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2 An act relating to the rulemaking authority of
3 the Department of Management Services and other
4 agencies (RAB); creating s. 110.224, F.S.;
5 requiring a review and performance planning
6 system; requiring the department to adopt rules
7 to implement a review and performance planning
8 system to assess employee performance; amending
9 s. 110.1095, F.S.; directing the department to
10 provide technical assistance; requiring annual
11 review of state training programs; requiring
12 agencies to develop and implement training
13 programs; directing the department to adopt
14 rules for training programs; amending s.
15 110.207, F.S.; prohibiting positions from being
16 filled before they have been classified;
17 amending s. 110.227, F.S.; directing the
18 department to adopt a grievance procedure for
19 career service employees; requiring a grievance
20 process to be available for career service
21 employees; defining the term "grievance";
22 authorizing the adoption of rules for the
23 grievance process; amending s. 216.262, F.S.;
24 providing rulemaking authority; detailing use
25 and value of perquisites; providing an
26 effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Section 110.224, Florida Statutes, is
31 created to read:

1 110.224 Review and performance planning system.--A
2 review and performance planning system shall be established as
3 a basis for improving the performance of the state's
4 workforce, to provide documentation in support of
5 recommendations for salary increases, promotions, demotions,
6 reassignments, or dismissals; to inform employees of strong
7 and weak points in the employee's performance, improvements
8 expected, and current and future training needs; and to assist
9 in determining the order of layoff and reemployment.

10 (1) Upon original appointment, promotion, demotion, or
11 reassignment, each career service employee must be given a
12 statement of the work expectations and performance standards
13 applicable to the position. The statement may be included in
14 the position description or in a separate document. An
15 employee will not be required to meet work expectations or
16 performance standards that have not been furnished in writing
17 to the employee.

18 (2) Each employee's performance must be reviewed at
19 least annually, and the employee must receive an oral and
20 written assessment of his or her performance. The assessment
21 may include a plan of corrective action for improvement of the
22 employee's performance based on the work expectations or
23 performance standards applicable to the position.

24 (3) The department may adopt rules to administer the
25 review and performance planning system which establish
26 procedures for performance evaluation, procedures to be
27 followed in case of failure to meet performance standards,
28 review periods, and forms.

29 Section 2. Section 110.1095, Florida Statutes, is
30 amended to read:

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1 110.1095 Supervisory and management training and
2 continuing education for executive branch agencies.--The
3 department shall represent the public interest in the
4 improvement of administration by providing training programs
5 for all executive branch agencies, except the State University
6 System, aimed at improving managerial, administrative, and
7 technical skills.

8 (1) The department shall establish a basic supervisory
9 skills training program that provides a standard set of
10 fundamental supervisory skills to ensure that all persons
11 filling supervisory or managerial positions in state
12 government are instructed in basic supervisory functions. The
13 program shall be designed so that a person who is hired or
14 promoted into a supervisory position attends the training
15 within 6 months after the date that he or she is hired or
16 promoted into such position; when there are extenuating
17 circumstances, this period may be extended up to 6 months.

18 (2) The department shall provide technical assistance
19 to agencies for the development and evaluation of training
20 programs and shall establish a continuing education program
21 for supervisors and managers to ensure that persons filling
22 such positions update their skills on a regular and continuing
23 basis.

24 (3) The department shall annually review, monitor for
25 compliance, and evaluate all state training programs developed
26 pursuant to this section. The department may adopt rules
27 establishing procedures for the annual review, monitoring,
28 evaluation, oversight of state training programs, and agency
29 reporting requirements.

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1 (4) Each agency is responsible for the development,
2 implementation, administration, and evaluation of agency
3 training programs for supervisors and managers.

4 Section 3. Subsection (1) of section 110.207, Florida
5 Statutes, is amended to read:

6 110.207 Classification plan.--

7 (1) The department shall establish and maintain a
8 uniform classification plan applicable to all positions in the
9 career service and shall be responsible for the overall
10 coordination, review, and maintenance of the plan. No action
11 may be taken to fill any position until it has been classified
12 in accordance with the classification plan.

13 (a) The department shall develop class specifications
14 necessary for the establishment of new classes or for the
15 revision of existing classes and shall adopt the appropriate
16 class title and class code for each class. Such class
17 specifications, titles, and codes shall not constitute rules
18 within the meaning of s. 120.52.

19 (b) The department shall be responsible for conducting
20 periodic studies and surveys to assure that the classification
21 plan is maintained on a current basis.

22 (c) The department may review in a postaudit capacity
23 the action taken by an employing agency in classifying or
24 reclassifying a position.

25 (d) The department shall effect a classification
26 change on any classification or reclassification action taken
27 by an employing agency if the action taken by the agency was
28 not based on the duties and responsibilities officially
29 assigned the position as they relate to the concepts and
30 allocation factors contained in the official class
31 specifications adopted by the department.

1 (e) Any action taken by the department in regard to
2 the classification or reclassification of a position which
3 affects a department headed by a Cabinet officer or by the
4 Governor and Cabinet may be reviewed by the Administration
5 Commission, and the decision of the department may be changed
6 by a majority vote of the Administration Commission.

7 (f) In cooperation and consultation with the employing
8 agencies, the department shall adopt rules necessary to govern
9 the administration of the classification plan. Such rules
10 shall be approved by the Administration Commission prior to
11 their adoption by the department.

12 (g) In consultation with the Executive Office of the
13 Governor, the department shall facilitate the statewide
14 planning of the career service broadbanding compensation and
15 classification system.

16 1. Upon approval by the Executive Office of the
17 Governor, the department shall begin developing the
18 broadbanding system to ensure agency flexibility and
19 accountability on a statewide basis, and shall have the
20 authority to determine system modifications necessary to
21 permit use by all agencies. The proposed structure shall
22 address all issues raised in the January 1997 report on the
23 "Review of the Department of Transportation Model
24 Classification Plan" submitted to the Governor, the President
25 of the Senate, and the Speaker of the House of
26 Representatives. The Department of Management Services shall
27 provide alternatives for a rate funding formula that will not
28 exceed the statewide cost under the current formula and will
29 ensure that agencies are able to effectively recruit and
30 retain employees. The Department of Transportation shall
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1 continue to use the model system it developed under the
2 provision of s. 334.0445 until July 1, 1999.

3 2. Once the Executive Office of the Governor has
4 approved a statewide broadbanding compensation and
5 classification system, state agencies will come under the
6 uniform personnel system based on an implementation schedule
7 developed by the Department of Management Services and
8 approved by the Executive Office of the Governor.

9 Section 4. Section 110.227, Florida Statutes, is
10 amended to read:

11 110.227 Suspensions, dismissals, reductions in pay,
12 demotions, layoffs, ~~and~~ transfers, and grievances.--

13 (1) Any employee who has permanent status in the
14 career service may only be suspended or dismissed for cause.
15 Cause shall include, but not be limited to, negligence,
16 inefficiency or inability to perform assigned duties,
17 insubordination, willful violation of the provisions of law or
18 agency rules, conduct unbecoming a public employee,
19 misconduct, habitual drug abuse, or conviction of any crime
20 involving moral turpitude. Each agency head shall ensure that
21 all employees of the agency are completely familiar with the
22 agency's established procedures on disciplinary actions and
23 grievances.

24 (2) The department shall establish rules and
25 procedures for the suspension, reduction in pay, transfer,
26 layoff, demotion, and dismissal of employees in the career
27 service. Such rules shall be approved by the Administration
28 Commission prior to their adoption by the department.

29 (3)(a) When a layoff becomes necessary, such layoff
30 shall be conducted within the competitive area identified by
31 the agency head and approved by the Department of Management

1 Services. Such competitive area shall be established taking
2 into consideration the similarity of work; the organizational
3 unit, which may be by agency, department, division, bureau, or
4 other organizational unit; and the commuting area for the work
5 affected.

6 (b) Layoff procedures shall be developed to establish
7 the relative merit and fitness of employees and shall include
8 a formula for uniform application among all employees in the
9 competitive area, taking into consideration the type of
10 appointment, the length of service, and the evaluations of the
11 employee's performance within the last 5 years of employment.

12 (4) Any permanent career service employee subject to
13 reduction in pay, transfer, layoff, or demotion from a class
14 in which he or she has permanent status in the Career Service
15 System shall be notified in writing by the agency prior to its
16 taking such action. The notice may be delivered to the
17 employee personally or may be sent by certified mail with
18 return receipt requested. Such actions shall be appealable to
19 the Public Employees Relations Commission, pursuant to s.
20 447.208 and rules adopted by the commission.

21 (5)(a) Any permanent career service employee who is
22 subject to suspension or dismissal shall receive written
23 notice of such action at least 10 days prior to the date such
24 action is to be taken. Subsequent to such notice, and prior
25 to the date the action is to be taken, the affected employee
26 shall be given an opportunity to appear before the agency or
27 official taking the action to answer orally and in writing the
28 charges against him or her. The notice to the employee
29 required by this paragraph may be delivered to the employee
30 personally or may be sent by certified mail with return
31 receipt requested. An employee who is suspended or dismissed

1 shall be entitled to a hearing before the Public Employees
2 Relations Commission or its designated agent pursuant to s.
3 447.208 and rules adopted by the commission.

4 (b) In extraordinary situations such as when the
5 retention of a permanent career service employee would result
6 in damage to state property, would be detrimental to the best
7 interest of the state, or would result in injury to the
8 employee, a fellow employee, or some other person, such
9 employee may be suspended or dismissed without 10 days' prior
10 notice, provided that written or oral notice of such action,
11 evidence of the reasons therefor, and an opportunity to rebut
12 the charges are furnished to the employee prior to such
13 dismissal or suspension. Such notice may be delivered to the
14 employee personally or may be sent by certified mail with
15 return receipt requested. Agency compliance with the foregoing
16 procedure requiring notice, evidence, and an opportunity for
17 rebuttal must be substantiated. Any employee who is suspended
18 or dismissed pursuant to the provisions of this paragraph
19 shall be entitled to a hearing before the Public Employees
20 Relations Commission or its designated agent pursuant to s.
21 447.208, except that such hearing shall be held no more than
22 20 days after the filing of the notice of appeal by the
23 employee.

24 (6) A grievance process shall be available to career
25 service employees. A grievance is defined as the
26 dissatisfaction that occurs when an employee thinks or feels
27 that any condition affecting the employee is unjust,
28 inequitable, or a hinderance to effective operation, or
29 creates a problem, except that an employee shall not have the
30 right to file a grievance against performance evaluations
31 unless it is alleged that the evaluation is based on factors

1 other than the employee's performance. Claims of
2 discrimination and sexual harassment, suspensions, reductions
3 in pay, transfers, layoffs, demotions, and dismissals are not
4 subject to the career-service grievance process.

5 (7) The department shall adopt rules for
6 administration of the grievance process for career-service
7 employees. Such rules shall establish agency grievance
8 procedures, eligibility, filing deadlines, forms, and review
9 and evaluation governing the grievance process.

10 Section 5. Paragraphs (e), (f), and (g) of subsection
11 (1) and subsection (3) of section 216.262, Florida Statutes,
12 are amended to read:

13 216.262 Authorized positions.--

14 (1)

15 (e) An individual employed by a state agency or by the
16 judicial branch may not fill more than a total of one
17 full-time equivalent established position, receive
18 compensation simultaneously from any appropriation other than
19 appropriations for salaries, or receive compensation
20 simultaneously from more than one state agency unless approved
21 by the Department of Management Services, or otherwise
22 delegated to the agency head, or by the Chief Justice,
23 respectively, during each fiscal year. The Department of
24 Management Services may adopt uniform rules applicable to the
25 executive branch agencies to implement its responsibilities
26 under this paragraph.

27 (f) Perquisites may not be furnished by a state agency
28 or by the judicial branch unless approved by the Department of
29 Management Services, or otherwise delegated to the agency
30 head, or by the Chief Justice, respectively, during each
31 fiscal year. Whenever a state agency or the judicial branch is

1 to furnish perquisites, the Department of Management Services
2 or the agency head to which the approval has been delegated or
3 the Chief Justice, respectively, must approve the kind and
4 monetary value of such perquisites before they may be
5 furnished. Perquisites may be furnished only when in the best
6 interest of the state due to the exceptional or unique
7 requirements of the position. The value of a perquisite may
8 not be used to compute an employee's base rate of pay or
9 regular rate of pay unless required by the Fair Labor
10 Standards Act. Permissible perquisites include, but are not
11 limited to, moving expenses, clothing, use of vehicles and
12 other transportation, domestic services, groundskeeping
13 services, telephone services, medical services, housing,
14 utilities, and meals. The Department of Management Services
15 may adopt uniform rules applicable to the executive branch
16 agencies to implement its responsibilities under this
17 paragraph, which rules may specify additional perquisites,
18 establish additional criteria for each kind of perquisite,
19 provide the procedure to be used by executive agencies in
20 applying for approvals, and establish the required
21 justification.

22 (g) If goods and services are to be sold to officers
23 and employees of a state agency or of the judicial branch
24 rather than being furnished as perquisites, the kind and
25 selling price thereof shall be approved by the Department of
26 Management Services, unless otherwise delegated to the agency
27 head, or by the Chief Justice, respectively, during each
28 fiscal year before such sales are made. The selling price may
29 be deducted from any amounts due by the state to any person
30 receiving such things. The amount of cash so deducted shall
31 be faithfully accounted for. This paragraph does not apply to

1 sales to officers or employees of items generally sold to the
2 public and does not apply to meals which may be provided
3 without charge to volunteers under a volunteer service program
4 approved by the Department of Management Services. The goods
5 and services may include, but are not limited to, medical
6 services, long-term and short-term rental housing, and laundry
7 and transportation services. The Department of Management
8 Services may adopt uniform rules applicable to the executive
9 branch agencies to implement its responsibilities under this
10 paragraph, which rules may specify other items that may be
11 approved, the required justification for proposed sales, and
12 the manner in which agencies will apply for approvals.

13 (3) No full-time position shall be filled by more than
14 the equivalent of one full-time officer or employee, except
15 when extenuating circumstances exist. Extenuating
16 circumstances will be ~~as~~ provided for in rules to be adopted
17 by the Department of Management Services or by the Chief
18 Justice, respectively.

19 Section 6. This act shall take effect upon becoming a
20 law.

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