



ECONOMIC DEVELOPMENT & COMMUNITY AFFAIRS POLICY COUNCIL

Meeting Packet

**Tuesday, February 9, 2010
3:45 PM
404 HOB**

Council Meeting Notice
HOUSE OF REPRESENTATIVES

Economic Development & Community Affairs Policy Council

Start Date and Time: Tuesday, February 09, 2010 03:45 pm

End Date and Time: Tuesday, February 09, 2010 06:00 pm

Location: 404 HOB

Duration: 2.25 hrs

Consideration of the following proposed council bill(s):

PCB EDCA 10-01 -- Unemployment Compensation

NOTICE FINALIZED on 02/02/2010 15:58 by ADEYEMO.MARTHA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDCA 10-01 Unemployment Compensation
SPONSOR(S): Economic Development & Community Affairs Policy Council
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Economic Development & Community Affairs Policy Council		Kruse	Tinker
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

This bill amends portions of the unemployment compensation (UC) statutes and suspends for a period of time changes made in the 2009 Legislative session to the calculation of an employer’s unemployment compensation tax. The bill makes the following changes:

- Reduces the taxable wage base from \$8,500 to \$7,000 for two years. In 2012, the wage base returns to \$8,500 and then sunsets back to \$7,000 in 2015 under current law provisions.
- Suspends the positive adjustment factor for the next two years. Regardless of the balance in the Unemployment Compensation Trust Fund, no rate increase will be triggered since the positive adjustment factor will not be applied. The adjustment factor is effective again beginning January 1, 2012, with a three year recoupment period and then returns to a four year recoupment period under current law provisions, January 1, 2015.
- Allows employers to make their 2010 and 2011 UC tax payments in quarterly installments without interest or penalties as long as the employer makes the quarterly filing and payment according to the new schedule.
- Provides for payment of interest on federal advances through an employer assessment

The bill also provides for an extension of the “State Extended Benefits” (EB) program, effective January 2, 2010 through February 27, 2010, which is 100 percent federally funded under recent changes made by Congress specifically for this EB extension. EB will cover up to 8 additional weeks for claimants. Approximately 15,000 Floridians would be eligible to receive additional weeks through EB.

The total cost to state and local governments to implement EB is approximately \$612,633. The fiscal impact on the Department of Revenue for implementing the unemployment compensation tax change in FY 09/10 is \$1.27 million, \$1.88 million in FY 10/11, and with a recurring impact of \$387,700. (See Fiscal Impact sections)

The legislation provides short term relief to businesses by reducing the UC tax in 2010 and 2011 below current law requirements. However, assuming the current economic and revenue forecasts, this will result in the UC tax significantly increasing in 2012. Further, this legislation will result in greater borrowing from the federal government to pay benefits, and more interest due to the federal government on that borrowing than under current law. (See Fiscal Comments)

The bill is effective upon becoming law, retroactive to June 29, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida employers pay a state Unemployment Compensation (UC) tax, the proceeds of which are deposited in the state UC Trust Fund to pay benefits. The calculation of the tax is based on a statutory formula, which, among other things, takes into account the balance of the UC Trust Fund as of June 30th each year.

In early 2009, the UC Trust Fund was projected to hit a hard deficit by August 2009. During the 2009 Legislative session, CS/CS/SB 810 was enacted to make changes to replenish the UC Trust Fund sooner than under the law at the time. These changes included:

- Increasing the portion of an individual's wages used to determine an employer's contributions from \$7,000 to \$8,500.
- Increasing the positive adjustment factor (low trigger) from 3.75 percent to 4 percent. By statute, changes in the employer contribution rate are based upon the ratio of the Unemployment Compensation Trust Fund balance to the total taxable state payrolls as of June 30 each year. When the trust fund balance drops below 4% of the total taxable state payrolls as of June 30th, an adjustment factor is triggered to increase the employer contribution rates that will become effective on the following January 1st.
- Increasing the negative adjustment factor (high trigger) from 4.7 percent to 5 percent. If the ratio of the Unemployment Compensation Trust Fund balance to the total taxable state payrolls is above the high trigger, employer contribution rates are decreased to avoid having an unduly high trust fund balance. This rate will remain in effect until the fund balance is between 4 and 5 percent of taxable payrolls for the year. However, the negative adjustment factor is suspended in any calendar year in which an advance, or loan, from the federal government is still in repayment for the principal amount of the loan and delays the annual computation of the negative adjustment factor until January 1, 2015.
- Providing temporary state extended benefits to fulfill the federal option to adopt the alternative extended benefits trigger, as set forth in the American Recovery and Reinvestment Act of 2009, using the total unemployment rate rather than the insured unemployment rate calculation.

For the calculation of the 2010 taxes, the UC Trust Fund balance was about .89% of the previous 1-year taxable payrolls. Thus, the "low trigger" turned "on". The rates have been calculated for each Florida business that pays UC tax. The figures show that a business paying the minimum tax rate, which is the majority of Florida businesses-265,000, will see a tax rate increase from .0012 to .0118. This means that a business that paid \$8.40 per employee under the previous rate will pay \$100.30 per

employee in 2010. Those businesses at the maximum rate will see an increase from \$378 to \$459 per employee. Since most employers will have paid the \$8,500 wage base to their employees in the first or second quarter of the year, the bill will be due to these businesses in the first or second quarter of 2010.

In general, an employer's unemployment tax is determined using three factors, the fund size factor, the non-charges and excess payments factor, and a variable factor based on each employer's unemployment experience. The fund size factor is based upon the amount in the unemployment compensation trust fund. Non-charges are the result, for instance, of an employee working for less than 90 days and being laid off. The employer is not charged for that separation of employment but the cost is spread among all employers. Excess payments occur when a business that is paying the maximum rate has unemployment experience greater than the business is paying in taxes, so that all persons separated from employment from that business are not covered by the UC tax payments from that business. Those costs are also spread across all employers. The variable factor is generally based upon an employer's unemployment compensation experience. These factors combined are used in calculating an employer's UC tax rate.

Federal Advances

Until recently, during the history of Florida's UC tax program, the UC Trust Fund has never become insolvent. In the aftermath of the 1973-1975 recession, the state anticipated the UC Trust Fund's reserves were insufficient to pay benefits. Consequently, the state twice requested advances from the federal government – \$10 million in 1976 and \$32 million in 1977. However, Florida's trust fund remained solvent and the loans were never drawn down. With the exceptions of 1976 and 1977, Florida had never sought a federal loan, making this state one of only a few to avoid serious and chronic problems with trust fund insolvency. Economic conditions resulting in abnormally high unemployment accompanied by high benefit charges have caused a severe drain on the UC Trust Fund. On August 24, 2009, the trust fund balance fell to \$0 and federal advance monies were requested. As of January 20, 2010, about \$1.137 billion has been drawn down.

Interest Payments

Through the American Recovery and Reinvestment Act of 2009, no interest is charged against federal advances through December 31, 2010. However interest will begin accruing January 1, 2011, and the first payment is due September 2011. Interest payments may not be made out of the UC Trust Fund but must come from an alternative source. States may apply to USDOL for deferrals of interest for loans in certain situations; these include the delay of interest payments for interest accrued from May to September, and the deferral of interest payments if the individual unemployment rate (IUR) equals or exceeds 7.5 percent for the first 6 months of the last calendar year or if the total unemployment rate (TUR) equals or exceeds 13.5 percent or higher for the most recent 12 months. Interest continues to accrue even if a state receives a deferral to pay it. The interest rate charged is equal to the fourth calendar quarter yield on the Unemployment Compensation Trust Fund for the previous year, capped at 10 percent.

Federal Unemployment Tax Act (FUTA) TAX CREDIT

Florida employers will most likely experience a partial loss of the federal FUTA UC tax credit beginning on January 1, 2012, due to the existence of an outstanding federal advance; however, the value of the lost credit (essentially, of the increased federal taxes by 0.3 percent per year) offsets the outstanding loan balance. The credit reduction continues and escalates until such time as the loan is fully repaid. The Office of Economic and Demographic Research (EDR) estimated that the first repayment to the federal government through the loss of the federal credit would be \$162 million in January 2012 and \$334 million in January 2013.

State Unemployment Compensation System

According to the United States Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no-fault of their own (as determined under state law) and who meet the requirements of state law.¹ The program is administered as a partnership of the federal government and the states. There are 53 state programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.

The individual states collect unemployment compensation (UC) payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA).² FUTA collections go to the states for costs of administering state UC and job service programs. In addition, FUTA pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.³ States are permitted to set eligibility conditions for UC benefit recipients, the amount and duration of benefits, and the state tax structure so long as the state provisions are not in conflict with FUTA or Social Security Act requirements. Florida's UC program was created by the Legislature in 1937 as part of the national unemployment insurance system.⁴ Florida's UC system is funded solely by employers who pay federal and state UC taxes, and is provided at no cost to the workers who receive the benefits.⁵

Administration of the Unemployment Compensation Program in Florida

The Agency for Workforce Innovation (AWI) is the current agency responsible for administering Florida's UC laws.⁶ Prior to October 1, 2000, the state's UC program was administered by the Division of Unemployment Compensation of the former Department of Labor and Employment Security.⁷ The Workforce Innovation Act of 2000 transferred the administration of the UC program from the department to AWI. Further, this legislation required AWI to contract with the Department of Revenue to provide unemployment tax collections services.⁸

The USDOL provides AWI with administrative resource grants from the taxes collected from employers pursuant to FUTA. These grants are used to fund the operations of the state's UC program. To determine each state's share of the administrative resource grants, USDOL uses the Resource Justification Model (a budget formulation and allocation system based on state workload and program cost) to annually allocate to each state a base grant for the federal fiscal year, plus a state may earn contingency grants throughout the year. Florida received a base grant of \$73.9 million for federal FY 2008 and \$77.8 million for federal FY 2009. The USDOL 2010 unemployment insurance state allocations planning budget estimates that Florida's base grant for federal FY 2010 is \$81.1 million.⁹ These funds finance the processing of claims for benefits by AWI, state unemployment tax collections performed by the Department of Revenue, appeals conducted by AWI and the Unemployment Appeals Commission, and related administrative functions.

¹ USDOL, State Unemployment Insurance Benefits, at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited 01/31/2010).

² FUTA is codified at 26 U.S.C. 3301-3311.

³ USDOL, Unemployment Insurance Tax Topic, at <http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp> (last visited 01/31/2010).

⁴ Chapter 18402, L.O.F.

⁵ In addition to employer taxes, some states levy an unemployment tax on employees as a means to finance their UC programs (currently Alaska, New Jersey, and Pennsylvania).

⁶ Sections 20.50 and 443.171, F.S. All Florida statutes cited are 2009, unless otherwise indicated.

⁷ Section 11(4)(f), ch. 2000-165, L.O.F. The Department of Labor and Employment Security was abolished by the Legislature in 2002. Ch. 2002-194, L.O.F. Statutory "clean-up" was done by ch. 2003-36, L.O.F., to correct references and clarify duties of both AWI and the Department of Revenue.

⁸ The contract requirement and the duties of DOR were clarified by ch. 2003-36, L.O.F.

⁹ In addition to the base grant amounts, states earn additional funds each quarter for actual UC claims workload above the base. Information obtained from UDSOL website on the UI Budget at <http://www.workforcesecurity.doleta.gov/unemploy/budget.asp#fioans> (last visited 01/31/2010). The base grant amount includes allocation for postage. The federal fiscal year runs from October 1 to September 30 of the next year.

AWI administers Florida's UC laws through its Office of Unemployment Compensation Services.¹⁰ The Office of Unemployment Compensation Services consists of the Unemployment Compensation Benefits Section, the Benefits Payment Control Section, and the Office of Appeals. The Unemployment Compensation Benefits Section handles initial claims, questions about unemployment benefits, and other related issues.¹¹ The Benefits Payment Control Section monitors the payment of unemployment benefits in an effort to detect and deter overpayment and to prevent fraud.¹² The Office of Appeals holds hearings and issues decisions to resolve disputed issues related to eligibility and claims for unemployment compensation and the payment and collection of unemployment compensation taxes. The Office of Unemployment Compensation Services also administers special unemployment compensation programs, such as disaster unemployment assistance, trade adjustment assistance, and UC for ex-service members and federal civilian employees.

State Extended Benefits

State extended benefits are extra benefits that can be paid to unemployed individuals after an individual's regular benefits have run out.¹³ These benefits are only available under certain conditions; the extended benefit period is not always available. Typically, under Florida law a state extended benefits period is only triggered "on" when the rate of insured unemployment (individual unemployment rate, or IUR), not seasonally adjusted, over the preceding 13 week period equals or exceeds 5 percent and 120 percent of the average for the period. When a state extended benefit period triggers "on," eligible individuals may receive another 13 weeks of unemployment benefits.

Individuals currently claiming benefits when the extended benefits period begins automatically receive extended benefits when they exhaust all available regular benefits. Individuals who are not in continuous reporting status or who have had intervening employment since last receiving benefits, have to apply for extended benefits so that their eligibility can be determined based on the requirements of ss. 443.091 and 443.101, F.S. Generally, eligible individuals are those persons who still meet criteria to receive regular benefits. However, different from the eligibility for regular benefits, individuals may be disqualified from receiving extended benefits if:

- The individual failed to apply for or accept suitable work; or
- The individual failed to furnish evidence that he or she is actively engaged in a systematic and sustained effort to find work.

Individuals receive weekly benefit amounts equal to the average benefit amounts the individual was receiving in the regular benefit period. An individual may receive a total amount of extended benefits equal to the lesser of:

- 50 percent of the total regular benefits payable in his or her benefit year; or
- 13 times the individual's benefit amount for one week in his or her benefit year.

Federal law provides that when state extended benefits trigger "on" the federal government will share 50 percent of the benefit cost for all insured employers; essentially the federal government will pay 50 percent of extended benefit costs to private employers. The state and local governments in Florida are self-insured and are not eligible for federal sharing.¹⁴ In 2009, CS/CS/SB 810 in part, authorized and created a temporary state extended benefits program for unemployed individuals in order to qualify for

¹⁰ Section 20.50(2)(c)1., F.S.

¹¹ AWI operates call centers for initial UC claims and questions about continuing claims. These centers are located in Tallahassee, Orlando, and Fort Lauderdale. AWI contracted with a third party to open an additional call center in Orlando to handle overflow calls (approved by the Legislative Budget Commission on February 18, 2009, to handle additional UC workload); this call center began taking calls ahead of schedule in June 2009 in order to take calls related to state extended benefits, and became a fully operational call center in August 2009, taking all types of UC related calls.

¹² Unemployment compensation fraud is a third-degree felony and is subject to prosecution by the State Attorney. Section 443.071, F.S. A third-degree felony is a crime punishable by a maximum penalty of \$5,000 and up to five years in prison.

¹³ Section 443.1115, F.S.

¹⁴ Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; 20 C.F.R. s. 615.14 (2006).

federal funds under the Recovery Act.¹⁵ Florida's temporary state extended benefits program was effective between February 1, 2009, and January 2, 2010.¹⁶ Temporary state extended benefits triggered "on" on February 1, 2009, and triggered "off" on December 12, 2009. Individuals who exhausted regular benefits and emergency federal extended benefits between February 22, 2009, and December 12, 2009, were eligible for temporary state extended benefits to be paid for up to 20 weeks until January 2, 2010.¹⁷ By implementing a temporary state extended benefits period based upon the average total unemployment rate (TUR), Florida qualified for 100 percent funding, also known as federal sharing, for the state extended benefits for private employers (approximately \$418 million in stimulus funds). The related Recovery Act funds are paid from a separate federal general revenue account and do not affect the balance of Florida's UC Trust Fund.

In December, Congress extended from January 1 to February 28 the time that the federal government would fund 100% of state extended benefits for former private sector employees. State legislation passed in the 2009 session was written to expire with the applicable stimulus funding.

Effect of Proposed Changes

Sections 1 and 2

These two sections extend the "State Extended Benefits" (EB) program, effective January 2, 2010. In December, Congress extended from January 1 to February 28 the time that the federal government would fund 100% of state extended benefits for former private sector employees. There is no cost to private employers, however, like the original extended benefits provision, reimbursable employers like state and local governments are not covered by the federal government and must pay themselves (See Fiscal Impact section below). EB will cover up to 8 additional weeks for claimants. EB is not charged to employers and has no effect on an employer's experience rating. Approximately 15,000 Floridians would be eligible to receive additional weeks compensation through EB.

These two sections also establish the time period for state extended benefits eligibility and mirrors what was passed recently by the federal government to pay 100% of the extended benefits.

Section 3

This section reduces the taxable wage base from \$8,500 to \$7,000 for two years. In 2012, the wage base returns to \$8,500 and then sunsets back to \$7,000 in 2015 under current law provisions. These changes will have the effect of reducing employer's unemployment compensation taxes for 2010 and 2011 (See Fiscal Comments section below).

Section 4

This section suspends the Unemployment Compensation Trust Fund positive adjustment factor for the next two years. Regardless of the balance in the Unemployment Compensation Trust Fund, no rate increase will be triggered since the positive adjustment factor will not be applied. The factor is effective again beginning January 1, 2012 with a three year recoupment period and then returns to a four year recoupment period under current law provisions, January 1, 2015. These changes will have the effect of reducing employer's unemployment compensation taxes for 2010 and 2011 (See Fiscal Comments section below).

This section also provides for payment of interest on federal advances through an employer assessment. The Consensus Estimating conference is charged with determining the estimate by December 1 of the year prior to the due date for the interest payment. The Department of Revenue must make the assessment prior to February 1 of the year the interest is due based upon a formula. To

¹⁵ Section 443.1117, F.S. See ss. 4, 5, and 7, ch. 2009-99, L.O.F.

¹⁶ The temporary state extended benefits were to be available for 13 to 20 weeks, depending on the average total rate of unemployment. Because of Florida's high unemployment rate, temporary state extended benefits were available for the 20 week time period.

¹⁷ Benefits were made available retroactive to the date SB 810 was signed into law.

determine an employer's rate for the assessment, the formula divides the estimated amount of interest owed by 95 percent of an employer's wages as of June 30 of the prior year. To determine an employer's payment, the formula multiplies an employer's taxable wages by the rate that the formula just determined. An employer has five months to pay the assessment, by June 30. The first interest payment will be due in September, 2011. Provision is made to postpone or eliminate an assessment if the federal government postpones or forgives interest due on advances. Further, should any provision interfere with the ability of the state to receive interest relief or prevent employers from qualifying for the federal tax credit, that provision is invalid.

Section 5

This section allows employers to make their 2010 and 2011 UC tax payments in quarterly installments without interest or penalties as long as the employer makes the quarterly filing and payment according to the new schedule. However, any penalties, interest, or fees that were due prior to this new schedule will continue to accrue as well as on any missed filings under the new schedule.

Section 6

This section provides budget authority to the Agency for Workforce Innovation and the Department of Revenue to implement the changes made in the bill.

Section 7

This section provides that the bill fulfills an important state interest.

Section 8

Provides the bill is effective upon becoming law so it may be implemented immediately and is retroactive to June 29, 2009.

B. SECTION DIRECTORY:

Section 1. Amends s. 443.1117, F.S., to provide for federally-funded state extended benefits for a time certain.

Section 2. Provides for applicability of changes made in s. 443.1117, F.S.

Section 3. Amends s. 443.1217, F.S., by reducing the taxable wage base for two years.

Section 4. Amends s. 443.131, F.S., to suspend the Unemployment Compensation Trust Fund positive adjustment factor for two years, require an employer assessment to pay interest if due, suspend the interest collection under certain circumstances, and terminate provisions that interfere with interest relief or federal tax credits.

Section 5. Amends s. 443.141, F.S., to provide a schedule for employer unemployment tax quarterly payments for 2010 and 2011.

Section 6. Provides an appropriation to two agencies to implement the bill.

Section 7. Provides that the bill fulfills an important state interest.

Section 8. Except as otherwise provided, provides the bill is effective upon becoming law, retroactive to June 29, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The bill will cost the state \$179,677 to implement the extended benefits provisions since the state is a reimbursable employer not eligible for federal cost sharing of extended benefits. The fiscal impact on the Department of Revenue for implementing the unemployment compensation tax change in FY 09/10 is \$1.27 million, \$1.88 million in FY 10/11, with a recurring impact of \$387,700.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

The bill will cost local governments approximately \$432,956 to implement the extended benefits provisions since local governments are reimbursable employers not eligible for federal cost sharing of extended benefits.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Under the provisions of the bill, it is estimated that businesses will see an average 39 percent reduction in their current unemployment compensation tax bill as compared to current law provisions.¹⁸ However, individual employer experience will vary considerably. Regarding extended benefits, approximately 15,000 unemployed individuals in Florida who have exhausted regular benefits and the federal emergency UC benefits will be eligible for up to 8 weeks of state unemployment benefits. This will come at no cost to private employers and will not affect their contribution rates. The cost will be covered 100% by federal funds.

D. FISCAL COMMENTS:

The legislation provides short term relief to businesses which will result in higher total tax rates beginning in 2012, greater borrowing from the federal government to pay benefits, and more interest due to the federal government on that borrowing than under current law.

¹⁸ This is a staff estimate, not produced by EDR or the Revenue Estimating Conference.

Impacts of Bill Provisions: ¹⁹

(\$ In Millions)

	Taxes	Benefits	Ending TF Balance	Ending Federal Advances Balance	Additional Federal Tax Paid	Interest Due
2009-10	\$1,174.3	\$3,093.7	\$ -	\$ 1,584.9	\$ -	\$ -
2010-11	\$1,523.8	\$3,067.7	\$ -	\$ 3,128.9	\$ -	\$ -
2011-12	\$2,332.7	\$2,479.7	\$ -	\$ 3,113.7	\$ 162.2	\$ 122.4
2012-13	\$2,823.2	\$1,966.3	\$ -	\$ 1,922.6	\$ 334.3	\$ 181.9
2013-14	\$2,776.9	\$1,814.6	\$ -	\$ 444.8	\$ 515.4	\$ 131.7
2014-15	\$2,347.0	\$1,749.5	\$ 871.5	\$ -	\$ 698.9	\$ 59.9
2015-16	\$1,984.1	\$1,713.0	\$ 1,142.6	\$ -	\$ -	\$ -
2016-17	\$1,884.2	\$1,680.8	\$ 1,346.0	\$ -	\$ -	\$ -
2017-18	\$1,843.9	\$1,640.5	\$ 1,549.3	\$ -	\$ -	\$ -
2018-19	\$1,812.2	\$1,565.6	\$ 1,795.9	\$ -	\$ -	\$ -

	State Tax				
	Minimum Tax Rate	Effective Tax Rate *	Maximum Wage	Per Employee @ minimum rate	Per Employee @ maximum rate
2009	0.12%	1.56%	\$ 7,000	\$ 8.40	\$ 378.00
2010	0.36%	2.60%	\$ 7,000	\$ 25.20	\$ 378.00
2011	0.77%	3.02%	\$ 7,000	\$ 53.90	\$ 378.00
2012	2.27%	4.23%	\$ 8,500	\$ 192.95	\$ 459.00
2013	2.21%	4.17%	\$ 8,500	\$ 187.85	\$ 459.00
2014	1.86%	3.96%	\$ 8,500	\$ 158.10	\$ 459.00
2015	1.26%	3.54%	\$ 7,000	\$ 88.20	\$ 378.00
2016	0.85%	3.20%	\$ 7,000	\$ 59.50	\$ 378.00
2017	0.73%	3.08%	\$ 7,000	\$ 51.10	\$ 378.00
2018	0.65%	2.99%	\$ 7,000	\$ 45.50	\$ 378.00
2019	0.59%	2.92%	\$ 7,000	\$ 41.30	\$ 378.00

* Taxes divided by taxable wages for the appropriate time period

¹⁹ Estimate produced by the Office of Economic and Demographic Research.

Impacts of Current Law: ²⁰

(\$ In Millions)

	Taxes	Benefits	Ending TF Balance	Ending Federal Advances Balance	Additional Federal Tax Paid	Interest Due
2009-10	\$1,708.0	\$3,093.7	\$ -	\$ 1,051.3	\$ -	\$ -
2010-11	\$2,467.3	\$3,067.7	\$ -	\$ 1,651.8	\$ -	\$ -
2011-12	\$2,723.1	\$2,479.7	\$ -	\$ 1,246.2	\$ 162.2	\$ 75.3
2012-13	\$2,823.2	\$1,966.3	\$ -	\$ 55.1	\$ 334.3	\$ 90.6
2013-14	\$2,776.9	\$1,814.6	\$ 1,442.7	\$ -	\$ 515.4	\$ 39.1
2014-15	\$2,190.0	\$1,749.5	\$ 1,903.1	\$ -	\$ -	\$ -
2015-16	\$1,757.1	\$1,713.0	\$ 1,999.5	\$ -	\$ -	\$ -
2016-17	\$1,697.2	\$1,680.8	\$ 2,074.5	\$ -	\$ -	\$ -
2017-18	\$1,684.1	\$1,640.5	\$ 2,178.5	\$ -	\$ -	\$ -
2018-19	\$1,671.6	\$1,565.6	\$ 2,354.2	\$ -	\$ -	\$ -

State Tax					
	Minimum Tax Rate	Effective Tax Rate *	Maximum Wage	Per Employee @ minimum rate	Per Employee @ maximum rate
2009	0.12%	1.56%	\$ 7,000	\$ 8.40	\$ 378.00
2010	1.18%	3.61%	\$ 8,500	\$ 100.30	\$ 459.00
2011	1.93%	4.08%	\$ 8,500	\$ 164.05	\$ 459.00
2012	2.27%	4.23%	\$ 8,500	\$ 192.95	\$ 459.00
2013	2.21%	4.17%	\$ 8,500	\$ 187.85	\$ 459.00
2014	1.86%	3.96%	\$ 8,500	\$ 158.10	\$ 459.00
2015	0.84%	3.10%	\$ 7,000	\$ 58.80	\$ 378.00
2016	0.58%	2.85%	\$ 7,000	\$ 40.60	\$ 378.00
2017	0.52%	2.79%	\$ 7,000	\$ 36.40	\$ 378.00
2018	0.48%	2.75%	\$ 7,000	\$ 33.60	\$ 378.00
2019	0.44%	2.70%	\$ 7,000	\$ 30.80	\$ 378.00

* Taxes divided by taxable wages for the appropriate time period

²⁰ Estimate produced by the Office of Economic and Demographic Research.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

To the extent this bill requires cities and counties to expend funds to pay state extended benefits for eligible former employees for an additional number of weeks, the provisions of Section 18(a) of Article VII of the State Constitution may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (see section 7 of the bill) and one of the following relevant exceptions:

- a. Appropriate funds estimated at the time of enactment to be sufficient to fund such expenditures;
- b. Authorize a county or municipality to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- c. The expenditure is required to comply with a law that applies to all persons similarly situated, including state and local governments; or
- d. The law is either required to comply with a federal requirement or required for eligibility for a federal entitlement.

Similarly situated refers to those laws affecting other entities, either private or governmental, in addition to counties and municipalities. Because the bill would impact all persons similarly situated, this exception appears to apply.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to Unemployment Compensation; reviving,
 3 readopting, and amending s. 443.1117, F.S.; providing for
 4 retroactive application; establishing temporary state
 5 extended benefits for weeks of unemployment; amending
 6 definitions; providing for state extended benefits for
 7 certain weeks and for periods of high unemployment;
 8 providing for applicability of s. 443.1117, F.S.; amending
 9 s. 443.1217, F.S.; reducing amount of exempt wages
 10 beginning January 1, 2010; raising amount of exempt wages
 11 beginning January 1, 2012; amending s. 443.131, F.S.;
 12 providing that the positive adjustment factor begins
 13 January 1, 2012; requiring an employer assessment when
 14 federal advance interest is due; requiring Revenue
 15 Estimating Conference to calculate interest based on
 16 certain factors at a date certain; requiring an assessment
 17 by a date certain; providing a formula for calculation of
 18 the employer interest assessment rate and payment;
 19 providing for a separate interest collection by tax
 20 collection service provider; naming an account to hold
 21 interest collected until payment is directed; providing
 22 for a suspension or termination of assessment under
 23 certain circumstances; providing credit for interest funds
 24 collected prior to suspension or termination; providing a
 25 limitation; providing for elimination of provisions that
 26 interfere with federal interest relief or federal tax
 27 credit; amending s. 443.141; F.S.; providing retroactive
 28 date; providing schedule of employer payments for 2010 and

BILL ORIGINAL YEAR

29 2011; providing for penalties, interest, and fees on
 30 delinquent contributions; providing an appropriation for
 31 purposes of implementation; providing that the act
 32 fulfills an important state interest; providing a
 33 retroactive effective date.

34
 35 Be It Enacted by the Legislature of the State of Florida:
 36

37 Section 1. Notwithstanding the expiration date contained
 38 in section 4 of chapter 2009-99, Laws of Florida, effective upon
 39 becoming a law, retroactive to January 2, 2010, and expiring
 40 February 27, 2010, section 443.1117, Florida Statutes, is
 41 revived, readopted, and amended to read:

42 443.1117 Temporary extended benefits.—

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

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

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

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

BILL

ORIGINAL

YEAR

57 (c) "Emergency benefits" means Emergency Unemployment
 58 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
 59 110-449, ~~and~~ Pub. L. No. 111-5, Pub.L. 111-92, and Pub.L. 111-
 60 118.

61 (d) "Extended benefit period" means a period that:
 62 1. Begins with the third week after a week for which there
 63 is a state "on" indicator; and
 64 2. Ends with any of the following weeks, whichever occurs
 65 later:
 66 a. The third week after the first week for which there is
 67 a state "off" indicator;
 68 b. The 13th consecutive week of that period.

69
 70 However, an extended benefit period may not begin by reason of a
 71 state "on" indicator before the 14th week after the end of a
 72 prior extended benefit period that was in effect for this state.

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

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

78 1. Has received, before that week, all of the regular
 79 benefits and emergency benefits, if any, available under this
 80 chapter or any other law, including dependents' allowances and
 81 benefits payable to federal civilian employees and ex-
 82 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
 83 benefit year or emergency benefit period that includes that
 84 week. For the purposes of this subparagraph, an individual has

BILL ORIGINAL YEAR

85 received all of the regular benefits and emergency benefits, if
 86 any, available although, as a result of a pending appeal for
 87 wages paid for insured work which were not considered in the
 88 original monetary determination in the benefit year, she or he
 89 may subsequently be determined to be entitled to added regular
 90 benefits;

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

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

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

104 (g) "State 'on' indicator" means, with respect to weeks of
 105 unemployment beginning on or after February 1, 2009, and ending
 106 on or before January 30, 2010~~December 12, 2009~~, the occurrence
 107 of a week in which the average total unemployment rate,
 108 seasonally adjusted, as determined by the United States
 109 Secretary of Labor, for the period consisting of the most recent
 110 3 months for which data for all states are published by the
 111 United States Department of Labor:

112 1. Equals or exceeds 110 percent of the average of those

BILL ORIGINAL YEAR

113 rates for the corresponding 3-month period ending in each of the
 114 preceding 2 calendar years; and

115 2. Equals or exceeds 6.5 percent.

116 (h) "High unemployment period" means, with respect to
 117 weeks of unemployment beginning on or after February 1, 2009,
 118 and ending on or before January 30, 2010~~December 12, 2009~~, any
 119 week in which the average total unemployment rate, seasonally
 120 adjusted, as determined by the United States Secretary of Labor,
 121 for the period consisting of the most recent 3 months for which
 122 data for all states are published by the United States
 123 Department of Labor:

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

127 2. Equals or exceeds 8 percent.

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

131 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
 132 subsection (4)~~(5)~~:

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

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

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

BILL

ORIGINAL

YEAR

141 benefit year.

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

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

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

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

161 Section 2. The provisions of s. 443.1117, Florida
 162 Statutes, as revived, readopted, and amended by this act, apply
 163 only to claims for weeks of unemployment, in which an exhaustee
 164 establishes entitlement to extended benefits pursuant to that
 165 section which are established for the period between February
 166 22, 2009, and February 27, 2010.

167 Section 3. Paragraph (a) of subsection (2) of section
 168 443.1217, Florida Statutes, is amended to read:

BILL

ORIGINAL

YEAR

169 443.1217 Wages.—

170 (2) For the purpose of determining an employer's
 171 contributions, the following wages are exempt from this chapter:

172 (a) 1. Beginning January 1, 2010, that part of
 173 remuneration paid to an individual by an employer for employment
 174 during a calendar year in excess of the first \$7,000 of
 175 remuneration paid to the individual by an employer or his or her
 176 predecessor during that calendar year, unless that part of the
 177 remuneration is subject to a tax, under a federal law imposing
 178 the tax, against which credit may be taken for contributions
 179 required to be paid into a state unemployment fund.

180 2. Beginning January 1, 2012, that part of remuneration
 181 paid to an individual by an employer for employment during a
 182 calendar year in excess of the first \$8,500 of remuneration paid
 183 to the individual by the employer or his or her predecessor
 184 during that calendar year, unless that part of the remuneration
 185 is subject to a tax, under a federal law imposing the tax,
 186 against which credit may be taken for contributions required to
 187 be paid into a state unemployment fund. ~~As used in this section~~
 188 ~~only, the term "employment" includes services constituting~~
 189 ~~employment under any employment security law of another state or~~
 190 ~~of the Federal Government.~~

191 3. Beginning January 1, 2015, the part of remuneration
 192 paid to an individual by an employer for employment during a
 193 calendar year in excess of the first \$7,000 is exempt from this
 194 chapter.

195 As used in this section only, the term "employment"
 196 includes services constituting employment under any employment

BILL

ORIGINAL

YEAR

197 | security law of another state or of the Federal Government.

198 | Section 4. Paragraph (e) of subsection (3) is amended and
199 | subsections (5) and (6) are created in section 443.131, Florida
200 | Statutes, to read:

201 | 443.131 Contributions.—

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

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

207 | 1. The tax collection service provider shall assign a
208 | variation from the standard rate of contributions for each
209 | calendar year to each eligible employer. In determining the
210 | contribution rate, varying from the standard rate to be assigned
211 | each employer, adjustment factors computed under sub-
212 | subparagraphs a.-d. shall be added to the benefit ratio. This
213 | addition shall be accomplished in two steps by adding a variable
214 | adjustment factor and a final adjustment factor. The sum of
215 | these adjustment factors computed under sub-subparagraphs a.-d.
216 | shall first be algebraically summed. The sum of these adjustment
217 | factors shall next be divided by a gross benefit ratio
218 | determined as follows: Total benefit payments for the 3-year
219 | period described in subparagraph (b)2. shall be charged to
220 | employers eligible for a variation from the standard rate, minus
221 | excess payments for the same period, divided by taxable payroll
222 | entering into the computation of individual benefit ratios for
223 | the calendar year for which the contribution rate is being
224 | computed. The ratio of the sum of the adjustment factors

BILL

ORIGINAL

YEAR

225 computed under sub-subparagraphs a.-d. to the gross benefit
 226 ratio shall be multiplied by each individual benefit ratio that
 227 is less than the maximum contribution rate to obtain variable
 228 adjustment factors; except that in any instance in which the sum
 229 of an employer's individual benefit ratio and variable
 230 adjustment factor exceeds the maximum contribution rate, the
 231 variable adjustment factor shall be reduced in order that the
 232 sum equals the maximum contribution rate. The variable
 233 adjustment factor for each of these employers is multiplied by
 234 his or her taxable payroll entering into the computation of his
 235 or her benefit ratio. The sum of these products shall be divided
 236 by the taxable payroll of the employers who entered into the
 237 computation of their benefit ratios. The resulting ratio shall
 238 be subtracted from the sum of the adjustment factors computed
 239 under sub-subparagraphs a.-d. to obtain the final adjustment
 240 factor. The variable adjustment factors and the final adjustment
 241 factor shall be computed to five decimal places and rounded to
 242 the fourth decimal place. This final adjustment factor shall be
 243 added to the variable adjustment factor and benefit ratio of
 244 each employer to obtain each employer's contribution rate. An
 245 employer's contribution rate may not, however, be rounded to
 246 less than 0.1 percent.

247 a. An adjustment factor for noncharge benefits shall be
 248 computed to the fifth decimal place and rounded to the fourth
 249 decimal place by dividing the amount of noncharge benefits
 250 during the 3-year period described in subparagraph (b)2. by the
 251 taxable payroll of employers eligible for a variation from the
 252 standard rate who have a benefit ratio for the current year

BILL

ORIGINAL

YEAR

253 which is less than the maximum contribution rate. For purposes
 254 of computing this adjustment factor, the taxable payroll of
 255 these employers is the taxable payrolls for the 3 years ending
 256 June 30 of the current calendar year as reported to the tax
 257 collection service provider by September 30 of the same calendar
 258 year. As used in this sub-subparagraph, the term "noncharge
 259 benefits" means benefits paid to an individual from the
 260 Unemployment Compensation Trust Fund, but which were not charged
 261 to the employment record of any employer.

262 b. An adjustment factor for excess payments shall be
 263 computed to the fifth decimal place, and rounded to the fourth
 264 decimal place by dividing the total excess payments during the
 265 3-year period described in subparagraph (b)2. by the taxable
 266 payroll of employers eligible for a variation from the standard
 267 rate who have a benefit ratio for the current year which is less
 268 than the maximum contribution rate. For purposes of computing
 269 this adjustment factor, the taxable payroll of these employers
 270 is the same figure used to compute the adjustment factor for
 271 noncharge benefits under sub-subparagraph a. As used in this
 272 sub-subparagraph, the term "excess payments" means the amount of
 273 benefits charged to the employment record of an employer during
 274 the 3-year period described in subparagraph (b)2., less the
 275 product of the maximum contribution rate and the employer's
 276 taxable payroll for the 3 years ending June 30 of the current
 277 calendar year as reported to the tax collection service provider
 278 by September 30 of the same calendar year. As used in this sub-
 279 subparagraph, the term "total excess payments" means the sum of
 280 the individual employer excess payments for those employers that

BILL ORIGINAL YEAR

281 were eligible to be considered for assignment of a contribution
 282 rate different from the standard rate.

283 c. (I) Beginning January 1, 2012, if the balance of the
 284 Unemployment Compensation Trust Fund on June 30 of the calendar
 285 year immediately preceding the calendar year for which the
 286 contribution rate is being computed is less than 4 percent of
 287 the taxable payrolls for the year ending June 30 as reported to
 288 the tax collection service provider by September 30 of that
 289 calendar year, a positive adjustment factor shall be computed.
 290 The positive adjustment factor shall be computed annually to the
 291 fifth decimal place and rounded to the fourth decimal place by
 292 dividing the sum of the total taxable payrolls for the year
 293 ending June 30 of the current calendar year as reported to the
 294 tax collection service provider by September 30 of that calendar
 295 year into a sum equal to one-third of the difference between the
 296 balance of the fund as of June 30 of that calendar year and the
 297 sum of 5 percent of the total taxable payrolls for that year.
 298 The positive adjustment factor remains in effect for subsequent
 299 years until the balance of the Unemployment Compensation Trust
 300 Fund as of June 30 of the year immediately preceding the
 301 effective date of the contribution rate equals or exceeds 5
 302 percent of the taxable payrolls for the year ending June 30 of
 303 the current calendar year as reported to the tax collection
 304 service provider by September 30 of that calendar year.

305 (II) Beginning January 1, 2015, and for each year
 306 thereafter, the positive adjustment authorized by this section
 307 shall be computed by dividing the sum of the total taxable
 308 payrolls for the year ending June 30 of the current calendar

BILL ORIGINAL YEAR

309 year as reported to the tax collection service provider by
 310 September 30 of that calendar year into a sum equal to one-
 311 fourth of the difference between the balance of the fund as of
 312 June 30 of that calendar year and the sum of 5 percent of the
 313 total taxable payrolls for that year. The positive adjustment
 314 factor remains in effect for subsequent years until the balance
 315 of the Unemployment Compensation Trust Fund as of June 30 of the
 316 year immediately preceding the effective date of the
 317 contribution rate equals or exceeds 4 percent of the taxable
 318 payrolls for the year ending June 30 of the current calendar
 319 year as reported to the tax collection service provider by
 320 September 30 of that calendar year.

321 d. If, beginning January 1, 2015, and each year
 322 thereafter, the balance of the Unemployment Compensation Trust
 323 Fund as of June 30 of the year immediately preceding the
 324 calendar year for which the contribution rate is being computed
 325 exceeds 5 percent of the taxable payrolls for the year ending
 326 June 30 of the current calendar year as reported to the tax
 327 collection service provider by September 30 of that calendar
 328 year, a negative adjustment factor shall be computed. The
 329 negative adjustment factor shall be computed annually beginning
 330 on January 1, 2015, and each year thereafter, to the fifth
 331 decimal place and rounded to the fourth decimal place by
 332 dividing the sum of the total taxable payrolls for the year
 333 ending June 30 of the current calendar year as reported to the
 334 tax collection service provider by September 30 of the calendar
 335 year into a sum equal to one-fourth of the difference between
 336 the balance of the fund as of June 30 of the current calendar

BILL ORIGINAL YEAR

337 year and 5 percent of the total taxable payrolls of that year.
 338 The negative adjustment factor remains in effect for subsequent
 339 years until the balance of the Unemployment Compensation Trust
 340 Fund as of June 30 of the year immediately preceding the
 341 effective date of the contribution rate is less than 5 percent,
 342 but more than 4 percent of the taxable payrolls for the year
 343 ending June 30 of the current calendar year as reported to the
 344 tax collection service provider by September 30 of that calendar
 345 year. The negative adjustment authorized by this section is
 346 suspended in any calendar year in which repayment of the
 347 principal amount of an advance received from the federal
 348 Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is
 349 due to the Federal Government.

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

357 f. As used in this subsection, "taxable payroll" shall be
 358 determined by excluding any part of the remuneration paid to an
 359 individual by an employer for employment during a calendar year
 360 in excess of the first \$7,000.

361 2. If the transfer of an employer's employment record to
 362 an employing unit under paragraph (f) which, before the
 363 transfer, was an employer, the tax collection service provider
 364 shall recompute a benefit ratio for the successor employer based

BILL

ORIGINAL

YEAR

365 on the combined employment records and reassign an appropriate
 366 contribution rate to the successor employer effective on the
 367 first day of the calendar quarter immediately after the
 368 effective date of the transfer.

369 (5) When the Unemployment Compensation Trust Fund has
 370 received advances from the Federal Government under the
 371 provisions of 42 U.S.C. 1321, each contributing employer, except
 372 for reimbursable employers, shall be assessed an additional rate
 373 solely for the purpose of paying interest due on such federal
 374 advances. The additional rate shall be assessed no later than
 375 February 1 in each calendar year that an interest payment is
 376 due. The Revenue Estimating Conference shall estimate the amount
 377 of such interest no later than December 1 of the calendar year
 378 preceding the calendar year in which an interest payment is due.
 379 The Revenue Estimating Conference shall, at a minimum, consider
 380 the following as the basis for the estimate: the amounts
 381 actually advanced to the trust fund; amounts expected to be
 382 advanced to the trust fund based on current and projected
 383 unemployment patterns and employer contributions; the interest
 384 payment due date; and the interest rate that will be applied by
 385 the federal government to any accrued outstanding balances. The
 386 additional rate assessed for a calendar year shall be determined
 387 by dividing the estimated amount of interest to be paid in that
 388 year by 95 percent of the taxable wages as defined in s.
 389 443.1217 paid by all employers for the year ending June 30 of
 390 the immediately preceding calendar year. The amount to be paid
 391 by each employer shall be the product obtained by multiplying
 392 such employer's taxable wages as defined in s. 443.1217 for the

BILL

ORIGINAL

YEAR

393 year ending June 30 of the immediately preceding calendar year
 394 by the rate as heretofore determined by provisions of this
 395 subsection. The tax collection service provider shall make a
 396 separate collection of such assessment, which may be collected
 397 at the time of employer contributions and subject to the same
 398 penalties for failure to file a report, imposition of the
 399 standard rate pursuant to s. 443.131(3)(h), and interest if the
 400 assessment is not received on or before June 30. The tax
 401 collection service provider shall maintain those funds in the
 402 tax collection service provider's Audit and Warrant Clearing
 403 Trust Fund until such time it is directed to make the interest
 404 payment to the Federal Government. However, if the state is
 405 permitted to defer interest payments due during a calendar year
 406 under 42 U.S.C. 1322, payment of the interest assessment shall
 407 not be due. If a deferral of interest expires or is subsequently
 408 disallowed by the Federal Government, either prospectively or
 409 retroactively, the interest assessment shall be immediately due
 410 and payable. Notwithstanding any other provision of this
 411 section, if interest due during a calendar year on federal
 412 advances is forgiven or postponed under federal law and is no
 413 longer due during that calendar year, no interest assessment
 414 shall be assessed against an employer for that calendar year and
 415 any assessment already assessed and collected against an
 416 employer before the forgiveness or postponement of the interest
 417 for that calendar year shall be credited to such employer's
 418 account in the Unemployment Compensation Trust Fund. However,
 419 such funds may only be used to pay benefits or refunds of
 420 erroneous contributions.

BILL

ORIGINAL

YEAR

421 (6). If any provision of this section prevents the state
 422 from qualifying for any federal interest relief provisions
 423 provided under section 1202 of the social security act, 42 USC
 424 1322, or prevents employers in this state from qualifying for
 425 the limitation on the reduction of federal unemployment tax act
 426 credits as provided under section 3302(f) of the federal
 427 unemployment tax act, 26 USC 3302(f), that provision is invalid
 428 to the extent necessary to maintain qualification for the
 429 interest relief provisions and federal unemployment tax credits.

430 Section 5. Effective upon becoming a law, and retroactive
 431 to January 1, 2010, subsection (1) of section 443.141, Florida
 432 Statutes, is amended to read:

433 443.141 Collection of contributions and reimbursements.—

434 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS.—

435 (d) Payments for 2010 Contributions. A contributing
 436 employer may pay its quarterly contributions due for wages paid
 437 in the first three quarters of 2010 in equal installments
 438 provided those contributions are paid as follows:

439 1. For contributions due for wages paid in the first
 440 quarter of 2010, one-fourth of the contributions due shall be
 441 paid on or before April 30, 2010, one-fourth shall be paid on or
 442 before July 31, 2010, one-fourth shall be paid on or before
 443 October 31, 2010, and the remaining one-fourth shall be paid on
 444 or before December 31, 2010.

445 2. In addition to the payments specified in 1., for
 446 contributions due for wages paid in the second quarter of 2010,
 447 one-third of the contributions due shall be paid on or before
 448 July 31, 2010, one-third shall be paid on or before October 31,

BILL

ORIGINAL

YEAR

449 2010, and the remaining one-third shall be paid on or before
 450 December 31, 2010.

451 3. In addition to the payments specified in 1. and 2.
 452 above, for contributions due for wages paid in the third quarter
 453 of 2010, one-half of the contributions due shall be paid on or
 454 before October 31, 2010, and the remaining one-half shall be
 455 paid on or before December 31, 2010.

456 4. Interest will not accrue on any contribution that
 457 becomes due for wages paid in the first three quarters of 2010
 458 provided the employer pays the contributions in accordance with
 459 subparagraphs 1.-3. Interest and fees will continue to accrue on
 460 prior delinquent contributions and will commence to accrue on
 461 all contributions due for wages paid in the first three quarters
 462 of 2010 that are not paid in accordance with subparagraphs 1.-3.
 463 Penalties may be assessed in accordance with the provisions of
 464 this chapter. The contributions due for wages paid in the fourth
 465 quarter of 2010 are not affected by this paragraph and are due
 466 and payable in accordance with the provisions of this chapter.

467 (e) Payments for 2011 Contributions. A contributing
 468 employer may pay its quarterly contributions due for wages paid
 469 in the first three quarters of 2011 in equal installments
 470 provided those contributions are paid as follows:

471 1. For contributions due for wages paid in the first
 472 quarter of 2011, one-fourth of the contributions due shall be
 473 paid on or before April 30, 2011, one-fourth shall be paid on or
 474 before July 31, 2011, one-fourth shall be paid on or before
 475 October 31, 2011, and the remaining one-fourth shall be paid on
 476 or before December 31, 2011.

BILL

ORIGINAL

YEAR

477 2. In addition to the payments specified in 1., for
 478 contributions due for wages paid in the second quarter of 2011,
 479 one-third of the contributions due shall be paid on or before
 480 July 31, 2011, one-third shall be paid on or before October 31,
 481 2011, and the remaining one-third shall be paid on or before
 482 December 31, 2011.

483 3. In addition to the payments specified in 1. and 2.
 484 above, for contributions due for wages paid in the third quarter
 485 of 2011, one-half of the contributions due shall be paid on or
 486 before October 31, 2011, and the remaining one-half shall be
 487 paid on or before December 31, 2011.

488 4. Interest will not accrue on any contribution that
 489 becomes due for wages paid in the first three quarters of 2011
 490 provided the employer pays the contributions in accordance with
 491 subparagraphs 1.-3. Interest and fees will continue to accrue on
 492 prior delinquent contributions and will commence to accrue on
 493 all contributions due for wages paid in the first three quarters
 494 of 2011 that are not paid in accordance with subparagraphs 1.-3.
 495 Penalties may be assessed in accordance with the provisions of
 496 this chapter. The contributions due for wages paid in the fourth
 497 quarter of 2011 are not affected by this paragraph and are due
 498 and payable in accordance with the provisions of this chapter.

499 Section 6. For the 2009-2010 fiscal year, the sum of
 500 \$1,269,817 is appropriated from the Employment Security
 501 Administration Trust Fund in the contracted services
 502 appropriation category within the Agency for Workforce
 503 Innovation's Unemployment Compensation budget entity to be used
 504 to implement this act. In addition, for the 2009-2010 fiscal

BILL

ORIGINAL

YEAR

505 year, the sum of \$1,269,817 is appropriated from the Federal
 506 Grants Trust Fund in a lump sum appropriation category within
 507 the Department of Revenue to be used to implement this act.

508 Section 7. The Legislature finds that this act fulfills an
 509 important state interest.

510 Section 8. Except as otherwise expressly provided in this
 511 act, this act shall take effect upon becoming law, retroactive
 512 to June 29, 2009.