STORAGE NAME: h1951.ft
DATE: March 18, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCE AND TAXATION
ANALYSIS

BILL #: HB 1951 (PCB FT 99-08)

RELATING TO: Unemployment Compensation

SPONSOR(S): Committee on Finance and Taxation and Representatives Albright, Bitner & others

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) FINANCE AND TAXATION YEAS 15 NAYS 1
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I. SUMMARY:

The bill would provide an unemployment tax reduction and an increase in weekly benefits during calendar year 2000. The bill would clarify the disqualification for voluntarily quitting employment and would reauthorize the Florida Training Investment Program for three years.

This bill has a significant fiscal impact (see fiscal analysis sections III. A.&D.)

The effective date of the bill is 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.

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.*

TIP Program
The Florida Training Investment Program (TIP) extends unemployment benefit eligibility to dislocated workers who meet specific criteria provided in s. 443.231, F.S. The program is scheduled to expire on June 30, 1999.

B. EFFECT OF PROPOSED CHANGES:

Tax Reduction
The bill proposes to repeat the 1998 unemployment tax reduction during calendar year 2000. New employer tax rates would be reduced from the initial rate of 2.7 percent to 2.0 percent. Experience-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.

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). This bill would require the total disqualification of individuals who work a full-time and part-time job simultaneously and qualify for partial benefits based on being separated from the full-time employer, if they 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 during benefit years beginning January 1, 2000 through December 31, 2000.

TIP Program
The bill would reauthorize the TIP program until June 30, 2002.

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?

Yes.

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

No.

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

No.

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:

This bill amends sections 443.101, 443.111, and 443.231, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 provides that, notwithstanding s. 443.131(3), F.S., for the calendar year 2000 the division will subtract 0.5 percent from each employer's assigned tax rate, except for those employers who are assigned the initial rate or have been assigned a contribution rate of 5.4 percent or higher for more than 36 months. Employers who are charged at the initial rate of 2.7 percent will have their tax rates reduced to 2 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 January 1, 2000, through December 31, 2000. In addition, this section increases the maximum benefits listed to reflect the 5 percent increase.

Section 4 extends the repeal of the TIPS program until June 30, 2002. This section has an effective date of June 30, 1999.

Section 5 provides 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:

The one year tax reduction contained in this bill should have a nonrecurring impact of approximately $187 million, $103 million in fiscal year 1999-00 and $84 million in fiscal year 2000-01. The benefit increase is expected to have a fiscal impact of $32 million, $16 million in fiscal year 1999-00 and $16 million in fiscal year 2000-01.

2. Recurring Effects:

The continuation of the TIPS program will require an appropriation of $16.5 million for each fiscal year.

3. Long Run Effects Other Than Normal Growth:

Repeating the tax reduction in calendar year 2000 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's balance trigger, which would result in higher tax rates.

4. Total Revenues and Expenditures:

This bill should have a nonrecurring impact of approximately $219 million, $119 million in fiscal year 1999-00 and $100 million in fiscal year 2000-01. The recurring expenditure which will be needed to fund the continuation of the TIPS program will cost $16.5 million per year.

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:

None.

2. Direct Private Sector Benefits:

Employers will benefit by a reduction in the Unemployment Compensation tax and employees will enjoy a temporary increase in the first eight weeks of unemployment compensation.

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

N/A

D. FISCAL COMMENTS:

N/A

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 percentage of any 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 FINANCE AND TAXATION:

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