

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Rader offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

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

7 443.036 Definitions.—As used in this chapter, the term:

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

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

13 (a) On a farm, in the employ of any person, in connection  
14 with cultivating the soil or in connection with raising or  
15 harvesting any agricultural or horticultural commodity,

16 including the raising, shearing, feeding, caring for, training,  
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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.

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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.

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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

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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.

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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  
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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  
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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.

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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

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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

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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.

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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.

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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

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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"

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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

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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  
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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  
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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  
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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

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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  
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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  
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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.

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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  
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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,  
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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

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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  
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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.

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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) ~~(c)~~ Redeterminations.-

760 1. The Agency for Workforce Innovation may reconsider a  
761 determination when it finds an error or when new evidence or  
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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  
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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 period,"  
804 "good cause," and "member of the individual's immediate family";  
805 redefining the term "base period"; amending s. 443.091, F.S.;  
806 revising the requirements for eligibility to receive benefits;  
807 prohibiting a determination of ineligibility based solely on the  
808 number of weekly hours an unemployed individual is available to  
809 work when those hours are comparable to the number of hours the  
810 individual worked during the majority of the base period of his  
811 or her claim; providing for an alternative base period after a  
812 certain date; amending s. 443.101, F.S.; revising the definition  
813 of "good cause"; prohibiting disqualification for unemployment  
814 benefits based solely on the unemployed individual's  
815 availability for only part-time work under certain  
816 circumstances; amending ss. 443.1216 and 443.131, F.S.;  
817 conforming cross-references; amending s. 443.151, F.S.;

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818 requiring an employer to provide wage information to support an  
819 individual's eligibility for benefits involving an alternative  
820 base period; authorizing the Agency for Workforce Innovation to  
821 accept an affidavit from the claimant to support eligibility for  
822 such benefits; providing an effective date.