

1 A bill to be entitled
2 An act relating to the Reemployment Assistance Appeals
3 Commission; transferring and reassigning functions and
4 responsibilities of the Reemployment Assistance
5 Appeals Commission to the Department of Economic
6 Opportunity; providing legislative intent with respect
7 to the transfer of programs and administrative
8 responsibilities; providing for applicability to
9 contracts; requiring that the Governor submit
10 information and obtain waivers as required by federal
11 law; authorizing the Governor to transfer funds and
12 positions between agencies upon approval from the
13 Legislative Budget Commission; amending s. 443.012,
14 F.S.; conforming provisions to changes made by the
15 act; deleting provisions relating to the reemployment
16 assistance appeals commission and providing for the
17 establishment of regional appeals offices; providing
18 the Department of Economic Opportunity with certain
19 responsibilities relating to the appeals offices;
20 providing for the appointment of appeals referees and
21 alternates; providing duties and powers of regional
22 workforce boards; providing for review panels;
23 providing for the establishment of a central appeal
24 office for certain purposes; amending s. 443.151,
25 F.S.; conforming provisions to changes made by the
26 act; providing filing requirements for a notice of
27 appeal; providing duties of the review panel and
28 department; amending ss. 20.60, 110.205, 120.80,

29 | 215.425, 443.0315, and 443.041, F.S.; conforming
 30 | provisions to changes made by the act; amending s.
 31 | 443.036, F.S.; revising definitions; conforming
 32 | provisions to changes made by the act; amending s.
 33 | 443.091, F.S.; revising criteria for determining an
 34 | applicant's availability for work; providing
 35 | application; amending ss. 443.101 and 443.1216, F.S.;
 36 | conforming provisions to changes made by the act;
 37 | amending s. 443.131, F.S.; requiring the tax
 38 | collection service provider to calculate an additional
 39 | rate to be assessed against contributing employers;
 40 | prohibiting an assessment from being made under
 41 | certain conditions; requiring assessments to be
 42 | available to pay interest on federal advances;
 43 | providing for the transfer of funds from the Audit and
 44 | Warrant Clearing Trust Fund to the Unemployment
 45 | Compensation Trust Fund under certain conditions;
 46 | amending s. 443.1317, F.S.; providing that the
 47 | department shall have ultimate authority over
 48 | administration of the reemployment assistance program;
 49 | amending ss. 443.141 and 443.171, F.S.; conforming
 50 | provisions to changes made by the act; providing
 51 | effective dates.

52 |
 53 | Be It Enacted by the Legislature of the State of Florida:

54 |
 55 | Section 1. (1) All powers, duties, functions, records,
 56 | offices, personnel, associated administrative support positions,

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57 property, pending issues, existing contracts, administrative
58 authority, administrative rules, and unexpended balances of
59 appropriations, allocations, and other funds relating to the
60 Reemployment Assistance Appeals Commission, are transferred by a
61 type two transfer, as defined in s. 20.06(2), Florida Statutes,
62 to the Department of Economic Opportunity.

63 (2) Any binding contract or interagency agreement existing
64 before October 1, 2013, between the Reemployment Assistance
65 Appeals Commission, or an entity or agent of the commission, and
66 any other agency, entity, or person shall continue as a binding
67 contract or agreement for the remainder of the term of such
68 contract or agreement on the successor department, agency, or
69 entity responsible for the program, activity, or functions
70 relative to the contract or agreement.

71 (3) All powers, duties, functions, records, offices,
72 personnel, property, pending issues, and existing contracts,
73 administrative authority, administrative rules, and unexpended
74 balances of appropriations, allocations, and other funds
75 relating to the Reemployment Assistance Appeals Commission which
76 are not specifically transferred by this section are transferred
77 by a type two transfer, as defined in s. 20.06(2), Florida
78 Statutes, to the Department of Economic Opportunity.

79 Section 2. (1) It is the intent of the Legislature that
80 the changes made by this act be accomplished with minimal
81 disruption of services provided to the public. To that end, the
82 Legislature directs that notwithstanding the changes made by
83 this act, the Reemployment Assistance Appeals Commission may
84 continue with such powers, duties, functions, records, offices,

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85 personnel, property, pending issues, and existing contracts as
86 provided in Florida Statutes 2012 until September 30, 2013.
87 Appeals filed before October 1, 2013, shall be administered as
88 provided in Florida Statutes 2012; appeals filed on and after
89 October 1, 2013, shall be administered in accordance with this
90 act. The Legislature believes that a transition period between
91 the effective date of this act and October 1, 2013, is
92 appropriate and warranted.

93 (2) The Department of Economic Opportunity shall
94 coordinate the development and implementation of a transition
95 plan that supports the implementation of this act.

96 (3) Notwithstanding s. 216.292 and pursuant to 216.351,
97 Florida Statutes, upon approval by the Legislative Budget
98 Commission, the Executive Office of the Governor may transfer
99 funds and positions between agencies to implement this act.

100 (4) Upon the recommendation and guidance of the Department
101 of Economic Opportunity, the Governor shall submit in a timely
102 manner to the applicable federal departments or agencies any
103 necessary amendments or supplemental information concerning
104 plans that the state is required to submit to the Federal
105 Government in connection with any federal or state program. The
106 Governor shall seek any waivers from the requirements of federal
107 law or rules which may be necessary to administer the provisions
108 of this act.

109 (5) The transfer of any program, activity, duty, or
110 function under this act includes the transfer of any records and
111 unexpended balances of appropriations, allocations, or other
112 funds related to such program, activity, duty, or function.

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113 Unless otherwise provided, the successor organization to any
114 program, activity, duty, or function transferred under this act
115 shall become the custodian of any property of the organization
116 that was responsible for the program, activity, duty, or
117 function immediately prior to the transfer.

118 Section 3. Section 443.012, Florida Statutes, is amended
119 to read:

120 443.012 Regional Appeal Offices ~~Reemployment Assistance~~
121 ~~Appeals Commission.~~—

122 (1) The Department of Economic Opportunity shall establish
123 an appeal office at each regional workforce board as defined
124 under s. 445.007 at the location where the regional workforce
125 board executive director is located. The department shall
126 provide the appeals referee and review panel with proper
127 facilities and assistance for the execution of their functions.
128 Administrative staff of the regional appeal offices shall serve
129 both the appeals referee and review panel and shall be employees
130 of the department, in accordance with s. 443.171(3).

131 (2) (a) Each regional workforce board shall, pursuant to
132 qualifications established by the department, appoint one or
133 more impartial salaried appeals referees to hear and decide
134 appealed claims. Such referees shall be employees of the
135 department, in accordance with s. 443.171(3).

136 (b) A person may not participate as an appeals referee in
137 any case in which she or he has a conflict of interest. The
138 regional workforce board may designate alternates to serve in
139 the absence or disqualification of an appeals referee on a
140 temporary basis. These alternates must have the same

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141 qualifications required of appeals referees.

142 (3) (a) Each regional workforce board shall appoint a
143 review panel to review appeals from the decisions of the
144 regional appeals referee. ~~There is created within the Division~~
145 of Workforce Services of the Department of Economic Opportunity
146 a Reemployment Assistance Appeals Commission. The review panel
147 commission is composed of a chair and two other members selected
148 from the membership of the regional workforce board and
149 appointed by the board chair Governor, subject to approval of a
150 majority vote of the regional workforce board, a quorum having
151 been established confirmation by the Senate. Only one appointee
152 may be a representative of employers, as demonstrated by his or
153 her previous vocation, employment, or affiliation; and only one
154 appointee may be a representative of employees, as demonstrated
155 by his or her previous vocation, employment, or affiliation.

156 ~~(a) The chair shall devote his or her entire time to~~
157 ~~commission duties and is responsible for the administrative~~
158 ~~functions of the commission.~~

159 (b) A regional workforce board ~~The chair~~ has authority to
160 appoint a general counsel and other personnel to carry out the
161 duties and responsibilities of the review panel, pursuant to
162 qualifications established by the department commission. The
163 general counsel must serve the panel in the review process. The
164 general counsel must be admitted to practice law in this state,
165 and must have, at a minimum, 1 year of experience in conducting
166 judicial or administrative hearings or 5 years of experience in
167 the practice of law. The general counsel shall be an employee of
168 the department, in accordance with s. 443.171(3).

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169 ~~(c) The chair must have the qualifications required by law~~
170 ~~for a judge of the circuit court and may not engage in any other~~
171 ~~business vocation or employment. Notwithstanding any other law,~~
172 ~~the chair shall be paid a salary equal to that paid under state~~
173 ~~law to a judge of the circuit court.~~

174 ~~(d) The remaining members shall be paid a stipend of \$100~~
175 ~~for each day they are engaged in the work of the commission. The~~
176 ~~chair and other members are entitled to be reimbursed for travel~~
177 ~~expenses, as provided in s. 112.061.~~

178 ~~(e) The total salary and travel expenses of each member of~~
179 ~~the commission shall be paid from the Employment Security~~
180 ~~Administration Trust Fund.~~

181 (c)(2) The members of the review panel ~~commission~~ shall be
182 appointed to staggered terms of 2 4 years each. A vacancy for
183 the unexpired term of a member shall be filled in the same
184 manner as the original appointment. The presence of two members
185 constitutes a quorum for any called meeting of the review panel
186 ~~commission~~.

187 ~~(3) The commission has all authority, powers, duties, and~~
188 ~~responsibilities relating to reemployment assistance appeal~~
189 ~~proceedings under this chapter.~~

190 ~~(4) The property, personnel, and appropriations relating~~
191 ~~to the specified authority, powers, duties, and responsibilities~~
192 ~~of the commission shall be provided to the commission by the~~
193 ~~Department of Economic Opportunity.~~

194 ~~(5) The commission is not subject to control, supervision,~~
195 ~~or direction by the Department of Economic Opportunity in~~
196 ~~performing its powers or duties under this chapter.~~

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197 ~~(6) The commission may make expenditures, including~~
198 ~~expenditures for personal services and rent, for law books,~~
199 ~~books of reference, periodicals, furniture, equipment, and~~
200 ~~supplies, and for printing and binding as necessary in~~
201 ~~exercising its authority and powers and carrying out its duties~~
202 ~~and responsibilities. All such expenditures of the commission~~
203 ~~shall be allowed and paid as provided in s. 443.211 upon the~~
204 ~~presentation of itemized vouchers approved by the chair.~~

205 ~~(7) The commission may charge fees for publications,~~
206 ~~subscriptions, and copies of records and documents. These fees~~
207 ~~must be deposited in the Employment Security Administration~~
208 ~~Trust Fund.~~

209 (4)~~(8)~~ The department shall establish a central appeal
210 office for the purposes of maintaining ~~commission shall maintain~~
211 ~~and keep open during reasonable business hours an office in~~
212 ~~Tallahassee for the purpose of transacting its business, at~~
213 ~~which office the commission shall keep its official records and~~
214 ~~papers. The department shall also post final orders of the~~
215 review panels online. ~~The offices shall be furnished and~~
216 ~~equipped by the commission. The commission may hold sessions and~~
217 ~~conduct hearings at any place within the state.~~

218 ~~(9) The commission shall prepare and submit a budget~~
219 ~~covering the necessary administrative cost of the commission.~~

220 (5)~~(10)~~ The department shall establish ~~commission shall~~
221 ~~have a seal for authenticating~~ all review panel ~~its orders,~~
222 ~~awards, and proceedings, upon which shall be inscribed the words~~
223 ~~"State of Florida-Reemployment Assistance~~ Review Panel-Seal
224 ~~Appeals Commission Seal," and it shall be judicially noticed.~~

225 (6) The regional workforce board shall submit to the
226 department information concerning the job performance of all
227 designated employees of the department at the regional appeal
228 office. The department shall consider any such information
229 submitted by the regional workforce board in conducting
230 performance appraisals of the employees.

231 ~~(11) The commission has authority to adopt rules under ss.~~
232 ~~120.536(1) and 120.54 to administer the provisions of law~~
233 ~~conferring duties upon it.~~

234 ~~(12) Orders of the commission relating to reemployment~~
235 ~~assistance under this chapter are subject to review only by~~
236 ~~notice of appeal to the district courts of appeal in the manner~~
237 ~~provided in s. 443.151(4)(c).~~

238 Section 4. Paragraph (e) of subsection (3), subsection
239 (4), and paragraph (b) of subsection (5) of section 443.151,
240 Florida Statutes, are amended to read:

241 443.151 Procedure concerning claims.—

242 (3) DETERMINATION OF ELIGIBILITY.—

243 (e) Redeterminations.—

244 1. The department may reconsider a determination if it
245 finds an error or if new evidence or information pertinent to
246 the determination is discovered after a prior determination or
247 redetermination. A redetermination may not be made more than 1
248 year after the last day of the benefit year unless the
249 disqualification for making a false or fraudulent representation
250 under s. 443.101(6) is applicable, in which case the
251 redetermination may be made within 2 years after the false or
252 fraudulent representation. The department must promptly give

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253 notice of redetermination to the claimant and to any employers
254 entitled to notice in the manner prescribed in this section for
255 the notice of an initial determination.

256 2. If the amount of benefits is increased by the
257 redetermination, an appeal of the redetermination based solely
258 on the increase may be filed as provided in subsection (4). If
259 the amount of benefits is decreased by the redetermination, the
260 redetermination may be appealed by the claimant if a subsequent
261 claim for benefits is affected in amount or duration by the
262 redetermination. If the final decision on the determination or
263 redetermination to be reconsidered was made by an appeals
264 referee, a review panel ~~the commission~~, or a court, the
265 department may apply for a revised decision from the body or
266 court that made the final decision.

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

270 (4) APPEALS.—

271 ~~(a) Appeals referees. The Department of Economic~~
272 ~~Opportunity shall appoint one or more impartial salaried appeals~~
273 ~~referees in accordance with s. 443.171(3) to hear and decide~~
274 ~~appealed claims. A person may not participate on behalf of the~~
275 ~~department as an appeals referee in any case in which she or he~~
276 ~~is an interested party. The department may designate alternates~~
277 ~~to serve in the absence or disqualification of any appeals~~
278 ~~referee on a temporary basis. These alternates must have the~~
279 ~~same qualifications required of appeals referees. The department~~
280 ~~shall provide the commission and the appeals referees with~~

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281 | ~~proper facilities and assistance for the execution of their~~
282 | ~~functions.~~

283 | (a) ~~(b)~~ Filing and hearing.—

284 | 1. The claimant or any other party entitled to notice of a
285 | determination may appeal an adverse determination to an appeals
286 | referee within 20 days after the date of mailing of the notice
287 | to her or his last known address or, if the notice is not
288 | mailed, within 20 days after the date of delivering the notice.
289 | Notice of appeal must be filed with the regional appeal office
290 | located at the regional workforce board servicing the area of
291 | the claimant's last principal place of business. Appeals filed
292 | with the incorrect regional appeal office may be forwarded to
293 | the appropriate office upon timely request of a party to the
294 | appeal. Appeals may be filed electronically through a central
295 | system or in a manner otherwise prescribed by the department.

296 | 2. Unless the appeal is untimely or withdrawn or review is
297 | initiated by the review panel ~~commission~~, the appeals referee,
298 | after mailing all parties and attorneys of record a notice of
299 | hearing at least 10 days before the date of hearing,
300 | notwithstanding the 14-day notice requirement in s.
301 | 120.569(2) (b), may only affirm, modify, or reverse the
302 | determination. An appeal may not be withdrawn without the
303 | permission of the appeals referee.

304 | 3. However, if an appeal appears to have been filed after
305 | the permissible time limit, the regional appeal office ~~of~~
306 | ~~Appeals~~ may issue an order to show cause to the appellant which
307 | requires the appellant to show why the appeal should not be
308 | dismissed as untimely. If, within 15 days after the mailing date

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309 of the order to show cause, the appellant does not provide
310 written evidence of timely filing or good cause for failure to
311 appeal timely, the appeal shall be dismissed.

312 4. If an appeal involves a question of whether services
313 were performed by a claimant in employment or for an employer,
314 the referee must give special notice of the question and of the
315 pendency of the appeal to the employing unit and to the
316 department, both of which become parties to the proceeding.

317 5.a. Any part of the evidence may be received in written
318 form, and all testimony of parties and witnesses shall be made
319 under oath.

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

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

330 (I) The party against whom it is offered has a reasonable
331 opportunity to review such evidence prior to the hearing; and

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

336 6. The parties must be notified promptly of the referee's

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337 decision. The referee's decision is final unless further review
338 is initiated under paragraph (b) ~~(e)~~ within 20 days after the
339 date of mailing notice of the decision to the party's last known
340 address or, in lieu of mailing, within 20 days after the
341 delivery of the notice.

342 (b) ~~(e)~~ Review by review panel ~~commission~~.—The review panel
343 ~~commission~~ may, on its own motion, within the time limit in
344 paragraph (a) ~~(b)~~, initiate a review of the decision of an
345 appeals referee located at the same regional appeal office. The
346 review panel ~~commission~~ may also allow the department or any
347 adversely affected party entitled to notice of the decision to
348 appeal the decision by filing an application within the time
349 limit in paragraph (a) ~~(b)~~. An adversely affected party has the
350 right to appeal the decision to the review panel located at the
351 same regional appeal office as the referee if the department's
352 determination is not affirmed by the appeals referee. The review
353 panel ~~commission~~ may affirm, modify, or reverse the findings and
354 conclusions of the appeals referee based on evidence previously
355 submitted in the case or based on additional evidence taken at
356 the direction of the review panel ~~commission~~. The review panel
357 ~~commission~~ may assume jurisdiction of or transfer to another
358 appeals referee the proceedings on any claim pending before an
359 appeals referee at the same regional appeal office. Any
360 proceeding in which the review panel ~~commission~~ assumes
361 jurisdiction before completion must be heard by the review panel
362 ~~commission~~ in accordance with the requirement of this subsection
363 for proceedings before an appeals referee. When the review panel
364 ~~commission~~ denies an application to hear an appeal of an appeals

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365 referee's decision, the decision of the appeals referee is the
366 decision of the review panel ~~commission~~ for purposes of this
367 paragraph and is subject to judicial review within the same time
368 and manner as decisions of the review panel ~~commission~~, except
369 that the time for initiating review runs from the date of notice
370 of the review panel's ~~commission's~~ order denying the application
371 to hear an appeal.

372 ~~(c)-(d)~~ Procedure.—The manner that appealed claims are
373 presented must comply with the review panel's ~~commission's~~
374 rules. Witnesses subpoenaed under this section are allowed fees
375 at the rate established by s. 92.142, and fees of witnesses
376 subpoenaed on behalf of the department or any claimant are
377 deemed part of the expense of administering this chapter.

378 ~~(d)-(e)~~ Judicial review.—Orders of the review panel
379 ~~commission~~ entered under paragraph (b) ~~(e)~~ are subject to review
380 only by notice of appeal in the district court of appeal in the
381 appellate district ~~in which a claimant resides or the job~~
382 ~~separation arose or in the appellate district~~ where the order
383 was issued. ~~However, if the notice of appeal is filed solely~~
384 ~~with the commission, the appeal shall be filed in the district~~
385 ~~court of appeal in the appellate district in which the order was~~
386 ~~issued.~~ Notwithstanding chapter 120, the review panel ~~commission~~
387 is a party respondent to every such proceeding. The department
388 may initiate judicial review of orders in the same manner and to
389 the same extent as any other party. Upon a final determination
390 by a district court of appeal, the department shall enter an
391 order in accordance with such determination.

392 (5) PAYMENT OF BENEFITS.—

393 (b) The department shall promptly pay benefits, regardless
 394 of whether a determination is under appeal if the determination
 395 allowing benefits is affirmed in any amount by an appeals
 396 referee or is affirmed by a review panel ~~the commission~~, or if a
 397 decision of an appeals referee allowing benefits is affirmed in
 398 any amount by the review panel ~~commission~~. In these instances, a
 399 court may not issue an injunction, supersedeas, stay, or other
 400 writ or process suspending payment of benefits. A contributing
 401 employer that responded to the notice of claim within the time
 402 limit provided in subsection (3) may not, however, be charged
 403 with benefits paid under an erroneous determination if the
 404 decision is ultimately reversed. Benefits are not paid for any
 405 subsequent weeks of unemployment involved in a reversal.

406 Section 5. Subsections (9) through (13) of section 20.60,
 407 Florida Statutes, are renumbered as subsections (8) through
 408 (12), respectively, and present subsection (8) of that section
 409 is amended, to read:

410 20.60 Department of Economic Opportunity; creation; powers
 411 and duties.—

412 ~~(8) The Reemployment Assistance Appeals Commission,~~
 413 ~~authorized by s. 443.012, is not subject to control,~~
 414 ~~supervision, or direction by the department in the performance~~
 415 ~~of its powers and duties but shall receive any and all support~~
 416 ~~and assistance from the department which is required for the~~
 417 ~~performance of its duties.~~

418 Section 6. Paragraph (n) of subsection (2) of section
 419 110.205, Florida Statutes, is amended to read:

420 110.205 Career service; exemptions.—

421 (2) EXEMPT POSITIONS.—The exempt positions that are not
422 covered by this part include the following:

423 (n)1.a. In addition to those positions exempted by other
424 paragraphs of this subsection, each department head may
425 designate a maximum of 20 policymaking or managerial positions,
426 as defined by the department and approved by the Administration
427 Commission, as being exempt from the Career Service System.
428 Career service employees who occupy a position designated as a
429 position in the Selected Exempt Service under this paragraph
430 shall have the right to remain in the Career Service System by
431 opting to serve in a position not exempted by the employing
432 agency. Unless otherwise fixed by law, the department shall set
433 the salary and benefits of these positions in accordance with
434 the rules of the Selected Exempt Service; provided, however,
435 that if the agency head determines that the general counsel,
436 chief Cabinet aide, public information administrator or
437 comparable position for a Cabinet officer, inspector general, or
438 legislative affairs director has both policymaking and
439 managerial responsibilities and if the department determines
440 that any such position has both policymaking and managerial
441 responsibilities, the salary and benefits for each such position
442 shall be established by the department in accordance with the
443 rules of the Senior Management Service.

444 b. In addition, each department may designate one
445 additional position in the Senior Management Service if that
446 position reports directly to the agency head or to a position in
447 the Senior Management Service and if any additional costs are
448 absorbed from the existing budget of that department.

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449 2. If otherwise exempt, employees of the Public Employees
450 Relations Commission and, the Commission on Human Relations, ~~and~~
451 ~~the Reemployment Assistance Appeals Commission~~, upon the
452 certification of their respective commission heads, may be
453 provided for under this paragraph as members of the Senior
454 Management Service, if otherwise qualified. However, the deputy
455 general counsel of the Public Employees Relations Commission
456 shall be compensated as members of the Selected Exempt Service.

457 Section 7. Paragraphs (b) and (c) of subsection (10) of
458 section 120.80, Florida Statutes, are amended to read:

459 120.80 Exceptions and special requirements; agencies.—

460 (10) DEPARTMENT OF ECONOMIC OPPORTUNITY.—

461 (b) Notwithstanding s. 120.54(5), the uniform rules of
462 procedure do not apply to appeal proceedings conducted under
463 chapter 443 by ~~the reemployment assistance Appeals~~ review panels
464 ~~Commission~~, special deputies, or reemployment assistance appeals
465 referees.

466 (c) Notwithstanding s. 120.57(1)(a), hearings under
467 chapter 443 may not be conducted by an administrative law judge
468 assigned by the division, but instead shall be conducted by the
469 reemployment assistance review panels ~~Appeals Commission~~ in
470 reemployment assistance appeals, reemployment assistance appeals
471 referees, and the Department of Economic Opportunity or its
472 special deputies under s. 443.141.

473 Section 8. Paragraph (a) of subsection (4) of section
474 215.425, Florida Statutes, is amended to read:

475 215.425 Extra compensation claims prohibited; bonuses;
476 severance pay.—

477 (4) (a) On or after July 1, 2011, a unit of government that
 478 enters into a contract or employment agreement, or renewal or
 479 renegotiation of an existing contract or employment agreement,
 480 that contains a provision for severance pay with an officer,
 481 agent, employee, or contractor must include the following
 482 provisions in the contract:

483 1. A requirement that severance pay provided may not
 484 exceed an amount greater than 20 weeks of compensation.

485 2. A prohibition of provision of severance pay when the
 486 officer, agent, employee, or contractor has been fired for
 487 misconduct, as defined in s. 443.036(29) ~~443.036(30)~~, by the
 488 unit of government.

489 Section 9. Section 443.0315, Florida Statutes, is amended
 490 to read:

491 443.0315 Effect of finding, judgment, conclusion, or order
 492 in separate or subsequent action or proceeding; use as
 493 evidence.—Any finding of fact or law, judgment, conclusion, or
 494 final order made by a hearing officer, a review panel ~~the~~
 495 ~~commission~~, or any person with the authority to make findings of
 496 fact or law in any proceeding under this chapter is not
 497 conclusive or binding in any separate or subsequent action or
 498 proceeding, other than an action or proceeding under this
 499 chapter, between an individual and his or her present or prior
 500 employer brought before an arbitrator, court, or judge of this
 501 state or the United States, regardless of whether the prior
 502 action was between the same or related parties or involved the
 503 same facts.

504 Section 10. Subsections (13) through (47) of section

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505 443.036, Florida Statutes, are renumbered as subsections (12)
506 through (46), respectively, and present subsections (12) and
507 (30) of that section are amended, to read:

508 443.036 Definitions.—As used in this chapter, the term:
509 ~~(12) "Commission" means the Reemployment Assistance~~
510 ~~Appeals Commission.~~

511 ~~(29)(30)~~ "Misconduct," irrespective of whether the
512 misconduct occurs at the workplace or during working hours,
513 includes, but is not limited to, the following, which may not be
514 construed in pari materia with each other:

515 (a) Conduct demonstrating conscious disregard of an
516 employer's interests and found to be a deliberate violation or
517 disregard of the reasonable standards of behavior which the
518 employer expects of his or her employee. Such conduct may
519 include, but is not limited to, willful damage to an employer's
520 property that results in damage of more than \$50; or theft of
521 employer property or property of a customer or invitee of the
522 employer.

523 (b) Carelessness or negligence to a degree or recurrence
524 that manifests culpability or wrongful intent, or shows an
525 intentional and substantial disregard of the employer's
526 interests or of the employee's duties and obligations to his or
527 her employer.

528 (c) Chronic absenteeism or tardiness in deliberate
529 violation of a known policy of the employer or one or more
530 unapproved absences following a written reprimand or warning
531 relating to more than one unapproved absence.

532 (d) A willful and deliberate violation of a standard or

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533 regulation of this state by an employee of an employer licensed
534 or certified by this state, which violation would cause the
535 employer to be sanctioned or have its license or certification
536 suspended by this state. Such conduct may include, but is not
537 limited to, failure to maintain a license, registration, or
538 certification required by applicable law in order for the
539 employee to perform her or his assigned job duties.

540 (e)1. A violation of an employer's rule, unless the
541 claimant can demonstrate that:

542 a.1. He or she did not know, and could not reasonably
543 know, of the rule's requirements;

544 b.2. The rule is not lawful or not reasonably related to
545 the job environment and performance; or

546 c.3. The rule is not fairly or consistently enforced.

547 2. Such conduct may include, but is not limited to,
548 committing criminal assault or battery on another employee, or
549 on a customer or invitee of the employer; or committing abuse or
550 neglect of a patient, resident, disabled person, elderly person,
551 or child in her or his professional care.

552 Section 11. Paragraphs (a), (c), and (d) of subsection (2)
553 of section 443.041, Florida Statutes, are amended to read:

554 443.041 Waiver of rights; fees; privileged
555 communications.—

556 (2) FEES.—

557 (a) Except as otherwise provided in this chapter, an
558 individual claiming benefits may not be charged fees of any kind
559 in any proceeding under this chapter by a review panel ~~the~~
560 ~~commission~~ or the Department of Economic Opportunity, or their

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561 representatives, or by any court or any officer of the court. An
562 individual claiming benefits in any proceeding before a review
563 panel ~~the commission~~ or the department, or representatives of
564 either, or a court may be represented by counsel or an
565 authorized representative, but the counsel or representative may
566 not charge or receive for those services more than an amount
567 approved by a review panel ~~the commission~~, the department, or
568 the court.

569 (c) The department shall pay attorney ~~attorneys'~~ fees
570 awarded under this section from the Employment Security
571 Administration Trust Fund as part of the costs of administration
572 of this chapter and may pay these fees directly to the attorney
573 for the claimant in a lump sum. The department or a review panel
574 ~~the commission~~ may not pay any other fees or costs in connection
575 with an appeal.

576 (d) Any person, firm, or corporation who or which seeks or
577 receives any remuneration or gratuity for any services rendered
578 on behalf of a claimant, except as allowed by this section and
579 in an amount approved by the department, the a review panel
580 ~~commission~~, or a court, commits a misdemeanor of the second
581 degree, punishable as provided in s. 775.082 or s. 775.083.

582 Section 12. Paragraph (d) of subsection (1) of section
583 443.091, Florida Statutes, is amended to read:

584 443.091 Benefit eligibility conditions.—

585 (1) An unemployed individual is eligible to receive
586 benefits for any week only if the Department of Economic
587 Opportunity finds that:

588 (d) She or he is able to work and is available for work.

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589 In order to assess eligibility for a claimed week of
590 unemployment, the department shall develop criteria to determine
591 a claimant's ability to work and availability for work. A
592 claimant must be actively seeking work in order to be considered
593 available for work. This means engaging in systematic and
594 sustained efforts to find work, including contacting at least
595 five prospective employers for each week of unemployment
596 claimed. The department may require the claimant to provide
597 proof of such efforts to the one-stop career center as part of
598 reemployment services. A claimant's proof of efforts may not
599 include the same prospective employer at the same location for
600 the duration of benefits, unless the employer has indicated
601 since the time of the initial contact that the employer is
602 hiring. The department shall conduct random reviews of work
603 search information provided by claimants. As an alternative to
604 contacting at least five prospective employers for any week of
605 unemployment claimed, a claimant may, for that same week, report
606 in person to a one-stop career center to meet with a
607 representative of the center and access reemployment services of
608 the center. The center shall keep a record of the services or
609 information provided to the claimant and shall provide the
610 records to the department upon request by the department.

611 However:

612 1. Notwithstanding any other provision of this paragraph
613 or paragraphs (b) and (e), an otherwise eligible individual may
614 not be denied benefits for any week because she or he is in
615 training with the approval of the department, or by reason of s.
616 443.101(2) relating to failure to apply for, or refusal to

617 accept, suitable work. Training may be approved by the
618 department in accordance with criteria prescribed by rule. A
619 claimant's eligibility during approved training is contingent
620 upon satisfying eligibility conditions prescribed by rule.

621 2. Notwithstanding any other provision of this chapter, an
622 otherwise eligible individual who is in training approved under
623 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
624 determined ineligible or disqualified for benefits due to
625 enrollment in such training or because of leaving work that is
626 not suitable employment to enter such training. As used in this
627 subparagraph, the term "suitable employment" means work of a
628 substantially equal or higher skill level than the worker's past
629 adversely affected employment, as defined for purposes of the
630 Trade Act of 1974, as amended, the wages for which are at least
631 80 percent of the worker's average weekly wage as determined for
632 purposes of the Trade Act of 1974, as amended.

633 3. Notwithstanding any other provision of this section, an
634 otherwise eligible individual may not be denied benefits for any
635 week because she or he is before any state or federal court
636 pursuant to a lawfully issued summons to appear for jury duty.

637 4. Union members who customarily obtain employment through
638 a union hiring hall may satisfy the work search requirements of
639 this paragraph by reporting daily to their union hall.

640 5. The work search requirements of this paragraph do not
641 apply to persons who are unemployed as a result of a temporary
642 layoff or who are claiming benefits under an approved short-time
643 compensation plan as provided in s. 443.1116.

644 6. In small counties as defined in s. 120.52(19), a

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645 claimant engaging in systematic and sustained efforts to find
646 work must contact at least three prospective employers for each
647 week of unemployment claimed.

648 7. The work search requirements of this paragraph do not
649 apply to persons required to participate in reemployment
650 services under paragraph (e).

651 Section 13. Subsections (6) and (9) of section 443.101,
652 Florida Statutes, are amended to read:

653 443.101 Disqualification for benefits.—An individual shall
654 be disqualified for benefits:

655 (6) For making any false or fraudulent representation for
656 the purpose of obtaining benefits contrary to this chapter,
657 constituting a violation under s. 443.071. The disqualification
658 imposed under this subsection shall begin with the week in which
659 the false or fraudulent representation is made and shall
660 continue for a period not to exceed 1 year after the date the
661 Department of Economic Opportunity discovers the false or
662 fraudulent representation and until any overpayment of benefits
663 resulting from such representation has been repaid in full. This
664 disqualification may be appealed in the same manner as any other
665 disqualification imposed under this section. A conviction by any
666 court of competent jurisdiction in this state of the offense
667 prohibited or punished by s. 443.071 is conclusive upon the
668 appeals referee and the review panel ~~commission~~ of the making of
669 the false or fraudulent representation for which
670 disqualification is imposed under this section.

671 (9) If the individual was terminated from his or her work
672 as follows:

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673 (a) If the Department of Economic Opportunity or a ~~the~~
674 reemployment assistance review panel ~~Appeals Commission~~ finds
675 that the individual was terminated from work for violation of
676 any criminal law, under any jurisdiction, which was in
677 connection with his or her work, and the individual was
678 convicted, or entered a plea of guilty or nolo contendere, the
679 individual is not entitled to reemployment assistance benefits
680 for up to 52 weeks, pursuant to rules adopted by the department,
681 and until he or she has earned income of at least 17 times his
682 or her weekly benefit amount. If, before an adjudication of
683 guilt, an admission of guilt, or a plea of nolo contendere, the
684 employer proves by competent substantial evidence to the
685 department that the arrest was due to a crime against the
686 employer or the employer's business, customers, or invitees, the
687 individual is not entitled to reemployment assistance benefits.

688 (b) If the department or a ~~the~~ reemployment assistance
689 review panel ~~Appeals Commission~~ finds that the individual was
690 terminated from work for any dishonest act in connection with
691 his or her work, the individual is not entitled to reemployment
692 assistance benefits for up to 52 weeks, pursuant to rules
693 adopted by the department, and until he or she has earned income
694 of at least 17 times his or her weekly benefit amount. If the
695 employer terminates an individual as a result of a dishonest act
696 in connection with his or her work and the department finds
697 misconduct in connection with his or her work, the individual is
698 not entitled to reemployment assistance benefits.

699
700 If an individual is disqualified for benefits, the account of

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701 the terminating employer, if the employer is in the base period,
702 is noncharged at the time the disqualification is imposed.

703 Section 14. Paragraph (a) of subsection (1) and paragraph
704 (f) of subsection (13) of section 443.1216, Florida Statutes, is
705 amended to read:

706 443.1216 Employment.—Employment, as defined in s. 443.036,
707 is subject to this chapter under the following conditions:

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

711 1. An officer of a corporation.

712 2. An individual who, under the usual common-law rules
713 applicable in determining the employer-employee relationship, is
714 an employee. However, whenever a client, as defined in s.
715 443.036(17) ~~443.036(18)~~, which would otherwise be designated as
716 an employing unit has contracted with an employee leasing
717 company to supply it with workers, those workers are considered
718 employees of the employee leasing company. An employee leasing
719 company may lease corporate officers of the client to the client
720 and other workers to the client, except as prohibited by
721 regulations of the Internal Revenue Service. Employees of an
722 employee leasing company must be reported under the employee
723 leasing company's tax identification number and contribution
724 rate for work performed for the employee leasing company.

725 a. However, except for the internal employees of an
726 employee leasing company, each employee leasing company may make
727 a separate one-time election to report and pay contributions
728 under the tax identification number and contribution rate for

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729 each client of the employee leasing company. Under the client
730 method, an employee leasing company choosing this option must
731 assign leased employees to the client company that is leasing
732 the employees. The client method is solely a method to report
733 and pay unemployment contributions, and, whichever method is
734 chosen, such election may not impact any other aspect of state
735 law. An employee leasing company that elects the client method
736 must pay contributions at the rates assigned to each client
737 company.

738 (I) The election applies to all of the employee leasing
739 company's current and future clients.

740 (II) The employee leasing company must notify the
741 Department of Revenue of its election by July 1, 2012, and such
742 election applies to reports and contributions for the first
743 quarter of the following calendar year. The notification must
744 include:

745 (A) A list of each client company and the unemployment
746 account number or, if one has not yet been issued, the federal
747 employment identification number, as established by the employee
748 leasing company upon the election to file by client method;

749 (B) A list of each client company's current and previous
750 employees and their respective social security numbers for the
751 prior 3 state fiscal years or, if the client company has not
752 been a client for the prior 3 state fiscal years, such portion
753 of the prior 3 state fiscal years that the client company has
754 been a client must be supplied;

755 (C) The wage data and benefit charges associated with each
756 client company for the prior 3 state fiscal years or, if the

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757 client company has not been a client for the prior 3 state
758 fiscal years, such portion of the prior 3 state fiscal years
759 that the client company has been a client must be supplied. If
760 the client company's employment record is chargeable with
761 benefits for less than 8 calendar quarters while being a client
762 of the employee leasing company, the client company must pay
763 contributions at the initial rate of 2.7 percent; and

764 (D) The wage data and benefit charges for the prior 3
765 state fiscal years that cannot be associated with a client
766 company must be reported and charged to the employee leasing
767 company.

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

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

774 (V) For the purposes of calculating experience rates when
775 the client method is chosen, each client's own benefit charges
776 and wage data experience while with the employee leasing company
777 determines each client's tax rate where the client has been a
778 client of the employee leasing company for at least 8 calendar
779 quarters before the election. The client company shall continue
780 to report the nonleased employees under its tax rate.

781 (VI) The election is binding on each client of the
782 employee leasing company for as long as a written agreement is
783 in effect between the client and the employee leasing company
784 pursuant to s. 468.525(3)(a). If the relationship between the

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785 employee leasing company and the client terminates, the client
786 retains the wage and benefit history experienced under the
787 employee leasing company.

788 (VII) Notwithstanding which election method the employee
789 leasing company chooses, the applicable client company is an
790 employing unit for purposes of s. 443.071. The employee leasing
791 company or any of its officers or agents are liable for any
792 violation of s. 443.071 engaged in by such persons or entities.
793 The applicable client company or any of its officers or agents
794 are liable for any violation of s. 443.071 engaged in by such
795 persons or entities. The employee leasing company or its
796 applicable client company is not liable for any violation of s.
797 443.071 engaged in by the other party or by the other party's
798 officers or agents.

799 (VIII) If an employee leasing company fails to select the
800 client method of reporting not later than July 1, 2012, the
801 entity is required to report under the employee leasing
802 company's tax identification number and contribution rate.

803 (IX) After an employee leasing company is licensed
804 pursuant to part XI of chapter 468, each newly licensed entity
805 has 30 days after the date the license is granted to notify the
806 tax collection service provider in writing of their selection of
807 the client method. A newly licensed employee leasing company
808 that fails to timely select reporting pursuant to the client
809 method of reporting must report under the employee leasing
810 company's tax identification number and contribution rate.

811 (X) Irrespective of the election, each transfer of trade
812 or business, including workforce, or a portion thereof, between

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813 employee leasing companies is subject to the provisions of s.
814 443.131(3)(g) if, at the time of the transfer, there is common
815 ownership, management, or control between the entities.

816 b. In addition to any other report required to be filed by
817 law, an employee leasing company shall submit a report to the
818 Labor Market Statistics Center within the Department of Economic
819 Opportunity which includes each client establishment and each
820 establishment of the leasing company, or as otherwise directed
821 by the department. The report must include the following
822 information for each establishment:

823 (I) The trade or establishment name;

824 (II) The former reemployment assistance account number, if
825 available;

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

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

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

832 (VI) The address of the physical location;

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

837 (VIII) The total wages subject to reemployment assistance
838 taxes paid during the calendar quarter;

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

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

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

845 c. The report must be submitted electronically or in a
 846 manner otherwise prescribed by the Department of Economic
 847 Opportunity in the format specified by the Bureau of Labor
 848 Statistics of the United States Department of Labor for its
 849 Multiple Worksite Report for Professional Employer
 850 Organizations. The report must be provided quarterly to the
 851 Labor Market Statistics Center within the department, or as
 852 otherwise directed by the department, and must be filed by the
 853 last day of the month immediately after the end of the calendar
 854 quarter. The information required in sub-sub-subparagraphs b.(X)
 855 and (XI) need be provided only in the quarter in which the
 856 contract to which it relates was entered into or terminated. The
 857 sum of the employment data and the sum of the wage data in this
 858 report must match the employment and wages reported in the
 859 reemployment assistance quarterly tax and wage report. A report
 860 is not required for any calendar quarter preceding the third
 861 calendar quarter of 2010.

862 d. The department shall adopt rules as necessary to
 863 administer this subparagraph, and may administer, collect,
 864 enforce, and waive the penalty imposed by s. 443.141(1)(b) for
 865 the report required by this subparagraph.

866 e. For the purposes of this subparagraph, the term
 867 "establishment" means any location where business is conducted
 868 or where services or industrial operations are performed.

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869 3. An individual other than an individual who is an
870 employee under subparagraph 1. or subparagraph 2., who performs
871 services for remuneration for any person:

872 a. As an agent-driver or commission-driver engaged in
873 distributing meat products, vegetable products, fruit products,
874 bakery products, beverages other than milk, or laundry or
875 drycleaning services for his or her principal.

876 b. As a traveling or city salesperson engaged on a full-
877 time basis in the solicitation on behalf of, and the
878 transmission to, his or her principal of orders from
879 wholesalers, retailers, contractors, or operators of hotels,
880 restaurants, or other similar establishments for merchandise for
881 resale or supplies for use in the business operations. This sub-
882 subparagraph does not apply to an agent-driver or a commission-
883 driver and does not apply to sideline sales activities performed
884 on behalf of a person other than the salesperson's principal.

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

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

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

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

896 (13) The following are exempt from coverage under this

897 chapter:

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

905 Section 15. Paragraph (f) of subsection (3) and (5) of
 906 section 443.131, Florida Statutes, are amended to read:

907 443.131 Contributions.—

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

910 (f) Transfer of employment records.—

911 1. For the purposes of this subsection, two or more
 912 employers who are parties to a transfer of business or the
 913 subject of a merger, consolidation, or other form of
 914 reorganization, effecting a change in legal identity or form,
 915 are deemed a single employer and are considered to be one
 916 employer with a continuous employment record if the tax
 917 collection service provider finds that the successor employer
 918 continues to carry on the employing enterprises of all of the
 919 predecessor employers and that the successor employer has paid
 920 all contributions required of and due from all of the
 921 predecessor employers and has assumed liability for all
 922 contributions that may become due from all of the predecessor
 923 employers. In addition, an employer may not be considered a
 924 successor under this subparagraph if the employer purchases a

925 | company with a lower rate into which employees with job
926 | functions unrelated to the business endeavors of the predecessor
927 | are transferred for the purpose of acquiring the low rate and
928 | avoiding payment of contributions. As used in this paragraph,
929 | notwithstanding s. 443.036(13) ~~443.036(14)~~, the term
930 | "contributions" means all indebtedness to the tax collection
931 | service provider, including, but not limited to, interest,
932 | penalty, collection fee, and service fee. A successor employer
933 | must accept the transfer of all of the predecessor employers'
934 | employment records within 30 days after the date of the official
935 | notification of liability by succession. If a predecessor
936 | employer has unpaid contributions or outstanding quarterly
937 | reports, the successor employer must pay the total amount with
938 | certified funds within 30 days after the date of the notice
939 | listing the total amount due. After the total indebtedness is
940 | paid, the tax collection service provider shall transfer the
941 | employment records of all of the predecessor employers to the
942 | successor employer's employment record. The tax collection
943 | service provider shall determine the contribution rate of the
944 | combined successor and predecessor employers upon the transfer
945 | of the employment records, as prescribed by rule, in order to
946 | calculate any change in the contribution rate resulting from the
947 | transfer of the employment records.

948 | 2. Regardless of whether a predecessor employer's
949 | employment record is transferred to a successor employer under
950 | this paragraph, the tax collection service provider shall treat
951 | the predecessor employer, if he or she subsequently employs
952 | individuals, as an employer without a previous employment record

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953 or, if his or her coverage is terminated under s. 443.121, as a
954 new employing unit.

955 3. The state agency providing reemployment assistance tax
956 collection services may adopt rules governing the partial
957 transfer of experience rating when an employer transfers an
958 identifiable and segregable portion of his or her payrolls and
959 business to a successor employing unit. As a condition of each
960 partial transfer, these rules must require the following to be
961 filed with the tax collection service provider: an application
962 by the successor employing unit, an agreement by the predecessor
963 employer, and the evidence required by the tax collection
964 service provider to show the benefit experience and payrolls
965 attributable to the transferred portion through the date of the
966 transfer. These rules must provide that the successor employing
967 unit, if not an employer subject to this chapter, becomes an
968 employer as of the date of the transfer and that the transferred
969 portion of the predecessor employer's employment record is
970 removed from the employment record of the predecessor employer.
971 For each calendar year after the date of the transfer of the
972 employment record in the records of the tax collection service
973 provider, the service provider shall compute the contribution
974 rate payable by the successor employer or employing unit based
975 on his or her employment record, combined with the transferred
976 portion of the predecessor employer's employment record. These
977 rules may also prescribe what contribution rates are payable by
978 the predecessor and successor employers for the period between
979 the date of the transfer of the transferred portion of the
980 predecessor employer's employment record in the records of the

981 tax collection service provider and the first day of the next
 982 calendar year.

983 4. This paragraph does not apply to an employee leasing
 984 company and client contractual agreement as defined in s.
 985 443.036, except as provided in s. 443.1216(1)(a)2.a. The tax
 986 collection service provider shall, if the contractual agreement
 987 is terminated or the employee leasing company fails to submit
 988 reports or pay contributions as required by the service
 989 provider, treat the client as a new employer without previous
 990 employment record unless the client is otherwise eligible for a
 991 variation from the standard rate.

992 (5) ADDITIONAL RATE FOR INTEREST ON FEDERAL ADVANCES.—

993 (a) When the Unemployment Compensation Trust Fund has
 994 received advances from the Federal Government under the
 995 provisions of 42 U.S.C. s. 1321, each contributing employer
 996 shall be assessed an additional rate solely for the purpose of
 997 paying interest due on such federal advances. The additional
 998 rate shall be assessed no later than February 1 in each calendar
 999 year in which an interest payment is due.

1000 (b) The Revenue Estimating Conference shall estimate the
 1001 amount of ~~such~~ interest due on federal advances no later than
 1002 December 1 of the calendar year preceding the calendar year in
 1003 which an interest payment is due. The Revenue Estimating
 1004 Conference shall, at a minimum, consider the following as the
 1005 basis for the estimate:

- 1006 1. The amounts actually advanced to the trust fund.
- 1007 2. Amounts expected to be advanced to the trust fund based
- 1008 on current and projected unemployment patterns and employer

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1009 contributions.

1010 3. The interest payment due date.

1011 4. The interest rate that will be applied by the Federal
1012 Government to any accrued outstanding balances.

1013 (c) ~~(b)~~ The tax collection service provider shall calculate
1014 the additional rate to be assessed against contributing
1015 employers. The additional rate assessed for a calendar year
1016 shall be determined by dividing the estimated amount of interest
1017 to be paid in that year by 95 percent of the taxable wages as
1018 described in s. 443.1217 paid by all employers for the year
1019 ending June 30 of the immediately preceding calendar year. The
1020 amount to be paid by each employer shall be the product obtained
1021 by multiplying such employer's taxable wages as described in s.
1022 443.1217 for the year ending June 30 of the immediately
1023 preceding calendar year by the rate as determined by this
1024 subsection. If the amount of assessments on deposit from
1025 previous years, plus any earned interest, is at least 80 percent
1026 of the estimated amount of interest, then an assessment may not
1027 be made.

1028 (d) The tax collection service provider shall make a
1029 separate collection of such assessment, which may be collected
1030 at the time of employer contributions and subject to the same
1031 penalties for failure to file a report, imposition of the
1032 standard rate pursuant to paragraph (3) (h), and interest if the
1033 assessment is not received on or before June 30. Section
1034 443.141(1) (d) and (e) does not apply to this separately
1035 collected assessment. The tax collection service provider shall
1036 maintain those funds in the tax collection service provider's

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1037 Audit and Warrant Clearing Trust Fund until the provider is
1038 directed by the Governor or the Governor's designee to make the
1039 interest payment to the Federal Government. Assessments on
1040 deposit shall be available to pay the interest on advances
1041 received from the Federal Government under 42 U.S.C. s. 1321.
1042 Assessments on deposit may be invested and any interest earned
1043 shall be part of the balance available to pay the interest on
1044 advances received from the Federal Government under 42 U.S.C. s.
1045 1321.

1046 (e) Four months after ~~In the calendar year that~~ all
1047 advances from the Federal Government under 42 U.S.C. s. 1321 and
1048 associated interest are repaid, ~~if there are assessment funds in~~
1049 ~~excess of the amount required to meet the final interest~~
1050 ~~payment,~~ any ~~such~~ excess assessed funds in the Audit and Warrant
1051 Clearing Trust Fund, including associated interest, and any
1052 assessment amounts subsequently collected shall be transferred
1053 to the Unemployment Compensation Trust Fund ~~shall be credited to~~
1054 ~~employer accounts in the Unemployment Compensation Trust Fund in~~
1055 ~~an amount equal to the employer's contribution to the assessment~~
1056 ~~for that year divided by the total amount of the assessment for~~
1057 ~~that year, the result of which is multiplied by the amount of~~
1058 ~~excess assessed funds. However,~~

1059 (f) If the state is permitted to defer interest payments
1060 due during a calendar year under 42 U.S.C. s. 1322, payment of
1061 the interest assessment shall not be due. If a deferral of
1062 interest expires or is subsequently disallowed by the Federal
1063 Government, either prospectively or retroactively, the interest
1064 assessment shall be immediately due and payable. Notwithstanding

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1065 any other provision of this section, if interest due during a
1066 calendar year on federal advances is forgiven or postponed under
1067 federal law and is no longer due during that calendar year, no
1068 interest assessment shall be assessed against an employer for
1069 that calendar year, and any assessment already assessed and
1070 collected against an employer before the forgiveness or
1071 postponement of the interest for that calendar year shall be
1072 credited to such employer's account in the Unemployment
1073 Compensation Trust Fund. However, such funds may be used only to
1074 pay benefits or refunds of erroneous contributions.

1075 (g) This subsection expires July 1, 2014.

1076 Section 16. Paragraph (a) of subsection (1) of section
1077 443.1317, Florida Statutes, is amended to read:

1078 443.1317 Rulemaking authority; enforcement of rules.—

1079 (1) DEPARTMENT OF ECONOMIC OPPORTUNITY.—

1080 (a) ~~Except as otherwise provided in s. 443.012,~~ The
1081 Department of Economic Opportunity has ultimate authority over
1082 the administration of the Reemployment Assistance Program.

1083 Section 17. Paragraph (b) of subsection (2) and paragraph
1084 (f) of subsection (3) of section 443.141, Florida Statutes, are
1085 amended to read:

1086 443.141 Collection of contributions and reimbursements.—

1087 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

1088 (b) Hearings.—The determination and assessment are final
1089 15 days after the date the assessment is mailed unless the
1090 employer files with the tax collection service provider within
1091 the 15 days a written protest and petition for hearing
1092 specifying the objections thereto. The tax collection service

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1093 provider shall promptly review each petition and may reconsider
1094 its determination and assessment in order to resolve the
1095 petitioner's objections. The tax collection service provider
1096 shall forward each petition remaining unresolved to the
1097 department for a hearing on the objections. Upon receipt of a
1098 petition, the department shall schedule a hearing and notify the
1099 petitioner of the time and place of the hearing. The department
1100 may appoint special deputies to conduct hearings and to submit
1101 their findings together with a transcript of the proceedings
1102 before them and their recommendations to the department for its
1103 final order. Special deputies are subject to the prohibition
1104 against ex parte communications in s. 120.66. At any hearing
1105 conducted by the department or its special deputy, evidence may
1106 be offered to support the determination and assessment or to
1107 prove it is incorrect. In order to prevail, however, the
1108 petitioner must either prove that the determination and
1109 assessment are incorrect or file full and complete corrected
1110 reports. Evidence may also be submitted at the hearing to rebut
1111 the determination by the tax collection service provider that
1112 the petitioner is an employer under this chapter. Upon evidence
1113 taken before it or upon the transcript submitted to it with the
1114 findings and recommendation of its special deputy, the
1115 department shall either set aside the tax collection service
1116 provider's determination that the petitioner is an employer
1117 under this chapter or reaffirm the determination. The amounts
1118 assessed under the final order, together with interest and
1119 penalties, must be paid within 15 days after notice of the final
1120 order is mailed to the employer, unless judicial review is

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1121 instituted in a case of status determination. Amounts due when
1122 the status of the employer is in dispute are payable within 15
1123 days after the entry of an order by the court affirming the
1124 determination. However, any determination that an employing unit
1125 is not an employer under this chapter does not affect the
1126 benefit rights of any individual as determined by an appeals
1127 referee or a review panel ~~the commission~~ unless:

1128 1. The individual is made a party to the proceedings
1129 before the special deputy; or

1130 2. The decision of the appeals referee or a review panel
1131 ~~the commission~~ has not become final or the employing unit and
1132 the department were not made parties to the proceedings before
1133 the appeals referee or a review panel ~~the commission~~.

1134 (3) COLLECTION PROCEEDINGS.—

1135 (f) Reproductions.—In any proceedings in any court under
1136 this chapter, reproductions of the original records of the
1137 Department of Economic Opportunity, its tax collection service
1138 provider, the former Agency for Workforce Innovation, the former
1139 Department of Labor and Employment Security, or the former
1140 Reemployment Assistance Appeals Commission, including, but not
1141 limited to, photocopies or microfilm, are primary evidence in
1142 lieu of the original records or of the documents that were
1143 transcribed into those records.

1144 Section 18. Subsections (6), (7), and (8) of section
1145 443.171, Florida Statutes, are amended to read:

1146 443.171 Department of Economic Opportunity ~~and commission~~;
1147 powers and duties; records and reports; proceedings; state-
1148 federal cooperation.—

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1149 (6) OATHS AND WITNESSES.—In the discharge of the duties
1150 imposed by this chapter, the Department of Economic Opportunity,
1151 its tax collection service provider, the members of a review
1152 panel ~~the commission~~, and any authorized representative of any
1153 of these entities may administer oaths and affirmations, take
1154 depositions, certify to official acts, and issue subpoenas to
1155 compel the attendance of witnesses and the production of books,
1156 papers, correspondence, memoranda, and other records deemed
1157 necessary as evidence in connection with the administration of
1158 this chapter.

1159 (7) SUBPOENAS.—If a person refuses to obey a subpoena
1160 issued to that person, any court of this state within the
1161 jurisdiction of which the inquiry is carried on, or within the
1162 jurisdiction of which the person is found, resides, or transacts
1163 business, upon application by the Department of Economic
1164 Opportunity, its tax collection service provider, a review panel
1165 ~~the commission~~, or any authorized representative of any of these
1166 entities has jurisdiction to order the person to appear before
1167 the entity to produce evidence or give testimony on the matter
1168 under investigation or in question. Failure to obey the order of
1169 the court may be punished by the court as contempt. Any person
1170 who fails or refuses without just cause to appear or testify; to
1171 answer any lawful inquiry; or to produce books, papers,
1172 correspondence, memoranda, and other records within her or his
1173 control as commanded in a subpoena of the department, its tax
1174 collection service provider, a review panel ~~the commission~~, or
1175 any authorized representative of any of these entities commits a
1176 misdemeanor of the second degree, punishable as provided in s.

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1177 775.082 or s. 775.083. Each day that a violation continues is a
1178 separate offense.

1179 (8) PROTECTION AGAINST SELF-INCRIMINATION.—A person is not
1180 excused from appearing or testifying, or from producing books,
1181 papers, correspondence, memoranda, or other records, before the
1182 Department of Economic Opportunity, its tax collection service
1183 provider, a review panel ~~the commission~~, or any authorized
1184 representative of any of these entities or as commanded in a
1185 subpoena of any of these entities in any proceeding before the
1186 department, a review panel ~~the commission~~, an appeals referee,
1187 or a special deputy on the ground that the testimony or
1188 evidence, documentary or otherwise, required of the person may
1189 incriminate her or him or subject her or him to a penalty or
1190 forfeiture. That person may not be prosecuted or subjected to
1191 any penalty or forfeiture for or on account of any transaction,
1192 matter, or thing concerning which she or he is compelled, after
1193 having claimed her or his privilege against self-incrimination,
1194 to testify or produce evidence, documentary or otherwise, except
1195 that the person testifying is not exempt from prosecution and
1196 punishment for perjury committed while testifying.

1197 Section 19. Except as otherwise expressly provided in this
1198 act and except for this section, which shall take effect upon
1199 becoming a law, this act shall take effect July 1, 2013.