

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/HB 7027 (CS/CS/SB 1416)	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Economic Affairs Committee; Business & Consumer Affairs Subcommittee; Holder; and others (Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; Committee on Commerce and Tourism; Bogdanoff; and others)	108 Y's	11 N's
<b>COMPANION BILLS:</b>	CS/CS/SB 1416	<b>GOVERNOR'S ACTION:</b> Approved	

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**SUMMARY ANALYSIS**

CS/HB 7027 passed the House on February 3, 2012, was amended by the Senate on March 8, 2012, and subsequently passed the House on March 8, 2012. The bill rebrands the state Unemployment Compensation (UC) system as a "Reemployment Assistance Program." The bill requires the Department of Economic Opportunity (DEO) to establish a numeric score on the initial skills review which demonstrates a minimum proficiency in workforce skills. In order to encourage reemployment, the bill provides a claimant with the option to undergo workforce skills training if he or she scores below this standard. Workforce skills training will be provided at no cost to individuals in order to improve their minimum proficiency level.

Effective for tax years 2012 through 2014, the bill reduces the taxable wage base for employer UC taxes by \$500 from \$8,500 to \$8,000. Further, the bill extends the positive adjustment factor recoupment period from three years to five years through 2017. Taken together, these changes will provide tax relief to employers through the 2014 tax year. Related to the tax structure and long-term solvency of the UC program, the bill establishes a work group to review the program and provide recommendations to the Legislature. The bill also extends the federally-funded temporary extended benefits program through the end of the year.

The bill also takes additional steps to improve efficiency of the state UC system. Specifically, the bill allows a professional employer organization (PEO) to make a one-time irrevocable election to calculate, report, and pay state UC taxes under the respective unemployment account of each client. Further, the bill clarifies that certain requirements for employees of an educational institution to receive UC benefits are also applicable to employees of a private employer holding a contractual relationship with an educational institution. The bill reduces the number of weekly employer contacts from five to three for individuals that reside in a small county. The bill also reforms provisions related to disaster relief, fraudulent claims, collection of overpayments, and confidential information.

The bill provides budget authority to the Department of Revenue (DOR) in FY 2011-12 (\$346,463) and FY 2012-13 (\$100,884) to implement provisions related to employer tax relief, PEOs, and leased educational employees. Related to the extension of temporary extended benefits, former state and local government employees do not qualify for federal funding because these entities are self-insured and the federal law does not allow for their participation in federal sharing. Therefore, DEO estimates this provision of the bill will have a negative impact of \$550,000 on state funds and a negative impact of \$2.9 million on local government funds.

The bill was approved by the Governor on March 28, 2012, ch. 2012-30, Laws of Florida. The effective date of the bill is July 1, 2012.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h7027z1.BCAS.DOCX

**DATE:** March 29, 2012

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Present Situation**

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. The program is administered as a partnership of the federal government and the states.

The individual states collect 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).<sup>1</sup> 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 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.

#### **Program Administration**

The Department of Economic Opportunity (DEO) is the agency responsible for administering Florida's UC laws.<sup>2</sup> DEO contracts with the Department of Revenue to provide unemployment tax collection services.

The United States Department of Labor (USDOL) provides DEO with administrative resource grants from the taxes collected from employers pursuant to FUTA. These funds finance the processing of claims for benefits by DEO, state unemployment tax collections performed by the Department of Revenue, appeals conducted by DEO and the Unemployment Appeals Commission, and related administrative functions.

DEO administers Florida's UC laws through its Office of Unemployment Compensation. The Office of Unemployment Compensation 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. The Benefits Payment Control Section monitors the payment of unemployment benefits in an effort to detect and deter overpayment and to prevent fraud. 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.

#### **Benefit Structure**

State UC taxes are deposited into the UC Trust Fund to pay benefits. Qualified claimants may receive state UC benefits equal to 25 percent of their wages, not to exceed \$6,325 in a benefit year.<sup>3</sup> Benefits range from a minimum of \$32 to a maximum weekly benefit amount of \$275 for up to 23 weeks, depending on the claimant's length of prior employment and wages earned.<sup>4</sup>

The number of benefit weeks and total benefit amount is subject to the "Florida average unemployment rate," which is calculated by looking at the most recent or previous year's third quarter and averaging the statewide unemployment rate for those three months. This unemployment rate calculation is then used to determine how many benefit weeks a claimant could receive, depending on the unemployment rate. If the Florida average unemployment rate is 10.5 percent or higher, a claimant is eligible for up to

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<sup>1</sup> FUTA is codified at 26 U.S.C. 3301-3311.

<sup>2</sup> Sections 20.50 and 443.171, F.S.

<sup>3</sup> Section 443.111(5), F.S.

<sup>4</sup> Section 443.111(3), F.S. A benefit week begins on Sunday and ends on Saturday.

a maximum of 23 weeks. If the Florida average unemployment rate is 5 percent or below, the maximum number of available weeks is 12. Each 0.5 percent increment in the unemployment rate above 5% adds an additional week of benefits.

To receive UC benefits, claimants must meet certain monetary and non-monetary eligibility requirements.<sup>5</sup> Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.

#### Monetary Eligibility

Pursuant to s. 443.111(2), F.S., in order to establish a benefit year from which UC benefits can be paid, an individual must:

- have been paid wages in two or more calendar quarters in the base period; and
- have minimum total base period wages equal to the high quarter wages multiplied by 1.5, but at least \$3,400 in the base period.

The base period is the first four of the last five completed calendar quarters immediately before the individual filed a valid claim for benefits.<sup>6</sup> The most recent quarter of work (or fifth completed calendar quarter) is not used to determine monetary eligibility and cannot be credited toward the two-quarter requirement or the \$3,400 requirement.

#### Non-Monetary Determinations

The state's UC laws contemplate that a claimant was employed in the capacity of an employee, and not an independent contractor. A claimant must be unemployed due to layoffs or otherwise through no fault of their own to be eligible for benefit payments. An individual may be disqualified from receiving UC benefits for voluntarily leaving work without good cause, or being discharged by his or her employing unit for misconduct. The term "good cause" means only that cause attributable to the employer which would compel a reasonable employee to cease work or which consists of illness or disability of the individual requiring separation from work. An individual who voluntarily quits work for a good cause not related to any of the conditions specified in statute will be disqualified from receiving benefits.<sup>7</sup>

Other circumstances under which an individual would be disqualified from receiving unemployment compensation benefits include:<sup>8</sup>

- failing to apply for available suitable work when directed by DEO, to accept suitable work when offered, or to return to suitable self-employment when directed to do so;
- receiving remuneration in the form of wages, severance pay, or compensation for temporary total disability or permanent total disability under the workers' compensation law of any state with a limited exception;<sup>9</sup>
- receiving benefits from a retirement, pension, or annuity program with certain exceptions;
- receiving unemployment compensation from another state;
- terminated for any crime committed in connection with work for which the employee was convicted or entered a plea of guilty or nolo contendere, or any dishonest act in connection with his or her work;
- making false or fraudulent representations in filing for benefits;
- discharge from employment due to drug use or rejected for offered employment due to a positive confirmed drug test;

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<sup>5</sup> Section 443.091(1), F.S.,

<sup>6</sup> Section 443.036(7), F.S.

<sup>7</sup> Section 443.101, F.S.

<sup>8</sup> Section 443.101, F.S. The statute specifies the duration of the disqualification depending on the reason for the disqualification.

<sup>9</sup> Wages in lieu of notice is income deemed to have been earned in connection with employment. If the employee has received severance pay from an employer, an employee is disqualified from benefits in an amount based on the formula provided in s. 443.101(3)(b), F.S.

- involvement in an active labor dispute which is responsible for the individual's unemployment;
- illegal immigration status; or
- unavailable for work due to incarceration or imprisonment.

### Determination of Eligibility

Based upon information provided with filed claims for benefits, DEO makes an initial determination on entitlement to benefits. A determination becomes final after 20 days have expired.

### Collection of Overpayments

Current law provides several options for the state to recoup overpaid unemployment benefits, including, but not limited to, wage garnishment, deducting any outstanding balance from future unemployment benefits or lottery winnings, and forwarding any unpaid balance to a contracted debt collection agency. However, DEO must obtain a final judgment through the civil court system before it may utilize the wage garnishment process provided for in ch. 77, F.S.<sup>10</sup> Any recovery or recoupment of benefits must be effected within five years of a redetermination or decision for cases involving fraud, and within three years for all other cases of overpayments.

### **Initial Skills Review**

After UC benefits eligibility has been established, a claimant must complete an initial skills review as a reporting requirement under s. 443.091(1)(c), F.S. As established by the DEO, the online initial skills review assessment contains three required sections: applied mathematics, reading for information, and locating information. Test scores measure skill level by dividing each section into three proficiency levels, ranging from a minimum of three to a maximum of five.<sup>11</sup>

The initial skills review administrator reports the results of the review to DEO and the appropriate workforce board or one-stop career center. The workforce board must develop a plan for referring individuals to training and employment opportunities. However, current law does not require a claimant to meet a minimum proficiency standard nor does it obligate a claimant to complete the recommended course of training.

### **Reemployment**

To maintain eligibility for benefits, an individual must also be ready, willing, and able to work and actively seeking work.<sup>12</sup> Claimants are required to contact at least five prospective employers for each week of unemployment claimed. DEO may require the claimant to provide proof of such efforts to the one-stop center and may conduct random audits of work search information provided by claimants. As an alternative to contacting at least five prospective employers each week, a claimant may report once-a-week in person to a one-stop center to meet with a representative and access reemployment services.

Claimants are automatically registered with their local One-Stop Career Center when their claims are filed. The One-Stop Career Centers provide job search counseling and workshops, occupational and labor market information, referral to potential employers, and job training assistance. Claimants may also receive an e-mail from the Employ Florida Marketplace with information about employment services or available jobs.<sup>13</sup> Additionally, a claimant may be selected to participate in reemployment assistance services, such as Reemployment and Eligibility Assessments (REAs).<sup>14</sup>

<sup>10</sup> Section 443.151(6)(e), F.S.

<sup>11</sup> Scoring a "5," indicates foundational career readiness skills for on average 90 percent of jobs. Conversely, scoring a "3," indicates foundational career readiness skills for on average 30 percent of jobs.

<sup>12</sup> Section 443.036(1) and (6), F.S., provide the meaning of the phrases "able to work" and "available for work" as:

- "Able to work" means physically and mentally capable of performing the duties of the occupation in which work is being sought.
- "Available for work" means actively seeking and being ready and willing to accept suitable employment.
- Additionally, DEO has adopted criteria, as directed in the statute, to determine an individual's ability to work and availability for work in Rule 60BB-3.021, F.A.C.

<sup>13</sup> Employ Florida Marketplace is a partnership of Workforce Florida, Inc., and DEO. It provides job-matching and

## Tax Structure

Through the Federal Unemployment Tax Act (FUTA), the IRS levies an unemployment tax of 6.0 percent on employers.<sup>15</sup> This tax is applied to a taxable wage base of \$7,000 per employee. Federal law provides employers up to a 5.4 percent credit against that tax, resulting in an effective federal tax rate of 0.6 percent. In order for employers to qualify for the maximum tax credit allowed under federal law, state UC programs must meet certain federal requirements and not have any outstanding federal advances greater than one year in maturity. Due to having outstanding federal advances for more than one year, 20 states, including Florida, had their FUTA tax credit reduced by 0.3 percent in 2011. (See: *Impact of Benefit Charges on UC Trust Fund*).

## State Unemployment Compensation Tax

In addition to FUTA, Florida employers pay a state UC tax which funds the state Unemployment Compensation Trust Fund, an account used to pay weekly benefits. Currently, employers pay quarterly state UC taxes on the first \$8,500 of each employee's annual wages.<sup>16</sup> In the 2009 regular session, the Legislature raised the wage base for state UC taxes from \$7,000, the federal minimum, to \$8,500 for the years 2010 through 2014. The legislation sought to aggressively replenish the trust fund in anticipation of a stronger economy in the near future. However, the economy did not rebound from the recession as quickly or as strong as hoped. As a result, this increase was subsequently delayed by the Legislature until 2012.

An employer's initial state tax rate is 2.7 percent.<sup>17</sup> After an employer is subject to benefit charges for 8-calendar quarters, the standard tax rate is 5.4 percent, but may be adjusted down to a low of 0.1 percent.<sup>18</sup> The adjustment in the tax rate is determined by calculating a statutory formula that incorporates the benefit ratio calculation, the variable adjustment factor (which applies socialized costs and adjustments according to the fund size factor), and the final adjustment factor.

## Benefit Ratio Calculation<sup>19</sup>

Often referred to as "experience rating," this factor takes into account an employer's experience in laying off workers. The purpose of experience rating under Florida's UC law is to ensure that employers with higher unemployment compensation costs pay a higher tax rate. In the 2011 session, the Legislature revised the benefit ratio calculation downward 10 percent. Since the look back for computing an employer's tax rate is the past three years of experience, this change will have an effect of reducing 2012 rates as well as the rates over the next several years.

## Fund Size Factor

Florida's tax calculation method is closer to a "pay as you go" approach, in which taxes increase rapidly after a surge in benefit costs. Economic conditions resulting in abnormally high unemployment accompanied by high benefit charges can cause a severe drain on the UC Trust Fund. This effect triggers the positive fund balance adjustment factor, which consequently increases tax rates for all employers. Conversely, when unemployment and benefit charges are low, the negative fund balance adjustment factor triggers, and tax rates for employers are reduced accordingly.<sup>20</sup> Currently, the positive adjustment factor is based on a three-year recoupment period until 2015, when it returns to four years. Under current law, the positive adjustment factor remains "on" until the trust fund balance equals or exceeds five percent of total taxable payroll for the previous year. In 2015, the positive adjustment factor will trigger "off" when the trust fund balance equals or exceeds four percent of the total taxable payroll for the previous year.

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workforce resources. <https://www.employflorida.com> (last visited 3/07/2012).

<sup>14</sup> REAs are in-person interviews with selected UC claimants to review the claimants' adherence to state UC eligibility criteria, determine if reemployment services are needed, and refer such individuals to reemployment services.

<sup>15</sup> The FUTA surcharge of .02% expired on June 30, 2011. This reduced the federal tax rate for employers from 6.2% to 6.0%.

<sup>16</sup> Section 443.1217(2), F.S.

<sup>17</sup> Section 443.131(2)(a), F.S.

<sup>18</sup> Section 443.131(2)(b), F.S.

<sup>19</sup> Section 443.131(3)(b), F.S.

<sup>20</sup> Currently, the negative adjustment factor is not available until January 1, 2015, and then not in any calendar year in which a federal advance, or loan, from the federal government is still in repayment for the principal amount of the loan.

The basis for the adjustment factors is the level of the trust fund on September 30th of each calendar year compared to the taxable payrolls for the previous year. Each adjustment factor remains in effect until the balance of the trust fund rises above or falls below the respective trigger percentage. However, CS/HB 7033 enacted in the 2010 Session delayed the calculation of the positive adjustment tax rate factor until 2012.

#### Final Adjustment Factor

The final adjustment factor is used to recover the remaining costs to the trust fund not recovered by the employer's individual benefit ratio and the variable adjustment factor. The final adjustment factor establishes the minimum rate for the year but can never be below 0.10 percent.

#### Professional Employer Organizations (PEOs)

The Department of Business and Professional Regulation defines an employee leasing company, or PEO, as a business entity engaged in an arrangement whereby the entity assigns its employees to a client and allocates the direction of and control over the leased employees between the PEO and the client.<sup>21</sup> A PEO provides services for the client companies, such as handling the filing of UC taxes and workers' compensation. Under current law, a PEO is required to report leased employees under the tax account and contribution rate of the PEO.

#### Leased Employees to Educational Institutions

Section 443.091(3), F.S., provides that unemployment compensation benefits are not payable to employees of an educational institution for any week between school terms, including vacation period and holiday recesses, or during a period of paid sabbatical leave if there is a reasonable assurance that such employees will return to work after the period between terms or the end of paid sabbatical leave. However, current law does not apply to employees leased to an educational institution by a staffing company.

#### **Impact of Benefit Charges on Employers**

The state's unemployment rate, while declining to a rate of 9.6 percent, remains well above the historical average. Benefits charged as a result of high unemployment have substantially increased the unemployment tax on Florida's businesses. As provided in the chart below, UC taxes for employers at the minimum rate increased from \$72.10 per employee in 2011 to \$171.70 per employee in 2012. These employers represent approximately 46 percent of all employers in this state. For employers at the initial and maximum rates, the unemployment tax has increased by \$36.00 and \$81.00 per employee, respectively. In the short-term, higher taxes on the state's employers may have a negative impact on job creation and economic growth.

<b>State UC Tax Due per Employee for Tax Years 2011 – 2012</b>		
<b>Rate</b>	<b>2011</b>	<b>2012</b>
Initial	\$189.00	\$225.00
Minimum	\$72.10	\$171.70
Maximum	\$378.00	\$459.00

#### **Impact of Benefit Charges on the UC Trust Fund**

Because persistent high unemployment accompanied by high benefit charges often causes a severe drain on state UC Trust Funds, the federal government allows for advances to be made to state UC Trust Funds to pay UC benefits. On August 24, 2009, the Florida UC Trust Fund balance fell to \$0 and federal advance monies were drawn down. As of March 2, 2012, \$2.7 billion has been borrowed and, of this total, \$1.7 billion remains outstanding. Because the federal advances were not repaid by November 10, 2011, Florida employers lost a portion of their federal UC tax credit in 2011.<sup>22</sup> Under

<sup>21</sup> Department of Business and Professional Regulation, <http://www.myfloridalicense.com/dbpr/pro/emplo/codes.html> (last visited 3/07/2012).

<sup>22</sup> The effective federal tax rate for 2011 is 0.9%

federal law, the credit is reduced by 0.3 percent for each year the loan has been outstanding and any loss of the credit goes to repay the outstanding loan balance. A second credit reduction is anticipated for 2012, which would further reduce the total federal credit for Florida employers to 4.8 percent.<sup>23</sup>

Loans to the UC trust fund also accrue interest charges and payments are due no later than September 30th each year. The American Recovery and Reinvestment Act of 2009 effectively waived interest accrued on advances until December 31, 2010, but interest began to accrue on unpaid loans on January 1, 2011. Florida paid \$56.1 million in interest in 2011. In order to repay interest that comes due in September 2012, employers will pay an interest assessment separate from their unemployment taxes which will be due June 2012. The interest due is projected to be \$43.3 million. If the interest is not paid when due, the federal government will not certify the state program and can withhold all administrative funding.

### **Temporary Extended Benefits**

In 2009, the Legislature enacted a temporary extended benefits (TEB) program for unemployed individuals in order to qualify for federal funds.<sup>24</sup> Under this program, the federal government pays 100 percent of temporary extended benefits to former private sector employees. The maximum number of weeks available to the claimant is subject to state policy and federal law, which has established an average total unemployment rate threshold that triggers the availability of TEB.<sup>25</sup> The federal funds are paid from a separate federal account and do not affect the balance of Florida's UC Trust Fund.

Congress has extended federal funding and eligibility for the TEB program several times since its creation as part of the American Recovery and Reinvestment Act of 2009.<sup>26</sup> Most recently, on February 22, 2012, Congress enacted the Middle Class Tax Relief and Job Creation Act of 2012, which extended the program through December 31, 2012.<sup>27</sup>

Temporary extended benefits for former state and local employees do not qualify for federal funding. Benefits for these former employees must be paid by the applicable governmental entity. The state and local share for this extension is estimated to cost \$3.45 million, approximately \$550,000 from state funds and \$2.9 million from local government funds.<sup>28</sup> In order to participate in federal sharing, the temporary extended benefits program must encompass unemployed individuals of both the private and public sectors. The DEO estimate for total temporary extended benefit payments is \$75.6 million.

### **Emergency Unemployment Compensation**

Emergency unemployment compensation (EUC) is an extended benefits program available to individuals who have exhausted all rights to regular state benefits. The benefits of this program are 100 percent federally funded and do not impact Florida's UC Trust Fund balance. Under the Middle Class Tax Relief and Job Creation Act of 2012, Congress extended the deadline for establishing eligibility in the EUC program to the week beginning December 23, 2012. EUC benefits continue to be payable in up to four benefit tiers. However, after August of 2012, the maximum number of benefit weeks available is reduced from the current 53 weeks to a new maximum of 47 weeks. After May of 2012, individuals that have exhausted their tier one benefits, may qualify for tiers two through for four, provided that they live in a state that meets certain average total unemployment rate thresholds. EUC

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<sup>23</sup> The anticipated federal tax rate for 2012 is 1.2%.

<sup>24</sup> Section 443.1117, F.S. Under current law, benefits are available for 13 to 20 weeks, depending on the average total rate of unemployment. Prior to the enactment of 443.1117, F.S., Florida already had an extended benefits program in s. 443.1115, F.S, but in order to participate in the federal program, Florida had to enact a state TEB program with an alternate trigger rate based upon the average total unemployment rate. Florida's regular state extended benefits program triggers "on" based upon a higher individual unemployment rate.

<sup>25</sup> Florida has recently experienced a lower rate of unemployment. If this trend continues, DEO estimates that the TEB program will trigger "off" in May of 2012, with the week ending June 9, 2012 being the last payable week for TEB.

<sup>26</sup> Public Law No. 111-5. (H.R. 1)

<sup>27</sup> Public Law No. 112-96 (H.R. 3630). Prior to this extension, Congress previously enacted P.L. No. 112-78 (H.R. 3765) on December 23, 2011, which extended the TEB program to March 7, 2012. Governor Scott implemented the December extension by executive order on January 6, 2012. (Executive Order 12-03)

<sup>28</sup> This cumulative estimate by DEO includes the cost of the extensions authorized in P.L. No. 112-96 and P.L. No. 112-78.

benefits are no longer payable after January 5, 2013. The DEO estimate for total payments during the extension period is \$1.4 billion.

## **Effect of Changes**

### **Rebranding of Unemployment Compensation**

The bill rebrands the Unemployment Compensation Law as the Reemployment Assistance Program and makes technical changes to conform ch. 443, F.S., to the new brand. The bill also renames the Unemployment Appeals Commission as the Reemployment Assistance Appeals Commission.

### **Initial Skills Review**

The bill requires DEO to establish a numeric score on the initial skills review which demonstrates a minimum proficiency in workforce skills. If a claimant fails to meet this standard he or she will be encouraged to participate in an optional skills training program as directed by DEO, regional workforce boards, and one-stop career centers. Workforce skills training will be provided at no cost to the individual and will focus on improving a claimant's workforce skills to the minimum proficiency level. This change may incentivize claimants to proactively improve their workforce skills. The bill also requires the Department, in coordination with Workforce Florida, Inc., regional workforce boards, and one-stop career centers, to identify, develop, and utilize best practices for improving workforce skills and to submit a program evaluation to the Governor and the Legislature on January 1, 2013.

### **Tax Relief**

Effective for tax years 2012 through 2014, the bill reduces the taxable wage base by \$500 from \$8,500 to \$8,000. The bill extends the positive adjustment factor recoupment period from three years to five years through 2017. The bill also provides that the positive adjustment factor will remain "on" until the trust fund balance equals or exceeds four percent of the one-year payrolls through 2017. Taken together, these changes will reduce employer UC tax rates and the amount of tax due, for most employers, through the 2014 tax year. As provided in the chart below, the bill reduces the 2012 tax burden per employee for employers at the minimum and maximum rates by \$50.00 and \$27.00, respectively.

<b>State UC Tax Due per Employee for Tax Years 2012 – 2014</b>						
	<b>2012</b>		<b>2013</b>		<b>2014</b>	
<b>Rate</b>	Current Law	CS/HB 7027	Current Law	CS/HB 7027	Current Law	CS/HB 7027
Minimum	\$171.70	\$121.60	\$133.45	\$88.80	\$73.10	\$56.80
Maximum	\$459.00	\$432.00	\$459.00	\$432.00	\$459.00	\$432.00

### **Temporary Extended Benefits**

Retroactive to January 4, 2012, the bill updates and readopts s. 443.1117, F.S., which continues the federally-funded temporary extended benefits program through January 4, 2013. This provision takes effect upon the bill becoming law.

### **Reemployment Assistance Workgroup**

The bill establishes a workgroup to study and provide recommendations related to the tax structure and the long-term solvency of the state's reemployment assistance program. The executive director of DEO will chair workgroup. The workgroup consists of ten members, and include the following: the executive director of DEO, the executive director of DOR, four members of the business community, the director of the Division of Workforce Services within DEO, the program director of the General Tax Administration Program Office within the DOR, a member of the House of Representatives as designated by the Speaker, and a member of the Senate as designated by the President of the Senate. The workgroup must submit its findings and recommendations to the Legislature by December 31, 2012. The bill provides for dissolution of the workgroup by January 31, 2013.



## **Improved Efficiency**

The bill makes the following changes to improve the efficiency of the state's reemployment assistance program:

### Work Search Requirements

The bill reduces the number of weekly employer contacts from five to three for individuals that reside in a small county as defined by s. 120.52(19), F.S.<sup>29</sup>

### Professional Employer Organizations

The bill allows a PEO to make a one-time irrevocable election to calculate, report, and pay state UC taxes under the respective unemployment account of each client. The election to use the client option would apply to all current and future clients of the PEO and would apply to any UC taxes owed on or after 2013. An existing PEO is required to notify DOR of its election by July 1, 2012. However, a new PEO is required to inform DOR of its election within 30 days of formation. If any PEO fails to make or timely inform DOR of its election to use the client option, such entity would be required to report leased employees under the tax account and contribution rate of the PEO.

### Leased Employees to Educational Institutions

Beginning July 1, 2013, the bill provides that certain requirements for employees of an educational institution to receive UC benefits are also applicable to employees of a private employer holding a contractual relationship with an educational institution, but only if the base period wages attributable to such services are identified in the quarterly wage report submitted to DOR.

### Fraudulent Claims

The bill clarifies that a disqualification for making a fraudulent claim begins when the fraudulent claim was made. Further, this disqualification may continue up to one year from the date DEO discovers the fraudulent claim and until any fraudulent overpayments are repaid in full. Under current law, a claimant may be disqualified for a fraudulent claim for up to one year from the date of discovery.

### Collection of Overpayments

The bill amends the statute of limitations related to the collection of reemployment assistance overpayments by providing that the commencement of collections must be initiated within seven years after the redetermination or decision. This change will impose a single limitations period for both fraudulent and non-fraudulent cases of overpayments.

### Disaster Relief

Related to the charging of employers, the bill authorizes the DEO to noncharge the accounts of employers that are forced to lay off workers due to a disaster of national significance that is not a declared natural disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.<sup>30</sup> Under current law, employer accounts are only noncharged for disasters declared under the Stafford Act. However, this provision does not apply retroactively to previous disasters.

### Confidential Information

The bill clarifies the types of transactional history that constitute prima facie evidence of a reemployment assistance claim or payment. The bill also provides that the release of confidential information, as it relates to ch. 443, F.S., must conform to certain federal regulations.<sup>31</sup>

The bill provides budget authority to the Department of Revenue in the amounts of \$346,463 for FY 2011-12 and \$100,884 for FY 2012-13, to implement the provisions of the bill. The bill also provides a severability clause, and states that the bill fulfills an important state interest.

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<sup>29</sup> "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

<sup>30</sup> The Stafford Act is codified at 42 U.S.C. 5121-5207.

<sup>31</sup> 20 C.F.R. 603

The bill takes effect July 1, 2012, unless otherwise specified in the bill.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None.
2. Expenditures:  
See fiscal comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
See fiscal comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Compared to current law, businesses will receive significant reductions in their state unemployment compensation tax through tax year 2014. In the short-run, the bill will provide tax certainty for employers and may encourage job creation and economic growth in the state.

### D. FISCAL COMMENTS:

#### Unemployment Compensation Trust Fund

The provisions of the bill that reduce the taxable wage base and extend the recoupment period will have a negative fiscal impact on the UC Trust Fund. However, the bill will not require the state to borrow any additional funds from the federal government to pay UC benefits. Because the balance on prior federal advances will be paid back more slowly than under current law, the bill will increase the interest due in September on the outstanding balance by \$2.5 million. As provided in the chart below, the bill will also maintain the projected positive balance in the UC Trust fund for FY 2012-13 and the succeeding out-years through FY 2016-17.

Ending Trust Fund Balance in Millions		
Fiscal Year	Current Law	CS/HB 7027
2012-13	\$ 868.2	\$318.8
2013-14	\$1,850.7	\$997.9
2014-15	\$2,508.5	\$1,601.4
2015-16	\$2,873.1	\$2,083.2
2016-17	\$3,129.3	\$2,461.2

#### Temporary Extended Benefits

The Department of Economic Opportunity estimates the extension of temporary extended benefits (TEB) for former state employees will have a cumulative negative fiscal impact of \$550,000 on state funds across all agencies for their portion, which in any given agency is not believed to be significant. DEO also estimates that the extension of TEB for former local government employees will have a negative fiscal impact of \$2.9 million on local governments. Extended benefits for former state and

local government employees do not qualify for federal funding due to the fact that these entities are self-insured and the federal law does not allow for their participation in federal sharing.

### State Operations

According to the Department of Revenue (DOR), the bill's provisions related to employer tax contributions, professional employer organizations, and leased educational employees will have a negative fiscal impact on state operations and will require the following agency enhancements:

- Employer Tax Contributions - \$230,978 in FY 2011-12 for nonrecurring costs related to modifications to the SUNTAX system, tax notices and tax publications.
- Professional Employer Organizations - \$115,485 in FY 2011-12 for nonrecurring costs related to modifications to the SUNTAX system and tax publications. In FY 2012-13, an additional \$65,084 is required for data processing.
- Leased Educational Employees - In FY 2012-13, implementation of this provision will require \$35,800 for nonrecurring costs related to modifications to the SUNTAX system and tax publications.

The federal administrative resource grant for unemployment compensation will be used to fund these enhancements.