

By the Committees on Judiciary; and Commerce and Tourism; and
Senators Detert and Gaetz

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1 A bill to be entitled
2 An act relating to unemployment compensation; amending
3 s. 213.053, F.S.; increasing the number of employer
4 payroll service providers who qualify for access to
5 unemployment tax information by filing a memorandum of
6 understanding; amending s. 443.031, F.S.; revising
7 provisions relating to statutory construction;
8 amending s. 443.036, F.S.; revising the definitions
9 for "available for work," "earned income,"
10 "misconduct," and "unemployment"; adding a definition
11 for "initial skills review"; amending s. 443.091,
12 F.S.; revising requirements for making continued
13 claims for benefits; requiring that an individual
14 claiming benefits report certain information and
15 participate in an initial skills review; providing an
16 exception; specifying criteria for determining an
17 applicant's availability for work; amending s.
18 443.101, F.S.; clarifying "good cause" for voluntarily
19 leaving employment; specifying acts that are "gross
20 misconduct" for purposes of discharging an employee
21 and disqualifying him or her for benefits; revising
22 the criteria for determining suitable work to reduce
23 the number of weeks a person may receive benefits
24 before having to accept a job that pays a certain
25 amount; disqualifying a person for benefits due to the
26 receipt of severance pay; revising provisions relating
27 to the effect of criminal acts on eligibility for
28 benefits; disqualifying an individual for benefits for
29 any week he or she is incarcerated; amending s.

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443.111, F.S.; revising the manner in which benefits are payable; eliminating payment by mail; providing an exception; conforming provisions to changes made by the act; amending s. 443.1115, F.S.; conforming cross-references; reviving, readopting, and amending s. 443.1117, F.S., relating to temporary extended benefits; providing for retroactive application; providing for applicability relating to extended benefits for certain weeks and for periods of high unemployment; providing for applicability; amending s. 443.1216, F.S.; providing that employee leasing companies may make a one-time election to report leased employees under the respective unemployment account of each leasing company client; providing procedures and application for such election; conforming a cross-reference; amending s. 443.141, F.S.; providing an employer payment schedule for 2012, 2013, and 2014 contributions; requiring an employer to pay a fee for paying contributions on a quarterly schedule; providing penalties, interest, and fees on delinquent contributions; amending s. 443.151, F.S.; requiring claims to be submitted by electronic means; conforming cross-references; specifying the allowable forms of evidence in an appeal hearing; specifying the judicial venue for filing a notice of appeal; providing for repayment of benefits in cases of agency error; amending s. 443.171, F.S.; specifying that evidence of mailing an agency document creates a rebuttable presumption; providing that the act

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fulfills an important state interest; providing
effective dates.

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

Section 1. Subsection (4) of section 213.053, Florida
Statutes, as amended by chapter 2010-280, Laws of Florida, is
amended to read:

213.053 Confidentiality and information sharing.—

(4) The department, while providing unemployment tax
collection services under contract with the Agency for Workforce
Innovation through an interagency agreement pursuant to s.
443.1316, may release unemployment tax rate information to the
agent of an employer, ~~which agent~~ provides payroll services for
more than 100 ~~500~~ employers, pursuant to the terms of a
memorandum of understanding. The memorandum of understanding
must state that the agent affirms, subject to the criminal
penalties contained in ss. 443.171 and 443.1715, that the agent
will retain the confidentiality of the information, that the
agent has in effect a power of attorney from the employer which
permits the agent to obtain unemployment tax rate information,
and that the agent shall provide the department with a copy of
the employer's power of attorney upon request.

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

443.031 Rule of liberal construction.—This chapter shall be
liberally construed to accomplish its purpose to promote
employment security by increasing opportunities for reemployment
and to provide, through the accumulation of reserves, for the

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88 payment of compensation to individuals with respect to their
89 unemployment. The Legislature hereby declares its intention to
90 provide for carrying out the purposes of this chapter in
91 cooperation with the appropriate agencies of other states and of
92 the Federal Government as part of a nationwide employment
93 security program, and particularly to provide for meeting the
94 requirements of Title III, the requirements of the Federal
95 Unemployment Tax Act, and the Wagner-Peyser Act of June 6, 1933,
96 entitled "An Act to provide for the establishment of a national
97 employment system and for cooperation with the states in the
98 promotion of such system, and for other purposes," each as
99 amended, in order to secure for this state and its citizens the
100 grants and privileges available under such acts. All doubts ~~in~~
101 ~~favor of a claimant of unemployment benefits who is unemployed~~
102 ~~through no fault of his or her own. Any doubt~~ as to the proper
103 construction of any provision of this chapter shall be resolved
104 in favor of conformity with such requirements ~~federal law,~~
105 ~~including, but not limited to, the Federal Unemployment Tax Act,~~
106 ~~the Social Security Act, the Wagner-Peyser Act, and the~~
107 ~~Workforce Investment Act.~~

108 Section 3. Effective July 1, 2011, present subsections (26)
109 through (45) of section 443.036, Florida Statutes, are
110 redesignated as subsection (27) through (46) respectively, new
111 subsection (26) is added to that section, and present
112 subsections (6), (9), (16), (29), and (43) of that section are
113 amended, to read:

114 443.036 Definitions.—As used in this chapter, the term:

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

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117 (9) "Benefit year" means, for an individual, the 1-year
118 period beginning with the first day of the first week for which
119 the individual first files a valid claim for benefits and,
120 thereafter, the 1-year period beginning with the first day of
121 the first week for which the individual next files a valid claim
122 for benefits after the termination of his or her last preceding
123 benefit year. Each claim for benefits made in accordance with s.
124 443.151(2) is a valid claim ~~under this subsection~~ if the
125 individual was paid wages for insured work in accordance with s.
126 443.091(1)(g) and is unemployed ~~as defined in subsection (43)~~ at
127 the time of filing the claim. However, the Agency for Workforce
128 Innovation may adopt rules providing for the establishment of a
129 uniform benefit year for all workers in one or more groups or
130 classes of service or within a particular industry if the agency
131 determines, after notice to the industry and to the workers in
132 the industry and an opportunity to be heard in the matter, that
133 those groups or classes of workers in a particular industry
134 periodically experience unemployment resulting from layoffs or
135 shutdowns for limited periods of time.

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

143 (26) "Initial skills review" means an online education or
144 training program, such as that established under s. 1004.99,
145 which is approved by the Agency for Workforce Innovation and

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146 designed to measure an individual's mastery level of workplace
147 skills.

148 ~~(30)(29)~~ "Misconduct" includes, but is not limited to, the
149 following, which may not be construed in pari materia with each
150 other:

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

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

162 ~~(44)(43)~~ "Unemployment" or "unemployed" means:

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

174 (b) An individual's week of unemployment commences only

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175 after ~~his or her~~ registration with the Agency for Workforce
176 Innovation as required in s. 443.091, ~~except as the agency may~~
177 ~~otherwise prescribe by rule.~~

178 Section 4. Effective July 1, 2011, paragraphs (b), (c),
179 (d), and (f) of subsection (1) of section 443.091, Florida
180 Statutes, are amended to read:

181 443.091 Benefit eligibility conditions.—

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

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

- 189 1. Non-Florida residents;
190 2. On a temporary layoff, ~~as defined in s. 443.036(42);~~
191 3. Union members who customarily obtain employment through
192 a union hiring hall; or
193 4. Claiming benefits under an approved short-time
194 compensation plan as provided in s. 443.1116.

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

- 203 1. For each week of unemployment claimed, each report must,

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at a minimum, include the name, address, and telephone number of
each prospective employer contacted, or the date the claimant
reported to a one-stop career center, pursuant to paragraph (d).

2. The administrator or operator of the initial skills
review shall notify the agency when the individual completes the
initial skills review and report the results of the review to
the regional workforce board or the one-stop career center as
directed by the workforce board. The workforce board shall use
the initial skills review to develop a plan for referring
individuals to training and employment opportunities. The
failure of the individual to comply with this requirement will
result in the individual being determined ineligible for
benefits for the week in which the noncompliance occurred and
for any subsequent week of unemployment until the requirement is
satisfied. However, this requirement does not apply if the
individual is able to affirmatively attest to being unable to
complete such review due to illiteracy or a language impediment.

(d) 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 shall develop criteria to determine a claimant's
ability to work and availability for work. A claimant must be
actively seeking work in order to be considered available for
work. This means engaging in systematic and sustained efforts to
find work, including contacting at least five prospective
employers for each week of unemployment claimed. The agency may
require the claimant to provide proof of such efforts to the
one-stop career center as part of reemployment services. The
agency shall conduct random reviews of work search information
provided by claimants. As an alternative to contacting at least

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233 five prospective employers for any week of unemployment claimed,
234 a claimant may, for that same week, report in person to a one-
235 stop career center to meet with a representative of the center
236 and access reemployment services of the center. The center shall
237 keep a record of the services or information provided to the
238 claimant and shall provide the records to the agency upon
239 request by the agency. However:

240 1. Notwithstanding any other provision of this paragraph or
241 paragraphs (b) and (e), an otherwise eligible individual may not
242 be denied benefits for any week because she or he is in training
243 with the approval of the agency, or by reason of s. 443.101(3)
244 ~~443.101(2)~~ relating to failure to apply for, or refusal to
245 accept, suitable work. Training may be approved by the agency in
246 accordance with criteria prescribed by rule. A claimant's
247 eligibility during approved training is contingent upon
248 satisfying eligibility conditions prescribed by rule.

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

261 3. Notwithstanding any other provision of this section, an

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otherwise eligible individual may not be denied benefits for any week because she or he is before any state or federal court pursuant to a lawfully issued summons to appear for jury duty.

(f) 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 unless:

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(6) 443.101(5)~~.

Section 5. Effective July 1, 2011, paragraph (a) of subsection (1) and present subsections (2), (3), (9), and (11) of section 443.101, Florida Statutes, are amended, present subsections (2) through (11) of that section are redesignated as subsections (3) through (13), respectively, and new subsections (2) and (12) are added to that section, 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 work without good cause attributable to his or her employing unit or ~~in which the individual~~ has been discharged by the 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

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individual 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 greater than ~~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 which would compel a reasonable individual to cease working or attributable to ~~which consists of~~ the individual's illness or disability 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, or. ~~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 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 following ~~follow~~ that week, as determined by the agency in each case according to the circumstances ~~in each case~~ or the seriousness of the misconduct, under the agency's rules adopted for determining ~~determinations of~~ disqualification for benefits for misconduct.

3. If an individual has provided notification to the

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employing unit of his or her intent to voluntarily leave work and the employing unit discharges the individual for reasons other than misconduct before the date the voluntary quit was to take effect, the individual, if otherwise entitled, shall receive benefits from the date of the employer's discharge until the effective date of his or her voluntary quit.

4. If 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 the date the discharge was to take effect, the claimant is ineligible for benefits pursuant to s. 443.091(1)(d) for failing to be available for work for the week or weeks of unemployment occurring before the effective date of the discharge.

(2) For the week the individual has been discharged by the employing unit for gross misconduct, based on a finding by the Agency for Workforce Innovation. Disqualification for being discharged for gross misconduct continues for the full period of unemployment next ensuing after having been discharged and until the individual is reemployed and has earned income of at least 17 times his or her weekly benefit amount. As used in this subsection, the term "gross misconduct" means any of the following:

(a) Willful or reckless damage to an employer's property which results in damage of more than \$50.

(b) Theft of the property of an employer, a customer, or an invitee of the employer.

(c) Violation of an employer's policy relating to the consumption of alcohol or drugs on the employer property, being

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under the influence of alcohol or drugs on employer property, or using alcohol or drugs while on the job or on duty. As used in this paragraph, the term "alcohol or drugs" has the same meaning as in s. 440.102(1)(c).

(d) Failure to comply with an employer's drug and alcohol testing and use policies while on the job or on duty.

(e) Failure to comply with applicable state or federal drug and alcohol testing and use regulations, including, but not limited to, 49 C.F.R. part 40 and part 382 of the Federal Motor Carrier Safety Regulations, while on the job or on duty, and regulations applicable to employees performing transportation and other safety-sensitive job functions as defined by the Federal Government.

(f) Assault or battery of another employee or of a customer or invitee of the employer.

(g) Abuse of a patient, resident, disabled person, elderly person, or child in her or his professional care.

(h) Insubordination, which is defined as the willful failure to comply with a lawful, reasonable order of a supervisor which is directly related to the employee's employment as described in an applicable written job description, the written rules of conduct, or other lawful directive of the employer. Except in cases of severe insubordination, the employee must have received at least one written warning from the employer before being discharged from employment.

(i) Willful neglect of duty directly related to the employee's employment as described in an applicable written job description or written rules of conduct. Except in cases of

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378 severe willful neglect, the employee must have received at least
379 one written warning from the employer before being discharged
380 from employment.

381 (j) Failure to maintain a license, registration, or
382 certification required by law in order for the employee to
383 perform her or his assigned job duties as described in an
384 written job description.

385 (3)(2) If the Agency for Workforce Innovation finds that
386 the individual has failed without good cause to apply for
387 available suitable work ~~when directed by the agency or the one-~~
388 ~~stop career center,~~ to accept suitable work when offered to him
389 or her, or to return to the individual's customary self-
390 employment when directed by the agency, the disqualification
391 continues for the full period of unemployment next ensuing after
392 he or she failed without good cause to apply for available
393 suitable work, to accept suitable work, or to return to his or
394 her customary self-employment, ~~under this subsection,~~ and until
395 the individual has earned income of at least 17 times his or her
396 weekly benefit amount. The Agency for Workforce Innovation shall
397 by rule adopt criteria for determining the "suitability of
398 work," as used in this section. ~~The agency for Workforce~~
399 ~~Innovation~~ In developing these rules, the agency shall consider
400 the duration of a claimant's unemployment in determining the
401 suitability of work and the suitability of proposed rates of
402 compensation for available work. Further, after an individual
403 has received 19 ~~25~~ weeks of benefits in a single year, suitable
404 work is a job that pays the minimum wage and is 120 percent or
405 more of the weekly benefit amount the individual is drawing.

406 (a) In determining whether or not any work is suitable for

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407 an individual, the agency ~~for Workforce Innovation~~ shall
408 consider the degree of risk ~~involved~~ to the individual's ~~his or~~
409 ~~her~~ health, safety, and morals; the individual's ~~his or her~~
410 physical fitness, and prior training, ~~the individual's~~
411 experience, and prior earnings, ~~his or her~~ length of
412 unemployment, and prospects for securing local work in his or
413 her customary occupation; and the distance of the available work
414 from his or her residence.

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

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

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

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

427 (c) If the agency ~~for Workforce Innovation~~ finds that an
428 individual was rejected for offered employment as the direct
429 result of a positive, confirmed drug test required as a
430 condition of employment, the individual is disqualified for
431 refusing to accept an offer of suitable work.

432 (4) ~~(3)~~ For any week with respect to which he or she is
433 receiving or has received remuneration in the form of:

434 (a) Wages in lieu of notice.

435 (b) Severance pay. The number of weeks that an individual's

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severance pay disqualifies the individual is equal to the amount
of the severance pay divided by the individual's average weekly
wage received from the employer that paid the severance pay,
rounded down to the nearest whole number, beginning with the
week the individual separated from that employer.

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

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

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

(a) If the Agency for Workforce Innovation or the
Unemployment Appeals Commission finds that the individual was
terminated from ~~his or her~~ work for violation of any criminal
law, under any jurisdiction, which was punishable by
~~imprisonment~~ in connection with his or her work or affected his
or her ability to perform work, and the individual was
convicted, or entered a plea of guilty or nolo contendere ~~found~~
~~guilty of the offense, made an admission of guilt in a court of~~
~~law, or entered a plea of no contest,~~ the individual is not
entitled to unemployment benefits for up to 52 weeks, pursuant

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465 ~~to under~~ rules adopted by the agency ~~for Workforce Innovation,~~
466 and until he or she has earned income of at least 17 times his
467 or her weekly benefit amount. If, before an adjudication of
468 guilt, an admission of guilt, or a plea of nolo contendere ~~no~~
469 ~~contest,~~ the employer proves by competent, substantial evidence
470 ~~to shows~~ the agency ~~for Workforce Innovation~~ that the arrest was
471 due to a crime against the employer or the employer's business,
472 customers, or invitees ~~and, after considering all the evidence,~~
473 ~~the Agency for Workforce Innovation finds misconduct in~~
474 ~~connection with the individual's work,~~ the individual is not
475 entitled to unemployment benefits.

476 (b) If the Agency for Workforce Innovation or the
477 Unemployment Appeals Commission finds that the individual was
478 terminated from work for any dishonest act in connection with
479 his or her work, the individual is not entitled to unemployment
480 benefits for up to 52 weeks, pursuant to ~~under~~ rules adopted by
481 the agency ~~for Workforce Innovation,~~ and until he or she has
482 earned income of at least 17 times his or her weekly benefit
483 amount. ~~In addition,~~ If the employer terminates an individual as
484 a result of a dishonest act in connection with his or her work
485 and the agency ~~for Workforce Innovation~~ finds misconduct in
486 connection with his or her work, the individual is not entitled
487 to unemployment benefits.

488
489 ~~If With respect to~~ an individual is disqualified for benefits,
490 the account of the terminating employer, if the employer is in
491 the base period, is noncharged at the time the disqualification
492 is imposed.

493 (12) For any week in which the individual is unavailable

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494 for work due to incarceration or imprisonment.

495 (13)~~(11)~~ If an individual is discharged from employment for
496 drug use as evidenced by a positive, confirmed drug test as
497 provided in paragraph (1) (d), or is rejected for offered
498 employment because of a positive, confirmed drug test as
499 provided in paragraph (3) (c) ~~(2) (e)~~, test results and chain of
500 custody documentation provided to the employer by a licensed and
501 approved drug-testing laboratory is self-authenticating and
502 admissible in unemployment compensation hearings, and such
503 evidence creates a rebuttable presumption that the individual
504 used, or was using, controlled substances, subject to the
505 following ~~conditions~~:

506 (a) To qualify for the presumption ~~described in this~~
507 ~~subsection~~, an employer must have implemented a drug-free
508 workplace program under ss. 440.101 and 440.102~~7~~, and ~~must~~ submit
509 proof that the employer has qualified for the insurance
510 discounts provided under s. 627.0915, as certified by the
511 insurance carrier or self-insurance unit. In lieu of these
512 requirements, an employer who does not fit the definition of
513 "employer" in s. 440.102 may qualify for the presumption if the
514 employer is in compliance with equivalent or more stringent
515 drug-testing standards established by federal law or regulation.

516 (b) Only laboratories licensed and approved as provided in
517 s. 440.102(9), or as provided by equivalent or more stringent
518 licensing requirements established by federal law or regulation
519 may perform the drug tests.

520 (c) Disclosure of drug test results and other information
521 pertaining to drug testing of individuals who claim or receive
522 compensation under this chapter is ~~shall be~~ governed by s.

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443.1715.

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

443.111 Payment of benefits.—

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

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

(b) As required under s. 443.091(1), each claimant must report ~~in the manner prescribed by the agency for Workforce Innovation to certify for benefits that are paid and must continue to report~~ at least biweekly to receive unemployment benefits and to attest to the fact that she or he is able and available for work, has not refused suitable work, is seeking work and has contacted at least five prospective employers or reported in person to a one-stop career center for reemployment services for each week of unemployment claimed, and, if she or

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he has worked, to report earnings from that work. Each claimant must continue to report regardless of any appeal or pending appeal relating to her or his eligibility or disqualification for benefits.

Section 7. Effective July 1, 2011, paragraph (c) of subsection (3) of section 443.1115, Florida Statutes, is amended to read:

443.1115 Extended benefits.—

(3) ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.—

(c)1. An individual is disqualified from receiving extended benefits if the Agency for Workforce Innovation finds that, during any week of unemployment in her or his eligibility period:

a. She or he failed to apply for suitable work or, if offered, failed to accept suitable work, unless the individual can furnish to the agency satisfactory evidence that her or his prospects for obtaining work in her or his customary occupation within a reasonably short period are good. If this evidence is deemed satisfactory ~~for this purpose~~, the determination of whether any work is suitable for the individual shall be made in accordance with the definition of suitable work in s. 443.101(3) ~~443.101(2)~~. This disqualification begins with the week the failure occurred and continues until she or he is employed for at least 4 weeks and receives earned income of at least 17 times her or his weekly benefit amount.

b. She or he failed to furnish tangible evidence that she or he actively engaged in a systematic and sustained effort to find work. This disqualification begins with the week the failure occurred and continues until she or he is employed for

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581 at least 4 weeks and receives earned income of at least 4 times
582 her or his weekly benefit amount.

583 2. Except as otherwise provided in sub-subparagraph 1.a.,
584 as used in this paragraph, the term "suitable work" means any
585 work within the individual's capabilities to perform, if:

586 a. The gross average weekly remuneration payable for the
587 work exceeds the sum of the individual's weekly benefit amount
588 plus the amount, if any, of supplemental unemployment benefits,
589 as defined in s. 501(c)(17)(D) of the Internal Revenue Code of
590 1954, as amended, payable to the individual for that week;

591 b. The wages payable for the work equal the higher of the
592 minimum wages provided by s. 6(a)(1) of the Fair Labor Standards
593 Act of 1938, without regard to any exemption, or the state or
594 local minimum wage; and

595 c. The work otherwise meets the definition of suitable work
596 in s. 443.101(3) ~~443.101(2)~~ to the extent that the criteria for
597 suitability are not inconsistent with this paragraph.

598 Section 8. Notwithstanding the expiration date contained in
599 section 1 of chapter 2010-90, Laws of Florida, operating
600 retroactive to December 17, 2010, and expiring January 4, 2012,
601 section 443.1117, Florida Statutes, is revived, readopted, and
602 amended to read:

603 443.1117 Temporary extended benefits.—

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

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

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

(b) "Eligibility period" means 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, Pub. L. No. 111-205, and Pub. L. No. 111-312.

(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:

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

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

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

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

665 (g) "State 'on' indicator" means, with respect to weeks of
666 unemployment ~~beginning on or after February 1, 2009, and ending~~
667 on or before December 10, 2011 ~~May 8, 2010~~, the occurrence of a

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week in which the average total unemployment rate, seasonally adjusted, as determined by the United States Secretary of Labor, for 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 any or all ~~each~~ of the preceding 3 ~~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 December 10, 2011~~ May 8, 2010, any week in which the average total unemployment rate, seasonally adjusted, as determined by the United States Secretary of Labor, for 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 any or all ~~each~~ of the preceding 3 ~~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

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697 under this chapter in the applicable benefit year; or

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

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

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

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

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

719 Section 9. The provisions of s. 443.1117, Florida Statutes,
720 as revived, readopted, and amended by this act, apply only to
721 claims for weeks of unemployment in which an exhaustee
722 establishes entitlement to extended benefits pursuant to that
723 section which are established for the period between December
724 17, 2010, and January 4, 2012.

725 Section 10. Effective July 1, 2011, paragraph (a) of

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subsection (1) and paragraph (f) of subsection (13) of section 443.1216, Florida Statutes, are amended to read:

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

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

1. An officer of a corporation.

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

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

(I) The election applies to all of the leasing company's

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755 current and future clients.

756 (II) The leasing company must notify the Agency for
757 Workforce Innovation or the tax collection service provider of
758 its election by August 1, and such election applies to reports
759 and contributions for the first quarter of the following
760 calendar year. The notification must include:

761 (A) A list of each client company and its unemployment
762 account number;

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

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

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

770 (IV) The employee leasing company must file a Florida
771 Department of Revenue Employer's Quarterly Report (UCT-6) for
772 each client company and pay all contributions by approved
773 electronic means.

774 (V) For the purposes of calculating experience rates, the
775 election is treated like a total or partial succession,
776 depending on the percentage of employees leased. If the client
777 company leases only a portion of its employees from the leasing
778 company, the client company shall continue to report the
779 nonleased employees under its tax rate based on the experience
780 of the nonleased employees.

781 (VI) A leasing company that makes a one-time election under
782 this sub-subparagraph is not required to submit quarterly
783 Multiple Worksite Reports required by sub-subparagraphs c. and

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d.

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

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

~~c.a.~~ In addition to any other report required to be filed by law, an employee leasing company shall submit a report to the Labor Market Statistics Center within the Agency for Workforce Innovation which includes each client establishment and each establishment of the ~~employee~~ leasing company, or as otherwise directed by the agency. The report must include the following information for each establishment:

(I) The trade or establishment name;

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

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

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

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

(VI) The address of the physical location;

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

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

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

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

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

~~d.b.~~ The report shall be submitted electronically or in a
manner otherwise prescribed by the Agency for Workforce
Innovation in the format specified by the Bureau of Labor
Statistics of the United States Department of Labor for its
Multiple Worksite Report for Professional Employer
Organizations. The report must be provided quarterly to the
Labor Market Statistics Center within the agency ~~for Workforce~~
~~Innovation~~, or as otherwise directed by the agency, and must be

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842 filed by the last day of the month immediately following the end
843 of the calendar quarter. The information required in sub-sub-
844 subparagraphs c.(X) and (XI) ~~a.(X) and (XI)~~ need be provided
845 only in the quarter in which the contract to which it relates
846 was entered into or terminated. The sum of the employment data
847 and the sum of the wage data in this report must match the
848 employment and wages reported in the unemployment compensation
849 quarterly tax and wage report. A report is not required for any
850 calendar quarter preceding the third calendar quarter of 2010.

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

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

858 3. An individual other than an individual who is an
859 employee under subparagraph 1. or subparagraph 2., who performs
860 services for remuneration for any person:

861 a. As an agent-driver or commission-driver engaged in
862 distributing meat products, vegetable products, fruit products,
863 bakery products, beverages other than milk, or laundry or
864 drycleaning services for his or her principal.

865 b. As a traveling or city salesperson engaged on a full-
866 time basis in the solicitation on behalf of, and the
867 transmission to, his or her principal of orders from
868 wholesalers, retailers, contractors, or operators of hotels,
869 restaurants, or other similar establishments for merchandise for
870 resale or supplies for use in their business operations. This

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sub-subparagraph does not apply to an agent-driver or a commission-driver and does not apply to sideline sales activities performed on behalf of a person other than the salesperson's principal.

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

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

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

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

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

(f) Service performed in the employ of a public employer as defined in s. 443.036, except as provided in subsection (2), and service performed in the employ of an instrumentality of a public employer as described in s. 443.036(36)(b) ~~443.036(35)(b)~~ or (c), to the extent that the instrumentality is immune under the United States Constitution from the tax imposed by s. 3301 of the Internal Revenue Code for that service.

Section 11. Present paragraph (f) of subsection (1) of section 443.141, Florida Statutes, is redesignated as paragraph (g), and a new paragraph (f) is added to that subsection, to read:

443.141 Collection of contributions and reimbursements.—

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

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

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

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

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

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

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

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929 year if the employer pays the contribution in accordance with
930 subparagraphs 1.-4. Interest and fees continue to accrue on
931 prior delinquent contributions and commence accruing on all
932 contributions due for wages paid in the first three quarters of
933 each year which are not paid in accordance with subparagraphs
934 1.-3. Penalties may be assessed in accordance with this chapter.
935 The contributions due for wages paid in the fourth quarter of
936 2012, 2013, and 2014 are not affected by this paragraph and are
937 due and payable in accordance with this chapter.

938 Section 12. Effective July 1, 2011, paragraph (a) of
939 subsection (2), paragraphs (d) and (e) of subsection (3), and
940 paragraphs (b) and (e) of subsection (4) of section 443.151,
941 Florida Statutes, are amended, present paragraphs (c) through
942 (f) of subsection (6) of that section are redesignated as
943 paragraphs (d) through (g), respectively, and a new paragraph
944 (c) is added to that subsection, to read:

945 443.151 Procedure concerning claims.—

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

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

957 (3) DETERMINATION OF ELIGIBILITY.—

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958 (d) *Determinations in labor dispute cases.*—~~If a~~ ~~Whenever~~
959 ~~any~~ claim involves a labor dispute described in s. 443.101(5)
960 ~~443.101(4)~~, the Agency for Workforce Innovation shall promptly
961 assign the claim to a special examiner who shall make a
962 determination on the issues involving unemployment due to the
963 labor dispute. The special examiner shall make the determination
964 after an investigation, as necessary. The claimant or another
965 party entitled to notice of the determination may appeal a
966 determination under subsection (4).

967 (e) *Redeterminations.*—

968 1. The Agency for Workforce Innovation may reconsider a
969 determination if it finds an error or if new evidence or
970 information pertinent to the determination is discovered after a
971 prior determination or redetermination. A redetermination may
972 not be made more than 1 year after the last day of the benefit
973 year unless the disqualification for making a false or
974 fraudulent representation under s. 443.101(7) ~~443.101(6)~~ is
975 applicable, in which case the redetermination may be made within
976 2 years after the false or fraudulent representation. The agency
977 must promptly give notice of redetermination to the claimant and
978 to any employers entitled to notice in the manner prescribed in
979 this section for the notice of an initial determination.

980 2. If the amount of benefits is increased by the
981 redetermination, an appeal of the redetermination based solely
982 on the increase may be filed as provided in subsection (4). If
983 the amount of benefits is decreased by the redetermination, the
984 redetermination may be appealed by the claimant if a subsequent
985 claim for benefits is affected in amount or duration by the
986 redetermination. If the final decision on the determination or

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redetermination to be reconsidered was made by an appeals referee, the commission, or a court, the Agency for Workforce Innovation may apply for a revised decision from the body or court that made the final decision.

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

(4) APPEALS.—

(b) *Filing and hearing.*—

1. The claimant or any other party entitled to notice of a determination may appeal an adverse determination to an appeals referee within 20 days after the date of mailing ~~of~~ the notice to her or his last known address or, if the notice is not mailed, within 20 days after the date of delivering ~~delivery of~~ the notice.

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

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

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for failure to appeal timely, the appeal shall be dismissed.

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

5. Any part of the evidence may be received in written form, and all testimony of parties and witnesses must be made under oath.

a. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs is admissible, whether or not such evidence would be admissible in a trial in state court.

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

(I) The party against whom it is offered has a reasonable opportunity to review it before the hearing; and

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

~~6.5-~~ The parties must be notified promptly of the referee's decision. The referee's decision is final unless further review is initiated under paragraph (c) within 20 days after the date

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of mailing notice of the decision to the party's last known address or, in lieu of mailing, within 20 days after the delivery of the notice.

(e) *Judicial review.*—Orders of the commission entered under paragraph (c) are subject to review only by notice of appeal in the district court of appeal ~~in the appellate district in which the issues involved were decided by an appeals referee.~~ If the notice of appeal is filed by the claimant, it must be filed in the appellate district in which the claimant resides. If the notice of appeal is filed by the employer, it must be filed in the appellate district in which the business is located. However, if the claimant does not reside in this state or the business is not located in this state, the notice of appeal must be filed in the appellate district in which the order was issued. Notwithstanding chapter 120, the commission is a party respondent to every such proceeding. The Agency for Workforce Innovation may initiate judicial review of orders in the same manner and to the same extent as any other party.

(6) RECOVERY AND RECOUPMENT.—

(c) Any person who, by reason other than fraud, receives benefits under this chapter for which she or he is not entitled due to the failure of the Agency for Workforce Innovation to make and provide notice of a nonmonetary determination under paragraph (3)(c) within 30 days after filing a new claim, is liable for repaying up to 5 weeks of benefits received to the agency on behalf of the trust fund or may have those benefits deducted from any future benefits payable to her or him under this chapter.

Section 13. Subsection (10) is added to section 443.171,

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Florida Statutes, to read:

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

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

Section 14. The Legislature finds that this act fulfills an
important state interest.

Section 15. Except as otherwise expressly provided in this
act, this act shall take effect upon becoming a law.