

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

1  
2  
3  
4  
5  
6  
7  
8  
9

10

Representative(s) Safley offered the following:

12

**Amendment (with title amendment)**

13

On page 87, between lines 14 & 15 of the bill

14

15

insert:

16

Section 82. Section 440.49, Florida Statutes, is amended to read:

17

18

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

19

20

(1) LEGISLATIVE INTENT.--Whereas it is often difficult for workers with disabilities to achieve employment or to become reemployed following an injury, and it is the desire of the Legislature to facilitate the return of these workers to the workplace, it is the purpose of this section to encourage the employment, reemployment, and accommodation of the physically disabled by reducing an employer's insurance premium for reemploying an injured worker, to decrease litigation between carriers on apportionment issues, and to protect employers from excess liability for compensation and medical expense when an injury to a physically disabled worker

21

22

23

24

25

26

27

28

29

30

31

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

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 commission to review, allow, deny, compromise, controvert, and  
23 litigate claims of the Special Disability Trust Fund.

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

26           (g) "Commission" means the Special Disability Trust  
27 Fund Privatization Commission, as created under subsection  
28 (13).

29           (3) DEDUCTIBLE.--Reimbursement may not be obtained for  
30 the first \$10,000 of benefits paid which otherwise qualify for  
31 reimbursement under this section. This deductible does not

1 apply to claims by employers for reimbursement under  
2 subparagraph (b)3.

3 (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL  
4 DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT  
5 CARE AFTER OTHER PHYSICAL IMPAIRMENT.--

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

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

31 (c) Temporary compensation and medical benefits;

Amendment No. \_\_\_\_ (for drafter's use only)

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

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

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

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

Amendment No. \_\_\_\_ (for drafter's use only)

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

1           23. Mental retardation, provided the employee's  
2 intelligence quotient is such that she or he falls within the  
3 lowest 2 percentile of the general population. However, it  
4 shall not be necessary for the employer to know the employee's  
5 actual intelligence quotient or actual relative ranking in  
6 relation to the intelligence quotient of the general  
7 population.

8           24. Any permanent physical condition which, prior to  
9 the industrial accident or occupational disease, constitutes a  
10 20-percent impairment of a member or of the body as a whole.

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

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

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

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

31           (7) REIMBURSEMENT OF EMPLOYER.--

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

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

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



Amendment No. \_\_\_\_ (for drafter's use only)

1 of claim, serve notice of the acceptance of the claim for  
2 reimbursement. This paragraph shall apply to all claims  
3 notwithstanding the provisions of subsection (12).

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

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

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

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

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

1 certification of employment.

2 (9) SPECIAL DISABILITY TRUST FUND.--

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

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

1 subsection and the maintenance of this fund and shall make  
2 such assessment in the manner hereinafter provided.

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

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

10           b. Two times the disbursements of the most recent  
11 calendar year.

12

13 Such amount shall be prorated among the insurance companies  
14 writing compensation insurance in the state and the  
15 self-insurers.

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

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

30           (c) Notwithstanding the Special Disability Trust Fund  
31 assessment rate calculated pursuant to this section, the rate

1 assessed shall not exceed 4.52 percent.

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

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

28 (10) DIVISION ADMINISTRATION OF FUND; CLAIMS; ADVISORY  
29 COMMITTEE; EXPENSES.--The division or administrator shall  
30 administer the Special Disability Trust Fund with authority to  
31 allow, deny, compromise, controvert, and litigate claims made

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

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

1 subsequent occupational disease occurred on or after January  
2 1, 1998. The Special Disability Trust Fund shall continue to  
3 reimburse employers or carriers for subsequent injuries  
4 occurring prior to January 1, 1998, and the division shall  
5 continue to assess for and the division or administrator shall  
6 fund reimbursements as provided in subsection (9) for this  
7 purpose.

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

12 (13)(a) The Special Disability Trust Fund  
13 Privatization Commission is created to evaluate and determine  
14 the feasibility of privatizing the Special Disability Trust  
15 Fund. The commission shall determine the liabilities of the  
16 fund and the costs to presently administer the Special  
17 Disability Trust Fund. The commission may develop and issue a  
18 request for proposal to transfer the liabilities of the  
19 Special Disability Trust Fund to a qualified entity. The  
20 commission is authorized to select and contract with a  
21 qualified entity, only if the commission determines that such  
22 an arrangement would substantially reduce the costs and be  
23 more effective than the current administration of the Special  
24 Disability Trust Fund. The commission may adopt rules  
25 necessary for the performance of its assigned duties and  
26 responsibilities.

27 (b) Consistent with the closing of the fund provided  
28 in subsection (11), the Special Disability Trust Fund  
29 Privatization Commission is authorized to contract with an  
30 administrator to review, allow, deny, compromise, controvert,  
31 and litigate claims of the Special Disability Trust Fund under

1 this section. The Commission, in consultation with the  
2 division, is authorized to contract with a qualified entity to  
3 assume the reimbursement obligations of the Special Disability  
4 Trust Fund for claims which have previously have accepted for  
5 reimbursement by the Special Disability Trust Fund and claims  
6 which are determined to be reimbursable by the Special  
7 Disability Trust Fund. The qualified entity and the  
8 administrator shall not be affiliates of the other, and shall  
9 not establish or maintain a financial or contractual agreement  
10 with each other for purposes of this section. On or before  
11 July 1, 1999, the commission, in consultation with the  
12 division, may develop and issue a request for proposal for the  
13 transfer and assumption of liabilities, and administration of  
14 certain functions related to claims of the Special Disability  
15 Trust Fund. The administrator shall have experience in  
16 workers' compensation claims management of sufficient scope  
17 and size to undertake the duties and responsibilities of this  
18 section and shall demonstrate the ability to meet the criteria  
19 established by the commission, which shall include the ability  
20 to substantially reduce the overall costs of reviewing and  
21 reimbursing claims, and to settle and extinguish the  
22 liabilities of the Special Disability Trust Fund in a more  
23 cost efficient and more timely manner than presently provided  
24 by the division. In the event liabilities on the Special  
25 Disabilities Trust Fund are transferred to and assumed by a  
26 qualified entity, such entity shall provide the state with  
27 financial assurance as to the satisfaction of any such  
28 liabilities or claims and the state and the Special Disability  
29 Trust Fund shall have no further liability with respect to  
30 those liabilities and claims. The financial assurances may  
31 include, but are not limited to, cash reserves, reinsurance,



1 guarantees, or letters of credit.

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

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

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

16 (a) The Legislature finds that:

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

28 2. The Legislature finds that the creation of a public  
29 benefits corporation and the issuance of bonds or other forms  
30 of indebtedness under this section is consistent with the  
31 underlying public purpose of reducing and ultimately

1 eliminating the liabilities of the Special Disability Trust  
2 Fund. The purpose of the corporation and the subsequent bond  
3 issuance is to fund and pay the liabilities of the Special  
4 Disability Trust Fund, ensure the existence of a sufficient  
5 funding source for reimbursements to employers and carriers,  
6 and reduce the overall costs of the program provided by the  
7 state by employers and carriers.

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

16 1. The corporation shall operate under a three-member  
17 board of directors consisting of the Governor or a designee,  
18 the Treasurer or a designee, and the Comptroller or a  
19 designee.

20 2. The corporation has all of the powers of  
21 corporations under chapter 607 and under chapter 617.

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

26 4. The corporation may invest in any of the  
27 investments authorized under s. 215.47.

28 5. There shall be no liability on the part of, and no  
29 cause of action shall arise against, any board members or  
30 employees of the corporation or the state for any actions  
31 taken by them in the performance of their duties under this

1 paragraph.

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

13 7. In addition to bonding, the corporation may also  
14 borrow from, or enter into other financing arrangements with,  
15 any market sources at interest rates not exceeding prevailing  
16 interest rates.

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

31 2. The corporation may contract with the State Board

1 of Administration to serve as trustee with respect to debt  
2 obligations issued by the corporation as provided by this  
3 section and to hold, administer, and invest proceeds of such  
4 debt obligations and other funds of the corporation. The State  
5 Board of Administration may perform such services and may  
6 contract with others to provide all or a part of such services  
7 and to recover the costs and expenses of providing such  
8 services. The investment of proceeds of debt obligations or  
9 other funds of the corporation and contracts of funds held in  
10 trust by the State Board of Administration, whether directly  
11 or indirectly related to the investments or contracts, are  
12 exempt from the provisions of chapter 287.

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 a qualified  
27 entity to assume all or some of the liabilities of the Special  
28 Disability Trust Fund, all or any portion of the monetary  
29 assets and claims liabilities held in and accruing to the  
30 Special Disability Trust Fund may, with the agreement of the  
31 corporation or the administrator, be transferred to and fully

1 assumed by the corporation or the qualified entity. As  
 2 provided in an agreement with the corporation or the qualified  
 3 entity, 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 qualified entity, 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 83. 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.

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

24 And the title is amended as follows:

25 On page 6, line 10

27 after the semicolon, insert:

28 amending s. 440.49, F.S., creating the Special  
 29 Disability Trust Fund Privatization Commission;  
 30 providing purpose; providing for members;  
 31 providing duties; providing for adoption of

1 rules; creating the Special Disability Trust  
2 Fund Financing Corporation; providing purposes;  
3 providing for a board of directors; providing  
4 powers and duties of the corporation;  
5 authorizing the Division of Workers'  
6 Compensation to enter into service contracts  
7 for certain purposes; authorizing the  
8 corporation to issue evidences of indebtedness;  
9 authorizing the corporation to validate bond  
10 obligations; exempting the corporation from  
11 certain taxes and assessments; providing  
12 application; providing for reversion of the  
13 assets to the State upon dissolution of the  
14 corporation; providing for the State Board of  
15 Administration to be a trustee of the  
16 corporation's securities; authorizing the  
17 commission to issue a request for proposal for  
18 administration of the claims of the fund;  
19 authorizing the transfer and assumption of the  
20 liabilities of the Special Disability Trust  
21 Fund to a qualified entity if it is determined  
22 by the commission that such an arrangement  
23 would be more cost effective than the current  
24 administration by the division; authorizing the  
25 Auditor General to examine and audit the  
26 records of the corporation; providing an  
27 appropriation;

28  
29  
30  
31