

Bill No. CS for SB 1092

Amendment No. \_\_\_\_

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Latvala moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 3, between lines 25 and 26,		
15			
16	insert:		
17	Section 2. Section 440.49, Florida Statutes, is		
18	amended to read:		
19	440.49 Limitation of liability for subsequent injury		
20	through Special Disability Trust Fund.--		
21	(1) LEGISLATIVE INTENT.--Whereas it is often difficult		
22	for workers with disabilities to achieve employment or to		
23	become reemployed following an injury, and it is the desire of		
24	the Legislature to facilitate the return of these workers to		
25	the workplace, it is the purpose of this section to encourage		
26	the employment, reemployment, and accommodation of the		
27	physically disabled by reducing an employer's insurance		
28	premium for reemploying an injured worker, to decrease		
29	litigation between carriers on apportionment issues, and to		
30	protect employers from excess liability for compensation and		
31	medical expense when an injury to a physically disabled worker		

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1 merges with, aggravates, or accelerates her or his preexisting  
2 permanent physical impairment to cause either a greater  
3 disability or permanent impairment, or an increase in  
4 expenditures for temporary compensation or medical benefits  
5 than would have resulted from the injury alone. The division  
6 or the administrator shall inform all employers of the  
7 existence and function of the fund and shall interpret  
8 eligibility requirements liberally. However, this subsection  
9 shall not be construed to create or provide any benefits for  
10 injured employees or their dependents not otherwise provided  
11 by this chapter. The entitlement of an injured employee or her  
12 or his dependents to compensation under this chapter shall be  
13 determined without regard to this subsection, the provisions  
14 of which shall be considered only in determining whether an  
15 employer or carrier who has paid compensation under this  
16 chapter is entitled to reimbursement from the Special  
17 Disability Trust Fund.

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

19 (a) "Permanent physical impairment" means and is  
20 limited to the conditions listed in paragraph (6)(a).

21 (b) "Preferred worker" means a worker who, because of  
22 a permanent impairment resulting from a compensable injury or  
23 occupational disease, is unable to return to the worker's  
24 regular employment.

25 (c) "Merger" describes or means that:

26 1. If the permanent physical impairment had not  
27 existed, the subsequent accident or occupational disease would  
28 not have occurred;

29 2. The permanent disability or permanent impairment  
30 resulting from the subsequent accident or occupational disease  
31 is materially and substantially greater than that which would

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1 have resulted had the permanent physical impairment not  
2 existed, and the employer has been required to pay, and has  
3 paid, permanent total disability or permanent impairment  
4 benefits for that materially and substantially greater  
5 disability;

6 3. The preexisting permanent physical impairment is  
7 aggravated or accelerated as a result of the subsequent injury  
8 or occupational disease, or the preexisting impairment has  
9 contributed, medically and circumstantially, to the need for  
10 temporary compensation, medical, or attendant care and the  
11 employer has been required to pay, and has paid, temporary  
12 compensation, medical, or attendant care benefits for the  
13 aggravated preexisting permanent impairment; or

14 4. Death would not have been accelerated if the  
15 permanent physical impairment had not existed.

16 (d) "Excess permanent compensation" means that  
17 compensation for permanent impairment, or permanent total  
18 disability or death benefits, for which the employer or  
19 carrier is otherwise entitled to reimbursement from the  
20 Special Disability Trust Fund.

21 (e) "Administrator" means the entity selected by the  
22 corporation to review, allow, deny, compromise, controvert,  
23 and litigate claims of the Special Disability Trust Fund."

24 (f) "Corporation" means the Special Disability Trust  
25 Fund Financing Corporation, as created under subsection (13).

26 (3) DEDUCTIBLE.--Reimbursement may not be obtained for  
27 the first \$10,000 of benefits paid which otherwise qualify for  
28 reimbursement under this section. This deductible does not  
29 apply to claims by employers for reimbursement under  
30 subparagraph (b)3.

31 (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL

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1 DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT  
2 CARE AFTER OTHER PHYSICAL IMPAIRMENT.--

3 (a) Permanent impairment.--If an employee who has a  
4 preexisting permanent physical impairment incurs a subsequent  
5 permanent impairment from injury or occupational disease  
6 arising out of, and in the course of, her or his employment  
7 which merges with the preexisting permanent physical  
8 impairment to cause a permanent impairment, the employer  
9 shall, in the first instance, pay all benefits provided by  
10 this chapter; but, subject to the limitations specified in  
11 subsection (6), such employer shall be reimbursed from the  
12 Special Disability Trust Fund created by subsection (8) for 50  
13 percent of all impairment benefits which the employer has been  
14 required to provide pursuant to s. 440.15(3)(a) as a result of  
15 the subsequent accident or occupational disease.

16 (b) Permanent total disability.--If an employee who  
17 has a preexisting permanent physical impairment incurs a  
18 subsequent permanent impairment from injury or occupational  
19 disease arising out of, and in the course of, her or his  
20 employment which merges with the preexisting permanent  
21 physical impairment to cause permanent total disability, the  
22 employer shall, in the first instance, pay all benefits  
23 provided by this chapter; but, subject to the limitations  
24 specified in subsection (6), such employer shall be reimbursed  
25 from the Special Disability Trust Fund created by subsection  
26 (8) for 50 percent of all compensation for permanent total  
27 disability.

28 (c) Temporary compensation and medical benefits;  
29 aggravation or acceleration of preexisting condition or  
30 circumstantial causation.--If an employee who has a  
31 preexisting permanent physical impairment experiences an

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1 aggravation or acceleration of the preexisting permanent  
2 physical impairment as a result of an injury or occupational  
3 disease arising out of and in the course of her or his  
4 employment, or suffers an injury as a result of a merger as  
5 defined in subparagraph (1)(b)2., the employer shall provide  
6 all benefits provided by this chapter, but, subject to the  
7 limitations specified in subsection (7), the employer shall be  
8 reimbursed by the Special Disability Trust Fund created by  
9 subsection (8) for 50 percent of its payments for temporary,  
10 medical, and attendant care benefits.

11 (5) WHEN DEATH RESULTS.--If death results from the  
12 subsequent permanent impairment contemplated in paragraph (c)  
13 within 1 year after the subsequent injury, or within 5 years  
14 after the subsequent injury when disability has been  
15 continuous since the subsequent injury, and it is determined  
16 that the death resulted from a merger, the employer shall, in  
17 the first instance, pay the funeral expenses and the death  
18 benefits prescribed by this chapter; but, subject to the  
19 limitations specified in subsection (6), she or he shall be  
20 reimbursed from the Special Disability Trust Fund created by  
21 subsection (8) for the last 50 percent of all compensation  
22 allowable and paid for such death and for 50 percent of the  
23 amount paid as funeral expenses.

24 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.--

25 (a) Reimbursement is not allowed under this section  
26 unless it is established that the employer knew of the  
27 preexisting permanent physical impairment prior to the  
28 occurrence of the subsequent injury or occupational disease,  
29 and that the permanent physical impairment is one of the  
30 following:

31 1. Epilepsy.

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- 1           2. Diabetes.
- 2           3. Cardiac disease.
- 3           4. Amputation of foot, leg, arm, or hand.
- 4           5. Total loss of sight of one or both eyes or a
- 5 partial loss of corrected vision of more than 75 percent
- 6 bilaterally.
- 7           6. Residual disability from poliomyelitis.
- 8           7. Cerebral palsy.
- 9           8. Multiple sclerosis.
- 10          9. Parkinson's disease.
- 11          10. Meniscectomy.
- 12          11. Patellectomy.
- 13          12. Ruptured cruciate ligament.
- 14          13. Hemophilia.
- 15          14. Chronic osteomyelitis.
- 16          15. Surgical or spontaneous fusion of a major
- 17 weight-bearing joint.
- 18          16. Hyperinsulinism.
- 19          17. Muscular dystrophy.
- 20          18. Thrombophlebitis.
- 21          19. Herniated intervertebral disk.
- 22          20. Surgical removal of an intervertebral disk or
- 23 spinal fusion.
- 24          21. One or more back injuries or a disease process of
- 25 the back resulting in disability over a total of 120 or more
- 26 days, if substantiated by a doctor's opinion that there was a
- 27 preexisting impairment to the claimant's back.
- 28          22. Total deafness.
- 29          23. Mental retardation, provided the employee's
- 30 intelligence quotient is such that she or he falls within the
- 31 lowest 2 percentile of the general population. However, it

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1 shall not be necessary for the employer to know the employee's  
2 actual intelligence quotient or actual relative ranking in  
3 relation to the intelligence quotient of the general  
4 population.

5           24. Any permanent physical condition which, prior to  
6 the industrial accident or occupational disease, constitutes a  
7 20-percent impairment of a member or of the body as a whole.

8           25. Obesity, provided the employee is 30 percent or  
9 more over the average weight designated for her or his height  
10 and age in the Table of Average Weight of Americans by Height  
11 and Age prepared by the Society of Actuaries using data from  
12 the 1979 Build and Blood Pressure Study.

13           26. Any permanent physical impairment as defined in s.  
14 440.15(3) which is a result of a prior industrial accident  
15 with the same employer or the employer's parent company,  
16 subsidiary, sister company, or affiliate located within the  
17 geographical boundaries of this state.

18           (b) The Special Disability Trust Fund is not liable  
19 for any costs, interest, penalties, or attorneys' fees.

20           (c) An employer's or carrier's right to apportionment  
21 or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and  
22 440.151(1)(c) does not preclude reimbursement from such fund,  
23 except when the merger comes within the definition of  
24 subparagraph (2)(b)2. and such apportionment or deduction  
25 relieves the employer or carrier from providing the materially  
26 and substantially greater permanent disability benefits  
27 otherwise contemplated in those paragraphs.

28           (7) REIMBURSEMENT OF EMPLOYER.--

29           (a) The right to reimbursement as provided in this  
30 section is barred unless written notice of claim of the right  
31 to such reimbursement is filed by the employer or carrier

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1 entitled to such reimbursement with the division or  
2 administrator at Tallahassee within 2 years after the date the  
3 employee last reached maximum medical improvement, or within 2  
4 years after the date of the first payment of compensation for  
5 permanent total disability, wage loss, or death, whichever is  
6 later. The notice of claim must contain such information as  
7 the division by rule requires or as established by the  
8 administrator; and the employer or carrier claiming  
9 reimbursement shall furnish such evidence in support of the  
10 claim as the division or administrator reasonably may require.

11 (b) For notice of claims on the Special Disability  
12 Trust Fund filed on or after July 1, 1978, the Special  
13 Disability Trust Fund shall, within 120 days after receipt of  
14 notice that a carrier has paid, been required to pay, or  
15 accepted liability for excess compensation, serve notice of  
16 the acceptance of the claim for reimbursement.

17 (c) A proof of claim must be filed on each notice of  
18 claim on file as of June 30, 1997, within 1 year after July 1,  
19 1997, or the right to reimbursement of the claim shall be  
20 barred. A notice of claim on file on or before June 30, 1997,  
21 may be withdrawn and refiled if, at the time refiled, the  
22 notice of claim remains within the limitation period specified  
23 in paragraph (a). Such refiling shall not toll, extend, or  
24 otherwise alter in any way the limitation period applicable to  
25 the withdrawn and subsequently refiled notice of claim. Each  
26 proof of claim filed shall be accompanied by a proof-of-claim  
27 fee as provided in paragraph (9)(d). The Special Disability  
28 Trust Fund shall, within 120 days after receipt of the proof  
29 of claim, serve notice of the acceptance of the claim for  
30 reimbursement. This paragraph shall apply to all claims  
31 notwithstanding the provisions of subsection (12).



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1           (d) Each notice of claim filed or refiled on or after  
2 July 1, 1997, must be accompanied by a notification fee as  
3 provided in paragraph (9)(d). A proof of claim must be filed  
4 within 1 year after the date the notice of claim is filed or  
5 refiled, accompanied by a proof-of-claim fee as provided in  
6 paragraph (9)(d), or the claim shall be barred. The  
7 notification fee shall be waived if both the notice of claim  
8 and proof of claim are submitted together as a single filing.  
9 The Special Disability Trust Fund shall, within 180 days after  
10 receipt of the proof of claim, serve notice of the acceptance  
11 of the claim for reimbursement. This paragraph shall apply to  
12 all claims notwithstanding the provisions of subsection (12).

13           (e) For dates of accident on or after January 1, 1994,  
14 the Special Disability Trust Fund shall, within 120 days of  
15 receipt of notice that a carrier has been required to pay, and  
16 has paid over \$10,000 in benefits, serve notice of the  
17 acceptance of the claim for reimbursement. Failure of the  
18 Special Disability Trust Fund to serve notice of acceptance  
19 shall give rise to the right to request a hearing on the claim  
20 for reimbursement. If the Special Disability Trust Fund  
21 through its representative denies or controverts the claim,  
22 the right to such reimbursement shall be barred unless an  
23 application for a hearing thereon is filed with the division  
24 or administrator at Tallahassee within 60 days after notice to  
25 the employer or carrier of such denial or controversion. When  
26 such application for a hearing is timely filed, the claim  
27 shall be heard and determined in accordance with the procedure  
28 prescribed in s. 440.25, to the extent that such procedure is  
29 applicable, and in accordance with the workers' compensation  
30 rules of procedure. In such proceeding on a claim for  
31 reimbursement, the Special Disability Trust Fund shall be made

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1 the party respondent, and no findings of fact made with  
2 respect to the claim of the injured employee or the dependents  
3 for compensation, including any finding made or order entered  
4 pursuant to s. 440.20(12), shall be res judicata. The Special  
5 Disability Trust Fund may not be joined or made a party to any  
6 controversy or dispute between an employee and the dependents  
7 and the employer or between two or more employers or carriers  
8 without the written consent of the fund.

9 (f) When it has been determined that an employer or  
10 carrier is entitled to reimbursement in any amount, the  
11 employer or carrier shall be reimbursed annually from the  
12 Special Disability Trust Fund for the compensation and medical  
13 benefits paid by the employer or carrier for which the  
14 employer or carrier is entitled to reimbursement, upon filing  
15 request therefor and submitting evidence of such payment in  
16 accordance with rules prescribed by the division, which rules  
17 may include parameters for annual audits. The Special  
18 Disability Trust Fund shall pay the approved reimbursement  
19 requests on a first-in, first-out basis reflecting the order  
20 in which the reimbursement requests were received.

21 (8) PREFERRED WORKER PROGRAM.--The division or  
22 administrator shall issue identity cards to preferred workers  
23 upon request by qualified employees and shall reimburse an  
24 employer, from the Special Disability Trust Fund, for the cost  
25 of workers' compensation premium related to the preferred  
26 workers payroll for up to 3 years of continuous employment  
27 upon satisfactory evidence of placement and issuance of  
28 payroll and classification records and upon the employee's  
29 certification of employment.

30 (9) SPECIAL DISABILITY TRUST FUND.--

31 (a) There is established in the State Treasury a

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1 special fund to be known as the "Special Disability Trust  
2 Fund," which shall be available only for the purposes stated  
3 in this section; and the assets thereof may not at any time be  
4 appropriated or diverted to any other use or purpose. The  
5 Treasurer shall be the custodian of such fund, and all moneys  
6 and securities in such fund shall be held in trust by such  
7 Treasurer and shall not be the money or property of the state.  
8 The Treasurer is authorized to disburse moneys from such fund  
9 only when approved by the division or corporation and upon the  
10 order of the Comptroller. The Treasurer shall deposit any  
11 moneys paid into such fund into such depository banks as the  
12 division or corporation may designate and is authorized to  
13 invest any portion of the fund which, in the opinion of the  
14 division, is not needed for current requirements, in the same  
15 manner and subject to all the provisions of the law with  
16 respect to the deposits of state funds by such Treasurer. All  
17 interest earned by such portion of the fund as may be invested  
18 by the Treasurer shall be collected by her or him and placed  
19 to the credit of such fund.

20 (b)1. The Special Disability Trust Fund shall be  
21 maintained by annual assessments upon the insurance companies  
22 writing compensation insurance in the state, the commercial  
23 self-insurers under ss. 624.462 and 624.4621, the assessable  
24 mutuals under s. 628.601, and the self-insurers under this  
25 chapter, which assessments shall become due and be paid  
26 quarterly at the same time and in addition to the assessments  
27 provided in s. 440.51. The division shall estimate annually in  
28 advance the amount necessary for the administration of this  
29 subsection and the maintenance of this fund and shall make  
30 such assessment in the manner hereinafter provided.

31 2. The annual assessment shall be calculated to

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1 produce during the ensuing fiscal year an amount which, when  
2 combined with that part of the balance in the fund on June 30  
3 of the current fiscal year which is in excess of \$100,000, is  
4 equal to the average of:

5 a. The sum of disbursements from the fund during the  
6 immediate past 3 calendar years, and

7 b. Two times the disbursements of the most recent  
8 calendar year.

9  
10 Such amount shall be prorated among the insurance companies  
11 writing compensation insurance in the state and the  
12 self-insurers.

13 3. The net premiums written by the companies for  
14 workers' compensation in this state and the net premium  
15 written applicable to the self-insurers in this state are the  
16 basis for computing the amount to be assessed as a percentage  
17 of net premiums. Such payments shall be made by each insurance  
18 company and self-insurer to the division for the Special  
19 Disability Trust Fund in accordance with such regulations as  
20 the division prescribes.

21 4. The Treasurer is authorized to receive and credit  
22 to such Special Disability Trust Fund any sum or sums that may  
23 at any time be contributed to the state by the United States  
24 under any Act of Congress, or otherwise, to which the state  
25 may be or become entitled by reason of any payments made out  
26 of such fund.

27 (c) Notwithstanding the Special Disability Trust Fund  
28 assessment rate calculated pursuant to this section, the rate  
29 assessed shall not exceed 4.52 percent.

30 (d) The Special Disability Trust Fund shall be  
31 supplemented by a \$250 notification fee on each notice of

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1 claim filed or refiled after July 1, 1997, and a \$500 fee on  
2 each proof of claim filed in accordance with subsection (7).  
3 Revenues from the fee shall be deposited into the Special  
4 Disability Trust Fund and are exempt from the deduction  
5 required by s. 215.20. The fees provided in this paragraph  
6 shall not be imposed upon any insurer which is in receivership  
7 with the Department of Insurance.

8 (e) The Department of Labor and Employment Security or  
9 administrator shall report annually on the status of the  
10 Special Disability Trust Fund. The report shall update the  
11 estimated undiscounted and discounted fund liability, as  
12 determined by an independent actuary ~~the projected change in~~  
13 ~~fund liability~~, change in the total number of notices of claim  
14 on file with the fund in addition to the number of newly filed  
15 notices of claim, change in the number of proofs of claim  
16 processed by the fund, ~~and~~ the fee revenues refunded and  
17 revenues applied to pay down the liability of the fund, the  
18 average time required to reimburse accepted claims, and the  
19 average administrative costs per claim. The department or  
20 administrator shall submit its ~~initial~~ report to the Governor,  
21 the President of the Senate, and the Speaker of the House of  
22 Representatives ~~by March 1, 1998, for the period ending~~  
23 ~~February 1, 1998, with additional reports submitted by~~  
24 ~~December 1 of each year, 1998, and December 1, 1999.~~

25 (10) DIVISION ADMINISTRATION OF FUND; CLAIMS; ADVISORY  
26 COMMITTEE; EXPENSES.--The division or administrator shall  
27 administer the Special Disability Trust Fund with authority to  
28 allow, deny, compromise, controvert, and litigate claims made  
29 against it and to designate an attorney to represent it in  
30 proceedings involving claims against the fund, including  
31 negotiation and consummation of settlements, hearings before

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1 judges of compensation claims, and judicial review. The  
2 division or administrator or the attorney designated by it  
3 shall be given notice of all hearings and proceedings  
4 involving the rights or obligations of such fund and shall  
5 have authority to make expenditures for such medical  
6 examinations, expert witness fees, depositions, transcripts of  
7 testimony, and the like as may be necessary to the proper  
8 defense of any claim. The division or administrator shall  
9 appoint an advisory committee composed of representatives of  
10 management, compensation insurance carriers, and self-insurers  
11 to aid it in formulating policies with respect to conservation  
12 of the fund, who shall serve without compensation for such  
13 terms as specified by it, but be reimbursed for travel  
14 expenses as provided in s. 112.061. All expenditures made in  
15 connection with conservation of the fund, including the salary  
16 of the attorney designated to represent it and necessary  
17 travel expenses, shall be allowed and paid from the Special  
18 Disability Trust Fund as provided in this section upon the  
19 presentation of itemized vouchers therefor approved by the  
20 division.

21 (11) EFFECTIVE DATES.--This section does not apply to  
22 any case in which the accident causing the subsequent injury  
23 or death or the disablement or death from a subsequent  
24 occupational disease occurred prior to July 1, 1955, or on or  
25 after January 1, 1998. In no event shall the Special  
26 Disability Trust Fund be liable for, or reimburse employers or  
27 carriers for, any case in which the accident causing the  
28 subsequent injury or death or the disablement or death from a  
29 subsequent occupational disease occurred on or after January  
30 1, 1998. The Special Disability Trust Fund shall continue to  
31 reimburse employers or carriers for subsequent injuries

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1 occurring prior to January 1, 1998, and the division shall  
2 continue to assess for and the division or administrator shall  
3 fund reimbursements as provided in subsection (9) for this  
4 purpose.

5 (12) REIMBURSEMENT FROM THE SPECIAL DISABILITY TRUST  
6 FUND.--The applicable law for the purposes of determining  
7 entitlement to reimbursement from the Special Disability Trust  
8 Fund is the law in effect on the date the accident occurred.

9 (13) Florida Special Disability Trust Fund Financing  
10 Corporation.--

11 (a) The Legislature finds that:

12 1. The liabilities of the Special Disability Trust  
13 Fund are substantial and that the extinguishment of these  
14 liabilities in a cost effective and timely manner are of  
15 paramount importance to the state. Consistent with the closing  
16 of the fund provided in subsection (11), the Special  
17 Disability Trust Fund Financing Corporation, in consultation  
18 with the division, is authorized to contract with an  
19 administrator to assume, administer, and settle the  
20 obligations of the Special Disability Trust Fund under this  
21 section.

22 2. The Legislature finds that the creation of a public  
23 benefits corporation and the issuance of bonds or other forms  
24 of indebtedness under this section is consistent with the  
25 underlying public purpose of reducing and ultimately  
26 eliminating the liabilities of the Special Disability Trust  
27 Fund. The purpose of the corporation and the subsequent bond  
28 issuance is to fund and pay the liabilities of the Special  
29 Disability Trust Fund, ensure the existence of a sufficient  
30 funding source for reimbursements to employers and carriers,  
31 and reduce the overall costs of the program provided by the

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1 state by employers and carriers.

2 (b) There is created a public benefits corporation to  
3 be known as the Special Disability Trust Fund Financing  
4 Corporation.

5 1. The corporation shall operate under a three-member  
6 board of directors consisting of the Governor or a designee,  
7 the Treasurer or a designee, and the Executive Director of the  
8 State Board of Administration or a designee.

9 2. The corporation has all of the powers of  
10 corporations under chapter 607 and under chapter 617.

11 3. The corporation may issue bonds, notes, or other  
12 evidences of indebtedness and engage in such other financial  
13 transactions as are necessary to provide sufficient funds to  
14 achieve the purposes of this section.

15 4. The corporation may invest in any of the  
16 investments authorized under s. 215.47.

17 5. There shall be no liability on the part of, and no  
18 cause of action shall arise against, any board members or  
19 employees of the corporation or the state for any actions  
20 taken by them in the performance of their duties under this  
21 paragraph.

22 6. The corporation may appoint and employ such  
23 officers, agents, and employees as the corporation deems  
24 advisable to operate and manage the affairs of the  
25 corporation, which officers, agents, and employees may be  
26 employees of the division or the State Board of  
27 Administration. The corporation and the division shall have  
28 the power to contract with each other for expenses incurred in  
29 connection with the transfer, assumption, and settlement of  
30 liabilities of the Special Disability Trust Fund.

31 7. In addition to bonding, the corporation may also



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1 borrow from, or enter into other financing arrangements with,  
2 any market sources at interest rates not exceeding prevailing  
3 interest rates.

4 8. The corporation may contract with an administrator  
5 to assume the liabilities of the corporation and the Special  
6 Disability Trust Fund under this section.

7 (c)1. The proceeds of revenue bonds issued by this  
8 corporation may be used to pay obligations of the Special  
9 Disability Trust Fund made pursuant to this section; to  
10 finance or replace previously existing borrowings or financial  
11 arrangements; to pay interest on bonds; to fund reserves for  
12 the bonds; to pay expenses incident to the issuance or sale of  
13 any bond issued under this subsection, or for such other  
14 purposes related to the financial obligations of the Special  
15 Disability Trust Fund as the corporation may determine. The  
16 corporation may pledge all or a portion of the revenues  
17 collected under subsection (9) to secure such revenue bonds,  
18 and may execute such agreements between the corporation and  
19 the division, necessary or desirable in connection with the  
20 issuance of any revenue bonds.

21 2. The corporation may contract with the State Board  
22 of Administration to serve as trustee with respect to debt  
23 obligations issued by the corporation as provided by this  
24 section and to hold, administer, and invest proceeds of such  
25 debt obligations and other funds of the corporation. The State  
26 Board of Administration may perform such services and may  
27 contract with others to provide all or a part of such services  
28 and to recover the costs and expenses of providing such  
29 services.

30 (d)1. Revenue bonds may not be issued under this  
31 subsection until validated under chapter 75. In any suit,

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1 action, or proceeding involving the validity or enforceability  
 2 of any bond issued under this subsection, or the security  
 3 therefor, any such bond reciting in substance that it has been  
 4 issued by the corporation in connection with any purpose of  
 5 this section shall be conclusively deemed to have been carried  
 6 out in accordance with the mandates herein. In actions under  
 7 chapter 75 to validate any bonds issued by the corporation,  
 8 the notice required by s. 75.06 shall be published only in  
 9 Leon County and in two newspapers of general circulation in  
 10 the state, and the complaint and order of the court shall be  
 11 served only on the State Attorney of the Second Judicial  
 12 Circuit. The validation of at least the first obligations  
 13 incurred pursuant to this subsection shall be appealed to the  
 14 Supreme Court, to be handled on an expedited basis.

15       2. The state hereby covenants with holders of bonds of  
 16 the corporation that the state will not repeal or abrogate the  
 17 power of the division to levy the assessments and to collect  
 18 the proceeds of the revenues pledged to the payment of such  
 19 bonds as long as any such bonds remain outstanding unless  
 20 adequate provision has been made for the payment of such bonds  
 21 pursuant to the documents authorizing the issuance of such  
 22 bonds.

23       3. The corporation and its corporate existence shall  
 24 continue until terminated by law; however, no such law shall  
 25 take effect as long as the corporation has bonds outstanding  
 26 unless adequate provision has been made for the payment of  
 27 such bonds pursuant to the documents authorizing the issuance  
 28 of such bonds. Upon termination of the existence of the  
 29 corporation, all of its rights and properties in excess of its  
 30 obligations shall pass to and be vested in the state.

31       (e)1. The funds, credit, property, or taxing power of

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1 the state or political subdivisions of the state shall not be  
2 pledged for the payment of such bonds. The bonds of the  
3 corporation are not a debt of the state or of any political  
4 subdivision, and neither the state nor any political  
5 subdivision is liable on such bonds. The corporation does not  
6 have the power to pledge the credit, the revenues, or the  
7 taxing power of the state or of any political subdivision. The  
8 credit, revenues, or taxing power of the state or of any  
9 political subdivision shall not be deemed to be pledged to the  
10 payment of any bonds of the corporation. However, bonds issued  
11 under this subsection are declared to be for an essential  
12 public and governmental purpose.

13 2. The property, revenues, and other assets of the  
14 corporation; the transactions and operations of the  
15 corporation and the income from such transactions and  
16 operations; and all bonds issued under this paragraph and the  
17 interest on such bonds, which is exempt from income taxes of  
18 the United States, are exempt from taxation by the state and  
19 any political subdivision, including, but not limited to, the  
20 intangibles tax under chapter 199, the income tax under  
21 chapter 220, and the premium tax under the Florida Insurance  
22 Code. This exemption does not apply to any tax imposed by  
23 chapter 220 on interest income or profits or debt obligations  
24 owned by corporations other than the Special Disability Trust  
25 Fund Financing Corporation. The corporation is not subject to  
26 the reporting requirements mandated by the Florida Insurance  
27 Code.

28 (f) All bonds of the corporation shall be and  
29 constitute legal investments without limitation for all public  
30 bodies of this state; for all banks, trust companies, savings  
31 banks, savings associations, savings and loan associations,

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1 and investment companies; for all administrators, executors,  
2 trustees, and other fiduciaries; for all insurance companies  
3 and associations and other persons carrying on an insurance  
4 business; and for all other persons who are now or may  
5 hereafter be authorized to invest in bonds or other  
6 obligations of the state and shall be and constitute eligible  
7 securities to be deposited as collateral for the security of  
8 any state, county, municipal, or other public funds. This  
9 paragraph shall be considered as additional and supplemental  
10 authority and shall not be limited without specific reference  
11 to this paragraph.

12 (g)1. The division shall determine and report the  
13 discounted value of the Special Disability Trust Fund  
14 liability, as required under the provisions of this section.  
15 On or before July 1, 1999, the corporation, in consultation  
16 with the division, may develop and issue a request for  
17 proposal for the transfer and assumption of liabilities, and  
18 administration of certain functions related to claims on the  
19 Special Disability Trust Fund to an administrator. The  
20 corporation, in consultation with the division, may select one  
21 or more qualified administrators to assume the liabilities of  
22 the Special Disability Trust Fund or to perform the certain  
23 functions enumerated in this section. The liabilities to be  
24 transferred and assumed or the functions to be performed as a  
25 result of this selection shall be determined by the  
26 corporation and may include but not be limited to: reviewing,  
27 auditing, litigating, and reimbursing claims, and performing  
28 risk and information management functions. The administrator  
29 shall have experience in workers' compensation claims  
30 management of sufficient scope and size to undertake the  
31 duties and responsibilities of this section and shall

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1 demonstrate the ability to meet the criteria established by  
 2 the corporation, in consultation with the division, which  
 3 shall include the ability to substantially reduce the overall  
 4 costs of reviewing and reimbursing claims, and to settle and  
 5 extinguish the liabilities of the Special Disability Trust  
 6 Fund in a more cost efficient and more timely manner than  
 7 presently provided by the division. In the event liabilities  
 8 or claims on the Special Disabilities Trust Fund are  
 9 transferred to and assumed by an administrator, such  
 10 administrator shall provide the state with financial assurance  
 11 as to the satisfaction of any such liabilities or claims.

12 2. In the event the corporation, in consultation with  
 13 the division, selects an administrator for the Special  
 14 Disability Trust Fund, all monetary assets and claims  
 15 liabilities held in and accruing to the Special Disability  
 16 Trust Fund may be transferred to and fully assumed by the  
 17 corporation. All subsequent assessments under subsection (9)  
 18 shall be collected by the division, deposited into the Special  
 19 Disability Trust Fund, and used exclusively for the debt  
 20 service of the bonds issued by the corporation, the payment of  
 21 outstanding liabilities of the Special Disability Trust Fund  
 22 and expenses of the corporation.

23 (h) The administrator is prohibited from reviewing,  
 24 auditing, litigating, reimbursing, or settling any pending or  
 25 future claim or liability of its affiliates or subsidiaries.  
 26 The administrator is required to subcontract the  
 27 responsibility of reviewing, auditing, litigating,  
 28 reimbursing, or settling such a claim or liability.

29 (i) The Auditor General is authorized to examine and  
 30 audit the records and accounts of the corporation.

31

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1 (Redesignate subsequent sections.)

2

3

4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 On page 1, line 10, after the semicolon,

7

8 insert:

9 amending s. 440.49, F.S., creating the Special  
10 Disability Trust Fund Financing Corporation;  
11 providing purposes; providing for a board of  
12 directors; providing powers and duties of the  
13 corporation; authorizing the Division of  
14 Workers' Compensation to enter into service  
15 contracts for certain purposes; authorizing the  
16 corporation to issue evidences of indebtedness;  
17 authorizing the corporation to validate bond  
18 obligations; exempting the corporation from  
19 certain taxes and assessments; providing  
20 application; providing for reversion of the  
21 assets to the State upon dissolution of the  
22 corporation; providing for the State Board of  
23 Administration to be a trustee of the  
24 corporation's securities; authorizing the  
25 corporation, in consultation with the division  
26 to issue a request for proposal for  
27 administration of the claims of the fund;  
28 authorizing the transfer and assumption of the  
29 liabilities of the Special Disability Trust  
30 Fund to an administrator if it is determined by  
31 the corporation in consultation with the

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1           division that such an arrangement would be more  
2           cost effective than the current administration  
3           by the division; authorizing the Auditor  
4           General to examine and audit the records of the  
5           corporation;  
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