Employees who voluntarily leave their job are not typically qualified to receive reemployment assistance benefits.³⁹ However, an individual will not be disqualified for voluntarily leaving work due to circumstances directly related to domestic violence.⁴⁰

An individual who voluntarily leaves work due to domestic violence must:

- Make reasonable efforts to preserve employment, unless the individual establishes that such efforts are likely to be futile or increase the risk of future incidents of domestic violence;⁴¹
- Provide evidence such as an injunction, a protective order, or other documentation authorized by state law, which reasonably proves that domestic violence has occurred; and
- Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment.

An individual who is otherwise eligible for benefits is ineligible for each week that he or she no longer meets the qualifying criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.

³³ *Id.* A "small county" is defined in s. 120.52(19), F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census. The DEO has been waiving the requirement to contact employers since March 15, 2020, through DEO emergency orders. The most recent is Emergency Order 21-005 (March 2, 2021), which waives the requirement through April 24, 2021.

³⁴ "'Domestic violence' means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member." Section 741.28, F.S.

³⁵ Section 741.313, F.S.

³⁶ Section 741.313(4)(a), F.S.

³⁷ Section 741.313(4)(c), F.S.

³⁸ Section 741.313(5)(b), F.S.

³⁹ *See* s. 443.101(1)(a), F.S.

⁴⁰ *See* s. 443.101(1)(a)2.c., F.S.

⁴¹ Efforts to preserve employment may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment. *See id.*

Temporary Layoff

Individuals who have temporarily separated from their employment due to a lack of work are exempt from certain requirements of the reemployment assistance system. The job separation must be due to a lack of work and cannot last longer than 8 consecutive weeks, and the individual must have a fixed or approximate date to return to work.⁴²

An individual on a temporary layoff is not required to:

- Complete the DEO's online work registration (Employ Florida Marketplace);
- Report to the local one-stop career center for reemployment services if directed by the local workforce development board; or
- Complete the work search requirements, such as contacting at least five prospective employers each week.⁴³

The CONNECT System

Florida's unemployment system is administered by the DEO using the CONNECT system, which was deployed in 2013 to replace a mainframe system with a modernized, Internet-based system.⁴⁴ According to ISF, an information technology and strategy firm that completed an assessment of the CONNECT system between November 2020 and February 2021, the CONNECT system was not designed to process the volume of claims received during the COVID-19 pandemic. ISF analyzed ways to improve the delivery of benefits, including a phased approach to ensure the DEO can meet current and future demands. ISF's assessment provides an overview of the current state of the CONNECT system, and recommends the modernization of the current system, which includes cloud migration.⁴⁵

On May 4, 2020, at the request of Governor DeSantis, the Office of the Chief Inspector General initiated a review of the CONNECT system. The scope of the inspector general's review considered available documentation and testimony about the CONNECT system from the period of 2007 to 2020.⁴⁶ The draft report offered recommendations for agencies considering information technology (IT) projects, which include:

- Documenting future IT system capacity requirements and expected utilization in system testing plans and test results;
- Assessing the proposed level of maturity of any state transfer or commercial off-the-shelf system relied upon for risk and properly documenting the risk;
- Monitoring what is being provided by the vendor and building in an escape plan and financial penalties for noncompliance;

⁴² Section 443.036(43), F.S.

⁴³ See s. 443.091(1)(b)2. and (d)5., F.S.

⁴⁴ The Florida Department of Economic Opportunity, *Improved Delivery of Reemployment Assistance Benefits – Final Report*, at 1 (Feb. 26, 2021), available at <http://floridajobs.org/docs/default-source/communicationsfiles/2021-improved-delivery-of-reemployment-assistance-benefits-final-report-and-cost-benefit-analysis.pdf> (last visited April 10, 2021). See also s. 443.1113, F.S.

⁴⁵ *Id.* at 2.

⁴⁶ Office of the Chief Inspector General, *Review of the Department of Economic Opportunity Florida CONNECT System*, at iii (March 4, 2021), available at https://www.flgov.com/wp-content/uploads/2021/03/202005040015-Draft-Report-3.4.21_2.05pm.pdf (last visited April 10, 2021).

- Ensuring that independent verification and validation services are truly independent from the project management team and rigorous;
- Requiring project management to be flat and agile, which may include considering more modular IT projects to accommodate future and rapid technological changes; and
- Strengthening administrative and physical infrastructure needs, which may include tracking, reviewing, and resolving audit related findings and moving the future CONNECT system to the cloud to allow for greater scalability.⁴⁷

In 2020, the Florida Digital Service was established to better leverage technology and support a data-driven government with a customer focus. The service's objectives include cyber-security, cloud-ready architecture, data interoperability, and agile methodologies that would help ensure successful outcomes of large-scale IT projects.⁴⁸

Appeals Process

The DEO issues determinations and redeterminations on the monetary and non-monetary eligibility requirements of reemployment assistance benefits.⁴⁹ Determinations and redeterminations are statements by the DEO regarding the application of law to an individual's eligibility for benefits or the effect of the benefits on an employer's tax account. A party who believes a determination is inaccurate may request reconsideration within 20 days of mailing or delivery of the notice and the DEO must review the information on which the request is based and issue a redetermination.⁵⁰

If a party disagrees with either the determination or redetermination, the applicant or employer may request an administrative hearing before an appeals referee within 20 days of mailing or delivery of the notice. An appeals referee must be an attorney in good standing with the Florida Bar.⁵¹ Appeals referees in the DEO's Office of Appeals hold hearings and issue decisions to resolve disputes related to eligibility for RA benefits and the payment and collection of RA taxes.⁵²

A decision by an appeals referee can be appealed to the RA Appeals Commission if done within 20 days of mailing or delivery of the notice of the referee's decision. The commission may affirm, modify, remand with instructions, or reverse the determination made by the appeals referee based on evidence previously submitted in the case or additional evidence taken at the direction of the commission. However, the commission may also assume jurisdiction of a case prior to completion of proceedings by an appeals referee.⁵³

A party to an appeal who disagrees with the commission's order may seek review of the decision in the Florida district courts of appeal. The notice of appeal should be filed either in the district

⁴⁷ *Id.* at vii.

⁴⁸ *Id.*

⁴⁹ Section 443.151(3), F.S. The Social Security Act requires states to offer "an opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied." 42 U.S.C. 503(a)(3).

⁵⁰ *See* s. 443.151, F.S.

⁵¹ The DEO has been waiving this requirement since March 15, 2020, through DEO emergency orders. The most recent is Emergency Order 21-005 (March 2, 2021), which waives the requirement through April 24, 2021.

⁵² *See* s. 443.151(4)(b), F.S.

⁵³ *See* s. 443.151(4)(c), F.S.

court of appeal in the appellate district in which a claimant resides or the job separation arose or in the appellate district where the order was issued. If the notice of appeal is filed with the commission, then the appeal will be filed in the district court of appeal in the appellate district where the order was issued.⁵⁴

III. Effect of Proposed Changes:

The Department of Economic Opportunity

Section 1 amends s. 20.60, F.S., to change the title for the head of the DEO from “Executive Director” to the “Secretary of Economic Opportunity.”

The bill authorizes the secretary to appoint deputy and assistant secretaries as necessary. The bill establishes the Office of the Secretary and authorizes the secretary to create offices within the Office of the Secretary and within the DEO’s divisions to promote efficient and effective operation of the DEO. The secretary is required to appoint directors for each division.

The bill also creates the Office of Economic Accountability and Transparency and require assigns it the following duties:

- Oversee the DEO’s critical objectives and make sure the DEO’s key objectives are clearly communicated to the public;
- Organize the DEO’s resources, expertise, data, and research to focus on and solve the complex economic challenges facing the state;
- Provide leadership for the DEO’s priority issues that require integration of policy, management, and critical objectives from multiple programs and organizations internal and external to the DEO;
- Promote and facilitate key DEO initiatives to address priority economic issues and explore data and identify opportunities for innovative approaches to address such economic issues; and
- Promote strategic planning for the DEO.

Sections 17, 18, and 20 through 55 amend ss. 14.20195, 16.615, 213.053, 220.194, 288.005, 288.061, 288.0656, 288.106, 288.1089, 288.1251, 288.8014, 288.955, 288.9604, 288.987, 290.0065, 311.09, 311.105, 334.065, 373.4149, 380.045, 403.0752, 420.0005, 420.0006, 420.101, 420.503, 420.504, 420.506, 420.507, 420.511, 420.602, 420.609, 420.622, 427.012, 443.1116, 446.53, 450.261, 624.5105, and 1004.015, F.S., respectively, to make conforming changes to references to the executive director.

Section 19 amends s. 20.04, F.S., to exempt the DEO from the requirements for all departments under the executive branch related to internal structure and standard terms and to limit the creation of additional divisions or offices in the DEO to only as allowed by statute.

⁵⁴ See s. 443.151(4)(e), F.S.

Enterprise Florida

Section 2 amends s. 288.901, F.S., to add the secretary or his or her designee to the EFI board of directors.

Section 6 amends s. 331.3081, F.S., to update a cross reference.

Florida Small Cities Community Development Block Grant Program

Section 3 amends s. 290.042, F.S., to provide that the definition of “administrative costs” has the same meaning as defined in the Housing and Community Development Act of 1974 and applicable federal regulations.⁵⁵

Section 4 amends s. 290.044, F.S., to broaden the grant categories that applicants may compete for funding under. Currently grants are limited to housing rehabilitation, economic development, neighborhood revitalization, and commercial revitalization. The bill allows categories for any other activity authorized by federal law.

The bill increases the percentage of CDBG funds that the DEO may set aside annually for use in local government jurisdictions for which an emergency or natural disaster has been declared by executive order from 5 percent to 15 percent.

Currently, in the last quarter of the state fiscal year, the DEO must distribute any funds not allocated under the emergency-related set-aside to unfunded applications from the most recent funding cycle. The bill removes this limitation, allowing distribution to any unfunded application regardless of when the application was made.

Section 5 amends s. 290.046, F.S., to repeal provisions that limit the number of grant applications a local government may submit during each CDBG application or funding cycle. The bill also repeals the requirement that unused economic development grant funds be awarded on a first come, first serve basis.

The bill authorizes the DEO to prohibit an applicant from receiving a grant or to penalize an applicant in the rating of a current application if the DEO determines that the applicant has failed to substantially accomplish the results it proposed in previously funded applications. Currently the prohibition or penalty is only allowed if the applicant failed to accomplish its proposed results from its last funded application.

Section 16 amends s. 553.79, F.S., to require local governments to issue a building permit for a single-family residential home within 15 working days after receipt of the application when the permit is applied for by a contractor licensed in Florida on behalf of a property owner who participates in a CDBG-DR program. However, if the permit application fails to meet the

⁵⁵ See 42 U.S.C. 5305(a)(13) and 24 C.F.R. 570.206 (2015). Rule 73C-23.0030, F.A.C., incorporates the Housing and Community Development Act of 1974 and the relevant chapters of the Code of Federal Regulations by reference. See also s. 290.047, F.S., which provides that the maximum percentage of block grant funds that can be spent on administrative costs by an eligible local government is 15 percent for the housing rehabilitation program, 8 percent for both the neighborhood and the commercial revitalization program categories, and 8 percent for the economic development program category.

requirements of the Florida Building Code or the enforcing agency's laws or ordinances, then this timeframe does not apply.

Workforce Development Boards and CareerSource

Section 7 amends s. 435.02, F.S., to change the definition of "specified agency" to include regional workforce boards providing services defined in s. 445.002(3), F.S.,⁵⁶ which will allow regional workforce development boards to conduct level 2 background screenings.

Section 15 amends s. 445.004, F.S., to specifically add the secretary of the DEO or his or her designee to the CareerSource Florida, Inc., board of directors.

Reemployment Assistance

Section 8 amends s. 443.036, F.S., to expand the definition of temporary layoff to include an individual's employer-initiated furlough that causes a mandatory complete stoppage of work. The furlough must be temporary, and the individual must still be considered to be "job attached" and be expected to return to work with the employer. There is no time limit on the length of the furlough like there is for a job separation due to lack of work as provided in current law.

Section 9 amends s. 443.091, F.S., to repeal the requirement that a claimant must provide the telephone number of each prospective employer contacted for each week of unemployment claimed. The bill also clarifies that "address" means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted.

Section 10 amends s. 443.101, F.S., to repeal the provision that provides that a domestic violence claimant is ineligible to receive benefits for each week that the claimant no longer meets the criteria under s.443.101(1)(a)2.c., F.S., discussed above in the Present Situation, or if the claimant refuses an employer's reasonable accommodation.

Section 11 amends s. 443.1113, F.S., to update the statutory requirements for the state's reemployment assistance computer system. The DEO is required to implement a system for the "efficient distribution of benefits and the effective operation and management of the reemployment assistance program." The system must be "an integrated, modular system hosted in a cloud computing service...that provides for rapid provisioning of additional data processing when necessary."⁵⁷

⁵⁶ Section 445.002(3), F.S., defines "services and one-time payments" or "services," when used in reference to individuals who are not receiving temporary cash assistance, as meaning nonrecurrent, short-term benefits designed to deal with a specific crisis situation or episode of need and other services; work subsidies; supportive services such as child care information referral; transitional services, job retention, job advancement, and other employment-related services; nonmedical treatment for substance abuse or mental health problems; teen pregnancy prevention; two-parent family support, including noncustodial parent employment; court-ordered supervised visitation, and responsible fatherhood services; and any other services that are reasonably calculated to further the purposes of the welfare transition program.

⁵⁷ The National Institute of Standard and Technology's (NIST) Special Publication 800-145 sets forth the definition of cloud computing service. See NIST, *The NIST Definition of Cloud Computing*, SP 800-145 (September 2011), available at <https://csrc.nist.gov/publications/detail/sp/800-145/final> (last visited April 15, 2021). See also s. 282.0041(5), F.S.

The bill requires the system to:

- Be accessible through the Internet and on mobile devices and personal computers;
- Process reemployment assistance claims and benefit payments;
- Process and manage overpayments;
- Perform adjudication functions;
- Process appeals and manage appeal hearings; and
- Manage and process employer charging.

The bill retains current system objects, whenever cost effective and operational feasible, and requires the system to enable and *enhance* online, self-service *capabilities*. The system must also maintain interoperability with other DEO workforce systems and allow for employer-assisted claims (see **section 13**, discussed below). The bill also repeals obsolete language related to previous requirements for system development.

Annually, the DEO is required to review the system and identify enhancements or modernization efforts to improve the delivery of services to both claimants and employers and the reporting of information to state and federal entities. These improvements are required to include infrastructure upgrades through cloud services, software improvements, enhanced data analytics and reporting, and increased cybersecurity.⁵⁸ The DEO must seek input from the following entities:

- The Florida Digital Service with the Department of Management Services;
- The General Tax Administration Program Office with the Department of Revenue; and
- The Division of Accounting and Auditing within the Department of Financial Services.

The bill requires that by October 1, 2023, the DEO must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which must include a summary of maintenance, enhancement, and modernization efforts over the last fiscal year and a 3-year outlook of recommended enhancements or modernization efforts that includes projected costs and timeframes for completion.

Section 12 requires the DEO, for Fiscal Year 2021-2022, to modernize the system as provided in the General Appropriations Act.

In April 2020, the DEO adopted Emergency Rule 73BER20-1, Florida Administrative Code, to create a process for employer assisted claims. The purpose of the rule was to “provide a process for employers to notify the DEO of a mass separation...and make a group filing on behalf of the employer’s similarly situated employees.” **Section 13** creates s. 443.1118, F.S., to allow for a process for employer-assisted claims. An employer-assisted claim is an initial claim filed by an employer on behalf of its employees who are part of a mass separation from the employer. A mass separation is a full, partial, permanent or temporary separation, including a temporary layoff, of full-time employees. For all employees affected, the separations must occur around the

⁵⁸ The Information Technology Security Act under s. 282.318, F.S., sets forth requirements for security of data and information technology. The Department of Management Services is required to establish standards and processes consistent with generally accepted best practices for information technology security, including cybersecurity, and adopt rules that safeguard an agency’s data, information, and information technology resources. The act also state agencies to take certain actions to meet security standards and mitigate risks.

same time, be for the same reason, and must be due to no fault of the employees. At a minimum, a mass separation involves 1,000 employees.

To initiate an employer-assisted claim, the employer that commences a mass separation must submit employee information to the DEO within 10 days after the date of the separation and through a secure means approved by the DEO. The employer must give notice and instructions to each employee that the employer submits a claim on behalf of and direct the employee to complete further steps to complete the claim as required by the DEO. The employer must submit an affidavit to the DEO attesting to meeting the requirements of such process.

The effective date of the initial claims submitted by the employer is the Sunday immediately following the date that the employer-assisted claim was received by the DEO. Claimants must continue to meet other requirements to receive benefits, including biweekly reporting, and are subject to the same rights to request redeterminations and appeals.

The DEO is authorized to adopt rules, as necessary, to implement this claims process and must adopt rules setting forth:

- The claim initiation process;
- The form of submission;
- The form and format of the required attestation; and
- Additional procedures for filing of the employer-assisted claim.

The provisions of the statute created by the bill are similar to the provisions of the emergency rule adopted by the DEO in April 2020.

Section 14 amends s. 443.151, F.S., to require an employer⁵⁹ to respond to a notice of claim within 14 days after the mailing date of the notice, or in lieu of mailing, within 14 days after the delivery of the notice. Currently, employers are given 20 days to respond to a notice of claim.

The bill rewords the current provision related to the finality of monetary determination to provide clarification.

Under the bill, a claimant may file a request for the DEO to reconsider a monetary determination within 20 days after the DEO mails the notice to the claimant's last known address, or in lieu of mailing, within 20 days after delivery of the notice. A monetary determination is final for a claimant if the claimant does not file a timely request for redetermination. The bill provides that a monetary redetermination is final for a claimant unless within 20 days after the mailing of the notice of monetary redetermination to the claimant's last known address, or in lieu of mailing, within 20 days after delivery of the notice, the claimant files an appeal.

The monetary determination or monetary redetermination is final for an employer or other party entitled to notice unless within 20 days after the mailing or, in lieu of mailing, within 20 days after delivery of the notice, an appeal is filed by an employer or other party.

⁵⁹ "Employer" is referring to the claimant's most recent employing unit and all employers whose employment records are liable for benefits under the monetary determination.

The bill repeals the requirement that an appeals referee be an attorney in good standing with the Florida Bar.

The bill establishes a five-year statute of limitations on appeals from the date the mailing or the delivery of the notice of determination.⁶⁰

Effective Date

Section 56 provides that the bill takes effect upon becoming a law.

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:

To the extent that the changes to the reemployment assistance requirements makes it more efficient to deal with claims, both claimants and employers will benefit.

⁶⁰ The bill provides that an appeal may not be filed more than 5 years after the date of the mailing of a determination or, if the determination is not mailed, more than 5 years after the date of the delivery of the determination.

C. Government Sector Impact:

The changes to the CDBG statutes will allow the DEO to implement recent federal grants for disaster recovery more efficiently and allow local governments to receive more grants from additional categories to mitigate and recover from the effects of past events.

Related to the reemployment assistance computer system, the bill authorizes the DEO to take action to modernize the system as provided in the Fiscal Year 2021-2022 General Appropriations Act.

The DEO may realign existing resources through a budget amendment or may, in its Fiscal Year 2022-2023 Legislative Budget Request, make a request for any necessary realignment of resources related to the Office of Economic Accountability and Transparency, the Office of the Secretary, or any other offices created within the Office of the Secretary.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 20.60, 288.901, 290.042, 290.044, 290.046, 331.3081, 435.02, 443.036, 443.091, 443.101, 443.1113, 443.151, 445.004, 553.79, 14.20195, 16.615, 20.04, 213.053, 220.194, 288.005, 288.061, 288.0656, 288.106, 288.1089, 288.1251, 288.8014, 288.955, 288.9604, 288.987, 290.0065, 311.09, 311.105, 334.065, 373.4149, 380.045, 403.0752, 420.0005, 420.0006, 420.101, 420.503, 420.504, 420.506, 420.507, 420.511, 420.602, 420.609, 420.622, 427.012, 443.1116, 446.53, 450.261, 624.5105, and 1004.015.

The bill creates section 443.1118 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on April 15, 2021:

The committee substitute expands the definition of “temporary layoff” to include when an individual’s employer mandates a furlough, if the furlough is temporary, the person is still “job attached,” and the person expects to return to work with the employer.

The committee substitute creates a process for employers that commence a mass separation to initiate submittal of reemployment assistance claims on behalf of their employees.

The committee substitute requires the DEO to implement an integrated, modular system hosted in the cloud for reemployment assistance. The amendment requires the system to maintain interoperability with other department workforce system and allow for employer-assisted claims. The amendment also sets forth a non-exhaustive list of required annual review of improvements and makes other minor changes to this section of the bill.

CS by Commerce and Tourism on March 15, 2021:

The committee substitute requires the DEO, for Fiscal Year 2021-2022, to modernize the reemployment assistance (RA) system as provided in the General Appropriations Act. It clarifies that the RA system must efficiently distribute benefits and effectively manage and operate the RA program, which includes monitoring and managing the collection of overpayments.

The committee substitute clarifies that the DEO must perform an annual review of the RA system and identify ways to improve the delivery of services, and requires a summary of maintenance, enhancement, and modernization efforts over the last fiscal year and a 3-year outlook of recommended changes to be included in the RA Claims and Benefits Information System report. The committee substitute provides that the DEO must seek input and recommendations on RA system enhancements from specified entities.

B. Amendments:

None.