

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1442

SPONSOR: Commerce and Economic Opportunities Committee, Senator Mitchell, and Senator Forman

SUBJECT: Unemployment Compensation

DATE: April 6, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Robinson Pierce</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This committee substitute creates an exception to the disqualification for unemployment compensation benefits for voluntarily quitting employment when an individual is a victim of domestic violence and separation from work results from the individual's experience of domestic violence. The individual must relocate to avoid domestic violence and establish satisfactory proof, including corroborating evidence, that separation from work was for qualifying reasons.

The committee substitute specifies that funding for benefits paid for unemployment compensation claims based upon domestic violence is provided only by a specific appropriation in the committee substitute or the General Appropriations Act for this purpose. The committee substitute also appropriates \$200,000 from the General Revenue Fund to pay for unemployment claims for domestic violence victims under the act.

This committee substitute amends section 443.101, Florida Statutes.

**II. Present Situation:**

**Unemployment Compensation Law**

Chapter 443, F.S., the unemployment compensation law, was established to implement the provisions of the Federal Unemployment Tax Act, ch. 23 of the Internal Revenue Code. The chapter delineates how Florida carries out these federal requirements, especially with regard to the tax on employers, the duration and amount of benefits paid to eligible claimants, procedures to appeal benefit and tax determinations, and the regulation of the Unemployment Compensation Trust Fund. The Division of Unemployment Compensation in the Department of Labor and Employment Security is responsible for implementing the provisions of ch. 443, F.S.

Section 443.101(1)(a), F.S., provides that an individual shall be disqualified for benefits for the week in which he or she has voluntarily left his or her work without good cause attributable to his

or her employing unit or in which the individual has been discharged by his or her employing unit for misconduct connected with his or her work, if so found by the Department of Labor and Employment Security. The term “good cause” includes only such cause as is attributable to the employing unit or which consists of illness or disability of the individual requiring separation from his or her work. s. 443.101(1)(a)1., F.S.

In *Amy J. Hall v. Florida Unemployment Appeals Commission and Laro, Inc. of Coral Gables*, 697 So. 2d 541 (1st Dist. Ct. App. 1997), the claimant, who had resigned her job and left the state to protect herself and her children from an abusive husband, sought unemployment compensation. The Unemployment Appeals Commission denied benefits based on the claimant leaving her employment without good cause attributable to her employer. The District Court of Appeal affirmed the decision of the Unemployment Appeals Commission and held that: (1) the claimant had voluntarily left her employment without good cause attributable to her employer; and (2) the claimant’s safety concerns did not constitute “good cause” on grounds of a family emergency, as a family emergency could serve as “good cause” only when the emergency involved illness or disability.

Generally, the regular and short-time compensation benefit payments made to any eligible individual are charged to the employment record of each employer who paid individual wages at \$100 or more within the base period of the individual. (s. 443.131(3)(a), F.S.) However, subsequent benefits paid to individuals on the basis of wages paid by an employer before separation, where the employer furnishes the division with notices that such individuals have left work without good cause attributable to the employer and have refused to accept offers of suitable work, are not charged to the accounts of employers. (s. 443.131(3)(a)1., F.S.) Such noncharge benefits are paid for by each employer eligible for variations from the standard rate of contribution by way of an adjustment factor. This adjustment factor for noncharge benefits is added to the benefit ratio, which, in part, determines the employer’s contribution rate. (s. 443.131(3)(e)1.a., F.S.)

### **Public Records Laws**

Florida began its long history of providing public access to the records of governmental and other public entities in 1909. In 1992, s. 24, Art. I, of the Florida Constitution was amended to grant every person a statutory right of public access to public records to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. The constitution requires a law that exempts a record to state with specificity the public necessity justifying the exemption and the exemption must be no broader than necessary to accomplish the stated purpose of the law. (Art. I, s. 24(c), Fla. Const.)

In addition to the Florida Constitution, ch. 119, F.S., the Public Records Law, specifies conditions under which public access must be provided to governmental records of the executive branch and other governmental agencies. Section 119.07(1)(a), F.S., requires that:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable

conditions, and under supervision by the custodian of the public record or the custodian's designee.

The Public Records Law states that, unless specifically exempted, all agency records are to be available for public inspection. For purposes of ch. 119, F.S., an "agency" includes any state department or board created or established by law. (s. 119.011(2), F.S.)

An exemption from the public records provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution exists for information revealing the employing unit's or individual's identity obtained from the employing unit or from any individual under the Florida Unemployment Compensation Law. (s. 443.1715(1), F.S.) Such information may be made available only to public employees in the performance of their public duties. These public employees must retain the confidentiality of the information. (s. 443.1715(1), F.S.)

### III. Effect of Proposed Changes:

The committee substitute amends s. 443.101, F.S., to further define "good cause" to include those cases in which an individual separates from work due to circumstances directly resulting from the individual's experience of domestic violence, as defined in s. 414.0252, F.S.<sup>1</sup> The committee substitute requires the victim to relocate to avoid the domestic violence.

An individual's separation from work will be treated as due to circumstances directly resulting from the individual's experience of domestic violence if the individual establishes satisfactory proof, including corroborating evidence, including, but not limited to, one of the following:

- A restraining order or equitable relief;
- Police record documenting domestic violence;
- Proof of conviction of the domestic violence perpetrator;
- Medical documentation of domestic violence;
- Certification from a certified domestic violence specialist that the individual is a domestic violence victim; or
- Other documentation from a social worker, clergy member, shelter worker, or other professional who assisted the domestic violence victim in dealing with domestic violence.

The committee substitute requires that an individual be referred to a certified domestic violence center if separation from work is determined by the Division of Unemployment Compensation (division) to be due to circumstances directly resulting from the individual's experience of domestic violence. At the center, a plan is to be developed to prepare the individual for self-sufficiency, while providing for the safety of the individual and the individual's dependents.

The committee substitute changes the funding source for unemployment compensation claims based upon domestic violence to require that benefits for such claims be made only if provided by specific appropriation in this act or in the General Appropriations Act. Before such funding can be

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<sup>1</sup>In s. 414.0252(4), F.S., "domestic violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense that results in the physical injury or death of one family or household member by another.

made to a victim of domestic violence, the Department of Labor and Employment Security (department) must determine that no other qualifying conditions for unemployment compensation benefits exist. If there are not sufficient funds available to pay the unemployment compensation claim, the domestic violence victim must be referred to the appropriate agency, organization, or domestic violence center that provides counseling and supportive services. These referrals must be made in such a manner as to protect the individual's confidentiality.

The committee substitute appropriates from the General Revenue Fund to the division, through the department, \$200,000 for the purpose of paying unemployment compensation claims for victims of domestic violence as provided for under the act.

The committee substitute takes effect July 1, 2000.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

The committee substitute requires the protection of an individual's confidentiality involving referrals made to the appropriate agency, organization, or domestic violence center in the event that there are not sufficient funds available to pay an unemployment compensation claim based upon domestic violence. An exemption from the public records laws exists for information revealing the employing unit's or individual's identity obtained from the employing unit or from any individual under the Florida Unemployment Compensation Law. Such information may be made available only to public employees in the performance of their public duties. These public employees must retain the confidentiality of the information. To the extent that a referral transmitted to a non-public organization or domestic violence center contains information made confidential under the Florida Unemployment Compensation Law, such referral would appear to violate the unemployment compensation law. Consequently, confidential information covered by Florida's Unemployment Compensation Law could not be transmitted as part of a referral to non-public organizations or domestic violence centers.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Benefits for unemployment compensation claims based upon domestic violence will be paid from the General Revenue Fund and not the Unemployment Compensation Trust Fund. Consequently, private employers will not pay for such benefits because of an increase in the noncharge benefits adjustment factor used to determine each employer's contribution rate.

Victims of domestic violence who separate from work under the qualifying provisions of this committee substitute would benefit economically from the receipt of unemployment compensation benefits.

**C. Government Sector Impact:**

The precise impact of the committee substitute is indeterminate because no data is currently available to indicate how many unemployment compensation claims are filed as a result of domestic violence. However, informal survey data obtained from the State of Maine, which has a similar, although more restrictive, exemption for domestic violence, indicates that the state receives 12 to 20 claims annually based on voluntarily quitting work due to domestic violence. Depending upon the actual number of claims filed under the bill, the division may experience some increased administrative costs.

The committee substitute appropriates \$200,000 to the division, through the department, for the purpose of paying unemployment claims for victims of domestic violence. Consequently, benefits for unemployment compensation claims based upon domestic violence will be paid from the General Revenue Fund and not the Unemployment Compensation Trust Fund (fund). Units of state and local governments are not required to reimburse the fund for benefits paid to individuals receiving benefits under this committee substitute.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The committee substitute requires that the victim relocate to avoid domestic violence. However, it is unclear what "relocation" means or the duration of such relocation. Moreover, to the extent that a victim is harmed by a family member who does not reside in the same household as the victim, this requirement may prove to be a hardship to such victims.

**VIII. Amendments:**

None.