



336278

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: R
05/03/2011 04:34 PM	.	05/06/2011 09:12 PM
	.	

Senator Detert moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) of section 213.053, Florida
Statutes, is amended to read:

213.053 Confidentiality and information sharing.-

(4) The department, while providing unemployment tax
collection services under contract with the Agency for Workforce
Innovation through an interagency agreement pursuant to s.
443.1316, may release unemployment tax rate information to the
agent of an employer who, ~~which agent~~ provides payroll services
for more than 100 ~~500~~ employers, pursuant to the terms of a



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14 memorandum of understanding. The memorandum of understanding
15 must state that the agent affirms, subject to the criminal
16 penalties contained in ss. 443.171 and 443.1715, that the agent
17 will retain the confidentiality of the information, that the
18 agent has in effect a power of attorney from the employer which
19 permits the agent to obtain unemployment tax rate information,
20 and that the agent shall provide the department with a copy of
21 the employer's power of attorney upon request.

22 Section 2. Section 443.031, Florida Statutes, is amended to
23 read:

24 443.031 Rule of liberal construction.—This chapter shall be
25 liberally construed to accomplish its purpose to promote
26 employment security by increasing opportunities for reemployment
27 and to provide, through the accumulation of reserves, for the
28 payment of compensation to individuals with respect to their
29 unemployment. The Legislature hereby declares its intention to
30 provide for carrying out the purposes of this chapter in
31 cooperation with the appropriate agencies of other states and of
32 the Federal Government as part of a nationwide employment
33 security program, and particularly to provide for meeting the
34 requirements of Title III, the requirements of the Federal
35 Unemployment Tax Act, and the Wagner-Peyser Act of June 6, 1933,
36 entitled "An Act to provide for the establishment of a national
37 employment system and for cooperation with the states in the
38 promotion of such system, and for other purposes," each as
39 amended, in order to secure for this state and its citizens the
40 grants and privileges available under such acts. All doubts ~~in~~
41 favor of a claimant of unemployment benefits who is unemployed
42 through no fault of his or her own. Any doubt as to the proper



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43 construction of any provision of this chapter shall be resolved
44 in favor of conformity with such requirements ~~federal law,~~
45 ~~including, but not limited to, the Federal Unemployment Tax Act,~~
46 ~~the Social Security Act, the Wagner-Peyser Act, and the~~
47 ~~Workforce Investment Act.~~

48 Section 3. Present subsections (26) through (45) of section
49 443.036, Florida Statutes, are renumbered as subsections (27)
50 through (46), respectively, new subsection (26) is added to that
51 section, and present subsections (6), (9), (29), and (43) of
52 that section are amended, to read:

53 443.036 Definitions.—As used in this chapter, the term:

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

56 (9) "Benefit year" means, for an individual, the 1-year
57 period beginning with the first day of the first week for which
58 the individual first files a valid claim for benefits and,
59 thereafter, the 1-year period beginning with the first day of
60 the first week for which the individual next files a valid claim
61 for benefits after the termination of his or her last preceding
62 benefit year. Each claim for benefits made in accordance with s.
63 443.151(2) is a valid claim ~~under this subsection~~ if the
64 individual was paid wages for insured work in accordance with s.
65 443.091(1)(g) and is unemployed ~~as defined in subsection (43)~~ at
66 the time of filing the claim. However, the Agency for Workforce
67 Innovation may adopt rules providing for the establishment of a
68 uniform benefit year for all workers in one or more groups or
69 classes of service or within a particular industry if the agency
70 determines, after notice to the industry and to the workers in
71 the industry and an opportunity to be heard in the matter, that



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72 those groups or classes of workers in a particular industry
73 periodically experience unemployment resulting from layoffs or
74 shutdowns for limited periods of time.

75 (26) "Initial skills review" means an online education or
76 training program, such as that established under s. 1004.99,
77 that is approved by the Agency for Workforce Innovation and
78 designed to measure an individual's mastery level of workplace
79 skills.

80 (31)-(29) "Misconduct," irrespective of whether the
81 misconduct occurs at the workplace or during working hours,
82 includes, but is not limited to, the following, which may not be
83 construed in pari materia with each other:

84 (a) Conduct demonstrating conscious willful or wanton
85 disregard of an employer's interests and found to be a
86 deliberate violation or disregard of the reasonable standards of
87 behavior which the employer expects ~~has a right to expect~~ of his
88 or her employee. ~~;~~ ~~or~~

89 (b) Carelessness or negligence to a degree or recurrence
90 that manifests culpability, or ~~or~~ wrongful intent, ~~or evil design~~
91 or shows an intentional and substantial disregard of the
92 employer's interests or of the employee's duties and obligations
93 to his or her employer.

94 (c) Chronic absenteeism or tardiness in deliberate
95 violation of a known policy of the employer or one or more
96 unapproved absences following a written reprimand or warning
97 relating to more than one unapproved absence.

98 (d) A willful and deliberate violation of a standard or
99 regulation of this state by an employee of an employer licensed
100 or certified by this state, which violation would cause the



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101 employer to be sanctioned or have its license or certification
102 suspended by this state.

103 (e) A violation of an employer's rule, unless the claimant
104 can demonstrate that:

105 1. He or she did not know, and could not reasonably know,
106 of the rule's requirements;

107 2. The rule is not lawful or not reasonably related to the
108 job environment and performance; or

109 3. The rule is not fairly or consistently enforced.

110 (45)-(43) "Unemployment" or "unemployed" means:

111 (a) An individual is "totally unemployed" in any week
112 during which he or she does not perform any services and for
113 which earned income is not payable to him or her. An individual
114 is "partially unemployed" in any week of less than full-time
115 work if the earned income payable to him or her for that week is
116 less than his or her weekly benefit amount. The Agency for
117 Workforce Innovation may adopt rules prescribing distinctions in
118 the procedures for unemployed individuals based on total
119 unemployment, part-time unemployment, partial unemployment of
120 individuals attached to their regular jobs, and other forms of
121 short-time work.

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

126 Section 4. Effective August 1, 2011, paragraphs (b), (c),
127 (d), and (f) of subsection (1) of section 443.091, Florida
128 Statutes, are amended to read:

129 443.091 Benefit eligibility conditions.-



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130 (1) An unemployed individual is eligible to receive
131 benefits for any week only if the Agency for Workforce
132 Innovation finds that:

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

- 137 1. Non-Florida residents;
- 138 2. On a temporary layoff, ~~as defined in s. 443.036(42);~~
- 139 3. Union members who customarily obtain employment through
140 a union hiring hall; or
- 141 4. Claiming benefits under an approved short-time
142 compensation plan as provided in s. 443.1116.

143 (c) To make continued claims for benefits, she or he is
144 reporting to the Agency for Workforce Innovation in accordance
145 with this paragraph and agency ~~its~~ rules, and participating in
146 an initial skills review as directed by the agency. Agency These
147 rules may not conflict with s. 443.111(1)(b), which requires
148 including the requirement that each claimant continue to report
149 regardless of any pending appeal relating to her or his
150 eligibility or disqualification for benefits.

151 1. For each week of unemployment claimed, each report must,
152 at a minimum, include the name, address, and telephone number of
153 each prospective employer contacted, or the date the claimant
154 reported to a one-stop career center, pursuant to paragraph (d).

155 2. The administrator or operator of the initial skills
156 review shall notify the agency when the individual completes the
157 initial skills review and report the results of the review to
158 the regional workforce board or the one-stop career center as



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159 directed by the workforce board. The workforce board shall use
160 the initial skills review to develop a plan for referring
161 individuals to training and employment opportunities. The
162 failure of the individual to comply with this requirement will
163 result in the individual being determined ineligible for
164 benefits for the week in which the noncompliance occurred and
165 for any subsequent week of unemployment until the requirement is
166 satisfied. However, this requirement does not apply if the
167 individual is able to affirmatively attest to being unable to
168 complete such review due to illiteracy or a language impediment.

169 (d) She or he is able to work and is available for work. In
170 order to assess eligibility for a claimed week of unemployment,
171 the agency shall develop criteria to determine a claimant's
172 ability to work and availability for work. A claimant must be
173 actively seeking work in order to be considered available for
174 work. This means engaging in systematic and sustained efforts to
175 find work, including contacting at least five prospective
176 employers for each week of unemployment claimed. The agency may
177 require the claimant to provide proof of such efforts to the
178 one-stop career center as part of reemployment services. The
179 agency shall conduct random reviews of work search information
180 provided by claimants. As an alternative to contacting at least
181 five prospective employers for any week of unemployment claimed,
182 a claimant may, for that same week, report in person to a one-
183 stop career center to meet with a representative of the center
184 and access reemployment services of the center. The center shall
185 keep a record of the services or information provided to the
186 claimant and shall provide the records to the agency upon
187 request by the agency. However:



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188 1. Notwithstanding any other provision of this paragraph or
189 paragraphs (b) and (e), an otherwise eligible individual may not
190 be denied benefits for any week because she or he is in training
191 with the approval of the agency, or by reason of s. 443.101(2)
192 relating to failure to apply for, or refusal to accept, suitable
193 work. Training may be approved by the agency in accordance with
194 criteria prescribed by rule. A claimant's eligibility during
195 approved training is contingent upon satisfying eligibility
196 conditions prescribed by rule.

197 2. Notwithstanding any other provision of this chapter, an
198 otherwise eligible individual who is in training approved under
199 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
200 determined ineligible or disqualified for benefits due to ~~her or~~
201 ~~his~~ enrollment in such training or because of leaving work that
202 is not suitable employment to enter such training. As used in
203 this subparagraph, the term "suitable employment" means work of
204 a substantially equal or higher skill level than the worker's
205 past adversely affected employment, as defined for purposes of
206 the Trade Act of 1974, as amended, the wages for which are at
207 least 80 percent of the worker's average weekly wage as
208 determined for purposes of the Trade Act of 1974, as amended.

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

213 (f) She or he has been unemployed for a waiting period of 1
214 week. A week may not be counted as a week of unemployment under
215 this subsection unless:

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



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

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

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

222 Section 5. Effective August 1, 2011, paragraph (a) of
223 subsection (1) and subsections (2), (3), and (9) of section
224 443.101, Florida Statutes, are amended, and subsection (12) is
225 added to that section, to read:

226 443.101 Disqualification for benefits.—An individual shall
227 be disqualified for benefits:

228 (1) (a) For the week in which he or she has voluntarily left
229 work without good cause attributable to his or her employing
230 unit or ~~in which the individual~~ has been discharged by the
231 employing unit for misconduct connected with his or her work,
232 based on a finding by the Agency for Workforce Innovation. As
233 used in this paragraph, the term "work" means any work, whether
234 full-time, part-time, or temporary.

235 1. Disqualification for voluntarily quitting continues for
236 the full period of unemployment next ensuing after the
237 individual has left his or her full-time, part-time, or
238 temporary work voluntarily without good cause and until the
239 individual has earned income equal to or greater than ~~in excess~~
240 ~~of~~ 17 times his or her weekly benefit amount. As used in this
241 subsection, the term "good cause" includes only that cause
242 attributable to the employing unit which would compel a
243 reasonable employee to cease working or attributable to which
244 ~~consists of~~ the individual's illness or disability requiring
245 separation from his or her work. Any other disqualification may



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246 not be imposed. An individual is not disqualified under this
247 subsection for voluntarily leaving temporary work to return
248 immediately when called to work by the permanent employing unit
249 that temporarily terminated his or her work within the previous
250 6 calendar months, or. ~~An individual is not disqualified under~~
251 ~~this subsection~~ for voluntarily leaving work to relocate as a
252 result of his or her military-connected spouse's permanent
253 change of station orders, activation orders, or unit deployment
254 orders.

255 2. Disqualification for being discharged for misconduct
256 connected with his or her work continues for the full period of
257 unemployment next ensuing after having been discharged and until
258 the individual is reemployed and has earned income of at least
259 17 times his or her weekly benefit amount and for not more than
260 52 weeks ~~that~~ immediately following ~~follow~~ that week, as
261 determined by the agency in each case according to the
262 circumstances ~~in each case~~ or the seriousness of the misconduct,
263 under the agency's rules adopted for determinations of
264 disqualification for benefits for misconduct.

265 3. If an individual has provided notification to the
266 employing unit of his or her intent to voluntarily leave work
267 and the employing unit discharges the individual for reasons
268 other than misconduct before the date the voluntary quit was to
269 take effect, the individual, if otherwise entitled, shall
270 receive benefits from the date of the employer's discharge until
271 the effective date of his or her voluntary quit.

272 4. If an individual is notified by the employing unit of
273 the employer's intent to discharge the individual for reasons
274 other than misconduct and the individual quits without good



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275 ~~cause, as defined in this section,~~ before the date the discharge
276 was to take effect, the claimant is ineligible for benefits
277 pursuant to s. 443.091(1)(d) for failing to be available for
278 work for the week or weeks of unemployment occurring before the
279 effective date of the discharge.

280 (2) If the Agency for Workforce Innovation finds that the
281 individual has failed without good cause to apply for available
282 suitable work ~~when directed by the agency or the one-stop career~~
283 ~~center, to~~ accept suitable work when offered to him or her, or
284 ~~to~~ return to the individual's customary self-employment when
285 directed by the agency, the disqualification continues for the
286 full period of unemployment next ensuing after he or she failed
287 without good cause to apply for available suitable work, ~~to~~
288 accept suitable work, or ~~to~~ return to his or her customary self-
289 employment, ~~under this subsection,~~ and until the individual has
290 earned income of at least 17 times his or her weekly benefit
291 amount. The Agency for Workforce Innovation shall by rule adopt
292 criteria for determining the "suitability of work," as used in
293 this section. ~~The Agency for Workforce Innovation~~ In developing
294 these rules, the agency shall consider the duration of a
295 claimant's unemployment in determining the suitability of work
296 and the suitability of proposed rates of compensation for
297 available work. Further, after an individual has received 25
298 weeks of benefits in a single year, suitable work is a job that
299 pays the minimum wage and is 120 percent or more of the weekly
300 benefit amount the individual is drawing.

301 (a) In determining whether or not any work is suitable for
302 an individual, the Agency ~~for Workforce Innovation~~ shall
303 consider the degree of risk ~~involved~~ to the individual's ~~his or~~



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304 ~~her~~ health, safety, and morals; the individual's ~~his or her~~
305 physical fitness, and prior training, ~~the individual's~~
306 experience, and prior earnings, ~~his or her~~ length of
307 unemployment, and prospects for securing local work in his or
308 her customary occupation; and the distance of the available work
309 from his or her residence.

310 (b) Notwithstanding any other provisions of this chapter,
311 work is not deemed suitable and benefits may not be denied ~~under~~
312 ~~this chapter~~ to any otherwise eligible individual for refusing
313 to accept new work under any of the following conditions:

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

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

319 3. ~~If~~ As a condition of being employed, the individual is
320 ~~would be~~ required to join a company union or to resign from or
321 refrain from joining any bona fide labor organization.

322 (c) If the Agency ~~for Workforce Innovation~~ finds that an
323 individual was rejected for offered employment as the direct
324 result of a positive, confirmed drug test required as a
325 condition of employment, the individual is disqualified for
326 refusing to accept an offer of suitable work.

327 (3) For any week with respect to which he or she is
328 receiving or has received remuneration in the form of:

329 (a) Wages in lieu of notice.

330 (b) Severance pay. The number of weeks that an individual's
331 severance pay disqualifies the individual is equal to the amount
332 of the severance pay divided by that individual's average weekly



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333 wage received from the employer that paid the severance pay,
334 rounded down to the nearest whole number, beginning with the
335 week the individual is separated from employment.

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

339
340 2. ~~However,~~ If the remuneration referred to in this subsection
341 paragraphs ~~(a) and (b)~~ is less than the benefits that would
342 otherwise be due under this chapter, an individual who is
343 otherwise eligible ~~he or she~~ is entitled to receive for that
344 week, ~~if otherwise eligible,~~ benefits reduced by the amount of
345 the remuneration.

346 (9) If the individual was terminated from his or her work
347 ~~for violation of any criminal law punishable by imprisonment, or~~
348 ~~for any dishonest act, in connection with his or her work,~~ as
349 follows:

350 (a) If the Agency for Workforce Innovation or the
351 Unemployment Appeals Commission finds that the individual was
352 terminated from ~~his or her~~ work for violation of any criminal
353 law, under any jurisdiction, which was punishable by
354 imprisonment in connection with his or her work, and the
355 individual was convicted ~~found guilty of the offense, made an~~
356 ~~admission of guilt in a court of law,~~ or entered a plea of
357 guilty or nolo contendere ~~no contest,~~ the individual is not
358 entitled to unemployment benefits for up to 52 weeks, pursuant
359 to ~~under~~ rules adopted by the agency ~~for Workforce Innovation,~~
360 and until he or she has earned income of at least 17 times his
361 or her weekly benefit amount. If, before an adjudication of



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362 guilt, an admission of guilt, or a plea of nolo contendere ~~no~~
363 ~~contest~~, the employer proves by competent substantial evidence
364 to shows the agency ~~for Workforce Innovation~~ that the arrest was
365 due to a crime against the employer or the employer's business,
366 customers, or invitees ~~and, after considering all the evidence,~~
367 ~~the Agency for Workforce Innovation finds misconduct in~~
368 ~~connection with the individual's work~~, the individual is not
369 entitled to unemployment benefits.

370 (b) If the Agency for Workforce Innovation or the
371 Unemployment Appeals Commission finds that the individual was
372 terminated from work for any dishonest act in connection with
373 his or her work, the individual is not entitled to unemployment
374 benefits for up to 52 weeks, pursuant to ~~under~~ rules adopted by
375 the Agency ~~for Workforce Innovation~~, and until he or she has
376 earned income of at least 17 times his or her weekly benefit
377 amount. ~~In addition,~~ If the employer terminates an individual as
378 a result of a dishonest act in connection with his or her work
379 and the Agency ~~for Workforce Innovation~~ finds misconduct in
380 connection with his or her work, the individual is not entitled
381 to unemployment benefits.

382
383 ~~If With respect to~~ an individual is disqualified for benefits,
384 the account of the terminating employer, if the employer is in
385 the base period, is noncharged at the time the disqualification
386 is imposed.

387 (12) For any week in which the individual is unavailable
388 for work due to incarceration or imprisonment.

389 Section 6. Effective August 1, 2011, subsection (1) of
390 section 443.111, Florida Statutes, is amended to read:



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391 443.111 Payment of benefits.-

392 (1) MANNER OF PAYMENT.-Benefits are payable from the fund
393 in accordance with rules adopted by the Agency for Workforce
394 Innovation, subject to the following requirements:

395 (a) Benefits are payable ~~by mail or~~ electronically, except
396 that an individual being paid by paper warrant on July 1, 2011,
397 may continue to be paid in that manner until the expiration of
398 the claim. Notwithstanding s. 409.942(4), the agency may develop
399 a system for the payment of benefits by electronic funds
400 transfer, including, but not limited to, debit cards, electronic
401 payment cards, or any other means of electronic payment that the
402 agency deems to be commercially viable or cost-effective.
403 Commodities or services related to the development of such a
404 system shall be procured by competitive solicitation, unless
405 they are purchased from a state term contract pursuant to s.
406 287.056. The agency shall adopt rules necessary to administer
407 this paragraph ~~the system.~~

408 (b) As required under s. 443.091(1), each claimant must
409 ~~report in the manner prescribed by the agency for Workforce~~
410 ~~Innovation to certify for benefits that are paid and must~~
411 ~~continue to report~~ at least biweekly to receive unemployment
412 benefits and to attest to the fact that she or he is able and
413 available for work, has not refused suitable work, is seeking
414 work and has contacted at least five prospective employers or
415 reported in person to a one-stop career center for reemployment
416 services for each week of unemployment claimed, and, if she or
417 he has worked, to report earnings from that work. Each claimant
418 must continue to report regardless of any appeal or pending
419 appeal relating to her or his eligibility or disqualification



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420 for benefits.

421 Section 7. Effective July 1, 2011, paragraph (a) of
422 subsection (1) and paragraph (f) of subsection (13) of section
423 443.1216, Florida Statutes, are amended to read:

424 443.1216 Employment.—Employment, as defined in s. 443.036,
425 is subject to this chapter under the following conditions:

426 (1) (a) The employment ~~subject to this chapter~~ includes a
427 service performed, including a service performed in interstate
428 commerce, by:

429 1. An officer of a corporation.

430 2. An individual who, under the usual common-law rules
431 applicable in determining the employer-employee relationship, is
432 an employee. However, if whenever a client, ~~as defined in s.~~
433 ~~443.036(18)~~, which would otherwise be designated as an employing
434 unit, has contracted with an employee leasing company to supply
435 it with workers, those workers are considered employees of the
436 employee leasing company and must be reported under the leasing
437 company's tax identification number and contribution rate for
438 work performed for the leasing company.

439 a. However, except for the internal employees of an
440 employee leasing company, a leasing company may make a one-time
441 election to report and pay contributions under the client
442 method. Under the client method, a leasing company must assign
443 leased employees to the client company that is leasing the
444 employees. The client method is solely a method to report and
445 pay unemployment contributions. For all other purposes, the
446 leased employees are considered employees of the employee
447 leasing company. A leasing company that elects the client method
448 shall pay contributions at the rates assigned to each client



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449 company.

450 (I) The election applies to all of the leasing company's
451 current and future clients.

452 (II) The leasing company must notify the Agency for
453 Workforce Innovation or the tax collection service provider of
454 its election by August 1 of the calendar year prior to the year
455 the election will go into effect, and such election applies to
456 reports and contributions beginning the first quarter of the
457 calendar year following the election. The notification must
458 include:

459 (A) A list of each client company and its unemployment
460 account number;

461 (B) A list of each client company's current and previous
462 employees and their respective social security numbers for the
463 prior 3 state fiscal years; and

464 (C) All wage data and benefit charges for the prior 3 state
465 fiscal years.

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

468 (IV) The employee leasing company must, by approved
469 electronic means, file a Florida Department of Revenue
470 Employer's Quarterly Report (UCT-6) for each client company and
471 pay all contributions.

472 (V) For the purposes of calculating experience rates, the
473 election is treated like a total or partial succession,
474 depending on the percentage of employees leased. If the client
475 company leases only a portion of its employees from the leasing
476 company, the client company shall continue to report the
477 nonleased employees under its tax rate based on the experience



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478 of the nonleased employees.

479 (VI) A leasing company that that elects to report and pay
480 contributions under the client method is not required to submit
481 quarterly Multiple Worksite Reports required by sub-
482 subparagraphs c. and d.

483 (VII) This sub-subparagraph applies to all employee leasing
484 companies, including each leasing company that is a group member
485 or group leader of an employee leasing company group licensed
486 pursuant to chapter 468. The election is binding on all employee
487 leasing companies and their related enterprises, subsidiaries,
488 or other entities that share common ownership, management, or
489 control with the leasing company. The election is also binding
490 on all clients of the leasing company for as long as a written
491 agreement is in effect between the client and the leasing
492 company pursuant to s. 468.525(3)(a). If the relationship
493 between the leasing company and the client terminates, the
494 client retains the wage and benefit history experienced under
495 the leasing company.

496 b. An employee leasing company may lease corporate officers
497 of the client to the client and other workers to the client,
498 except as prohibited by regulations of the Internal Revenue
499 Service. ~~Employees of an employee leasing company must be~~
500 ~~reported under the employee leasing company's tax identification~~
501 ~~number and contribution rate for work performed for the employee~~
502 ~~leasing company.~~

503 ~~c.a.~~ In addition to any other report required to be filed
504 by law, an employee leasing company shall submit a report to the
505 Labor Market Statistics Center within the Agency for Workforce
506 Innovation which includes each client establishment and each



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507 establishment of the ~~employee~~ leasing company, or as otherwise
508 directed by the agency. The report must include the following
509 information for each establishment:

- 510 (I) The trade or establishment name;
- 511 (II) The former unemployment compensation account number,
512 if available;
- 513 (III) The former federal employer's identification number
514 (FEIN), if available;
- 515 (IV) The industry code recognized and published by the
516 United States Office of Management and Budget, if available;
- 517 (V) A description of the client's primary business activity
518 in order to verify or assign an industry code;
- 519 (VI) The address of the physical location;
- 520 (VII) The number of full-time and part-time employees who
521 worked during, or received pay that was subject to unemployment
522 compensation taxes for, the pay period including the 12th of the
523 month for each month of the quarter;
- 524 (VIII) The total wages subject to unemployment compensation
525 taxes paid during the calendar quarter;
- 526 (IX) An internal identification code to uniquely identify
527 each establishment of each client;
- 528 (X) The month and year that the client entered into the
529 contract for services; and
- 530 (XI) The month and year that the client terminated the
531 contract for services.

532 ~~d.b.~~ The report shall be submitted electronically or in a
533 manner otherwise prescribed by the Agency for Workforce
534 Innovation in the format specified by the Bureau of Labor
535 Statistics of the United States Department of Labor for its



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536 Multiple Worksite Report for Professional Employer
537 Organizations. The report must be provided quarterly to the
538 Labor Market Statistics Center within the agency ~~for Workforce~~
539 ~~Innovation~~, or as otherwise directed by the agency, and must be
540 filed by the last day of the month immediately following the end
541 of the calendar quarter. The information required in sub-sub-
542 subparagraphs c.(X) and (XI) ~~a.(X) and (XI)~~ need be provided
543 only in the quarter in which the contract to which it relates
544 was entered into or terminated. The sum of the employment data
545 and the sum of the wage data in this report must match the
546 employment and wages reported in the unemployment compensation
547 quarterly tax and wage report. A report is not required for any
548 calendar quarter preceding the third calendar quarter of 2010.

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

553 ~~f.d.~~ For the purposes of this subparagraph, the term
554 "establishment" means any location where business is conducted
555 or where services or industrial operations are performed.

556 3. An individual other than an individual who is an
557 employee under subparagraph 1. or subparagraph 2., who performs
558 services for remuneration for any person:

559 a. As an agent-driver or commission-driver engaged in
560 distributing meat products, vegetable products, fruit products,
561 bakery products, beverages other than milk, or laundry or
562 drycleaning services for his or her principal.

563 b. As a traveling or city salesperson engaged on a full-
564 time basis in the solicitation on behalf of, and the



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565 transmission to, his or her principal of orders from
566 wholesalers, retailers, contractors, or operators of hotels,
567 restaurants, or other similar establishments for merchandise for
568 resale or supplies for use in their business operations. This
569 sub-subparagraph does not apply to an agent-driver or a
570 commission-driver and does not apply to sideline sales
571 activities performed on behalf of a person other than the
572 salesperson's principal.

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

575 a. The contract of service contemplates that substantially
576 all of the services are to be performed personally by the
577 individual;

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

581 c. The services are not in the nature of a single
582 transaction that is not part of a continuing relationship with
583 the person for whom the services are performed.

584 (13) The following are exempt from coverage under this
585 chapter:

586 (f) Service performed in the employ of a public employer as
587 defined in s. 443.036, except as provided in subsection (2), and
588 service performed in the employ of an instrumentality of a
589 public employer as described in s. 443.036 (37) (b) ~~(35) (b)~~ or (c),
590 to the extent that the instrumentality is immune under the
591 United States Constitution from the tax imposed by s. 3301 of
592 the Internal Revenue Code for that service.

593 Section 8. Effective January 1, 2012, subsection (5) of



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594 section 443.111, Florida Statutes, is amended to read:

595 443.111 Payment of benefits.—

596 (5) DURATION OF BENEFITS.—

597 (a) As used in this section, the term "Florida average
598 unemployment rate" means the average of the 3 months for the
599 most recent third calendar year quarter of the seasonally
600 adjusted statewide unemployment rates as published by the Agency
601 for Workforce Innovation.

602 (b)1. Each otherwise eligible individual is entitled during
603 any benefit year to a total amount of benefits equal to 25
604 percent of the total wages in his or her base period, not to
605 exceed \$7,150 or the product arrived at by multiplying the
606 weekly benefit amount with the number of weeks determined in
607 paragraph (c), whichever is less. However, the total amount of
608 benefits, if not a multiple of \$1, is rounded downward to the
609 nearest full dollar amount. These benefits are payable at a
610 weekly rate no greater than the weekly benefit amount.

611 (c) For claims submitted during a calendar year, the
612 duration of benefits is limited to:

613 1. Twelve weeks if this state's average unemployment rate
614 is at or below 5 percent.

615 2. An additional week in addition to the 12 weeks for each
616 0.5 percent increment in this state's average unemployment rate
617 above 5 percent.

618 3. Up to a maximum of 26 weeks if this state's average
619 unemployment rate equals or exceeds 12 percent.

620 (d)2. For the purposes of this subsection, wages are
621 counted as "wages for insured work" for benefit purposes with
622 respect to any benefit year only if the benefit year begins



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623 after the date the employing unit by whom the wages were paid
624 has satisfied the conditions of this chapter for becoming an
625 employer.

626 (e)~~(b)~~ If the remuneration of an individual is not based
627 upon a fixed period or duration of time or if the individual's
628 wages are paid at irregular intervals or in a manner that does
629 not extend regularly over the period of employment, the wages
630 for any week or for any calendar quarter for the purpose of
631 computing an individual's right to employment benefits only are
632 determined in the manner prescribed by rule. These rules, to the
633 extent practicable, must secure results reasonably similar to
634 those that would prevail if the individual were paid her or his
635 wages at regular intervals.

636 Section 9. Effective January 1, 2012, paragraph (b) of
637 subsection (2) of section 443.041, Florida Statutes, is amended
638 to read:

639 443.041 Waiver of rights; fees; privileged communications.—

640 (2) FEES.—

641 (b) An attorney at law representing a claimant for benefits
642 in any district court of appeal of this state or in the Supreme
643 Court of Florida is entitled to counsel fees payable by the
644 Agency for Workforce Innovation as set by the court if the
645 petition for review or appeal is initiated by the claimant and
646 results in a decision awarding more benefits than provided in
647 the decision from which appeal was taken. The amount of the fee
648 may not exceed 50 percent of the total amount of regular
649 benefits permitted under s. 443.111(5) (b)~~(a)~~ during the benefit
650 year.

651 Section 10. Effective upon this act becoming a law, for tax



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652 rates effective on or after January 1, 2012, paragraphs (b) and
653 (e) of subsection (3) of section 443.131, Florida Statutes, are
654 amended to read:

655 443.131 Contributions.—

656 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
657 EXPERIENCE.—

658 (b) *Benefit ratio*.—

659 1. As used in this paragraph, the term "annual payroll"
660 means the calendar quarter taxable payroll reported to the tax
661 collection service provider for the quarters used in computing
662 the benefit ratio. The term does not include a penalty resulting
663 from the untimely filing of required wage and tax reports. All
664 of the taxable payroll reported to the tax collection service
665 provider by the end of the quarter preceding the quarter for
666 which the contribution rate is to be computed must be used in
667 the computation.

668 2. As used in this paragraph, the term "benefits charged to
669 the employer's employment record" means the amount of benefits
670 paid to individuals multiplied by:

671 a. For benefits paid prior to July 1, 2007, 1.

672 b. For benefits paid during the period beginning on July 1,
673 2007, and ending March 31, 2011, 0.90.

674 c. For benefits paid after March 31, 2011, 1.

675 3.2. For each calendar year, the tax collection service
676 provider shall compute a benefit ratio for each employer whose
677 employment record was chargeable for benefits during the 12
678 consecutive quarters ending June 30 of the calendar year
679 preceding the calendar year for which the benefit ratio is
680 computed. An employer's benefit ratio is the quotient obtained



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681 by dividing the total benefits charged to the employer's
682 employment record during the 3-year period ending June 30 of the
683 preceding calendar year by the total of the employer's annual
684 payroll for the 3-year period ending June 30 of the preceding
685 calendar year. The benefit ratio shall be computed to the fifth
686 decimal place and rounded to the fourth decimal place.

687 ~~4.3.~~ The tax collection service provider shall compute a
688 benefit ratio for each employer who was not previously eligible
689 under subparagraph ~~3. 2.~~, whose contribution rate is set at the
690 initial contribution rate in paragraph (2) (a), and whose
691 employment record was chargeable for benefits during at least 8
692 calendar quarters immediately preceding the calendar quarter for
693 which the benefit ratio is computed. The employer's benefit
694 ratio is the quotient obtained by dividing the total benefits
695 charged to the employer's employment record during the first 6
696 of the 8 completed calendar quarters immediately preceding the
697 calendar quarter for which the benefit ratio is computed by the
698 total of the employer's annual payroll during the first 7 of the
699 9 completed calendar quarters immediately preceding the calendar
700 quarter for which the benefit ratio is computed. The benefit
701 ratio shall be computed to the fifth decimal place and rounded
702 to the fourth decimal place and applies for the remainder of the
703 calendar year. The employer must subsequently be rated on an
704 annual basis using up to 12 calendar quarters of benefits
705 charged and up to 12 calendar quarters of annual payroll. That
706 employer's benefit ratio is the quotient obtained by dividing
707 the total benefits charged to the employer's employment record
708 by the total of the employer's annual payroll during the
709 quarters used in his or her first computation plus the



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710 subsequent quarters reported through June 30 of the preceding
711 calendar year. Each subsequent calendar year, the rate shall be
712 computed under subparagraph 3. 2. The tax collection service
713 provider shall assign a variation from the standard rate of
714 contributions in paragraph (c) on a quarterly basis to each
715 eligible employer in the same manner as an assignment for a
716 calendar year under paragraph (e).

717 (e) *Assignment of variations from the standard rate.*—

718 1. As used in this paragraph, the terms "total benefit
719 payments," "benefits paid to an individual," and "benefits
720 charged to the employment record of an employer" mean the amount
721 of benefits paid to individuals multiplied by:

722 a. For benefits paid prior to July 1, 2007, 1.

723 b. For benefits paid during the period beginning on July 1,
724 2007, and ending March 31, 2011, 0.90.

725 c. For benefits paid after March 31, 2011, 1.

726 2. For the calculation of contribution rates effective
727 January 1, 2010, and thereafter:

728 a. 1. The tax collection service provider shall assign a
729 variation from the standard rate of contributions for each
730 calendar year to each eligible employer. In determining the
731 contribution rate, varying from the standard rate to be assigned
732 each employer, adjustment factors computed under sub-sub-
733 subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ are added to the
734 benefit ratio. This addition shall be accomplished in two steps
735 by adding a variable adjustment factor and a final adjustment
736 factor. The sum of these adjustment factors computed under sub-
737 sub-subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ shall first
738 be algebraically summed. The sum of these adjustment factors



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739 shall next be divided by a gross benefit ratio determined as
740 follows: Total benefit payments for the 3-year period described
741 in subparagraph (b)3. ~~(b)2.~~ are charged to employers eligible
742 for a variation from the standard rate, minus excess payments
743 for the same period, divided by taxable payroll entering into
744 the computation of individual benefit ratios for the calendar
745 year for which the contribution rate is being computed. The
746 ratio of the sum of the adjustment factors computed under sub-
747 sub-subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ to the gross
748 benefit ratio is multiplied by each individual benefit ratio
749 that is less than the maximum contribution rate to obtain
750 variable adjustment factors; except that if the sum of an
751 employer's individual benefit ratio and variable adjustment
752 factor exceeds the maximum contribution rate, the variable
753 adjustment factor is reduced in order for the sum to equal the
754 maximum contribution rate. The variable adjustment factor for
755 each of these employers is multiplied by his or her taxable
756 payroll entering into the computation of his or her benefit
757 ratio. The sum of these products is divided by the taxable
758 payroll of the employers who entered into the computation of
759 their benefit ratios. The resulting ratio is subtracted from the
760 sum of the adjustment factors computed under sub-sub-
761 subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ to obtain the
762 final adjustment factor. The variable adjustment factors and the
763 final adjustment factor must be computed to five decimal places
764 and rounded to the fourth decimal place. This final adjustment
765 factor is added to the variable adjustment factor and benefit
766 ratio of each employer to obtain each employer's contribution
767 rate. An employer's contribution rate may not, however, be



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768 rounded to less than 0.1 percent.

769 (I)~~a~~. An adjustment factor for noncharge benefits is
770 computed to the fifth decimal place and rounded to the fourth
771 decimal place by dividing the amount of noncharge benefits
772 during the 3-year period described in subparagraph (b)3. ~~(b)2.~~
773 by the taxable payroll of employers eligible for a variation
774 from the standard rate who have a benefit ratio for the current
775 year which is less than the maximum contribution rate. For
776 purposes of computing this adjustment factor, the taxable
777 payroll of these employers is the taxable payrolls for the 3
778 years ending June 30 of the current calendar year as reported to
779 the tax collection service provider by September 30 of the same
780 calendar year. As used in this sub-sub-subparagraph ~~sub-~~
781 ~~subparagraph~~, the term "noncharge benefits" means benefits paid
782 to an individual from the Unemployment Compensation Trust Fund,
783 but which were not charged to the employment record of any
784 employer.

785 (II)~~b~~. An adjustment factor for excess payments is computed
786 to the fifth decimal place, and rounded to the fourth decimal
787 place by dividing the total excess payments during the 3-year
788 period described in subparagraph (b)3. ~~(b)2.~~ by the taxable
789 payroll of employers eligible for a variation from the standard
790 rate who have a benefit ratio for the current year which is less
791 than the maximum contribution rate. For purposes of computing
792 this adjustment factor, the taxable payroll of these employers
793 is the same figure used to compute the adjustment factor for
794 noncharge benefits under sub-sub-subparagraph (I) ~~sub-~~
795 ~~subparagraph~~~~a~~. As used in this sub-subparagraph, the term
796 "excess payments" means the amount of benefits charged to the



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797 employment record of an employer during the 3-year period
798 described in subparagraph (b)3. ~~(b)2.~~, less the product of the
799 maximum contribution rate and the employer's taxable payroll for
800 the 3 years ending June 30 of the current calendar year as
801 reported to the tax collection service provider by September 30
802 of the same calendar year. As used in this sub-sub-subparagraph
803 ~~sub-subparagraph~~, the term "total excess payments" means the sum
804 of the individual employer excess payments for those employers
805 that were eligible for assignment of a contribution rate
806 different from the standard rate.

807 (III)e. With respect to computing a positive adjustment
808 factor:

809 (A) ~~(I)~~ Beginning January 1, 2012, if the balance of the
810 Unemployment Compensation Trust Fund on September 30 of the
811 calendar year immediately preceding the calendar year for which
812 the contribution rate is being computed is less than 4 percent
813 of the taxable payrolls for the year ending June 30 as reported
814 to the tax collection service provider by September 30 of that
815 calendar year, a positive adjustment factor shall be computed.
816 The positive adjustment factor is computed annually to the fifth
817 decimal place and rounded to the fourth decimal place by
818 dividing the sum of the total taxable payrolls for the year
819 ending June 30 of the current calendar year as reported to the
820 tax collection service provider by September 30 of that calendar
821 year into a sum equal to one-third of the difference between the
822 balance of the fund as of September 30 of that calendar year and
823 the sum of 5 percent of the total taxable payrolls for that
824 year. The positive adjustment factor remains in effect for
825 subsequent years until the balance of the Unemployment



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826 Compensation Trust Fund as of September 30 of the year
827 immediately preceding the effective date of the contribution
828 rate equals or exceeds 5 percent of the taxable payrolls for the
829 year ending June 30 of the current calendar year as reported to
830 the tax collection service provider by September 30 of that
831 calendar year.

832 (B) ~~(H)~~ Beginning January 1, 2015, and for each year
833 thereafter, the positive adjustment shall be computed by
834 dividing the sum of the total taxable payrolls for the year
835 ending June 30 of the current calendar year as reported to the
836 tax collection service provider by September 30 of that calendar
837 year into a sum equal to one-fourth of the difference between
838 the balance of the fund as of September 30 of that calendar year
839 and the sum of 5 percent of the total taxable payrolls for that
840 year. The positive adjustment factor remains in effect for
841 subsequent years until the balance of the Unemployment
842 Compensation Trust Fund as of September 30 of the year
843 immediately preceding the effective date of the contribution
844 rate equals or exceeds 4 percent of the taxable payrolls for the
845 year ending June 30 of the current calendar year as reported to
846 the tax collection service provider by September 30 of that
847 calendar year.

848 (IV) ~~d.~~ If, beginning January 1, 2015, and each year
849 thereafter, the balance of the Unemployment Compensation Trust
850 Fund as of September 30 of the year immediately preceding the
851 calendar year for which the contribution rate is being computed
852 exceeds 5 percent of the taxable payrolls for the year ending
853 June 30 of the current calendar year as reported to the tax
854 collection service provider by September 30 of that calendar



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855 year, a negative adjustment factor must be computed. The
856 negative adjustment factor shall be computed annually beginning
857 on January 1, 2015, and each year thereafter, to the fifth
858 decimal place and rounded to the fourth decimal place by
859 dividing the sum of the total taxable payrolls for the year
860 ending June 30 of the current calendar year as reported to the
861 tax collection service provider by September 30 of the calendar
862 year into a sum equal to one-fourth of the difference between
863 the balance of the fund as of September 30 of the current
864 calendar year and 5 percent of the total taxable payrolls of
865 that year. The negative adjustment factor remains in effect for
866 subsequent years until the balance of the Unemployment
867 Compensation Trust Fund as of September 30 of the year
868 immediately preceding the effective date of the contribution
869 rate is less than 5 percent, but more than 4 percent of the
870 taxable payrolls for the year ending June 30 of the current
871 calendar year as reported to the tax collection service provider
872 by September 30 of that calendar year. The negative adjustment
873 authorized by this section is suspended in any calendar year in
874 which repayment of the principal amount of an advance received
875 from the federal Unemployment Compensation Trust Fund under 42
876 U.S.C. s. 1321 is due to the Federal Government.

877 (V)~~e~~. The maximum contribution rate that may be assigned to
878 an employer is 5.4 percent, except employers participating in an
879 approved short-time compensation plan may be assigned a maximum
880 contribution rate that is 1 percent greater than the maximum
881 contribution rate for other employers in any calendar year in
882 which short-time compensation benefits are charged to the
883 employer's employment record.



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884 (VI) f. As used in this subsection, "taxable payroll" shall
885 be determined by excluding any part of the remuneration paid to
886 an individual by an employer for employment during a calendar
887 year in excess of the first \$7,000. Beginning January 1, 2012,
888 "taxable payroll" shall be determined by excluding any part of
889 the remuneration paid to an individual by an employer for
890 employment during a calendar year as described in s.

891 443.1217(2). For the purposes of the employer rate calculation
892 that will take effect in January 1, 2012, and in January 1,
893 2013, the tax collection service provider shall use the data
894 available for taxable payroll from 2009 based on excluding any
895 part of the remuneration paid to an individual by an employer
896 for employment during a calendar year in excess of the first
897 \$7,000, and from 2010 and 2011, the data available for taxable
898 payroll based on excluding any part of the remuneration paid to
899 an individual by an employer for employment during a calendar
900 year in excess of the first \$8,500.

901 b.2. If the transfer of an employer's employment record to
902 an employing unit under paragraph (f) which, before the
903 transfer, was an employer, the tax collection service provider
904 shall recompute a benefit ratio for the successor employer based
905 on the combined employment records and reassign an appropriate
906 contribution rate to the successor employer effective on the
907 first day of the calendar quarter immediately after the
908 effective date of the transfer.

909 Section 11. Present paragraph (f) of subsection (1) of
910 section 443.141, Florida Statutes, is redesignated as paragraph
911 (g), and new paragraph (f) is added to that subsection to read:
912 443.141 Collection of contributions and reimbursements.—



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

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

920 1. For contributions due for wages paid in the first
921 quarter of each year, one-fourth of the contributions due must
922 be paid on or before April 30, one-fourth must be paid on or
923 before July 31, one-fourth must be paid on or before October 31,
924 and one-fourth must be paid on or before December 31.

925 2. In addition to the payments specified in subparagraph
926 1., for contributions due for wages paid in the second quarter
927 of each year, one-third of the contributions due must be paid on
928 or before July 31, one-third must be paid on or before October
929 31, and one-third must be paid on or before December 31.

930 3. In addition to the payments specified in subparagraphs
931 1. and 2., for contributions due for wages paid in the third
932 quarter of each year, one-half of the contributions due must be
933 paid on or before October 31, and one-half must be paid on or
934 before December 31.

935 4. The annual administrative fee assessed for electing to
936 pay under the installment method shall be collected at the time
937 the employer makes the first installment payment each year. The
938 fee shall be segregated from the payment and deposited into the
939 Operating Trust Fund of the Department of Revenue.

940 5. Interest does not accrue on any contribution that
941 becomes due for wages paid in the first three quarters of each



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942 year if the employer pays the contribution in accordance with
943 subparagraphs 1.-4. Interest and fees continue to accrue on
944 prior delinquent contributions and commence accruing on all
945 contributions due for wages paid in the first three quarters of
946 each year which are not paid in accordance with subparagraphs
947 1.-3. Penalties may be assessed in accordance with this chapter.
948 The contributions due for wages paid in the fourth quarter of
949 2012, 2013, and 2014 are not affected by this paragraph and are
950 due and payable in accordance with this chapter.

951 Section 12. Effective August 1, 2011, paragraph (a) of
952 subsection (2) and paragraphs (b) and (e) of subsection (4) of
953 section 443.151, Florida Statutes, are amended to read:

954 443.151 Procedure concerning claims.—

955 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
956 CLAIMANTS AND EMPLOYERS.—

957 (a) *In general.*—Initial and continued claims for benefits
958 must be made by approved electronic means and in accordance with
959 ~~the~~ rules adopted by the Agency for Workforce Innovation. The
960 agency must notify claimants and employers regarding monetary
961 and nonmonetary determinations of eligibility. Investigations of
962 issues raised in connection with a claimant which may affect a
963 claimant's eligibility for benefits or charges to an employer's
964 employment record shall be conducted by the agency through
965 written, telephonic, or electronic means as prescribed by rule.

966 (4) APPEALS.—

967 (b) *Filing and hearing.*—

968 1. The claimant or any other party entitled to notice of a
969 determination may appeal an adverse determination to an appeals
970 referee within 20 days after the date of mailing of the notice



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971 to her or his last known address or, if the notice is not
972 mailed, within 20 days after the date of delivering ~~delivery of~~
973 the notice.

974 2. Unless the appeal is untimely or withdrawn or review is
975 initiated by the commission, the appeals referee, after mailing
976 all parties and attorneys of record a notice of hearing at least
977 10 days before the date of hearing, notwithstanding the 14-day
978 notice requirement in s. 120.569(2)(b), may only affirm, modify,
979 or reverse the determination. An appeal may not be withdrawn
980 without the permission of the appeals referee.

981 3. However, if ~~when~~ an appeal appears to have been filed
982 after the permissible time limit, the Office of Appeals may
983 issue an order to show cause to the appellant which requires,
984 ~~requiring~~ the appellant to show why the appeal should not be
985 dismissed as untimely. If ~~the appellant does not~~, within 15 days
986 after the mailing date of the order to show cause, the appellant
987 does not provide written evidence of timely filing or good cause
988 for failure to appeal timely, the appeal shall be dismissed.

989 4. If ~~When~~ an appeal involves a question of whether
990 services were performed by a claimant in employment or for an
991 employer, the referee must give special notice of the question
992 and of the pendency of the appeal to the employing unit and to
993 the Agency for Workforce Innovation, both of which become
994 parties to the proceeding.

995 5.a. Any part of the evidence may be received in written
996 form, and all testimony of parties and witnesses shall be made
997 under oath.

998 b. Irrelevant, immaterial, or unduly repetitious evidence
999 shall be excluded, but all other evidence of a type commonly



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1000 relied upon by reasonably prudent persons in the conduct of
1001 their affairs is admissible, whether or not such evidence would
1002 be admissible in a trial in state court.

1003 c. Hearsay evidence may be used for the purpose of
1004 supplementing or explaining other evidence, or to support a
1005 finding if it would be admissible over objection in civil
1006 actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may
1007 support a finding of fact if:

1008 (I) The party against whom it is offered has a reasonable
1009 opportunity to review such evidence prior to the hearing; and

1010 (II) The appeals referee or special deputy determines,
1011 after considering all relevant facts and circumstances, that the
1012 evidence is trustworthy and probative and that the interests of
1013 justice are best served by its admission into evidence.

1014 6.5. The parties must be notified promptly of the referee's
1015 decision. The referee's decision is final unless further review
1016 is initiated under paragraph (c) within 20 days after the date
1017 of mailing notice of the decision to the party's last known
1018 address or, in lieu of mailing, within 20 days after the
1019 delivery of the notice.

1020 (e) *Judicial review.*—Orders of the commission entered under
1021 paragraph (c) are subject to review only by notice of appeal in
1022 the district court of appeal in the appellate district in which
1023 a claimant resides or the job separation arose or in the
1024 appellate district where the order was issued ~~the issues~~
1025 ~~involved were decided by an appeals referee.~~ However, if the
1026 notice of appeal is filed solely with the commission, the appeal
1027 shall be filed in the district court of appeal in the appellate
1028 district in which the order was issued. Notwithstanding chapter



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1029 120, the commission is a party respondent to every such
1030 proceeding. The Agency for Workforce Innovation may initiate
1031 judicial review of orders in the same manner and to the same
1032 extent as any other party.

1033 Section 13. Section (10) is added to section 443.171,
1034 Florida Statutes, to read:

1035 443.171 Agency for Workforce Innovation and commission;
1036 powers and duties; records and reports; proceedings; state-
1037 federal cooperation.—

1038 (10) EVIDENCE OF MAILING.—A mailing date on any notice,
1039 determination, decision, order, or other document mailed by the
1040 Agency for Workforce Innovation or its tax collection service
1041 provider pursuant to this chapter creates a rebuttable
1042 presumption that such notice, determination, order, or other
1043 document was mailed on the date indicated.

1044 Section 14. Notwithstanding the expiration date contained
1045 in section 1 of chapter 2010-90, Laws of Florida, operating
1046 retroactive to June 2, 2010, and expiring January 4, 2012,
1047 section 443.1117, Florida Statutes, is revived, readopted, and
1048 amended to read:

1049 443.1117 Temporary extended benefits.—

1050 (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.—Except if
1051 the result is inconsistent with other provisions of this
1052 section, s. 443.1115(2), (3), (4), (6), and (7) apply to all
1053 claims covered by this section.

1054 (2) DEFINITIONS.—As used in ~~For the purposes of~~ this
1055 section, the term:

1056 (a) "Regular benefits" and "extended benefits" have the
1057 same meaning as in s. 443.1115.



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1058 (b) "Eligibility period" means the weeks in an individual's
1059 benefit year or emergency benefit period which begin in an
1060 extended benefit period and, if the benefit year or emergency
1061 benefit period ends within that extended benefit period, any
1062 subsequent weeks beginning in that period.

1063 (c) "Emergency benefits" means Emergency Unemployment
1064 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
1065 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, Pub. L. No. 111-
1066 118, Pub. L. No. 111-144, ~~and~~ Pub. L. No. 111-157, Pub. L. No.
1067 111-205, and Pub. L. No. 111-312.

1068 (d) "Extended benefit period" means a period that:

1069 1. Begins with the third week after a week for which there
1070 is a state "on" indicator; and

1071 2. Ends with any of the following weeks, whichever occurs
1072 later:

1073 a. The third week after the first week for which there is a
1074 state "off" indicator; or

1075 b. The 13th consecutive week of that period.

1076
1077 However, an extended benefit period may not begin by reason of a
1078 state "on" indicator before the 14th week after the end of a
1079 prior extended benefit period that was in effect for this state.

1080 (e) "Emergency benefit period" means the period during
1081 which an individual receives emergency benefits ~~as defined in~~
1082 ~~paragraph (c).~~

1083 (f) "Exhaustee" means an individual who, for any week of
1084 unemployment in her or his eligibility period:

1085 1. Has received, before that week, all of the regular
1086 benefits and emergency benefits, if any, available under this



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1087 chapter or any other law, including dependents' allowances and
1088 benefits payable to federal civilian employees and ex-
1089 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
1090 benefit year or emergency benefit period that includes that
1091 week. For the purposes of this subparagraph, an individual has
1092 received all of the regular benefits and emergency benefits, if
1093 any, available even if although, as a result of a pending appeal
1094 for wages paid for insured work which were not considered in the
1095 original monetary determination in the benefit year, she or he
1096 may subsequently be determined to be entitled to added regular
1097 benefits;

1098 2. Had a benefit year that ~~which~~ expired before that week,
1099 and was paid no, or insufficient, wages for insured work on the
1100 basis of which she or he could establish a new benefit year that
1101 includes that week; and

1102 3.a. Has no right to unemployment benefits or allowances
1103 under the Railroad Unemployment Insurance Act or other federal
1104 laws as specified in regulations issued by the United States
1105 Secretary of Labor; and

1106 b. Has not received and is not seeking unemployment
1107 benefits under the unemployment compensation law of Canada; but
1108 if an individual is seeking those benefits and the appropriate
1109 agency finally determines that she or he is not entitled to
1110 benefits under that law, she or he is considered an exhaustee.

1111 (g) "State 'on' indicator" means, with respect to weeks of
1112 unemployment ~~beginning on or after February 1, 2009, and ending~~
1113 on or before December 10, 2011 ~~May 8, 2010~~, the occurrence of a
1114 week in which the average total unemployment rate, seasonally
1115 adjusted, as determined by the United States Secretary of Labor,



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1116 for the most recent 3 months for which data for all states are
1117 published by the United States Department of Labor:

1118 1. Equals or exceeds 110 percent of the average of those
1119 rates for the corresponding 3-month period ending in any or all
1120 ~~each~~ of the preceding 3 ~~2~~ calendar years; and

1121 2. Equals or exceeds 6.5 percent.

1122 (h) "High unemployment period" means, with respect to weeks
1123 of unemployment ~~beginning on or after February 1, 2009, and~~
1124 ending on or before December 10, 2011 ~~May 8, 2010~~, any week in
1125 which the average total unemployment rate, seasonally adjusted,
1126 as determined by the United States Secretary of Labor, for the
1127 most recent 3 months for which data for all states are published
1128 by the United States Department of Labor:

1129 1. Equals or exceeds 110 percent of the average of those
1130 rates for the corresponding 3-month period ending in any or all
1131 ~~each~~ of the preceding 3 ~~2~~ calendar years; and

1132 2. Equals or exceeds 8 percent.

1133 (i) "State 'off' indicator" means the occurrence of a week
1134 in which there is no state "on" indicator or which does not
1135 constitute a high unemployment period.

1136 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
1137 subsection (4):

1138 (a) For any week for which there is an "on" indicator
1139 pursuant to paragraph (2) (g), the total extended benefit amount
1140 payable to an eligible individual for her or his applicable
1141 benefit year is the lesser of:

1142 1. Fifty percent of the total regular benefits payable
1143 under this chapter in the applicable benefit year; or

1144 2. Thirteen times the weekly benefit amount payable under



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1145 this chapter for a week of total unemployment in the applicable
1146 benefit year.

1147 (b) For any high unemployment period, the total extended
1148 benefit amount payable to an eligible individual for her or his
1149 applicable benefit year is the lesser of:

1150 1. Eighty percent of the total regular benefits payable
1151 under this chapter in the applicable benefit year; or

1152 2. Twenty times the weekly benefit amount payable under
1153 this chapter for a week of total unemployment in the applicable
1154 benefit year.

1155 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other
1156 provision of this chapter, if the benefit year of an individual
1157 ends within an extended benefit period, the number of weeks of
1158 extended benefits the individual is entitled to receive in that
1159 extended benefit period for weeks of unemployment beginning
1160 after the end of the benefit year, except as provided in this
1161 section, is reduced, but not to below zero, by the number of
1162 weeks for which the individual received, within that benefit
1163 year, trade readjustment allowances under the Trade Act of 1974,
1164 as amended.

1165 Section 15. The provisions of s. 443.1117, Florida
1166 Statutes, as revived, readopted, and amended by this act, apply
1167 only to claims for weeks of unemployment in which an exhaustee
1168 establishes entitlement to extended benefits pursuant to that
1169 section which are established for the period between June 2,
1170 2010, and January 4, 2012.

1171 Section 16. If any provision of this act or its application
1172 to any person or circumstance is held invalid, the invalidity
1173 does not affect other provisions or applications of the act



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1174 which can be given effect without the invalid provision or
1175 application, and to this end the provisions of this act are
1176 severable.

1177 Section 17. Section 443.17161, Florida Statutes, is created
1178 to read:

1179 443.17161 Authorized electronic access to employer
1180 information.-

1181 (1) Notwithstanding any other provision of this chapter,
1182 the Agency for Workforce Innovation shall contract with one or
1183 more consumer-reporting agencies to provide users with secured
1184 electronic access to employer-provided information relating to
1185 the quarterly wages report submitted in accordance with the
1186 state's unemployment compensation law. The access is limited to
1187 the wage reports for the appropriate amount of time for the
1188 purpose the information is requested.

1189 (2) Users must obtain consent in writing or by electronic
1190 signature from an applicant for credit, employment, or other
1191 permitted purposes. Any written or electronic signature consent
1192 from an applicant must be signed and must include the following:

1193 (a) Specific notice that information concerning the
1194 applicant's wage and employment history will be released to a
1195 consumer-reporting agency;

1196 (b) Notice that the release is made for the sole purpose of
1197 reviewing the specific application for credit, employment, or
1198 other permitted purpose made by the applicant;

1199 (c) Notice that the files of the Agency for Workforce
1200 Innovation or its tax collection service provider containing
1201 information concerning wage and employment history which is
1202 submitted by the applicant or his or her employers may be



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1203 accessed; and

1204 (d) A listing of the parties authorized to receive the
1205 released information.

1206 (3) Consumer-reporting agencies and users accessing
1207 information under this section must safeguard the
1208 confidentiality of the information. A consumer-reporting agency
1209 or user may use the information only to support a single
1210 transaction for the user to satisfy its standard underwriting or
1211 eligibility requirements or for those requirements imposed upon
1212 the user, and to satisfy the user's obligations under applicable
1213 state or federal laws, rules, or regulations.

1214 (4) If a consumer-reporting agency or user violates this
1215 section, the Agency for Workforce Innovation shall, upon 30 days
1216 written notice to the consumer-reporting agency, terminate the
1217 contract established between the Agency for Workforce Innovation
1218 and the consumer-reporting agency or require the consumer-
1219 reporting agency to terminate the contract established between
1220 the consumer-reporting agency and the user under this section.

1221 (5) The Agency for Workforce Innovation shall establish
1222 minimum audit, security, net-worth, and liability-insurance
1223 standards, technical requirements, and any other terms and
1224 conditions considered necessary in the discretion of the state
1225 agency to safeguard the confidentiality of the information
1226 released under this section and to otherwise serve the public
1227 interest. The Agency for Workforce Innovation shall also
1228 include, in coordination with any necessary state agencies,
1229 necessary audit procedures to ensure that these rules are
1230 followed.

1231 (6) In contracting with one or more consumer-reporting



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1232 agencies under this section, any revenues generated by the
1233 contract must be used to pay the entire cost of providing access
1234 to the information. Further, in accordance with federal
1235 regulations, any additional revenues generated by the Agency for
1236 Workforce Innovation or the state under this section must be
1237 paid into the Administrative Trust Fund of the Agency for
1238 Workforce Innovation for the administration of the unemployment
1239 compensation system or be used as program income.

1240 (7) The Agency for Workforce Innovation may not provide
1241 wage and employment history information to any consumer-
1242 reporting agency before the consumer-reporting agency or
1243 agencies under contract with the Agency for Workforce Innovation
1244 pay all development and other startup costs incurred by the
1245 state in connection with the design, installation, and
1246 administration of technological systems and procedures for the
1247 electronic-access program.

1248 (8) The release of any information under this section must
1249 be for a purpose authorized by and in the manner permitted by
1250 the United States Department of Labor and any subsequent rules
1251 or regulations adopted by that department.

1252 (9) As used in this section, the term:

1253 (a) "Consumer-reporting agency" has the same meaning as
1254 that set forth in the Federal Fair Credit Reporting Act, 15
1255 U.S.C. s. 1681a.

1256 (b) "Creditor" has the same meaning as that set forth in
1257 the Federal Fair Debt Collection Practices Act, 15 U.S.C. ss.
1258 1692 et seq.

1259 (c) "User" means a creditor, employer, or other entity with
1260 a permissible purpose that is allowed under the Federal Fair



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1261 Credit Reporting Act, 15 U.S.C. ss. 1681 et seq. to access the
1262 data contained in the wage reports though a consumer-reporting
1263 agency.

1264 Section 18. There is appropriated to the Department of
1265 Revenue \$236,940 of nonrecurring funds from the Federal Grants
1266 Trust Fund and four full-time equivalent positions for Fiscal
1267 Year 2010-2011, and \$198,676 of recurring funds from the Federal
1268 Grants Trust Fund for Fiscal Year 2011-2012 to implement the
1269 provisions of this act. There is appropriated to the Agency for
1270 Workforce Innovation \$236,940 of nonrecurring funds from
1271 Employment Security Trust Fund for Fiscal Year 2010-2011, and
1272 \$198,676 of recurring funds from the Employment Security Trust
1273 Fund for Fiscal Year 2011-2012 to be used to contract with the
1274 Department of Revenue for services as required to implement this
1275 act.

1276 Section 19. The Legislature finds that this act fulfills an
1277 important state interest.

1278 Section 20. Except as otherwise expressly provided in this
1279 act, this act shall take effect upon becoming a law.

1280
1281 ===== T I T L E A M E N D M E N T =====

1282 And the title is amended as follows:

1283 Delete everything before the enacting clause
1284 and insert:

1285 A bill to be entitled
1286 An act relating to unemployment compensation; amending
1287 s. 213.053, F.S.; increasing the number of employer
1288 payroll service providers who qualify for access to
1289 unemployment tax information by filing a memorandum of



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1290 understanding; amending s. 443.031, F.S.; revising
1291 provisions relating to statutory construction;
1292 amending s. 443.036, F.S.; revising the definitions
1293 for "available for work," "misconduct," and
1294 "unemployment"; adding definitions for "individual in
1295 continued reporting status" and "initial skills
1296 review"; amending s. 443.091, F.S.; revising
1297 requirements for making continued claims for benefits;
1298 requiring that an individual claiming benefits report
1299 certain information and participate in an initial
1300 skills review; providing an exception; specifying
1301 criteria for determining an applicant's availability
1302 for work; amending s. 443.101, F.S.; clarifying "good
1303 cause" for voluntarily leaving employment;
1304 disqualifying a person for benefits due to the receipt
1305 of severance pay; revising provisions relating to the
1306 effects of criminal acts on eligibility for benefits;
1307 amending s. 443.111, F.S.; taking effect August 1,
1308 2011; revising the manner in which benefits are
1309 payable; eliminating payment by mail; providing an
1310 exception; conforming provisions to changes made by
1311 the act; amending s. 443.1216, F.S.; providing that
1312 employee leasing companies may make a one-time
1313 election to report leased employees under the
1314 respective unemployment account of each leasing
1315 company client; providing procedures and application
1316 for such election; conforming a cross-reference;
1317 amending s. 443.111, F.S.; taking effect January 1,
1318 2012; defining the term "Florida average unemployment



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1319 rate"; revising the number of available weeks of
1320 unemployment benefits available; amending s. 443.041,
1321 F.S.; conforming a cross-reference; amending s.
1322 443.141, F.S.; providing an employer payment schedule
1323 for 2012, 2013, and 2014 contributions; requiring an
1324 employer to pay a fee for paying contributions on a
1325 quarterly schedule; providing penalties, interest, and
1326 fees on delinquent contributions; amending s. 443.151,
1327 F.S.; requiring claims to be submitted by electronic
1328 means; revising allowable forms of evidence in benefit
1329 appeals; revising the judicial venue for reviewing
1330 commission orders; amending s. 443.171, F.S.;
1331 specifying that evidence of mailing an agency document
1332 is based on the date stated on the document; reviving,
1333 readopting, and amending s. 443.1117, F.S., relating
1334 to temporary extended benefits; providing for
1335 retroactive application; establishing temporary state
1336 extended benefits for weeks of unemployment; revising
1337 definitions; providing for state extended benefits for
1338 certain weeks and for periods of high unemployment;
1339 providing severability; providing applicability;
1340 creating s. 443.17161, F.S.; requiring the Agency for
1341 Workforce Innovation to contract with one or more
1342 consumer-reporting agencies to provide creditors,
1343 employers, and other entities with a permissible
1344 purpose with secured electronic access to employer-
1345 provided information relating to the quarterly wages
1346 reports; providing conditions; requiring consent from
1347 the applicant for credit, employment, or other



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1348 permitted purpose; prescribing information that must
1349 be included in the written consent; providing for
1350 confidentiality; limiting use of the information
1351 released; providing for termination of contracts under
1352 certain circumstances; requiring the agency to
1353 establish minimum audit, security, net worth, and
1354 liability insurance standards and other requirements
1355 it considers necessary; providing that any revenues
1356 generated from a contract with a consumer reporting
1357 agency must be used to pay the entire cost of
1358 providing access to the information; providing that
1359 any additional revenues generated must be paid into
1360 the Administrative Trust Fund of the Agency for
1361 Workforce Innovation or used for program purposes;
1362 providing restrictions on the release of information
1363 under the act; defining the terms "consumer-reporting
1364 agency," "creditor," and "user"; providing
1365 appropriations for purposes of implementation;
1366 providing that the act fulfills an important state
1367 interest; providing effective dates.