

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Safley offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraph (f) of subsection (1) and subsection (13) of section 440.15, Florida Statutes, are amended, and subsection (14) is added to said section, to read:

440.15 Compensation for disability.--Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.--

(f)1. If permanent total disability results from injuries that occurred subsequent to June 30, 1955, and for which the liability of the employer for compensation has not been discharged under s. 440.20(12), the injured employee shall receive additional weekly compensation benefits equal to 5 percent of her or his weekly compensation rate, as established pursuant to the law in effect on the date of her

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1 or his injury, multiplied by the number of calendar years  
2 since the date of injury. The weekly compensation payable and  
3 the additional benefits payable under this paragraph, when  
4 combined, may not exceed the maximum weekly compensation rate  
5 in effect at the time of payment as determined pursuant to s.  
6 440.12(2). Entitlement to these supplemental payments shall  
7 cease at age 62 if the employee is eligible for social  
8 security benefits under 42 U.S.C. ~~s. 402~~ or s. 423,  
9 whether or not the employee has applied for such benefits.  
10 These supplemental benefits shall be paid by the division out  
11 of the Workers' Compensation Administration Trust Fund when  
12 the injury occurred subsequent to June 30, 1955, and before  
13 July 1, 1984. These supplemental benefits shall be paid by the  
14 employer when the injury occurred on or after July 1, 1984.  
15 Supplemental benefits are not payable for any period prior to  
16 October 1, 1974.

17         2.a. The division shall provide by rule for the  
18 periodic reporting to the division of all earnings of any  
19 nature and social security income by the injured employee  
20 entitled to or claiming additional compensation under  
21 subparagraph 1. Neither the division nor the employer or  
22 carrier shall make any payment of those additional benefits  
23 provided by subparagraph 1. for any period during which the  
24 employee willfully fails or refuses to report upon request by  
25 the division in the manner prescribed by such rules.

26         b. The division shall provide by rule for the periodic  
27 reporting to the employer or carrier of all earnings of any  
28 nature and social security income by the injured employee  
29 entitled to or claiming benefits for permanent total  
30 disability. The employer or carrier is not required to make  
31 any payment of benefits for permanent total disability for any

1 period during which the employee willfully fails or refuses to  
2 report upon request by the employer or carrier in the manner  
3 prescribed by such rules or if any employee who is receiving  
4 permanent total disability benefits refuses to apply for or  
5 cooperate with the employer or carrier in applying for social  
6 security benefits.

7           3. When an injured employee receives a full or partial  
8 lump-sum advance of the employee's permanent total disability  
9 compensation benefits, the employee's benefits under this  
10 paragraph shall be computed on the employee's weekly  
11 compensation rate as reduced by the lump-sum advance.

12           (13) REPAYMENT.--

13           (a) If an employee has received a sum as an indemnity  
14 benefit under any classification or category of benefit under  
15 this chapter to which she or he is not entitled, the employee  
16 is liable to repay that sum to the employer or the carrier or  
17 to have that sum deducted from future benefits, regardless of  
18 the classification of benefits, payable to the employee under  
19 this chapter; however, a partial payment of the total  
20 repayment may not exceed 20 percent of the amount of the  
21 biweekly payment.

22           (b)1. With respect to workers' compensation benefits  
23 payable before July 1, 1998, to the extent liability for  
24 repayment under this subsection is based on the combination of  
25 workers' compensation benefits and other benefits exceeding  
26 100 percent of the employee's average weekly wage at the time  
27 of the injury, the employee is not required to repay the  
28 difference to the employer or carrier unless otherwise  
29 required by a contract that was in force at the time of the  
30 injury. However, an employer or carrier is not required to  
31 refund to the employee amounts actually recouped under this

1 subsection prior to July 1, 1998.

2 2. As used in this paragraph, "other benefits" means  
3 social security benefits under 42 U.S.C. s. 402 or s. 423 and  
4 employer-funded benefits, including, but not limited to,  
5 nondisability retirement or nondisability pension benefits as  
6 described in subsection (14).

7 3. Nothing in this paragraph limits the applicability  
8 of subsection (10).

9 (14) COORDINATION OF BENEFITS.--Unless otherwise  
10 specifically provided by contract, workers' compensation  
11 benefits that are otherwise payable under this chapter must be  
12 reduced to the extent the combination of workers' compensation  
13 benefits and social security benefits under 42 U.S.C. s. 402  
14 or s. 423, and employer-funded benefits other than  
15 nondisability retirement or nondisability pension benefits,  
16 provided to the employee and his or her dependents exceeds 100  
17 percent of the employee's average weekly wage at the time of  
18 injury. A benefit shall be considered employer funded when  
19 the employer has contributed more than 50 percent of the cost  
20 of the benefit. "Workers' compensation benefits" excludes  
21 supplemental payments for permanent total disability pursuant  
22 to paragraph (1)(f).

23 Section 2. Section 440.49, Florida Statutes, is  
24 amended to read:

25 440.49 Limitation of liability for subsequent injury  
26 through Special Disability Trust Fund.--

27 (1) LEGISLATIVE INTENT.--Whereas it is often difficult  
28 for workers with disabilities to achieve employment or to  
29 become reemployed following an injury, and it is the desire of  
30 the Legislature to facilitate the return of these workers to  
31 the workplace, it is the purpose of this section to encourage

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1 the employment, reemployment, and accommodation of the  
2 physically disabled by reducing an employer's insurance  
3 premium for reemploying an injured worker, to decrease  
4 litigation between carriers on apportionment issues, and to  
5 protect employers from excess liability for compensation and  
6 medical expense when an injury to a physically disabled worker  
7 merges with, aggravates, or accelerates her or his preexisting  
8 permanent physical impairment to cause either a greater  
9 disability or permanent impairment, or an increase in  
10 expenditures for temporary compensation or medical benefits  
11 than would have resulted from the injury alone. The division  
12 or the administrator shall inform all employers of the  
13 existence and function of the fund and shall interpret  
14 eligibility requirements liberally. However, this subsection  
15 shall not be construed to create or provide any benefits for  
16 injured employees or their dependents not otherwise provided  
17 by this chapter. The entitlement of an injured employee or her  
18 or his dependents to compensation under this chapter shall be  
19 determined without regard to this subsection, the provisions  
20 of which shall be considered only in determining whether an  
21 employer or carrier who has paid compensation under this  
22 chapter is entitled to reimbursement from the Special  
23 Disability Trust Fund.

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

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

27 (b) "Preferred worker" means a worker who, because of  
28 a permanent impairment resulting from a compensable injury or  
29 occupational disease, is unable to return to the worker's  
30 regular employment.

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

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

4           2. The permanent disability or permanent impairment  
5 resulting from the subsequent accident or occupational disease  
6 is materially and substantially greater than that which would  
7 have resulted had the permanent physical impairment not  
8 existed, and the employer has been required to pay, and has  
9 paid, permanent total disability or permanent impairment  
10 benefits for that materially and substantially greater  
11 disability;

12           3. The preexisting permanent physical impairment is  
13 aggravated or accelerated as a result of the subsequent injury  
14 or occupational disease, or the preexisting impairment has  
15 contributed, medically and circumstantially, to the need for  
16 temporary compensation, medical, or attendant care and the  
17 employer has been required to pay, and has paid, temporary  
18 compensation, medical, or attendant care benefits for the  
19 aggravated preexisting permanent impairment; or

20           4. Death would not have been accelerated if the  
21 permanent physical impairment had not existed.

22           (d) "Excess permanent compensation" means that  
23 compensation for permanent impairment, or permanent total  
24 disability or death benefits, for which the employer or  
25 carrier is otherwise entitled to reimbursement from the  
26 Special Disability Trust Fund.

27           (e) "Administrator" means the entity selected by the  
28 commission to review, allow, deny, compromise, controvert, and  
29 litigate claims of the Special Disability Trust Fund.

30           (f) "Corporation" means the Special Disability Trust  
31 Fund Financing Corporation, as created under subsection (14).

1           (g) "Commission" means the Special Disability Trust  
2 Fund Privatization Commission, as created under subsection  
3 (13).

4           (3) DEDUCTIBLE.--Reimbursement may not be obtained for  
5 the first \$10,000 of benefits paid which otherwise qualify for  
6 reimbursement under this section. This deductible does not  
7 apply to claims by employers for reimbursement under  
8 subparagraph (b)3.

9           (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL  
10 DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT  
11 CARE AFTER OTHER PHYSICAL IMPAIRMENT.--

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

25           (b) Permanent total disability.--If an employee who  
26 has a preexisting permanent physical impairment incurs a  
27 subsequent permanent impairment from injury or occupational  
28 disease arising out of, and in the course of, her or his  
29 employment which merges with the preexisting permanent  
30 physical impairment to cause permanent total disability, the  
31 employer shall, in the first instance, pay all benefits

1 provided by this chapter; but, subject to the limitations  
2 specified in subsection (6), such employer shall be reimbursed  
3 from the Special Disability Trust Fund created by subsection  
4 (8) for 50 percent of all compensation for permanent total  
5 disability.

6 (c) Temporary compensation and medical benefits;  
7 aggravation or acceleration of preexisting condition or  
8 circumstantial causation.--If an employee who has a  
9 preexisting permanent physical impairment experiences an  
10 aggravation or acceleration of the preexisting permanent  
11 physical impairment as a result of an injury or occupational  
12 disease arising out of and in the course of her or his  
13 employment, or suffers an injury as a result of a merger as  
14 defined in subparagraph (1)(b)2., the employer shall provide  
15 all benefits provided by this chapter, but, subject to the  
16 limitations specified in subsection (7), the employer shall be  
17 reimbursed by the Special Disability Trust Fund created by  
18 subsection (8) for 50 percent of its payments for temporary,  
19 medical, and attendant care benefits.

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



1 amount paid as funeral expenses.

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

3 (a) Reimbursement is not allowed under this section  
4 unless it is established that the employer knew of the  
5 preexisting permanent physical impairment prior to the  
6 occurrence of the subsequent injury or occupational disease,  
7 and that the permanent physical impairment is one of the  
8 following:

- 9 1. Epilepsy.
- 10 2. Diabetes.
- 11 3. Cardiac disease.
- 12 4. Amputation of foot, leg, arm, or hand.
- 13 5. Total loss of sight of one or both eyes or a  
14 partial loss of corrected vision of more than 75 percent  
15 bilaterally.
- 16 6. Residual disability from poliomyelitis.
- 17 7. Cerebral palsy.
- 18 8. Multiple sclerosis.
- 19 9. Parkinson's disease.
- 20 10. Meniscectomy.
- 21 11. Patellectomy.
- 22 12. Ruptured cruciate ligament.
- 23 13. Hemophilia.
- 24 14. Chronic osteomyelitis.
- 25 15. Surgical or spontaneous fusion of a major  
26 weight-bearing joint.
- 27 16. Hyperinsulinism.
- 28 17. Muscular dystrophy.
- 29 18. Thrombophlebitis.
- 30 19. Herniated intervertebral disk.
- 31 20. Surgical removal of an intervertebral disk or

1 spinal fusion.

2 21. One or more back injuries or a disease process of  
3 the back resulting in disability over a total of 120 or more  
4 days, if substantiated by a doctor's opinion that there was a  
5 preexisting impairment to the claimant's back.

6 22. Total deafness.

7 23. Mental retardation, provided the employee's  
8 intelligence quotient is such that she or he falls within the  
9 lowest 2 percentile of the general population. However, it  
10 shall not be necessary for the employer to know the employee's  
11 actual intelligence quotient or actual relative ranking in  
12 relation to the intelligence quotient of the general  
13 population.

14 24. Any permanent physical condition which, prior to  
15 the industrial accident or occupational disease, constitutes a  
16 20-percent impairment of a member or of the body as a whole.

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

22 26. Any permanent physical impairment as defined in s.  
23 440.15(3) which is a result of a prior industrial accident  
24 with the same employer or the employer's parent company,  
25 subsidiary, sister company, or affiliate located within the  
26 geographical boundaries of this state.

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

29 (c) An employer's or carrier's right to apportionment  
30 or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and  
31 440.151(1)(c) does not preclude reimbursement from such fund,

1 except when the merger comes within the definition of  
2 subparagraph (2)(b)2. and such apportionment or deduction  
3 relieves the employer or carrier from providing the materially  
4 and substantially greater permanent disability benefits  
5 otherwise contemplated in those paragraphs.

6 (7) REIMBURSEMENT OF EMPLOYER.--

7 (a) The right to reimbursement as provided in this  
8 section is barred unless written notice of claim of the right  
9 to such reimbursement is filed by the employer or carrier  
10 entitled to such reimbursement with the division or  
11 administrator at Tallahassee within 2 years after the date the  
12 employee last reached maximum medical improvement, or within 2  
13 years after the date of the first payment of compensation for  
14 permanent total disability, wage loss, or death, whichever is  
15 later. The notice of claim must contain such information as  
16 the division by rule requires or as established by the  
17 administrator; and the employer or carrier claiming  
18 reimbursement shall furnish such evidence in support of the  
19 claim as the division or administrator reasonably may require.

20 (b) For notice of claims on the Special Disability  
21 Trust Fund filed on or after July 1, 1978, the Special  
22 Disability Trust Fund shall, within 120 days after receipt of  
23 notice that a carrier has paid, been required to pay, or  
24 accepted liability for excess compensation, serve notice of  
25 the acceptance of the claim for reimbursement.

26 (c) A proof of claim must be filed on each notice of  
27 claim on file as of June 30, 1997, within 1 year after July 1,  
28 1997, or the right to reimbursement of the claim shall be  
29 barred. A notice of claim on file on or before June 30, 1997,  
30 may be withdrawn and refiled if, at the time refiled, the  
31 notice of claim remains within the limitation period specified

1 in paragraph (a). Such refiling shall not toll, extend, or  
2 otherwise alter in any way the limitation period applicable to  
3 the withdrawn and subsequently refiled notice of claim. Each  
4 proof of claim filed shall be accompanied by a proof-of-claim  
5 fee as provided in paragraph (9)(d). The Special Disability  
6 Trust Fund shall, within 120 days after receipt of the proof  
7 of claim, serve notice of the acceptance of the claim for  
8 reimbursement. This paragraph shall apply to all claims  
9 notwithstanding the provisions of subsection (12).

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

22 (e) For dates of accident on or after January 1, 1994,  
23 the Special Disability Trust Fund shall, within 120 days of  
24 receipt of notice that a carrier has been required to pay, and  
25 has paid over \$10,000 in benefits, serve notice of the  
26 acceptance of the claim for reimbursement. Failure of the  
27 Special Disability Trust Fund to serve notice of acceptance  
28 shall give rise to the right to request a hearing on the claim  
29 for reimbursement. If the Special Disability Trust Fund  
30 through its representative denies or controverts the claim,  
31 the right to such reimbursement shall be barred unless an

1 application for a hearing thereon is filed with the division  
2 or administrator at Tallahassee within 60 days after notice to  
3 the employer or carrier of such denial or controversion. When  
4 such application for a hearing is timely filed, the claim  
5 shall be heard and determined in accordance with the procedure  
6 prescribed in s. 440.25, to the extent that such procedure is  
7 applicable, and in accordance with the workers' compensation  
8 rules of procedure. In such proceeding on a claim for  
9 reimbursement, the Special Disability Trust Fund shall be made  
10 the party respondent, and no findings of fact made with  
11 respect to the claim of the injured employee or the dependents  
12 for compensation, including any finding made or order entered  
13 pursuant to s. 440.20(12), shall be res judicata. The Special  
14 Disability Trust Fund may not be joined or made a party to any  
15 controversy or dispute between an employee and the dependents  
16 and the employer or between two or more employers or carriers  
17 without the written consent of the fund.

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

30 (8) PREFERRED WORKER PROGRAM.--The division or  
31 administrator shall issue identity cards to preferred workers

1 upon request by qualified employees and shall reimburse an  
2 employer, from the Special Disability Trust Fund, for the cost  
3 of workers' compensation premium related to the preferred  
4 workers payroll for up to 3 years of continuous employment  
5 upon satisfactory evidence of placement and issuance of  
6 payroll and classification records and upon the employee's  
7 certification of employment.

8 (9) SPECIAL DISABILITY TRUST FUND.--

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

29 (b)1. The Special Disability Trust Fund shall be  
30 maintained by annual assessments upon the insurance companies  
31 writing compensation insurance in the state, the commercial

1 self-insurers under ss. 624.462 and 624.4621, the assessable  
2 mutuals under s. 628.601, and the self-insurers under this  
3 chapter, which assessments shall become due and be paid  
4 quarterly at the same time and in addition to the assessments  
5 provided in s. 440.51. The division shall estimate annually in  
6 advance the amount necessary for the administration of this  
7 subsection and the maintenance of this fund and shall make  
8 such assessment in the manner hereinafter provided.

9           2. The annual assessment shall be calculated to  
10 produce during the ensuing fiscal year an amount which, when  
11 combined with that part of the balance in the fund on June 30  
12 of the current fiscal year which is in excess of \$100,000, is  
13 equal to the average of:

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

16           b. Two times the disbursements of the most recent  
17 calendar year.

18  
19 Such amount shall be prorated among the insurance companies  
20 writing compensation insurance in the state and the  
21 self-insurers.

22           3. The net premiums written by the companies for  
23 workers' compensation in this state and the net premium  
24 written applicable to the self-insurers in this state are the  
25 basis for computing the amount to be assessed as a percentage  
26 of net premiums. Such payments shall be made by each insurance  
27 company and self-insurer to the division for the Special  
28 Disability Trust Fund in accordance with such regulations as  
29 the division prescribes.

30           4. The Treasurer is authorized to receive and credit  
31 to such Special Disability Trust Fund any sum or sums that may

1 at any time be contributed to the state by the United States  
2 under any Act of Congress, or otherwise, to which the state  
3 may be or become entitled by reason of any payments made out  
4 of such fund.

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

8 (d) The Special Disability Trust Fund shall be  
9 supplemented by a \$250 notification fee on each notice of  
10 claim filed or refiled after July 1, 1997, and a \$500 fee on  
11 each proof of claim filed in accordance with subsection (7).  
12 Revenues from the fee shall be deposited into the Special  
13 Disability Trust Fund and are exempt from the deduction  
14 required by s. 215.20. The fees provided in this paragraph  
15 shall not be imposed upon any insurer which is in receivership  
16 with the Department of Insurance.

17 (e) The Department of Labor and Employment Security or  
18 administrator shall report annually on the status of the  
19 Special Disability Trust Fund. The report shall update the  
20 estimated undiscounted and discounted fund liability, as  
21 determined by an independent actuary ~~the projected change in~~  
22 ~~fund liability~~, change in the total number of notices of claim  
23 on file with the fund in addition to the number of newly filed  
24 notices of claim, change in the number of proofs of claim  
25 processed by the fund, ~~and~~ the fee revenues refunded and  
26 revenues applied to pay down the liability of the fund, the  
27 average time required to reimburse accepted claims, and the  
28 average administrative costs per claim. The department or  
29 administrator shall submit its ~~initial~~ report to the Governor,  
30 the President of the Senate, and the Speaker of the House of  
31 Representatives ~~by March 1, 1998, for the period ending~~



1 ~~February 1, 1998, with additional reports submitted by~~  
2 ~~December 1 of each year, 1998, and December 1, 1999.~~

3 (10) DIVISION ADMINISTRATION OF FUND; CLAIMS; ADVISORY  
4 COMMITTEE; EXPENSES.--The division or administrator shall  
5 administer the Special Disability Trust Fund with authority to  
6 allow, deny, compromise, controvert, and litigate claims made  
7 against it and to designate an attorney to represent it in  
8 proceedings involving claims against the fund, including  
9 negotiation and consummation of settlements, hearings before  
10 judges of compensation claims, and judicial review. The  
11 division or administrator or the attorney designated by it  
12 shall be given notice of all hearings and proceedings  
13 involving the rights or obligations of such fund and shall  
14 have authority to make expenditures for such medical  
15 examinations, expert witness fees, depositions, transcripts of  
16 testimony, and the like as may be necessary to the proper  
17 defense of any claim. The division shall appoint an advisory  
18 committee composed of representatives of management,  
19 compensation insurance carriers, and self-insurers to aid it  
20 in formulating policies with respect to conservation of the  
21 fund, who shall serve without compensation for such terms as  
22 specified by it, but be reimbursed for travel expenses as  
23 provided in s. 112.061. All expenditures made in connection  
24 with conservation of the fund, including the salary of the  
25 attorney designated to represent it and necessary travel  
26 expenses, shall be allowed and paid from the Special  
27 Disability Trust Fund as provided in this section upon the  
28 presentation of itemized vouchers therefor approved by the  
29 division.

30 (11) EFFECTIVE DATES.--This section does not apply to  
31 any case in which the accident causing the subsequent injury

1 or death or the disablement or death from a subsequent  
2 occupational disease occurred prior to July 1, 1955, or on or  
3 after January 1, 1998. In no event shall the Special  
4 Disability Trust Fund be liable for, or reimburse employers or  
5 carriers for, any case in which the accident causing the  
6 subsequent injury or death or the disablement or death from a  
7 subsequent occupational disease occurred on or after January  
8 1, 1998. The Special Disability Trust Fund shall continue to  
9 reimburse employers or carriers for subsequent injuries  
10 occurring prior to January 1, 1998, and the division shall  
11 continue to assess for and the division or administrator shall  
12 fund reimbursements as provided in subsection (9) for this  
13 purpose.

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

18 (13)(a) The Special Disability Trust Fund  
19 Privatization Commission is created to evaluate and determine  
20 the feasibility of privatizing the Special Disability Trust  
21 Fund. The commission shall determine the liabilities of the  
22 fund and the costs to presently administer the Special  
23 Disability Trust Fund. The commission shall develop and issue  
24 a request for proposal to transfer the liabilities of the  
25 Special Disability Trust Fund to an admitted insurer. The  
26 commission is authorized to select and contract with an  
27 admitted insurer, only if the commission determines that such  
28 an arrangement would substantially reduce the costs and be  
29 more effective than the current administration of the Special  
30 Disability Trust Fund.

31 (b) Consistent with the closing of the fund provided

1 in subsection (11), the Special Disability Trust Fund  
2 Privatization Commission is authorized to contract with an  
3 administrator to review, allow, deny, compromise, controvert,  
4 and litigate claims of the Special Disability Trust Fund under  
5 this section. The Commission, in consultation with the  
6 division, is authorized to contract with an admitted insurer  
7 to assume the reimbursement obligations of the Special  
8 Disability Trust Fund for claims which have previously have  
9 accepted for reimbursement by the Special Disability Trust  
10 Fund and claims which are determined to be reimbursable by the  
11 Special Disability Trust Fund. The admitted insurer and the  
12 administrator shall not be affiliates of the other, and shall  
13 not establish or maintain a financial or contractual agreement  
14 with each other for purposes of this section. On or before  
15 July 1, 1999, the commission, in consultation with the  
16 division, may develop and issue a request for proposal for the  
17 transfer and assumption of liabilities, and administration of  
18 certain functions related to claims of the Special Disability  
19 Trust Fund. The administrator shall have experience in  
20 workers' compensation claims management of sufficient scope  
21 and size to undertake the duties and responsibilities of this  
22 section and shall demonstrate the ability to meet the criteria  
23 established by the commission, which shall include the ability  
24 to substantially reduce the overall costs of reviewing and  
25 reimbursing claims, and to settle and extinguish the  
26 liabilities of the Special Disability Trust Fund in a more  
27 cost efficient and more timely manner than presently provided  
28 by the division. In the event liabilities on the Special  
29 Disabilities Trust Fund are transferred to and assumed by an  
30 admitted insurer, such insurer shall provide the state with  
31 financial assurance as to the satisfaction of any such

1 liabilities or claims and the state and the Special Disability  
2 Trust Fund shall have no further liability with respect to  
3 those liabilities and claims. The financial assurances may  
4 include, but are not limited to, cash reserves, reinsurance,  
5 guarantees, or letters of credit.

6 (c) The commission shall be composed of three members,  
7 one member selected by the Governor; one selected by the  
8 Insurance Commissioner; and one selected by the Comptroller.

9 (d) The commission is authorized to appoint and employ  
10 such officers, agents, and employees as the commission deems  
11 advisable to operate and manage the affairs of the commission,  
12 which officers, agents, and employees may be employees of the  
13 division or the State Board of Administration. The commission  
14 shall contract with consultants deemed necessary to determine  
15 the liabilities of the Special Disability Trust Fund, as of  
16 December 31, 1998, and the feasibility of privatizing the  
17 Special Disability Trust Fund.

18 (14) Florida Special Disability Trust Fund Financing  
19 Corporation.--

20 (a) The Legislature finds that:

21 1. The liabilities of the Special Disability Trust  
22 Fund are substantial and that the extinguishment of these  
23 liabilities in a cost effective and timely manner are of  
24 paramount importance to the state. In connection therewith, in  
25 the event that the commission determines that it is more cost  
26 effective and in the best interest of the Special Disabilities  
27 Trust Fund and the state to finance the liabilities of the  
28 Special Disabilities Trust Fund through the issuance of bonds,  
29 notes or other evidence of indebtedness, it shall request the  
30 assistance of the corporation to issue such bonds, notes or  
31 other evidences of indebtedness.

1           2. The Legislature finds that the creation of a public  
2 benefits corporation and the issuance of bonds or other forms  
3 of indebtedness under this section is consistent with the  
4 underlying public purpose of reducing and ultimately  
5 eliminating the liabilities of the Special Disability Trust  
6 Fund. The purpose of the corporation and the subsequent bond  
7 issuance is to fund and pay the liabilities of the Special  
8 Disability Trust Fund, ensure the existence of a sufficient  
9 funding source for reimbursements to employers and carriers,  
10 and reduce the overall costs of the program provided by the  
11 state by employers and carriers.

12           (b) In the event the commission determines that it is  
13 more cost effective and in the best interest of the Special  
14 Disability Trust Fund, the state, insurers, and employers to  
15 finance the liabilities of the Special Disability Trust Fund  
16 through the issuance of bonds, notes, or other evidences of  
17 indebtedness, there is created a public benefits corporation  
18 to be known as the Special Disability Trust Fund Financing  
19 Corporation.

20           1. The corporation shall operate under a three-member  
21 board of directors consisting of the Governor or a designee,  
22 the Treasurer or a designee, and the Comptroller or a  
23 designee.

24           2. The corporation has all of the powers of  
25 corporations under chapter 607 and under chapter 617.

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

30           4. The corporation may invest in any of the  
31 investments authorized under s. 215.47.

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

6           6. The corporation may appoint and employ such  
7 officers, agents, and employees as the corporation deems  
8 advisable to operate and manage the affairs of the  
9 corporation, which officers, agents, and employees may be  
10 employees of the division or the State Board of  
11 Administration. The administrative costs and fees incurred by  
12 the corporation, and employee salaries, shall be paid from  
13 bond revenues. The corporation and the division shall have  
14 the power to contract with each other for expenses incurred in  
15 connection with the transfer, assumption, and settlement of  
16 liabilities of the Special Disability Trust Fund.

17           7. In addition to bonding, the corporation may also  
18 borrow from, or enter into other financing arrangements with,  
19 any market sources at interest rates not exceeding prevailing  
20 interest rates.

21           (c)1. The proceeds of revenue bonds issued by this  
22 corporation may be used to pay obligations of the Special  
23 Disability Trust Fund made pursuant to this section; to  
24 finance or replace previously existing borrowings or financial  
25 arrangements; to pay interest on bonds; to fund reserves for  
26 the bonds; to pay expenses incident to the issuance or sale of  
27 any bonds issued under this subsection, or for such other  
28 purposes related to the financial obligations of the Special  
29 Disability Trust Fund as the corporation may determine. The  
30 corporation may pledge all or a portion of the revenues  
31 collected under subsection (9) to secure such revenue bonds,

1 and may execute such agreements between the corporation and  
2 the division, necessary or desirable in connection with the  
3 issuance of any revenue bonds.

4 2. The corporation may contract with the State Board  
5 of Administration to serve as trustee with respect to debt  
6 obligations issued by the corporation as provided by this  
7 section and to hold, administer, and invest proceeds of such  
8 debt obligations and other funds of the corporation. The State  
9 Board of Administration may perform such services and may  
10 contract with others to provide all or a part of such services  
11 and to recover the costs and expenses of providing such  
12 services.

13 (d)1. Revenue bonds may not be issued under this  
14 subsection until validated under chapter 75. In any suit,  
15 action, or proceeding involving the validity or enforceability  
16 of any bond issued under this subsection, or the security  
17 therefor, any such bond reciting in substance that it has been  
18 issued by the corporation in connection with any purpose of  
19 this section shall be conclusively deemed to have been carried  
20 out in accordance with the mandates herein. In actions under  
21 chapter 75 to validate any bonds issued by the corporation,  
22 the notice required by s. 75.06 shall be published only in  
23 Leon County and in two newspapers of general circulation in  
24 the state, and the complaint and order of the court shall be  
25 served only on the State Attorney of the Second Judicial  
26 Circuit. The validation of at least the first obligations  
27 incurred pursuant to this subsection shall be appealed to the  
28 Supreme Court, to be handled on an expedited basis.

29 2. The state hereby covenants with holders of bonds of  
30 the corporation that the state will not repeal or abrogate the  
31 power of the division to levy the assessments and to collect

1 the proceeds of the revenues pledged to the payment of such  
2 bonds as long as any such bonds remain outstanding unless  
3 adequate provision has been made for the payment of such bonds  
4 pursuant to the documents authorizing the issuance of such  
5 bonds.

6 3. The corporation and its corporate existence shall  
7 continue until terminated by law; however, no such law shall  
8 take effect as long as the corporation has bonds outstanding  
9 unless adequate provision has been made for the payment of  
10 such bonds pursuant to the documents authorizing the issuance  
11 of such bonds. Upon termination of the existence of the  
12 corporation, all of its rights and properties in excess of its  
13 obligations shall pass to and be vested in the state.

14 (e)1. The funds, credit, property, or taxing power of  
15 the state or political subdivisions of the state shall not be  
16 pledged for the payment of such bonds. The bonds of the  
17 corporation are not a debt of the state or of any political  
18 subdivision, and neither the state nor any political  
19 subdivision is liable on such bonds. The corporation does not  
20 have the power to pledge the credit, the revenues, or the  
21 taxing power of the state or of any political subdivision. The  
22 credit, revenues, or taxing power of the state or of any  
23 political subdivision shall not be deemed to be pledged to the  
24 payment of any bonds of the corporation. However, bonds issued  
25 under this subsection are declared to be for an essential  
26 public and governmental purpose.

27 2. The property, revenues, and other assets of the  
28 corporation; the transactions and operations of the  
29 corporation and the income from such transactions and  
30 operations; and all bonds issued under this paragraph and the  
31 interest on such bonds, which is exempt from income taxes of



1 the United States, are exempt from taxation by the state and  
2 any political subdivision, including, but not limited to, the  
3 intangibles tax under chapter 199, the income tax under  
4 chapter 220, and the premium tax under the Florida Insurance  
5 Code. This exemption does not apply to any tax imposed by  
6 chapter 220 on interest income or profits on debt obligations  
7 owned by corporations other than the Special Disability Trust  
8 Fund Financing Corporation. The corporation is not subject to  
9 the reporting requirements mandated by the Florida Insurance  
10 Code.

11 (f) All bonds of the corporation shall be and  
12 constitute legal investments without limitation for all public  
13 bodies of this state; for all banks, trust companies, savings  
14 banks, savings associations, savings and loan associations,  
15 and investment companies; for all administrators, executors,  
16 trustees, and other fiduciaries; for all insurance companies  
17 and associations and other persons carrying on an insurance  
18 business; and for all other persons who are now or may  
19 hereafter be authorized to invest in bonds or other  
20 obligations of the state and shall be and constitute eligible  
21 securities to be deposited as collateral for the security of  
22 any state, county, municipal, or other public funds. This  
23 paragraph shall be considered as additional and supplemental  
24 authority and shall not be limited without specific reference  
25 to this paragraph.

26 (g) In the event the commission selects an admitted  
27 insurer to assume all or some of the liabilities of the  
28 Special Disability Trust Fund, all or any portion of the  
29 monetary assets and claims liabilities held in and accruing to  
30 the Special Disability Trust Fund may, with the agreement of  
31 the corporation or the administrator, be transferred to and

1 fully assumed by the corporation or the admitted insurer. As  
 2 provided in an agreement with the corporation or the admitted  
 3 insurer, subsequent assessments under subsection (9) shall be  
 4 collected by the division, deposited into the Special  
 5 Disability Trust Fund, and used exclusively for the debt  
 6 service of the bonds issued by the corporation, the payment of  
 7 outstanding liabilities of the Special Disability Trust Fund  
 8 not assumed by the corporation or the admitted insurer, and  
 9 expenses of the corporation.

10 (h) The administrator is prohibited from reviewing,  
 11 auditing, litigating, reimbursing, or settling any pending or  
 12 future claim or liability of its affiliates or subsidiaries.  
 13 The administrator is required to subcontract the  
 14 responsibility of reviewing, auditing, litigating,  
 15 reimbursing, or settling such a claim or liability.

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

18 Section 3. There is hereby appropriated \$200,000 from  
 19 the Special Disability Trust Fund to the Special Disability  
 20 Trust Fund Privatization Commission to implement this act.

21 Section 4. This act shall take effect July 1 of the  
 22 year in which enacted.

23  
 24

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

26 And the title is amended as follows:

27 On page 1, lines 3-11  
 28 remove from the title of the bill: all of said lines

29

30 and insert in lieu thereof:

31 amending s. 440.15, F.S.; providing an

Amendment No. 1 (for drafter's use only)

1           exception to certain benefit repayment  
2           requirements for employees; providing a  
3           definition; providing application; providing a  
4           method for determining workers' compensation  
5           benefits when in combination with certain other  
6           benefits; providing for the exclusion of  
7           certain supplemental payments; amending s.  
8           440.49, F.S., creating the Special Disability  
9           Trust Fund Privatization Commission; providing  
10          purpose; providing for members; providing  
11          duties; creating the Special Disability Trust  
12          Fund Financing Corporation; providing purposes;  
13          providing for a board of directors; providing  
14          powers and duties of the corporation;  
15          authorizing the Division of Workers'  
16          Compensation to enter into service contracts  
17          for certain purposes; authorizing the  
18          corporation to issue evidences of indebtedness;  
19          authorizing the corporation to validate bond  
20          obligations; exempting the corporation from  
21          certain taxes and assessments; providing  
22          application; providing for reversion of the  
23          assets to the State upon dissolution of the  
24          corporation; providing for the State Board of  
25          Administration to be a trustee of the  
26          corporation's securities; authorizing the  
27          commission to issue a request for proposal for  
28          administration of the claims of the fund;  
29          authorizing the transfer and assumption of the  
30          liabilities of the Special Disability Trust  
31          Fund to an admitted insurer if it is determined

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by the commission that such an arrangement would be more cost effective than the current administration by the division; authorizing the Auditor General to examine and audit the records of the corporation; providing an appropriation; providing an effective date.