CHAPTER 2010-90

Committee Substitute for
Committee Substitute for Senate Bill No. 1736

An act relating to unemployment compensation; reviving, readopting, and amending s. 443.1117, F.S.; providing for retroactive application; establishing temporary state extended benefits for weeks of unemployment; revising definitions; providing for state extended benefits for certain weeks and for periods of high unemployment; providing applicability; amending s. 55.204, F.S.; specifying the duration of liens securing the payment of unemployment compensation tax obligations; amending s. 95.091, F.S.; creating an exception to a limit on the duration of tax liens for certain tax liens relating to unemployment compensation taxes; amending s. 213.25, F.S.; authorizing the Department of Revenue to reduce a tax refund or credit owing to a taxpayer to the extent of liability for unemployment compensation taxes; amending s. 443.036, F.S.; revising definitions; conforming cross-references; providing for the treatment of a single-member limited liability company as the employer for purposes of unemployment compensation; amending s. 443.091, F.S.; requiring claimants to register with the Agency for Workforce Innovation and report to the local one-stop career center; specifying exemptions; clarifying that an individual must report regardless of any pending appeals relating to eligibility; amending s. 443.1215, F.S.; conforming a cross-reference; amending s. 443.131, F.S.; conforming provisions to changes made by the act; deleting a requirement for employer response; revising a date triggering the calculating of a positive adjustment factor based on the balance of the Unemployment Compensation Trust Fund; amending s. 443.141, F.S.; providing penalties for erroneous, incomplete, or insufficient reports relating to unemployment compensation taxes; authorizing a waiver of the penalty under certain circumstances; defining a term; authorizing the Agency for Workforce Innovation and the state agency providing unemployment compensation tax collection services to adopt rules; providing an expiration date for liens for contributions and reimbursements; updating a cross-reference; amending s. 443.151, F.S.; requiring the process for filing a claim to incorporate the process for registering for work with the workforce information system; authorizing the agency to adopt rules; providing for monetary and nonmonetary determinations as part of the notice of claim; requiring employers to respond to a notice of claim within a certain period; providing for chargeability of benefits; providing for rulemaking; limiting collection of overpayments under certain conditions; amending s. 443.163, F.S.; increasing penalties for failing to file Employers Quarterly Reports by means other than approved electronic means; revising the conditions under which the electronic filing requirement may be waived; deleting obsolete provisions related to telefile; amending s. 443.1715, F.S.; specifying that an employer may obtain employee wage information from the

agency; amending s. 443.101, F.S.; correcting a cross-reference; providing that the act fulfills an important state interest; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Notwithstanding the expiration date contained in section 1 of chapter 2010-1, Laws of Florida, operating retroactive to February 27, 2010, and expiring June 2, 2010, section 443.1117, Florida Statutes, is revived, readopted, and amended to read:

443.1117 Temporary extended benefits.—

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

(2) DEFINITIONS.—For the purposes of this section, the term:

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

(b) "Eligibility period" means the ~~period consisting of the~~ weeks in an individual's benefit year or emergency benefit period which begin in an extended benefit period and, if the benefit year or emergency benefit period ends within that extended benefit period, any subsequent weeks beginning in that period.

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

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

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

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

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

b. The 13th consecutive week of that period.

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

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

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

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

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

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

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

(g) "State 'on' indicator" means, with respect to weeks of unemployment beginning on or after February 1, 2009, and ending on or before May 8 ~~January 30~~, 2010, the occurrence of a week in which the average total unemployment rate, seasonally adjusted, as determined by the United States Secretary of Labor, for the ~~period consisting of the~~ most recent 3 months for which data for all states are published by the United States Department of Labor:

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

2. Equals or exceeds 6.5 percent.

(h) "High unemployment period" means, with respect to weeks of unemployment beginning on or after February 1, 2009, and ending on or before May 8 ~~January 30~~, 2010, any week in which the average total unemployment rate, seasonally adjusted, as determined by the United States Secretary of Labor, for the ~~period consisting of the~~ most recent 3 months for which data for all states are published by the United States Department of Labor:

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

2. Equals or exceeds 8 percent.

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

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

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

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

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

(b) For any high unemployment period ~~as defined in paragraph (2)(h)~~, the total extended benefit amount payable to an eligible individual for her or his applicable benefit year is the lesser of:

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

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

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

Section 2. <u>The provisions of s. 443.1117, Florida Statutes, as revived, readopted, and amended by this act, apply only to claims for weeks of unemployment in which an exhaustee establishes entitlement to extended benefits pursuant to that section which are established for the period between February 22, 2009, and June 2, 2010.</u>

Section 3. Section 55.204, Florida Statutes, is amended to read:

55.204 Duration and continuation of judgment lien; destruction of records.—

(1) Except as provided in this section, a judgment lien acquired under s. 55.202 lapses and becomes invalid 5 years after the date of filing the judgment lien certificate.

(2) Liens securing the payment of child support or tax obligations under ~~as set forth in~~ s. 95.091(1)(b) ~~shall not~~ lapse ~~until~~ 20 years after the date of the original filing of the warrant or other document required by law to establish a lien. Liens securing the payment of unemployment tax obligations lapse 10 years after the date of the original filing of the notice of lien. A ~~No~~ second lien based on the original filing may not be obtained.

(3) At any time within 6 months before or 6 months after the scheduled lapse of a judgment lien under subsection (1), the judgment creditor may acquire a second judgment lien by filing a new judgment lien certificate. The effective date of the second judgment lien is the date and time on which the judgment lien certificate is filed. The second judgment lien is a new judgment lien and not a continuation of the original judgment lien. The second judgment lien permanently lapses and becomes invalid 5 years after its filing date, and ~~no~~ additional liens based on the original judgment or any judgment based on the original judgment may not be acquired.

(4) A judgment lien continues only as to itemized property for an additional 90 days after lapse of the lien. Such judgment lien continues ~~will continue~~ only if:

(a) The property was ~~had been~~ itemized and its location described with sufficient particularity in the instructions for levy to permit the sheriff to act;

(b) The instructions for the levy had been delivered to the sheriff before ~~prior to~~ the date of lapse of the lien; and

(c) The property was located in the county in which the sheriff has jurisdiction at the time of delivery of the instruction for levy. Subsequent removal of the property does not defeat the lien. A court may order continuation of the lien beyond the 90-day period on a showing that extraordinary circumstances have prevented levy.

(5) The date of lapse of a judgment lien whose enforceability has been temporarily stayed or enjoined as a result of any legal or equitable proceeding is tolled until 30 days after the stay or injunction is terminated.

(6) If a ~~no~~ second judgment lien is not filed, the Department of State shall maintain each judgment lien file and all information contained therein for a minimum of 1 year after the judgment lien lapses in accordance with this section. If a second judgment lien is filed, the department shall maintain both files and all information contained in such files for a minimum of 1 year after the second judgment lien lapses.

(7) ~~Nothing in~~ This section does not ~~shall be construed to~~ extend the life of a judgment lien beyond the time that the underlying judgment, order, decree, or warrant otherwise expires or becomes invalid pursuant to law.

Section 4. Section 95.091, Florida Statutes, is amended to read:

95.091 Limitation on actions to collect taxes.—

(1)(a) Except for ~~in the case of~~ taxes for which certificates have been sold, taxes enumerated in s. 72.011, or tax liens issued under s. 196.161 or s. 443.141, any tax lien granted by law to the state or any of its political subdivisions, any municipality, any public corporation or body politic, or any other entity having authority to levy and collect taxes expires ~~shall expire~~ 5 years after the date the tax is assessed or becomes delinquent, whichever is later. An ~~No~~ action ~~may be begun~~ to collect any tax may not be commenced after the expiration of the lien securing the payment of the tax.

(b) Any tax lien granted by law to the state or any of its political subdivisions for any tax enumerated in s. 72.011 or any tax lien imposed under s. 196.161 expires ~~shall expire~~ 20 years after the last date the tax may be assessed, after the tax becomes delinquent, or after the filing of a tax warrant, whichever is later. An action to collect any tax enumerated in s. 72.011 may not be commenced after the expiration of the lien securing the payment of the tax.

(2) If a ~~no~~ lien to secure the payment of a tax is not provided by law, an ~~no~~ action ~~may be begun~~ to collect the tax may not be commenced ~~after~~ 5 years after ~~from~~ the date the tax is assessed or becomes delinquent, whichever is later.

(3)(a) With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to ss. 220.23 and 624.50921, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer:

1.a. For taxes due before July 1, 1999, within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later; and for taxes due on or after July 1, 1999, within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

b. Effective July 1, 2002, notwithstanding sub-subparagraph a., within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

2. For taxes due before July 1, 1999, within 6 years after the date the taxpayer ~~either~~ makes a substantial underpayment of tax~~,~~ or files a substantially incorrect return;

3. At any time while the right to a refund or credit of the tax is available to the taxpayer;

4. For taxes due before July 1, 1999, at any time after the taxpayer ~~has~~ filed a grossly false return;

5. At any time after the taxpayer ~~has~~ failed to make any required payment of the tax, ~~has~~ failed to file a required return, or ~~has~~ filed a fraudulent return, except that for taxes due on or after July 1, 1999, the limitation prescribed in subparagraph 1. applies if the taxpayer ~~has~~ disclosed in writing the tax liability to the department before the department contacts ~~has contacted~~ the taxpayer; or

6. In any case in which ~~there has been~~ a refund of tax has erroneously been made for any reason:

a. For refunds made before July 1, 1999, within 5 years after making such refund; and

b. For refunds made on or after July 1, 1999, within 3 years after making such refund,

or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

(b) For the purpose of this paragraph, a tax return filed before the last day prescribed by law, including any extension thereof, is ~~shall be~~ deemed to have been filed on such last day, and payments made before ~~prior to~~ the last day prescribed by law are ~~shall be~~ deemed to have been paid on such last day.

(4) If administrative or judicial proceedings for review of the tax assessment or collection are initiated by a taxpayer within the period of limitation prescribed in this section, the running of the period is ~~shall be~~ tolled during the pendency of the proceeding. Administrative proceedings ~~shall~~ include taxpayer protest proceedings initiated under s. 213.21 and department rules.

Section 5. Effective July 1, 2010, section 213.25, Florida Statutes, is amended to read:

213.25 Refunds; credits; right of setoff.—If ~~In any instance that a taxpayer has~~ a tax refund or tax credit is due to a taxpayer ~~for an overpayment of taxes assessed under any of the chapters specified in s. 72.011(1)~~, the department may reduce the ~~such~~ refund or credit to the extent of any billings not subject to protest under s. 213.21 or chapter 443 for ~~the same or~~ any ~~other~~ tax owed by the ~~same~~ taxpayer.

Section 6. Subsection (9) and paragraph (d) of subsection (20) of section 443.036, Florida Statutes, are amended to read:

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

(9) "Benefit year" means, for an individual, the 1-year period beginning with the first day of the first week for which the individual first files a valid claim for benefits and, thereafter, the 1-year period beginning with the first day of the first week for which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Each claim for benefits made in accordance with s. 443.151(2) is a "valid claim" under this subsection if the individual was paid wages for insured work in accordance with s. 443.091(1)(g) ~~the provisions of s. 443.091(1)(f)~~ and is unemployed as defined in subsection (43) at the time of filing the claim. However, the Agency for Workforce Innovation may adopt rules providing for the establishment of a uniform benefit year for all workers in one or more groups or classes of service or within a particular industry if ~~when~~ the agency determines, after notice to the industry and to the workers in the industry and an opportunity to be heard in the matter, that those groups or classes of workers in a particular industry periodically experience unemployment resulting from layoffs or shutdowns for limited periods of time.

(20) "Employing unit" means an individual or type of organization, including a partnership, limited liability company, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign; the receiver, trustee in bankruptcy, trustee, or successor of any of the foregoing; or the legal representative of a deceased person, which has or had in its employ one or more individuals performing services for it within this state.

(d) A limited liability company shall be treated as having the same status as it is classified for federal income tax purposes. However, a single-member limited liability company shall be treated as the employer.

Section 7. Paragraphs (b) through (g) of subsection (1) of section 443.091, Florida Statutes, are amended to read:

443.091 Benefit eligibility conditions.—

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

(b) She or he has registered with the agency for work ~~with,~~ and subsequently reports to the one-stop career center as directed by the regional workforce board for reemployment services ~~continued to report to, the Agency for Workforce Innovation in accordance with its rules. These rules must not conflict with the requirement in s. 443.111(1)(b) that each claimant must continue to report regardless of any appeal or pending appeal relating to her or his eligibility or disqualification for benefits. The Agency for Workforce Innovation may by rule waive this paragraph for individuals attached to regular jobs. These rules must not conflict with s. 443.111(1)~~. This requirement does not apply to persons who are:

1. Non-Florida residents;

2. On a temporary layoff, as defined in s. 443.036(42);

3. Union members who customarily obtain employment though a union hiring hall; or

4. Claiming benefits under an approved short-time compensation plan as provided in s. 443.1116.

(c) To make continued claims for benefits, she or he is reporting to the agency in accordance with its rules. These rules may not conflict with s. 443.111(1)(b), including the requirement that each claimant continue to report regardless of any pending appeal relating to her or his eligibility or disqualification for benefits.

(d)~~(c)1.~~ She or he is able to work and is available for work. In order to assess eligibility for a claimed week of unemployment, the agency ~~for Workforce Innovation~~ shall develop criteria to determine a claimant's ability to work and availability for work. However:

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

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

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

(e)~~(d)~~ She or he participates in reemployment services, such as job search assistance services, whenever the individual has been determined, by a profiling system established by agency rule ~~of the Agency for Workforce Innovation~~, to be likely to exhaust regular benefits and to be in need of reemployment services.

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

1. Unless it occurs within the benefit year that includes the week for which she or he claims payment of benefits.

2. If benefits have been paid for that week.

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

(g)~~(f)~~ She or he has been paid wages for insured work equal to 1.5 times her or his high quarter wages during her or his base period, except that an unemployed individual is not eligible to receive benefits if the base period wages are less than $3,400.

(h)~~(g)~~ She or he submitted to the agency ~~for Workforce Innovation~~ a valid social security number assigned to her or him. The agency ~~for Workforce Innovation~~ may verify the social security number with the United States Social Security Administration and may deny benefits if the agency is unable to verify the individual's social security number, ~~if~~ the social security number is invalid, or ~~if~~ the social security number is not assigned to the individual.

Section 8. Paragraph (b) of subsection (2) of section 443.1215, Florida Statutes, is amended to read:

443.1215 Employers.—

(2)

(b) In determining whether an employing unit for which service, other than agricultural labor, is also performed is an employer under paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), or subparagraph (1)(d)2., the wages earned or the employment of an employee performing service in agricultural labor may not be taken into account. If an employing unit is determined to be an employer of agricultural labor, the employing unit is considered an employer for purposes of paragraph (1)(a) ~~subsection (1)~~.

Section 9. Paragraphs (a) and (e) of subsection (3) of section 443.131, Florida Statutes, as amended by chapter 2010-1, Laws of Florida, are amended to read:

443.131 Contributions.—

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

(a) *Employment records.*—The regular and short-time compensation benefits paid to an eligible individual shall be charged to the employment record of each employer who paid the individual wages of at least $100 during the individual's base period in proportion to the total wages paid by all employers who paid the individual wages during the individual's base period. Benefits may not be charged to the employment record of an employer who furnishes part-time work to an individual who, because of loss of employment with one or more other employers, is eligible for partial benefits while being furnished part-time work by the employer on substantially the same basis and in substantially the same amount as the individual's employment during his or her base period, regardless of whether this part-time work is simultaneous or successive to the individual's lost employment. Further, as provided in s. 443.151(3), benefits may not be charged to the employment record of an employer who furnishes the Agency for Workforce Innovation with notice, as prescribed in ~~the~~ agency's rules, that any of the following apply:

1. If ~~When~~ an individual leaves his or her work without good cause attributable to the employer or is discharged by the employer for misconduct connected with his or her work, benefits subsequently paid to the individual based on wages paid by the employer before the separation may not be charged to the employment record of the employer.

2. If ~~When~~ an individual is discharged by the employer for unsatisfactory performance during an initial employment probationary period, benefits subsequently paid to the individual based on wages paid during the probationary period by the employer before the separation may not be charged to the employer's employment record. ~~The employer must notify the Agency for Workforce Innovation of the discharge in writing within 10 days after the mailing date of the notice of initial determination of a claim.~~ As used in this subparagraph, the term "initial employment probationary period" means an established probationary plan that applies to all employees or a specific group of employees and that does not exceed 90 calendar days following the first day a new employee begins work. The employee must be informed of the probationary period within the first 7 days of work. The employer must demonstrate by conclusive evidence that the individual was separated because of unsatisfactory work performance and not because of lack of work due to temporary, seasonal, casual, or other similar employment that is not of a regular, permanent, and year-round nature.

3. Benefits subsequently paid to an individual after his or her refusal without good cause to accept suitable work from an employer may not be charged to the employment record of the employer if ~~when~~ any part of those benefits are based on wages paid by the employer before the individual's refusal to accept suitable work. As used in this subparagraph, the term "good cause" does not include distance to employment caused by a change of residence by the individual. The Agency for Workforce Innovation shall adopt

rules prescribing~~,~~ for the payment of all benefits~~,~~ whether this subparagraph applies regardless of whether a disqualification under s. 443.101 applies to the claim.

4. If ~~When~~ an individual is separated from work as a direct result of a natural disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. ss. 5121 et seq., benefits subsequently paid to the individual based on wages paid by the employer before the separation may not be charged to the employment record of the employer.

(e) *Assignment of variations from the standard rate.*—For the calculation of contribution rates effective January 1, 2010, and thereafter:

1. The tax collection service provider shall assign a variation from the standard rate of contributions for each calendar year to each eligible employer. In determining the contribution rate, varying from the standard rate to be assigned each employer, adjustment factors computed under sub-subparagraphs a.-d. are ~~shall be~~ added to the benefit ratio. This addition shall be accomplished in two steps by adding a variable adjustment factor and a final adjustment factor. The sum of these adjustment factors computed under sub-subparagraphs a.-d. shall first be algebraically summed. The sum of these adjustment factors shall next be divided by a gross benefit ratio determined as follows: Total benefit payments for the 3-year period described in subparagraph (b)2. are ~~shall be~~ charged to employers eligible for a variation from the standard rate, minus excess payments for the same period, divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors computed under sub-subparagraphs a.-d. to the gross benefit ratio is ~~shall be~~ multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that if ~~in any instance in which~~ the sum of an employer's individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor is ~~shall be~~ reduced in order for ~~that~~ the sum to equal ~~equals~~ the maximum contribution rate. The variable adjustment factor for each of these employers is multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products is ~~shall be~~ divided by the taxable payroll of the employers who entered into the computation of their benefit ratios. The resulting ratio is ~~shall be~~ subtracted from the sum of the adjustment factors computed under sub-subparagraphs a.-d. to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor must ~~shall~~ be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor is ~~shall be~~ added to the variable adjustment factor and benefit ratio of each employer to obtain each employer's contribution rate. An employer's contribution rate may not, however, be rounded to less than 0.1 percent.

a. An adjustment factor for noncharge benefits is ~~shall be~~ computed to the fifth decimal place and rounded to the fourth decimal place by dividing the amount of noncharge benefits during the 3-year period described in

subparagraph (b)2. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the taxable payrolls for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-subparagraph, the term "noncharge benefits" means benefits paid to an individual from the Unemployment Compensation Trust Fund, but which were not charged to the employment record of any employer.

b. An adjustment factor for excess payments is ~~shall be~~ computed to the fifth decimal place, and rounded to the fourth decimal place by dividing the total excess payments during the 3-year period described in subparagraph (b) 2. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the same figure used to compute the adjustment factor for noncharge benefits under sub-subparagraph a. As used in this sub-subparagraph, the term "excess payments" means the amount of benefits charged to the employment record of an employer during the 3-year period described in subparagraph (b)2., less the product of the maximum contribution rate and the employer's taxable payroll for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-subparagraph, the term "total excess payments" means the sum of the individual employer excess payments for those employers that were eligible ~~to be considered~~ for assignment of a contribution rate different from the standard rate.

c. With respect to computing a positive adjustment factor:

(I) Beginning January 1, 2012, if the balance of the Unemployment Compensation Trust Fund on September 30 ~~June 30~~ of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 4 percent of the taxable payrolls for the year ending June 30 as reported to the tax collection service provider by September 30 of that calendar year, a positive adjustment factor shall be computed. The positive adjustment factor is ~~shall be~~ computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-third of the difference between the balance of the fund as of September 30 ~~June 30~~ of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 ~~June 30~~ of the year immediately preceding the effective date of the contribution rate equals or exceeds 5 percent of the taxable payrolls for

the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

(II) Beginning January 1, 2015, and for each year thereafter, the positive adjustment ~~authorized by this section~~ shall be computed by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of September 30 ~~June 30~~ of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 ~~June 30~~ of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

d. If, beginning January 1, 2015, and each year thereafter, the balance of the Unemployment Compensation Trust Fund as of September 30 ~~June 30~~ of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 5 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year, a negative adjustment factor must ~~shall~~ be computed. The negative adjustment factor shall be computed annually beginning on January 1, 2015, and each year thereafter, to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of September 30 ~~June 30~~ of the current calendar year and 5 percent of the total taxable payrolls of that year. The negative adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 ~~June 30~~ of the year immediately preceding the effective date of the contribution rate is less than 5 percent, but more than 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year. The negative adjustment authorized by this section is suspended in any calendar year in which repayment of the principal amount of an advance received from the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is due to the Federal Government.

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

f. As used in this subsection, "taxable payroll" shall be determined by excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000. Beginning January 1, 2012, "taxable payroll" shall be determined by excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year as described in s. 443.1217(2). For the purposes of the employer rate calculation that will take effect in January 1, 2012, and in January 1, 2013, the tax collection service provider shall use the data available for taxable payroll from 2009 based on excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000, and from 2010 and 2011, the data available for taxable payroll based on excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $8,500.

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

Section 10. Subsection (1), paragraph (a) of subsection (3), and subsection (5) of section 443.141, Florida Statutes, as amended by chapter 2010-1, Laws of Florida, are amended to read:

443.141 Collection of contributions and reimbursements.—

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

(a) *Interest.*—Contributions or reimbursements unpaid on the date due ~~shall~~ bear interest at the rate of 1 percent per month from and after that date until payment plus accrued interest is received by the tax collection service provider, unless the service provider finds that the employing unit has ~~or had~~ good reason for failing ~~failure~~ to pay the contributions or reimbursements when due. Interest collected under this subsection must be paid into the Special Employment Security Administration Trust Fund.

(b) *Penalty for delinquent, erroneous, incomplete, or insufficient reports.*

1. An employing unit that fails to file any report required by the Agency for Workforce Innovation or its tax collection service provider, in accordance with rules for administering this chapter, shall pay to the ~~tax collection~~ service provider for each delinquent report the sum of $25 for each 30 days or fraction thereof that the employing unit is delinquent, unless the agency or its service provider, whichever required the report, finds that the employing unit has ~~or had~~ good reason for failing ~~failure~~ to file the report. The agency or its service provider may assess penalties only through the date of the

issuance of the final assessment notice. However, additional penalties accrue if the delinquent report is subsequently filed.

2. An employing unit that files an erroneous, incomplete, or insufficient report with the Agency for Workforce Innovation or its tax collection service provider shall pay a penalty of $50 or 10 percent of any tax due, whichever is greater, but no more than $300 per report. The penalty shall be added to any tax, penalty, or interest otherwise due.

a. The agency or its tax collection service provider shall waive the penalty if the employing unit files an accurate, complete, and sufficient report within 30 days after a penalty notice is issued to the employing unit. The penalty may not be waived pursuant to this subparagraph more than once during a 12-month period.

b. As used in this subsection, the term "erroneous, incomplete, or insufficient report" means a report so lacking in information, completeness, or arrangement that the report cannot be readily understood, verified, or reviewed. Such reports include, but are not limited to, reports having missing wage or employee information, missing or incorrect social security numbers, or illegible entries; reports submitted in a format that is not approved by the agency or its tax collection service provider; and reports showing gross wages that do not equal the total wages of each employee. The term does not include a report that merely contains inaccurate data that was supplied to the employer by the employee if the employer was unaware of the inaccuracy.

3.~~2.~~ ~~Sums collected as~~ Penalties imposed pursuant to this paragraph ~~under subparagraph 1.~~ must be deposited in the Special Employment Security Administration Trust Fund.

4.~~3.~~ The penalty and interest for a delinquent, erroneous, incomplete, or insufficient report may be waived if ~~when~~ the penalty or interest is inequitable. The provisions of s. 213.24(1) apply to any penalty or interest that is imposed under this section.

(c) *Application of partial payments.*—If ~~When~~ a delinquency exists in the employment record of an employer not in bankruptcy, a partial payment less than the total delinquency amount shall be applied to the employment record as the payor directs. In the absence of specific direction, the partial payment shall be applied to the payor's employment record as prescribed in the rules of the Agency for Workforce Innovation or the state agency providing tax collection services.

(d) *Adoption of rules.*—The Agency for Workforce Innovation and the state agency providing unemployment tax collection services may adopt rules to administer this subsection.

(3) COLLECTION PROCEEDINGS.—

(a) *Lien for payment of contributions or reimbursements.*—

1. ~~There is created~~ A lien exists in favor of the tax collection service provider upon all the property, both real and personal, of an ~~any~~ employer liable for payment of any contribution or reimbursement levied and imposed under this chapter for the amount of the contributions or reimbursements due, together with any interest, costs, and penalties. If any contribution or reimbursement imposed under this chapter or any portion of that contribution, reimbursement, interest, or penalty is not paid within 60 days after becoming delinquent, the tax collection service provider may file ~~subsequently issue~~ a notice of lien ~~that may be filed~~ in the office of the clerk of the circuit court of any county in which the delinquent employer owns property or conducts or has conducted business. The notice of lien must include the periods for which the contributions, reimbursements, interest, or penalties are demanded and the amounts due. A copy of the notice of lien must be mailed to the employer at the employer's ~~her or his~~ last known address. The notice of lien may not be filed ~~issued and recorded~~ until 15 days after the date the assessment becomes final under subsection (2). Upon filing ~~presentation of the notice of lien~~, the clerk of the circuit court shall record the notice of lien ~~it~~ in a book maintained for that purpose.~~, and~~ The amount of the ~~notice of~~ lien, together with the cost of recording and interest accruing upon the amount of the contribution or reimbursement, becomes a lien upon the title to and interest, whether legal or equitable, in any real property, chattels real, or personal property of the employer against whom the notice of lien is issued, in the same manner as a judgment of the circuit court docketed in the office of the circuit court clerk, with execution issued to the sheriff for levy. This lien is prior, preferred, and superior to all mortgages or other liens filed, recorded, or acquired after the notice of lien is filed. Upon the payment of the amounts due, or upon determination by the tax collection service provider that the notice of lien was erroneously issued, the lien is satisfied when the service provider acknowledges in writing that the lien is fully satisfied. A lien's satisfaction does not need to be acknowledged before any notary or other public officer, and the signature of the director of the tax collection service provider or ~~his or her~~ designee is conclusive evidence of the satisfaction of the lien, which satisfaction shall be recorded by the clerk of the circuit court who receives the fees for those services.

2. The tax collection service provider may subsequently issue a warrant directed to any sheriff in this state, commanding him or her to levy upon and sell any real or personal property of the employer liable for any amount under this chapter within his or her jurisdiction, for payment, with the added penalties and interest and the costs of executing the warrant, together with the costs of the clerk of the circuit court in recording and docketing the notice of lien, and to return the warrant to the service provider with payment. The warrant may only be issued and enforced for all amounts due to the tax collection service provider on the date the warrant is issued, together with interest accruing on the contribution or reimbursement due from the employer to the date of payment at the rate provided in this section. However, if there is a ~~In the event of~~ sale of any assets of the employer, ~~however,~~ priorities under the warrant shall be determined in accordance with the priority established by any notices of lien filed by the tax collection

service provider and recorded by the clerk of the circuit court. The sheriff shall execute the warrant in the same manner prescribed by law for executions issued by the clerk of the circuit court for judgments of the circuit court. The sheriff is entitled to the same fees for executing the warrant as for a writ of execution out of the circuit court, and these fees must be collected in the same manner.

3. The lien expires 10 years after filing a notice of lien with the clerk of court. An action to collect amounts due under this chapter may not be commenced after the expiration of the lien securing the payment of the amounts owed.

(5) PRIORITIES UNDER LEGAL DISSOLUTION OR DISTRIBUTIONS.—In the event of any distribution of an ~~any~~ employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for the benefit of creditors, adjudicated insolvency, composition, administration of estates of decedents, or other similar proceeding, contributions or reimbursements then or subsequently due must be paid in full before all other claims except claims for wages of $250 or less to each claimant, earned within 6 months after the commencement of the proceeding, and on a parity with all other tax claims wherever those tax claims are given priority. In the administration of the estate of a ~~any~~ decedent, the filing of notice of lien is a proceeding required upon protest of the claim filed by the tax collection service provider for contributions or reimbursements due under this chapter, and the claim must be allowed by the circuit judge. However, the personal representative of the decedent~~, however,~~ may, by petition to the circuit court, object to the validity of the tax collection service provider's claim, and proceedings shall be conducted in the circuit court for the determination of the validity of the service provider's claim. Further, the bond of the personal representative may not be discharged until the claim is finally determined by the circuit court. If ~~When~~ a bond is not given by the personal representative, the assets of the estate may not be distributed until the final determination by the circuit court. Upon distribution of the assets of the estate ~~of any decedent~~, the tax collection service provider's claim has a class 8 priority as established in s. 733.707(1)(h), subject to the above limitations with reference to wages. In the event of an ~~any~~ employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Reform Act of 1978 ~~1898~~, as amended, contributions or reimbursements then or subsequently due are entitled to priority as is provided in 11 U.S.C. s. 507(a)(8) ~~s. 64B of that act (U.S.C. Title II, s. 104(b), as amended)~~.

Section 11. Effective July 1, 2010, subsections (2) and (3), paragraph (b) of subsection (5), and subsection (6) of section 443.151, Florida Statutes, are amended to read:

443.151 Procedure concerning claims.—

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

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

(b) *Process.*—When the Unemployment Compensation Claims and Benefits Information System described in s. 443.1113 is fully operational, the process for filing claims must incorporate the process for registering for work with the workforce information systems established pursuant to s. 445.011. A claim for benefits may not be processed until the work registration requirement is satisfied. The Agency for Workforce Innovation may adopt rules as necessary to administer the work registration requirement set forth in this paragraph.

(3) DETERMINATION OF ELIGIBILITY.—

(a) *Notices of claim* ~~*In general.*~~—The Agency for Workforce Innovation shall promptly provide a notice of claim to the claimant's most recent employing unit and all employers whose employment records are liable for benefits under the monetary determination ~~make an initial determination for each claim filed under subsection (2)~~. The employer must respond to the notice of claim within 20 days after the mailing date of the notice, or in lieu of mailing, within 20 days after the delivery of the notice. If a contributing employer fails to timely respond to the notice of claim, the employer's account may not be relieved of benefit charges as provided in s. 443.131(3)(a), notwithstanding paragraph (5)(b). The agency may adopt rules as necessary to implement the processes described in this paragraph relating to notices of claim.

(b) *Monetary determinations.*—In addition to the notice of claim, the agency shall also promptly provide an initial monetary determination to the claimant and each base period employer whose account is subject to being charged for its respective share of benefits on the claim. The monetary determination must include a statement of whether and in what amount the claimant is entitled to benefits, and, in the event of a denial, must state the reasons for the denial. A monetary determination for the first week of a benefit year must also include a statement of whether the claimant was paid the wages required under s. 443.091(1)(g) ~~443.091(1)(f)~~ and, if so, the first day of the benefit year, the claimant's weekly benefit amount, and the maximum total amount of benefits payable to the claimant for a benefit year. ~~The Agency for Workforce Innovation shall promptly notify the claimant, the claimant's most recent employing unit, and all employers whose employment records are liable for benefits under the determination of the initial determination.~~ The monetary determination is final unless within 20 days after the mailing of the notices to the parties' last known addresses, or in lieu of mailing, within 20 days after the delivery of the notices, an appeal or

written request for reconsideration is filed by the claimant or other party entitled to notice. The agency may adopt rules as necessary to implement the processes described in this paragraph relating to notices of monetary determinations and the appeals or reconsideration requests filed in response to such notices.

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

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

(e)~~(c)~~ *Redeterminations.*—

1. The Agency for Workforce Innovation may reconsider a determination if ~~when~~ it finds an error or if ~~when~~ new evidence or information pertinent to the determination is discovered after a prior determination or redetermination. A redetermination may not be made more than 1 year after the last day of the benefit year unless the disqualification for making a false or fraudulent representation under ~~in~~ s. 443.101(6) is applicable, in which case the redetermination may be made within 2 years after the false or fraudulent representation. The agency ~~for Workforce Innovation~~ must promptly give notice of redetermination to the claimant and to any employers entitled to notice in the manner prescribed in this section for the notice of an initial determination.

2. If the amount of benefits is increased by the redetermination, an appeal of the redetermination based solely on the increase may be filed as provided in subsection (4). If the amount of benefits is decreased by the redetermination, the redetermination may be appealed by the claimant if

~~when~~ a subsequent claim for benefits is affected in amount or duration by the redetermination. If the final decision on the determination or redetermination to be reconsidered was made by an appeals referee, the commission, or a court, the Agency for Workforce Innovation may apply for a revised decision from the body or court that made the final decision.

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

~~(d) *Notice of determination or redetermination.*—Notice of any monetary or nonmonetary determination or redetermination under this chapter, together with the reasons for the determination or redetermination, must be promptly given to the claimant and to any employer entitled to notice in the manner provided in this subsection. The Agency for Workforce Innovation shall adopt rules prescribing the manner and procedure by which employers within the base period of a claimant become entitled to notice.~~

(5) PAYMENT OF BENEFITS.—

(b) The Agency for Workforce Innovation shall promptly pay benefits, regardless of whether a determination is under appeal if, ~~when~~ the determination allowing benefits is affirmed in any amount by an appeals referee or is affirmed by the commission, or if a decision of an appeals referee allowing benefits is affirmed in any amount by the commission. In these instances, a court may not issue an injunction, supersedeas, stay, or other writ or process suspending payment of benefits. A contributing employer that responded to the notice of claim within the time limit provided in subsection (3) may not, however, be charged with benefits paid under an erroneous determination if the decision is ultimately reversed. Benefits are not paid for any subsequent weeks of unemployment involved in a reversal.

(6) RECOVERY AND RECOUPMENT.—

(a) Any person who, by reason of her or his fraud, receives benefits under this chapter to which she or he is not entitled is liable for repaying ~~to repay~~ those benefits to the Agency for Workforce Innovation on behalf of the trust fund or, in the agency's discretion, to have those benefits deducted from future benefits payable to her or him under this chapter. To enforce this paragraph, the agency ~~for Workforce Innovation~~ must find the existence of fraud through a redetermination or decision under this section within 2 years after the fraud was committed. Any recovery or recoupment of ~~these~~ benefits must be effected within 5 years after the redetermination or decision.

(b) Any person who, by reason other than her or his fraud, receives benefits under this chapter to which, under a redetermination or decision pursuant to this section, she or he is ~~found~~ not entitled, is liable for repaying ~~to repay~~ those benefits to the Agency for Workforce Innovation on behalf of the trust fund or, in the agency's discretion, to have those benefits deducted from any future benefits payable to her or him under this chapter. Any

recovery or recoupment of benefits must be effected within 3 years after the redetermination or decision.

(c) Any person who, by reason other than fraud, receives benefits under this chapter to which she or he is not entitled as a result of an employer's failure to respond to a claim within the timeframe provided in subsection (3) is not liable for repaying those benefits to the Agency for Workforce Innovation on behalf of the trust fund or to have those benefits deducted from any future benefits payable to her or him under this chapter.

(d)~~(c)~~ Recoupment from future benefits is not permitted if the benefits are received by any ~~such~~ person without fault on the person's part and recoupment would defeat the purpose of this chapter or would be inequitable and against good conscience.

(e)~~(d)~~ The Agency for Workforce Innovation shall collect the repayment of benefits without interest by the deduction of benefits through a redetermination or by a civil action.

(f)~~(e)~~ Notwithstanding any other provision of this chapter, any person who is determined by this state, a cooperating state agency, the United States Secretary of Labor, or a court ~~of competent jurisdiction~~ to have received any payments under the Trade Act of 1974, as amended, to which the person was not entitled shall have those payments deducted from any regular benefits, as defined in s. 443.1115(1)(e), payable to her or him under this chapter. Each such deduction ~~under this paragraph~~ may not exceed 50 percent of the amount otherwise payable. The payments deducted shall be remitted to the agency that issued the payments under the Trade Act of 1974, as amended, for return to the United States Treasury. Except for overpayments determined by a court ~~of competent jurisdiction~~, a deduction may not be made under this paragraph until a determination by the state agency or the United States Secretary of Labor is final.

Section 12. Effective July 1, 2010, subsection (2) of section 443.163, Florida Statutes, is amended to read:

443.163 Electronic reporting and remitting of contributions and reimbursements.—

(2)(a) An employer who is required by law to file an Employers Quarterly Report (UCT-6) by approved electronic means, but who files the report by a means other than approved electronic means, is liable for a penalty of $50 ~~$10~~ for that report and $1 for each employee. This penalty, ~~which~~ is in addition to any other ~~applicable~~ penalty provided by this chapter. However, ~~unless~~ the penalty does not apply if ~~employer first obtains a waiver of this requirement from~~ the tax collection service provider waives the electronic filing requirement in advance. An employer who fails to remit contributions or reimbursements by approved electronic means as required by law is liable for a penalty of $50 ~~$10~~ for each remittance submitted by a means other than

approved electronic means. This penalty, ~~which~~ is in addition to any other ~~applicable~~ penalty provided by this chapter.

(b) A person who prepared and reported for 100 or more employers in any quarter during the preceding state fiscal year, but who fails to file an Employers Quarterly Report (UCT-6) for each calendar quarter in the current calendar year by approved electronic means ~~as required by law~~, is liable for a penalty of $50 ~~$10~~ for that report and $1 for each employee. This penalty, ~~which~~ is in addition to any other ~~applicable~~ penalty provided by this chapter. However, ~~unless~~ the penalty does not apply if ~~person first obtains a waiver of this requirement from~~ the tax collection service provider waives the electronic filing requirement in advance.

Section 13. Paragraph (c) of subsection (3) of section 443.163, Florida Statutes, is amended to read:

443.163 Electronic reporting and remitting of contributions and reimbursements.—

(3) The tax collection service provider may waive the requirement to file an Employers Quarterly Report (UCT-6) by electronic means for employers that are unable to comply despite good faith efforts or due to circumstances beyond the employer's reasonable control.

(c) The Agency for Workforce Innovation or the state agency providing unemployment tax collection services may establish by rule the length of time a waiver is valid and may determine whether subsequent waivers will be authorized, based on this subsection~~; however, the tax collection service provider may only grant a waiver from electronic reporting if the employer timely files the Employers Quarterly Report (UCT-6) by telefile, unless the employer wage detail exceeds the service provider's telefile system capabilities~~.

Section 14. Paragraph (b) of subsection (2) of section 443.1715, Florida Statutes, is amended to read:

443.1715 Disclosure of information; confidentiality.—

(2) DISCLOSURE OF INFORMATION.—

(b)~~1.~~ The employer or the employer's workers' compensation carrier against whom a claim for benefits under chapter 440 has been made, or a representative of either, may request from the Agency for Workforce Innovation ~~division~~ records of wages of the employee reported to the agency ~~division~~ by any employer for the quarter that includes the date of the accident that is the subject of such claim and for subsequent quarters.

1. The request must be made with the authorization or consent of the employee or any employer who paid wages to the employee after ~~subsequent to~~ the date of the accident.

2. The employer or carrier shall make the request on a form prescribed by rule for such purpose by the agency ~~division~~. Such form shall contain a certification by the requesting party that it is a party entitled to the information requested ~~as authorized by this paragraph~~.

3. The agency ~~division~~ shall provide the most current information readily available within 15 days after receiving the request.

Section 15. Paragraph (a) of subsection (1) of section 443.101, Florida Statutes, is amended to read:

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

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

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

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

3. If ~~When~~ an individual has provided notification to the employing unit of his or her intent to voluntarily leave work and the employing unit

discharges the individual for reasons other than misconduct before ~~prior to~~ the date the voluntary quit was to take effect, the individual, if otherwise entitled, shall ~~will~~ receive benefits from the date of the employer's discharge until the effective date of his or her voluntary quit.

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

Section 16. The Legislature finds that this act fulfills an important state interest.

Section 17. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor May 17, 2010.

Filed in Office Secretary of State May 17, 2010.