

Amendment No. 5 (for drafter's use only)

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

Representative(s) Safley offered the following:

Amendment (with title amendment)

On page 4, between lines 18 & 19 of the bill

insert:

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

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

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

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1 merges with, aggravates, or accelerates her or his preexisting
2 permanent physical impairment to cause either a greater
3 disability or permanent impairment, or an increase in
4 expenditures for temporary compensation or medical benefits
5 than would have resulted from the injury alone. The division
6 or the administrator shall inform all employers of the
7 existence and function of the fund and shall interpret
8 eligibility requirements liberally. However, this subsection
9 shall not be construed to create or provide any benefits for
10 injured employees or their dependents not otherwise provided
11 by this chapter. The entitlement of an injured employee or her
12 or his dependents to compensation under this chapter shall be
13 determined without regard to this subsection, the provisions
14 of which shall be considered only in determining whether an
15 employer or carrier who has paid compensation under this
16 chapter is entitled to reimbursement from the Special
17 Disability Trust Fund.

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

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

21 (b) "Preferred worker" means a worker who, because of
22 a permanent impairment resulting from a compensable injury or
23 occupational disease, is unable to return to the worker's
24 regular employment.

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

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

29 2. The permanent disability or permanent impairment
30 resulting from the subsequent accident or occupational disease
31 is materially and substantially greater than that which would

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1 have resulted had the permanent physical impairment not
2 existed, and the employer has been required to pay, and has
3 paid, permanent total disability or permanent impairment
4 benefits for that materially and substantially greater
5 disability;

6 3. The preexisting permanent physical impairment is
7 aggravated or accelerated as a result of the subsequent injury
8 or occupational disease, or the preexisting impairment has
9 contributed, medically and circumstantially, to the need for
10 temporary compensation, medical, or attendant care and the
11 employer has been required to pay, and has paid, temporary
12 compensation, medical, or attendant care benefits for the
13 aggravated preexisting permanent impairment; or

14 4. Death would not have been accelerated if the
15 permanent physical impairment had not existed.

16 (d) "Excess permanent compensation" means that
17 compensation for permanent impairment, or permanent total
18 disability or death benefits, for which the employer or
19 carrier is otherwise entitled to reimbursement from the
20 Special Disability Trust Fund.

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

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

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

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

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

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

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

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

31 (c) Temporary compensation and medical benefits;

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

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

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

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

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

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

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

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

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

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

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

31 (7) REIMBURSEMENT OF EMPLOYER.--

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

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

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

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

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

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

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

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

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

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1 certification of employment.

2 (9) SPECIAL DISABILITY TRUST FUND.--

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

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

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

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

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

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

12

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

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

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

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

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1 assessed shall not exceed 4.52 percent.

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

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

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

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

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

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

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

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

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

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

28 (c) The commission shall be composed of three members,
29 one member selected by the Governor; one selected by the
30 Insurance Commissioner; and one selected by the State Board of
31 Administration.

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

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

12 (a) The Legislature finds that:

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

24 2. The Legislature finds that the creation of a public
25 benefits corporation and the issuance of bonds or other forms
26 of indebtedness under this section is consistent with the
27 underlying public purpose of reducing and ultimately
28 eliminating the liabilities of the Special Disability Trust
29 Fund. The purpose of the corporation and the subsequent bond
30 issuance is to fund and pay the liabilities of the Special
31 Disability Trust Fund, ensure the existence of a sufficient

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1 funding source for reimbursements to employers and carriers,
2 and reduce the overall costs of the program provided by the
3 state by employers and carriers.

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

12 1. The corporation shall operate under a three-member
13 board of directors consisting of the Governor or a designee,
14 the Treasurer or a designee, and the Executive Director of the
15 State Board of Administration or a designee.

16 2. The corporation has all of the powers of
17 corporations under chapter 607 and under chapter 617.

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

22 4. The corporation may invest in any of the
23 investments authorized under s. 215.47.

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

29 6. The corporation may appoint and employ such
30 officers, agents, and employees as the corporation deems
31 advisable to operate and manage the affairs of the

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

9 7. In addition to bonding, the corporation may also
10 borrow from, or enter into other financing arrangements with,
11 any market sources at interest rates not exceeding prevailing
12 interest rates.

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

27 2. The corporation may contract with the State Board
28 of Administration to serve as trustee with respect to debt
29 obligations issued by the corporation as provided by this
30 section and to hold, administer, and invest proceeds of such
31 debt obligations and other funds of the corporation. The State

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1 Board of Administration may perform such services and may
2 contract with others to provide all or a part of such services
3 and to recover the costs and expenses of providing such
4 services.

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

21 2. The state hereby covenants with holders of bonds of
22 the corporation that the state will not repeal or abrogate the
23 power of the division to levy the assessments and to collect
24 the proceeds of the revenues pledged to the payment of such
25 bonds as long as any such bonds remain outstanding unless
26 adequate provision has been made for the payment of such bonds
27 pursuant to the documents authorizing the issuance of such
28 bonds.

29 3. The corporation and its corporate existence shall
30 continue until terminated by law; however, no such law shall
31 take effect as long as the corporation has bonds outstanding

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1 unless adequate provision has been made for the payment of
2 such bonds pursuant to the documents authorizing the issuance
3 of such bonds. Upon termination of the existence of the
4 corporation, all of its rights and properties in excess of its
5 obligations shall pass to and be vested in the state.

6 (e)1. The funds, credit, property, or taxing power of
7 the state or political subdivisions of the state shall not be
8 pledged for the payment of such bonds. The bonds of the
9 corporation are not a debt of the state or of any political
10 subdivision, and neither the state nor any political
11 subdivision is liable on such bonds. The corporation does not
12 have the power to pledge the credit, the revenues, or the
13 taxing power of the state or of any political subdivision. The
14 credit, revenues, or taxing power of the state or of any
15 political subdivision shall not be deemed to be pledged to the
16 payment of any bonds of the corporation. However, bonds issued
17 under this subsection are declared to be for an essential
18 public and governmental purpose.

19 2. The property, revenues, and other assets of the
20 corporation; the transactions and operations of the
21 corporation and the income from such transactions and
22 operations; and all bonds issued under this paragraph and the
23 interest on such bonds, which is exempt from income taxes of
24 the United States, are exempt from taxation by the state and
25 any political subdivision, including, but not limited to, the
26 intangibles tax under chapter 199, the income tax under
27 chapter 220, and the premium tax under the Florida Insurance
28 Code. This exemption does not apply to any tax imposed by
29 chapter 220 on interest income or profits on debt obligations
30 owned by corporations other than the Special Disability Trust
31 Fund Financing Corporation. The corporation is not subject to

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1 the reporting requirements mandated by the Florida Insurance
2 Code.

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

18 (g) In the event the commission selects an
19 administrator for the Special Disability Trust Fund, all or
20 any portion of the monetary assets and claims liabilities held
21 in and accruing to the Special Disability Trust Fund may, with
22 the agreement of the corporation or the administrator, be
23 transferred to and fully assumed by the corporation or the
24 admitted insurer. As provided in an agreement with the
25 corporation or the admitted insurer, subsequent assessments
26 under subsection (9) shall be collected by the division,
27 deposited into the Special Disability Trust Fund, and used
28 exclusively for the debt service of the bonds issued by the
29 corporation, the payment of outstanding liabilities of the
30 Special Disability Trust Fund not assumed by the corporation
31 or the admitted insurer, and expenses of the corporation.

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1 (h) The administrator is prohibited from reviewing,
2 auditing, litigating, reimbursing, or settling any pending or
3 future claim or liability of its affiliates or subsidiaries.
4 The administrator is required to subcontract the
5 responsibility of reviewing, auditing, litigating,
6 reimbursing, or settling such a claim or liability.

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

9 Section 3. There is hereby appropriated \$200,000 from
10 the Workers Compensation Administration to the Special
11 Disability Trust Fund Privatization Commission to implement
12 this act.

13
14 (Redesignate subsequent sections.)

15
16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 On page 1, line 10,

20
21 after the semicolon, insert:

22 amending s. 440.49, F.S., creating the Special
23 Disability Trust Fund Privatization Commission;
24 providing purpose; providing for members;
25 providing duties; creating the Special
26 Disability Trust Fund Financing Corporation;
27 providing purposes; providing for a board of
28 directors; providing powers and duties of the
29 corporation; authorizing the Division of
30 Workers' Compensation to enter into service
31 contracts for certain purposes; authorizing the

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1 corporation to issue evidences of indebtedness;
2 authorizing the corporation to validate bond
3 obligations; exempting the corporation from
4 certain taxes and assessments; providing
5 application; providing for reversion of the
6 assets to the State upon dissolution of the
7 corporation; providing for the State Board of
8 Administration to be a trustee of the
9 corporation's securities; authorizing the
10 commission to issue a request for proposal for
11 administration of the claims of the fund;
12 authorizing the transfer and assumption of the
13 liabilities of the Special Disability Trust
14 Fund to an admitted insurer if it is determined
15 by the commission that such an arrangement
16 would be more cost effective than the current
17 administration by the division; authorizing the
18 Auditor General to examine and audit the
19 records of the corporation; providing an
20 appropriation;

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