STORAGE NAME: h0109.bdt
DATE: February 5, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
ANALYSIS

BILL #: HB 109

RELATING TO: Unemployment Compensation

SPONSOR(S): Representative Bitner

COMPANION BILL(S): SB 108 (I), HB 31 (S)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
(2) INSURANCE
(3) FINANCE AND TAXATION
(4) GENERAL GOVERNMENT APPROPRIATIONS
(5)

I. SUMMARY:

The bill would continue the current unemployment tax reduction through calendar year 1999. New employer tax rates would be reduced from the initial rate of 2.7 percent to 2.0 percent. Rated employer tax rates would be reduced by 0.5 percent, with the exception of those employers who have been assigned a tax rate of 5.4 percent or higher for more than 36 months. The bill would clarify the disqualification for voluntarily quitting employment. The bill would also increase weekly benefits by 5 percent for the first 8 compensable weeks for claims with benefit years beginning July 1, 1999, through June 30, 2000. This bill has a significant fiscal impact (see fiscal analysis sections III. A.&D.) The bill provides for an effective date of July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Unemployment Contributions (Taxes)
Chapter 443, Florida Statutes, the Unemployment Compensation Law, is administered by the Florida Department of Labor and Employment Security, Division of Unemployment Compensation. One of the division's primary responsibilities is collecting state unemployment compensation taxes which are immediately deposited into the U.S. Treasury where they are held in trust solely for the payment of unemployment benefits.

The standard tax rate is set at 5.4 percent for the first $7,000 in wages paid to each employee. New employers, however, are taxed at the initial rate of 2.7 percent until they have been in existence for a sufficient time period and have met the other requirements for experience rating. Tax rates for experience-rated employers may be reduced from the standard rate based on their experience with unemployment. Generally, the more benefits paid to an employer's former workers, the higher the employer's tax rates, and vice versa. The minimum tax rate is statutorily set at 0.1 percent.

The 1997 Legislature enacted a one-year tax reduction (Chapter 97-29, Laws of Florida) to be applied during the 1998 calendar year. The legislation called for a 0.5 percent reduction for experience-rated employers except those having an assigned rate of 5.4 percent or greater for more than 36 months. New employer tax rates were also reduced from 2.7 percent to 2.0 percent. The tax cut was projected to reduce state unemployment tax collections by roughly $162 million for the 1998 calendar year.

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Weekly Benefits
Unemployment benefits are available to eligible workers who become unemployed through no fault of their own. Weekly benefits are calculated by dividing the individual's highest quarter earnings by 26. The minimum weekly benefit amount is statutorily set at $32 and is capped at $275. Depending on the individual's work history, he/she may collect regular unemployment benefits for a maximum of 26 weeks (six months). This yields a pre-tax wage replacement rate of 50 percent for individuals with annual wages up to $28,600.

Disqualification
The Unemployment Compensation Law contains various provisions requiring the disqualification of individuals for benefits based on the circumstances that caused the unemployment. Section 443.101(1)(a), F.S., provides for the disqualification of an individual if the individual's unemployment was caused by his/her voluntarily quitting work without good cause attributable to the employer. An individual who is disqualified for voluntarily quitting cannot receive benefits until such individual becomes reemployed and earns income equal to at least 17 times his/her weekly benefit amount.

In 1981, Florida's second District Court of Appeal held in *Neese v. Sizzler Family Steak House*, 404 So.2d 371 (Fla. 2d DCA 1981), that an individual is not totally disqualified for benefits when he/she works a full-time and part time job simultaneously, qualifies for partial unemployment benefits based on being laid off by the full-time employer, then subsequently quits the part-time job. The court ruled that, in such instances, the individual is entitled to partial benefits which is equal to the weekly benefit amount reduced by what the individual would have earned had he/she continued the part-time employment. The district courts have continued to follow the *Neese* decision, despite legislative amendment in 1994 aimed at overturning *Neese.*

B. EFFECT OF PROPOSED CHANGES:

Tax Reduction
The bill proposes to continue the current unemployment tax reduction through calendar year 1999. New employer tax rates would be reduced from the initial rate of 2.7 percent to 2.0 percent. Rated employer tax rates would be reduced by 0.5 percent, with the exception of those employers who have been assigned a tax rate of 5.4 percent or higher for more than 36 months.

Because of the bill's July 1, 1999, effective date, the tax reduction would have to take the form of a tax refund. For the majority of employers, the bulk of their 1999 tax liability would have already been satisfied by mid-year. This would require the division to issue new tax rate notices and refund checks to roughly 365,000 employers.

Disqualification
The bill would overturn *Neese* and its progeny (*Berger v. ASOLO Center for the Performing Arts, Inc*., 686 So.2d 649 (Fla. 2d DCA 1996); *Alderman v. Unemployment Appeals Commission*, 664 So.2d 1160 (Fla. 5th DCA 1995); *Tierney v. Florida Unemployment Appeals Commission*, 640 So.2d 154 (Fla. 2d DCA 1994); *Stewart v. Dollar Tree*, 635 So.2d 73 (Fla. 1st DCA 1994); *Coelho v. Balasky*, 631 So.2d 335 (Fla. 3d DCA 1994) by requiring the total disqualification of individuals who work a full-time and part-time job simultaneously qualify for partial benefits based on being separated from the full-time employer, and subsequently quit the part-time job.

Benefit Increase
The bill would provide a 5 percent increase in weekly benefits for the first 8 weeks of a claim with benefit years beginning July 1, 1999, through June 30, 2000.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

   a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

      N/A

   b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

      N/A

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      N/A

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      N/A

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

          N/A

      (2) Who makes the decisions?

          N/A

      (3) Are private alternatives permitted?

          N/A

      (4) Are families required to participate in a program?

          N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 443.101, 443.111, F.S.,

E. SECTION-BY-SECTION ANALYSIS:

Section 1 Amends section 1 of chapter 97-29, Laws of Florida, to continue the current (CY1998) tax reduction through calendar year 1999. Rated employers, except those who have had an assigned rate of 5.4 percent or higher for more than 36 months, would have their tax rates reduced by 0.5 percent. New employers would be taxed at the rate of 2.0 percent, instead of the initial rate of 2.7 percent.

Section 2 Amends paragraph (a) of subsection (1) of section 443.101, F.S., to clarify the disqualification for voluntarily quitting employment.

Section 3 Amends subsection (3) and paragraph (a) of subsection (5) of section 443.111, F.S., to increase weekly benefits by an additional 5 percent for the first 8 compensable weeks for claims with benefit years beginning July 1, 1999, through June 30, 2000. Increases total benefits to reflect the 5 percent increase.

Section 4 Provides for an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	FY 98-99	FY 99-00
Unemployment Compensation T.F.		
One year tax reduction	$138 million	$44 million
Benefit increase (5% x 8 weeks)	16 million	15 million
Total Non-recurring Expenditures	$154 million	$59 million

Expenditures relating to the 5 percent benefit increase will extend into FY 2000-01. The actual dollar amount, however, is indeterminate at this time.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

Extending the tax reduction through calendar year 1999 could adversely affect the benefit trust fund's ability to pay benefits during an economic downturn. The tax reduction may also negatively impact the trust fund balance trigger, which would result in higher tax rates.

4. Total Revenues and Expenditures:

	FY 98-99	FY 99-00
Unemployment Compensation T.F.		
One year tax reduction	$138 million	$44 million
Benefit increase (5% x 8 weeks)	16 million	5 million
Total Non-recurring Expenditures	$154 million	$59 million

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   N/A

2. Direct Private Sector Benefits:

   Private employers would receive a short-term benefit by having their unemployment taxes reduced for another year. Unemployed individuals would receive an increase in benefits.

3. Effects on Competition, Private Enterprise and Employment Markets:

   Indeterminate.

D. FISCAL COMMENTS:

Unemployment tax rates are generally computed annually with rate notices mailed to employers in late-November. Taxes are payable on a quarterly basis with the bulk of the taxes being paid during the first and second quarters. Because the effective date of the bill is July 1, 1999, a tax reduction for calendar year 1999 would take the form of refunds for most employers. The division estimates that $138 million would have to be refunded to employers. This figure does not include other costs such as programming, printing, and mailing a revised rate notice to roughly 365,000 employers.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of municipalities and counties to raise revenues, and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill will not reduce the amount of the local Government half cent sales tax shared with municipalities and counties, and it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:	Staff Director:
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Victoria A. Minetta	Paul Whitfield