

By Representative Feeney

1 A bill to be entitled
 2 An act relating to the Department of Labor and
 3 Employment Security; amending s. 20.171, F.S.;
 4 providing that the department shall operate its
 5 programs in a decentralized fashion; providing
 6 for the appointment of three assistant
 7 secretaries; providing for the powers and
 8 duties of such secretaries; providing for the
 9 creation of field offices; revising divisions
 10 within the department; amending s. 110.205,
 11 F.S.; providing that certain employees of the
 12 department shall be in the Senior Management
 13 Service; providing that certain actions
 14 contemplated by the act shall be done within
 15 the available resources of the department;
 16 amending ss. 393.11, 400.805, 410.0245,
 17 410.604, 413.034, 413.445, 442.003, 442.014,
 18 442.20, 553.512, 627.0915, 627.212, and
 19 627.311, F.S., to conform; repealing s.
 20 442.023, F.S., to conform; providing an
 21 effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 20.171, Florida Statutes, is
 26 amended to read:
 27 20.171 Department of Labor and Employment
 28 Security.--There is created a Department of Labor and
 29 Employment Security. The department shall operate its programs
 30 in a decentralized fashion.
 31

1 (1) The head of the Department of Labor and Employment
2 Security is the Secretary of Labor and Employment Security.
3 The secretary shall be appointed by the Governor subject to
4 confirmation by the Senate. The secretary shall serve at the
5 pleasure of the Governor.

6 (2) There shall be three assistant secretaries who
7 shall be appointed by and serve at the pleasure of the
8 Secretary of Labor and Employment Security. The assistant
9 secretaries shall be titled Assistant Secretary for Finance
10 and Administration, Assistant Secretary for Programs, and
11 Assistant Secretary for Field Operations. The Secretary of
12 Labor and Employment Security may assign any assistant
13 secretary the responsibility of supervising, coordinating, and
14 formulating policy for any division, office, or field office.
15 The following special offices are established within the
16 department to be headed by managers, each of whom shall be
17 appointed by and serve at the pleasure of the Secretary of
18 Labor and Employment Security: the Office of General Counsel,
19 the Office of Inspector General, and the Office of the
20 Executive Staff Director. There shall be five field offices
21 involved in the administration and management of the
22 department's programs for Workers' Compensation, Jobs and
23 Benefits, and Unemployment Compensation. The five field
24 offices shall be headed by managers, each of whom shall be
25 appointed by and serve at the pleasure of the Secretary of
26 Labor and Employment Security. The managers of all divisions
27 and offices specifically named in this section and the
28 directors of the five field offices are exempt from part II of
29 chapter 110 and are included in the Senior Management Service
30 in accordance with s. 110.205(2)(1). No other assistant
31 secretaries or senior management positions at or above the

1 division level, except those established in chapter 110, may
2 be created without specific legislative authority.
3 (a) The Assistant Secretary for Finance and
4 Administration is responsible for developing, monitoring, and
5 enforcing policy and managing major technical programs.
6 1. The responsibilities and duties of the Assistant
7 Secretary for Finance and Administration include, but are not
8 limited to the following functional areas:
9 a. Financial planning and management.
10 b. Information systems.
11 c. Accounting systems.
12 d. Administrative functions.
13 2. The following offices are established and shall be
14 headed by managers:
15 a. The Office of Administration.
16 b. The Office of Comptroller.
17 c. The Office of Management and Budget.
18 d. The Office of Civil Rights.
19 e. The Office of Information Systems.
20 (b) The Assistant Secretary for Finance and
21 Administration must possess a broad knowledge of the
22 administrative, financial, and technical aspects of a complete
23 cost-accounting system, budget preparation and management, and
24 management information systems. The Assistant Secretary for
25 Finance and Administration must be a proven, effective manager
26 with specialized skills in financial planning and management.
27 The Assistant Secretary for Finance and Administration shall
28 ensure that financial information is processed in a timely,
29 accurate, and complete manner. The responsibilities of the
30 office of the Assistant Secretary of Finance and
31

1 Administration shall include, but are not limited to,
2 implementing the following by December 1, 1998:
3 1. The preparation of detailed documentation of the
4 internal controls, including general and application controls,
5 the department relies on for accurate and complete financial
6 information.
7 2. The monthly reconciliation of the department's
8 accounting, planning and budgeting, cash forecasting, and
9 grants-in-aid program.
10 3. The development of a long-range information systems
11 plan for the department which addresses the computing and
12 informational requirements of the five field and central
13 offices. Financial, personnel, and technical resources must
14 all be identified and quantified, as appropriate.
15 (c) Within the central office there is created an
16 Office of Management and Budget. The head of the Office of
17 Management and Budget is responsible to the Assistant
18 Secretary for Finance and Administration and is exempt from
19 part II of chapter 110. The functions of the Office of
20 Management and Budget include, but are not limited to:
21 1. Financial planning.
22 2. Preparation of the department budget.
23 3. Coordination of related policies and procedures.
24 4. The development of uniform implementation and
25 monitoring procedures for all activities performed at the
26 field office level involving the budget and agency programs.
27 (d)1. The Secretary of Labor and Employment Security
28 shall appoint a comptroller who shall be responsible to the
29 Assistant Secretary for Finance and Administration. This
30 position is exempt from part II of chapter 110.
31

1 2. The comptroller is the chief financial officer of
2 the department and shall be a proven, effective administrator
3 who by a combination of education and experience clearly
4 possesses a broad knowledge of the administrative, financial,
5 and technical aspects of a complex cost-accounting system. The
6 comptroller must also have a working knowledge of generally
7 accepted accounting principles. At a minimum, the comptroller
8 shall hold an active license to practice public accounting in
9 Florida pursuant to chapter 473 or an active license to
10 practice public accounting in another state. In addition to
11 the requirements of the Florida Fiscal Accounting Management
12 Information System Act, the comptroller is responsible for the
13 development, maintenance, and modification of an accounting
14 system which will in a timely manner accurately reflect the
15 revenues and expenditures of the department and which shall
16 include a cost-accounting system to properly identify,
17 segregate, allocate, and report department costs. The
18 comptroller shall supervise and direct preparation of a
19 detailed 36 month forecast of cash and expenditures and shall
20 be responsible for managing and determining cash requirements.
21 The comptroller shall review all comparative cost studies
22 which examine the cost-effectiveness and feasibility of
23 contracting for services and operations performed by the
24 department. The review shall state that the study was prepared
25 in accordance with generally accepted cost-accounting
26 standards applied in a consistent manner using valid and
27 accurate cost data.

28 3. The comptroller must give bond in the amount of
29 \$100,000, payable to the Governor and his or her successors in
30 office, to be approved by the Department of Banking and
31 Finance and conditioned upon the faithful performance of his

1 or her duties. The premiums of such bond shall be paid from
2 the funds for the maintenance of the department.

3 4. The department shall, by rule or internal
4 management memoranda as required by chapter 120, provide for
5 the maintenance by the comptroller of financial records and
6 accounts of the department as will afford a full and complete
7 check against the improper payment of bills and provide a
8 system for the prompt payment of the just obligations of the
9 department, which records must at all times disclose:

10 a. The several appropriations available for the use of
11 the department.

12 b. The specific amounts of each such appropriation
13 budgeted by the department for each improvement or purpose.

14 c. The apportionment or division of all such
15 appropriations among the several counties and field offices,
16 when such apportionment or division is made.

17 d. The amount or portion of each such apportionment
18 against contractual and other obligations of the department.

19 e. The amount expended and the amount still to be
20 expended in connection with each contractual and other
21 obligations of the department.

22 f. The expense and operating costs of the various
23 activities of the department.

24 g. The receipts accruing to the department and the
25 distribution thereof.

26 h. The assets, investments, and liabilities of the
27 department.

28 i. The cash requirements of the department of a
29 36-month period.

30 5. The comptroller shall maintain a separate account
31 for each fund administered by the department.

1 6. The comptroller shall perform such other related
2 duties as may be designated by the department.

3 (e) The Assistant Secretary for Programs is
4 responsible for developing, monitoring, and enforcing policy
5 and managing major technical programs. The responsibilities
6 and duties of the Assistant Secretary for Programs include,
7 but are not limited to, the following functional areas:

8 1.a. Workers' compensation management and policy.

9 b. Jobs and benefits management and policy.

10 c. Unemployment compensation management and policy.

11 d. Blind services management and policy.

12 2. The following divisions are established and shall
13 be headed by managers, each of whom shall be appointed by and
14 serve at the pleasure of the Secretary of Labor and Employment
15 Security:

16 a. Division of Jobs and Benefits.

17 b. Division of Unemployment Compensation.

18 c. Division of Workers' Compensation.

19 d. Division of Blind Services.

20 (f) The Assistant Secretary for Programs must possess
21 a broad knowledge of the administrative, financial, and
22 technical aspects of the divisions within the department.

23 (g) The Assistant Secretary for Field Operations is
24 responsible for developing, monitoring, and enforcing policy
25 and managing major technical programs. The responsibilities
26 and duties of the Assistant Secretary for Field Operations
27 include, but are not limited to, the following functional
28 areas:

29 1.a. Oversight of the five field offices.

30 b. Workers' compensation policy implementation.

31 c. Jobs and benefits policy implementation.

- 1 d. Unemployment compensation policy implementation.
2 2. The following field offices are established and
3 shall be headed by managers:
4 a. Field Office I--Panama City, which shall serve the
5 following counties: Escambia, Santa Rosa, Okaloosa, Walton,
6 Holmes, Washington, Bay, Jefferson, Calhoun, Gulf, Liberty,
7 Franklin, Wakulla, Leon, Gadsden, and Jefferson.
8 b. Field Office II--Lake City, which shall serve the
9 following counties: Madison, Taylor, Dixie, Lafayette,
10 Suwannee, Hamilton, Columbia, Baker, Union, Bradford, Clay,
11 St. Johns, Duval, Nassau, Alachua, Putnam, Marion, Levy,
12 Gilchrist, and Flagler.
13 c. Field Office III--Orlando, which shall serve the
14 following counties: Volusia, Lake, Seminole, Orange, Sumter,
15 Brevard, Osceola, Indian River, Highlands, St. Lucie,
16 Okeechobee, and Martin.
17 d. Field Office IV--Tampa, which shall serve the
18 following counties: Citrus, Hernando, Pasco, Pinellas,
19 Hillsborough, Polk, Hardee, Manatee, Sarasota, DeSoto,
20 Charlotte, and Lee.
21 e. Field Office V--Miami, which shall serve the
22 following counties: Palm Beach, Glades, Hendry, Collier,
23 Broward, Monroe, and Dade.
24 (h) The Assistant Secretary for Field Operations must
25 possess a broad knowledge of the administrative, financial,
26 and technical aspects of the divisions within the department.
27 ~~(2) The following divisions, and bureaus within the~~
28 ~~divisions, of the Department of Labor and Employment Security~~
29 ~~are established:~~
30 ~~(a) Division of Jobs and Benefits.~~
31 ~~(b) Division of Unemployment Compensation.~~

1 ~~(c) Division of Administrative Services.~~

2 ~~(d) Division of Workers' Compensation.~~

3 ~~(e) Division of Vocational Rehabilitation.~~

4 ~~(f) Division of Safety.~~

5 ~~(g) Division of Blind Services.~~

6 (3) The following commissions are established within
7 the Department of Labor and Employment Security:

8 (a) Public Employees Relations Commission.

9 (b) Unemployment Appeals Commission.

10 (4)

11 (a) There is created within the Department of Labor
12 and Employment Security an Unemployment Appeals Commission,
13 hereinafter referred to as the "commission." The commission
14 shall consist of a chair and two other members to be appointed
15 by the Governor, subject to confirmation by the Senate. Not
16 more than one appointee shall be a person who, on account of
17 previous vocation, employment, or affiliation, shall be
18 classified as a representative of employers; and not more than
19 one such appointee shall be a person who, on account of
20 previous vocation, employment, or affiliation, shall be
21 classified as a representative of employees.

22 1. The chair shall devote his or her entire time to
23 commission duties and shall be responsible for the
24 administrative functions of the commission.

25 2. The chair shall have the authority to appoint a
26 general counsel and such other personnel as may be necessary
27 to carry out the duties and responsibilities of the
28 commission.

29 3. The chair shall have the qualifications required by
30 law for a judge of the circuit court and shall not engage in
31 any other business vocation or employment. Notwithstanding any

1 other provisions of existing law, the chair shall be paid a
2 salary equal to that paid under state law to a judge of the
3 circuit court.

4 4. The remaining members shall be paid a stipend of
5 \$100 for each day they are engaged in the work of the
6 commission. The chair and other members shall also be
7 reimbursed for travel expenses, as provided in s. 112.061.

8 5. The total salary and travel expenses of each member
9 of the commission shall be paid from the Employment Security
10 Administration Trust Fund.

11 (b) Members shall serve for terms of 4 years each,
12 except that, beginning July 1, 1977, the chair shall be
13 appointed for a term of 4 years, one member for 3 years, and
14 one member for 2 years. A vacancy for the unexpired term of a
15 member shall be filled in the same manner as provided in this
16 subsection for an original appointment. The presence of two
17 members shall constitute a quorum for any called meeting of
18 the commission.

19 (c) The commission is vested with all authority,
20 powers, duties, and responsibilities relating to unemployment
21 compensation appeal proceedings under chapter 443.

22 (d) The property, personnel, and appropriations
23 relating to the specified authority, powers, duties, and
24 responsibilities of the commission shall be provided to the
25 commission by the Department of Labor and Employment Security.

26 (e) The commission shall not be subject to control,
27 supervision, or direction by the Department of Labor and
28 Employment Security in the performance of its powers and
29 duties under chapter 443.

30 (f) The commission shall make such expenditures,
31 including expenditures for personal services and rent at the

1 seat of government and elsewhere; for law books, books of
2 reference, periodicals, furniture, equipment, and supplies;
3 and for printing and binding as may be necessary in exercising
4 its authority and powers and carrying out its duties and
5 responsibilities. All such expenditures of the commission
6 shall be allowed and paid as provided in s. 443.211 upon the
7 presentation of itemized vouchers therefor, approved by the
8 chair.

9 (g) The commission may charge, in its discretion, for
10 publications, subscriptions, and copies of records and
11 documents. Such fees shall be deposited in the Employment
12 Security Administration Trust Fund.

13 (h) The commission shall maintain and keep open during
14 reasonable business hours an office, which shall be provided
15 in the Capitol or some other suitable building in the City of
16 Tallahassee, for the transaction of its business, at which
17 office its official records and papers shall be kept. The
18 offices shall be furnished and equipped by the commission.
19 The commission may hold sessions and conduct hearings at any
20 place within the state.

21 (i) The commission shall prepare and submit a budget
22 covering the necessary administrative cost of the commission.

23 (j) The commission shall have a seal for
24 authentication of its orders, awards, and proceedings, upon
25 which shall be inscribed the words "State of
26 Florida-Unemployment Appeals Commission-Seal"; and it shall be
27 judicially noticed.

28 (k) The commission shall, in accordance with chapter
29 120, adopt, promulgate, amend, or rescind such rules as it
30 deems necessary and administratively feasible to carry out its
31 responsibilities.

1 (1) Orders of the commission relating to unemployment
2 compensation under chapter 443 shall be subject to review only
3 by notice of appeal to the district courts of appeal in the
4 manner provided in s. 443.151(4)(e).

5 Section 2. Paragraph (1) of subsection (2) of section
6 110.205, Florida Statutes, is amended to read:

7 110.205 Career service; exemptions.--

8 (2) EXEMPT POSITIONS.--The exempt positions which are
9 not covered by this part include the following, provided that
10 no position, except for positions established for a limited
11 period of time pursuant to paragraph (h), shall be exempted if
12 the position reports to a position in the career service:

13 (1) All assistant division director, deputy division
14 director, and bureau chief positions in any department, and
15 those positions determined by the department to have
16 managerial responsibilities comparable to such positions,
17 which positions include, but are not limited to, positions in
18 the Department of Health and Rehabilitative Services and the
19 Department of Corrections that are assigned primary duties of
20 serving as the superintendent of an institution: positions in
21 the Department of Transportation that are assigned primary
22 duties of serving as regional toll managers and managers of
23 offices as defined in s. 20.23(3)(d)3. and (4)(d); positions
24 in the Department of Environmental Protection that are
25 assigned the duty of an Environmental Administrator or program
26 administrator; those positions described in s. 20.171 as
27 included in the Senior Management Service;and positions in
28 the Department of Health and Rehabilitative Services that are
29 assigned the duty of an Environmental Administrator. Unless
30 otherwise fixed by law, the department shall set the salary
31

1 and benefits of these positions in accordance with the rules
2 established for the Selected Exempt Service.

3 Section 3. All actions required by this act shall be
4 accomplished within available appropriations of the
5 department.

6 Section 4. Subsection (1) of section 393.11, Florida
7 Statutes, is amended to read:

8 393.11 Involuntary admission to residential
9 services.--

10 (1) JURISDICTION.--When a person is mentally retarded
11 and requires involuntary admission to residential services
12 provided by the developmental services program of the
13 Department of Health and Rehabilitative Services, the circuit
14 court of the county in which the person resides shall have
15 jurisdiction to conduct a hearing and enter an order
16 involuntarily admitting the person in order that the person
17 may receive the care, treatment, habilitation, and
18 rehabilitation which the person needs. For the purpose of
19 identifying mental retardation, diagnostic capability shall be
20 established in every program function of the department in the
21 districts, including, but not limited to, programs provided by
22 children and families; delinquency services; alcohol, drug
23 abuse, and mental health; and economic services, and by ~~the~~
24 ~~Division of Vocational Rehabilitation of~~ the Department of
25 Labor and Employment Security. Except as otherwise specified,
26 the proceedings under this section shall be governed by the
27 Florida Rules of Civil Procedure.

28 Section 5. Section 400.805, Florida Statutes, is
29 amended to read:

30 400.805 Transitional living facilities.--

31 (1) As used in this section, the term:

1 (a) "Agency" means the Agency for Health Care
2 Administration.

3 ~~(b) "Division" means the Division of Vocational~~
4 ~~Rehabilitation of the Department of Labor and Employment~~
5 ~~Security.~~

6 **(b)(c)** "Transitional living facility" means a site
7 where specialized health care services are provided,
8 including, but not limited to, rehabilitative services,
9 community reentry training, aids for independent living, and
10 counseling to spinal-cord-injured persons and head-injured
11 persons. This term does not include a hospital licensed under
12 chapter 395 or any federally operated hospital or facility.

13 (2)(a) A person must obtain a license from the agency
14 to operate a transitional living facility. A license issued
15 under this section is valid for 1 year.

16 (b) The application for a license must be made on a
17 form provided by the agency. A nonrefundable license fee of
18 \$2,000 and a fee of up to \$39.25 per bed must be submitted
19 with the license application.

20 (c) The agency may not issue a license to an applicant
21 until the agency receives notice from the division as provided
22 in paragraph (5)(b).

23 (3) An application for renewal of license must be
24 submitted 90 days before the expiration of the license.

25 (4) A change of ownership or control of a transitional
26 living facility must be reported to the agency in writing at
27 least 60 days before the change is scheduled to take effect.

28 (5)(a) The agency shall adopt rules in consultation
29 with the ~~division~~ governing the physical plant of transitional
30 living facilities and the fiscal management of transitional
31 living facilities.

1 (b) The Department of Labor and Employment Security
2 ~~division~~ shall adopt rules in consultation with the agency
3 governing the services provided to clients of transitional
4 living facilities. The Department of Labor and Employment
5 Security ~~division~~ shall enforce all requirements for providing
6 services to the facility's clients. The Department of Labor
7 and Employment Security ~~division~~ must notify the agency when
8 it determines that an applicant for licensure meets the
9 service requirements adopted by the division.

10 (c) The agency and the Department of Labor and
11 Employment Security ~~division~~ shall enforce requirements under
12 this section, as such requirements relate to them
13 respectively, and their respective adopted rules.

14 (6)(a) It is unlawful for any person to establish,
15 conduct, manage, or operate a transitional living facility
16 without obtaining a license from the agency.

17 (b) It is unlawful for any person to offer or
18 advertise to the public, in any medium whatever, services or
19 care defined in paragraph (1)(c) without obtaining a license
20 from the agency.

21 (c) It is unlawful for a holder of a license issued
22 under this section to advertise or represent to the public
23 that it holds a license for a type of facility other than the
24 facility for which its license is issued.

25 (7)(a) A violation of any provision of this section or
26 rules adopted by the agency or division under this section is
27 punishable by payment of an administrative or a civil penalty
28 fine not to exceed \$5,000.

29 (b) A violation of subsection (6) or rules adopted
30 under that subsection is a misdemeanor of the first degree,
31

1 punishable as provided in s. 775.082 or s. 775.083. Each day
2 of a continuing violation is a separate offense.

3 Section 6. Paragraph (a) of subsection (1) of section
4 410.0245, Florida Statutes, is amended to read:

5 410.0245 Study of service needs; report; multiyear
6 plan.--

7 (1)(a) The Aging and Adult Services Program Office of
8 the Department of Health and Rehabilitative Services shall
9 contract for a study of the service needs of the
10 18-to-59-year-old disabled adult population served or waiting
11 to be served by the community care for disabled adults
12 program. ~~The Division of Vocational Rehabilitation of the~~
13 Department of Labor and Employment Security and other
14 appropriate state agencies shall provide information to the
15 Department of Health and Rehabilitative Services when
16 requested for the purposes of this study.

17 Section 7. Subsection (2) of section 410.604, Florida
18 Statutes, is amended to read:

19 410.604 Community care for disabled adults program;
20 powers and duties of the department.--

21 (2) Any person who meets the definition of a disabled
22 adult pursuant to s. 410.603(2) is eligible to receive the
23 services of the community care for disabled adults program.
24 However, the community care for disabled adults program shall
25 operate within the funds appropriated by the Legislature.
26 Priority shall be given to disabled adults who are not
27 eligible for comparable services in programs of or funded by
28 the department or ~~the Division of Vocational Rehabilitation of~~
29 the Department of Labor and Employment Security; who are
30 determined to be at risk of institutionalization; and whose
31

1 income is at or below the existing institutional care program
2 eligibility standard.

3 Section 8. Subsection (1) of section 413.034, Florida
4 Statutes, is amended to read:

5 413.034 Commission established; membership.--

6 (1) There is created within the Department of
7 Management Services the Commission for Purchase from the Blind
8 or Other Severely Handicapped, to be composed of the secretary
9 of the Department of Management Services; ~~the director of the~~
10 ~~Division of Vocational Rehabilitation of the Department of~~
11 ~~Labor and Employment Security, who shall be an ex officio~~
12 ~~member with voting rights;~~ the director of the Division of
13 Blind Services of the Department of Labor and Employment
14 Security; and four members to be appointed by the Governor,
15 which four members shall be an executive director of a
16 nonprofit agency for the blind, an executive director of a
17 nonprofit agency for other severely handicapped persons, a
18 representative of private enterprise, and a representative of
19 other political subdivisions. All appointed members shall
20 serve for terms of 4 years. Appointed commission members
21 shall serve subject to confirmation by the Senate.

22 Section 9. Subsection (1) of section 413.445, Florida
23 Statutes, is amended to read:

24 413.445 Recovery of third-party payments for
25 vocational rehabilitation and related services.--

26 (1) As used in this section, "vocational
27 rehabilitation and related services" means any services which
28 are provided or paid for by ~~the Division of Vocational~~
29 ~~Rehabilitation of the Department of Labor and Employment~~
30 Security.
31

1 Section 10. Section 442.003, Florida Statutes, is
2 amended to read:

3 442.003 Legislative intent.--It is the intent of the
4 Legislature to enhance occupational safety and health in this
5 state through the implementation and maintenance of policies,
6 procedures, practices, rules, and standards that reduce the
7 incidence of employee accidents, occupational diseases, and
8 fatalities compensable under chapter 440. The Legislature
9 further intends that ~~the Division of Safety of~~ the Department
10 of Labor and Employment Security develop a means by which it
11 can identify individual employers with a high frequency or
12 severity of work-related injuries; conduct safety inspections
13 of those employers; and assist those employers in the
14 development and implementation of employee safety and health
15 programs. In addition, it is the intent of the Legislature
16 that ~~the Division of Safety of~~ the Department of Labor and
17 Employment Security administer the provisions of this chapter;
18 provide assistance to employers, employees, and insurance
19 carriers; and enforce the policies, rules, and standards set
20 forth in this chapter.

21 Section 11. Section 442.014, Florida Statutes, is
22 amended to read:

23 442.014 Division cooperation with Federal Government
24 ~~exemption from Division of Safety requirements.--~~

25 (1) The division shall cooperate with the Federal
26 Government so that duplicate inspections will be avoided yet
27 assure safe places of employment for the citizens of this
28 state.

29 ~~(2) Except as provided in this section, a private~~
30 ~~sector employer is not subject to the requirements of the~~
31 ~~Division of Safety if:~~

1 ~~(a) The employer is subject to the federal regulations~~
2 ~~in 29 C.F.R. ss. 1910 and 1926; and~~

3 ~~(b) The employer has adopted and implemented a written~~
4 ~~safety program that conforms to the requirements of 29 C.F.R.~~
5 ~~ss. 1910 and 1926; and~~

6 ~~(c) An employer with 20 or more full-time employees~~
7 ~~shall include provisions for a safety committee in the safety~~
8 ~~program. The safety committee must include employee~~
9 ~~representation and must meet at least once each calendar~~
10 ~~quarter. The employer must make adequate records of each~~
11 ~~meeting and maintain the records subject to inspections under~~
12 ~~subsection (3). The safety committee shall, if appropriate,~~
13 ~~make recommendations regarding improvements to the safety~~
14 ~~program and corrections of hazards affecting workplace safety;~~
15 ~~and~~

16 ~~(d) The employer provides the Division of Safety with~~
17 ~~a written statement that certifies compliance with this~~
18 ~~subsection.~~

19 ~~(3) The Division of Safety may enter at any reasonable~~
20 ~~time any place of employment for the purposes of verifying the~~
21 ~~accuracy of the written certification. If the Division of~~
22 ~~Safety determines that the employer has not complied with the~~
23 ~~requirements of subsection (2), the employer shall be subject~~
24 ~~to the rules of the Division of Safety until the employer~~
25 ~~complies with subsection (2) and recertifies that fact to the~~
26 ~~Division of Safety.~~

27 ~~(4) This section shall not restrict the Division of~~
28 ~~Safety from performing any duties pursuant to a written~~
29 ~~contract between the Division of Safety and the Federal~~
30 ~~Occupational Safety and Health Administration (OSHA).~~
31

1 Section 12. Section 442.023, Florida Statutes, is
2 repealed.

3 Section 13. Section 442.20, Florida Statutes, is
4 amended to read:

5 442.20 Workplace safety.--

6 (1) ~~The Division of Safety within the~~ Department of
7 Labor and Employment Security shall assist in making the
8 workplace a safer place to work and decreasing the frequency
9 and severity of on-the-job injuries.

10 (2) The department ~~Division of Safety~~ shall have the
11 authority to adopt rules for the purpose of assuring safe
12 working conditions for all workers by authorizing the
13 enforcement of effective standards, assisting and encouraging
14 employers to maintain safe working conditions, and by
15 providing for education and training in the field of safety.

16 (3) The provisions of chapter 440 which pertain to
17 workplace safety shall be applicable to the department
18 ~~Division of Safety~~.

19 ~~(4) The administrative rules of the Department of~~
20 ~~Labor and Employment Security pertaining to the function of~~
21 ~~the Bureau of Industrial Safety and Health which are in effect~~
22 ~~immediately before July 1, 1990, continue in effect as rules~~
23 ~~of the Division of Safety until specifically amended by the~~
24 ~~Department of Labor and Employment Security.~~

25 Section 14. Subsection (1) of section 553.512, Florida
26 Statutes, is amended to read:

27 553.512 Modifications and waivers; advisory council.--

28 (1) The Florida Board of Building Codes and Standards
29 shall provide by regulation criteria for granting individual
30 modifications of, or exceptions from, the literal requirements
31 of this part upon a determination of unnecessary,

1 unreasonable, or extreme hardship, provided such waivers shall
2 not violate federal accessibility laws and regulations and
3 shall be reviewed by the Handicapped Accessibility Advisory
4 Council consisting of the following seven members, who shall
5 be knowledgeable in the area of handicapped accessibility.
6 The Secretary of Community Affairs shall appoint the
7 following: a representative from the Advocacy Center for
8 Persons with Disabilities, Inc.; a representative from the
9 Division of Blind Services; ~~a representative from the Division~~
10 ~~of Vocational Rehabilitation~~; a representative from a
11 statewide organization representing the physically
12 handicapped; a representative from the hearing impaired; a
13 representative from the President, Florida Council of
14 Handicapped Organizations; and a representative of the
15 Paralyzed Veterans of America. The terms for the first three
16 council members appointed subsequent to October 1, 1991, shall
17 be for 4 years, the terms for the next two council members
18 appointed shall be for 3 years, and the terms for the next two
19 members shall be for 2 years. Thereafter, all council member
20 appointments shall be for terms of 4 years. No council member
21 shall serve more than two 4-year terms subsequent to October
22 1, 1991. Any member of the council may be replaced by the
23 secretary upon three unexcused absences. Upon application
24 made in the form provided, an individual waiver or
25 modification may be granted by the board so long as such
26 modification or waiver is not in conflict with more stringent
27 standards provided in another chapter.

28 Section 15. Section 627.0915, Florida Statutes, is
29 amended to read:

30 627.0915 Rate filings; workers' compensation,
31 drug-free workplace, and safe employers.--The Department of

1 Insurance shall approve rating plans for workers' compensation
2 insurance that give specific identifiable consideration in the
3 setting of rates to employers that either implement a
4 drug-free workplace program pursuant to rules adopted by the
5 Division of Workers' Compensation of the Department of Labor
6 and Employment Security or implement a safety program approved
7 ~~by the Division of Safety~~ pursuant to rules adopted by ~~the~~
8 ~~Division of Safety of~~ the Department of Labor and Employment
9 Security or implement both a drug-free workplace program and a
10 safety program. The plans must take effect January 1, 1994,
11 must be actuarially sound, and must state the savings
12 anticipated to result from such drug-testing and safety
13 programs.

14 Section 16. Section 627.212, Florida Statutes, is
15 amended to read:

16 627.212 Workplace safety program surcharge.--The
17 department shall approve a rating plan for workers'
18 compensation coverage insurance that provides for carriers
19 voluntarily to impose a surcharge of no more than 10 percent
20 on the premium of a policyholder or fund member if that
21 policyholder or fund member has been identified by ~~the~~
22 ~~Division of Safety of~~ the Department of Labor and Employment
23 Security as having been required to implement a safety program
24 and having failed to establish or maintain, either in whole or
25 in part, a safety program. The division shall adopt rules
26 prescribing the criteria for the employee safety programs.

27 Section 17. Paragraph (b) of subsection (4) of section
28 627.311, Florida Statutes, is amended to read:

29 627.311 Joint underwriters and joint reinsurers.--
30 (4)

31

1 (b) The operation of the plan shall be governed by a
2 plan of operation that is prepared at the direction of the
3 board of governors. The plan of operation may be changed at
4 any time by the board of governors or upon request of the
5 department. The plan of operation and all changes thereto are
6 subject to the approval of the department. The plan of
7 operation shall:

8 1. Authorize the board to engage in the activities
9 necessary to implement this subsection, including, but not
10 limited to, borrowing money.

11 2. Develop criteria for eligibility for coverage by
12 the plan, including, but not limited to, documented rejection
13 by at least two insurers which reasonably assures that
14 insureds covered under the plan are unable to acquire coverage
15 in the voluntary market. Any insured may voluntarily elect to
16 accept coverage from an insurer for a premium equal to or
17 greater than the plan premium if the insurer writing the
18 coverage adheres to the provisions of s. 627.171.

19 3. Require notice from the agent to the insured at the
20 time of the application for coverage that the application is
21 for coverage with the plan and that coverage may be available
22 through an insurer, group self-insurers' fund, commercial
23 self-insurance fund, or assessable mutual insurer through
24 another agent at a lower cost.

25 4. Establish programs to encourage insurers to provide
26 coverage to applicants of the plan in the voluntary market and
27 to insureds of the plan, including, but not limited to:

28 a. Establishing procedures for an insurer to use in
29 notifying the plan of the insurer's desire to provide coverage
30 to applicants to the plan or existing insureds of the plan and
31 in describing the types of risks in which the insurer is

1 interested. The description of the desired risks must be on a
2 form developed by the plan.

3 b. Developing forms and procedures that provide an
4 insurer with the information necessary to determine whether
5 the insurer wants to write particular applicants to the plan
6 or insureds of the plan.

7 c. Developing procedures for notice to the plan and
8 the applicant to the plan or insured of the plan that an
9 insurer will insure the applicant or the insured of the plan,
10 and notice of the cost of the coverage offered; and developing
11 procedures for the selection of an insuring entity by the
12 applicant or insured of the plan.

13 d. Provide for a market-assistance plan to assist in
14 the placement of employers. All applications for coverage in
15 the plan received 45 days before the effective date for
16 coverage shall be processed through the market-assistance
17 plan. A market-assistance plan specifically designed to serve
18 the needs of small good policyholders as defined by the board
19 must be finalized by January 1, 1994.

20 5. Provide for policy and claims services to the
21 insureds of the plan of the nature and quality provided for
22 insureds in the voluntary market.

23 6. Provide for the review of applications for coverage
24 with the plan for reasonableness and accuracy, using any
25 available historic information regarding the insured.

26 7. Provide for procedures for auditing insureds of the
27 plan which are based on reasonable business judgment and are
28 designed to maximize the likelihood that the plan will collect
29 the appropriate premiums.

30 8. Authorize the plan to terminate the coverage of and
31 refuse future coverage for any insured that submits a

1 fraudulent application to the plan or provides fraudulent or
2 grossly erroneous records to the plan or to any service
3 provider of the plan in conjunction with the activities of the
4 plan.

5 9. Establish service standards for agents who submit
6 business to the plan.

7 10. Establish criteria and procedures to prohibit any
8 agent who does not adhere to the established service standards
9 from placing business with the plan or receiving, directly or
10 indirectly, any commissions for business placed with the plan.

11 11. Provide for the establishment of reasonable safety
12 programs for all insureds in the plan. ~~At the direction of the~~
13 ~~board, the Division of Safety shall provide inspection to~~
14 ~~insureds and applicants for coverage in the plan identified as~~
15 ~~high-risk insureds by the board or its designee.~~

16 12. Authorize the plan to terminate the coverage of
17 and refuse future coverage to any insured who fails to pay
18 premiums or surcharges when due; who, at the time of
19 application, is delinquent in payments of workers'
20 compensation or employer's liability insurance premiums or
21 surcharges owed to an insurer, group self-insurers' fund,
22 commercial self-insurance fund, or assessable mutual insurer
23 licensed to write such coverage in this state; or who refuses
24 to substantially comply with any safety programs recommended
25 by the plan.

26 13. Authorize the board of governors to provide the
27 services required by the plan through staff employed by the
28 plan, through reasonably compensated service providers who
29 contract with the plan to provide services as specified by the
30 board of governors, or through a combination of employees and
31 service providers.

- 1 14. Provide for service standards for service
2 providers, methods of determining adherence to those service
3 standards, incentives and disincentives for service, and
4 procedures for terminating contracts for service providers
5 that fail to adhere to service standards.
- 6 15. Provide procedures for selecting service providers
7 and standards for qualification as a service provider that
8 reasonably assure that any service provider selected will
9 continue to operate as an ongoing concern and is capable of
10 providing the specified services in the manner required.
- 11 16. Provide for reasonable accounting and
12 data-reporting practices.
- 13 17. Provide for annual review of costs associated with
14 the administration and servicing of the policies issued by the
15 plan to determine alternatives by which costs can be reduced.
- 16 18. Authorize the acquisition of such excess insurance
17 or reinsurance as is consistent with the purposes of the plan.
- 18 19. Provide for an annual report to the department on
19 a date specified by the department and containing such
20 information as the department reasonably requires.
- 21 20. Establish multiple rating plans for various
22 classifications of risk which reflect risk of loss, hazard
23 grade, actual losses, size of premium, and compliance with
24 loss control. At least one of such plans must be a
25 preferred-rating plan to accommodate small-premium
26 policyholders with good experience as defined in
27 sub-subparagraph 22.a.
- 28 21. Establish agent commission schedules.
- 29 22. Establish three subplans as follows:
- 30 a. Subplan "A" must include those insureds whose
31 annual premium does not exceed \$2,500 and who have neither

1 incurred any lost-time claims nor incurred medical-only claims
2 exceeding 50 percent of their premium for the immediate 2
3 years.

4 b. Subplan "B" must include insureds that are
5 employers identified by the board of governors as high-risk
6 employers due solely to the nature of the operations being
7 performed by those insureds and for whom no market exists in
8 the voluntary market, and whose experience modifications are
9 less than 1.00.

10 c. Subplan "C" must include all other insureds within
11 the plan.

12 Section 18. This act shall take effect July 1 of the
13 year in which enacted.

14 *****

15 HOUSE SUMMARY

16
17 Reorganizes the Department of Labor and Employment
18 Security as a decentralized agency. Creates the
19 positions of Assistant Secretary for Finance and
20 Administration, Assistant Secretary for Programs, and
21 Assistant Secretary for Field Operations. Establishes
22 requirements and responsibilities for each assistant and
23 specifically requires that the individual appointed to
24 the role of Assistant Secretary for Finance and
25 Administration have a complete understanding of modern
26 financial management practices. Establishes the
27 following offices with responsibilities under the
28 Assistant Secretary for Finance and Administration:
29 Office of Comptroller, Office of Management and Budget,
30 and Office of Administration. Establishes the comptroller
31 as the department's chief financial officer with specific
financial management requirements and provides specific
qualifications of the individual appointed. Establishes
five geographically based field offices to be under the
direction of the Assistant Secretary for Field
Operations. Establishes divisions within the central
office to be under the direction of the Assistant
Secretary for Programs. Provides that all actions
required by the act are to be made within existing agency
resources. See bill for details.