

The 2009 Florida Statutes

CHAPTER 443 – UNEMPLOYMENT COMPENSATION

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443.011 Short title.--This chapter may be cited as the "Unemployment Compensation Law."

History.--s. 2, ch. 18402, 1937; CGL 1940 Supp. 4151(488); ss. 1, 8, 9, ch. 80-95; s. 13, ch. 2003-36.

Note.--Former s. 443.01.

443.012 Unemployment Appeals Commission.--

(1) There is created within the Agency for Workforce Innovation an Unemployment Appeals Commission. The commission is composed of a chair and two other members appointed by the Governor, subject to confirmation by the Senate. Only one appointee may be a representative of employers, as demonstrated by his or her previous vocation, employment, or affiliation; and only one appointee may be a representative of employees, as demonstrated by his or her previous vocation, employment, or affiliation.

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

(b) The chair has authority to appoint a general counsel and other personnel to carry out the duties and responsibilities of the commission.

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

- (d) The remaining members shall be paid a stipend of \$100 for each day they are engaged in the work of the commission. The chair and other members are entitled to be reimbursed for travel expenses, as provided in s. 112.061.
- (e) The total salary and travel expenses of each member of the commission shall be paid from the Employment Security Administration Trust Fund.
- (2) The members of the commission shall be appointed to staggered terms of 4 years each. A vacancy for the unexpired term of a member shall be filled in the same manner as the original appointment. The presence of two members constitutes a quorum for any called meeting of the commission.
- (3) The commission has all authority, powers, duties, and responsibilities relating to unemployment compensation appeal proceedings under this chapter.
- (4) The property, personnel, and appropriations relating to the specified authority, powers, duties, and responsibilities of the commission shall be provided to the commission by the Agency for Workforce Innovation.
- (5) The commission is not subject to control, supervision, or direction by the Agency for Workforce Innovation in performing its powers or duties under this chapter.
- (6) The commission may make expenditures, including expenditures for personal services and rent, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding as necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures of the commission shall be allowed and paid as provided in s. 443.211 upon the presentation of itemized vouchers approved by the chair.
- (7) The commission may charge fees for publications, subscriptions, and copies of records and documents. These fees must be deposited in the Employment Security Administration Trust Fund.
- (8) The commission shall maintain and keep open during reasonable business hours an office in Tallahassee for the purpose of transacting its business, at which office the commission shall keep its official records and papers. The offices shall be furnished and equipped by the commission. The commission may hold sessions and conduct hearings at any place within the state.
- (9) The commission shall prepare and submit a budget covering the necessary administrative cost of the commission.
- (10) The commission shall have a seal for authenticating its orders, awards, and proceedings, upon which shall be inscribed the words "State of Florida-Unemployment Appeals Commission-Seal," and it shall be judicially noticed.
- (11) The commission has authority to adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of law conferring duties upon it.
- (12) Orders of the commission relating to unemployment compensation under this chapter are subject to review only by notice of appeal to the district courts of appeal in the manner provided in s. 443.151(4)(e).

History.--s. 11, ch. 99-240; s. 57, ch. 2002-194; s. 14, ch. 2003-36.

443.031 Rule of liberal construction.--This chapter shall be liberally construed in favor of a claimant of unemployment benefits who is unemployed through no fault of his or her own. Any doubt as to the proper construction of this chapter shall be resolved in favor of conformity with federal law, including, but not limited to, the Federal Unemployment Tax Act, the Social Security Act, the Wagner-Peyser Act, and the Workforce Investment Act.

History.--s. 23¹/₂, ch. 18402, 1937; CGL 1940 Supp. 4151(488), 4151(507); s. 2, ch. 20685, 1941; s. 14, ch. 29771, 1955; ss. 1, 8, 9, ch. 80-95; s. 15, ch. 2003-36.

Note.--Former s. 443.20.

443.0315 Effect of finding, judgment, conclusion, or order in separate or subsequent action or proceeding; use as evidence.--Any finding of fact or law, judgment, conclusion, or final order made by a hearing officer, the commission, or any person with the authority to make findings of fact or law in any proceeding under this chapter is not conclusive or binding in any separate or subsequent action or proceeding, other than an action or proceeding under this chapter, between an individual and his or her present or prior employer brought before an arbitrator, court, or judge of this state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

History.--s. 8, ch. 96-411; s. 16, ch. 2003-36.

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

(1) "Able to work" means physically and mentally capable of performing the duties of the occupation in which work is being sought.

(2) "Agricultural labor" means any remunerated service performed:

(a) On a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(b) In the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane if the major part of the service is performed on a farm.

(c) In connection with the production or harvesting of any commodity defined as an agricultural commodity in s. 15(g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, s. 3; 12 U.S.C. s. 1141j); the ginning of cotton; or the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(d)1. In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for

transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one-half of the commodity for which the service is performed.

2. In the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of service described in subparagraph 1., but only if the operators produced more than one-half of the commodity for which the service is performed.

3. Subparagraphs 1. and 2. do not apply to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption or in connection with grading, packing, packaging, or processing fresh citrus fruits.

(e) On a farm operated for profit if the service is not in the course of the employer's trade or business.

(3) "American aircraft" means an aircraft registered under the laws of the United States.

(4) "American employer" means:

(a) An individual who is a resident of the United States.

(b) A partnership, if two-thirds or more of the partners are residents of the United States.

(c) A trust, if each of the trustees is a resident of the United States.

(d) A corporation organized under the laws of the United States or of any state.

(5) "American vessel" means any vessel documented or numbered under the laws of the United States. The term includes any vessel that is neither documented or numbered under the laws of the United States, nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

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

(7) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(8) "Benefits" means the money payable to an individual, as provided in this chapter, for his or her unemployment.

(9) "Benefit year" means, for an individual, the 1-year period beginning with the first day of the first week for which the individual first files a valid claim for benefits and, thereafter, the 1-year period beginning with the first day of the first week for which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Each claim for benefits made in accordance with s. 443.151(2) is a "valid claim" under this subsection if the individual was paid wages for insured work in accordance with the provisions of s. 443.091(1)(f) and is unemployed as

defined in subsection (43) at the time of filing the claim. However, the Agency for Workforce Innovation may adopt rules providing for the establishment of a uniform benefit year for all workers in one or more groups or classes of service or within a particular industry when the agency determines, after notice to the industry and to the workers in the industry and an opportunity to be heard in the matter, that those groups or classes of workers in a particular industry periodically experience unemployment resulting from layoffs or shutdowns for limited periods of time.

(10) "Calendar quarter" means each period of 3 consecutive calendar months ending on March 31, June 30, September 30, and December 31 of each year.

(11) "Casual labor" means labor that is occasional, incidental, or irregular, not exceeding 200 person-hours in total duration. As used in this subsection, the term "duration" means the period of time from the commencement to the completion of the particular job or project. Services performed by an employee for his or her employer during a period of 1 calendar month or any 2 consecutive calendar months, however, are deemed to be casual labor only if the service is performed on 10 or fewer calendar days, regardless of whether those days are consecutive. If any of the services performed by an individual on a particular labor project are not casual labor, each of the services performed by the individual on that job or project may not be deemed casual labor. Services must constitute casual labor and may not be performed in the course of the employer's trade or business for those services to be exempt under this section.

(12) "Commission" means the Unemployment Appeals Commission.

(13) "Contributing employer" means an employer who is liable for contributions under this chapter.

(14) "Contribution" means a payment of payroll tax to the Unemployment Compensation Trust Fund which is required under this chapter to finance unemployment benefits.

(15) "Crew leader" means an individual who:

(a) Furnishes individuals to perform service in agricultural labor for another person.

(b) Pays, either on his or her own behalf or on behalf of the other person, the individuals furnished by him or her for the service in agricultural labor performed by those individuals.

(c) Has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person.

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

(17) "Educational institution" means an institution, except for an institution of higher education:

(a) In which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes, or abilities from, by, or under the guidance of, an instructor or teacher;

(b) That is approved, licensed, or issued a permit to operate as a school by the Department of Education or other governmental agency that is authorized within the state to approve, license, or issue a permit for the operation of a school; and

(c) That offers courses of study or training which are academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(18) "Employee leasing company" means an employing unit that has a valid and active license under chapter 468 and that maintains the records required by s. 443.171(5) and, in addition, maintains a listing of the clients of the employee leasing company and of the employees, including their social security numbers, who have been assigned to work at each client company job site. Further, each client company job site must be identified by industry, products or services, and address. The client list must be provided to the tax collection service provider by June 30 and by December 31 of each year. As used in this subsection, the term "client" means a party who has contracted with an employee leasing company to provide a worker, or workers, to perform services for the client. Leased employees include employees subsequently placed on the payroll of the employee leasing company on behalf of the client. An employee leasing company must notify the tax collection service provider within 30 days after the initiation or termination of the company's relationship with any client company under chapter 468.

(19) "Employer" means an employing unit subject to this chapter under s. 443.1215.

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

(a) Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit is deemed to be employed by the employing unit for the purposes of this chapter, regardless of whether the individual was hired or paid directly by the employing unit or by an agent or employee of the employing unit, if the employing unit had actual or constructive knowledge of the work.

(b) Each individual performing services in this state for an employing unit maintaining at least two separate establishments in this state is deemed to be performing services for a single employing unit for the purposes of this chapter.

(c) A person who is an officer of a corporation, or a member of a limited liability company classified as a corporation for federal income tax purposes, and who performs services for the corporation or limited liability company in this state, regardless of whether those services are continuous, is deemed an employee of the corporation or the limited liability company during all of each week of his or her tenure of office, regardless of whether he or she is compensated for those services. Services are presumed to be rendered for the corporation in cases in which the officer is compensated by means other than dividends upon shares of stock of the corporation owned by him or her.

(d) A limited liability company shall be treated as having the same status as it is classified for federal income tax purposes.

(21) "Employment" means a service subject to this chapter under s. 443.1216 which is performed by an employee for the person employing him or her.

(22) "Farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(23) "Fund" means the Unemployment Compensation Trust Fund created under this chapter, into which all contributions and reimbursements required under this chapter are deposited and from which all benefits provided under this chapter are paid.

(24) "High quarter" means the quarter in an individual's base period in which the individual has the greatest amount of wages paid, regardless of the number of employers paying wages in that quarter.

(25) "Hospital" means an institution that is licensed, certified, or approved by the Agency for Health Care Administration as a hospital.

(26) "Institution of higher education" means an educational institution that:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of a certificate of graduation;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program that is acceptable for full credit toward a bachelor's or higher degree; a program of postgraduate or postdoctoral studies; or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution.

The term includes each community college and state university in this state, and each other institution in this state authorized under s. 1005.03 to use the designation "college" or "university."

(27) "Insured work" means employment for employers.

(28) "Leave of absence" means a temporary break in service to an employer, for a specified period of time, during which the employing unit guarantees the same or a comparable position to the worker at the expiration of the leave.

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

(a) Conduct demonstrating willful or wanton disregard of an employer's interests and found to be a deliberate violation or disregard of the standards of behavior which the employer has a right to expect of his or her employee; or

- (b) Carelessness or negligence to a degree or recurrence that manifests culpability, wrongful intent, or evil design or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer.
- (30) "Monetary determination" means a determination of whether and in what amount a claimant is eligible for benefits based on the claimant's employment during the base period of the claim.
- (31) "Nonmonetary determination" means a determination of the claimant's eligibility for benefits based on an issue other than monetary entitlement and benefit overpayment.
- (32) "Not in the course of the employer's trade or business" means not promoting or advancing the trade or business of the employer.
- (33) "One-stop career center" means a service site established and maintained as part of the one-stop delivery system under s. 445.009.
- (34) "Pay period" means a period of 31 or fewer consecutive days for which a payment or remuneration is ordinarily made to the employee by the person employing him or her.
- (35) "Public employer" means:
- (a) A state agency or political subdivision of the state;
 - (b) An instrumentality that is wholly owned by one or more state agencies or political subdivisions of the state; or
 - (c) An instrumentality that is wholly owned by one or more state agencies, political subdivisions, or instrumentalities of the state and one or more state agencies or political subdivisions of one or more other states.
- (36) "Reasonable assurance" means a written or verbal agreement, an agreement between an employer and a worker understood through tradition within the trade or occupation, or an agreement defined in an employer's policy.
- (37) "Reimbursement" means a payment of money to the Unemployment Compensation Trust Fund in lieu of a contribution which is required under this chapter to finance unemployment benefits.
- (38) "Reimbursing employer" means an employer who is liable for reimbursements in lieu of contributions under this chapter.
- (39) "State" includes the states of the United States, the District of Columbia, Canada, the Commonwealth of Puerto Rico, and the Virgin Islands.
- (40) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under s. 3304 of the Internal Revenue Code of 1954.
- (41) "Tax collection service provider" or "service provider" means the state agency providing unemployment tax collection services under contract with the Agency for Workforce Innovation through an interagency agreement pursuant to s. 443.1316.

(42) "Temporary layoff" means a job separation due to lack of work which does not exceed 8 consecutive weeks and which has a fixed or approximate return-to-work date.

(43) "Unemployment" means:

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

(b) An individual's week of unemployment commences only after his or her registration with the Agency for Workforce Innovation as required in s. 443.091, except as the agency may otherwise prescribe by rule.

(44) "Wages" means remuneration subject to this chapter under s. 443.1217.

(45) "Week" means a period of 7 consecutive days as defined in the rules of the Agency for Workforce Innovation. The Agency for Workforce Innovation may by rule prescribe that a week is deemed to be "in," "within," or "during" the benefit year that contains the greater part of the week.

History.--s. 3, ch. 18402, 1937; s. 1, ch. 19637, 1939; CGL 1940 Supp. 4151(490); s. 3, ch. 20685, 1941; s. 1, ch. 21983, 1943; s. 7, ch. 22858, 1945; s. 1, ch. 24085, 1947; s. 10, ch. 26484, 1951; s. 1, ch. 26878, 1951; ss. 1, 2, ch. 26879, 1951; ss. 1, 2, ch. 28242, 1953; ss. 1, 2, chs. 29771, 29772, 1955; ss. 1, 2, 3, ch. 57-228; ss. 1, 2, ch. 61-228; s. 2, ch. 61-119; s. 1, ch. 61-132; s. 1, ch. 63-56; ss. 1, 2, ch. 63-155; s. 1, ch. 65-196; ss. 17, 35, ch. 69-106; ss. 1, 2, 3, ch. 71-225; s. 1, ch. 71-226; s. 165, ch. 71-377; s. 2, ch. 73-283; s. 117, ch. 73-333; s. 1, ch. 74-198; s. 1, ch. 75-39; s. 19, ch. 77-121; s. 1, ch. 77-262; s. 1, ch. 77-393; s. 1, ch. 77-399; s. 3, ch. 78-386; s. 21, ch. 79-7; s. 181, ch. 79-400; s. 1, ch. 80-50; ss. 2, 8, 9, ch. 80-95; ss. 1, 2, ch. 80-345; s. 282, ch. 81-259; s. 1, ch. 82-81; s. 1, ch. 83-10; s. 9, ch. 83-174; s. 1, ch. 83-186; s. 1, ch. 84-123; s. 1, ch. 84-200; s. 1, ch. 85-22; s. 68, ch. 85-81; s. 2, ch. 85-126; s. 1, ch. 86-227; s. 1, ch. 87-383; s. 2, ch. 88-289; s. 1, ch. 93-153; s. 1, ch. 94-347; s. 1, ch. 96-287; s. 1, ch. 96-374; ss. 1, 2, 10, ch. 96-378; ss. 1, 3, ch. 96-411; s. 19, ch. 96-423; s. 2, ch. 97-29; s. 1058, ch. 97-103; s. 4, ch. 98-149; s. 1, ch. 98-154; s. 212, ch. 99-8; s. 100, ch. 2000-153; s. 21, ch. 2000-157; s. 58, ch. 2002-194; ss. 17, 18, ch. 2003-36; s. 55, ch. 2003-164; s. 25, ch. 2003-254.

Note.--Former s. 443.03.

443.041 Waiver of rights; fees; privileged communications.--

(1) WAIVER OF RIGHTS VOID.--Any agreement by an individual to waive, release, or commute her or his rights to benefits or any other rights under this chapter is void. Any agreement by an individual in the employ of any person or concern to pay all or any portion of any employer's contributions, reimbursements, interest, penalties, fines, or fees required under this chapter from the employer, is void. An employer may not directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions, reimbursements, interest, penalties, fines, or fees required from her or him, or require or accept any waiver of any right under this chapter by any individual in

her or his employ. An employer, or an officer or agent of an employer, who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) FEES.--

(a) Except as otherwise provided in this chapter, an individual claiming benefits may not be charged fees of any kind in any proceeding under this chapter by the commission or the Agency for Workforce Innovation, or their representatives, or by any court or any officer of the court. An individual claiming benefits in any proceeding before the commission or the Agency for Workforce Innovation, or representatives of either, or a court may be represented by counsel or an authorized representative, but the counsel or representative may not charge or receive for those services more than an amount approved by the commission, the Agency for Workforce Innovation, or the court.

(b) An attorney at law representing a claimant for benefits in any district court of appeal of this state or in the Supreme Court of Florida is entitled to counsel fees payable by the Agency for Workforce Innovation as set by the court if the petition for review or appeal is initiated by the claimant and results in a decision awarding more benefits than provided in the decision from which appeal was taken. The amount of the fee may not exceed 50 percent of the total amount of regular benefits permitted under s. 443.111(5)(a) during the benefit year.

(c) The Agency for Workforce Innovation shall pay attorneys' fees awarded under this section from the Employment Security Administration Trust Fund as part of the costs of administration of this chapter and may pay these fees directly to the attorney for the claimant in a lump sum. The Agency for Workforce Innovation or the commission may not pay any other fees or costs in connection with an appeal.

(d) Any person, firm, or corporation who or which seeks or receives any remuneration or gratuity for any services rendered on behalf of a claimant, except as allowed by this section and in an amount approved by the Agency for Workforce Innovation, the commission, or a court, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) PRIVILEGED COMMUNICATIONS.--All letters, reports, communications, or any other matters, either oral or written, between an employer and an employee or between the Agency for Workforce Innovation or its tax collection service provider and any of their agents, representatives, or employees which are written, sent, delivered, or made in connection with this chapter, are privileged and may not be the subject matter or basis for any suit for slander or libel in any court of the state.

History.--s. 16, ch. 18402, 1937; s. 11, ch. 19637, 1939; CGL 1940 Supp. 4151(503), 8135(42)-(44); s. 15, ch. 20685, 1941; s. 10, ch. 26879, 1951; s. 4, ch. 57-268; ss. 17, 35, ch. 69-106; s. 371, ch. 71-136; s. 28, ch. 79-7; s. 186, ch. 79-400; ss. 1, 8, 9, ch. 80-95; s. 11, ch. 91-269; s. 2, ch. 94-347; s. 140, ch. 97-103; s. 101, ch. 2000-153; s. 19, ch. 2003-36.

Note.--Former s. 443.16.

443.051 Benefits not alienable; exception, child support intercept.--

(1) DEFINITIONS.--As used in this section:

(a) "Unemployment compensation" means any compensation payable under state law, including amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances for unemployment.

(b) "Support obligations" includes only those obligations that are being enforced under a plan described in s. 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act. Support obligations include any legally required payments to reduce delinquencies, arrearages, or retroactive support.

(c) "Support order" means a judgment, decree, or order, whether temporary or final, issued by a court of competent jurisdiction or administrative agency for the support and maintenance of a child that provides for monetary support, health care, arrearages, or past support. When the child support obligation is being enforced by the Department of Revenue, the term "support order" also means a judgment, decree, or order, whether temporary or final, issued by a court of competent jurisdiction for the support and maintenance of a child and the spouse or former spouse of the obligor with whom the child is living that provides for monetary support, health care, arrearages, or past support.

(2) BENEFITS NOT ALIENABLE.--Except as provided in subsection (3), benefits due under this chapter may not be assigned, pledged, encumbered, released, or commuted and, except as otherwise provided in this chapter, are exempt from all claims of creditors and from levy, execution, or attachment, or other remedy for recovery or collection of a debt, which exemption may not be waived.

(3) EXCEPTION, SUPPORT INTERCEPT.--

(a) The Department of Revenue shall, at least biweekly, provide the Agency for Workforce Innovation with a magnetic tape or other electronic data file disclosing the individuals who owe support obligations and the amount of any legally required deductions.

(b) For support obligations established on or after July 1, 2006, and for support obligations established before July 1, 2006, when the support order does not address the withholding of unemployment compensation, the Agency for Workforce Innovation shall deduct and withhold 40 percent of the unemployment compensation otherwise payable to an individual disclosed under paragraph (a). If delinquencies, arrearages, or retroactive support are owed and repayment has not been ordered, the unpaid amounts are included in the support obligation and are subject to withholding. If the amount deducted exceeds the support obligation, the Department of Revenue shall promptly refund the amount of the excess deduction to the obligor. For support obligations in effect before July 1, 2006, if the support order addresses the withholding of unemployment compensation, the Agency for Workforce Innovation shall deduct and withhold the amount ordered by the court or administrative agency that issued the support order as disclosed by the Department of Revenue.

(c) The Agency for Workforce Innovation shall pay any amount deducted and withheld under paragraph (b) to the Department of Revenue.

(d) Any amount deducted and withheld under this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the Department of Revenue for support obligations.

(e) The Department of Revenue shall reimburse the Agency for Workforce Innovation for the administrative costs incurred by the agency under this subsection which are attributable to support obligations being enforced by the department.

History.--s. 17, ch. 18402, 1937; CGL 1940 Supp. 4151(504); ss. 1, 8, 9, ch. 80-95; s. 1, ch. 82-91; s. 75, ch. 83-218; s. 141, ch. 97-103; s. 35, ch. 98-397; s. 50, ch. 2001-158; s. 20, ch. 2003-36; s. 37, ch. 2005-39.

Note.--Former s. 443.17.

443.061 Vested rights not created.--A right granted under this chapter is subject to amendment or repeal and does not create a vested right in any person.

History.--s. 20, ch. 18402, 1937; CGL 1940 Supp. 4151(508); ss. 1, 8, 9, ch. 80-95; s. 21, ch. 2003-36.

Note.--Former s. 443.21.

443.071 Penalties.--

(1) Any person who makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase any benefits or other payment under this chapter or under an employment security law of any other state, of the Federal Government, or of a foreign government, either for herself or himself or for any other person, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each false statement or representation or failure to disclose a material fact constitutes a separate offense.

(2) Any employing unit or any officer or agent of any employing unit or any other person who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled to benefits, to avoid becoming or remaining subject to this chapter, or to avoid or reduce any contribution, reimbursement, or other payment required from an employing unit under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any employing unit or any officer or agent of any employing unit or any other person who fails to furnish any reports required under this chapter or to produce or permit the inspection of or copying of records as required under this chapter, who fails or refuses, within 6 months after written demand by the Agency for Workforce Innovation or its tax collection service provider, to keep and maintain the payroll records required by this chapter or by rule of the Agency for Workforce Innovation or the state agency providing tax collection services, or who willfully fails or refuses to make any contribution, reimbursement, or other payment required from an employer under this chapter commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any person who establishes a fictitious employing unit by submitting to the Agency for Workforce Innovation or its tax collection service provider fraudulent employing unit records or tax or wage reports by the introduction of fraudulent records into a computer system, the intentional or deliberate alteration or destruction of computerized information or files, or the theft of financial instruments, data, and other assets, for the purpose of enabling herself or himself or any other person to receive benefits under this chapter to which such person is not entitled, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) In any prosecution or action under this section, the entry into evidence of the signature of a person on a document, letter, or other writing constitutes prima facie evidence of the person's identity if the following conditions exist:

(a) The document includes the person's name, residence address, and social security number.

(b) The signature of the person is witnessed by an agent or employee of the Agency for Workforce Innovation or its tax collection service provider at the time the document, letter, or other writing is filed.

(6) The entry into evidence of an application for unemployment benefits initiated by the use of the Internet claims program or the interactive voice response system telephone claims program of the Agency for Workforce Innovation constitutes prima facie evidence of the establishment of a personal benefit account by or for an individual if the following information is provided: the applicant's name, residence address, date of birth, social security number, and present or former place of work.

(7) The entry into evidence of a transaction history generated by a personal identification number establishing that a certification or claim for one or more weeks of benefits was made against the benefit account of the individual, together with documentation that payment was paid by a state warrant made to the order of the person or by direct deposit via electronic means, constitutes prima facie evidence that the person claimed and received unemployment benefits from the state.

(8) All records relating to investigations of unemployment compensation fraud in the custody of the Agency for Workforce Innovation or its tax collection service provider are available for examination by the Department of Law Enforcement, the state attorneys, or the Office of the Statewide Prosecutor in the prosecution of offenses under s. 817.568 or in proceedings brought under this chapter.

History.--s. 18, ch. 18402, 1937; CGL 1940 Supp. 4151(510), 8135(45), (46), (47); s. 16, ch. 20685, 1941; s. 11, ch. 26879, 1951; s. 1, ch. 29770, 1955; ss. 17, 35, ch. 69-106; s. 372, ch. 71-136; s. 2, ch. 75-121; s. 1, ch. 78-295; s. 7, ch. 79-308; ss. 1, 8, 9, ch. 80-95; s. 142, ch. 97-103; s. 22, ch. 2003-36; s. 2, ch. 2005-209.

Note.--Former s. 443.22.

443.091 Benefit eligibility conditions.--

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

(a) She or he has made a claim for benefits for that week in accordance with the rules adopted by the Agency for Workforce Innovation.

(b) She or he has registered for work with, and subsequently continued to report to, the Agency for Workforce Innovation in accordance with its rules. These rules must not conflict with the requirement in s. 443.111(1)(b) that each claimant must continue to report regardless of any appeal or pending appeal relating to her or his eligibility or disqualification for benefits. The Agency for Workforce Innovation may by rule waive this paragraph for individuals attached to regular jobs. These rules must not conflict with s. 443.111(1).

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

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

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

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

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

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

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

2. If benefits have been paid for that week.

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

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

(g) She or he submitted to the Agency for Workforce Innovation a valid social security number assigned to her or him. The Agency for Workforce Innovation may verify the social security number with the United States Social Security Administration and may deny benefits if the agency is unable to

verify the individual's social security number, if the social security number is invalid, or if the social security number is not assigned to the individual.

(2) An individual may not receive benefits in a benefit year unless, after the beginning of the next preceding benefit year during which she or he received benefits, she or he performed service, regardless of whether in employment as defined in s. 443.036, and earned remuneration for that service of at least 3 times her or his weekly benefit amount as determined for her or his current benefit year.

(3) Benefits based on service in employment described in s. 443.1216(2) and (3) are payable in the same amount, on the same terms, and subject to the same conditions as benefits payable based on other service subject to this chapter, except that:

(a) Benefits are not payable for services in an instructional, research, or principal administrative capacity for an educational institution or an institution of higher education for any week of unemployment commencing during the period between 2 successive academic years; during a similar period between two regular terms, whether or not successive; or during a period of paid sabbatical leave provided for in the individual's contract, to any individual, if the individual performs those services in the first of those academic years or terms and there is a contract or a reasonable assurance that the individual will perform services in any such capacity for any educational institution or institution of higher education in the second of those academic years or terms.

(b) Benefits may not be based on services in any other capacity for an educational institution or an institution of higher education to any individual for any week that commences during a period between 2 successive academic years or terms if the individual performs those services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform those services in the second of the academic years or terms. However, if compensation is denied to any individual under this paragraph and the individual was not offered an opportunity to perform those services for the educational institution for the second of those academic years or terms, that individual is entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this paragraph.

(c) Benefits are not payable based on services provided to an educational institution or institution of higher learning to any individual for any week that commences during an established and customary vacation period or holiday recess if the individual performs any services described in paragraph (a) or paragraph (b) in the period immediately before the vacation period or holiday recess and there is a reasonable assurance that the individual will perform any service in the period immediately after the vacation period or holiday recess.

(d) Benefits are not payable for services in any capacity specified in paragraphs (a), (b), and (c) to any individual who performed those services in an educational institution while in the employ of a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing those services to one or more educational institutions.

(e) Benefits are not payable for services in any capacity specified in paragraphs (a), (b), (c), and (d) to any individual who provided those services to or on behalf of an educational institution, or an institution of higher education.

(f) As used in this subsection, the term:

1. "Fixed contract" means a written agreement of employment for a specified period of time.
2. "Continuing contract" means a written agreement that is automatically renewed until terminated by one of the parties to the contract.

(4) In the event of national emergency, in the course of which the Federal Emergency Unemployment Payment Plan is, at the request of the Governor, invoked for all or any part of the state, the emergency plan shall supersede the procedures prescribed by this chapter, and by rules adopted under this chapter, and the Agency for Workforce Innovation shall act as the Florida agency for the United States Department of Labor in the administration of the plan.

(5) Benefits are not payable to any individual based on service 90 percent or more of which consists of participating in sports or athletic events or training, or preparing to participate, for any week that commences during the period between two successive sport seasons, or similar periods, if the individual performed the service in the first of those seasons, or similar periods, and there is a reasonable assurance that the individual will perform those services in the later of those seasons, or similar periods.

History.--s. 5, ch. 18402, 1937; s. 3, ch. 19637, 1939; CGL 1940 Supp. 4151(492); s. 5, ch. 20685, 1941; s. 3, ch. 21983, 1943; s. 3, ch. 26879, 1951; s. 3, ch. 29771, 1955; s. 2, ch. 57-247; s. 3, ch. 59-55; s. 2, ch. 61-132; ss. 17, 35, ch. 69-106; s. 5, ch. 71-225; s. 2, ch. 75-39; s. 3, ch. 77-262; s. 3, ch. 77-399; s. 1, ch. 77-420; s. 2, ch. 78-386; ss. 3, 8, 9, ch. 80-95; s. 2, ch. 82-91; s. 2, ch. 83-10; s. 1, ch. 84-40; s. 1, ch. 84-279; s. 1, ch. 85-114; s. 1, ch. 88-100; s. 3, ch. 88-289; s. 1, ch. 90-9; s. 1, ch. 90-89; s. 3, ch. 94-347; s. 3, ch. 96-378; s. 20, ch. 96-423; s. 1059, ch. 97-103; s. 5, ch. 98-149; s. 2, ch. 98-154; s. 105, ch. 2000-165; s. 23, ch. 2003-36; s. 3, ch. 2005-209.

Note.--Former s. 443.05.

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

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

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

military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders.

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

(b) For any week with respect to which the Agency for Workforce Innovation finds that his or her unemployment is due to a suspension for misconduct connected with the individual's work.

(c) For any week with respect to which the Agency for Workforce Innovation finds that his or her unemployment is due to a leave of absence, if the leave was voluntarily initiated by the individual.

(d) For any week with respect to which the Agency for Workforce Innovation finds that his or her unemployment is due to a discharge for misconduct connected with the individual's work, consisting of drug use, as evidenced by a positive, confirmed drug test.

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

(a) In determining whether or not any work is suitable for an individual, the Agency for Workforce Innovation shall consider the degree of risk involved to his or her health, safety, and morals; his or her physical fitness and prior training; the individual's experience and prior earnings; his or her length of unemployment and prospects for securing local work in his or her customary occupation; and the distance of the available work from his or her residence.

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

1. If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

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

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

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

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

(a) Wages in lieu of notice.

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

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

(4) For any week with respect to which the Agency for Workforce Innovation finds that his or her total or partial unemployment is due to a labor dispute in active progress which exists at the factory, establishment, or other premises at which he or she is or was last employed; except that this subsection does not apply if it is shown to the satisfaction of the Agency for Workforce Innovation that:

(a)1. He or she is not participating in, financing, or directly interested in the labor dispute that is in active progress; however, the payment of regular union dues may not be construed as financing a labor dispute within the meaning of this section; and

2. He or she does not belong to a grade or class of workers of which immediately before the commencement of the labor dispute there were members employed at the premises at which the labor dispute occurs any of whom are participating in, financing, or directly interested in the dispute; if in any case separate branches of work are commonly conducted as separate businesses in separate premises, or are conducted in separate departments of the same premises, each department, for the purpose of this subsection, is deemed to be a separate factory, establishment, or other premise.

(b) His or her total or partial unemployment results from a lockout by his or her employer. As used in this section, the term "lockout" means a situation in which employees have not gone on strike, nor have employees notified the employer of a date certain for a strike, but in which employees have been denied entry to the factory, establishment, or other premises of employment by the employer. However, benefits are not payable under this paragraph if the lockout action was taken in response to threats, actions, or other indications of impending damage to property and equipment or possible physical violence by employees or in response to actual damage or violence or a substantial reduction in production instigated or perpetrated by employees.

(5) For any week with respect to which or a part of which he or she has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. For the purposes of this subsection, an unemployment compensation law of the United States is any law of the United States which provides for payment of any type and in any amounts for

periods of unemployment due to lack of work. However, if the appropriate agency of the other state or of the United States finally determines that he or she is not entitled to unemployment benefits, this disqualification does not apply.

(6) For a period not to exceed 1 year from the date of the discovery by the Agency for Workforce Innovation of the making of any false or fraudulent representation for the purpose of obtaining benefits contrary to this chapter, constituting a violation under s. 443.071. This disqualification may be appealed in the same manner as any other disqualification imposed under this section. A conviction by any court of competent jurisdiction in this state of the offense prohibited or punished by s. 443.071 is conclusive upon the appeals referee and the commission of the making of the false or fraudulent representation for which disqualification is imposed under this section.

(7) If the Agency for Workforce Innovation finds that the individual is an alien, unless the alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law, including an alien who is lawfully present in the United States as a result of the application of s. 203(a)(7) or s. 212(d)(5) of the Immigration and Nationality Act, if any modifications to s. 3304(a)(14) of the Federal Unemployment Tax Act, as provided by Pub. L. No. 94-566, which specify other conditions or other effective dates than those stated under federal law for the denial of benefits based on services performed by aliens, and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, are deemed applicable under this section, if:

(a) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status is uniformly required from all applicants for benefits; and

(b) In the case of an individual whose application for benefits would otherwise be approved, a determination that benefits to such individual are not payable because of his or her alien status may not be made except by a preponderance of the evidence.

If the Agency for Workforce Innovation finds that the individual has refused without good cause an offer of resettlement or relocation, which offer provides for suitable employment for the individual notwithstanding the distance of relocation, resettlement, or employment from the current location of the individual in this state, this disqualification continues for the week in which the failure occurred and for not more than 17 weeks immediately after that week, or a reduction by not more than 5 weeks from the duration of benefits, as determined by the Agency for Workforce Innovation in each case.

(8) For any week with respect to which he or she has received, from a base period employer, benefits from a retirement, pension, or annuity program embodied in a union contract or either a public or private employee benefit program, except:

(a) For any week in which benefits from a retirement, pension, or annuity program, as referred to in this subsection, are less than the weekly benefits that would otherwise be due under this chapter, he or she is entitled to receive for that week, if otherwise eligible, benefits reduced by the amount of benefits from the retirement, pension, or annuity program, prorated to a weekly basis;

(b) For any week in which an individual has received benefits from a retirement, pension, or annuity program, as referred to in this subsection, for which program he or she has paid at least one-half of

the contributions, the individual is entitled to receive for that week, if otherwise eligible, benefits reduced by one-half of the amount of benefits from the retirement, pension, or annuity program, prorated on a weekly basis; or

(c) For any week in which he or she has received benefits from a retirement, pension, or annuity program under the United States Social Security Act, for which program he or she has paid any contribution, benefits may not be reduced because of the contribution.

For the purpose of this subsection, benefits from the United States Social Security Act, a disability benefit program, or any other similar periodic payment based on the previous work of the individual are considered retirement income, except as provided in paragraph (c).

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

(a) If the Agency for Workforce Innovation or the Unemployment Appeals Commission finds that the individual was terminated from his or her work for violation of any criminal law punishable by imprisonment in connection with his or her work, and the individual was found guilty of the offense, made an admission of guilt in a court of law, or entered a plea of no contest, the individual is not entitled to unemployment benefits for up to 52 weeks, under rules adopted by the Agency for Workforce Innovation, and until he or she has earned income of at least 17 times his or her weekly benefit amount. If, before an adjudication of guilt, an admission of guilt, or a plea of no contest, the employer shows the Agency for Workforce Innovation that the arrest was due to a crime against the employer or the employer's business and, after considering all the evidence, the Agency for Workforce Innovation finds misconduct in connection with the individual's work, the individual is not entitled to unemployment benefits.

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

With respect to an individual disqualified for benefits, the account of the terminating employer, if the employer is in the base period, is noncharged at the time the disqualification is imposed.

(10) Subject to the requirements of this subsection, if the claim is made based on the loss of employment as a leased employee for an employee leasing company or as a temporary employee for a temporary help firm.

(a) As used in this subsection, the term:

1. "Temporary help firm" means a firm that hires its own employees and assigns them to clients to support or supplement the client's workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects, and includes a labor pool as defined in s. 448.22. The term also includes a firm created by an entity licensed under s.

125.012(6), which hires employees assigned by a union for the purpose of supplementing or supporting the workforce of the temporary help firm's clients. The term does not include employee leasing companies regulated under part XI of chapter 468.

2. "Temporary employee" means an employee assigned to work for the clients of a temporary help firm. The term also includes a day laborer performing day labor, as defined in s. 448.22, who is employed by a labor pool as defined in s. 448.22.

3. "Leased employee" means an employee assigned to work for the clients of an employee leasing company regulated under part XI of chapter 468.

(b) A temporary or leased employee is deemed to have voluntarily quit employment and is disqualified for benefits under subparagraph (1)(a)1. if, upon conclusion of his or her latest assignment, the temporary or leased employee, without good cause, failed to contact the temporary help or employee-leasing firm for reassignment, if the employer advised the temporary or leased employee at the time of hire and that the leased employee is notified also at the time of separation that he or she must report for reassignment upon conclusion of each assignment, regardless of the duration of the assignment, and that unemployment benefits may be denied for failure to report. For purposes of this section, the time of hire for a day laborer is upon his or her acceptance of the first assignment following completion of an employment application with the labor pool. The labor pool as defined in s. 448.22(1) must provide notice to the temporary employee upon conclusion of the latest assignment that work is available the next business day and that the temporary employee must report for reassignment the next business day. The notice must be given by means of a notice printed on the paycheck, written notice included in the pay envelope, or other written notification at the conclusion of the current assignment.

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

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

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

(c) Disclosure of drug test results and other information pertaining to drug testing of individuals who claim or receive compensation under this chapter shall be governed by s. 443.1715.

History.--s. 6, ch. 18402, 1937; s. 4, ch. 19637, 1939; CGL 1940 Supp. 4151(493); s. 6, ch. 20685, 1941; s. 4, ch. 21983, 1943; s. 1, ch. 24083, 1947; s. 3, ch. 28242, 1953; s. 1, ch. 63-327; s. 1, ch. 63-157; s. 1, ch. 65-45; s. 1, ch. 65-114; s. 1, ch. 65-115; s. 1, ch. 65-244; s. 1, ch. 65-411; ss. 17, 35, ch. 69-106; s. 1, ch. 72-190; s. 4, ch. 77-262; s. 4, ch. 77-399; s. 1, ch. 77-424; s. 1, ch. 78-386; s. 22, ch. 79-7; s. 74, ch. 79-40; s. 2, ch. 79-293; s. 2, ch. 79-308; s. 183, ch. 79-400; ss. 3, 8, 9, ch. 80-95; s. 3, ch. 80-345; s. 1, ch. 81-42; s. 1, ch. 81-137; s. 4, ch. 88-289; s. 1, ch. 92-38; s. 1, ch. 92-84; s. 1, ch. 92-283; s. 2, ch. 93-153; s. 1, ch. 94-158; s. 4, ch. 94-347; s. 4, ch. 96-378; s. 2, ch. 96-411; s. 1060, ch. 97-103; s. 2, ch. 99-131; s. 24, ch. 2003-36; s. 7, ch. 2004-230; s. 1, ch. 2004-237; s. 1, ch. 2008-165.

Note.--Former s. 443.06.

443.111 Payment of benefits.--

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

(a) Benefits are payable by mail or electronically. Notwithstanding s. 409.942(4), the agency may develop a system for the payment of benefits by electronic funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of electronic payment that the agency deems to be commercially viable or cost-effective. Commodities or services related to the development of such a system shall be procured by competitive solicitation, unless they are purchased from a state term contract pursuant to s. 287.056. The agency shall adopt rules necessary to administer the system.

(b) Each claimant must report in the manner prescribed by the Agency for Workforce Innovation to certify for benefits that are paid and must continue to report at least biweekly to receive unemployment benefits and to attest to the fact that she or he is able and available for work, has not refused suitable work, is seeking work, and, if she or he has worked, to report earnings from that work. Each claimant must continue to report regardless of any appeal or pending appeal relating to her or his eligibility or disqualification for benefits.

(2) **QUALIFYING REQUIREMENTS.**--To establish a benefit year for unemployment benefits, an individual must have:

(a) Wage credits in two or more calendar quarters of the individual's base period.

(b) Minimum total base period wage credits equal to the high quarter wages multiplied by 1.5, but at least \$3,400 in the base period.

(3) **WEEKLY BENEFIT AMOUNT.**--An individual's "weekly benefit amount" is an amount equal to one twenty-sixth of the total wages for insured work paid during that quarter of the base period in which the total wages paid were the highest, but not less than \$32 or more than \$275. The weekly benefit amount, if not a multiple of \$1, is rounded downward to the nearest full dollar amount. The maximum weekly benefit amount in effect at the time the claimant establishes an individual weekly benefit amount is the maximum benefit amount applicable throughout the claimant's benefit year.

(4) **WEEKLY BENEFIT FOR UNEMPLOYMENT.**--

(a) *Total*.--Each eligible individual who is totally unemployed in any week is paid for the week a benefit equal to her or his weekly benefit amount.

(b) *Partial*.--Each eligible individual who is partially unemployed in any week is paid for the week a benefit equal to her or his weekly benefit less that part of the earned income, if any, payable to her or him for the week which is in excess of 8 times the federal hourly minimum wage. These benefits, if not a multiple of \$1, are rounded downward to the nearest full dollar amount.

(5) DURATION OF BENEFITS.--

(a)1. Each otherwise eligible individual is entitled during any benefit year to a total amount of benefits equal to 25 percent of the total wages in his or her base period, not to exceed \$7,150. However, the total amount of benefits, if not a multiple of \$1, is rounded downward to the nearest full dollar amount. These benefits are payable at a weekly rate no greater than the weekly benefit amount.

2. For the purposes of this subsection, wages are counted as "wages for insured work" for benefit purposes with respect to any benefit year only if the benefit year begins after the date the employing unit by whom the wages were paid has satisfied the conditions of this chapter for becoming an employer.

(b) If the remuneration of an individual is not based upon a fixed period or duration of time or if the individual's wages are paid at irregular intervals or in a manner that does not extend regularly over the period of employment, the wages for any week or for any calendar quarter for the purpose of computing an individual's right to employment benefits only are determined in the manner prescribed by rule. These rules, to the extent practicable, must secure results reasonably similar to those that would prevail if the individual were paid her or his wages at regular intervals.

History.--s. 4, ch. 18402, 1937; s. 2, ch. 19637, 1939; CGL 1940 Supp. 4151(491); s. 4, ch. 20685, 1941; s. 2, ch. 21983, 1943; s. 1, ch. 23919, 1947; ss. 1, 2, 3, ch. 26801, 1951; s. 1, ch. 29695, 1955; s. 1, ch. 57-247; s. 1, ch. 57-795; ss. 1, 2, ch. 59-55; s. 1, ch. 61-173; s. 1, ch. 67-250; ss. 17, 35, ch. 69-106; ss. 1, 2, 3, ch. 70-166; s. 4, ch. 71-225; s. 1, ch. 71-247; s. 1, ch. 72-155; s. 2, ch. 74-198; s. 1, ch. 75-121; s. 2, ch. 77-262; s. 2, ch. 77-399; s. 1, ch. 79-293; s. 182, ch. 79-400; ss. 3, 8, 9, ch. 80-95; s. 1, ch. 80-233; s. 2, ch. 81-137; ss. 1, 2, ch. 82-23; s. 3, ch. 82-91; s. 3, ch. 83-10; s. 1, ch. 83-285; s. 1, ch. 83-313; s. 1, ch. 84-21; s. 2, ch. 84-279; s. 2, ch. 85-114; s. 1, ch. 85-126; ss. 1, 2, ch. 86-10; s. 2, ch. 87-383; ss. 1, 5, ch. 88-289; s. 1, ch. 89-346; s. 2, ch. 90-89; s. 1, ch. 90-191; ss. 1, 2, 3, ch. 91-9; s. 2, ch. 92-38; s. 1, ch. 92-313; ss. 5, 6, 8, ch. 94-347; s. 5, ch. 96-378; s. 21, ch. 96-423; s. 3, ch. 97-29; ss. 1061, 1062, ch. 97-103; s. 3, ch. 99-131; s. 102, ch. 2000-153; ss. 25, 50, ch. 2003-36; s. 1, ch. 2008-167.

Note.--Former s. 443.04.

443.1115 Extended benefits.--

(1) DEFINITIONS.--As used in this section, the term:

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

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

2. Ends with either of the following weeks, whichever occurs later:
 - a. The third week after the first week for which there is a state "off" indicator; or
 - b. The 13th consecutive week of that period.

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

(b) "State 'on' indicator" means the occurrence of a week in which the rate of insured unemployment under state law, not seasonally adjusted, for the period consisting of that week and the 12 weeks immediately preceding it:

1. Equals or exceeds 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; and
2. Equals or exceeds 5 percent.

(c) "State 'off' indicator" means the occurrence of a week in which there is no state "on" indicator.

(d) "Rate of insured unemployment" means the percentage derived by dividing the average weekly number of individuals filing claims for regular compensation in this state, excluding extended-benefit claimants for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the Agency for Workforce Innovation on the basis of its reports to the United States Secretary of Labor, by the average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of that 13-week period.

(e) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law, including benefits payable to federal civilian employees and to ex-servicemembers under 5 U.S.C. ss. 8501-8525, other than extended benefits.

(f) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicemembers under 5 U.S.C. ss. 8501-8525, payable to an individual under this section for weeks of unemployment in her or his eligibility period.

(g) "Eligibility period" means the period consisting of the weeks in her or his benefit year which begin in an extended benefit period and, if her or his benefit year ends within that extended benefit period, any subsequent weeks beginning in that period.

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

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

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

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

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

(2) REGULAR BENEFITS ON CLAIMS FOR, AND THE PAYMENT OF, EXTENDED BENEFITS.--Except when the result is inconsistent with the other provisions of this section and as provided in the rules of the Agency for Workforce Innovation, the provisions of this chapter applying to claims for, or the payment of, regular benefits apply to claims for, and the payment of, extended benefits. These extended benefits are charged to the employment records of employers to the extent that the share of those extended benefits paid from this state's Unemployment Compensation Trust Fund is not eligible to be reimbursed from federal sources.

(3) ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.--

(a) An individual is eligible to receive extended benefits for any week of unemployment in her or his eligibility period only if the Agency for Workforce Innovation finds that, for that week:

1. She or he is an exhaustee as defined in subsection (1).

2. She or he satisfies the requirements of this chapter for the receipt of regular benefits applicable to individuals claiming extended benefits, including not being subject to disqualification from the receipt of benefits. An individual disqualified from receiving regular benefits may not receive extended benefits after the disqualification period terminates if he or she was disqualified for voluntarily leaving work, being discharged from work for misconduct, or refusing suitable work. However, if the disqualification period for regular benefits terminates because the individual received the required amount of remuneration for services rendered as a common-law employee, she or he may receive extended benefits.

3. The individual was paid wages for insured work for the applicable benefit year equal to 1.5 times the high quarter earnings during the base period.

(b)1. Except as provided in subparagraph 2., an individual is not eligible for extended benefits for any week if:

a. Extended benefits are payable for the week pursuant to an interstate claim filed in any state under the interstate benefit payment plan; and

b. An extended benefit period is not in effect for the week in the other state.

2. This paragraph does not apply with respect to the first 2 weeks for which extended benefits are payable, pursuant to an interstate claim filed under the interstate benefit payment plan, to the individual from the extended benefit account established for the individual for the benefit year.

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

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

b. She or he failed to furnish tangible evidence that she or he actively engaged in a systematic and sustained effort to find work. This disqualification begins with the week the failure occurred and continues until she or he is employed for at least 4 weeks and receives earned income of at least 4 times her or his weekly benefit amount.

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

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

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

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

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

(4) WEEKLY EXTENDED BENEFIT AMOUNT.--The weekly extended benefit amount payable to an individual for a week of total unemployment in her or his eligibility period is equal to the weekly benefit amount payable to her or him during her or his applicable benefit year. For any individual who is paid benefits during the applicable benefit year in accordance with more than one weekly

benefit amount, the weekly extended benefit amount is the average of those weekly benefit amounts.

(5) TOTAL EXTENDED BENEFIT AMOUNT.--

(a) Except as provided in paragraph (b), the total extended benefit amount payable to an eligible individual for her or his applicable benefit year is the lesser of:

1. Fifty percent of the total regular benefits payable to her or him under this chapter in her or his applicable benefit year; or
2. Thirteen times her or his weekly benefit amount payable to her or him under this chapter for a week of total unemployment in the applicable benefit year.

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

(6) COMPUTATIONS.--The Agency for Workforce Innovation shall perform the computations required under paragraph (1)(d) in accordance with regulations of the United States Secretary of Labor.

(7) RECOVERY OF OVERPAYMENTS UNDER THE TRADE ACT OF 1974, AS AMENDED.--If the state, a cooperating state agency, the United States Secretary of Labor, or a court of competent jurisdiction finds that a person has received payments under the Trade Act of 1974, as amended, to which the person was not entitled, the sum of those payments shall be deducted from the extended benefits payable to that person under this section, except that each single deduction under this subsection may not exceed 50 percent of the amount otherwise payable. The amounts deducted must be paid to the agency that issued the payments under the Trade Act of 1974, as amended, for return to the United States Treasury. However, except for overpayments determined by a court of competent jurisdiction, a deduction may not be made under this subsection until a determination by the state agency or the United States Secretary of Labor is final.

History.--s. 26, ch. 2003-36.

443.1116 Short-time compensation.--

(1) DEFINITIONS.--As used in this section, the term:

(a) "Affected unit" means a specified plant, department, shift, or other definable unit of two or more employees designated by the employer to participate in a short-time compensation plan.

(b) "Normal weekly hours of work" means the number of hours in a week that an individual would regularly work for the short-time compensation employer, not to exceed 40 hours, excluding overtime.

(c) "Short-time compensation benefits" means benefits payable to individuals in an affected unit under an approved short-time compensation plan.

(d) "Short-time compensation employer" means an employer with a short-time compensation plan in effect.

(e) "Short-time compensation plan" or "plan" means an employer's written plan for reducing unemployment under which an affected unit shares the work remaining after its normal weekly hours of work are reduced.

(2) APPROVAL OF SHORT-TIME COMPENSATION PLANS.--An employer wishing to participate in the short-time compensation program must submit a signed, written, short-time plan to the director of the Agency for Workforce Innovation for approval. The director or his or her designee shall approve the plan if:

(a) The plan applies to and identifies each specific affected unit;

(b) The individuals in the affected unit are identified by name and social security number;

(c) The normal weekly hours of work for individuals in the affected unit are reduced by at least 10 percent and by not more than 40 percent;

(d) The plan includes a certified statement by the employer that the aggregate reduction in work hours is in lieu of temporary layoffs that would affect at least 10 percent of the employees in the affected unit and that would have resulted in an equivalent reduction in work hours;

(e) The plan applies to at least 10 percent of the employees in the affected unit;

(f) The plan is approved in writing by the collective bargaining agent for each collective bargaining agreement covering any individual in the affected unit;

(g) The plan does not serve as a subsidy to seasonal employers during the off-season or as a subsidy to employers who traditionally use part-time employees; and

(h) The plan certifies the manner in which the employer will treat fringe benefits of the individuals in the affected unit if the hours of the individuals are reduced to less than their normal weekly hours of work. As used in this paragraph, the term "fringe benefits" includes, but is not limited to, health insurance, retirement benefits under defined benefit pension plans as defined in subsection 35 of s. 1002 of the Employee Retirement Income Security Act of 1974, 29 U.S.C., paid vacation and holidays, and sick leave.

(3) APPROVAL OR DISAPPROVAL OF THE PLAN.--The director or his or her designee shall approve or disapprove a short-time compensation plan in writing within 15 days after its receipt. If the plan is denied, the director or his or her designee shall notify the employer of the reasons for disapproval.

(4) BEGINNING AND TERMINATION OF SHORT-TIME COMPENSATION BENEFIT PERIOD.--A plan takes effect on the date of its approval by the director or his or her designee and expires at the end of the 12th full calendar month after its effective date.

(5) ELIGIBILITY REQUIREMENTS FOR SHORT-TIME COMPENSATION BENEFITS.--

(a) Except as provided in this subsection, an individual is eligible to receive short-time compensation benefits for any week only if she or he complies with this chapter and the Agency for Workforce Innovation finds that:

1. The individual is employed as a member of an affected unit in an approved plan that was approved before the week and is in effect for the week;
2. The individual is able to work and is available for additional hours of work or for full-time work with the short-time employer; and
3. The normal weekly hours of work of the individual are reduced by at least 10 percent but not by more than 40 percent, with a corresponding reduction in wages.

(b) The Agency for Workforce Innovation may not deny short-time compensation benefits to an individual who is otherwise eligible for these benefits for any week by reason of the application of any provision of this chapter relating to availability for work, active search for work, or refusal to apply for or accept work from other than the short-time compensation employer of that individual.

(c) Notwithstanding any other provision of this chapter, an individual is deemed unemployed in any week for which compensation is payable to her or him, as an employee in an affected unit, for less than her or his normal weekly hours of work in accordance with an approved short-time compensation plan in effect for the week.

(6) WEEKLY SHORT-TIME COMPENSATION BENEFIT AMOUNT.--The weekly short-time compensation benefit amount payable to an individual is equal to the product of her or his weekly benefit amount as provided in s. 443.111(3) and the ratio of the number of normal weekly hours of work for which the employer would not compensate the individual to the individual's normal weekly hours of work. The benefit amount, if not a multiple of \$1, is rounded downward to the next lower multiple of \$1.

(7) TOTAL SHORT-TIME COMPENSATION BENEFIT AMOUNT.--An individual may not be paid benefits under this section in any benefit year for more than the maximum entitlement provided in s. 443.111(5), and an individual may not be paid short-time compensation benefits for more than 26 weeks in any benefit year.

(8) EFFECT OF SHORT-TIME COMPENSATION BENEFITS RELATING TO THE PAYMENT OF REGULAR AND EXTENDED BENEFITS.--

(a) The short-time compensation benefits paid to an individual shall be deducted from the total benefit amount established for that individual in s. 443.111(5).

(b) An individual who receives all of the short-time compensation or combined unemployment compensation and short-time compensation available in a benefit year is considered an exhaustee for purposes of the extended benefits program in s. 443.1115 and, if otherwise eligible under those provisions, is eligible to receive extended benefits.

(c) An otherwise eligible individual may not be disqualified from benefits for leaving employment instead of accepting a reduction in hours under an approved plan.

(9) ALLOCATION OF SHORT-TIME COMPENSATION BENEFIT CHARGES.--Except when the result is inconsistent with the other provisions of this chapter, short-time compensation benefits shall be charged to the employment record of employers as provided in s. 443.131(3).

History.--s. 27, ch. 2003-36.

443.121 Employing units affected.--

(1) PERIODS OF LIABILITY.--

(a) Any employing unit that is or becomes an employer subject to this chapter as described in s. 443.1215(1)(a), (1)(b), (1)(c), (1)(d), or (2) within any calendar year is subject to this chapter during the entire calendar year.

(b) Any employing unit that is or becomes an employer subject to this chapter solely by reason of s. 443.1215(1)(e) is subject to this chapter only during its operation of the business acquired.

(c) Any employing unit that is or becomes an employer subject to this chapter solely by reason of s. 443.1215(1)(f) is subject to this chapter only for employment occurring after the date of the acquisition.

(2) TERMINATION OF COVERAGE.--

(a) *General.*--Except as otherwise provided in this section, an employing unit ceases to be an employer subject to this chapter as of January 1 of any calendar year only if it files with the tax collection service provider, by April 30 of the year for which termination is requested, a written application for termination of coverage and the service provider finds that the employing unit, in the preceding calendar year, did not meet the requirements of an employer, as described in s. 443.1215(1)(a), (1)(d), or (2). This time limit for filing an application may be waived by the tax collection service provider in cases in which the time limit expires before the liability of the employing unit is established in the records of the service provider. For the purposes of this subsection, the two or more employing units listed in s. 443.1215(1)(e), (1)(f), and (1)(h) shall be treated as a single employing unit.

(b) *Nonprofit organizations.*--Except as otherwise provided in subsection (4), an employing unit subject to this chapter under s. 443.1216(3) ceases to be an employer subject to this chapter as of January 1 of any calendar year only if it files with the tax collection service provider, by April 30 of the year for which termination is requested, a written application for termination of coverage and the service provider finds that there were fewer than 20 different days, each day being in a different week within the preceding calendar year, within which the employing unit employed four or more individuals in employment subject to this chapter. The timely filing of application may be waived as provided in paragraph (a).

(c) *Public employers.*--Each public employer in the state is an employer subject to this chapter for the duration of any employment defined in s. 443.1216(2) and ceases to be subject to this chapter only as provided in subsection (4).

(3) ELECTIVE COVERAGE.--

(a) *General.*--An employing unit, not otherwise subject to this chapter, which files with the tax collection service provider its written election to become an employer subject to this chapter for at least 1 calendar year, with written approval of the election by the service provider, becomes an employer subject to this chapter to the same extent as all other employers as of the date stated in the approval, and ceases to be subject to this chapter as of January 1 of any calendar year after the first calendar year of its election only if, by April 30 of the next year, the employing unit files a written notice to that effect with the tax collection service provider. However, at the expiration of the calendar year of the election, the tax collection service provider may reconsider the voluntary election of coverage and may notify the employer that the employer will not be carried upon the records of the service provider as an employer, and thereupon the employer ceases to be an employer under this chapter as of January 1 of the year next succeeding the last calendar year during which it was an employer under this chapter.

(b) *Public employers.*--An employing unit that is a public employer as defined in s. 443.036, for which services that do not constitute employment as defined in this chapter are performed, may file with the tax collection service provider a written election that all those services performed by individuals in its employ in one or more distinct establishments or places of business constitute employment for purposes of this chapter for at least 1 calendar year. Upon written approval of the election by the tax collection service provider, these services constitute employment subject to this chapter from and after the date stated in the approval. These services cease to be employment subject to this chapter as of January 1 of any calendar year after that calendar year only if, by April 30 of the next year, the employing unit files a written notice to that effect with the tax collection service provider.

(c) *Certain services for political subdivisions.*--

1. Any political subdivision of this state may elect to cover under this chapter, for at least 1 calendar year, service performed by employees in all of the hospitals and institutions of higher education operated by the political subdivision. Election must be made by filing with the tax collection service provider a notice of election at least 30 days before the effective date of the election. The election may exclude any services described in s. 443.1216(4). Any political subdivision electing coverage under this paragraph must be a reimbursing employer and make reimbursements in lieu of contributions for benefits attributable to this employment, provided for nonprofit organizations in s. 443.1312(3) and (5).

2. The provisions of s. 443.091(3) relating to benefit rights based on service for nonprofit organizations and state hospitals and institutions of higher education also apply to service covered by an election under this section.

3. The amounts required to be reimbursed in lieu of contributions by any political subdivision under this paragraph shall be billed, and payment made, as provided in s. 443.1312(3) for similar reimbursements by nonprofit organizations.

4. An election under this paragraph may be terminated after at least 1 calendar year of coverage by filing with the tax collection service provider written notice not later than 30 days before the last day of the calendar year in which the termination is to be effective. The termination takes effect on January 1 of the next ensuing calendar year for services performed after that date.

(4) *INACTIVE EMPLOYERS.*--Notwithstanding the other provisions of this section, if the tax collection service provider finds that an employer is inactive and has ceased to be an employing unit as defined

by this chapter for a complete calendar year, the service provider may terminate the account of the employer as of January 1 of any year following a complete calendar year in which the employer ceased to be an employing unit, and the employer ceases to be an employer subject to this chapter.

History.--s. 9, ch. 18402, 1937; CGL 1940 Supp. 4151(496); s. 9, ch. 20685, 1941; s. 2, ch. 21982, 1943; ss. 7, 8, ch. 26879, 1951; s. 10, ch. 28242, 1953; s. 5, ch. 29771, 1955; s. 5, ch. 61-132; ss. 2, 3, ch. 65-114; ss. 17, 35, ch. 69-106; s. 7, ch. 71-225; s. 6, ch. 77-262; s. 118, ch. 79-164; s. 5, ch. 79-308; ss. 4, 8, 9, ch. 80-95; s. 6, ch. 88-289; s. 6, ch. 98-149; s. 28, ch. 2003-36; s. 53, ch. 2006-1.

Note.--Former s. 443.09.

443.1215 Employers.--

(1) Each of the following employing units is an employer subject to this chapter:

(a) An employing unit that:

1. In a calendar quarter during the current or preceding calendar year paid wages of at least \$1,500 for service in employment; or
2. For any portion of a day in each of 20 different calendar weeks, regardless of whether the weeks were consecutive, during the current or the preceding calendar year, employed at least one individual in employment, irrespective of whether the same individual was in employment during each day.

(b) An employing unit for which service in employment, as defined in s. 443.1216(2), is performed, except as provided in subsection (2).

(c) An employing unit for which service in employment, as defined in s. 443.1216(3), is performed, except as provided in subsection (2).

(d)1. An employing unit for which agricultural labor, as defined in s. 443.1216(5), is performed.

2. An employing unit for which domestic service in employment, as defined in s. 443.1216(6), is performed.

(e) An individual or employing unit that acquires the organization, trade, or business, or substantially all of the assets of another individual or employing unit, which, at the time of the acquisition, is an employer subject to this chapter, or that acquires a part of the organization, trade, or business of another individual or employing unit which, at the time of the acquisition, is an employer subject to this chapter, if the other individual or employing unit would be an employer under paragraph (a) if that part constitutes its entire organization, trade, or business.

(f) An individual or employing unit that acquires the organization, trade, or business, or substantially all of the assets of another employing unit, if the employment record of the predecessor before the acquisition, together with the employment record of the individual or employing unit after the acquisition, both within the same calendar year, is sufficient to render an employing unit subject to this chapter as an employer under paragraph (a).

(g) An employing unit that is not otherwise an employer subject to this chapter under this section:

1. For which, during the current or preceding calendar year, service is or was performed for which the employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund.
2. Which, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required under the federal act to be an employer that is subject to this chapter.
 - (h) An employing unit that became an employer under paragraph (a), paragraph (b), paragraph (c), paragraph (d), paragraph (e), paragraph (f), or paragraph (g) and that remains an employer subject to this chapter, as provided in s. 443.121.
 - (i) During the effective period of its election, an employing unit that elects to become subject to this chapter.
 - (2)(a) In determining whether an employing unit for which service, other than domestic service, is also performed is an employer under paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), or subparagraph (1)(d)1., the wages earned or the employment of an employee performing domestic service may not be taken into account.
 - (b) In determining whether an employing unit for which service, other than agricultural labor, is also performed is an employer under paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), or subparagraph (1)(d)2., the wages earned or the employment of an employee performing service in agricultural labor may not be taken into account. If an employing unit is determined to be an employer of agricultural labor, the employing unit is considered an employer for purposes of subsection (1).
- (3) An employing unit that fails to keep the records of employment required by this chapter and by the rules of the Agency for Workforce Innovation and the state agency providing unemployment tax collection services is presumed to be an employer liable for the payment of contributions under this chapter, regardless of the number of individuals employed by the employing unit. However, the tax collection service provider shall make written demand that the employing unit keep and maintain required payroll records. The demand must be made at least 6 months before assessing contributions against an employing unit determined to be an employer that is subject to this chapter solely by reason of this subsection.
- (4) For purposes of this section, if a week includes both December 31 and January 1, the days of that week through December 31 are deemed a calendar week, and the days of that week beginning January 1 are deemed another calendar week.

History.--s. 29, ch. 2003-36; s. 70, ch. 2004-5.

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

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

1. An officer of a corporation.

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

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

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

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

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

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

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

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

(b) Notwithstanding any other provision of this section, service for which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

(c) If the services performed during at least one-half of a pay period by an employee for the person employing him or her constitute employment, all of the services performed by the employee during the period are deemed to be employment. If the services performed during more than one-half of the pay period by an employee for the person employing him or her do not constitute employment, all of the services performed by the employee during the period are not deemed to be employment. This paragraph does not apply to services performed in a pay period by an employee for the person employing him or her if any of those services are exempted under paragraph (13)(g).

(d) If two or more related corporations concurrently employ the same individual and compensate the individual through a common paymaster, each related corporation is considered to have paid wages to the individual only in the amounts actually disbursed by that corporation to the individual and is not considered to have paid the wages actually disbursed to the individual by another of the related corporations. The Agency for Workforce Innovation and the state agency providing unemployment tax collection services may adopt rules necessary to administer this paragraph.

1. As used in this paragraph, the term "common paymaster" means a member of a group of related corporations that disburses wages to concurrent employees on behalf of the related corporations and that is responsible for keeping payroll records for those concurrent employees. A common paymaster is not required to disburse wages to all the employees of the related corporations; however, this subparagraph does not apply to wages of concurrent employees which are not disbursed through a common paymaster. A common paymaster must pay concurrently employed individuals under this subparagraph by one combined paycheck.

2. As used in this paragraph, the term "concurrent employment" means the existence of simultaneous employment relationships between an individual and related corporations. Those relationships require the performance of services by the employee for the benefit of the related corporations, including the common paymaster, in exchange for wages that, if deductible for the purposes of federal income tax, are deductible by the related corporations.

3. Corporations are considered related corporations for an entire calendar quarter if they satisfy any one of the following tests at any time during the calendar quarter:

a. The corporations are members of a "controlled group of corporations" as defined in s. 1563 of the Internal Revenue Code of 1986 or would be members if s. 1563(a)(4) and (b) did not apply.

b. In the case of a corporation that does not issue stock, at least 50 percent of the members of the board of directors or other governing body of one corporation are members of the board of directors or other governing body of the other corporation or the holders of at least 50 percent of the voting power to select those members are concurrently the holders of at least 50 percent of the voting power to select those members of the other corporation.

c. At least 50 percent of the officers of one corporation are concurrently officers of the other corporation.

d. At least 30 percent of the employees of one corporation are concurrently employees of the other corporation.

4. The common paymaster must report to the tax collection service provider, as part of the unemployment compensation quarterly tax and wage report, the state unemployment compensation account number and name of each related corporation for which concurrent employees are being reported. Failure to timely report this information shall result in the related corporations being denied common paymaster status for that calendar quarter.

5. The common paymaster also has the primary responsibility for remitting contributions due under this chapter for the wages it disburses as the common paymaster. The common paymaster must compute these contributions as though it were the sole employer of the concurrently employed individuals. If a common paymaster fails to timely remit these contributions or reports, in whole or in

part, the common paymaster remains liable for the full amount of the unpaid portion of these contributions. In addition, each of the other related corporations using the common paymaster is jointly and severally liable for its appropriate share of these contributions. Each related corporation's share equals the greater of:

a. The liability of the common paymaster under this chapter, after taking into account any contributions made.

b. The liability under this chapter which, notwithstanding this section, would have existed for the wages from the other related corporations, reduced by an allocable portion of any contributions previously paid by the common paymaster for those wages.

(2) The employment subject to this chapter includes service performed in the employ of a public employer as defined in s. 443.036, if the service is excluded from the definition of "employment" in s. 3306(c)(7) of the Federal Unemployment Tax Act and is not excluded from the employment subject to this chapter under subsection (4).

(3) The employment subject to this chapter includes service performed by an individual in the employ of a religious, charitable, educational, or other organization, if:

(a) The service is excluded from the definition of "employment" in the Federal Unemployment Tax Act solely by reason of s. 3306(c)(8) of that act; and

(b) The organization had at least four individuals in employment for some portion of a day in each of 20 different weeks during the current or preceding calendar year, regardless of whether the weeks were consecutive and whether the individuals were employed at the same time.

(4) For purposes of subsections (2) and (3), the employment subject to this chapter does not apply to service performed:

(a) In the employ of:

1. A church or a convention or association of churches.

2. An organization that is operated primarily for religious purposes and that is operated, supervised, controlled, or principally supported by a church or a convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by the order.

(c) In the employ of a public employer if the service is performed by an individual in the exercise of duties:

1. As an elected official.

2. As a member of a legislative body, or a member of the judiciary, of a state or a political subdivision of a state.

3. As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.

4. In a position that, under state law, is designated as a major nontenured policymaking or advisory position, including any major nontenured policymaking or advisory position in the Senior Management Service created under s. 110.402, or a policymaking or advisory position for which the duties do not ordinarily require more than 8 hours per week.

5. As an election official or election worker if the amount of remuneration received by the individual during the calendar year for those services is less than \$1,000.

(d) In a facility operating a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury, or a program providing remunerative work for individuals who cannot be readily absorbed in the competitive labor market because of their impaired physical or mental capacity, by an individual receiving such rehabilitation or remunerative work.

(e) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision of a state, by an individual receiving the work relief or work training. This paragraph does not apply to unemployment work-relief or work-training programs for which unemployment compensation coverage is required by the Federal Government.

(f) By an inmate of a custodial or penal institution.

(5) The employment subject to this chapter includes service performed by an individual in agricultural labor if:

(a) The service is performed for a person who:

1. Paid remuneration in cash of at least \$10,000 to individuals employed in agricultural labor in a calendar quarter during the current or preceding calendar year.

2. Employed in agricultural labor at least five individuals for some portion of a day in each of 20 different calendar weeks during the current or preceding calendar year, regardless of whether the weeks were consecutive or whether the individuals were employed at the same time.

(b) The service is performed by a member of a crew furnished by a crew leader to perform agricultural labor for another person.

1. For purposes of this paragraph, a crew member is treated as an employee of the crew leader if:

a. The crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act of 1983 or substantially all of the crew members operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment provided by the crew leader; and

b. The individual does not perform that agricultural labor as an employee of an employer other than the crew leader.

2. For purposes of this paragraph, in the case of an individual who is furnished by a crew leader to perform agricultural labor for another person and who is not treated as an employee of the crew leader under subparagraph 1.:

- a. The other person and not the crew leader is treated as the employer of the individual; and
- b. The other person is treated as having paid cash remuneration to the individual equal to the cash remuneration paid to the individual by the crew leader, either on his or her own behalf or on behalf of the other person, for the agricultural labor performed for the other person.

(6) The employment subject to this chapter includes domestic service performed by maids, cooks, maintenance workers, chauffeurs, social secretaries, caretakers, private yacht crews, butlers, and houseparents, in a private home, local college club, or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of at least \$1,000 during a calendar quarter in the current calendar year or the preceding calendar year to individuals employed in the domestic service.

(7) The employment subject to this chapter includes an individual's entire service, performed inside or both inside and outside this state if:

- (a) The service is localized within this state; or
- (b) The service is not localized within any state, but some of the service is performed in this state, and:

1. The base of operations, or, if there is no base of operations, the place from which the service is directed or controlled, is located within this state; or

2. The base of operations or place from which the service is directed or controlled is not located within any state in which some part of the service is performed, but the individual's residence is located within this state.

(8) Services not covered under paragraph (7)(b) which are performed entirely outside of this state, and for which contributions are not required or paid under an unemployment compensation law of any other state or of the Federal Government, are deemed to be employment subject to this chapter if the individual performing the services is a resident of this state and the tax collection service provider approves the election of the employing unit for whom the services are performed, electing that the entire service of the individual is deemed to be employment subject to this chapter.

(9) Service is deemed to be localized within a state if:

- (a) The service is performed entirely inside the state; or
- (b) The service is performed both inside and outside the state, but the service performed outside the state is incidental to the individual's service inside the state. Incidental service includes, but is not limited to, service that is temporary or transitory in nature or consists of isolated transactions.

(10) The employment subject to this chapter includes service performed outside the United States, except in Canada, by a citizen of the United States who is in the employ of an American employer,

other than service deemed employment subject to this chapter under subsection (2), subsection (3), or similar provisions of another state's law, if:

(a) The employer's principal place of business in the United States is located within this state.

(b) The employer does not have a place of business located in the United States, but:

1. The employer is a natural person who is a resident of this state.

2. The employer is a corporation organized under the laws of this state.

3. The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state.

(c) The employer is not an American employer, or neither paragraph (a) nor paragraph (b) apply, but the employer elects coverage in this state or the employer fails to elect coverage in any state and the individual files a claim for benefits based on that service under the laws of this state.

(11) The employment subject to this chapter includes all service performed by an officer or member of a crew of an American vessel or American aircraft on, or in connection with, the vessel or aircraft, if the operating office from which the operations of the vessel or aircraft operating inside or both inside and outside the United States is ordinarily and regularly supervised, managed, directed, and controlled within this state.

(12) The employment subject to this chapter includes services covered by a reciprocal arrangement under s. 443.221 between the Agency for Workforce Innovation or its tax collection service provider and the agency charged with the administration of another state unemployment compensation law or a federal unemployment compensation law, under which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, if the Agency for Workforce Innovation or its tax collection service provider approved an election of the employing unit in which all of the services performed by the individual during the period covered by the election are deemed to be insured work.

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

(a) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in subsection (6).

(b) Service performed on or in connection with a vessel or aircraft that is not an American vessel or American aircraft, if the employee is employed on and in connection with the vessel or aircraft while the vessel or aircraft is outside the United States.

(c) Service performed by an individual engaged in, or as an officer or member of the crew of a vessel engaged in, the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed by an individual as an ordinary incident to engaging in those activities, except:

1. Service performed in connection with the catching or taking of salmon or halibut for commercial purposes.

2. Service performed on, or in connection with, a vessel of more than 10 net tons, determined in the manner provided for determining the registered tonnage of merchant vessels under the laws of the United States.

(d) Service performed by an individual in the employ of his or her son, daughter, or spouse, including step relationships, and service performed by a child, or stepchild, under the age of 21 in the employ of his or her father, mother, stepfather, or stepmother.

(e) Service performed in the employ of the Federal Government or of an instrumentality of the Federal Government which is:

1. Wholly or partially owned by the United States.

2. Exempt from the tax imposed by s. 3301 of the Internal Revenue Code under a federal law that specifically cites s. 3301, or the corresponding section of prior law, in granting the exemption. However, to the extent that the United States Congress permits the state to require an instrumentality of the Federal Government to make payments into the Unemployment Compensation Trust Fund under this chapter, this chapter applies to that instrumentality, and to services performed for that instrumentality, in the same manner, to the same extent, and on the same terms as other employers, employing units, individuals, and services. If this state is not certified for any year by the Secretary of Labor under s. 3304 of the federal Internal Revenue Code, the tax collection service provider shall refund the payments required of each instrumentality of the Federal Government for that year from the fund in the same manner and within the same period as provided in s. 443.141(6) for contributions erroneously collected.

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

(g) Service performed in the employ of a corporation, community chest, fund, or foundation that is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes or for the prevention of cruelty to children or animals. This exemption does not apply to an employer if part of the employer's net earnings inures to the benefit of any private shareholder or individual or if a substantial part of the employer's activities involve carrying on propaganda, otherwise attempting to influence legislation, or participating or intervening in, including the publishing or distributing of statements, a political campaign on behalf of a candidate for public office, except as provided in subsection (3).

(h) Service for which unemployment compensation is payable under an unemployment compensation system established by the United States Congress, of which this chapter is not a part.

(i)1. Service performed during a calendar quarter in the employ of an organization exempt from the federal income tax under s. 501(a) of the Internal Revenue Code, other than an organization described in s. 401(a), or under s. 521, if the remuneration for the service is less than \$50.

2. Service performed in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university.

(j) Service performed in the employ of a foreign government, including service as a consular or other officer or employee of a nondiplomatic representative.

(k) Service performed in the employ of an instrumentality wholly owned by a foreign government if:

1. The service is of a character similar to that performed in foreign countries by employees of the Federal Government or of an instrumentality of the Federal Government; and

2. The United States Secretary of State certifies to the United States Secretary of the Treasury that the foreign government for whose instrumentality the exemption is claimed grants an equivalent exemption for similar service performed in the foreign country by employees of the Federal Government and of instrumentalities of the Federal Government.

(l) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved under state law, service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school chartered or approved under state law, and service performed by a patient of a hospital for the hospital.

(m) Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all of the service performed by the individual for that person is performed for remuneration solely by way of commission, except for services performed in accordance with 26 U.S.C. s. 3306(c)(7) and (8). For purposes of this section, those benefits excluded from the wages subject to this chapter under s. 443.1217(2)(b)-(f), inclusive, are not considered remuneration.

(n) Service performed by an individual for a person as a real estate salesperson or agent, if all of the service performed by the individual for that person is performed for remuneration solely by way of commission.

(o) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, excluding delivery or distribution to any point for subsequent delivery or distribution.

(p) Service covered by an arrangement between the Agency for Workforce Innovation, or its tax collection service provider, and the agency charged with the administration of another state or federal unemployment compensation law under which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election is deemed to be performed entirely within the other agency's state or under the federal law.

(q) Service performed by an individual enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, if the institution certifies to the employer that the individual is a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, and that the service is an integral part of the program. This paragraph does not apply to service performed in a program established for or on behalf of an employer or group of employers.

(r) Service performed by an individual for a person as a barber, if all of the service performed by the individual for that person is performed for remuneration solely by way of commission.

(s) Casual labor not in the course of the employer's trade or business.

(t) Service performed by a speech therapist, occupational therapist, or physical therapist who is nonsalaried and working under a written contract with a home health agency as defined in s. 400.462.

(u) Service performed by a direct seller. As used in this paragraph, the term "direct seller" means a person:

1.a. Who is engaged in the trade or business of selling or soliciting the sale of consumer products to buyers on a buy-sell basis, on a deposit-commission basis, or on a similar basis, for resale in the home or in another place that is not a permanent retail establishment; or

b. Who is engaged in the trade or business of selling or soliciting the sale of consumer products in the home or in another place that is not a permanent retail establishment;

2. Substantially all of whose remuneration for services described in subparagraph 1., regardless of whether paid in cash, is directly related to sales or other output, rather than to the number of hours worked; and

3. Who performs the services under a written contract with the person for whom the services are performed, if the contract provides that the person will not be treated as an employee for those services for federal tax purposes.

(v) Service performed by a nonresident alien for the period he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F) or subparagraph (J) of s. 101(a)(15) of the Immigration and Nationality Act, and which is performed to carry out the purpose specified in subparagraph (F) or subparagraph (J), as applicable.

(w) Service performed by an individual for remuneration for a private, for-profit delivery or messenger service, if the individual:

1. Is free to accept or reject jobs from the delivery or messenger service and the delivery or messenger service does not have control over when the individual works;

2. Is remunerated for each delivery, or the remuneration is based on factors that relate to the work performed, including receipt of a percentage of any rate schedule;

3. Pays all expenses, and the opportunity for profit or loss rests solely with the individual;

4. Is responsible for operating costs, including fuel, repairs, supplies, and motor vehicle insurance;

5. Determines the method of performing the service, including selection of routes and order of deliveries;

6. Is responsible for the completion of a specific job and is liable for any failure to complete that job;

7. Enters into a contract with the delivery or messenger service which specifies that the individual is an independent contractor and not an employee of the delivery or messenger service; and

8. Provides the vehicle used to perform the service.

(x) Service performed in agricultural labor by an individual who is an alien admitted to the United States to perform service in agricultural labor under ss. 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act.

(y) Service performed by a person who is an inmate of a penal institution.

History.--s. 30, ch. 2003-36; s. 4, ch. 2005-209; s. 33, ch. 2007-106.

443.1217 Wages.--

(1) The wages subject to this chapter include all remuneration for employment, including commissions, bonuses, back pay awards, and the cash value of all remuneration paid in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash must be estimated and determined in accordance with rules adopted by the Agency for Workforce Innovation or the state agency providing tax collection services. The wages subject to this chapter include tips or gratuities received while performing services that constitute employment and are included in a written statement furnished to the employer under s. 6053(a) of the Internal Revenue Code of 1954.

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

(a) That part of remuneration paid to an individual by an employer for employment during a calendar year in excess of the first \$7,000 of remuneration paid to the individual by the employer or his or her predecessor during that calendar year, unless that part of the remuneration is subject to a tax, under a federal law imposing the tax, against which credit may be taken for contributions required to be paid into a state unemployment fund. As used in this section only, the term "employment" includes services constituting employment under any employment security law of another state or of the Federal Government.

(b) Payment by an employing unit with respect to services performed for, or on behalf of, an individual employed by the employing unit under a plan or system established by the employing unit which provides for payment to its employees generally or to a class of its employees, including any amount paid by the employing unit for insurance or annuities or paid into a fund on account of:

1. Sickness or accident disability. When payment is made to an employee or any of his or her dependents, this subparagraph exempts from the wages subject to this chapter only those payments received under a workers' compensation law.

2. Medical and hospitalization expenses in connection with sickness or accident disability.

3. Death, if the employee:

a. Does not have the option to receive, in lieu of the death benefit, part of the payment or, if the death benefit is insured, part of the premiums or contributions to premiums paid by his or her employing unit; and

b. Does not have the right under the plan, system, or policy providing the death benefit to assign the benefit or to receive cash consideration in lieu of the benefit upon his or her withdrawal from the plan or system; upon termination of the plan, system, or policy; or upon termination of his or her services with the employing unit.

(c) Payment on account of sickness or accident disability, or payment of medical or hospitalization expenses in connection with sickness or accident disability, by an employing unit to, or on behalf of, an individual performing services for the employing unit more than 6 calendar months after the last calendar month the individual performed services for the employing unit.

(d) Payment by an employing unit, without deduction from the remuneration of an individual employed by the employing unit, of the tax imposed upon the individual under s. 3101 of the federal Internal Revenue Code for services performed.

(e) The value of:

1. Meals furnished to an employee or the employee's spouse or dependents by the employer on the business premises of the employer for the convenience of the employer; or
2. Lodging furnished to an employee or the employee's spouse or dependents by the employer on the business premises of the employer for the convenience of the employer when lodging is included as a condition of employment.

(f) Payment made by an employing unit to, or on behalf of, an individual performing services for the employing unit or a beneficiary of the individual:

1. From or to a trust described in s. 401(a) of the Internal Revenue Code of 1954 which is exempt from tax under s. 501(a) at the time of payment, unless payment is made to an employee of the trust as remuneration for services rendered as an employee of the trust and not as a beneficiary of the trust;
2. Under or to an annuity plan that, at the time of payment, is a plan described in s. 403(a) of the Internal Revenue Code of 1954;
3. Under a simplified employee pension if, at the time of payment, it is reasonable to believe that the employee is entitled to a deduction under s. 219(b)(2) of the Internal Revenue Code of 1954 for the payment;
4. Under or to an annuity contract described in s. 403(b) of the Internal Revenue Code of 1954, other than a payment for the purchase of an annuity contract as part of a salary reduction agreement, regardless of whether the agreement is evidenced by a written instrument or otherwise;
5. Under or to an exempt governmental deferred compensation plan described in s. 3121(v)(3) of the Internal Revenue Code of 1954;
6. To supplement pension benefits under a plan or trust described in subparagraphs 1.-5. to account for some portion or all of the increase in the cost of living, as determined by the United States Secretary of Labor, since retirement, but only if the supplemental payments are under a plan that is

treated as a welfare plan under s. 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974; or

7. Under a cafeteria plan, as defined in s. 125 of the Internal Revenue Code of 1986, as amended, if the payment would not be treated as wages without regard to such plan and it is reasonable to believe that, if s. 125 of the Internal Revenue Code of 1986, as amended, applied for purposes of this section, s. 125 of the Internal Revenue Code of 1986, as amended, would not treat any wages as constructively received.

(g) Payment made, or benefit provided, by an employing unit to or for the benefit of an individual performing services for the employing unit or a beneficiary of the individual if, at the time of such payment or provision of the benefit, it is reasonable to believe that the individual may exclude the payment or benefit from income under s. 127 of the Internal Revenue Code of 1986, as amended.

History.--s. 31, ch. 2003-36; s. 5, ch. 2005-209.

443.131 Contributions.--

(1) PAYMENT OF CONTRIBUTIONS.--Contributions accrue and are payable by each employer for each calendar quarter he or she is subject to this chapter for wages paid during each calendar quarter for employment. Contributions are due and payable by each employer to the tax collection service provider, in accordance with the rules adopted by the Agency for Workforce Innovation or the state agency providing tax collection services. This subsection does not prohibit the tax collection service provider from allowing, at the request of the employer, employers of employees performing domestic services, as defined in s. 443.1216(6), to pay contributions or report wages at intervals other than quarterly when the nonquarterly payment or reporting assists the service provider and when nonquarterly payment and reporting is authorized under federal law. Employers of employees performing domestic services may report wages and pay contributions annually, with a due date of January 1 and a delinquency date of February 1. To qualify for this election, the employer must employ only employees performing domestic services, be eligible for a variation from the standard rate computed under subsection (3), apply to this program no later than December 1 of the preceding calendar year, and agree to provide the Agency for Workforce Innovation or its tax collection service provider with any special reports that are requested, including copies of all federal employment tax forms. An employer who fails to timely furnish any wage information required by the Agency for Workforce Innovation or its tax collection service provider loses the privilege to participate in this program, effective the calendar quarter immediately after the calendar quarter the failure occurred. The employer may reapply for annual reporting when a complete calendar year elapses after the employer's disqualification if the employer timely furnished any requested wage information during the period in which annual reporting was denied. An employer may not deduct contributions, interests, penalties, fines, or fees required under this chapter from any part of the wages of his or her employees. A fractional part of a cent less than one-half cent shall be disregarded from the payment of contributions, but a fractional part of at least one-half cent shall be increased to 1 cent.

(2) CONTRIBUTION RATES.--Each employer must pay contributions equal to the following percentages of wages paid by him or her for employment:

(a) *Initial rate.*--Each employer whose employment record is chargeable with benefits for less than 8 calendar quarters shall pay contributions at the initial rate of 2.7 percent.

(b) *Variable rates.*--Each employer whose employment record is chargeable for benefits during at least 8 calendar quarters shall pay contributions at the standard rate in paragraph (3)(c), except as otherwise varied through experience rating under subsection (3). For the purposes of this section, the total wages on which contributions were paid by a single employer or his or her predecessor to an individual in any state during a single calendar year shall be counted to determine whether more remuneration was paid to the individual by the employer or his or her predecessor in 1 calendar year than constituted wages.

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

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

1. When an individual leaves his or her work without good cause attributable to the employer or is discharged by the employer for misconduct connected with his or her work, benefits subsequently paid to the individual based on wages paid by the employer before the separation may not be charged to the employment record of the employer.
2. When an individual is discharged by the employer for unsatisfactory performance during an initial employment probationary period, benefits subsequently paid to the individual based on wages paid during the probationary period by the employer before the separation may not be charged to the employer's employment record. The employer must notify the Agency for Workforce Innovation of the discharge in writing within 10 days after the mailing date of the notice of initial determination of a claim. As used in this subparagraph, the term "initial employment probationary period" means an established probationary plan that applies to all employees or a specific group of employees and that does not exceed 90 calendar days following the first day a new employee begins work. The employee must be informed of the probationary period within the first 7 days of work. The employer must demonstrate by conclusive evidence that the individual was separated because of unsatisfactory work performance and not because of lack of work due to temporary, seasonal, casual, or other similar employment that is not of a regular, permanent, and year-round nature.
3. Benefits subsequently paid to an individual after his or her refusal without good cause to accept suitable work from an employer may not be charged to the employment record of the employer when any part of those benefits are based on wages paid by the employer before the individual's refusal to accept suitable work. As used in this subparagraph, the term "good cause" does not include distance to employment caused by a change of residence by the individual. The Agency for Workforce Innovation shall adopt rules prescribing, for the payment of all benefits, whether this subparagraph applies regardless of whether a disqualification under s. 443.101 applies to the claim.

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

(b) *Benefit ratio.*--

1. As used in this paragraph, the term "annual payroll" means the calendar quarter taxable payroll reported to the tax collection service provider for the quarters used in computing the benefit ratio. The term does not include a penalty resulting from the untimely filing of required wage and tax reports. All of the taxable payroll reported to the tax collection service provider by the end of the quarter preceding the quarter for which the contribution rate is to be computed must be used in the computation.

2. For each calendar year, the tax collection service provider shall compute a benefit ratio for each employer whose employment record was chargeable for benefits during the 12 consecutive quarters ending June 30 of the calendar year preceding the calendar year for which the benefit ratio is computed. An employer's benefit ratio is the quotient obtained by dividing the total benefits charged to the employer's employment record during the 3-year period ending June 30 of the preceding calendar year by the total of the employer's annual payroll for the 3-year period ending June 30 of the preceding calendar year. The benefit ratio shall be computed to the fifth decimal place and rounded to the fourth decimal place.

3. The tax collection service provider shall compute a benefit ratio for each employer who was not previously eligible under subparagraph 2., whose contribution rate is set at the initial contribution rate in paragraph (2)(a), and whose employment record was chargeable for benefits during at least 8 calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed. The employer's benefit ratio is the quotient obtained by dividing the total benefits charged to the employer's employment record during the first 6 of the 8 completed calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed by the total of the employer's annual payroll during the first 7 of the 9 completed calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed. The benefit ratio shall be computed to the fifth decimal place and rounded to the fourth decimal place and applies for the remainder of the calendar year. The employer must subsequently be rated on an annual basis using up to 12 calendar quarters of benefits charged and up to 12 calendar quarters of annual payroll. That employer's benefit ratio is the quotient obtained by dividing the total benefits charged to the employer's employment record by the total of the employer's annual payroll during the quarters used in his or her first computation plus the subsequent quarters reported through June 30 of the preceding calendar year. Each subsequent calendar year, the rate shall be computed under subparagraph 2. The tax collection service provider shall assign a variation from the standard rate of contributions in paragraph (c) on a quarterly basis to each eligible employer in the same manner as an assignment for a calendar year under paragraph (e).

(c) *Standard rate.*--The standard rate of contributions payable by each employer shall be 5.4 percent.

(d) *Eligibility for variation from the standard rate.*--An employer is eligible for a variation from the standard rate of contributions in any calendar year only if the employer's employment record was chargeable for benefits throughout the 12 consecutive quarters ending on June 30 of the preceding calendar year. The contribution rate of an employer who, as a result of having at least 8 consecutive

quarters of payroll insufficient to be chargeable for benefits, has not been chargeable for benefits throughout the 12 consecutive quarters reverts to the initial contribution rate until the employer subsequently becomes eligible for an earned rate.

(e) Assignment of variations from the standard rate.--

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

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

b. An adjustment factor for excess payments shall be computed to the fifth decimal place, and rounded to the fourth decimal place by dividing the total excess payments during the 3-year period described in subparagraph (b)2. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the same figure used to compute the adjustment factor for noncharge benefits under

sub-subparagraph a. As used in this sub-subparagraph, the term "excess payments" means the amount of benefits charged to the employment record of an employer during the 3-year period described in subparagraph (b)2., less the product of the maximum contribution rate and the employer's taxable payroll for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-subparagraph, the term "total excess payments" means the sum of the individual employer excess payments for those employers that were eligible to be considered for assignment of a contribution rate different from the standard rate.

c. If the balance of the Unemployment Compensation Trust Fund on June 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 3.7 percent of the taxable payrolls for the year ending June 30 as reported to the tax collection service provider by September 30 of that calendar year, a positive adjustment factor shall be computed. The positive adjustment factor shall be computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of that calendar year and the sum of 4.7 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 3.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year. If the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 4.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year, a negative adjustment factor shall be computed. The negative adjustment factor shall be computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of the current calendar year and 4.7 percent of the total taxable payrolls of that year. The negative adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate is less than 4.7 percent, but more than 3.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

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

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

(f) *Transfer of employment records.--*

1. For the purposes of this subsection, two or more employers who are parties to a transfer of business or the subject of a merger, consolidation, or other form of reorganization, effecting a change in legal identity or form, are deemed a single employer and are considered to be one employer with a continuous employment record if the tax collection service provider finds that the successor employer continues to carry on the employing enterprises of all of the predecessor employers and that the successor employer has paid all contributions required of and due from all of the predecessor employers and has assumed liability for all contributions that may become due from all of the predecessor employers. In addition, an employer may not be considered a successor under this subparagraph if the employer purchases a company with a lower rate into which employees with job functions unrelated to the business endeavors of the predecessor are transferred for the purpose of acquiring the low rate and avoiding payment of contributions. As used in this paragraph, notwithstanding s. 443.036(14), the term "contributions" means all indebtedness to the tax collection service provider, including, but not limited to, interest, penalty, collection fee, and service fee. A successor employer must accept the transfer of all of the predecessor employers' employment records within 30 days after the date of the official notification of liability by succession. If a predecessor employer has unpaid contributions or outstanding quarterly reports, the successor employer must pay the total amount with certified funds within 30 days after the date of the notice listing the total amount due. After the total indebtedness is paid, the tax collection service provider shall transfer the employment records of all of the predecessor employers to the successor employer's employment record. The tax collection service provider shall determine the contribution rate of the combined successor and predecessor employers upon the transfer of the employment records, as prescribed by rule, in order to calculate any change in the contribution rate resulting from the transfer of the employment records.

2. Regardless of whether a predecessor employer's employment record is transferred to a successor employer under this paragraph, the tax collection service provider shall treat the predecessor employer, if he or she subsequently employs individuals, as an employer without a previous employment record or, if his or her coverage is terminated under s. 443.121, as a new employing unit.

3. The state agency providing unemployment tax collection services may adopt rules governing the partial transfer of experience rating when an employer transfers an identifiable and segregable portion of his or her payrolls and business to a successor employing unit. As a condition of each partial transfer, these rules must require the following to be filed with the tax collection service provider: an application by the successor employing unit, an agreement by the predecessor employer, and the evidence required by the tax collection service provider to show the benefit experience and payrolls attributable to the transferred portion through the date of the transfer. These rules must provide that the successor employing unit, if not an employer subject to this chapter, becomes an employer as of the date of the transfer and that the transferred portion of the predecessor employer's employment record is removed from the employment record of the predecessor employer. For each calendar year after the date of the transfer of the employment record in the records of the tax collection service provider, the service provider shall compute the contribution rate payable by the successor employer or employing unit based on his or her employment record, combined with the transferred portion of the predecessor employer's employment record. These rules may also prescribe what contribution rates are payable by the predecessor and successor employers for the period between the date of the transfer of the

transferred portion of the predecessor employer's employment record in the records of the tax collection service provider and the first day of the next calendar year.

4. This paragraph does not apply to an employee leasing company and client contractual agreement as defined in s. 443.036. The tax collection service provider shall, if the contractual agreement is terminated or the employee leasing company fails to submit reports or pay contributions as required by the service provider, treat the client as a new employer without previous employment record unless the client is otherwise eligible for a variation from the standard rate.

(g) Transfer of unemployment experience upon transfer or acquisition of a business.--Notwithstanding any other provision of law, upon transfer or acquisition of a business, the following conditions apply to the assignment of rates and to transfers of unemployment experience:

1.a. If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is any common ownership, management, or control of the two employers, the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom the business is so transferred. The rates of both employers shall be recalculated and made effective as of the beginning of the calendar quarter immediately following the date of the transfer of the trade or business unless the transfer occurred on the first day of a calendar quarter, in which case the rate shall be recalculated as of that date.

b. If, following a transfer of experience under sub-subparagraph a., the Agency for Workforce Innovation or the tax collection service provider determines that a substantial purpose of the transfer of trade or business was to obtain a reduced liability for contributions, the experience rating account of the employers involved shall be combined into a single account and a single rate assigned to the account.

2. Whenever a person who is not an employer under this chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to the person if the Agency for Workforce Innovation or the tax collection service provider finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such person shall be assigned the new employer rate under paragraph (2)(a). In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the tax collection service provider shall consider, but not be limited to, the following factors:

a. Whether the person continued the business enterprise of the acquired business;

b. How long such business enterprise was continued; or

c. Whether a substantial number of new employees was hired for performance of duties unrelated to the business activity conducted before the acquisition.

3. If a person knowingly violates or attempts to violate subparagraph 1. or subparagraph 2. or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another person to violate the law, the person shall be subject to the following penalties:

a. If the person is an employer, the employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and for the 3 rate years immediately following this rate year. However, if the person's business is already at the highest rate for any year, or if the amount of increase in the person's rate would be less than 2 percent for such year, then a penalty rate of contribution of 2 percent of taxable wages shall be imposed for such year ¹and the following 3 rate years.

b. If the person is not an employer, such person shall be subject to a civil money penalty of not more than \$5,000. The procedures for the assessment of a penalty shall be in accordance with the procedures set forth in s. 443.141(2), and the provisions of s. 443.141(3) shall apply to the collection of the penalty. Any such penalty shall be deposited in the penalty and interest account established under s. 443.211(2).

4. For purposes of ²this paragraph, the term:

a. "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

³b. "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresent, or willfully nondisclose.

5. In addition to the penalty imposed by subparagraph 3., any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

6. The Agency for Workforce Innovation and the tax collection service provider shall establish procedures to identify the transfer or acquisition of a business for the purposes of this paragraph and shall adopt any rules necessary to administer this paragraph.

7. For purposes of this paragraph:

a. "Person" has the meaning given to the term by s. 7701(a)(1) of the Internal Revenue Code of 1986.

b. "Trade or business" shall include the employer's workforce.

8. This paragraph shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

(h) *Additional conditions for variation from the standard rate.*--An employer's contribution rate may not be reduced below the standard rate under this section unless:

1. All contributions, reimbursements, interest, and penalties incurred by the employer for wages paid by him or her in all previous calendar quarters, except the 4 calendar quarters immediately preceding the calendar quarter or calendar year for which the benefit ratio is computed, are paid; and

2. The employer entitled to a rate reduction must have at least one annual payroll as defined in subparagraph (b)1. unless the employer is eligible for additional credit under the Federal Unemployment Tax Act. If the Federal Unemployment Tax Act is amended or repealed in a manner affecting credit under the federal act, this section applies only to the extent that additional credit is

allowed against the payment of the tax imposed by the Federal Unemployment Tax Act.

The tax collection service provider shall assign an earned contribution rate to an employer under subparagraph 1. the quarter immediately after the quarter in which all contributions, reimbursements, interest, and penalties are paid in full.

(i) *Notice of determinations of contribution rates; redeterminations.*--The state agency providing tax collection services:

1. Shall promptly notify each employer of his or her contribution rate as determined for any calendar year under this section. The determination is conclusive and binding on the employer unless within 20 days after mailing the notice of determination to the employer's last known address, or, in the absence of mailing, within 20 days after delivery of the notice, the employer files an application for review and redetermination setting forth the grounds for review. An employer may not, in any proceeding involving his or her contribution rate or liability for contributions, contest the chargeability to his or her employment record of any benefits paid in accordance with a determination, redetermination, or decision under s. 443.151, except on the ground that the benefits charged were not based on services performed in employment for him or her and then only if the employer was not a party to the determination, redetermination, or decision, or to any other proceeding under this chapter, in which the character of those services was determined.

2. Shall, upon discovery of an error in computation, reconsider any prior determination or redetermination of a contribution rate after the 20-day period has expired and issue a revised notice of contribution rate as redetermined. A redetermination is subject to review, and is conclusive and binding if review is not sought, in the same manner as review of a determination under subparagraph 1. A reconsideration may not be made after March 31 of the calendar year immediately after the calendar year for which the contribution rate is applicable, and interest may not accrue on any additional contributions found to be due until 30 days after the employer is mailed notice of his or her revised contribution rate.

3. May adopt rules providing for periodic notification to employers of benefits paid and charged to their employment records or of the status of those employment records. A notification, unless an application for redetermination is filed in the manner and within the time limits prescribed by the Agency for Workforce Innovation, is conclusive and binding on the employer under this chapter. The redetermination, and the Agency for Workforce Innovation's finding of fact in connection with the redetermination, may be introduced in any subsequent administrative or judicial proceeding involving the determination of the contribution rate of an employer for any calendar year. A redetermination becomes final in the same manner provided in this subsection for findings of fact made by the Agency for Workforce Innovation in proceedings to redetermine the contribution rate of an employer. Pending a redetermination or an administrative or judicial proceeding, the employer must file reports and pay contributions in accordance with this section.

(j) *Employment records of employers entering the armed forces.*--

1. If the tax collection service provider finds that an employer's business is closed solely because of the entrance of one or more of the owners, officers, partners, or the majority stockholder into the Armed Forces of the United States, or any of its allies, or of the United Nations, the employer's employment record may not be terminated. If the business is resumed within 2 years after the discharge or release from active duty in the armed forces of that person or persons, the employer's

benefit experience is deemed to have been continuous throughout that period. The benefit ratio of the employer for the calendar year in which he or she resumed business and the 3 calendar years immediately after resuming business is a percentage equal to the total of his or her benefit charges, including charges of benefits paid to any individual during the period the employer was in the armed forces based on wages paid by him or her before the employer's entrance into the armed forces for the 3 most recently completed calendar years divided by that part of his or her total payroll, for which contributions were paid to the tax collection service provider, for the 3 most recent calendar years during the whole of which, respectively, the employer was in business.

2. A refund made under this paragraph shall be made in accordance with s. 443.141(6).

(k) *Applicability to contributing employers.*--This subsection applies only to contributing employers.

(4) REIMBURSING EMPLOYERS.--Subsections (2) and (3) do not apply to reimbursing employers.

History.--s. 8, ch. 18402, 1937; s. 5, ch. 19637, 1939; CGL 1940 Supp. 4151(495); s. 8, ch. 20685, 1941; s. 1, ch. 21981, 1943; s. 1, ch. 22946, 1945; s. 1, ch. 23918, 1947; s. 11, ch. 25035, 1949; ss. 5, 6, ch. 26879, 1951; s. 1, ch. 26958, 1951; ss. 2, 3, 4, ch. 26878, 1951; ss. 5, 6, 7, 8, 9, ch. 28242, 1953; s. 4, ch. 29771, 1955; ss. 1, 2, 3, ch. 29817, 1955; s. 3, ch. 57-247; s. 2, ch. 57-268; ss. 1, 2, ch. 59-98; s. 2, ch. 61-119; s. 4, ch. 61-132; s. 1, ch. 63-154; s. 1, ch. 63-137; s. 1, ch. 65-243; s. 1, ch. 65-25; s. 1, ch. 67-225; s. 1, ch. 67-244; ss. 17, 35, ch. 69-106; s. 1, ch. 70-296; s. 1, ch. 70-439; s. 6, ch. 71-225; ss. 1, 2, 3, ch. 71-227; s. 2, ch. 72-155; s. 118, ch. 73-333; s. 3, ch. 74-198; ss. 5, 7, ch. 77-262; s. 2, ch. 77-393; s. 5, ch. 77-399; s. 11, ch. 78-95; s. 2, ch. 78-295; s. 5, ch. 78-386; s. 3, ch. 79-293; s. 4, ch. 79-308; s. 1, ch. 79-355; s. 185, ch. 79-400; ss. 4, 8, 9, ch. 80-95; ss. 1, 2, ch. 80-252; s. 5, ch. 80-345; s. 10, ch. 83-174; s. 2, ch. 83-186; s. 2, ch. 83-285; s. 1, ch. 83-313; s. 2, ch. 84-40; s. 3, ch. 87-383; ss. 7, 8, ch. 88-289; ss. 1, 2, ch. 89-346; s. 3, ch. 92-38; s. 131, ch. 92-279; s. 55, ch. 92-326; s. 1, ch. 92-352; s. 7, ch. 94-347; ss. 6, 10, ch. 96-378; s. 5, ch. 96-411; s. 1063, ch. 97-103; s. 7, ch. 98-149; s. 21, ch. 2000-157; s. 50, ch. 2002-218; s. 32, ch. 2003-36; s. 26, ch. 2003-254; s. 496, ch. 2003-261; s. 6, ch. 2005-209; s. 23, ch. 2005-280.

¹**Note.**--The words "and the following 3 rate years" were added by s. 6, ch. 2005-209. The s. 23, ch. 2005-280, version did not include that language.

²**Note.**--The cite to "this paragraph" was added by s. 23, ch. 2005-280. The s. 6, ch. 2005-209, version cited to "subparagraph 3." instead.

³**Note.**--As enacted by s. 23, ch. 2005-280. For a description of multiple acts in the same session affecting a statutory provision, see preface to the *Florida Statutes*, "Statutory Construction." Sub-subparagraph 4.b. was also enacted by s. 6, ch. 2005-209, and that version reads:

b. "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation, or willful nondisclosure.

Note.--Former s. 443.08

443.1312 Reimbursements; nonprofit organizations.--Benefits paid to employees of nonprofit organizations shall be financed in accordance with this section.

(1) DEFINITION.--As used in this section, the term "nonprofit organization" means an organization or group of organizations exempt from the federal income tax under s. 501(c)(3) of the United States Internal Revenue Code.

(2) LIABILITY FOR CONTRIBUTIONS AND ELECTION OF REIMBURSEMENT.--A nonprofit organization that is, or becomes, subject to this chapter under s. 443.1215(1)(c) or s. 443.121(3)(a) must pay contributions under s. 443.131 unless it elects, in accordance with this subsection, to reimburse the Unemployment Compensation Trust Fund for all of the regular benefits, short-time compensation benefits, and one-half of the extended benefits paid, which are attributable to service in the employ of the nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of the election.

(a) When a nonprofit organization becomes subject to this chapter, the organization may elect to become a reimbursing employer. The effective date of this election must begin on the date the organization becomes subject to this chapter and may not terminate before the end of the next calendar year. The nonprofit organization must make this election by filing a written notice of election with the tax collection service provider within 30 days after the determination that the organization is subject to this chapter.

(b) Each nonprofit organization that makes the election under paragraph (a) remains liable for reimbursements in lieu of contributions until it files with the tax collection service provider a written notice terminating the organization's election at least 30 days before the beginning of the first calendar year for which the termination shall be effective.

(c) Each nonprofit organization paying contributions under s. 443.131 may become a reimbursing employer by filing with the tax collection service provider, at least 30 days before the beginning of any calendar year, a written notice of election to become liable for reimbursements in lieu of contributions. This election may not be terminated by the organization before the end of 2 calendar years after the effective date of the election.

(d) In accordance with rules adopted by the Agency for Workforce Innovation or the state agency providing unemployment tax collection services, the tax collection service provider shall notify each nonprofit organization of any determination of the organization's status as an employer, the effective date of any election the organization makes, and the effective date of any termination of the election. Each determination is subject to reconsideration, appeal, and review under s. 443.141(2)(c).

(3) PAYMENT OF REIMBURSEMENTS.--Reimbursements in lieu of contributions must be paid in accordance with this subsection.

(a) At the end of each calendar quarter, or at the end of any other period prescribed by rule, the tax collection service provider shall bill each nonprofit organization or group of organizations that has elected to make reimbursements in lieu of contributions for an amount equal to the full amount of regular benefits, short-time compensation benefits, and one-half of the extended benefits paid during the quarter, or other prescribed period, which is attributable to service in the employ of the organization.

(b) A nonprofit organization must pay each bill rendered under paragraph (a) within 30 days after the bill is mailed to the last known address of the organization or is otherwise delivered to the

organization, unless the organization files an application for review and redetermination under paragraph (d).

(c) A nonprofit organization may not deduct reimbursements, interest, penalties, fines, or fees required under this chapter from any part of the remuneration of individuals in the employ of the organization.

(d) The amount due, as specified in any bill from the tax collection service provider, is conclusive, and the nonprofit organization is liable for payment of that amount unless, within 20 days after the bill is mailed to the organization's last known address or otherwise delivered to the organization, the organization files an application for redetermination by the Agency for Workforce Innovation, setting forth the grounds for the application. The Agency for Workforce Innovation shall promptly review and reconsider the amount due, as specified in the bill, and shall issue a redetermination in each case in which an application for redetermination is filed. The redetermination is conclusive and the nonprofit organization is liable for payment of the amount due, as specified in the redetermination, unless, within 20 days after the redetermination is mailed to the organization's last known address or otherwise delivered to the organization, the organization files a protest, setting forth the grounds for the appeal. Proceedings on the protest shall be conducted in accordance with s. 443.141(2).

(e) Past due amounts of reimbursements in lieu of contributions are subject to the same interest and penalties that apply to past due contributions under s. 443.141(1).

(f) Each reimbursing employer shall be billed his or her proportionate share of benefits, and the Unemployment Compensation Trust Fund must be reimbursed in full.

(4) **AUTHORITY TO TERMINATE ELECTIONS.**--If a nonprofit organization is delinquent in making reimbursements in lieu of contributions under subsection (3), the tax collection service provider may terminate the organization's election to be a reimbursing employer, effective at the beginning of the next calendar year, and the termination must remain in effect for 2 calendar years after the effective date of the termination.

(5) **ALLOCATION OF BENEFIT COSTS.**--Each reimbursing employer must pay to the tax collection service provider the amount of regular benefits, short-time compensation benefits, and one-half of the extended benefits paid which are attributable to service in the employ of the employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of those employers are reimbursing employers, the amount payable to the fund by each reimbursing employer is determined as follows:

(a) *Proportionate allocation for combination of reimbursing and contributing employers.*--If benefits paid to an individual are based on wages paid by one or more reimbursing employers and on wages paid by one or more contributing employers, the amount of benefits payable by each reimbursing employer is a proportionate share of the total benefits paid to the individual in the same ratio as the total wages paid to the individual during his or her base period by the employer during the base period, as compared to the total wages paid to the individual by all of his or her employers during the base period.

(b) *Proportionate allocation among reimbursing employers.*--If benefits paid to an individual are based on wages paid by two or more reimbursing employers, the amount of benefits payable by each employer is a proportionate share of the total benefits paid to the individual in the same ratio as the

total wages paid to the individual during his or her base period by the employer during the base period, as compared to the total wages paid to the individual by all of his or her employers during the base period.

(6) **GROUP EMPLOYMENT RECORDS.**--Two or more employers that become reimbursing employers under subsection (2) and s. 443.121(3) may file a joint application with the tax collection service provider for the establishment of a group employment record for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of the employers. Each application must identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon its approval of the application, the tax collection service provider shall establish a group employment record for the employers which is effective at the beginning of the calendar year in which the service provider receives the application and shall notify the group's representative of the effective date of the employment record. Each group employment record remains in effect until terminated and must remain in effect at least 2 calendar years before it may be terminated. A group employment record may be terminated by the tax collection service provider on its own motion or upon application by the group. Upon establishment of a group employment record, the amount of benefits payable by each member of the group for a calendar quarter is a proportionate share of the total benefits paid during the quarter which are attributable to service performed in the employ of all members of the group in the same ratio as the total wages paid for service in employment by the member during the quarter, as compared to the total wages paid during the quarter for service performed in the employ of all members of the group. The state agency providing tax collection services may adopt rules prescribing applications and procedures for establishing, maintaining, and terminating group employment records authorized by this subsection; for adding of new members to, and withdrawal of active members from, group employment records; and for determining the amounts that are payable under this subsection by members of the group and the time and manner of those payments.

History.--s. 33, ch. 2003-36.

443.1313 Public employers; reimbursements; election to pay contributions.--Benefits paid to employees of a public employer, as defined in s. 443.036, based on service described in s. 443.1216(2) shall be financed in accordance with this section.

(1) **PAYMENT OF REIMBURSEMENTS.**--

(a) Unless an election is made under subsection (2), each public employer shall reimburse the Unemployment Compensation Trust Fund the amount of regular benefits, short-time compensation benefits, and extended benefits paid to individuals based on wages paid by the public employer for service described in s. 443.1216(2).

(b) If a state agency is more than 120 days delinquent on reimbursements due to the Unemployment Compensation Trust Fund, the tax collection service provider shall certify to the Chief Financial Officer the amount due and the Chief Financial Officer shall transfer the amount due to the Unemployment Compensation Trust Fund from the funds of the agency which legally may be used for that purpose. If a public employer other than a state agency is more than 120 days delinquent on reimbursements due to the Unemployment Compensation Trust Fund, upon request by the tax collection service provider after a hearing, the Department of Revenue or the Department of Financial Services, as applicable, shall deduct the amount owed by the public employer from any funds to be distributed by the applicable department to the public employer for further distribution to the trust fund in

accordance with this chapter. If an employer for whom the municipal or county tax collector collects taxes fails to make the reimbursements to the Unemployment Compensation Trust Fund required by this chapter, the tax collector after a hearing, at the request of the tax collection service provider and upon receipt of a certificate showing the amount owed by the employer, shall deduct the certified amount from any taxes collected for the employer and remit that amount to the tax collection service provider for further distribution to the trust fund in accordance with this chapter. This paragraph does not apply to amounts owed by a political subdivision of the state for benefits erroneously paid in which the claimant must repay to the Agency for Workforce Innovation under s. 443.151(6)(a) or (b) any sum as benefits received.

(c) The provisions of s. 443.1312(3), (5), and (6), relating to payment of reimbursements, allocation of benefit costs, and group employment records for nonprofit organizations, apply, to the extent allowed by federal law, to each public employer in the state as an employer under s. 443.1216(2).

(2) ELECTION TO PAY CONTRIBUTIONS.--A public employer subject to this section may elect to become a contributing employer under s. 443.131 in lieu of being a reimbursing employer under subsection (1).

(3) CHANGE OF ELECTION.--Upon electing to be a reimbursing or contributing employer under this section, a public employer may not change this election for at least 2 calendar years. This subsection does not prevent a public employer subject to this subsection from changing its election after completing 2 calendar years under another financing method if the new election is timely filed. The state agency providing unemployment tax collection services may adopt rules prescribing procedures for changing methods of reporting.

(4) PUBLIC EMPLOYERS UNEMPLOYMENT COMPENSATION BENEFIT ACCOUNT.--

(a) There is established within the Unemployment Compensation Trust Fund a Public Employers Unemployment Compensation Benefit Account, which must be maintained as a separate account within the trust fund. All benefits paid to the employees of a public employer that elects to become a contributing employer under paragraph (b) must be charged to the Public Employers Unemployment Compensation Benefit Account.

(b) Each public employer subject to this chapter under s. 443.1216(2) which elects to become a contributing employer is subject to, and shall have its employment record maintained under, s. 443.131, except that:

1. The term "taxable wages" means total gross wages.

2. The initial contribution rate is 0.25 percent.

3. An election by a public employer to be liable for contributions under this subsection takes effect January 1 and the employer is liable for contributions at the initial rate. Effective January 1 of the following year, the contribution rate shall be computed based on 2 calendar quarters of chargeability and payroll. Effective January 1 of the second year after the election, the contribution rate shall be computed based on 6 quarters of chargeability and payroll. Effective January 1 of the third year after the election, the contribution rate shall be computed based on 10 quarters of chargeability and payrolls. Each January 1 of subsequent years, the contribution rate shall be computed based on 12 quarters of chargeability and payroll.

4. Each public employer electing to be a contributing employer under this subsection must make the election at least 30 days before January 1 of the year for which the election is to be effective. Upon electing to be a contributing employer under this subsection, a public employer may not change this election for at least 2 calendar years.

5. An election under this subsection may be terminated by filing with the tax collection service provider, at least 30 days before January 1, a written notice of termination.

History.--s. 34, ch. 2003-36.

443.1315 Treatment of Indian tribes.--

(1) As used in this section, the term:

(a) "Employer" means any Indian tribe for which service in employment as defined by this chapter is performed.

(b) "Employment" means service performed in the employ of an Indian tribe, as defined by s. 3306(u) of the Federal Unemployment Tax Act, if this service is excluded from employment as defined by that act solely by reason of s. 3306(c)(7) of that act and is not otherwise excluded from employment under this chapter. For purposes of this section, the exclusions from employment under s. 443.1216(4) apply to services performed in the employ of an Indian tribe.

(2) Benefits based on service in employment are payable in the same amount, on the same terms, and subject to the same conditions as benefits payable based on other service subject to this chapter.

(3)(a) Indian tribes or tribal units of Indian tribes, including subdivisions, subsidiaries, or business enterprises wholly owned by those Indian tribes, subject to this chapter must pay contributions under the same terms and conditions as all other subject employers unless they elect to become reimbursing employers and reimburse the Unemployment Compensation Trust Fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(b) Indian tribes electing to make reimbursements in lieu of contributions must make this election in the same manner and under the same conditions in s. 443.1312 for nonprofit organizations subject to this chapter. Indian tribes must determine whether reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units of an Indian tribe, or by combinations of individual tribal units.

(c) Indian tribes or tribal units shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that elect to make reimbursements in lieu of contributions.

(d) The tax collection service provider may require an Indian tribe or tribal unit that elects to become a reimbursing employer to, within 90 days after the effective date of that election:

1. Execute and file with the tax collection service provider a surety bond approved by the service provider; or

2. Deposit with the tax collection service provider money or securities on the same basis as other employers with the same election option.

(4)(a)1. An Indian tribe or tribal unit that fails to make required reimbursements, including assessments of interest and penalty, within 90 days after receipt of the bill, loses the option to make reimbursements in lieu of contributions as provided in subsection (3) for the following tax year unless payment in full is received before contribution rates for the next tax year are computed.

2. The option to make reimbursements in lieu of contributions is reinstated once the Indian tribe makes all contributions timely for 1 year and no contributions or reimbursements for benefits paid, penalties, or interest remain outstanding.

(b)1. Services performed for an Indian tribe or tribal unit that fails to make required reimbursements, including assessments of interest and penalty, after all collection activities deemed necessary by the tax collection service provider, subject to approval by the Agency for Workforce Innovation, are exhausted may not be treated as employment for purposes of paragraph (1)(b).

2. The tax collection service provider may determine that any Indian tribe that loses coverage under subparagraph 1. may have services performed for the tribe subsequently included as employment for purposes of paragraph (1)(b) if all contributions, reimbursements, penalties, and interest are paid.

(c) The Agency for Workforce Innovation or its tax collection service provider shall immediately notify the United States Internal Revenue Service and the United States Department of Labor when an Indian tribe fails to make reimbursements required under this section, including assessments of interest and penalty, within 90 days after a final notice of delinquency.

(5) Notices of payment and reporting delinquency to Indian tribes or tribal units must include information that failure to make full reimbursement within the prescribed timeframe:

(a) Will cause the Indian tribe to be liable for taxes under the Federal Unemployment Tax Act.

(b) Will cause the Indian tribe to lose the option to make reimbursements in lieu of contributions.

(c) Could cause the Indian tribe to be excepted from the definition of "employer" provided in paragraph (1)(a) and services in the employ of the Indian tribe provided in paragraph (1)(b) to be excepted from employment.

(6) An Indian tribe must reimburse the fund for all extended benefits paid that are attributable to service in the employ of the Indian tribe unless the benefits are reimbursed by the Federal Government.

(7) The Agency for Workforce Innovation and the state agency providing unemployment tax collection services shall adopt rules necessary to administer this section.

History--s. 51, ch. 2002-218; s. 35, ch. 2003-36.

443.1316 Unemployment tax collection services; interagency agreement.--

(1) The Agency for Workforce Innovation shall contract with the Department of Revenue, through an interagency agreement, to perform the duties of the tax collection service provider and provide other unemployment tax collection services under this chapter. Under the interagency agreement, the tax collection service provider may only implement:

(a) The provisions of this chapter conferring duties upon the tax collection service provider.

(b) The provisions of law conferring duties upon the Agency for Workforce Innovation which are specifically delegated to the tax collection service provider in the interagency agreement.

(2)(a) The Department of Revenue is considered to be administering a revenue law of this state when the department implements this chapter, or otherwise provides unemployment tax collection services, under contract with the Agency for Workforce Innovation through the interagency agreement.

(b) Sections 213.015(1)-(3), (5)-(7), (9)-(19), and (21); 213.018; 213.025; 213.051; 213.053; 213.0535; 213.055; 213.071; 213.10; 213.21(4); 213.2201; 213.23; 213.24; 213.25; 213.27; 213.28; 213.285; 213.34(1), (3), and (4); 213.37; 213.50; 213.67; 213.69; 213.73; 213.733; 213.74; and 213.757 apply to the collection of unemployment contributions and reimbursements by the Department of Revenue unless prohibited by federal law.

History.--s. 56, ch. 2002-218; s. 36, ch. 2003-36; s. 27, ch. 2003-254; s. 20, ch. 2006-122; s. 34, ch. 2007-106.

443.1317 Rulemaking authority; enforcement of rules.--

(1) AGENCY FOR WORKFORCE INNOVATION.--

(a) Except as otherwise provided in s. 443.012, the Agency for Workforce Innovation has ultimate authority over the administration of the Unemployment Compensation Program.

(b) The Agency for Workforce Innovation may adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of this chapter conferring duties upon either the agency or its tax collection service provider.

(2) TAX COLLECTION SERVICE PROVIDER.--The state agency providing unemployment tax collection services under contract with the Agency for Workforce Innovation through an interagency agreement pursuant to s. 443.1316 may adopt rules under ss. 120.536(1) and 120.54, subject to approval by the Agency for Workforce Innovation, to administer the provisions of law described in s. 443.1316(1)(a) and (b) which are within this chapter. These rules must not conflict with the rules adopted by the Agency for Workforce Innovation or with the interagency agreement.

(3) ENFORCEMENT OF RULES.--The Agency for Workforce Innovation may enforce any rule adopted by the state agency providing unemployment tax collection services to administer this chapter. The tax collection service provider may enforce any rule adopted by the Agency for Workforce Innovation to administer the provisions of law described in s. 443.1316(1)(a) and (b).

History.--s. 37, ch. 2003-36.

443.141 Collection of contributions and reimbursements.--

(1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS.--

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

(b) *Penalty for delinquent reports.*--

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

2. Sums collected as penalties under subparagraph 1. must be deposited in the Special Employment Security Administration Trust Fund.

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

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

(2) REPORTS, CONTRIBUTIONS, APPEALS.--

(a) *Failure to make reports and pay contributions.*--If an employing unit determined by the tax collection service provider to be an employer subject to this chapter fails to make and file any report as and when required by this chapter or by any rule of the Agency for Workforce Innovation or the state agency providing tax collection services, for the purpose of determining the amount of contributions due by the employer under this chapter, or if any filed report is found by the service provider to be incorrect or insufficient, and the employer, after being notified in writing by the service provider to file the report, or a corrected or sufficient report, as applicable, fails to file the report within 15 days after the date of the mailing of the notice, the tax collection service provider may:

1. Determine the amount of contributions due from the employer based on the information readily available to it, which determination is deemed to be prima facie correct;

2. Assess the employer the amount of contributions determined to be due; and

3. Immediately notify the employer by mail of the determination and assessment including penalties as provided in this chapter, if any, added and assessed, and demand payment together with interest on the amount of contributions from the date that amount was due and payable.

(b) *Hearings.*--The determination and assessment are final 15 days after the date the assessment is mailed unless the employer files with the tax collection service provider within the 15 days a written protest and petition for hearing specifying the objections thereto. The tax collection service provider shall promptly review each petition and may reconsider its determination and assessment in order to resolve the petitioner's objections. The tax collection service provider shall forward each petition remaining unresolved to the Agency for Workforce Innovation for a hearing on the objections. Upon receipt of a petition, the Agency for Workforce Innovation shall schedule a hearing and notify the petitioner of the time and place of the hearing. The Agency for Workforce Innovation may appoint special deputies to conduct hearings and to submit their findings together with a transcript of the proceedings before them and their recommendations to the agency for its final order. Special deputies are subject to the prohibition against ex parte communications in s. 120.66. At any hearing conducted by the Agency for Workforce Innovation or its special deputy, evidence may be offered to support the determination and assessment or to prove it is incorrect. In order to prevail, however, the petitioner must either prove that the determination and assessment are incorrect or file full and complete corrected reports. Evidence may also be submitted at the hearing to rebut the determination by the tax collection service provider that the petitioner is an employer under this chapter. Upon evidence taken before it or upon the transcript submitted to it with the findings and recommendation of its special deputy, the Agency for Workforce Innovation shall either set aside the tax collection service provider's determination that the petitioner is an employer under this chapter or reaffirm the determination. The amounts assessed under the final order, together with interest and penalties, must be paid within 15 days after notice of the final order is mailed to the employer, unless judicial review is instituted in a case of status determination. Amounts due when the status of the employer is in dispute are payable within 15 days after the entry of an order by the court affirming the determination. However, any determination that an employing unit is not an employer under this chapter does not affect the benefit rights of any individual as determined by an appeals referee or the commission unless:

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

2. The decision of the appeals referee or the commission has not become final or the employing unit and the Agency for Workforce Innovation were not made parties to the proceedings before the appeals referee or the commission.

(c) *Appeals.*--The Agency for Workforce Innovation and the state agency providing unemployment tax collection services shall adopt rules prescribing the procedures for an employing unit determined to be an employer to file an appeal and be afforded an opportunity for a hearing on the determination. Pending a hearing, the employing unit must file reports and pay contributions in accordance with s. 443.131.

(3) COLLECTION PROCEEDINGS.--

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

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

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

(b) *Injunctive procedures to contest warrants after issuance.*--An injunction or restraining order to stay the execution of a warrant may not be issued until a motion is filed; reasonable notice of a hearing on the motion for the injunction is served on the tax collection service provider; and the party seeking the injunction either pays into the custody of the court the full amount of contributions, reimbursements, interests, costs, and penalties claimed in the warrant or enters into and files with the court a bond with two or more good and sufficient sureties approved by the court in a sum at least twice the amount of the contributions, reimbursements, interests, costs, and penalties, payable to the tax collection service provider. The bond must also be conditioned to pay

the amount of the warrant, interest, and any damages resulting from the wrongful issuing of the injunction, if the injunction is dissolved, or the motion for the injunction is dismissed. Only one surety is required when the bond is executed by a lawfully authorized surety company.

(c) *Attachment and garnishment.*--Upon the filing of notice of lien as provided in subparagraph (a)1., the tax collection service provider is entitled to remedy by attachment or garnishment as provided in chapters 76 and 77, as for a debt due. Upon application by the tax collection service provider, these writs shall be issued by the clerk of the circuit court as upon a judgment of the circuit court duly docketed and recorded. These writs shall be returnable to the circuit court. A bond may not be required of the tax collection service provider as a condition required for the issuance of these writs of attachment or garnishment. Issues raised under proceedings by attachment or garnishment shall be tried by the circuit court in the same manner as a judgment under chapters 76 and 77. Further, the notice of lien filed by the tax collection service provider is valid for purposes of all remedies under this chapter until satisfied under this chapter, and revival by scire facias or other proceedings are not necessary before pursuing any remedy authorized by law. Proceedings authorized upon a judgment of the circuit court do not make the lien a judgment of the circuit court upon a debt for any purpose other than as are specifically provided by law as procedural remedies.

(d) *Third-party claims.*--Upon any levy made by the sheriff under a writ of attachment or garnishment as provided in paragraph (c), the circuit court shall try third-party claims to property involved as upon a judgment thereof and all proceedings authorized on third-party claims in ss. 56.16, 56.20, 76.21, and 77.16 shall apply.

(e) *Proceedings supplementary to execution.*--At any time after a warrant provided for in subparagraph (a)2. is returned unsatisfied by any sheriff of this state, the tax collection service provider may file an affidavit in the circuit court affirming the warrant was returned unsatisfied and remains valid and outstanding. The affidavit must also state the residence of the party or parties against whom the warrant is issued. The tax collection service provider is subsequently entitled to have other and further proceedings in the circuit court as upon a judgment thereof as provided in s. 56.29.

(f) *Reproductions.*--In any proceedings in any court under this chapter, reproductions of the original records of the Agency for Workforce Innovation, its tax collection service provider, the former ¹Department of Labor and Employment Security, or the commission, including, but not limited to, photocopies or microfilm, are primary evidence in lieu of the original records or of the documents that were transcribed into those records.

(g) *Jeopardy assessment and warrant.*--If the tax collection service provider reasonably believes that the collection of contributions or reimbursements from an employer will be jeopardized by delay, the service provider may assess the contributions or reimbursements immediately, together with interest or penalties when due, regardless of whether the contributions or reimbursements accrued are due, and may immediately issue a notice of lien and jeopardy warrant upon which proceedings may be conducted as provided in this section for notice of lien and warrant of the service provider. Within 15 days after mailing the notice of lien by registered mail, the employer may protest the issuance of the lien in the same manner provided in paragraph (2)(a). The protest does not operate as a supersedeas or stay of enforcement unless the employer files with the sheriff seeking to enforce the warrant a good and sufficient surety bond in twice the amount demanded by the notice of lien or warrant. The bond must be conditioned upon payment of the amount subsequently found to be due from the employer to the tax collection service provider in the final order of the Agency for Workforce

Innovation upon protest of assessment. The jeopardy warrant and notice of lien are satisfied in the manner provided in this section upon payment of the amount finally determined to be due from the employer. If enforcement of the jeopardy warrant is not superseded as provided in this section, the employer is entitled to a refund from the fund of all amounts paid as contributions or reimbursements in excess of the amount finally determined to be due by the employer upon application being made as provided in this chapter.

(4) MISCELLANEOUS PROVISIONS FOR COLLECTION OF CONTRIBUTIONS AND REIMBURSEMENTS.--

(a) In addition to all other remedies and proceedings authorized by this chapter for the collection of contributions and reimbursements, a right of action by suit in the name of the tax collection service provider is created. A suit may be brought, and all proceedings taken, to the same effect and extent as for the enforcement of a right of action for debt or assumpsit, and all remedies available in such actions, including attachment and garnishment, are available to the tax collection service provider for the collection of any contribution or reimbursement. The tax collection service provider is not, however, required to post bond in any such action or proceedings. In addition, this section does not make these contributions or reimbursements a debt or demand unenforceable against homestead property as provided by Art. X of the State Constitution, and these remedies are solely procedural.

(b) An employer who fails to make return or pay the contributions or reimbursements levied under this chapter, and who remains an employer as provided in s. 443.121, may be enjoined from employing individuals in employment as defined in this chapter upon the complaint of the tax collection service provider in the circuit court of the county in which the employer does business. An employer who fails to make return or pay contributions or reimbursements shall be enjoined from employing individuals in employment until the return is made and the contributions or reimbursements are paid to the tax collection service provider.

(c) Any agent or employee designated by the Agency for Workforce Innovation or its tax collection service provider may administer an oath to any person for any return or report required by this chapter or by the rules of the Agency for Workforce Innovation or the state agency providing unemployment tax collection services, and an oath made before the agency or its service provider or any authorized agent or employee has the same effect as an oath made before any judicial officer or notary public of the state.

(d) Civil actions brought under this chapter to collect contributions, reimbursements, or interest, or any proceeding conducted for the collection of contributions or reimbursements from an employer, shall be heard by the court having jurisdiction at the earliest possible date and are entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review of claims for benefits arising under this chapter and cases arising under the Workers' Compensation Law of this state.

(e) The tax collection service provider may commence an action in any other state to collect unemployment compensation contributions, reimbursements, penalties, and interest legally due this state. The officials of other states that extend a like comity to this state may sue for the collection of contributions, reimbursements, interest, and penalties in the courts of this state. The courts of this state shall recognize and enforce liability for contributions, reimbursements, interest, and penalties imposed by other states that extend a like comity to this state.

(f) The collection of any contribution, reimbursement, interest, or penalty due under this chapter is not enforceable by civil action, warrant, claim, or other means unless the notice of lien is filed with the clerk of the circuit court as described in subsection (3) within 5 years after the date the contribution, reimbursement, interest, and penalty were due.

(5) PRIORITIES UNDER LEGAL DISSOLUTION OR DISTRIBUTIONS.--In the event of any distribution of any employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for the benefit of creditors, adjudicated insolvency, composition, administration of estates of decedents, or other similar proceeding, contributions or reimbursements then or subsequently due must be paid in full before all other claims except claims for wages of \$250 or less to each claimant, earned within 6 months after the commencement of the proceeding, and on a parity with all other tax claims wherever those tax claims are given priority. In the administration of the estate of any decedent, the filing of notice of lien is a proceeding required upon protest of the claim filed by the tax collection service provider for contributions or reimbursements due under this chapter, and the claim must be allowed by the circuit judge. The personal representative of the decedent, however, may by petition to the circuit court object to the validity of the tax collection service provider's claim, and proceedings shall be conducted in the circuit court for the determination of the validity of the service provider's claim. Further, the bond of the personal representative may not be discharged until the claim is finally determined by the circuit court. When a bond is not given by the personal representative, the assets of the estate may not be distributed until the final determination by the circuit court. Upon distribution of the assets of the estate of any decedent, the tax collection service provider's claim has a class 8 priority established in s. 733.707(1)(h), subject to the above limitations with reference to wages. In the event of any employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the ²Federal Bankruptcy Act of 1898, as amended, contributions or reimbursements then or subsequently due are entitled to priority as is provided in s. 64B of that act (U.S.C. Title II, s. 104(b), as amended).

(6) REFUNDS.--

(a) Within 4 years after payment of any amount as contributions, reimbursements, interest, or penalties, an employing unit may apply for an adjustment of its subsequent payments of contributions or reimbursements, or for a refund if the adjustment cannot be made.

(b) If the tax collection service provider determines that any contributions, reimbursements, interest, or penalties were erroneously collected, the employing unit may adjust its subsequent payment of contributions or reimbursements by the amount erroneously collected. If an adjustment cannot be made, the tax collection service provider shall refund the amount erroneously collected from the fund.

(c) Within the time limit provided in paragraph (a), the tax collection service provider may on its own initiative adjust or refund the amount erroneously collected.

(d) This chapter does not authorize a refund of contributions or reimbursements properly paid in accordance with this chapter when the payment was made, except as required by s. 443.1216(13)(e).

(e) An employing unit entitled to a refund or adjustment for erroneously collected contributions, reimbursements, interest, or penalties is not entitled to interest on that erroneously collected amount.

(f) Refunds under this subsection and under s. 443.1216(13)(e) may be paid from the clearing account or the benefit account of the Unemployment Compensation Trust Fund and from the Special Employment Security Administration Trust Fund for interest or penalties previously paid into the fund, notwithstanding s. 443.191(2).

History---s. 15, ch. 18402, 1937; s. 10, ch. 19637, 1939; CGL 1940 Supp. 4151(502); s. 14, ch. 20685, 1941; s. 5, ch. 21982, 1943; s. 5, ch. 24084, 1947; s. 11, ch. 25035, 1949; s. 9, ch. 26879, 1951; s. 12, ch. 28242, 1953; s. 12, ch. 29771, 1955; s. 3, ch. 57-268; s. 24, ch. 57-1; s. 2, ch. 61-119; s. 3, ch. 61-228; s. 4, ch. 65-114; ss. 17, 35, ch. 69-106; s. 11, ch. 71-225; s. 1, ch. 73-283; s. 26, ch. 73-334; s. 1, ch. 77-174; s. 11, ch. 78-95; s. 27, ch. 79-7; s. 76, ch. 79-40; ss. 4, 8, 9, ch. 80-95; s. 6, ch. 80-345; s. 283, ch. 81-259; s. 11, ch. 83-174; s. 3, ch. 84-21; s. 9, ch. 88-289; s. 7, ch. 91-220; s. 4, ch. 92-38; s. 6, ch. 96-411; s. 1064, ch. 97-103; s. 8, ch. 98-149; s. 103, ch. 2000-153; s. 38, ch. 2003-36; s. 24, ch. 2005-280; s. 35, ch. 2007-106.

¹**Note**---Section 69, ch. 2002-194, repealed s. 20.171, which created the Department of Labor and Employment Security.

²**Note**---Replaced by the 1978 Bankruptcy Code.

Note---Former s. 443.15.

443.151 Procedure concerning claims.--

(1) POSTING OF INFORMATION.--

(a) Each employer must post and maintain in places readily accessible to individuals in her or his employ printed statements concerning benefit rights, claims for benefits, and other matters relating to the administration of this chapter as the Agency for Workforce Innovation may by rule prescribe. Each employer must supply to individuals copies of printed statements or other materials relating to claims for benefits as directed by the agency's rules. The Agency for Workforce Innovation shall supply these printed statements and other materials to each employer without cost to the employer.

(b)1. The Agency for Workforce Innovation shall advise each individual filing a new claim for unemployment compensation, at the time of filing the claim, that:

a. Unemployment compensation is subject to federal income tax.

b. Requirements exist pertaining to estimated tax payments.

c. The individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the federal Internal Revenue Code.

d. The individual is not permitted to change a previously elected withholding status more than twice per calendar year.

2. Amounts deducted and withheld from unemployment compensation must remain in the Unemployment Compensation Trust Fund until transferred to the federal taxing authority as payment of income tax.

3. The Agency for Workforce Innovation shall follow all procedures specified by the United States Department of Labor and the federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

4. If more than one authorized request for deduction and withholding is made, amounts must be deducted and withheld in accordance with the following priorities:

- a. Unemployment overpayments have first priority;
- b. Child support payments have second priority; and
- c. Withholding under this subsection has third priority.

(2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF CLAIMANTS AND EMPLOYERS.--Claims for benefits must be made in accordance with the rules adopted by the Agency for Workforce Innovation. The Agency for Workforce Innovation must notify claimants and employers regarding monetary and nonmonetary determinations of eligibility. Investigations of issues raised in connection with a claimant which may affect a claimant's eligibility for benefits or charges to an employer's employment record shall be conducted by the Agency for Workforce Innovation as prescribed by rule.

(3) DETERMINATION.--

(a) *In general.*--The Agency for Workforce Innovation shall promptly make an initial determination for each claim filed under subsection (2). The determination must include a statement of whether and in what amount the claimant is entitled to benefits, and, in the event of a denial, must state the reasons for the denial. A determination for the first week of a benefit year must also include a statement of whether the claimant was paid the wages required under s. 443.091(1)(f) and, if so, the first day of the benefit year, the claimant's weekly benefit amount, and the maximum total amount of benefits payable to the claimant for a benefit year. The Agency for Workforce Innovation shall promptly notify the claimant, the claimant's most recent employing unit, and all employers whose employment records are liable for benefits under the determination of the initial determination. The determination is final unless within 20 days after the mailing of the notices to the parties' last known addresses, or in lieu of mailing, within 20 days after the delivery of the notices, an appeal or written request for reconsideration is filed by the claimant or other party entitled to notice.

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

(c) *Redeterminations.*--

1. The Agency for Workforce Innovation may reconsider a determination when it finds an error or when new evidence or information pertinent to the determination is discovered after a prior determination or redetermination. A redetermination may not be made more than 1 year after the last day of the benefit year unless the disqualification for making a false or fraudulent representation in s. 443.101(6) is applicable, in which case the redetermination may be made within 2 years after the

false or fraudulent representation. The Agency for Workforce Innovation must promptly give notice of redetermination to the claimant and to any employers entitled to notice in the manner prescribed in this section for the notice of an initial determination. If the amount of benefits is increased by the redetermination, an appeal of the redetermination based solely on the increase may be filed as provided in subsection (4). If the amount of benefits is decreased by the redetermination, the redetermination may be appealed by the claimant when a subsequent claim for benefits is affected in amount or duration by the redetermination. If the final decision on the determination or redetermination to be reconsidered was made by an appeals referee, the commission, or a court, the Agency for Workforce Innovation may apply for a revised decision from the body or court that made the final decision.

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

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

(4) APPEALS.--

(a) *Appeals referees.*--The Agency for Workforce Innovation shall appoint one or more impartial salaried appeals referees in accordance with s. 443.171(3) to hear and decide appealed claims. A person may not participate on behalf of the Agency for Workforce Innovation as an appeals referee in any case in which she or he is an interested party. The Agency for Workforce Innovation may designate alternates to serve in the absence or disqualification of any appeals referee on a temporary basis. These alternates must have the same qualifications required of appeals referees. The Agency for Workforce Innovation shall provide the commission and the appeals referees with proper facilities and assistance for the execution of their functions.

(b) *Filing and hearing.*--

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

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

3. However, when an appeal appears to have been filed after the permissible time limit, the Office of Appeals may issue an order to show cause to the appellant, requiring the appellant to show why the appeal should not be dismissed as untimely. If the appellant does not, within 15 days after the

mailing date of the order to show cause, provide written evidence of timely filing or good cause for failure to appeal timely, the appeal shall be dismissed.

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

5. The parties must be notified promptly of the referee's decision. The referee's decision is final unless further review is initiated under paragraph (c) within 20 days after the date of mailing notice of the decision to the party's last known address or, in lieu of mailing, within 20 days after the delivery of the notice.

(c) *Review by commission.*--The commission may, on its own motion, within the time limit in paragraph (b), initiate a review of the decision of an appeals referee. The commission may also allow the Agency for Workforce Innovation or any adversely affected party entitled to notice of the decision to appeal the decision by filing an application within the time limit in paragraph (b). An adversely affected party has the right to appeal the decision if the Agency for Workforce Innovation's determination is not affirmed by the appeals referee. The commission may affirm, modify, or reverse the findings and conclusions of the appeals referee based on evidence previously submitted in the case or based on additional evidence taken at the direction of the commission. The commission may assume jurisdiction of or transfer to another appeals referee the proceedings on any claim pending before an appeals referee. Any proceeding in which the commission assumes jurisdiction before completion must be heard by the commission in accordance with the requirement of this subsection for proceedings before an appeals referee. When the commission denies an application to hear an appeal of an appeals referee's decision, the decision of the appeals referee is the decision of the commission for purposes of this paragraph and is subject to judicial review within the same time and manner as decisions of the commission, except that the time for initiating review runs from the date of notice of the commission's order denying the application to hear an appeal.

(d) *Procedure.*--The manner that appealed claims are presented must comply with the commission's rules. Witnesses subpoenaed under this section are allowed fees at the rate established by s. 92.142, and fees of witnesses subpoenaed on behalf of the Agency for Workforce Innovation or any claimant are deemed part of the expense of administering this chapter.

(e) *Judicial review.*--Orders of the commission entered under paragraph (c) are subject to review only by notice of appeal in the district court of appeal in the appellate district in which the issues involved were decided by an appeals referee. Notwithstanding chapter 120, the commission is a party respondent to every such proceeding. The Agency for Workforce Innovation may initiate judicial review of orders in the same manner and to the same extent as any other party.

(5) PAYMENT OF BENEFITS.--

(a) The Agency for Workforce Innovation shall promptly pay benefits in accordance with a determination or redetermination regardless of any appeal or pending appeal. Before payment of benefits to the claimant, however, each employer who is liable for reimbursements in lieu of contributions for payment of the benefits must be notified, at the address on file with the Agency for Workforce Innovation or its tax collection service provider, of the initial determination of the claim and must be given 10 days to respond.

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

(c) The provisions of paragraph (b) relating to charging an employer liable for contributions do not apply to reimbursing employers.

(6) RECOVERY AND RECOUPMENT.--

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

(b) Any person who, by reason other than her or his fraud, receives benefits under this chapter to which, under a redetermination or decision pursuant to this section, she or he is found not entitled, is liable to repay those benefits to the Agency for Workforce Innovation on behalf of the trust fund or, in the agency's discretion, to have those benefits deducted from any future benefits payable to her or him under this chapter. Any recovery or recoupment of benefits must be effected within 3 years after the redetermination or decision.

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

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

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

(7) REPRESENTATION IN ADMINISTRATIVE PROCEEDINGS.--In any administrative proceeding conducted under this chapter, an employer or a claimant has the right, at his or her own expense, to

be represented by counsel or by an authorized representative. Notwithstanding s. 120.62(2), the authorized representative need not be a qualified representative.

(8) BILINGUAL REQUIREMENTS.--

(a) The Agency for Workforce Innovation shall provide printed bilingual instructional and educational materials in the appropriate language in those counties in which 5 percent or more of the households in the county are classified as a single-language minority.

(b) The Agency for Workforce Innovation shall ensure that one-stop career centers and appeals offices located in counties subject to the requirements of paragraph (c) prominently post notices in the appropriate languages and that translators are available in those centers and offices.

(c) As used in this subsection, the term "single-language minority" means households that speak the same non-English language and that do not contain an adult fluent in English. The Agency for Workforce Innovation shall develop estimates of the percentages of single-language minority households for each county by using data from the United States Bureau of the Census.

History.--s. 7, ch. 18402, 1937; CGL 1940 Supp. 4151(494); s. 7, ch. 20685, 1941; s. 1, ch. 21982, 1943; s. 2, ch. 24083, 1947; s. 10, ch. 26484, 1951; s. 4, ch. 26879, 1951; s. 4, ch. 28242, 1953; ss. 1, 2, 3, 4, ch. 29769, 1955; s. 1, ch. 57-268; s. 3, ch. 61-132; ss. 17, 35, ch. 69-106; s. 1, ch. 70-87; s. 1, ch. 72-154; s. 11, ch. 78-95; s. 4, ch. 78-386; s. 23, ch. 79-7; s. 3, ch. 79-308; s. 184, ch. 79-400; ss. 5, 8, 9, ch. 80-95; s. 4, ch. 80-345; s. 4, ch. 82-91; s. 1, ch. 82-178; s. 12, ch. 83-174; s. 3, ch. 90-89; s. 7, ch. 96-378; s. 200, ch. 96-410; s. 7, ch. 96-411; s. 1065, ch. 97-103; s. 9, ch. 98-149; s. 104, ch. 2000-153; s. 106, ch. 2000-165; s. 39, ch. 2003-36; s. 7, ch. 2005-209.

Note.--Former s. 443.07.

443.163 Electronic reporting and remitting of contributions and reimbursements.--

(1) An employer may file any report and remit any contributions or reimbursements required under this chapter by electronic means. The Agency for Workforce Innovation or the state agency providing unemployment tax collection services shall adopt rules prescribing the format and instructions necessary for electronically filing reports and remitting contributions and reimbursements to ensure a full collection of contributions and reimbursements due. The acceptable method of transfer, the method, form, and content of the electronic means, and the method, if any, by which the employer will be provided with an acknowledgment shall be prescribed by the Agency for Workforce Innovation or its tax collection service provider. However, any employer who employed 10 or more employees in any quarter during the preceding state fiscal year must file the Employers Quarterly Reports (UCT-6) for the current calendar year and remit the contributions and reimbursements due by electronic means approved by the ¹tax collection service provider. A person who prepared and reported for 100 or more employers in any quarter during the preceding state fiscal year must file the Employers Quarterly Reports (UCT-6) for each calendar quarter in the current calendar year, beginning with reports due for the second calendar quarter of 2003, by electronic means approved by the tax collection service provider.

(2) An employer who is required by law to file an Employers Quarterly Report (UCT-6) by electronic means, but who files the report by a means other than electronic means, is liable for a penalty of \$10 for that report, which is in addition to any other applicable penalty provided by this chapter, unless

the employer first obtains a waiver of this requirement from the tax collection service provider. An employer who fails to remit contributions or reimbursements by electronic means as required by law is liable for a penalty of \$10 for each remittance submitted by a means other than electronic means, which is in addition to any other applicable penalty provided by this chapter. A person who prepared and reported for 100 or more employers in any quarter during the preceding state fiscal year, but who fails to file an Employers Quarterly Report (UCT-6) for each calendar quarter in the current calendar year by electronic means as required by law, is liable for a penalty of \$10 for that report, which is in addition to any other applicable penalty provided by this chapter, unless the person first obtains a waiver of this requirement from the tax collection service provider.

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

(a) As prescribed by the Agency for Workforce Innovation or its tax collection service provider, grounds for approving the waiver include, but are not limited to, circumstances in which the employer does not:

1. Currently file information or data electronically with any business or government agency; or
2. Have a compatible computer that meets or exceeds the standards prescribed by the Agency for Workforce Innovation or its tax collection service provider.

(b) The tax collection service provider shall accept other reasons for requesting a waiver from the requirement to submit the Employers Quarterly Report (UCT-6) by electronic means, including, but not limited to:

1. That the employer needs additional time to program his or her computer;
2. That complying with this requirement causes the employer financial hardship; or
3. That complying with this requirement conflicts with the employer's business procedures.

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

(4) As used in this section, the term "electronic means" includes, but is not limited to, electronic data interchange; electronic funds transfer; and use of the Internet, telephone, or other technology specified by the Agency for Workforce Innovation or its tax collection service provider.

History.--s. 35, ch. 99-208; s. 52, ch. 2002-218; s. 40, ch. 2003-36; s. 28, ch. 2003-254.

¹**Note.**--As amended by s. 40, ch. 2003-36, which is a comprehensive rewrite of unemployment compensation law. Section 28, ch. 2003-254, also amended this language and used "the Agency for

Workforce Innovation or its designee" instead of "tax collection service provider." The designee is the tax collection service provider.

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

(1) POWERS AND DUTIES.--The Agency for Workforce Innovation shall administer this chapter. The agency may employ those persons, make expenditures, require reports, conduct investigations, and take other action necessary or suitable to administer this chapter. The Agency for Workforce Innovation shall annually submit information to Workforce Florida, Inc., covering the administration and operation of this chapter during the preceding calendar year for inclusion in the strategic plan under s. 445.006 and may make recommendations for amendment to this chapter.

(2) PUBLICATION OF ACTS AND RULES.--The Agency for Workforce Innovation shall cause to be printed and distributed to the public, or otherwise distributed to the public through the Internet or similar electronic means, the text of this chapter and of the rules for administering this chapter adopted by the agency or the state agency providing unemployment tax collection services and any other matter relevant and suitable. The Agency for Workforce Innovation shall furnish this information to any person upon request. However, any pamphlet, rules, circulars, or reports required by this chapter may not contain any matter except the actual data necessary to complete them or the actual language of the rule, together with the proper notices.

(3) PERSONNEL.--Subject to chapter 110 and the other provisions of this chapter, the Agency for Workforce Innovation may appoint, set the compensation of, and prescribe the duties and powers of employees, accountants, attorneys, experts, and other persons as necessary for the performance of the agency's duties under this chapter. The Agency for Workforce Innovation may delegate to any person its power and authority under this chapter as necessary for the effective administration of this chapter and may bond any person handling moneys or signing checks under this chapter. The cost of these bonds must be paid from the Employment Security Administration Trust Fund.

(4) EMPLOYMENT STABILIZATION.--The Agency for Workforce Innovation, under the direction of Workforce Florida, Inc., shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of career training, retraining, and career guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of the unemployed workers throughout the state in every other way that may be feasible; to refer any claimant entitled to extended benefits to suitable work which meets the criteria of this chapter; and, to these ends, to carry on and publish the results of investigations and research studies.

(5) RECORDS AND REPORTS.--Each employing unit shall keep true and accurate work records, containing the information required by the Agency for Workforce Innovation or its tax collection service provider. These records must be open to inspection and are subject to being copied by the Agency for Workforce Innovation or its tax collection service provider at any reasonable time and as often as necessary. The Agency for Workforce Innovation or its tax collection service provider may require from any employing unit any sworn or unsworn reports, for persons employed by the employing unit, necessary for the effective administration of this chapter. However, a state or local governmental agency performing intelligence or counterintelligence functions need not report an employee if the head of that agency determines that reporting the employee could endanger the

safety of the employee or compromise an ongoing investigation or intelligence mission. Information revealing the employing unit's or individual's identity obtained from the employing unit or from any individual through the administration of this chapter, is, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a workers' compensation claim pending, confidential and exempt from s. 119.07(1). This confidential information is available only to public employees in the performance of their public duties. Any claimant, or the claimant's legal representative, at a hearing before an appeals referee or the commission must be supplied with information from these records to the extent necessary for the proper presentation of her or his claim. Any employee or member of the commission, any employee of the Agency for Workforce Innovation or its tax collection service provider, or any other person receiving confidential information who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, the Agency for Workforce Innovation or its tax collection service provider may furnish to any employer copies of any report previously submitted by that employer, upon the request of the employer. The Agency for Workforce Innovation or its tax collection service provider may charge a reasonable fee for copies of reports, which may not exceed the actual reasonable cost of the preparation of the copies as prescribed by rules adopted by the Agency for Workforce Innovation or the state agency providing tax collection services. Fees received by the Agency for Workforce Innovation or its tax collection service provider for copies furnished under this subsection must be deposited in the Employment Security Administration Trust Fund.

(6) OATHS AND WITNESSES.--In the discharge of the duties imposed by this chapter, the Agency for Workforce Innovation, its tax collection service provider, the members of the commission, and any authorized representative of any of these entities may administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the administration of this chapter.

(7) SUBPOENAS.--If a person refuses to obey a subpoena issued to that person, any court of this state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which the person is found, resides, or transacts business, upon application by the Agency for Workforce Innovation, its tax collection service provider, the commission, or any authorized representative of any of these entities has jurisdiction to order the person to appear before the entity to produce evidence or give testimony on the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt. Any person who fails or refuses without just cause to appear or testify; to answer any lawful inquiry; or to produce books, papers, correspondence, memoranda, and other records within her or his control as commanded in a subpoena of the Agency for Workforce Innovation, its tax collection service provider, the commission, or any authorized representative of any of these entities commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day that a violation continues is a separate offense.

(8) PROTECTION AGAINST SELF-INCRIMINATION.--A person is not excused from appearing or testifying, or from producing books, papers, correspondence, memoranda, or other records, before the Agency for Workforce Innovation, its tax collection service provider, the commission, or any authorized representative of any of these entities or as commanded in a subpoena of any of these entities in any proceeding before the Agency for Workforce Innovation, the commission, an appeals referee, or a special deputy on the ground that the testimony or evidence, documentary or otherwise, required of the person may incriminate her or him or subject her or him to a penalty or forfeiture. That person may not be prosecuted or subjected to any penalty or forfeiture for or on

account of any transaction, matter, or thing concerning which she or he is compelled, after having claimed her or his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the person testifying is not exempt from prosecution and punishment for perjury committed while testifying.

(9) STATE-FEDERAL COOPERATION.--

(a)1. In the administration of this chapter, the Agency for Workforce Innovation and its tax collection service provider shall cooperate with the United States Department of Labor to the fullest extent consistent with this chapter and shall take those actions, through the adoption of appropriate rules, administrative methods, and standards, necessary to secure for this state all advantages available under the provisions of federal law relating to unemployment compensation.

2. In the administration of the provisions in s. 443.1115, which are enacted to conform with the Federal-State Extended Unemployment Compensation Act of 1970, the Agency for Workforce Innovation shall take those actions necessary to ensure that those provisions are interpreted and applied to meet the requirements of the federal act as interpreted by the United States Department of Labor and to secure for this state the full reimbursement of the federal share of extended benefits paid under this chapter which is reimbursable under the federal act.

3. The Agency for Workforce Innovation and its tax collection service provider shall comply with the regulations of the United States Department of Labor relating to the receipt or expenditure by this state of funds granted under federal law; shall submit the reports in the form and containing the information the United States Department of Labor requires; and shall comply with directions of the United States Department of Labor necessary to assure the correctness and verification of these reports.

(b) The Agency for Workforce Innovation and its tax collection service provider may cooperate with every agency of the United States charged with administration of any unemployment insurance law.

(c) The Agency for Workforce Innovation and its tax collection service provider shall cooperate with the agencies of other states, and shall make every proper effort within their means, to oppose and prevent any further action leading to the complete or substantial federalization of state unemployment compensation funds or state employment security programs. The Agency for Workforce Innovation and its tax collection service provider may make, and may cooperate with other appropriate agencies in making, studies as to the practicability and probable cost of possible new state-administered social security programs and the relative desirability of state, rather than federal, action in that field of study.

History.--s. 12, ch. 18402, 1937; CGL 1940 Supp. 4151(499), 8135(40), 8135(41); s. 11, ch. 20685, 1941; s. 4, ch. 21982, 1943; s. 1, ch. 22832, 1945; s. 3, ch. 24084, 1947; ss. 8, 9, ch. 29771, 1955; s. 1, ch. 57-269; s. 2, ch. 61-119; s. 19, ch. 63-400; ss. 10, 17, 35, ch. 69-106; s. 370, ch. 71-136; ss. 10, 11, ch. 71-225; s. 167, ch. 71-377; s. 4, ch. 74-198; s. 11, ch. 78-95; s. 18, ch. 78-300; ss. 3, 4, ch. 78-323; s. 25, ch. 79-7; s. 75, ch. 79-40; s. 6, ch. 79-308; ss. 6, 8, 9, ch. 80-95; ss. 1, 2, 3, ch. 81-75; s. 3, ch. 81-137; ss. 1, 4, ch. 82-46; s. 14, ch. 83-174; s. 19, ch. 89-189; s. 56, ch. 89-381; ss. 1, 2, ch. 90-168; s. 12, ch. 91-269; s. 5, ch. 91-429; ss. 5, 7, ch. 93-414; ss. 1, 5, ch. 94-118; ss. 15, 77, ch. 94-136; s. 294, ch. 96-406; s. 1066, ch. 97-103; s. 61, ch. 97-170; s. 116, ch. 98-200; s. 105, ch. 2000-153; s. 41, ch. 2003-36; s. 40, ch. 2004-357.

Note.--Former s. 443.12.

443.1715 Disclosure of information; confidentiality.--

(1) RECORDS AND REPORTS.--Information revealing an employing unit's or individual's identity obtained from the employing unit or any individual under the administration of this chapter, and any determination revealing that information, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a workers' compensation claim pending or is receiving compensation benefits, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This confidential information may be released only to public employees in the performance of their public duties. Except as otherwise provided by law, public employees receiving this confidential information must maintain the confidentiality of the information. Any claimant, or the claimant's legal representative, at a hearing before an appeals referee or the commission is entitled to information from these records to the extent necessary for the proper presentation of her or his claim. A person receiving confidential information who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The Agency for Workforce Innovation or its tax collection service provider may, however, furnish to any employer copies of any report submitted by that employer upon the request of the employer and may furnish to any claimant copies of any report submitted by that claimant upon the request of the claimant. The Agency for Workforce Innovation or its tax collection service provider may charge a reasonable fee for copies of these reports as prescribed by rule, which may not exceed the actual reasonable cost of the preparation of the copies. Fees received for copies under this subsection must be deposited in the Employment Security Administration Trust Fund.

(2) DISCLOSURE OF INFORMATION.--

(a) Subject to restrictions the Agency for Workforce Innovation or the state agency providing unemployment tax collection services adopts by rule, information declared confidential under this section is available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of the one-stop delivery system, or the Bureau of Internal Revenue of the United States Department of the Treasury, or the Florida Department of Revenue. Information obtained in connection with the administration of the one-stop delivery system may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a job-preparatory or career education or training program. The Agency for Workforce Innovation shall, on a quarterly basis, furnish the National Directory of New Hires with information concerning the wages and unemployment benefits paid to individuals, by the dates, in the format, and containing the information specified in the regulations of the United States Secretary of Health and Human Services. Upon request, the Agency for Workforce Innovation shall furnish any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to further benefits under this chapter. Except as otherwise provided by law, the receiving agency must retain the confidentiality of this information as provided in this section. The tax collection service provider may request the Comptroller of the Currency of the United States to examine the correctness of any return or report of any national banking association rendered under this chapter and may in connection with that request transmit any report or return for examination to the Comptroller of the Currency of the United States as provided in s. 3305(c) of the federal Internal Revenue Code.

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

2. The employer or carrier shall make the request on a form prescribed by rule for such purpose by the ¹division. Such form shall contain a certification by the requesting party that it is a party entitled to the information requested as authorized by this paragraph.

3. The ¹division shall provide the most current information readily available within 15 days after receiving the request.

(3) DISCLOSURE OF DRUG TEST INFORMATION.--Notwithstanding s. 440.102(8), all information, interviews, reports, and drug test results, written or otherwise, received by an employer through a drug-testing program may be used or received in evidence, obtained in discovery, or disclosed in public or private proceedings conducted for the purpose of determining compensability under this chapter, including any administrative or judicial appeal. The employer, agent of the employer, or laboratory conducting a drug test may also obtain access to employee drug test information when consulting with legal counsel in connection with actions brought under or related to this chapter or when the information is relevant to its defense in a civil or administrative matter. This information may also be released to a professional or occupational licensing board in a related disciplinary proceeding. However, unless otherwise provided by law, this information is confidential for all other purposes.

(a) This information may not be disclosed or released and may not be used in any criminal proceeding against the person tested. Information released contrary to paragraph (c) is inadmissible as evidence in the criminal proceeding.

(b) Unless otherwise provided by law, any information described in this subsection and received by a public employer through a drug-testing program, or obtained by a public employee under this chapter, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until introduced into the public record under a hearing conducted under s. 443.151(4).

(c) Confidentiality may be waived only by express and informed written consent executed by the person tested. The consent form must contain, at a minimum:

1. The name of the person who is authorized to obtain the information;
2. The purpose of the disclosure;
3. The precise information to be disclosed;
4. The duration of the consent; and
5. The signature of the person authorizing release of the information.

History.--s. 2, ch. 94-118; s. 295, ch. 96-406; s. 1067, ch. 97-103; s. 62, ch. 97-170; s. 36, ch. 98-397; s. 68, ch. 2001-62; s. 3, ch. 2002-68; s. 42, ch. 2003-36; s. 42, ch. 2003-412.

¹**Note.**--As added by s. 42, ch. 2003-412. Section 42, ch. 2003-36, revised existing references to the "division" to read "Agency for Workforce Innovation or its tax collection service provider."

443.181 Public employment service.--

(1) The one-stop delivery system established under s. 445.009 is this state's public employment service as part of the national system of public employment offices under 29 U.S.C. s. 49. The Agency for Workforce Innovation, under policy direction from Workforce Florida, Inc., shall cooperate with any official or agency of the United States having power or duties under 29 U.S.C. ss. 49-49I-1 and shall perform those duties necessary to secure to this state the funds provided under federal law for the promotion and maintenance of the state's public employment service. In accordance with 29 U.S.C. s. 49c, this state accepts 29 U.S.C. ss. 49-49I-1. The Agency for Workforce Innovation is designated the state agency responsible for cooperating with the United States Secretary of Labor under 29 U.S.C. s. 49c. The Agency for Workforce Innovation shall appoint sufficient employees to administer this section. The Agency for Workforce Innovation may cooperate with or enter into agreements with the Railroad Retirement Board for the establishment, maintenance, and use of one-stop career centers.

(2) All funds received by this state under 29 U.S.C. ss. 49-49I-1 must be paid into the Employment Security Administration Trust Fund, and these funds are available to the Agency for Workforce Innovation for expenditure as provided by this chapter or by federal law. For the purpose of establishing and maintaining one-stop career centers, the Agency for Workforce Innovation may enter into agreements with the Railroad Retirement Board or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this state, or with any private, nonprofit organization. As a part of any such agreement, the Agency for Workforce Innovation may accept moneys, services, or quarters as a contribution to the Employment Security Administration Trust Fund.

History.--s. 13, ch. 18402, 1937; s. 8, ch. 19637, 1939; CGL 1940 Supp. 4151(500); s. 12, ch. 20685, 1941; s. 2, ch. 61-119; ss. 17, 35, ch. 69-106; s. 1, ch. 73-283; s. 1, ch. 77-174; s. 26, ch. 79-7; ss. 6, 8, 9, ch. 80-95; s. 15, ch. 83-174; s. 4, ch. 95-345; s. 107, ch. 2000-165; s. 43, ch. 2003-36.

Note.--Former s. 443.13.

443.191 Unemployment Compensation Trust Fund; establishment and control.--

(1) There is established, as a separate trust fund apart from all other public funds of this state, an Unemployment Compensation Trust Fund, which shall be administered by the Agency for Workforce Innovation exclusively for the purposes of this chapter. The fund shall consist of:

- (a) All contributions and reimbursements collected under this chapter;
- (b) Interest earned on any moneys in the fund;
- (c) Any property or securities acquired through the use of moneys belonging to the fund;

(d) All earnings of these properties or securities; and

(e) All money credited to this state's account in the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1103.

Except as otherwise provided in s. 443.1313(4), all moneys in the fund shall be mingled and undivided.

(2) The Chief Financial Officer is the ex officio treasurer and custodian of the fund and shall administer the fund in accordance with the directions of the Agency for Workforce Innovation. All payments from the fund must be approved by the Agency for Workforce Innovation or by an authorized agent. The Chief Financial Officer shall maintain within the fund three separate accounts:

(a) A clearing account;

(b) An Unemployment Compensation Trust Fund account; and

(c) A benefit account.

All moneys payable to the fund, including moneys received from the United States as reimbursement for extended benefits paid by the Agency for Workforce Innovation, must be forwarded to the Chief Financial Officer, who shall immediately deposit them in the clearing account. Refunds payable under s. 443.141 may be paid from the clearing account. After clearance, all other moneys in the clearing account must be immediately deposited with the Secretary of the Treasury of the United States to the credit of this state's account in the federal Unemployment Compensation Trust Fund notwithstanding any state law relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state. The benefit account consists of all moneys requisitioned from this state's account in the federal Unemployment Compensation Trust Fund. Except as otherwise provided by law, moneys in the clearing and benefit accounts may be deposited by the Chief Financial Officer, under the direction of the Agency for Workforce Innovation, in any bank or public depository in which general funds of the state are deposited, but a public deposit insurance charge or premium may not be paid out of the fund. If any warrant issued against the clearing account or the benefit account is not presented for payment within 1 year after issuance, the Chief Financial Officer must cancel the warrant and credit without restriction the amount of the warrant to the account upon which it is drawn. When the payee or person entitled to a canceled warrant requests payment of the warrant, the Chief Financial Officer, upon direction of the Agency for Workforce Innovation, must issue a new warrant, payable from the account against which the canceled warrant was drawn.

(3) Moneys may only be requisitioned from the state's account in the federal Unemployment Compensation Trust Fund solely for the payment of benefits and extended benefits and for payment in accordance with rules prescribed by the Agency for Workforce Innovation, except that money credited to this state's account under 42 U.S.C. s. 1103 may only be used exclusively as provided in subsection (5). The Agency for Workforce Innovation, through the Chief Financial Officer, shall requisition from the federal Unemployment Compensation Trust Fund amounts, not exceeding the amounts credited to this state's account in the fund, as necessary for the payment of benefits and extended benefits for a reasonable future period. Upon receipt of these amounts, the Chief Financial Officer shall deposit the moneys in the benefit account in the State Treasury and warrants for the payment of benefits and extended benefits shall be drawn upon the order of the Agency for

Workforce Innovation against the account. All warrants for benefits and extended benefits are payable directly to the ultimate beneficiary. Expenditures of these moneys in the benefit account and refunds from the clearing account are not subject to any law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued for the payment of benefits and refunds must bear the signature of the Chief Financial Officer. Any balance of moneys requisitioned from this state's account in the federal Unemployment Compensation Trust Fund which remains unclaimed or unpaid in the benefit account after the period for which the moneys were requisitioned shall be deducted from estimates for, and may be used for the payment of, benefits and extended benefits during succeeding periods, or, in the discretion of the Agency for Workforce Innovation, shall be redeposited with the Secretary of the Treasury of the United States, to the credit of this state's account in the federal Unemployment Compensation Trust Fund, as provided in subsection (2).

(4) Subsections (1), (2), and (3), to the extent they relate to the federal Unemployment Compensation Trust Fund, apply only while the fund continues to exist and while the Secretary of the Treasury of the United States continues to maintain for this state a separate account of all funds deposited by this state for the payment of benefits, together with this state's proportionate share of the earnings of the federal Unemployment Compensation Trust Fund, from which no other state is permitted to make withdrawals. If the federal Unemployment Compensation Trust Fund ceases to exist, or the separate account is no longer maintained, all moneys, properties, or securities belonging to this state's account in the federal Unemployment Compensation Trust Fund must be transferred to the treasurer of the Unemployment Compensation Trust Fund, who must hold, invest, transfer, sell, deposit, and release those moneys, properties, or securities in a manner approved by the Agency for Workforce Innovation in accordance with this chapter. These moneys must, however, be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States or of the state. Further, the investment must at all times be made in a manner that allows all the assets of the fund to always be readily convertible into cash when needed for the payment of benefits. The treasurer may only dispose of securities or other properties belonging to the Unemployment Compensation Trust Fund under the direction of the Agency for Workforce Innovation.

(5) MONEY CREDITED UNDER 42 U.S.C. S. 1103.--

(a) Money credited to this state's account in the federal Unemployment Compensation Trust Fund by the Secretary of the Treasury of the United States under 42 U.S.C. s. 1103 may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. These moneys may be requisitioned under subsection (3) for the payment of benefits. These moneys may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter, but only under a specific appropriation by the Legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriations law that:

1. Specifies the purposes for which the money is appropriated and the amounts appropriated;
2. Limits the period within which the money may be obligated to a period ending not more than 2 years after the date of the enactment of the appropriations law; and
3. Limits the amount that may be obligated during any 12-month period beginning on July 1 and ending on the next June 30 to an amount that does not exceed the amount by which the aggregate of

the amounts credited to the state's account under 42 U.S.C. s. 1103 during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the state's account during those 35 12-month periods.

(b) Amounts credited to this state's account in the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1103 which are obligated for administration or paid out for benefits shall be charged against equivalent amounts that were first credited and that are not already charged, except that an amount obligated for administration during a 12-month period specified in this section may not be charged against any amount credited during that 12-month period earlier than the 34th 12-month period preceding that period. Any amount credited to the state's account under 42 U.S.C. s. 1103 which is appropriated for expenses of administration, regardless of whether this amount is withdrawn from the Unemployment Compensation Trust Fund, shall be excluded from the Unemployment Compensation Trust Fund balance for the purposes of s. 443.131(3).

(c) Money appropriated as provided in this section for the payment of expenses of administration may only be requisitioned as needed for the payment of obligations incurred under the appropriation and, upon requisition, must be deposited in the Employment Security Administration Trust Fund from which the payments are made. Money deposited, until expended, remains a part of the Unemployment Compensation Trust Fund and, if not expended, the money must be returned promptly to the state's account in the federal Unemployment Compensation Trust Fund.

(6) TRUST FUND SOLE SOURCE FOR BENEFITS.--The Unemployment Compensation Trust Fund is the sole and exclusive source for paying unemployment benefits, and these benefits are due and payable only to the extent that contributions or reimbursements, with increments thereon, actually collected and credited to the fund and not otherwise appropriated or allocated, are available for payment. The state shall administer the fund without any liability on the part of the state beyond the amount of moneys received from the United States Department of Labor or other federal agency.

History.--s. 10, ch. 18402, 1937; s. 6, ch. 19637, 1939; CGL 1940 Supp. 4151(497); s. 1, ch. 24084, 1947; s. 11, ch. 25035, 1949; s. 6, ch. 29771, 1955; ss. 1, 2, 3, ch. 59-99; s. 2, ch. 61-119; s. 6, ch. 61-132; s. 1, ch. 61-172; ss. 1, 2, ch. 63-276; ss. 1, 2, 3, ch. 65-114; ss. 17, 35, ch. 69-106; ss. 1, 2, 3, ch. 70-265; s. 1, ch. 70-315; ss. 8, 9, ch. 71-225; s. 1, ch. 73-283; s. 1, ch. 77-174; s. 119, ch. 79-164; ss. 6, 8, 9, ch. 80-95; s. 1, ch. 84-278; s. 12, ch. 85-61; s. 143, ch. 97-103; s. 37, ch. 98-34; s. 3, ch. 98-154; s. 106, ch. 2000-153; s. 44, ch. 2003-36; s. 497, ch. 2003-261; s. 77, ch. 2005-2.

Note.--Former s. 443.10.

443.211 Employment Security Administration Trust Fund; appropriation; reimbursement.--

(1) EMPLOYMENT SECURITY ADMINISTRATION TRUST FUND.--There is created in the State Treasury the "Employment Security Administration Trust Fund." All moneys deposited into this fund remain continuously available to the Agency for Workforce Innovation for expenditure in accordance with this chapter and do not revert at any time and may not be transferred to any other fund. All moneys in this fund which are received from the Federal Government or any federal agency or which are appropriated by this state under ss. 443.171 and 443.181, except money received under s. 443.191(5)(c), must be expended solely for the purposes and in the amounts found necessary by the authorized cooperating federal agencies for the proper and efficient administration of this chapter. The fund consists of: all moneys appropriated by this state; all moneys received from the United

States or any federal agency; all moneys received from any other source for the administration of this chapter; any funds collected for enhanced, specialized, or value-added labor market information services; any moneys received from any agency of the United States or any other state as compensation for services or facilities supplied to that agency; any amounts received from any surety bond or insurance policy or from other sources for losses sustained by the Employment Security Administration Trust Fund or by reason of damage to equipment or supplies purchased from moneys in the fund; and any proceeds from the sale or disposition of such equipment or supplies. All money requisitioned and deposited in this fund under s. 443.191(5)(c) remains part of the Unemployment Compensation Trust Fund and must be used only in accordance with s. 443.191(5). All moneys in this fund must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as provided by law for other trust funds in the State Treasury. These moneys must be secured by the depositary in which they are held to the same extent and in the same manner as required by the general depositary law of the state, and collateral pledged must be maintained in a separate custody account. All payments from the Employment Security Administration Trust Fund must be approved by the Agency for Workforce Innovation or by an authorized agent and must be made by the Chief Financial Officer. Any balances in this fund do not revert at any time and must remain continuously available to the Agency for Workforce Innovation for expenditure consistent with this chapter.

(2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST FUND.--There is created in the State Treasury the "Special Employment Security Administration Trust Fund," into which shall be deposited or transferred all interest on contributions and reimbursements, penalties, and fines or fees collected under this chapter. Interest on contributions and reimbursements, penalties, and fines or fees deposited during any calendar quarter in the clearing account in the Unemployment Compensation Trust Fund shall, as soon as practicable after the close of that calendar quarter and upon certification of the Agency for Workforce Innovation, be transferred to the Special Employment Security Administration Trust Fund. The amount certified by the Agency for Workforce Innovation as required under this chapter to pay refunds of interest on contributions and reimbursements, penalties, and fines or fees collected and erroneously deposited into the clearing account in the Unemployment Compensation Trust Fund shall, however, be withheld from this transfer. The interest and penalties certified for transfer are deemed as being erroneously deposited in the clearing account, and their transfer to the Special Employment Security Administration Trust Fund is deemed to be a refund of the erroneous deposits. All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same requirements as provided by law for other trust funds in the State Treasury. These moneys may not be expended or be available for expenditure in any manner that would permit their substitution for, or permit a corresponding reduction in, federal funds that would, in the absence of these moneys, be available to finance expenditures for the administration of this chapter. This section does not prevent these moneys from being used as a revolving fund to cover lawful expenditures for which federal funds are requested but not yet received, subject to the charging of the expenditures against the funds when received. The moneys in this fund, with the approval of the Executive Office of the Governor, shall be used by the Agency for Workforce Innovation for paying administrative costs that are not chargeable against funds obtained from federal sources. All moneys in the Special Employment Security Administration Trust Fund shall be continuously available to the Agency for Workforce Innovation for expenditure in accordance with this chapter and do not revert at any time. All payments from the Special Employment Security Administration Trust Fund must be approved by the Agency for Workforce Innovation or by an authorized agent and shall be made by the Chief Financial Officer. The moneys in this fund are available to replace, as contemplated by subsection (3), expenditures from the Employment Security Administration Trust Fund which the United States Secretary of Labor, or other authorized federal

agency or authority, finds are lost or improperly expended because of any action or contingency. The Chief Financial Officer is liable on her or his official bond for the faithful performance of her or his duties in connection with the Special Employment Security Administration Trust Fund.

(3) REIMBURSEMENT OF FUND.--If any moneys received from the United States Secretary of Labor under 42 U.S.C. ss. 501-504, any unencumbered balances in the Employment Security Administration Trust Fund, any moneys granted to this state under the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by the moneys granted to this state under the Wagner-Peyser Act, are after reasonable notice and opportunity for hearing, found by the United States Secretary of Labor, because of any action or contingency, to be lost or expended for purposes other than, or in amounts in excess of, those allowed by the United States Secretary of Labor for the administration of this chapter, these moneys shall be replaced by moneys appropriated for that purpose from the General Revenue Fund to the Employment Security Administration Trust Fund for expenditure as provided in subsection (1). Upon receipt of notice of such a finding by the United States Secretary of Labor, the Agency for Workforce Innovation shall promptly report the amount required for replacement to the Governor. The Governor shall, at the earliest opportunity, submit to the Legislature a request for the appropriation of the replacement funds.

(4) RESPONSIBILITY FOR TRUST FUNDS.--In connection with its duties under s. 443.181, the Agency for Workforce Innovation is responsible for the deposit, requisition, expenditure, approval of payment, reimbursement, and reporting in regard to the trust funds established by this section.

History.--s. 14, ch. 18402, 1937; s. 9, ch. 19637, 1939; CGL 1940 Supp. 4151(501); s. 13, ch. 20685, 1941; s. 4, ch. 24084, 1947; s. 1, ch. 25206, 1949; s. 11, ch. 25035, 1949; ss. 10, 11, ch. 29771, 1955; s. 4, ch. 59-99; s. 2, ch. 61-119; ss. 17, 31, 35, ch. 69-106; s. 1, ch. 71-215; s. 139, ch. 79-190; ss. 6, 8, 9, ch. 80-95; s. 16, ch. 83-174; s. 13, ch. 85-61; s. 5, ch. 95-345; s. 144, ch. 97-103; s. 38, ch. 98-34; s. 108, ch. 2000-165; s. 45, ch. 2003-36; s. 498, ch. 2003-261; s. 6, ch. 2004-235.

Note.--Former s. 443.14.

443.221 Reciprocal arrangements.--

(1)(a) The Agency for Workforce Innovation or its tax collection service provider may enter into reciprocal arrangements with other states or with the Federal Government, or both, for considering services performed by an individual for a single employing unit for which services are performed by the individual in more than one state as services performed entirely within any one of the states:

1. In which any part of the individual's service is performed;
2. In which the individual has her or his residence; or
3. In which the employing unit maintains a place of business.

(b) For services to be considered as performed within a state under a reciprocal agreement, the employing unit must have an election in effect for those services, which is approved by the agency charged with the administration of such state's unemployment compensation law, under which all the services performed by the individual for the employing unit are deemed to be performed entirely within that state.

(c) The Agency for Workforce Innovation shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with her or his wages and employment covered under the unemployment compensation laws of other states, which are approved by the United States Secretary of Labor, in consultation with the state unemployment compensation agencies, as reasonably calculated to assure the prompt and full payment of compensation in those situations and which include provisions for:

1. Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws; and
2. Avoiding the duplicate use of wages and employment because of the combination.

(d) Contributions or reimbursements due under this chapter with respect to wages for insured work are, for the purposes of ss. 443.131, 443.1312, 443.1313, and 443.141, deemed to be paid to the fund as of the date payment was made as contributions or reimbursements therefor under another state or federal unemployment compensation law, but an arrangement may not be entered into unless it contains provisions for reimbursement to the fund of the contributions or reimbursements and the actual earnings thereon as the Agency for Workforce Innovation or its tax collection service provider finds are fair and reasonable as to all affected interests.

(2) The Agency for Workforce Innovation or its tax collection service provider may make to other state or federal agencies and receive from these other state or federal agencies reimbursements from or to the fund, in accordance with arrangements entered into under subsection (1).

(3) The Agency for Workforce Innovation or its tax collection service provider may enter into reciprocal arrangements with other states or the Federal Government, or both, for exchanging services, determining and enforcing payment obligations, and making available facilities and information. The Agency for Workforce Innovation or its tax collection service provider may conduct investigations, secure and transmit information, make available services and facilities, and exercise other powers provided under this chapter to facilitate the administration of any unemployment compensation or public employment service law and, in a similar manner, accept and use information, services, and facilities made available to this state by the agency charged with the administration of any other unemployment compensation or public employment service law.

(4) To the extent permissible under federal law, the Agency for Workforce Innovation may enter into or cooperate in arrangements whereby facilities and services provided under this chapter and facilities and services provided under the unemployment compensation law of any foreign government may be used for the taking of claims and the payment of benefits under the employment security law of the state or under a similar law of that government.