



Unemployment Compensation in Florida

CS/HB 7033 by Economic Development & Community Affairs Policy Council and Murzin and Carroll

- This commonsense approach recognizes that it is better right now for Florida employers to use their dollars to keep Floridians working rather than be forced to lay off employees in order to afford a higher unemployment tax bill.
- Recharging Florida's economy and putting Floridians back to work is our top priority this year. Making sure that employers can afford to keep the employees they already have is part of that agenda.
- This legislation lowers the potential increase in unemployment tax rates by an average of 39 percent for employers in 2010.

Estimated rates if CS/HB 7033 **is** passed:

Minimum rate: \$25.20 per employee

Maximum rate: \$378.00 per employee

Estimated rates effective January 1, 2010 (based on annual salary up to \$8,500 per employee) if CS/HB 7033 **is not** passed:

Minimum rate: \$100.30 per employee

Maximum rate: \$459.00 per employee

CS/HB 7033 makes a number of changes:

- *Reduces the taxable wage base from \$8,500 down to \$7,000 for the next two years. The rate will return to \$8,500 in 2012, and sunsets back to \$7,000 in 2015, unless there are outstanding federal loans.*
- *Regardless of the balance in the Unemployment Compensation Trust Fund, no rate increase will be triggered for the next two years. Rates will begin to rise again in 2012, but forecasts indicate our economy will be stronger and hopefully employers will have used the time to plan for the higher costs.*
- *Grants employers the ability to make their 2010 and 2011 tax payments in quarterly installments without interest or penalties if the employers make the quarterly filings and payments on time.*
- *The payment of interest on federal advances will be made through an employer assessment.*
- *Provides an extension of the State Extended Benefits program which is 100% federally funded. This extension will cover up to 8 additional weeks for claimants. Approximately 20,000 Floridians would be eligible to receive extended benefits.*



Bill Details

This bill lowers the potential increase in unemployment tax rates on businesses the next two years by accomplishing the following:

Taxable Wage Base

CS/HB 7033 reduces the taxable wage base from \$8,500 to \$7,000 for two years. These changes will have the effect of reducing employer's unemployment compensation taxes for 2010 and 2011. In 2012, the wage base returns to \$8,500. It will sunset back to \$7,000 in 2015 under current law provisions, unless there are outstanding federal loans remaining.

Unemployment Compensation Trust Fund

The bill suspends the Unemployment Compensation Trust Fund (UC Trust Fund) positive adjustment factor for the next two years. This change will have the effect of reducing employer's unemployment compensation taxes for 2010 and 2011. Regardless of the balance in the Unemployment Compensation Trust Fund, no rate increase will be triggered by the positive adjustment factor since it will not be applied. However, employers should expect that in this two year period rates will still rise some based on UC experience, socialization costs, and unemployment rates.

Under normal circumstances, the positive adjustment factor occurs when the UC Trust Fund falls below 4 percent of the total taxable payroll in the most recent state fiscal year. Florida law provides an annual adjustment- the positive adjustment factor- to the employment tax rates on businesses to rebuild the balance in the UC Trust Fund. The positive adjustment factor is turned off once the UC Trust Fund is replenished. Beginning January 1, 2012, a three-year recoupment period will go into effect to replenish the UC Trust Fund in a shortened timeframe. The objective is to collect enough money to raise the UC Trust Fund Balance above the 4 percent threshold. The business community is in full support of the three-year recoupment period even though they will face higher employment tax rates. Under current law, on January 1, 2015, the positive adjustment factor will go back to a four-year recoupment period, unless outstanding federal loans remain.

Employer Assessment

CS/HB 7033 provides for payment of interest on federal advances through an employer assessment. In 2009, the state Unemployment Compensation Trust Fund was exhausted and the state began borrowing money from the federal government to pay for unemployment benefits. Since the UC Trust Fund is not expected to carry a positive balance under current law until the 2015-2016 fiscal year, Florida will begin owing interest on the money that has been borrowed starting in fiscal year 2011-2012.

The Consensus Estimating Conference is charged with determining the employer assessment estimate by December 1 of the year prior to the due date for the interest payment. The Department of Revenue must make the assessment prior to February 1 of the year the interest is due. An employer has up to five months to pay the assessment, which is due by June 30. The provision is made to postpone or eliminate an assessment if the federal government postpones or forgives interest due on advances. Further, a severability clause is added to the bill that should any provision interfere with the ability of the state to receive interest relief or prevent employers from qualifying for the federal tax credit, then that provision is invalid.



Payment Schedule

For an annual \$5.00 administrative fee, employers will be able to make their 2010 and 2011 UC tax payments in quarterly installments without interest or penalties as long as the employer makes the quarterly filing and payment according to the new schedule. The new schedule will have businesses making the quarterly payments on April 30, July 31, October 31, December 31 of 2010 and 2011. However, any penalties, interest, or fees that were due prior to this new schedule will continue to accrue as well as on any missed filings under the new schedule.

Extended Benefits

Approximately 20,000 Floridians would be eligible to receive up to 8 weeks additional compensation through the "State Extended Benefits" (EB) program. In December 2009, the U.S. Congress extended from January 1 to February 28 the period that the federal government would fund 100% of state extended benefits for former private sector employees. There is no cost to private employers, however, like the original extended benefits provision, reimbursable employers like state and local governments are not covered by the federal government and must pay themselves. The estimated cost to the state is \$179,677, while the change will cost local government \$432,956. EB is not charged to employers and has no effect on an employer's experience rating.

Program Notes

The unemployment compensation (UC) program is administered jointly by federal and state governments to provide benefits to eligible workers who are unemployed through no-fault of their own (as determined under state law) and who meet the requirements of state law. Each state designs its own UC program within the framework of federal guidelines.

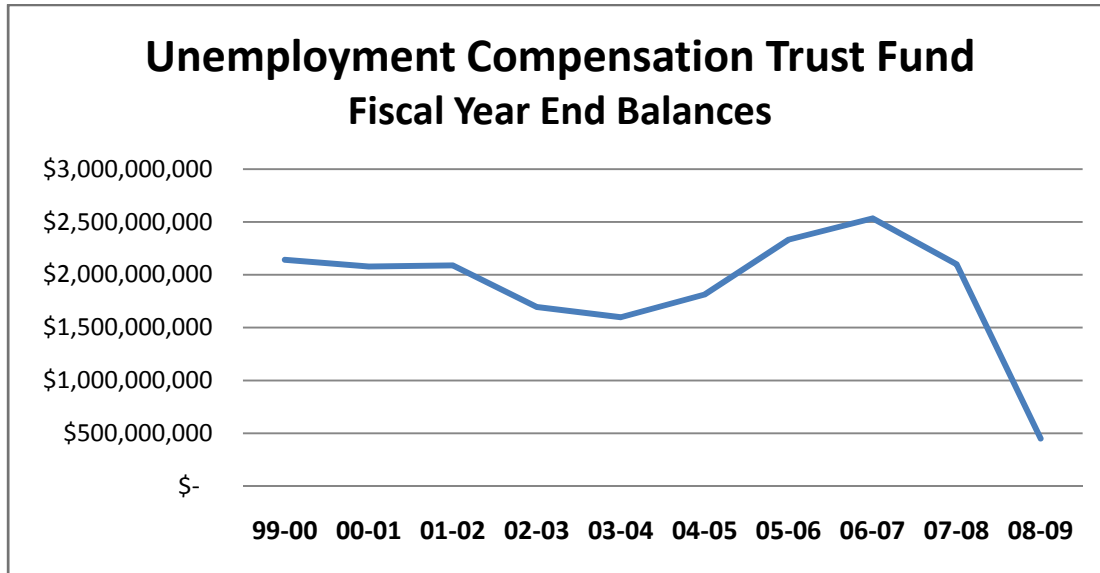
Individual states collect UC payroll taxes on a quarterly basis, which are used to pay benefits. The Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act and uses it to provide grants to the states to fund administration of their UC programs. The tax rates and benefit levels in Florida were established with the intention that the system would accumulate reserves during economic expansions, sufficient to provide funds to pay benefits during economic recessions.

UC tax rates are generally calculated using a formula that considers each employer's employment experience, i.e. amount of benefits paid to ex-employees compared to employer's total payroll in the last three years. The better the experience rating, the lower the tax rate a business pays.

Unfortunately, current economic conditions have increased the level of unemployment in Florida, and consequently, the overall amount of unemployment benefits that the state is paying to unemployed citizens has also increased. Florida's seasonally adjusted unemployment rate for December 2009 was 11.8%. The last time the rate was higher was May 1975, when it reached 11.9%.



Current UC Trust Fund Deficit



When the unemployment compensation trust fund falls below a certain threshold, Florida law provides an annual adjustment to the unemployment tax rates on businesses to rebuild the balance in the UC Trust Fund. The positive adjustment factor contained in Section 443.131(3) (e) 1.c., Florida Statutes, occurs if the balance in the UC Trust Fund falls below 4% of the total taxable payroll in the most recent state fiscal year.

At the end of the 4th quarter of 2008, the UC Trust Fund balance was over \$1.3 billion; as of June 30, 2009, the balance was just under \$450 million which is 0.9% of the fiscal year 2008-09 taxable payroll of nearly \$50 billion. Since the balance was lower than 4% of the taxable payroll on June 30, 2009, the automatic trigger was enacted, a requirement which significantly increases unemployment tax rates. Notices of businesses' individual rates were distributed in December 2009 and are effective for wages paid on or after January 1, 2010.

Tax rates are generally calculated using a formula that considers each employer's employment experience, i.e. amount of benefits paid to ex-employees compared to employer's total payroll in the last three years. The better the experience rating, the lower the tax rate a business pays. As of January 1, 2010, tax payments at the upper level at current rates are capped at \$459 per employee. This means that businesses with an experience rating reflecting less employee turnover feel the effects of a rate increase, while those companies with experience ratings reflecting high turnover rates and are already paying the maximum rate frequently do not.

The dramatic increase in unemployment in Florida has exhausted the UC Trust Fund and the state is currently borrowing an average of \$225 million *per month* from the federal government to continue paying unemployment benefits for Floridians. As of February 4, 2010, Florida has borrowed over \$1.21 billion from the federal government.

Under the federal stimulus plan, the state does not have to pay interest on monies borrowed for unemployment benefits prior to December 31, 2010.



However, under current law Florida's UC Trust Fund is not expected to carry a positive balance until the 2015-16 fiscal year, which means Florida will begin owing interest in fiscal year 2011-12. Estimated interest payments on this borrowing are significant; they may run as high as \$130.0 million due September 2011, \$192.0 million in September 2012, and \$163.7 million in September 2013, \$114.7 in September 2014 and \$56.8 in September 2015. Interest payments must be made from sources other than trust funds, e.g. General Revenue; however, the principal can be paid with state unemployment tax.

If the Trust Fund remains in default, the federal government has the ability to take away the ability of Florida companies to write-off their unemployment expenses from their federal tax returns.

Selected Estimated U.C. System Financial Components (*) (All Numbers in Millions of \$)

	State Taxes (***)			Ending TF Balance (**)			Federal Loans Ending Balance		
	Current	Proposed	Diff.	Current	Proposed	Diff.	Current	Proposed	Diff.
2009-10	1,596	654	(942)	0	0	0	1,028	1,970	942
2010-11	2,216	1,281	(934)	0	0	0	1,719	3,595	1,876
2011-12	2,475	2,559	84	0	0	0	1,601	3,394	1,792
2012-13	2,632	2,419	(213)	0	0	0	709	2,715	2,006
2013-14	2,641	2,398	(243)	596	0	(596)	0	1,672	1,672
2014-15	2,185	2,241	56	1,014	0	(1,014)	0	533	533
2015-16	1,844	2,148	304	1,133	752	(381)	0	0	0
2016-17	1,783	1,960	177	1,225	1,014	(212)	0	0	0
2017-18	1,768	1,820	51	1,359	1,187	(172)	0	0	0
2018-19	1,760	1,794	34	1,584	1,426	(158)	0	0	0

	Interest			Additional Federal Tax		
	Current	Proposed	Diff.	Current	Proposed	Diff.
2009-10	0	0	0	0	0	0
2010-11	0	0	0	0	0	0
2011-12	76	130	54	149	149	0
2012-13	104	192	88	311	311	0
2013-14	68	164	96	486	486	0
2014-15	0	115	115	0	665	665
2015-16	0	57	57	0	846	846
2016-17	0	0	0	0	0	0
2017-18	0	0	0	0	0	0
2018-19	0	0	0	0	0	0

*-- Estimates adopted by the Revenue Estimating Conference on February 19, 2010. **The estimates do not assume another national or state economic recession within the next 10 years.**

**--Estimates assume that positive cash flow to the fund is used to pay down outstanding federal loan balances.

***--Assumes 80% of employers take advantage of the installment payment option.