

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

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. Section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.--When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(1) "Accident" means only an unexpected or unusual event or result that happens suddenly. A mental or nervous injury due to stress, fright, or excitement only, or disability or death due to the accidental acceleration or aggravation of a venereal disease or of a disease due to the habitual use of alcohol or controlled substances or narcotic drugs, or a disease that manifests itself in the fear of or dislike for an individual because of the individual's race, color, religion, sex, national origin, age, or handicap is not an injury by accident arising out of the employment. If a

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1 preexisting disease or anomaly is accelerated or aggravated by
2 an accident arising out of and in the course of employment,
3 only acceleration of death or acceleration or aggravation of
4 the preexisting condition reasonably attributable to the
5 accident is compensable, with respect to death or permanent
6 impairment.

7 (2) "Adoption" or "adopted" means legal adoption prior
8 to the time of the injury.

9 (3) "Carrier" means any person or fund authorized
10 under s. 440.38 to insure under this chapter and includes a
11 self-insurer, and a commercial self-insurance fund authorized
12 under s. 624.462.

13 (4) "Casual" as used in this section shall be taken to
14 refer only to employments when the work contemplated is to be
15 completed in not exceeding 10 working days, without regard to
16 the number of persons employed, and when the total labor cost
17 of such work is less than \$100.

18 (5) "Child" includes a posthumous child, a child
19 legally adopted prior to the injury of the employee, and a
20 stepchild or acknowledged child born out of wedlock dependent
21 upon the deceased, but does not include married children
22 unless wholly dependent on the employee. "Grandchild" means a
23 child as above defined of a child as above defined. "Brother"
24 and "sister" include stepbrothers and stepsisters, half
25 brothers and half sisters, and brothers and sisters by
26 adoption, but does not include married brothers or married
27 sisters unless wholly dependent on the employee. "Child,"
28 "grandchild," "brother," and "sister" include only persons who
29 at the time of the death of the deceased employees are under
30 18 years of age, or under 22 years of age if a full-time
31 student in an accredited educational institution.

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1 (6) "Compensation" means the money allowance payable
2 to an employee or to his or her dependents as provided for in
3 this chapter.

4 (7) "Construction industry" means for-profit
5 activities involving the carrying out of any building,
6 clearing, filling, excavation, or substantial improvement in
7 the size or use of any structure or the appearance of any
8 land. When appropriate to the context, "construction" refers
9 to the act of construction or the result of construction.
10 However, "construction" shall not mean a landowner's act of
11 construction or the result of a construction upon his or her
12 own premises, provided such premises are not intended to be
13 sold or resold.

14 (8) "Corporate officer" or "officer of a corporation"
15 means any person who fills an office provided for in the
16 corporate charter or articles of incorporation filed with the
17 Division of Corporations of the Department of State or as
18 permitted or required by chapter 607.

19 ~~(9)~~~~(8)~~ "Date of maximum medical improvement" means the
20 date after which further recovery from, or lasting improvement
21 to, an injury or disease can no longer reasonably be
22 anticipated, based upon reasonable medical probability.

23 ~~(10)~~~~(9)~~ "Death" as a basis for a right to compensation
24 means only death resulting from an injury.

25 ~~(11)~~~~(10)~~ "Department" means the Department of Labor
26 and Employment Security.

27 ~~(12)~~~~(11)~~ "Disability" means incapacity because of the
28 injury to earn in the same or any other employment the wages
29 which the employee was receiving at the time of the injury.

30 ~~(13)~~~~(12)~~ "Division" means the Division of Workers'
31 Compensation of the Department of Labor and Employment

1 Security.

2 (14)~~(13)~~(a) "Employee" means any person engaged in any
3 employment under any appointment or contract of hire or
4 apprenticeship, express or implied, oral or written, whether
5 lawfully or unlawfully employed, and includes, but is not
6 limited to, aliens and minors.

7 (b) "Employee" includes any person who is an officer
8 of a corporation and who performs services for remuneration
9 for such corporation within this state, whether or not such
10 services are continuous.

11 1. Any officer of a corporation may elect to be exempt
12 from this chapter by filing written notice of the election
13 with the division as provided in s. 440.05.

14 2. As to officers of a corporation who are actively
15 engaged in the construction industry, no more than three
16 officers may elect to be exempt from this chapter by filing
17 written notice of the election with the division as provided
18 in s. 440.05.

19 3. An officer of a corporation who elects to be exempt
20 from this chapter by filing a written notice of the election
21 with the division as provided in s. 440.05 is not an employee.

22
23 Services are presumed to have been rendered to the corporation
24 if the officer is compensated by other than dividends upon
25 shares of stock of the corporation which the officer owns.

26 (c) "Employee" includes a sole proprietor or a partner
27 who devotes full time to the proprietorship or partnership
28 and, except as provided in this paragraph, elects to be
29 included in the definition of employee by filing notice
30 thereof as provided in s. 440.05. Partners or sole proprietors
31 actively engaged in the construction industry are considered

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1 employees unless they elect to be excluded from the definition
2 of employee by filing written notice of the election with the
3 division as provided in s. 440.05. However, no more than three
4 partners in a partnership that is actively engaged in the
5 construction industry may elect to be excluded. A sole
6 proprietor or partner who is actively engaged in the
7 construction industry and who elects to be exempt from this
8 chapter by filing a written notice of the election with the
9 division as provided in s. 440.05 is not an employee. For
10 purposes of this chapter, an independent contractor is an
11 employee unless he or she meets all of the conditions set
12 forth in subparagraph (d)1.

13 (d) "Employee" does not include:

14 1. An independent contractor, if:

15 a. The independent contractor maintains a separate
16 business with his or her own work facility, truck, equipment,
17 materials, or similar accommodations;

18 b. The independent contractor holds or has applied for
19 a federal employer identification number, unless the
20 independent contractor is a sole proprietor who is not
21 required to obtain a federal employer identification number
22 under state or federal requirements;

23 c. The independent contractor performs or agrees to
24 perform specific services or work for specific amounts of
25 money and controls the means of performing the services or
26 work;

27 d. The independent contractor incurs the principal
28 expenses related to the service or work that he or she
29 performs or agrees to perform;

30 e. The independent contractor is responsible for the
31 satisfactory completion of work or services that he or she

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1 performs or agrees to perform and is or could be held liable
2 for a failure to complete the work or services;
3 f. The independent contractor receives compensation
4 for work or services performed for a commission or on a
5 per-job or competitive-bid basis and not on any other basis;
6 g. The independent contractor may realize a profit or
7 suffer a loss in connection with performing work or services;
8 h. The independent contractor has continuing or
9 recurring business liabilities or obligations; and
10 i. The success or failure of the independent
11 contractor's business depends on the relationship of business
12 receipts to expenditures.
13
14 However, the determination as to whether an individual
15 included in the Standard Industrial Classification Manual of
16 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762,
17 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436,
18 2448, or 2449, or a newspaper delivery person, is an
19 independent contractor is governed not by the criteria in this
20 paragraph but by common-law principles, giving due
21 consideration to the business activity of the individual.
22 2. A real estate salesperson or agent, if that person
23 agrees, in writing, to perform for remuneration solely by way
24 of commission.
25 3. Bands, orchestras, and musical and theatrical
26 performers, including disk jockeys, performing in licensed
27 premises as defined in chapter 562, if a written contract
28 evidencing an independent contractor relationship is entered
29 into before the commencement of such entertainment.
30 4. An owner-operator of a motor vehicle who transports
31 property under a written contract with a motor carrier which

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1 evidences a relationship by which the owner-operator assumes
2 the responsibility of an employer for the performance of the
3 contract, if the owner-operator is required to furnish the
4 necessary motor vehicle equipment and all costs incidental to
5 the performance of the contract, including, but not limited
6 to, fuel, taxes, licenses, repairs, and hired help; and the
7 owner-operator is paid a commission for transportation service
8 and is not paid by the hour or on some other time-measured
9 basis.

10 5. A person whose employment is both casual and not in
11 the course of the trade, business, profession, or occupation
12 of the employer.

13 6. A volunteer, except a volunteer worker for the
14 state or a county, municipality, or other governmental entity.
15 A person who does not receive monetary remuneration for
16 services is presumed to be a volunteer unless there is
17 substantial evidence that a valuable consideration was
18 intended by both employer and employee. For purposes of this
19 chapter, the term "volunteer" includes, but is not limited to:

20 a. Persons who serve in private nonprofit agencies and
21 who receive no compensation other than expenses in an amount
22 less than or equivalent to the standard mileage and per diem
23 expenses provided to salaried employees in the same agency or,
24 if such agency does not have salaried employees who receive
25 mileage and per diem, then such volunteers who receive no
26 compensation other than expenses in an amount less than or
27 equivalent to the customary mileage and per diem paid to
28 salaried workers in the community as determined by the
29 division; and

30 b. Volunteers participating in federal programs
31 established under Pub. L. No. 93-113.

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1 7. Any officer of a corporation who elects to be
2 exempt from this chapter.

3 8. A sole proprietor or officer of a corporation who
4 actively engages in the construction industry, and a partner
5 in a partnership that is actively engaged in the construction
6 industry, who elects to be exempt from the provisions of this
7 chapter. Such sole proprietor, officer, or partner is not an
8 employee for any reason until the notice of revocation of
9 election filed pursuant to s. 440.05 is effective.

10 9. An exercise rider who does not work for a single
11 horse farm or breeder, and who is compensated for riding on a
12 case-by-case basis, provided a written contract is entered
13 into prior to the commencement of such activity which
14 evidences that an employee/employer relationship does not
15 exist.

16 10. A taxicab, limousine, or other passenger
17 vehicle-for-hire driver who operates said vehicles pursuant to
18 a written agreement with a company which provides any
19 dispatch, marketing, insurance, communications, or other
20 services under which the driver and any fees or charges paid
21 by the driver to the company for such services are not
22 conditioned upon, or expressed as a proportion of, fare
23 revenues.

24 (15)~~(14)~~ "Employer" means the state and all political
25 subdivisions thereof, all public and quasi-public corporations
26 therein, every person carrying on any employment, and the
27 legal representative of a deceased person or the receiver or
28 trustees of any person. If the employer is a corporation,
29 parties in actual control of the corporation, including, but
30 not limited to, the president, officers who exercise broad
31 corporate powers, directors, and all shareholders who directly

1 or indirectly own a controlling interest in the corporation,
2 are considered the employer for the purposes of ss. 440.105
3 and 440.106.

4 (16)~~(15)~~(a) "Employment," subject to the other
5 provisions of this chapter, means any service performed by an
6 employee for the person employing him or her.

7 (b) "Employment" includes:

8 1. Employment by the state and all political
9 subdivisions thereof and all public and quasi-public
10 corporations therein, including officers elected at the polls.

11 2. All private employments in which four or more
12 employees are employed by the same employer or, with respect
13 to the construction industry, all private employment in which
14 one or more employees are employed by the same employer.

15 3. Volunteer firefighters responding to or assisting
16 with fire or medical emergencies whether or not the
17 firefighters are on duty.

18 (c) "Employment" does not include service performed by
19 or as:

20 1. Domestic servants in private homes.

21 2. Agricultural labor performed on a farm in the
22 employ of a bona fide farmer, or association of farmers, who
23 employs 5 or fewer regular employees and who employs fewer
24 than 12 other employees at one time for seasonal agricultural
25 labor that is completed in less than 30 days, provided such
26 seasonal employment does not exceed 45 days in the same
27 calendar year. The term "farm" includes stock, dairy, poultry,
28 fruit, fur-bearing animals, fish, and truck farms, ranches,
29 nurseries, and orchards. The term "agricultural labor"
30 includes field foremen, timekeepers, checkers, and other farm
31 labor supervisory personnel.

1 3. Professional athletes, such as professional boxers,
2 wrestlers, baseball, football, basketball, hockey, polo,
3 tennis, jai alai, and similar players, and motorsports teams
4 competing in a motor racing event as defined in s. 549.08.

5 4. Labor under a sentence of a court to perform
6 community services as provided in s. 316.193.

7 (17)~~(16)~~ "Misconduct" includes, but is not limited to,
8 the following, which shall not be construed in pari materia
9 with each other:

10 (a) Conduct evincing such willful or wanton disregard
11 of an employer's interests as is found in deliberate violation
12 or disregard of standards of behavior which the employer has
13 the right to expect of the employee; or

14 (b) Carelessness or negligence of such a degree or
15 recurrence as to manifest culpability, wrongful intent, or
16 evil design, or to show an intentional and substantial
17 disregard of an employer's interests or of the employee's
18 duties and obligations to the employer.

19 (18)~~(17)~~ "Injury" means personal injury or death by
20 accident arising out of and in the course of employment, and
21 such diseases or infection as naturally or unavoidably result
22 from such injury. Damage to dentures, eyeglasses, prosthetic
23 devices, and artificial limbs may be included in this
24 definition only when the damage is shown to be part of, or in
25 conjunction with, an accident. This damage must specifically
26 occur as the result of an accident in the normal course of
27 employment.

28 (19)~~(18)~~ "Parent" includes stepparents and parents by
29 adoption, parents-in-law, and any persons who for more than 3
30 years prior to the death of the deceased employee stood in the
31 place of a parent to him or her and were dependent on the

1 injured employee.

2 (20) "Partner" means any person who is a member of a
3 partnership that is formed by two or more persons to carry on
4 as coowners of a business with the understanding that there
5 will be a proportional sharing of the profits and losses
6 between them. For the purposes of this chapter, a partner is a
7 person who participates fully in the management of the
8 partnership and who is personally liable for its debts.

9 (21)~~(19)~~ "Permanent impairment" means any anatomic or
10 functional abnormality or loss determined as a percentage of
11 the body as a whole, existing after the date of maximum
12 medical improvement, which results from the injury.

13 (22)~~(20)~~ "Person" means individual, partnership,
14 association, or corporation, including any public service
15 corporation.

16 (23)~~(21)~~ "Self-insurer" means:

17 (a) Any employer who has secured payment of
18 compensation pursuant to s. 440.38(1)(b) or (6) as an
19 individual self-insurer;

20 (b) Any employer who has secured payment of
21 compensation through a group self-insurance fund under s.
22 624.4621;

23 (c) Any group self-insurance fund established under s.
24 624.4621;

25 (d) A public utility as defined in s. 364.02 or s.
26 366.02 that has assumed by contract the liabilities of
27 contractors or subcontractors pursuant to s. 440.571; or

28 (e) Any local government self-insurance fund
29 established under s. 624.4622.

30 (24) "Sole proprietor" means a natural person who owns
31 a form of business in which that person owns all the assets of

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1 the business and is solely liable for all the debts of the
2 business.

3 (25)~~(22)~~ "Spouse" includes only a spouse substantially
4 dependent for financial support upon the decedent and living
5 with the decedent at the time of the decedent's injury and
6 death, or substantially dependent upon the decedent for
7 financial support and living apart at that time for
8 justifiable cause.

9 (26)~~(23)~~ "Time of injury" means the time of the
10 occurrence of the accident resulting in the injury.

11 (27)~~(24)~~ "Wages" means the money rate at which the
12 service rendered is recompensed under the contract of hiring
13 in force at the time of the injury and includes only the wages
14 earned and reported for federal income tax purposes on the job
15 where the employee is injured and any other concurrent
16 employment where he or she is also subject to workers'
17 compensation coverage and benefits, together with the
18 reasonable value of housing furnished to the employee by the
19 employer which is the permanent year-round residence of the
20 employee, and gratuities to the extent reported to the
21 employer in writing as taxable income received in the course
22 of employment from others than the employer and employer
23 contributions for health insurance for the employee or the
24 employee's dependents. However, housing furnished to migrant
25 workers shall be included in wages unless provided after the
26 time of injury. In employment in which an employee receives
27 consideration for housing, the reasonable value of such
28 housing compensation shall be the actual cost to the employer
29 or based upon the Fair Market Rent Survey promulgated pursuant
30 to s. 8 of the Housing and Urban Development Act of 1974,
31 whichever is less. However, if employer contributions for

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1 housing or health insurance are continued after the time of
2 the injury, the contributions are not "wages" for the purpose
3 of calculating an employee's average weekly wage.

4 ~~(28)~~(25) "Weekly compensation rate" means and refers
5 to the amount of compensation payable for a period of 7
6 consecutive days, including any Saturdays, Sundays, holidays,
7 and other nonworking days which fall within such period of 7
8 consecutive days. When Saturdays, Sundays, holidays, or other
9 nonworking days immediately follow the first 7 days of
10 disability or occur at the end of a period of disability as
11 the last day or days of such period, such nonworking days
12 constitute a part of the period of disability with respect to
13 which compensation is payable.

14 ~~(29)~~(26) "Construction design professional" means an
15 architect, professional engineer, landscape architect, or
16 surveyor and mapper, or any corporation, professional or
17 general, that has a certificate to practice in the
18 construction design field from the Department of Business and
19 Professional Regulation.

20 ~~(30)~~(27) "Individual self-insurer" means any employer
21 who has secured payment of compensation pursuant to s.
22 440.38(1)(b) as an individual self-insurer.

23 ~~(31)~~(28) "Domestic individual self-insurer" means an
24 individual self-insurer:

25 (a) Which is a corporation formed under the laws of
26 this state;

27 (b) Who is an individual who is a resident of this
28 state or whose primary place of business is located in this
29 state; or

30 (c) Which is a partnership whose principals are
31 residents of this state or whose primary place of business is

1 located in this state.

2 (32)~~(29)~~ "Foreign individual self-insurer" means an
3 individual self-insurer:

4 (a) Which is a corporation formed under the laws of
5 any state, district, territory, or commonwealth of the United
6 States other than this state;

7 (b) Who is an individual who is not a resident of this
8 state and whose primary place of business is not located in
9 this state; or

10 (c) Which is a partnership whose principals are not
11 residents of this state and whose primary place of business is
12 not located in this state.

13 (33)~~(30)~~ "Insolvent member" means an individual
14 self-insurer which is a member of the Florida Self-Insurers
15 Guaranty Association, Incorporated, or which was a member and
16 has withdrawn pursuant to s. 440.385(1)(b), and which has been
17 found insolvent, as defined in paragraph(34)(a)~~(31)(a)~~,
18 paragraph(34)(b)~~(31)(b)~~, or paragraph(34)(c)~~(31)(c)~~, by a
19 court of competent jurisdiction in this or any other state, or
20 meets the definition of paragraph(34)(d)~~(31)(d)~~.

21 (34)~~(31)~~ "Insolvency" or "insolvent" means:

22 (a) With respect to an individual self-insurer:

23 1. That all assets of the individual self-insurer, if
24 made immediately available, would not be sufficient to meet
25 all the individual self-insurer's liabilities;

26 2. That the individual self-insurer is unable to pay
27 its debts as they become due in the usual course of business;

28 3. That the individual self-insurer has substantially
29 ceased or suspended the payment of compensation to its
30 employees as required in this chapter; or

31 4. That the individual self-insurer has sought

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1 protection under the United States Bankruptcy Code or has been
2 brought under the jurisdiction of a court of bankruptcy as a
3 debtor pursuant to the United States Bankruptcy Code.

4 (b) With respect to an employee claiming insolvency
5 pursuant to s. 440.25(5), a person is insolvent who:

6 1. Has ceased to pay his or her debts in the ordinary
7 course of business and cannot pay his or her debts as they
8 become due; or

9 2. Has been adjudicated insolvent pursuant to the
10 federal bankruptcy law.

11 ~~(35)~~~~(32)~~ "Arising out of" pertains to occupational
12 causation. An accidental injury or death arises out of
13 employment if work performed in the course and scope of
14 employment is the major contributing cause of the injury or
15 death.

16 ~~(36)~~~~(33)~~ "Soft-tissue injury" means an injury that
17 produces damage to the soft tissues, rather than to the
18 skeletal tissues or soft organs.

19 ~~(37)~~~~(34)~~ "Catastrophic injury" means a permanent
20 impairment constituted by:

21 (a) Spinal cord injury involving severe paralysis of
22 an arm, a leg, or the trunk;

23 (b) Amputation of an arm, a hand, a foot, or a leg
24 involving the effective loss of use of that appendage;

25 (c) Severe brain or closed-head injury as evidenced
26 by:

27 1. Severe sensory or motor disturbances;

28 2. Severe communication disturbances;

29 3. Severe complex integrated disturbances of cerebral
30 function;

31 4. Severe episodic neurological disorders; or

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1 5. Other severe brain and closed-head injury
2 conditions at least as severe in nature as any condition
3 provided in subparagraphs 1.-4.;

4 (d) Second-degree or third-degree burns of 25 percent
5 or more of the total body surface or third-degree burns of 5
6 percent or more to the face and hands;

7 (e) Total or industrial blindness; or

8 (f) Any other injury that would otherwise qualify
9 under this chapter of a nature and severity that would qualify
10 an employee to receive disability income benefits under Title
11 II or supplemental security income benefits under Title XVI of
12 the federal Social Security Act as the Social Security Act
13 existed on July 1, 1992, without regard to any time
14 limitations provided under that act.

15 ~~(38)~~~~(35)~~ "Insurer" means a group self-insurers' fund
16 authorized by s. 624.4621, an individual self-insurer
17 authorized by s. 440.38, a commercial self-insurance fund
18 authorized by s. 624.462, an assessable mutual insurer
19 authorized by s. 628.6011, and an insurer licensed to write
20 workers' compensation and employer's liability insurance in
21 this state. The term "carrier," as used in this chapter, means
22 an insurer as defined in this subsection.

23 ~~(39)~~~~(36)~~ "Statement," for the purposes of ss. 440.105
24 and 440.106, includes, but is not limited to, any notice,
25 representation, statement, proof of injury, bill for services,
26 diagnosis, prescription, hospital or doctor record, X ray,
27 test result, or other evidence of loss, injury, or expense.

28 Section 2. Section 440.05, Florida Statutes, is
29 amended to read:

30 440.05 Election of exemption; revocation of election;
31 notice; certification.--

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1 (1) Each corporate officer who elects not to accept
2 the provisions of this chapter or who, after electing such
3 exemption, revokes that exemption shall mail to the division
4 in Tallahassee notice to such effect in accordance with a form
5 to be prescribed by the division.

6 (2) Each sole proprietor or partner who elects to be
7 included in the definition of "employee" or who, after such
8 election, revokes that election must mail to the division in
9 Tallahassee notice to such effect, in accordance with a form
10 to be prescribed by the division.

11 (3) Each sole proprietor, partner, or officer of a
12 corporation who is actively engaged in the construction
13 industry and who elects an exemption from this chapter or who,
14 after electing such exemption, revokes that exemption, must
15 mail a written notice to such effect to the division on a form
16 prescribed by the division. The notice of election to be
17 exempt from the provisions of this chapter must be notarized
18 and under oath. The notice of election to be exempt which is
19 submitted to the division by the sole proprietor, partner, or
20 officer of a corporation must list the name, federal tax
21 identification number, social security number, ~~and~~ all
22 certified or registered licenses issued pursuant to chapter
23 489 held by the person seeking the exemption, a copy of
24 relevant documentation as to employment status filed with the
25 IRS as specified by the division, a copy of the relevant
26 occupational license in the primary jurisdiction of the
27 business, and, for corporate officers and partners, the
28 registration number of the corporation or partnership filed
29 with the Division of Corporations of the Department of State.
30 The notice of election to be exempt ~~form~~ must identify each
31 sole proprietorship, partnership, or corporation that employs

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1 the person electing the exemption and must list the social
2 security number or federal tax identification number of each
3 such employer and the additional documentation required by
4 this section. In addition, the notice of election to be exempt
5 ~~form~~ must provide that the sole proprietor, partner, or
6 officer electing an exemption is not entitled to benefits
7 under this chapter, must provide that the election does not
8 exceed exemption limits for officers and partnerships provided
9 in s. 440.02, and must certify that any employees of the sole
10 proprietor, partner, or officer electing an exemption are
11 covered by workers' compensation insurance. Upon receipt of
12 the notice of the election to be exempt, receipt of all
13 application fees, and a determination by the division that the
14 notice meets the requirements of this subsection, the division
15 shall issue a certification of the election to the sole
16 proprietor, partner, or officer, unless the division
17 determines that the information contained in the notice is
18 invalid. The division shall revoke a certificate of election
19 to be exempt from coverage upon a determination by the
20 division that the person does not meet the requirements for
21 exemption or that the information contained in the notice of
22 election to be exempt is invalid. The certificate of election
23 must list the names of the sole proprietorship, partnership,
24 or corporation listed in the request for exemption. A new
25 certificate of election must be obtained each time the person
26 is employed by a new sole proprietorship, partnership, or
27 corporation that is not listed on the certificate of election.
28 A copy of the certificate of election must be sent to each
29 workers' compensation carrier identified in the request for
30 exemption. ~~The certification of the election is valid until~~
31 ~~the sole proprietor, partner, or officer revokes her or his~~

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1 ~~election.~~ Upon filing a notice of revocation of election, a
2 sole proprietor, partner, or officer who is a subcontractor
3 must notify her or his contractor. Upon revocation of a
4 certificate of election of exemption by the division, the
5 division shall notify the workers' compensation carriers
6 identified in the request for exemption.

7 (4) The notice of election to be exempt from the
8 provisions of this chapter must contain a notice that clearly
9 states in substance the following: "Any person who, knowingly
10 and with intent to injure, defraud, or deceive the division or
11 any employer or employee, insurance company, or purposes
12 program, files a notice of election to be exempt containing
13 any false or misleading information is guilty of a felony of
14 the third degree." Each person filing a notice of election to
15 be exempt shall personally sign the notice and attest that he
16 or she has reviewed, understands, and acknowledges the
17 foregoing notice.

18 (5)(4) A notice given under subsection (1), subsection
19 (2), or subsection (3) shall become effective when issued by
20 the division or 30 days after an application for an exemption
21 is received by the division, whichever occurs first is not
22 effective until 30 days after the date it is mailed to the
23 division in Tallahassee. However, if an accident or
24 occupational disease occurs less than 30 days after the
25 effective date of the insurance policy under which the payment
26 of compensation is secured or the date the employer qualified
27 as a self-insurer, such notice is effective as of 12:01 a.m.
28 of the day following the date it is mailed to the division in
29 Tallahassee.

30 (6) A construction industry certificate of election to
31 be exempt which is issued in accordance with this section

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1 shall be valid for 2 years after the effective date stated
2 thereon. Both the effective date and the expiration date must
3 be listed on the face of the certificate by the division. The
4 construction industry certificate must expire at midnight, 2
5 years from its issue date, as noted on the face of the
6 exemption certificate. Any person who has received from the
7 division a construction industry certificate of election to be
8 exempt which is in effect on December 31, 1998, shall file a
9 new notice of election to be exempt by the last day in his or
10 her birth month following December 1, 1998. A construction
11 industry certificate of election to be exempt may be revoked
12 before its expiration by the sole proprietor, partner, or
13 officer for whom it was issued or by the division for the
14 reasons stated in this section. At least 60 days prior to the
15 expiration date of a construction industry certificate of
16 exemption issued after December 1, 1998, the division shall
17 send notice of the expiration date and an application for
18 renewal to the certificateholder at the address on the
19 certificate.

20 (7)(5) Any contractor responsible for compensation
21 under s. 440.10 may register in writing with the workers'
22 compensation carrier for any subcontractor and shall
23 thereafter be entitled to receive written notice from the
24 carrier of any cancellation or nonrenewal of the policy.

25 (8)(a)(6) The division may assess a fee, not to exceed
26 \$50, with each request for a nonconstruction election ~~or~~
27 ~~renewal of election~~ under this section.

28 (b) The division must assess a fee of \$50, with each
29 request for a construction industry certificate of election to
30 be exempt or renewal of election to be exempt under this
31 section.

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1 (c) The funds collected by the division shall be used
2 to administer this section, ~~and~~ to audit the businesses that
3 pay the fee for compliance with any requirements of this
4 chapter, and to enforce compliance with the provisions of this
5 chapter.

6 Section 3. Subsection (4) of section 440.09, Florida
7 Statutes, is amended to read:

8 440.09 Coverage.--

9 (4) An employee shall not be entitled to compensation
10 or benefits under this chapter if any judge of compensation
11 claims, administrative law judge hearing officer, court, or
12 jury convened in this state determines that the employee has
13 knowingly or intentionally engaged in any of the acts
14 described in s. 440.105 for the purpose of securing workers'
15 compensation benefits.

16 Section 4. Paragraph (g) of subsection (1) of section
17 440.10, Florida Statutes, is amended to read:

18 440.10 Liability for compensation.--

19 (1)

20 (g) For purposes of this section, a person is
21 conclusively presumed to be an independent contractor if:

22 1. The independent contractor provides the general
23 contractor with an affidavit stating that he or she meets all
24 the requirements of s. 440.02(14)(~~13~~)(d); and

25 2. The independent contractor provides the general
26 contractor with a valid certificate of workers' compensation
27 insurance or a valid certificate of exemption issued by the
28 division.

29
30 A sole proprietor, ~~independent contractor~~, partner, or officer
31 of a corporation who elects exemption from this chapter by

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1 filing a certificate of election under s. 440.05 may not
2 recover benefits or compensation under this chapter. An
3 independent contractor who provides the general contractor
4 with both an affidavit stating that he or she meets the
5 requirements of s. 440.02(14)(d) and a certificate of
6 exemption is not an employee under s. 440.02(14)(c) and may
7 not recover benefits under this chapter. For purposes of
8 determining the appropriate premium for workers' compensation
9 coverage, carriers may not consider any person who meets the
10 requirements of this paragraph to be an employee.

11 Section 5. Section 440.103, Florida Statutes, is
12 amended to read:

13 440.103 Building permits; identification of minimum
14 premium policy.--Except as otherwise provided in this chapter,
15 every employer shall, as a condition to receiving a building
16 permit, show proof that it has secured compensation for its
17 employees under this chapter as provided in ss. 440.10 and
18 440.38. Such proof of compensation must be evidenced by a
19 certificate of coverage issued by the carrier, a valid
20 exemption certificate approved by the division, or a copy of
21 the employer's authority to self-insure and shall be presented
22 each time the employer applies for a building permit. As
23 provided in s. 627.413(5), each certificate of coverage must
24 show, on its face, whether or not coverage is secured under
25 the minimum premium provisions of rules adopted by rating
26 organizations licensed by the Department of Insurance ~~the~~
27 ~~National Council of Compensation Insurers rules.~~ The words
28 "minimum premium policy" or equivalent similar language shall
29 ~~may~~ be typed, printed, stamped, or legibly handwritten.

30 Section 6. Subsections (1), (2), and (3) of section
31 440.104, Florida Statutes, are amended to read:

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1 440.104 Competitive bidder; civil actions.--
2 (1) Any person engaged in the construction industry,
3 as provided in s. 440.02(7), who loses a competitive bid for a
4 contract shall have a cause of ~~may bring an~~ action for damages
5 against the ~~another~~ person ~~who is~~ awarded the contract for
6 which the bid was made, if the person making the losing bid
7 establishes that the winning bidder knew or should have known
8 that he or she was in violation ~~knowingly violated the~~
9 ~~provisions~~ of s. 440.10, s. 440.105, or s. 440.38 while
10 performing the work under the contract.

11 (2) To recover in an action brought under this
12 section, a party must establish a violation of s. 440.10, s.
13 440.105, or s. 440.38 by a preponderance of the evidence.

14 (3) Upon establishing that the winning bidder knew or
15 should have known of the violation ~~occurred~~, the person shall
16 recover as liquidated damages 30 ~~10~~ percent of the total
17 amount bid on the contract by the person bringing the action,
18 or \$15,000 ~~\$5,000~~, whichever is greater.

19 Section 7. Subsections (4), (5), (6), and (7) of
20 section 440.105, Florida Statutes, are amended, and subsection
21 (9) is added to said said, to read:

22 440.105 Prohibited activities; penalties;
23 limitations.--

24 (4) Whoever violates any provision of this subsection
25 commits insurance fraud ~~a felony of the third degree~~,
26 punishable as provided in paragraph (f) ~~s. 775.082, s.~~
27 ~~775.083, or s. 775.084.~~

28 (a) It shall be unlawful for any employer to
29 knowingly:

30 1. Present or cause to be presented any false,
31 fraudulent, or misleading oral or written statement to any

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1 person as evidence of compliance with s. 440.38.

2 2. Make a deduction from the pay of any employee
3 entitled to the benefits of this chapter for the purpose of
4 requiring the employee to pay any portion of premium paid by
5 the employer to a carrier or to contribute to a benefit fund
6 or department maintained by such employer for the purpose of
7 providing compensation or medical services and supplies as
8 required by this chapter.

9 3. Fail to secure payment of compensation if required
10 to do so by this chapter.

11 (b) It shall be unlawful for any person:

12 1. To knowingly make, or cause to be made, any false,
13 fraudulent, or misleading oral or written statement for the
14 purpose of obtaining or denying any benefit or payment under
15 this chapter.

16 2. To present or cause to be presented any written or
17 oral statement as part of, or in support of, a claim for
18 payment or ~~of~~ other benefit pursuant to any provision of this
19 chapter, knowing that such statement contains any false,
20 incomplete, or misleading information concerning any fact or
21 thing material to such claim.

22 3. To prepare or cause to be prepared any written or
23 oral statement that is intended to be presented to any
24 employer, insurance company, or self-insured program in
25 connection with, or in support of, any claim for payment or
26 other benefit pursuant to any provision of this chapter,
27 knowing that such statement contains any false, incomplete, or
28 misleading information concerning any fact or thing material
29 to such claim.

30 4. To knowingly assist, conspire with, or urge any
31 person to engage in activity prohibited by this section.

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1 5. To knowingly make any false, fraudulent, or
2 misleading oral or written statement, or to knowingly omit or
3 conceal material information, required by s. 440.185 or s.
4 440.381, for the purpose of obtaining workers' compensation
5 coverage or for the purpose of avoiding, delaying, or
6 diminishing the amount of payment of any workers' compensation
7 premiums.

8 6. To knowingly misrepresent or conceal payroll,
9 classification of workers, or information regarding an
10 employer's loss history which would be material to the
11 computation and application of an experience rating
12 modification factor for the purpose of avoiding or diminishing
13 the amount of payment of any workers' compensation premiums.

14 7. To knowingly present or cause to be presented any
15 false, fraudulent, or misleading oral or written statement to
16 any person as evidence of compliance with s. 440.38, as
17 evidence of eligibility for a certificate of exemption under
18 s. 440.05.

19 (c) It shall be unlawful for any physician licensed
20 under chapter 458, osteopathic physician licensed under
21 chapter 459, chiropractic physician licensed under chapter
22 460, podiatric physician licensed under chapter 461,
23 optometric physician licensed under chapter 463, or any other
24 practitioner licensed under the laws of this state to
25 knowingly and willfully assist, conspire with, or urge any
26 person to fraudulently violate any of the provisions of this
27 chapter.

28 (d) It shall be unlawful for any person or
29 governmental entity licensed under chapter 395 to maintain or
30 operate a hospital in such a manner so that such person or
31 governmental entity knowingly and willfully allows the use of

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1 the facilities of such hospital by any person, in a scheme or
2 conspiracy to fraudulently violate any of the provisions of
3 this chapter.

4 (e) It shall be unlawful for any attorney or other
5 person, in his or her individual capacity or in his or her
6 capacity as a public or private employee, or any firm,
7 corporation, partnership, or association, to knowingly assist,
8 conspire with, or urge any person to fraudulently violate any
9 of the provisions of this chapter.

10 (f) If the amount of any claim or workers'
11 compensation insurance premium involved in any violation of
12 this subsection:

13 1. Is less than \$20,000, the offender commits a felony
14 of the third degree, punishable as provided in s. 775.082, s.
15 775.083, or s. 775.084.

16 2. Is \$20,000 or more, but less than \$100,000, the
17 offender commits a felony of the second degree, punishable as
18 provided in s. 775.082, s. 775.083, or s. 775.084.

19 3. Is \$100,000 or more, the offender commits a felony
20 of the first degree, punishable as provided in s. 775.082, s.
21 775.083, or s. 775.084.

22 (5) It shall be unlawful for any attorney or other
23 person, in his or her individual capacity or in his or her
24 capacity as a public or private employee or for any firm,
25 corporation, partnership, or association, to unlawfully
26 solicit any business in and about city or county hospitals,
27 courts, or any public institution or public place; in and
28 about private hospitals or sanitariums; in and about any
29 private institution; or upon private property of any character
30 whatsoever for the purpose of making workers' compensation
31 claims. Whoever violates any provision of this subsection

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1 commits a felony of the third degree, punishable as provided
2 in s. 775.082, s. 775.083, or s. 775.085.

3 ~~(6)(5)~~ This section shall not be construed to preclude
4 the applicability of any other provision of criminal law that
5 applies or may apply to any transaction.

6 ~~(7)(6)~~ For the purpose of the section, the term
7 "statement" includes, but is not limited to, any notice,
8 representation, statement, proof of injury, bill for services,
9 diagnosis, prescription, hospital or doctor records, X ray,
10 test result, or other evidence of loss, injury, or expense.

11 ~~(8)(7)~~ All claim forms as provided for in this chapter
12 shall contain a notice that clearly states in substance the
13 following: "Any person who, knowingly and with intent to
14 injure, defraud, or deceive any employer or employee,
15 insurance company, or self-insured program, files a statement
16 of claim containing any false or misleading information
17 commits insurance fraud, punishable as provided in s. 817.234
18 ~~is guilty of a felony of the third degree.~~" Each claimant
19 shall personally sign the claim form and attest that he or she
20 has reviewed, understands, and acknowledges the foregoing
21 notice.

22 Section 8. Present subsections (1) through (7) of
23 section 440.107, Florida Statutes, are redesignated as
24 subsections (5) through (11), respectively, and new
25 subsections (1), (2), (3), and (4) are added to that section
26 to read: 440.107 Division powers to enforce employer
27 compliance with coverage requirements.--

28 (1) The Legislature finds that the failure of an
29 employer to comply with the workers' compensation coverage
30 requirements under chapter 440 poses an immediate danger to
31 public health, safety, and welfare. The Legislature authorizes

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1 the division to secure employer compliance with the workers'
2 compensation coverage requirements and authorizes the division
3 to conduct investigations for the purpose of ensuring employer
4 compliance.

5 (2) The division and its authorized representatives
6 may enter and inspect any place of business at any reasonable
7 time for the limited purpose of investigating compliance with
8 workers' compensation coverage requirements under this
9 chapter. Each employer shall keep true and accurate business
10 records that contain such information as the division
11 prescribes by rule. The business records must contain
12 information necessary for the division to determine compliance
13 with workers' compensation coverage requirements and must be
14 maintained within this state by the business, in such a manner
15 as to be accessible within a reasonable time upon request by
16 the division. The business records must be open to inspection
17 and be available for copying by the division at any reasonable
18 time and place and as often as necessary. The division may
19 require from any employer any sworn or unsworn reports,
20 pertaining to persons employed by that employer, deemed
21 necessary for the effective administration of the workers'
22 compensation coverage requirements.

23 (3) In discharging its duties, the division may
24 administer oaths and affirmations, certify to official acts,
25 issue subpoenas to compel the attendance of witnesses and the
26 production of books, papers, correspondence, memoranda, and
27 other records deemed necessary by the division as evidence in
28 order to ensure proper compliance with the coverage provisions
29 of this chapter.

30 (4) If a person has refused to obey a subpoena to
31 appear before the division or its authorized representative

1 and produce evidence requested by the division or to give
2 testimony about the matter that is under investigation, a
3 court has jurisdiction to issue an order requiring compliance
4 with the subpoena if the court has jurisdiction in the
5 geographical area where the inquiry is being carried on or in
6 the area where the person who has refused the subpoena is
7 found, resides, or transacts business. Failure to obey such a
8 court order may be punished by the court as contempt.

9 Section 9. Subsection (7) of section 440.185, Florida
10 Statutes, is amended to read:

11 440.185 Notice of injury or death; reports; penalties
12 for violations.--

13 (7) Every carrier shall file with the division within
14 21 days after the issuance of a policy or contract of
15 insurance such policy information as the division may require,
16 including notice of whether the policy is a minimum premium
17 policy. Notice of cancellation or expiration of a policy as
18 set out in s. 440.42(2) shall be mailed to the division in
19 accordance with rules promulgated by the division under
20 chapter 120.

21 Section 10. Subsections (2) and (3) of section 440.42,
22 Florida Statutes, are renumbered as subsections (3) and (4),
23 respectively, and new subsection (2) is added to said section,
24 to read:

25 440.42 Insurance policies; liability.--

26 (2) A workers' compensation insurance policy may
27 require the employer to release certain employment and wage
28 information maintained by the state pursuant to federal and
29 state unemployment compensation laws except to the extent
30 prohibited or limited under federal law. By entering into a
31 workers' compensation insurance policy with such a provision,

1 the employer consents to the release of the information. The
2 insurance carrier requiring such consent shall safeguard the
3 information and maintain its confidentiality. The carrier
4 shall limit use of the information to verifying compliance
5 with the terms of the workers' compensation insurance policy.
6 The department may charge a fee to cover the cost of
7 disclosing the information.

8 Section 11. Section 440.45, Florida Statutes, is
9 amended to read:

10 440.45 Office of the Judges of Compensation Claims.--

11 (1) There is hereby created the Office of the Judges
12 of Compensation Claims within the Department of Labor and
13 Employment Security. The Office of the Judges of Compensation
14 Claims shall be headed by a Chief Judge ~~who shall serve at the~~
15 ~~pleasure of the Governor and Cabinet.~~ The Chief Judge shall
16 be appointed by the Governor for a term of 4 years and
17 ~~confirmed by the Cabinet~~ from a list of three ~~two~~ names
18 submitted by the statewide nominating commission created under
19 subsection (2) each of the District Court Judicial Nominating
20 Commissions created by s. 2, Art. V of the State Constitution
21 ~~and s. 43.29.~~ The Chief Judge must possess the same
22 qualifications for appointment as a judge of compensation
23 claims, and the procedure for reappointment of the Chief Judge
24 will be the same as for reappointment of a judge of
25 compensation claims.The office shall be a separate budget
26 entity and the Chief Judge shall be its agency head for all
27 purposes. The Department of Labor and Employment Security
28 shall provide administrative support and service to the office
29 to the extent requested by the Chief Judge but shall not
30 direct, supervise, or control the Office of the Judges of
31 Compensation Claims in any manner, including but not limited

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1 to personnel, purchasing, budgetary matters, or property
2 transactions. The operating budget of the Office of the Judges
3 of Compensation Claims shall be paid out of the Workers'
4 Compensation Administration Trust Fund established in s.
5 440.50.

6 (2)(a) The Governor shall appoint full-time judges of
7 compensation claims to conduct proceedings as required by this
8 chapter or other law. No person may be nominated to serve
9 ~~appointed~~ as a judge of compensation claims unless he or she
10 has been a member of The Florida Bar in good standing ~~for the~~
11 ~~preceding 5 years~~ and is knowledgeable in the practice of law
12 of workers' compensation. No judge of compensation claims
13 shall engage in the private practice of law during a term of
14 office.

15 (b) Except as provided in paragraph (c), the Governor
16 shall ~~initially~~ appoint a judge of compensation claims from a
17 list of three persons nominated by a statewide nominating
18 commission. The statewide nominating commission shall be
19 composed of the following:

20 1. Five 5 members, at least one of whom must be a
21 member of a minority group as defined in s. 288.703(3), one of
22 each who resides in each of the territorial jurisdictions of
23 the district courts of appeal, appointed by the Board of
24 Governors of The Florida Bar from among The Florida Bar
25 members who are engaged in the practice of law. On July 1,
26 1999, the term of office of each person appointed by the Board
27 of Governors of The Florida Bar to the commission expires. The
28 Board of Governors shall appoint members who reside in the
29 odd-numbered district court of appeal jurisdictions to 4-year
30 terms each, beginning July 1, 1999, and members who reside in
31 the even-numbered district court of appeal jurisdictions to

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1 2-year terms each, beginning July 1, 1999. Thereafter, each
2 member shall be appointed for a 4-year term;
3 2. Five 5 electors, at least one of whom must be a
4 member of a minority group as defined in s. 288.703(3), one of
5 each who resides in each of the territorial jurisdictions of
6 the district courts of appeal, appointed by the Governor. On
7 July 1, 1999, the term of office of each person appointed by
8 the Governor to the commission expires. The Governor shall
9 appoint members who reside in the odd-numbered district court
10 of appeal jurisdictions to 2-year terms each, beginning July
11 1, 1999, and members who reside in the even-numbered district
12 court of appeal jurisdictions to 4-year terms each, beginning
13 July 1, 1999. Thereafter, each member shall be appointed for a
14 4-year term; and
15 3. Five 5 electors, at least one of whom must be a
16 member of a minority group as defined in s. 288.703(3), one of
17 each who resides in the territorial jurisdictions of the
18 district courts of appeal, selected and appointed by a
19 majority vote of the other 10 members of the commission. On
20 October 1, 1999, the term of office of each person appointed
21 to the commission by its other members expires. A majority of
22 the other members of the commission shall appoint members who
23 reside in the odd-numbered district court of appeal
24 jurisdictions to 2-year terms each, beginning October 1, 1999,
25 and members who reside in the even-numbered district court of
26 appeal jurisdictions to 4-year terms each, beginning October
27 1, 1999. Thereafter, each member shall be appointed for a
28 4-year term.
29
30 A vacancy occurring on the commission shall be filled by the
31 original appointing authority for the unexpired balance of the

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1 term.No attorney who appears before any judge of compensation
2 claims more than four times a year is eligible to serve on the
3 statewide nominating commission. The meetings and
4 determinations of the nominating commission as to the judges
5 of compensation claims shall be open to the ~~general~~ public.
6 (c) Each judge of compensation claims shall be
7 appointed for a term of 4 years, but during the term of office
8 may be removed by the Governor for cause. Prior to the
9 expiration of a judge's term of office, the statewide
10 nominating commission shall review the judge's conduct and
11 determine whether the judge's performance is satisfactory. If
12 the judge's performance is deemed satisfactory,the commission
13 shall report its finding to the Governor no later than 6
14 months prior to the expiration of the judge's term of office.
15 The Governor shall review the commission's report and may
16 reappoint the judge for an additional 4-year term. If the
17 Governor does not reappoint the judge, the Governor shall
18 inform the commission. The judge shall remain in office until
19 the Governor has appointed a successor judge in accordance
20 with paragraphs (a) and (b).~~The report of the commission~~
21 ~~shall include a list of three candidates for appointment. The~~
22 ~~candidates shall include the judge whose term is expiring, if~~
23 ~~that judge desires reappointment and the judge's performance~~
24 ~~is satisfactory upon review by the commission.~~If a vacancy
25 occurs during a judge's unexpired term, the statewide
26 nominating commission does not find the judge's performance is
27 satisfactory, or the governor does not reappoint the judge,
28 ~~the commission shall issue a report to the Governor shall~~
29 appoint a successor judge for a term of 4 years in accordance
30 with paragraph (b)which includes a list of three candidates
31 ~~for appointment. The Governor shall review the commission's~~

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1 ~~report, and may select one of the listed candidates. If no~~
2 ~~candidate is selected, the Governor shall so inform the~~
3 ~~commission, which shall within 2 months issue a report to the~~
4 ~~Governor which includes a list of three different candidates~~
5 ~~for appointment.~~

6 (3) The Chief Judge shall select from among the full
7 time judges of the office two or more judges to rotate as
8 docketing judges. Docketing judges shall review all claims for
9 benefits for consistency with the requirements of this chapter
10 and the rules of procedure, including but not limited to
11 specificity requirements, and shall dismiss any claim that
12 fails to comport with such rules and requirements. The
13 docketing judge shall not dismiss any claim with prejudice
14 without offering the parties an opportunity to appear and
15 present argument. The Chief Judge may as he or she deems
16 appropriate expand the duties of the docketing judges to
17 include resolution without hearing of other types of
18 procedural and substantive matters, including resolution of
19 fee disputes.

20 (4) The Chief Judge shall have the discretion to
21 require mediation and to designate qualified persons to act as
22 mediators in any dispute pending before the judges of
23 compensation claims and the division. The Chief Judge shall
24 coordinate with the Director of the Division of Workers'
25 Compensation to establish a mandatory mediation program to
26 facilitate early and efficient resolution of disputes arising
27 under this chapter and to establish training and continuing
28 education for new and sitting judges.

29 (5) The Office of the Judges of Compensation Claims
30 shall promulgate rules to effect the purposes of this section.
31 Such rules shall include procedural rules applicable to

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1 workers' compensation claim resolution and uniform criteria
2 for measuring the performance of the office, including but not
3 limited to the number of cases assigned and disposed, the age
4 of pending and disposed cases, timeliness of decisionmaking,
5 extraordinary fee awards and other performance indicators. The
6 workers' compensation rules of procedure approved by the
7 Supreme Court shall apply until the rules promulgated by the
8 Office of the Judges of Compensation Claims pursuant to this
9 section become effective.

10 (6) Not later than December 1 of each year, the Office
11 of the Judges of Compensation Claims and the Division of
12 Workers' Compensation shall jointly issue a written report to
13 the Governor, the House of Representatives, and the Senate
14 summarizing the amount, cost, and outcome of all litigation
15 resolved in the prior year, summarizing the disposition of
16 applications and motions for mediation conferences and
17 recommending changes or improvements to the dispute resolution
18 elements of the Workers' Compensation Law and regulations.

19 Section 12. On July 1, 1999, the term of office of the
20 Chief Judge of Compensation Claims expires. The statewide
21 nominating commission is directed to submit a list of three
22 names to the Governor pursuant to section 440.45(1), Florida
23 Statutes, by March 1, 1999.

24 Section 13. The revised process for nomination and
25 appointment of judges of compensation claims, as provided in
26 the amendments to section 440.45(2)(c), Florida Statutes,
27 shall take effect on July 1, 1999.

28 Section 14. Any member of the statewide nominating
29 commission whose term of office expires as a result of the
30 amendment of section 440.45, Florida Statutes, by this act is
31 eligible for reappointment.

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1 Section 15. Subsection (9) is added to section
2 626.989, Florida Statutes, to read:

3 626.989 Division of Insurance Fraud; definition;
4 investigative, subpoena powers; protection from civil
5 liability; reports to division; division investigator's power
6 to execute warrants and make arrests.--

7 (9) In recognition of the complementary roles of
8 investigating instances of workers' compensation fraud and
9 enforcing compliance with the workers' compensation coverage
10 requirements under chapter 440, the Division of Insurance
11 Fraud of the Department of Insurance and the Division of
12 Workers' Compensation of the Department of Labor and
13 Employment Security are directed to prepare and submit a joint
14 performance report to the President of the Senate and the
15 Speaker of the House of Representatives by November 1 of each
16 year for each of the next 2 years, and then every 3 years
17 thereafter, describing the results obtained in achieving
18 compliance with the workers' compensation coverage
19 requirements and reducing the incidence of workers'
20 compensation fraud.

21 Section 16. Subsection (5) is added to section
22 627.413, Florida Statutes, to read:

23 627.413 Contents of policies, in general;
24 identification.--

25 (5) Any policy that is a minimum premium policy issued
26 by an insurer pursuant to the minimum premium provisions of
27 rules adopted by rating organizations licensed by the
28 Department of Insurance, shall have typed, printed, stamped,
29 or legibly handwritten on the certificate the words "minimum
30 premium policy" or equivalent language. The department may
31 impose an administrative fine pursuant to s. 624.4211 if the

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1 department finds any violation of this subsection.

2 Section 17. Paragraph (h) is added to subsection (2)
3 of section 775.15, Florida Statutes, to read:

4 775.15 Time limitations.--

5 (2) Except as otherwise provided in this section,
6 prosecutions for other offenses are subject to the following
7 periods of limitation:

8 (h) A prosecution for a felony violation of s. 440.105
9 must be commenced within 5 years after the violation is
10 committed.

11 Section 18. Effective July 1, 1998, the Division of
12 Workers' Compensation shall notify all persons holding a
13 construction industry certificate of election of exemption of
14 the requirements of section 440.05, Florida Statutes, as
15 amended by this act.

16 Section 19. There is hereby appropriated to the
17 Department of Labor and Employment Security from the Workers'
18 Compensation Administration Trust Fund for the fiscal year
19 1998-1999, 15 positions and \$1,100,000 to carry out the
20 provisions of this act. This section shall take effect July
21 1, 1998.

22 Section 20. Except as otherwise provided in this act,
23 this act shall take effect January 1, 1999.

24
25

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

27 And the title is amended as follows:

28 On page 1, line 3 through page 2, line 31
29 remove from the title of the bill: all of said lines

30

31 and insert in lieu thereof:

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

1 amending s. 440.02, F.S.; defining the terms
2 "corporate officer," "partner," and "sole
3 proprietor," as used in ch. 440, F.S.; amending
4 s. 440.05, F.S.; authorizing the Division of
5 Workers' Compensation of the Department of
6 Labor and Employment Security to approve and
7 revoke certificates of exemption; specifying
8 requirements for notices of election to be
9 exempt; providing for renewal of exemption
10 certificates; requiring notice on election
11 forms that providing false information is a
12 felony; revising fees for exemptions and
13 specifying use of fees by the division;
14 amending s. 440.09, F.S.; conforming references
15 to judges of compensation claims and
16 administrative law judges; amending s. 440.10,
17 F.S.; relating to liability for compensation;
18 revising provisions relating to when a person
19 is conclusively presumed to be an independent
20 contractor; providing circumstances in which
21 carriers may not consider a person to be an
22 employee; amending s. 440.103, F.S.; revising
23 the documentation that must be filed by an
24 employer that obtains a building permit;
25 specifying requirements for certificates of
26 coverage; amending s. 440.104, F.S.; revising
27 the cause of action and remedies available to
28 losers of competitive bidding against persons
29 who violate certain provisions; increasing
30 recoverable damages; amending s. 440.105, F.S.;
31 providing penalties; providing a time

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

1 limitation for bringing an action under s.
2 440.105(4), F.S.; amending s. 440.107, F.S.;
3 providing legislative findings related to
4 noncompliance with workers' compensation
5 coverage requirements; authorizing the division
6 to enter and inspect places of business for
7 investigating compliance; requiring employers
8 to maintain records required by the division by
9 rule; authorizing the division to require sworn
10 reports from employers, to administer oaths,
11 and to issue subpoenas to enforce compliance;
12 providing penalties for refusal to obey a
13 subpoena; amending s. 440.185, F.S.; requiring
14 carriers to notify the division whether certain
15 policies are minimum premium policies; amending
16 s. 440.42, F.S.; authorizing workers'
17 compensation policies to require employers to
18 release certain employment and wage
19 information; amending s. 440.45, F.S.; revising
20 term of office, qualifications, and method of
21 nomination for the Chief Judge of the Office of
22 the Judges of Compensation Claims; providing
23 for expiration of term of office for members of
24 the statewide nominating commission for judges
25 of compensation claims; providing for new
26 appointments to the nominating commission and
27 staggered terms; revising the procedures for
28 nominating commission regarding performance of
29 sitting judges and regarding nominations of
30 applicants; providing for expiration of the
31 term of office and reappointment of the Chief

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

1 Judge of Compensation Claims; amending s.
2 626.989, F.S.; requiring the Division of
3 Insurance Fraud of the Department of Insurance
4 and the Division of Workers' Compensation of
5 the Department of Labor and Employment Security
6 to periodically submit a joint performance
7 report to the Legislature; amending s. 627.413,
8 F.S.; specifying notice requirements for
9 minimum premium policies; requiring the
10 division to notify certain persons of certain
11 requirements of this act; providing an
12 appropriation; s. amending s. 775.15, F.S.;
13 providing a statute of limitations for certain
14 insurance fraud violations; providing an
15 effective date.

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