The Committee on Judiciary (Joyner) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 78 - 147 and insert:

Section 2. Effective July 1, 2011, present subsections (5) through (25) of section 443.036, Florida Statutes, are redesignated as subsections (6) through (26) respectively, present subsections (26) through (45) of that section are redesignated as subsection (28) through (47) respectively, new subsections (5) and (27) are added to that section, and present subsections (6), (7), (9), (16), (29), and (43) of that section are amended, to read:

443.036 Definitions.—As used in this chapter, the term:
(5) “Alternative base period” means the last four completed calendar quarters immediately preceding the first day of an individual’s benefit year.

(7) “Available for work” means actively seeking and being ready and willing to accept suitable work.

(8) “Base period” means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year. If the agency determines, pursuant to s. 443.091(1)(g), that an alternative base period will be used, the term has the same meaning as the alternative base period.

(10) “Benefit year” means, for an individual, the 1-year period beginning with the first day of the first week for which the individual first files a valid claim for benefits and, thereafter, the 1-year period beginning with the first day of the first week for which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Each claim for benefits made in accordance with s. 443.151(2) is a valid claim under this subsection if the individual was paid wages for insured work in accordance with s. 443.091(1)(g) and is unemployed as defined in subsection (4) at the time of filing the claim. However, the Agency for Workforce Innovation may adopt rules providing for the establishment of a uniform benefit year for all workers in one or more groups or classes of service or within a particular industry if the agency determines, after notice to the industry and to the workers in the industry and an opportunity to be heard in the matter, that those groups or classes of workers in a particular industry periodically experience unemployment resulting from layoffs or
shutdowns for limited periods of time.

(17) “Earned income” means gross remuneration derived from work, professional service, or self-employment. The term includes commissions, bonuses, back pay awards or back pay settlements, front pay or front wages, and the cash value of all remuneration paid in a medium other than cash. The term does not include income derived from invested capital or ownership of property.

(27) “Initial skills review” means an online education or training program, such as that established under s. 1004.99, which is approved by the Agency for Workforce Innovation and designed to measure an individual’s mastery level of workplace skills.

(31) “Misconduct” includes, but is not limited to, the following, which may not be construed in pari materia with each other:

(a) Conduct demonstrating conscious willful or wanton disregard of an employer’s interests and found to be a deliberate violation or disregard of reasonable the standards of behavior which the employer has a right to expect of his or her employee, including standards lawfully set forth in the employer’s written rules of conduct; or

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

(45) “Unemployment” or “unemployed” means:

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

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

Between lines 235 and 236 insert:

(g) She or he has been paid wages for insured work equal to 1.5 times her or his high quarter wages during her or his base period, except that an unemployed individual is not eligible to receive benefits if the base period wages are less than $3,400. If the individual is ineligible for benefits calculated on a base period wage, wages must be calculated using an alternative base period and the claimant must have the opportunity to choose whether to establish a claim using such wages. Wages shall be calculated for an alternative base period only if the base period wages are inadequate to establish eligibility under this paragraph and only for benefit years that begin on or after January 1, 2011. Wages used to establish a monetarily eligible
benefit year may not be used to establish monetary eligibility in a subsequent benefit year.

Delete lines 895 - 930 and insert:

(a) Notices of claim.—The Agency for Workforce Innovation shall promptly provide a notice of claim to the claimant’s most recent employing unit and all employers whose employment records are liable for benefits under the monetary determination. The employer must respond to the notice of claim within 20 days after the mailing date of the notice, or in lieu of mailing, within 20 days after the delivery of the notice. If a contributing employer fails to timely respond to the notice of claim, the employer’s account may not be relieved of benefit charges as provided in s. 443.131(3)(a), notwithstanding paragraph (5)(b). The agency may adopt rules as necessary to administer implement the processes described in this paragraph relating to a notice notices of claim.

(b) Monetary determinations.—In addition to the notice of claim, the Agency for Workforce Innovation shall also promptly provide an initial monetary determination to the claimant and each base period employer whose account is subject to being charged for its respective share of benefits on the claim. The monetary determination must include a statement of whether and in what amount the claimant is entitled to benefits, and, in the event of a denial, must state the reasons for the denial. A monetary determination for the first week of a benefit year must also include a statement of whether the claimant was paid the wages required under s. 443.091(1)(g) and, if so, the
first day of the benefit year, the claimant’s weekly benefit amount, and the maximum total amount of benefits payable to the claimant for a benefit year. The monetary determination is final unless within 20 days after the mailing of the notices to the parties’ last known addresses, or in lieu of mailing, within 20 days after the delivery of the notices, an appeal or written request for reconsideration is filed by the claimant or other party entitled to notice. The agency may adopt rules as necessary to implement the processes described in this paragraph relating to notices of monetary determinations and the appeals or reconsideration requests filed in response to such notices.

(c) Determinations involving an alternative base period.—In the case of a claim for benefits involving an alternative base period under s. 443.091(1)(g), if the agency is unable to access wage information through the database of its tax collection service provider, the agency shall request the information from the employer by mail. The employer must provide the requested information within 10 days after the agency mails the request. If wage information is unavailable, the agency may base the determination on an affidavit submitted by the individual attesting to her or his wages for those calendar quarters. The individual must furnish payroll information, if available, in support of the affidavit. Benefits based on an alternative base period must be adjusted if the quarterly report of wage information received from the employer under s. 443.141 results in a change in the monetary determination.

(d) Nonmonetary determinations.—If the agency receives information that may result in a denial of benefits, the agency must complete an investigation of the claim required by
subsection (2) and provide notice of a nonmonetary determination to the claimant and the employer from whom the claimant’s reason for separation affects his or her entitlement to benefits. The determination must state the reason for the determination and whether the unemployment tax account of the contributing employer is charged for benefits paid on the claim. The nonmonetary determination is final unless within 20 days after the mailing of the notices to the parties’ last known addresses, or in lieu of mailing, within 20 days after the delivery of the notices, an appeal or written request for reconsideration is filed by the claimant or other party entitled to notice. The agency may adopt rules as necessary to administer implement the processes described in this paragraph relating to notices of nonmonetary determination and the appeals or reconsideration requests filed in response to such notices, and may adopt rules prescribing the manner and procedure by which employers within the base period of a claimant become entitled to notice of nonmonetary determination.

(e) Determinations in labor dispute cases.—If a Whenever any claim involves a labor dispute described in s. 443.101(5)
443.101(4), the Agency for Workforce Innovation shall promptly assign the claim to a special examiner who shall make a determination on the issues involving unemployment due to the labor dispute. The special examiner shall make the determination after an investigation, as necessary. The claimant or another party entitled to notice of the determination may appeal a determination under subsection (4).

(f) Redeterminations.—

1. The Agency for Workforce Innovation may reconsider a
determination if it finds an error or if new evidence or information pertinent to the determination is discovered after a prior determination or redetermination. A redetermination may not be made more than 1 year after the last day of the benefit year unless the disqualification for making a false or fraudulent representation under s. 443.101(7) is applicable, in which case the redetermination may be made within 2 years after the false or fraudulent representation. The agency must promptly give notice of redetermination to the claimant and to any employers entitled to notice in the manner prescribed in this section for the notice of an initial determination.

2. If the amount of benefits is increased by the redetermination, an appeal of the redetermination based solely on the increase may be filed as provided in subsection (4). If the amount of benefits is decreased by the redetermination, the redetermination may be appealed by the claimant if a subsequent claim for benefits is affected in amount or duration by the redetermination. If the final decision on the determination or redetermination to be reconsidered was made by an appeals referee, the commission, or a court, the Agency for Workforce Innovation may apply for a revised decision from the body or court that made the final decision.

3. If an appeal of an original determination is pending when a redetermination is issued, the appeal, unless withdrawn, is treated as an appeal from the redetermination.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======

And the directory clause is amended as follows:

Delete line 149
and insert:

(d), (f), and (g) of subsection (1) of section 443.091, Florida

Delete line 876

and insert:

subsection (2), subsection (3), and

And the title is amended as follows:

Delete lines 6 - 15

and insert:

understanding; amending s. 443.036, F.S.; revising the definitions for “available for work,” “base period,” “earned income,” “misconduct,” and “unemployment”; adding definitions for “alternative base period” and “initial skills review”; amending s. 443.091, F.S.; revising requirements for making continued claims for benefits; requiring that an individual claiming benefits report certain information and participate in an initial skills review; providing an exception; specifying criteria for determining an applicant’s availability for work; providing for an alternative base period under certain circumstances; amending s.

After line 47

insert:

requiring an employer to provide wage information to support an individual’s eligibility for benefits; authorizing the Agency for Workforce Innovation to
accept an affidavit from the claimant to support eligibility for benefits under certain circumstances;