

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Rader offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 443.036, Florida Statutes, is amended to read:

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

(1) "Able to work" means physically and mentally capable of performing the duties of the occupation in which work is being sought.

(2) "Agricultural labor" means any remunerated service performed:

(a) On a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, 293445

Amendment No.

17 and management of livestock, bees, poultry, and fur-bearing
18 animals and wildlife.

19 (b) In the employ of the owner or tenant or other operator
20 of a farm in connection with the operation, management,
21 conservation, improvement, or maintenance of such farm and its
22 tools and equipment, or in salvaging timber or clearing land of
23 brush and other debris left by a hurricane if the major part of
24 the service is performed on a farm.

25 (c) In connection with the production or harvesting of any
26 commodity defined as an agricultural commodity in s. 15(g) of
27 the Agricultural Marketing Act, as amended (46 Stat. 1550, s. 3;
28 12 U.S.C. s. 1141j); the ginning of cotton; or the operation or
29 maintenance of ditches, canals, reservoirs, or waterways, not
30 owned or operated for profit, used exclusively for supplying and
31 storing water for farming purposes.

32 (d)1. In the employ of the operator of a farm in handling,
33 planting, drying, packing, packaging, processing, freezing,
34 grading, storing, or delivering to storage or to market or to a
35 carrier for transportation to market, in its unmanufactured
36 state, any agricultural or horticultural commodity, but only if
37 the operator produced more than one-half of the commodity for
38 which the service is performed.

39 2. In the employ of a group of operators of farms, or a
40 cooperative organization of which the operators are members, in
41 the performance of service described in subparagraph 1., but
42 only if the operators produced more than one-half of the
43 commodity for which the service is performed.

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

44 3. Subparagraphs 1. and 2. do not apply to service
45 performed in connection with commercial canning or commercial
46 freezing or in connection with any agricultural or horticultural
47 commodity after its delivery to a terminal market for
48 distribution for consumption or in connection with grading,
49 packing, packaging, or processing fresh citrus fruits.

50 (e) On a farm operated for profit if the service is not in
51 the course of the employer's trade or business.

52 (3) "Alternative base period" means the last four
53 completed calendar quarters immediately preceding the first day
54 of an individual's benefit year.

55 (4)~~(3)~~ "American aircraft" means an aircraft registered
56 under the laws of the United States.

57 (5)~~(4)~~ "American employer" means:

58 (a) An individual who is a resident of the United States.

59 (b) A partnership, if two-thirds or more of the partners
60 are residents of the United States.

61 (c) A trust, if each of the trustees is a resident of the
62 United States.

63 (d) A corporation organized under the laws of the United
64 States or of any state.

65 (6)~~(5)~~ "American vessel" means any vessel documented or
66 numbered under the laws of the United States. The term includes
67 any vessel that is neither documented or numbered under the laws
68 of the United States, nor documented under the laws of any
69 foreign country, if its crew is employed solely by one or more
70 citizens or residents of the United States or corporations
71 organized under the laws of the United States or of any state.

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

72 ~~(7)~~(6) "Available for work" means actively seeking and
73 being ready and willing to accept suitable employment.

74 ~~(8)~~(7) "Base period" means the first four of the last five
75 completed calendar quarters immediately preceding the first day
76 of an individual's benefit year. If the Agency for Workforce
77 Innovation determines, pursuant to s. 443.091(1)(f), that an
78 alternative base period will be used, the term has the same
79 meaning as the alternative base period.

80 ~~(9)~~(8) "Benefits" means the money payable to an
81 individual, as provided in this chapter, for his or her
82 unemployment.

83 ~~(10)~~(9) "Benefit year" means, for an individual, the 1-
84 year period beginning with the first day of the first week for
85 which the individual first files a valid claim for benefits and,
86 thereafter, the 1-year period beginning with the first day of
87 the first week for which the individual next files a valid claim
88 for benefits after the termination of his or her last preceding
89 benefit year. Each claim for benefits made in accordance with s.
90 443.151(2) is a "valid claim" under this subsection if the
91 individual was paid wages for insured work in accordance with
92 the provisions of s. 443.091(1)(f) and is unemployed as defined
93 in subsection ~~(46)~~(43) at the time of filing the claim.

94 However, the Agency for Workforce Innovation may adopt rules
95 providing for the establishment of a uniform benefit year for
96 all workers in one or more groups or classes of service or
97 within a particular industry when the agency determines, after
98 notice to the industry and to the workers in the industry and an
99 opportunity to be heard in the matter, that those groups or
293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

100 classes of workers in a particular industry periodically
101 experience unemployment resulting from layoffs or shutdowns for
102 limited periods of time.

103 (11)~~(10)~~ "Calendar quarter" means each period of 3
104 consecutive calendar months ending on March 31, June 30,
105 September 30, and December 31 of each year.

106 (12)~~(11)~~ "Casual labor" means labor that is occasional,
107 incidental, or irregular, not exceeding 200 person-hours in
108 total duration. As used in this subsection, the term "duration"
109 means the period of time from the commencement to the completion
110 of the particular job or project. Services performed by an
111 employee for his or her employer during a period of 1 calendar
112 month or any 2 consecutive calendar months, however, are deemed
113 to be casual labor only if the service is performed on 10 or
114 fewer calendar days, regardless of whether those days are
115 consecutive. If any of the services performed by an individual
116 on a particular labor project are not casual labor, each of the
117 services performed by the individual on that job or project may
118 not be deemed casual labor. Services must constitute casual
119 labor and may not be performed in the course of the employer's
120 trade or business for those services to be exempt under this
121 section.

122 (13)~~(12)~~ "Commission" means the Unemployment Appeals
123 Commission.

124 (14)~~(13)~~ "Contributing employer" means an employer who is
125 liable for contributions under this chapter.

Amendment No.

126 ~~(15)~~~~(14)~~ "Contribution" means a payment of payroll tax to
127 the Unemployment Compensation Trust Fund which is required under
128 this chapter to finance unemployment benefits.

129 ~~(16)~~~~(15)~~ "Crew leader" means an individual who:

130 (a) Furnishes individuals to perform service in
131 agricultural labor for another person.

132 (b) Pays, either on his or her own behalf or on behalf of
133 the other person, the individuals furnished by him or her for
134 the service in agricultural labor performed by those
135 individuals.

136 (c) Has not entered into a written agreement with the
137 other person under which the individual is designated as an
138 employee of the other person.

139 ~~(17)~~~~(16)~~ "Earned income" means gross remuneration derived
140 from work, professional service, or self-employment. The term
141 includes commissions, bonuses, back pay awards, and the cash
142 value of all remuneration paid in a medium other than cash. The
143 term does not include income derived from invested capital or
144 ownership of property.

145 ~~(18)~~~~(17)~~ "Educational institution" means an institution,
146 except for an institution of higher education:

147 (a) In which participants, trainees, or students are
148 offered an organized course of study or training designed to
149 transfer to them knowledge, skills, information, doctrines,
150 attitudes, or abilities from, by, or under the guidance of, an
151 instructor or teacher;

152 (b) That is approved, licensed, or issued a permit to
153 operate as a school by the Department of Education or other
293445

Amendment No.

154 governmental agency that is authorized within the state to
155 approve, license, or issue a permit for the operation of a
156 school; and

157 (c) That offers courses of study or training which are
158 academic, technical, trade, or preparation for gainful
159 employment in a recognized occupation.

160 ~~(19)-(18)~~ "Employee leasing company" means an employing
161 unit that has a valid and active license under chapter 468 and
162 that maintains the records required by s. 443.171(5) and, in
163 addition, is responsible for producing quarterly reports
164 concerning the clients of the employee leasing company and the
165 internal staff of the employee leasing company. As used in this
166 subsection, the term "client" means a party who has contracted
167 with an employee leasing company to provide a worker, or
168 workers, to perform services for the client. Leased employees
169 include employees subsequently placed on the payroll of the
170 employee leasing company on behalf of the client. An employee
171 leasing company must notify the tax collection service provider
172 within 30 days after the initiation or termination of the
173 company's relationship with any client company under chapter
174 468.

175 ~~(20)-(19)~~ "Employer" means an employing unit subject to
176 this chapter under s. 443.1215.

177 ~~(21)-(20)~~ "Employing unit" means an individual or type of
178 organization, including a partnership, limited liability
179 company, association, trust, estate, joint-stock company,
180 insurance company, or corporation, whether domestic or foreign;
181 the receiver, trustee in bankruptcy, trustee, or successor of
293445

Amendment No.

182 any of the foregoing; or the legal representative of a deceased
183 person, which has or had in its employ one or more individuals
184 performing services for it within this state.

185 (a) Each individual employed to perform or to assist in
186 performing the work of any agent or employee of an employing
187 unit is deemed to be employed by the employing unit for the
188 purposes of this chapter, regardless of whether the individual
189 was hired or paid directly by the employing unit or by an agent
190 or employee of the employing unit, if the employing unit had
191 actual or constructive knowledge of the work.

192 (b) Each individual performing services in this state for
193 an employing unit maintaining at least two separate
194 establishments in this state is deemed to be performing services
195 for a single employing unit for the purposes of this chapter.

196 (c) A person who is an officer of a corporation, or a
197 member of a limited liability company classified as a
198 corporation for federal income tax purposes, and who performs
199 services for the corporation or limited liability company in
200 this state, regardless of whether those services are continuous,
201 is deemed an employee of the corporation or the limited
202 liability company during all of each week of his or her tenure
203 of office, regardless of whether he or she is compensated for
204 those services. Services are presumed to be rendered for the
205 corporation in cases in which the officer is compensated by
206 means other than dividends upon shares of stock of the
207 corporation owned by him or her.

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

208 (d) A limited liability company shall be treated as having
209 the same status as it is classified for federal income tax
210 purposes.

211 (22)-(21) "Employment" means a service subject to this
212 chapter under s. 443.1216 which is performed by an employee for
213 the person employing him or her.

214 (23)-(22) "Farm" includes stock, dairy, poultry, fruit,
215 fur-bearing animal, and truck farms, plantations, ranches,
216 nurseries, ranges, greenhouses or other similar structures used
217 primarily for the raising of agricultural or horticultural
218 commodities, and orchards.

219 (24)-(23) "Fund" means the Unemployment Compensation Trust
220 Fund ~~created under this chapter~~, into which all contributions
221 and reimbursements required under this chapter are deposited and
222 from which all benefits provided under this chapter are paid.

223 (25) "Good cause" for voluntarily quitting employment, as
224 used in s. 443.101(1) (a), means:

225 (a) Cause attributable to the employing unit or an illness
226 or disability of the individual that requires separation from
227 work;

228 (b) Domestic violence, as defined in s. 741.28, verified
229 by reasonable and confidential documentation which causes the
230 individual reasonably to believe that such individual's
231 continued employment would jeopardize his or her safety or the
232 safety of any member of his or her immediate family;

233 (c) Illness or disability of a member of the individual's
234 immediate family; or

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

235 (d) The individual's need to accompany his or her spouse,
236 if the spouse's relocation resulted from a change in the
237 spouse's employment and if the relocation makes it impractical
238 for the individual to commute to his or her workplace.

239 ~~(26)-(24)~~ "High quarter" means the quarter in an
240 individual's base period in which the individual has the
241 greatest amount of wages paid, regardless of the number of
242 employers paying wages in that quarter.

243 ~~(27)-(25)~~ "Hospital" means an institution that is licensed,
244 certified, or approved by the Agency for Health Care
245 Administration as a hospital.

246 ~~(28)-(26)~~ "Institution of higher education" means an
247 educational institution that:

248 (a) Admits as regular students only individuals having a
249 certificate of graduation from a high school, or the recognized
250 equivalent of a certificate of graduation;

251 (b) Is legally authorized in this state to provide a
252 program of education beyond high school;

253 (c) Provides an educational program for which it awards a
254 bachelor's or higher degree, or provides a program that is
255 acceptable for full credit toward a bachelor's or higher degree;
256 a program of postgraduate or postdoctoral studies; or a program
257 of training to prepare students for gainful employment in a
258 recognized occupation; and

259 (d) Is a public or other nonprofit institution.

260
261 The term includes each community college and state university in
262 this state, and each other institution in this state authorized

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

263 under s. 1005.03 to use the designation "college" or
264 "university."

265 ~~(29)-(27)~~ "Insured work" means employment for employers.

266 ~~(30)-(28)~~ "Leave of absence" means a temporary break in
267 service to an employer, for a specified period of time, during
268 which the employing unit guarantees the same or a comparable
269 position to the worker at the expiration of the leave.

270 ~~(31)~~ "Member of the individual's immediate family" means
271 an individual's spouse, parent, or minor child.

272 ~~(32)-(29)~~ "Misconduct" includes, but is not limited to, the
273 following, which may not be construed in pari materia with each
274 other:

275 (a) Conduct demonstrating willful or wanton disregard of
276 an employer's interests and found to be a deliberate violation
277 or disregard of the standards of behavior which the employer has
278 a right to expect of his or her employee; or

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

284 ~~(33)-(30)~~ "Monetary determination" means a determination of
285 whether and in what amount a claimant is eligible for benefits
286 based on the claimant's employment during the base period of the
287 claim.

288 ~~(34)-(31)~~ "Nonmonetary determination" means a determination
289 of the claimant's eligibility for benefits based on an issue
290 other than monetary entitlement and benefit overpayment.

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

291 ~~(35)(32)~~ "Not in the course of the employer's trade or
292 business" means not promoting or advancing the trade or business
293 of the employer.

294 ~~(36)(33)~~ "One-stop career center" means a service site
295 established and maintained as part of the one-stop delivery
296 system under s. 445.009.

297 ~~(37)(34)~~ "Pay period" means a period of 31 or fewer
298 consecutive days for which a payment or remuneration is
299 ordinarily made to the employee by the person employing him or
300 her.

301 ~~(38)(35)~~ "Public employer" means:

- 302 (a) A state agency or political subdivision of the state;
303 (b) An instrumentality that is wholly owned by one or more
304 state agencies or political subdivisions of the state; or
305 (c) An instrumentality that is wholly owned by one or more
306 state agencies, political subdivisions, or instrumentalities of
307 the state and one or more state agencies or political
308 subdivisions of one or more other states.

309 ~~(39)(36)~~ "Reasonable assurance" means a written or verbal
310 agreement, an agreement between an employer and a worker
311 understood through tradition within the trade or occupation, or
312 an agreement defined in an employer's policy.

313 ~~(40)(37)~~ "Reimbursement" means a payment of money to the
314 Unemployment Compensation Trust Fund in lieu of a contribution
315 ~~which is~~ required under this chapter to finance unemployment
316 benefits.

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

317 ~~(41)(38)~~ "Reimbursing employer" means an employer who is
318 liable for reimbursements in lieu of contributions under this
319 chapter.

320 ~~(42)(39)~~ "State" includes the states of the United States,
321 the District of Columbia, Canada, the Commonwealth of Puerto
322 Rico, and the Virgin Islands.

323 ~~(43)(40)~~ "State law" means the unemployment insurance law
324 of any state, approved by the United States Secretary of Labor
325 under s. 3304 of the Internal Revenue Code of 1954.

326 ~~(44)(41)~~ "Tax collection service provider" or "service
327 provider" means the state agency providing unemployment tax
328 collection services under contract with the Agency for Workforce
329 Innovation through an interagency agreement pursuant to s.
330 443.1316.

331 ~~(45)(42)~~ "Temporary layoff" means a job separation due to
332 lack of work which does not exceed 8 consecutive weeks and which
333 has a fixed or approximate return-to-work date.

334 ~~(46)(43)~~ "Unemployment" means:

335 (a) An individual is "totally unemployed" in any week
336 during which he or she does not perform any services and for
337 which earned income is not payable to him or her. An individual
338 is "partially unemployed" in any week of less than full-time
339 work if the earned income payable to him or her for that week is
340 less than his or her weekly benefit amount. The Agency for
341 Workforce Innovation may adopt rules prescribing distinctions in
342 the procedures for unemployed individuals based on total
343 unemployment, part-time unemployment, partial unemployment of

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

344 individuals attached to their regular jobs, and other forms of
345 short-time work.

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

350 ~~(47)-(44)~~ "Wages" means remuneration subject to this
351 chapter under s. 443.1217.

352 ~~(48)-(45)~~ "Week" means a period of 7 consecutive days as
353 defined in the rules of the Agency for Workforce Innovation. The
354 Agency for Workforce Innovation may by rule prescribe that a
355 week is deemed to be "in," "within," or "during" the benefit
356 year that contains the greater part of the week.

357 Section 2. Paragraphs (c) and (f) of subsection (1) of
358 section 443.091, Florida Statutes, are amended to read:

359 443.091 Benefit eligibility conditions.—

360 (1) An unemployed individual is eligible to receive
361 benefits for any week only if the Agency for Workforce
362 Innovation finds that:

363 (c)~~1~~. She or he is able to work and is available for work.
364 In order to assess eligibility for a claimed week of
365 unemployment, the Agency for Workforce Innovation shall develop
366 criteria to determine a claimant's ability to work and
367 availability for work.

368 1. Notwithstanding any other provision of this paragraph,
369 an otherwise eligible individual may not be found ineligible for
370 benefits if she or he is available for part-time work. For
371 purposes of this subparagraph, "available for part-time work"

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

372 means the claimant is available for a number of weekly hours
373 that are comparable to the number of hours the individual worked
374 during the majority of the base period of her or his claim.

375 2. Notwithstanding any other provision of this paragraph
376 or paragraphs (b) and (d), an otherwise eligible individual may
377 not be denied benefits for any week because she or he is in
378 training with the approval of the Agency for Workforce
379 Innovation, and such an individual may not be denied benefits
380 for any week in which she or he is in training with the approval
381 of the Agency for Workforce Innovation by reason of subparagraph
382 1. relating to availability for work, or s. 443.101(2) relating
383 to failure to apply for, or refusal to accept, suitable work.
384 Training may be approved by the Agency for Workforce Innovation
385 in accordance with criteria prescribed by rule. A claimant's
386 eligibility during approved training is contingent upon
387 satisfying eligibility conditions prescribed by rule.

388 3. Notwithstanding any other provision of this chapter, an
389 otherwise eligible individual who is in training approved under
390 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
391 determined to be ineligible or disqualified for benefits with
392 respect to her or his enrollment in such training or because of
393 leaving work that is not suitable employment to enter such
394 training. As used in this subparagraph, the term "suitable
395 employment" means, for a worker, work of a substantially equal
396 or higher skill level than the worker's past adversely affected
397 employment, as defined for purposes of the Trade Act of 1974, as
398 amended, the wages for which are at least 80 percent of the

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

399 worker's average weekly wage as determined for purposes of the
400 Trade Act of 1974, as amended.

401 4. Notwithstanding any other provision of this section, an
402 otherwise eligible individual may not be denied benefits for any
403 week by reason of subparagraph 1. because she or he is before
404 any court of the United States or any state under a lawfully
405 issued summons to appear for jury duty.

406 (f) She or he has been paid wages for insured work equal
407 to 1.5 times her or his high quarter wages during her or his
408 base period, except that an unemployed individual is not
409 eligible to receive benefits if the base period wages are less
410 than \$3,400. If a worker is ineligible for benefits based on
411 base period wages, wages for that worker must be calculated
412 using an alternative base period and the worker must have the
413 opportunity to choose whether to establish a claim using such
414 wages. Wages may be computed for an alternative base period in
415 cases in which base period wages are inadequate to establish
416 eligibility under this section and only for benefit years that
417 commence on or after January 1, 2010. Wages used to establish a
418 monetarily eligible benefit year may not be used to establish
419 monetary eligibility in a subsequent benefit year.

420 Section 3. Paragraph (a) of subsection (1) and paragraph
421 (a) of subsection (2) of section 443.101, Florida Statutes, are
422 amended to read:

423 443.101 Disqualification for benefits.—An individual shall
424 be disqualified for benefits:

425 (1) (a) For the week in which he or she has voluntarily
426 left his or her work without good cause attributable to his or
293445

Amendment No.

427 her employing unit or in which the individual has been
428 discharged by his or her employing unit for misconduct connected
429 with his or her work, based on a finding by the Agency for
430 Workforce Innovation. As used in this paragraph, the term "work"
431 means any work, whether full-time, part-time, or temporary.

432 1. Disqualification for voluntarily quitting continues for
433 the full period of unemployment next ensuing after he or she has
434 left his or her full-time, part-time, or temporary work
435 voluntarily without good cause and until the individual has
436 earned income equal to or in excess of 17 times his or her
437 weekly benefit amount. As used in this subsection, the term
438 "good cause" has the same meaning as in s. 443.036(25) ~~includes~~
439 ~~only that cause attributable to the employing unit or which~~
440 ~~consists of illness or disability of the individual requiring~~
441 ~~separation from his or her work.~~ Any other disqualification may
442 not be imposed. An individual is not disqualified under this
443 subsection for voluntarily leaving temporary work to return
444 immediately when called to work by the permanent employing unit
445 that temporarily terminated his or her work within the previous
446 6 calendar months. For benefit years beginning on or after July
447 1, 2004, an individual is not disqualified under this subsection
448 for voluntarily leaving work to relocate as a result of his or
449 her military-connected spouse's permanent change of station
450 orders, activation orders, or unit deployment orders.

451 2. Disqualification for being discharged for misconduct
452 connected with his or her work continues for the full period of
453 unemployment next ensuing after having been discharged and until
454 the individual has become reemployed and has earned income of at
293445

Amendment No.

455 least 17 times his or her weekly benefit amount and for not more
456 than 52 weeks that immediately follow that week, as determined
457 by the Agency for Workforce Innovation in each case according to
458 the circumstances in each case or the seriousness of the
459 misconduct, under the agency's rules adopted for determinations
460 of disqualification for benefits for misconduct.

461 3. When an individual has provided notification to the
462 employing unit of his or her intent to voluntarily leave work
463 and the employing unit discharges the individual for reasons
464 other than misconduct prior to the date the voluntary quit was
465 to take effect, the individual, if otherwise entitled, will
466 receive benefits from the date of the employer's discharge until
467 the effective date of his or her voluntary quit.

468 4. When an individual is notified by the employing unit of
469 the employer's intent to discharge the individual for reasons
470 other than misconduct and the individual quits without good
471 cause, as defined in this section, prior to the date the
472 discharge was to take effect, the claimant is ineligible for
473 benefits pursuant to s. 443.091(1)(c)~~1~~ for failing to be
474 available for work for the week or weeks of unemployment
475 occurring prior to the effective date of the discharge.

476 (2) If the Agency for Workforce Innovation finds that the
477 individual has failed without good cause to apply for available
478 suitable work when directed by the agency or the one-stop career
479 center, to accept suitable work when offered to him or her, or
480 to return to the individual's customary self-employment when
481 directed by the agency, the disqualification continues for the
482 full period of unemployment next ensuing after he or she failed

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

483 without good cause to apply for available suitable work, to
484 accept suitable work, or to return to his or her customary self-
485 employment, under this subsection, and until the individual has
486 earned income at least 17 times his or her weekly benefit
487 amount. The Agency for Workforce Innovation shall by rule adopt
488 criteria for determining the "suitability of work," as used in
489 this section. The Agency for Workforce Innovation in developing
490 these rules shall consider the duration of a claimant's
491 unemployment in determining the suitability of work and the
492 suitability of proposed rates of compensation for available
493 work. Further, after an individual has received 25 weeks of
494 benefits in a single year, suitable work is a job that pays the
495 minimum wage and is 120 percent or more of the weekly benefit
496 amount the individual is drawing.

497 (a) In determining whether or not any work is suitable for
498 an individual, the Agency for Workforce Innovation shall
499 consider the degree of risk involved to the individual's ~~his or~~
500 ~~her~~ health, safety, and morals; the individual's ~~his or her~~
501 physical fitness, and prior training, ~~the individual's~~
502 experience, and prior earnings, ~~his or her~~ length of
503 unemployment, and prospects for securing local work in his or
504 her customary occupation; and the distance of the available work
505 from the individual's ~~his or her~~ residence. An unemployed
506 individual may not be disqualified for benefits solely because
507 he or she is available for only part-time work. For purposes of
508 this paragraph, "available for part-time work" means the
509 claimant is available for a number of weekly hours that are

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

510 comparable to the number of hours the individual worked during
511 the majority of the base period of his or her claim.

512 Section 4. Paragraph (a) of subsection (1) and paragraph
513 (f) of subsection (13) of section 443.1216, Florida Statutes,
514 are amended to read:

515 443.1216 Employment.—Employment, as defined in s. 443.036,
516 is subject to this chapter under the following conditions:

517 (1) (a) The employment subject to this chapter includes a
518 service performed, including a service performed in interstate
519 commerce, by:

520 1. An officer of a corporation.

521 2. An individual who, under the usual common-law rules
522 applicable in determining the employer-employee relationship, is
523 an employee. However, whenever a client, as defined in s.
524 443.036 (19) ~~(18)~~, which would otherwise be designated as an
525 employing unit has contracted with an employee leasing company
526 to supply it with workers, those workers are considered
527 employees of the employee leasing company. An employee leasing
528 company may lease corporate officers of the client to the client
529 and other workers to the client, except as prohibited by
530 regulations of the Internal Revenue Service. Employees of an
531 employee leasing company must be reported under the employee
532 leasing company's tax identification number and contribution
533 rate for work performed for the employee leasing company.

534 a. In addition to any other report required to be filed by
535 law, an employee leasing company shall submit a report to the
536 Labor Market Statistics Center within the Agency for Workforce
537 Innovation which includes each client establishment and each
293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

538 establishment of the employee leasing company, or as otherwise
539 directed by the agency. The report must include the following
540 information for each establishment:

541 (I) The trade or establishment name;

542 (II) The former unemployment compensation account number,
543 if available;

544 (III) The former federal employer's identification number
545 (FEIN), if available;

546 (IV) The industry code recognized and published by the
547 United States Office of Management and Budget, if available;

548 (V) A description of the client's primary business
549 activity in order to verify or assign an industry code;

550 (VI) The address of the physical location;

551 (VII) The number of full-time and part-time employees who
552 worked during, or received pay that was subject to unemployment
553 compensation taxes for, the pay period including the 12th of the
554 month for each month of the quarter;

555 (VIII) The total wages subject to unemployment
556 compensation taxes paid during the calendar quarter;

557 (IX) An internal identification code to uniquely identify
558 each establishment of each client;

559 (X) The month and year that the client entered into the
560 contract for services; and

561 (XI) The month and year that the client terminated the
562 contract for services.

563 b. The report shall be submitted electronically or in a
564 manner otherwise prescribed by the Agency for Workforce
565 Innovation in the format specified by the Bureau of Labor
293445

Amendment No.

566 Statistics of the United States Department of Labor for its
567 Multiple Worksite Report for Professional Employer
568 Organizations. The report must be provided quarterly to the
569 Labor Market Statistics Center within the Agency for Workforce
570 Innovation, or as otherwise directed by the agency, and must be
571 filed by the last day of the month immediately following the end
572 of the calendar quarter. The information required in sub-sub-
573 subparagraphs a.(X) and (XI) need be provided only in the
574 quarter in which the contract to which it relates was entered
575 into or terminated. The sum of the employment data and the sum
576 of the wage data in this report must match the employment and
577 wages reported in the unemployment compensation quarterly tax
578 and wage report. A report is not required for any calendar
579 quarter preceding the third calendar quarter of 2010.

580 c. The Agency for Workforce Innovation shall adopt rules
581 as necessary to administer this subparagraph, and may
582 administer, collect, enforce, and waive the penalty imposed by
583 s. 443.141(1)(b) for the report required by this subparagraph.

584 d. For the purposes of this subparagraph, the term
585 "establishment" means any location where business is conducted
586 or where services or industrial operations are performed.

587 3. An individual other than an individual who is an
588 employee under subparagraph 1. or subparagraph 2., who performs
589 services for remuneration for any person:

590 a. As an agent-driver or commission-driver engaged in
591 distributing meat products, vegetable products, fruit products,
592 bakery products, beverages other than milk, or laundry or
593 drycleaning services for his or her principal.

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

594 b. As a traveling or city salesperson engaged on a full-
595 time basis in the solicitation on behalf of, and the
596 transmission to, his or her principal of orders from
597 wholesalers, retailers, contractors, or operators of hotels,
598 restaurants, or other similar establishments for merchandise for
599 resale or supplies for use in their business operations. This
600 sub-subparagraph does not apply to an agent-driver, ~~or~~ a
601 commission-driver and does not apply to sideline sales
602 activities performed on behalf of a person other than the
603 salesperson's principal.

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

606 a. The contract of service contemplates that substantially
607 all of the services are to be performed personally by the
608 individual;

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

612 c. The services are not in the nature of a single
613 transaction that is not part of a continuing relationship with
614 the person for whom the services are performed.

615 (13) The following are exempt from coverage under this
616 chapter:

617 (f) Service performed in the employ of a public employer
618 as defined in s. 443.036, except as provided in subsection (2),
619 and service performed in the employ of an instrumentality of a
620 public employer as described in s. 443.036(38)~~(35)~~(b) or (c), to
621 the extent that the instrumentality is immune under the United
293445

Amendment No.

622 States Constitution from the tax imposed by s. 3301 of the
623 Internal Revenue Code for that service.

624 Section 5. Paragraph (f) of subsection (3) of section
625 443.131, Florida Statutes, is amended to read:

626 443.131 Contributions.—

627 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
628 EXPERIENCE.—

629 (f) Transfer of employment records.—

630 1. For the purposes of this subsection, two or more
631 employers who are parties to a transfer of business or the
632 subject of a merger, consolidation, or other form of
633 reorganization, effecting a change in legal identity or form,
634 are deemed a single employer and are considered to be one
635 employer with a continuous employment record if the tax
636 collection service provider finds that the successor employer
637 continues to carry on the employing enterprises of all of the
638 predecessor employers and that the successor employer has paid
639 all contributions required of and due from all of the
640 predecessor employers and has assumed liability for all
641 contributions that may become due from all of the predecessor
642 employers. In addition, An employer may not be considered a
643 successor under this subparagraph if the employer purchases a
644 company with a lower rate into which employees with job
645 functions unrelated to the business endeavors of the predecessor
646 are transferred for the purpose of acquiring the low rate and
647 avoiding payment of contributions. As used in this paragraph,
648 Notwithstanding s. 443.036(15) ~~(14)~~, the term "contributions"
649 means all indebtedness to the tax collection service provider,
293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

650 including, but not limited to, interest, penalty, collection
651 fee, and service fee. A successor employer must accept the
652 transfer of all of the predecessor employers' employment records
653 within 30 days after the date of the official notification of
654 liability by succession. If a predecessor employer has unpaid
655 contributions or outstanding quarterly reports, the successor
656 employer must pay the total amount with certified funds within
657 30 days after the date of the notice listing the total amount
658 due. After the total indebtedness is paid, the tax collection
659 service provider shall transfer the employment records of all of
660 the predecessor employers to the successor employer's employment
661 record. The tax collection service provider shall determine the
662 contribution rate of the combined successor and predecessor
663 employers upon the transfer of the employment records, as
664 prescribed by rule, in order to calculate any change in the
665 contribution rate resulting from the transfer of the employment
666 records.

667 2. Regardless of whether a predecessor employer's
668 employment record is transferred to a successor employer under
669 this paragraph, the tax collection service provider shall treat
670 the predecessor employer, if he or she subsequently employs
671 individuals, as an employer without a previous employment record
672 or, if his or her coverage is terminated under s. 443.121, as a
673 new employing unit.

674 3. The state agency providing unemployment tax collection
675 services may adopt rules governing the partial transfer of
676 experience rating when an employer transfers an identifiable and
677 segregable portion of his or her payrolls and business to a

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

678 successor employing unit. As a condition of each partial
679 transfer, these rules must require the following to be filed
680 with the tax collection service provider: an application by the
681 successor employing unit, an agreement by the predecessor
682 employer, and the evidence required by the tax collection
683 service provider to show the benefit experience and payrolls
684 attributable to the transferred portion through the date of the
685 transfer. These rules must provide that the successor employing
686 unit, if not an employer subject to this chapter, becomes an
687 employer as of the date of the transfer and that the transferred
688 portion of the predecessor employer's employment record is
689 removed from the employment record of the predecessor employer.
690 For each calendar year after the date of the transfer of the
691 employment record in the records of the tax collection service
692 provider, the service provider shall compute the contribution
693 rate payable by the successor employer or employing unit based
694 on his or her employment record, combined with the transferred
695 portion of the predecessor employer's employment record. These
696 rules may also prescribe what contribution rates are payable by
697 the predecessor and successor employers for the period between
698 the date of the transfer of the transferred portion of the
699 predecessor employer's employment record in the records of the
700 tax collection service provider and the first day of the next
701 calendar year.

702 4. This paragraph does not apply to an employee leasing
703 company and client contractual agreement as defined in s.
704 443.036. The tax collection service provider shall, if the
705 contractual agreement is terminated or the employee leasing
293445

Amendment No.

706 company fails to submit reports or pay contributions as required
707 by the service provider, treat the client as a new employer
708 without previous employment record unless the client is
709 otherwise eligible for a variation from the standard rate.

710 Section 6. Subsection (3) of section 443.151, Florida
711 Statutes, is amended to read:

712 443.151 Procedure concerning claims.—

713 (3) DETERMINATION.—

714 (a) In general.—The Agency for Workforce Innovation shall
715 promptly make an initial determination for each claim filed
716 under subsection (2). The determination must include a statement
717 of whether and in what amount the claimant is entitled to
718 benefits, and, in the event of a denial, must state the reasons
719 for the denial. A determination for the first week of a benefit
720 year must also include a statement of whether the claimant was
721 paid the wages required under s. 443.091(1)(f) and, if so, the
722 first day of the benefit year, the claimant's weekly benefit
723 amount, and the maximum total amount of benefits payable to the
724 claimant for a benefit year. The Agency for Workforce Innovation
725 shall promptly notify the claimant, the claimant's most recent
726 employing unit, and all employers whose employment records are
727 liable for benefits under the determination of the initial
728 determination. The determination is final unless within 20 days
729 after the mailing of the notices to the parties' last known
730 addresses, or in lieu of mailing, within 20 days after ~~the~~
731 delivery of the notices, an appeal or written request for
732 reconsideration is filed by the claimant or other party entitled
733 to notice.

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

734 (b) Determinations involving an alternative base period.-
735 If, in the case of a claim for benefits involving an alternative
736 base period under s. 443.091(1)(f), the Agency for Workforce
737 Innovation is unable to access wage information through the
738 database of its tax collection service provider, the agency
739 shall request the information from the employer by mail. The
740 employer must provide the requested information within 10 days
741 after the agency mails the request. If wage information is
742 unavailable, the agency may base the determination on an
743 affidavit submitted by the individual attesting to his or her
744 wages for those calendar quarters. The individual must furnish
745 payroll information, if available, in support of the affidavit.
746 Benefits based on an alternative base period must be adjusted if
747 the quarterly report of wage information received from the
748 employer under s. 443.141 results in a change in the monetary
749 determination.

750 (c) ~~(b)~~ Determinations in labor dispute cases.-Whenever any
751 claim involves a labor dispute described in s. 443.101(4), the
752 Agency for Workforce Innovation shall promptly assign the claim
753 to a special examiner who shall make a determination on the
754 issues involving unemployment due to the labor dispute. The
755 special examiner shall make the determination after an
756 investigation, as necessary. The claimant or another party
757 entitled to notice of the determination may appeal a
758 determination under subsection (4).

759 (d) ~~(e)~~ Redeterminations.-

760 1. The Agency for Workforce Innovation may reconsider a
761 determination when it finds an error or when new evidence or
293445

Amendment No.

762 information pertinent to the determination is discovered after a
763 prior determination or redetermination. A redetermination may
764 not be made more than 1 year after the last day of the benefit
765 year unless the disqualification for making a false or
766 fraudulent representation in s. 443.101(6) is applicable, in
767 which case the redetermination may be made within 2 years after
768 the false or fraudulent representation. The Agency for Workforce
769 Innovation must promptly give notice of redetermination to the
770 claimant and to any employers entitled to notice in the manner
771 prescribed in this section for the notice of an initial
772 determination. If the amount of benefits is increased by the
773 redetermination, an appeal of the redetermination based solely
774 on the increase may be filed as provided in subsection (4). If
775 the amount of benefits is decreased by the redetermination, the
776 redetermination may be appealed by the claimant when a
777 subsequent claim for benefits is affected in amount or duration
778 by the redetermination. If the final decision on the
779 determination or redetermination to be reconsidered was made by
780 an appeals referee, the commission, or a court, the Agency for
781 Workforce Innovation may apply for a revised decision from the
782 body or court that made the final decision.

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

786 (e) ~~(d)~~ Notice of determination or redetermination.—Notice
787 of any monetary or nonmonetary determination or redetermination
788 under this chapter, together with the reasons for the
789 determination or redetermination, must be promptly given to the

Amendment No.

790 claimant and to any employer entitled to notice in the manner
791 provided in this subsection. The Agency for Workforce Innovation
792 shall adopt rules prescribing the manner and procedure by which
793 employers within the base period of a claimant become entitled
794 to notice.

795 Section 7. This act shall take effect July 1, 2010.

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799 **T I T L E A M E N D M E N T**

800 Remove the entire title and insert:

801 A bill to be entitled

802 An act relating to unemployment compensation; amending s.
803 443.036, F.S.; defining the terms "alternative base
804 period," "good cause," and "member of the individual's
805 immediate family"; redefining the term "base period";
806 amending s. 443.091, F.S.; revising the requirements for
807 eligibility to receive benefits; prohibiting a
808 determination of ineligibility based solely on the number
809 of weekly hours an unemployed individual is available to
810 work when those hours are comparable to the number of
811 hours the individual worked during the majority of the
812 base period of his or her claim; providing for an
813 alternative base period after a certain date; amending s.
814 443.101, F.S.; revising the definition of "good cause";
815 prohibiting disqualification for unemployment benefits
816 based solely on the unemployed individual's availability
817 for only part-time work under certain circumstances;

293445

Approved For Filing: 4/27/2010 7:51:24 AM

Amendment No.

818 amending ss. 443.1216 and 443.131, F.S.; conforming cross-
819 references; amending s. 443.151, F.S.; requiring an
820 employer to provide wage information to support an
821 individual's eligibility for benefits involving an
822 alternative base period; authorizing the Agency for
823 Workforce Innovation to accept an affidavit from the
824 claimant to support eligibility for such benefits;
825 providing an effective date.