

By the Committee on Governmental Oversight and Productivity;  
and Senator Webster

302-1715-99

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; amending s. 110.205,  
10          F.S.; providing that certain employees of the  
11          department shall be in the Senior Management  
12          Service; providing that certain actions  
13          contemplated by the act shall be done within  
14          the available resources of the department;  
15          amending ss. 393.11, 410.0245, 627.212,  
16          627.311, F.S., to conform; amending s. 442.006,  
17          F.S.; limiting the authority of the division to  
18          the public sector; amending s. 442.008, F.S.;  
19          prescribing duties of the division; providing  
20          for safety inspections and consultations and  
21          prescribing fees therefor; amending s. 442.013,  
22          F.S.; authorizing penalties for public-sector  
23          employers; amending s. 442.019, F.S.;  
24          authorizing the division to seek compliance in  
25          circuit court against public-sector employers;  
26          creating s. 443.012, F.S.; recreating the  
27          Unemployment Appeals Commission; describing its  
28          duties; providing for the future repeal of ch.  
29          442, F.S.; requiring the department to provide  
30          a report relating to the Division of Safety;  
31          requiring the department to provide a report on

1 the delivery of vocational rehabilitation  
2 programs; transferring the brain and spinal  
3 cord injury program to the Department of  
4 Health; amending ss. 400.805, F.S., to conform;  
5 transferring, renumbering, and amending ss.  
6 413.465, 413.48, 413.49, 413.507, 413.604,  
7 413.605, 413.613, F.S. to conform to the  
8 transfer of duties to the Department of Health;  
9 requiring the Division of Vocational  
10 Rehabilitation to enter into partnerships;  
11 providing an effective date.

12

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

14

15 Section 1. Section 20.171, Florida Statutes, 1998  
16 Supplement, is amended to read:

17

18 20.171 Department of Labor and Employment  
19 Security.--There is created a Department of Labor and  
20 Employment Security. The department shall operate its programs  
in a decentralized fashion.

21

22 (1) The head of the Department of Labor and Employment  
23 Security is the Secretary of Labor and Employment Security.  
24 The secretary shall be appointed by the Governor subject to  
25 confirmation by the Senate. The secretary shall serve at the  
26 pleasure of the Governor.

27

28 (2)(a) There shall be three assistant secretaries who  
29 shall be appointed by and serve at the pleasure of the  
30 Secretary of Labor and Employment Security. The assistant  
31 secretaries shall be titled Assistant Secretary for Finance  
and Administration, Assistant Secretary for Programs, and  
Assistant Secretary for Field Operations. The Secretary of

1 Labor and Employment Security may assign any assistant  
2 secretary the responsibility of supervising, coordinating, and  
3 formulating policy for any division, office, field office, or  
4 local office.

5 (b) The following special offices are established  
6 within the department: the Office of General Counsel, the  
7 Office of Inspector General, and the Office of the Executive  
8 Staff Director. These special offices are to be headed by  
9 managers who are appointed by and serve at the pleasure of the  
10 secretary.

11 (c) There shall be five field offices involved in the  
12 administration and management of the department's programs for  
13 workers' compensation, jobs and benefits, and unemployment  
14 compensation. These five field offices shall also be  
15 responsible for administration and management of any local  
16 offices within their districts. The five field offices shall  
17 be headed by managers, each of whom shall be appointed by and  
18 serve at the pleasure of the Secretary of Labor and Employment  
19 Security.

20 (d) The managers of all divisions and offices  
21 specifically named in this section and the directors of the  
22 five field offices are exempt from part II of chapter 110 and  
23 are included in the Senior Management Service in accordance  
24 with s. 110.205(2)(i). No other assistant secretaries or  
25 senior management positions at or above the division level,  
26 except those established in chapter 110, may be created  
27 without specific legislative authority.

28 (3)(a) The Assistant Secretary for Finance and  
29 Administration must possess a broad knowledge of the  
30 administrative, financial, and technical aspects of a complete  
31 cost-accounting system, budget preparation and management, and

1 management information systems. The Assistant Secretary for  
2 Finance and Administration must be a proven, effective manager  
3 with specialized skills in financial planning and management.  
4 The Assistant Secretary for Finance and Administration shall  
5 ensure that financial information is processed in a timely,  
6 accurate, and complete manner.

7 (b) The Assistant Secretary for Finance and  
8 Administration is responsible for developing, monitoring, and  
9 enforcing policy and managing major technical programs. The  
10 responsibilities and duties of the Assistant Secretary for  
11 Finance and Administration include, but are not limited to:

12 1. The following functional areas:

13 a. Financial planning and management.

14 b. Information systems.

15 c. Accounting systems.

16 d. Administrative functions.

17 2. Implementing by no later than December 1, 1999:

18 a. The preparation of detailed documentation of the  
19 internal controls, including general and application controls,  
20 the department relies on for accurate and complete financial  
21 information.

22 b. The monthly reconciliation of the department's  
23 accounting, planning and budgeting, cash forecasting, and  
24 grants-in-aid program.

25 c. The development of a long-range information systems  
26 plan for the department which addresses the computing and  
27 informational requirements of the five field and special  
28 offices. Financial, personnel, and technical resources must  
29 all be identified and qualified, as appropriate.

30  
31

1           (c) The following offices are established and shall be  
2 headed by managers who are supervised by and responsible to  
3 the Assistant Secretary for Finance and Administration:

- 4           1. The Office of Administration.
- 5           2. The Office of Comptroller.
- 6           3. The Office of Management and Budget.
- 7           4. The Office of Civil Rights.
- 8           5. The Office of Information Systems.

9           (d) Within the central office there is created an  
10 Office of Management and Budget. The functions of the Office  
11 of Management and Budget include, but are not limited to:

- 12           1. Financial planning.
- 13           2. Preparation of the department budget.
- 14           3. Coordination of related policies and procedures.
- 15           4. The development of uniform implementation and

16 monitoring procedures for all activities performed at the  
17 field office level involving the budget and agency programs.

18           (e)1. The head of the Office of Management and Budget  
19 is the comptroller, who is appointed by the secretary and who  
20 is responsible to the Assistant Secretary for Finance and  
21 Administration. This position is exempt from part II of  
22 chapter 110.

23           2. The comptroller is the chief financial officer of  
24 the department and shall be a proven, effective administrator  
25 who by a combination of education and experience clearly  
26 possesses a broad knowledge of the administrative, financial,  
27 and technical aspects of a complex cost-accounting system. The  
28 comptroller must also have a working knowledge of generally  
29 accepted accounting principles. At a minimum, the comptroller  
30 shall hold an active license to practice public accounting in  
31 Florida pursuant to chapter 473 or an active license to

1 practice public accounting in another state. In addition to  
2 the requirements of the Florida Fiscal Accounting Management  
3 Information System Act, the comptroller is responsible for the  
4 development, maintenance, and modification of an accounting  
5 system which will in a timely manner accurately reflect the  
6 revenues and expenditures of the department and which shall  
7 include a cost-accounting system to properly identify,  
8 segregate, allocate, and report department costs. The  
9 comptroller shall supervise and direct preparation of a  
10 detailed 36-month forecast of cash and expenditures and shall  
11 be responsible for managing and determining cash requirements.  
12 The comptroller shall review all comparative cost studies  
13 which examine the cost-effectiveness and feasibility of  
14 contracting for services and operations performed by the  
15 department. The review shall state that the study was prepared  
16 in accordance with generally accepted cost-accounting  
17 standards applied in a consistent manner using valid and  
18 accurate cost data.

19 3. The comptroller may be required to give bond as  
20 provided by s. 20.05(4).

21 4. The department shall, by rule or internal  
22 management memoranda as required by chapter 120, provide for  
23 the maintenance by the comptroller of financial records and  
24 accounts of the department as will afford a full and complete  
25 check against the improper payment of bills and provide a  
26 system for the prompt payment of the just obligations of the  
27 department, which records must at all times disclose:

28 a. The several appropriations available for the use of  
29 the department.

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

1           c. The apportionment or division of all such  
2 appropriations among the several counties and field offices,  
3 when such apportionment or division is made.

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

6           e. The amount expended and the amount still to be  
7 expended in connection with each contractual and other  
8 obligations of the department.

9           f. The expense and operating costs of the various  
10 activities of the department.

11           g. The receipts accruing to the department and the  
12 distribution thereof.

13           h. The assets, investments, and liabilities of the  
14 department.

15           i. The cash requirements of the department of a  
16 36-month period.

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

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

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

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

29           1. Workers' compensation management and policy.

30           2. Jobs and benefits management and policy.

31           3. Unemployment compensation management and policy.

1           4. Blind services management and policy.  
2           (c) The following divisions are established and shall  
3 be headed by division directors who are supervised by and  
4 responsible to the Assistant Secretary for Programs:  
5           1. Division of Workforce and Employment Opportunities.  
6           2. Division of Unemployment Compensation.  
7           3. Division of Workers' Compensation.  
8           4. Division of Blind Services.  
9           5. Division of Safety. This subparagraph is repealed  
10 July 1, 2000.  
11           6. Division of Vocational Rehabilitation.  
12           (5)(a) The Assistant Secretary for Field Operations  
13 must possess a broad knowledge of the administrative,  
14 financial, and technical aspects of the divisions within the  
15 department.  
16           (b) The Assistant Secretary for Field Operations is  
17 responsible for developing, monitoring, and enforcing policy  
18 and managing major technical programs. The responsibilities  
19 and duties of the Assistant Secretary for Field Operations  
20 include, but are not limited to, the following functional  
21 areas:  
22           1. Oversight of the five field offices, and any local  
23 offices.  
24           2. Workers' compensation policy implementation.  
25           3. Jobs and benefits policy implementation.  
26           4. Unemployment compensation policy implementation.  
27           (c) It is the intent of the Legislature that the  
28 functions and programs of the divisions are to be coordinated  
29 and integrated to the maximum extent practicably feasible.  
30 Further, it is the intent of the Legislature that all key  
31 programs be co-located in five field offices. The department



1 is directed to develop a schedule to achieve this co-location  
2 by no later than July 1, 2001. The following field offices are  
3 established and shall be headed by managers:

4 1. Field Office I--Pensacola, which shall serve the  
5 following counties: Escambia, Santa Rosa, Okaloosa, Walton,  
6 Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Liberty,  
7 Franklin, Wakulla, Leon, Gadsden, Jefferson, Madison,  
8 Lafayette, Suwannee, Hamilton, Dixie, Gilchrist, Columbia, and  
9 Union.

10 2. Field Office II--Jacksonville, which shall serve  
11 the following counties: Baker, Bradford, Clay, St. Johns,  
12 Duval, Nassau, Alachua, Putnam, Marion, Citrus, Levy, Flagler,  
13 Volusia, and Brevard.

14 3. Field Office III--Orlando, which shall serve the  
15 following counties: Lake, Seminole, Orange, Sumter, Sarasota,  
16 Hardee, DeSoto, Highlands, Osceola, Polk, Hernando, Pasco,  
17 Pinellas, Manatee, and Hillsborough.

18 4. Field Office IV--Ft. Lauderdale, which shall serve  
19 the following counties: Broward, Palm Beach, Martin, St.  
20 Lucie, Indian River, Glades, Hendry, Collier, Okeechobee,  
21 Charlotte, and Lee.

22 5. Field Office V--Miami, which shall serve the  
23 following counties: Dade and Monroe.

24 ~~(2) The following divisions, and bureaus within the~~  
25 ~~divisions, of the Department of Labor and Employment Security~~  
26 ~~are established:~~

27 ~~(a) Division of Jobs and Benefits.~~

28 ~~(b) Division of Unemployment Compensation.~~

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

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

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

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

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

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

5           (a) Public Employees Relations Commission.

6           (b) Unemployment Appeals Commission.

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

18           ~~1. The chair shall devote his or her entire time to  
19 commission duties and shall be responsible for the  
20 administrative functions of the commission.~~

21           ~~2. The chair shall have the authority to appoint a  
22 general counsel and such other personnel as may be necessary  
23 to carry out the duties and responsibilities of the  
24 commission.~~

25           ~~3. The chair shall have the qualifications required by  
26 law for a judge of the circuit court and shall not engage in  
27 any other business vocation or employment. Notwithstanding any  
28 other provisions of existing law, the chair shall be paid a  
29 salary equal to that paid under state law to a judge of the  
30 circuit court.~~

31

1           ~~4. The remaining members shall be paid a stipend of~~  
2 ~~\$100 for each day they are engaged in the work of the~~  
3 ~~commission. The chair and other members shall also be~~  
4 ~~reimbursed for travel expenses, as provided in s. 112.061.~~

5           ~~5. The total salary and travel expenses of each member~~  
6 ~~of the commission shall be paid from the Employment Security~~  
7 ~~Administration Trust Fund.~~

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

16           ~~(c) The commission is vested with all authority,~~  
17 ~~powers, duties, and responsibilities relating to unemployment~~  
18 ~~compensation appeal proceedings under chapter 443.~~

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

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

27           ~~(f) The commission shall make such expenditures,~~  
28 ~~including expenditures for personal services and rent at the~~  
29 ~~seat of government and elsewhere; for law books, books of~~  
30 ~~reference, periodicals, furniture, equipment, and supplies;~~  
31 ~~and for printing and binding as may be necessary in exercising~~

1 ~~its authority and powers and carrying out its duties and~~  
2 ~~responsibilities. All such expenditures of the commission~~  
3 ~~shall be allowed and paid as provided in s. 443.211 upon the~~  
4 ~~presentation of itemized vouchers therefor, approved by the~~  
5 ~~chair.~~

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

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

18 ~~(i) The commission shall prepare and submit a budget~~  
19 ~~covering the necessary administrative cost of the commission.~~

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

25 ~~(k) The commission has authority to adopt rules~~  
26 ~~pursuant to ss. 120.536(1) and 120.54 to implement provisions~~  
27 ~~of law conferring duties upon it.~~

28 ~~(l) Orders of the commission relating to unemployment~~  
29 ~~compensation under chapter 443 shall be subject to review only~~  
30 ~~by notice of appeal to the district courts of appeal in the~~  
31 ~~manner provided in s. 443.151(4)(e).~~

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

3           110.205 Career service; exemptions.--

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

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

29           Section 3. All actions required by this act shall be  
30 accomplished within available appropriations of the Department  
31 of Labor and Employment Security.

1           Section 4. Subsection (1) of section 393.11, Florida  
2 Statutes, 1998 Supplement, is amended to read:

3           393.11 Involuntary admission to residential  
4 services.--

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

23           Section 5. Paragraph (a) of subsection (1) of section  
24 410.0245, Florida Statutes, is amended to read:

25           410.0245 Study of service needs; report; multiyear  
26 plan.--

27           (1)(a) The Aging and Adult Services Program Office of  
28 the Department of Children and Family ~~Health and~~  
29 ~~Rehabilitative~~ Services shall contract for a study of the  
30 service needs of the 18-to-59-year-old disabled adult  
31 population served or waiting to be served by the community

1 care for disabled adults program. The Division of Vocational  
2 Rehabilitation of the Department of Labor and Employment  
3 Security and other appropriate state agencies shall provide  
4 information to the Department of Children and Family Health  
5 ~~and Rehabilitative~~ Services when requested for the purposes of  
6 this study.

7 Section 6. Section 442.006, Florida Statutes, 1998  
8 Supplement, is amended to read:

9 442.006 Investigations by the division; refusal to  
10 admit; penalty.--

11 (1) The division shall make studies and investigations  
12 with respect to safety provisions and the causes of injuries  
13 in public-sector places of employment ~~employments covered by~~  
14 ~~this chapter~~, and shall make to the Legislature and  
15 public-sector employers and carriers such recommendations as  
16 it considers proper as to the best means of preventing  
17 injuries. In making such studies and investigations, the  
18 division may:

19 (a) Cooperate with any agency of the United States  
20 charged with the duty of enforcing any law securing safety  
21 against injury in any public-sector place of employment  
22 covered by this chapter, or any agency or department of the  
23 state engaged in enforcing any laws to assure safety for  
24 employees.

25 (b) Allow any such agency or department to have access  
26 to the records of the division.

27 (2) The division and its authorized representatives  
28 may enter and inspect any public-sector place of employment at  
29 any reasonable time for the purpose of investigating  
30 compliance with this chapter and making inspections for the  
31 proper enforcement of this chapter. Any public-sector employer

1 ~~or owner~~ who refuses to admit any member of the division or  
2 its authorized representative to any public-sector place of  
3 employment or to allow investigation and inspection pursuant  
4 to this paragraph is guilty of a misdemeanor of the second  
5 degree, punishable as provided in s. 775.082 or s. 775.083.

6 (3) The division by rule may adopt procedures for  
7 conducting investigations of public sector employers under  
8 this chapter.

9 Section 7. Section 442.008, Florida Statutes, 1998  
10 Supplement, is amended to read:

11 442.008 Division authority.--The division shall:

12 (1) Investigate and prescribe what safety devices,  
13 safeguards, or other means of protection must be adopted for  
14 the prevention of accidents in every public-sector ~~employment~~  
15 ~~or~~ place of employment; determine what suitable devices,  
16 safeguards, or other means of protection for the prevention of  
17 occupational diseases must be adopted or followed in any or  
18 all such public-sector ~~employments or~~ places of employment;  
19 and adopt reasonable rules for the prevention of accidents and  
20 the prevention of occupational diseases.

21 (2) Ascertain, fix, and order such reasonable  
22 standards and rules for the construction, repair, and  
23 maintenance of public-sector places of employment as shall  
24 render them safe. Such rules and standards must be adopted in  
25 accordance with chapter 120.

26 (3) Assist employers in the development and  
27 implementation of employee safety training programs by  
28 contracting with professional safety organizations.

29 (4) Adopt rules prescribing recordkeeping  
30 responsibilities for public sector employers, which may  
31 include rules for maintaining a log and summary of



1 occupational injuries, diseases, and illnesses and for  
2 producing on request a notice of injury and employee accident  
3 investigation records, and rules prescribing a retention  
4 schedule for such records.

5 (5) Provide safety inspections and consultations to  
6 those employers who request them. The division may assess a  
7 fee not to exceed \$500. The funds collected by the division  
8 shall be deposited into the Workers' Compensation  
9 Administration Trust Fund pursuant to s. 440.51 and shall be  
10 used to administer this subsection.

11 Section 8. Section 442.013, Florida Statutes, is  
12 amended to read:

13 442.013 Public-sector employer penalties.--If any  
14 public-sector employer violates or fails or refuses to comply  
15 with this chapter or with any rule adopted by the division, in  
16 accordance with chapter 120, for the prevention of injuries,  
17 accidents, or occupational diseases or with any lawful order  
18 of the division in connection with this chapter, or fails or  
19 refuses to furnish or adopt any safety device, safeguard, or  
20 other means of protection prescribed by the division under  
21 this chapter for the prevention of accidents or occupational  
22 diseases, the division may assess against the public-sector  
23 employer a civil penalty of not less than \$100 nor more than  
24 \$5,000 for each day the violation, omission, failure, or  
25 refusal continues after the public-sector employer has been  
26 given notice thereof in writing. The total penalty for each  
27 violation may not exceed \$50,000. The division shall adopt  
28 rules requiring penalties commensurate with the frequency or  
29 severity, or both, of safety violations. A hearing must be  
30 held in the county where the violation, omission, failure, or  
31 refusal is alleged to have occurred, unless otherwise agreed

1 to by the public-sector employer and authorized by the  
2 division.

3 Section 9. Section 442.019, Florida Statutes, is  
4 amended to read:

5 442.019 Compliance.--Failure of a public-sector ~~an~~  
6 employer or a carrier to comply with this chapter or with any  
7 rules adopted under this chapter constitutes grounds for the  
8 division to seek remedies, including injunctive relief, for  
9 compliance by making appropriate filings with the Circuit  
10 Court of Leon County.

11 Section 10. Section 443.012, Florida Statutes, is  
12 created to read:

13 443.012 Unemployment Appeals Commission.--

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

25 (a) The chair shall devote his or her entire time to  
26 commission duties and shall be responsible for the  
27 administrative functions of the commission.

28 (b) The chair shall have the authority to appoint a  
29 general counsel and such other personnel as may be necessary  
30 to carry out the duties and responsibilities of the  
31 commission.

1           (c) The chair shall have the qualifications required  
2 by law for a judge of the circuit court and shall not engage  
3 in any other business vocation or employment. Notwithstanding  
4 any other provisions of existing law, the chair shall be paid  
5 a salary equal to that paid under state law to a judge of the  
6 circuit court.

7           (d) The remaining members shall be paid a stipend of  
8 \$100 for each day they are engaged in the work of the  
9 commission. The chair and other members shall also be  
10 reimbursed for travel expenses, as provided in s. 112.061.

11           (e) The total salary and travel expenses of each  
12 member of the commission shall be paid from the Employment  
13 Security Administration Trust Fund.

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

22           (3) The commission is vested with all authority,  
23 powers, duties, and responsibilities relating to unemployment  
24 compensation appeal proceedings under chapter 443.

25           (4) The property, personnel, and appropriations  
26 relating to the specified authority, powers, duties, and  
27 responsibilities of the commission shall be provided to the  
28 commission by the Department of Labor and Employment Security.

29           (5) The commission shall not be subject to control,  
30 supervision, or direction by the Department of Labor and  
31

1 Employment Security in the performance of its powers and  
2 duties under chapter 443.

3 (6) The commission shall make such expenditures,  
4 including expenditures for personal services and rent at the  
5 seat of government and elsewhere, for law books, books of  
6 reference, periodicals, furniture, equipment, and supplies,  
7 and for printing and binding as are necessary in exercising  
8 its authority and powers and carrying out its duties and  
9 responsibilities. All such expenditures of the commission  
10 shall be allowed and paid as provided in s. 443.211 upon the  
11 presentation of itemized vouchers therefor, approved by the  
12 chair.

13 (7) The commission may charge, in its discretion, for  
14 publications, subscriptions, and copies of records and  
15 documents. Such fees shall be deposited in the Employment  
16 Security Administration Trust Fund.

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

25 (9) The commission shall prepare and submit a budget  
26 covering the necessary administrative cost of the commission.

27 (10) The commission shall have a seal for  
28 authentication of its orders, awards, and proceedings, upon  
29 which shall be inscribed the words "State of  
30 Florida-Unemployment Appeals Commission-Seal", and it shall be  
31 judicially noticed.

1           (11) The commission has authority to adopt rules  
2 pursuant to ss. 120.536(1) and 120.54 to implement provisions  
3 of law conferring duties upon it.

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

8           Section 11. Section 627.212, Florida Statutes, is  
9 amended to read:

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

21           Section 12. Paragraphs (b) and (c) of subsection (4)  
22 of section 627.311, Florida Statutes, 1998 Supplement, are  
23 amended to read:

24           627.311 Joint underwriters and joint reinsurers.--

25           (4)

26           (b) The operation of the plan is subject to the  
27 supervision of a 13-member board of governors. The board of  
28 governors shall be comprised of:

29           1. Five of the 20 domestic insurers, as defined in s.  
30 624.06(1), having the largest voluntary direct premiums  
31 written in this state for workers' compensation and employer's

1 liability insurance, which shall be elected by those 20  
2 domestic insurers;

3           2. Five of the 20 foreign insurers as defined in s.  
4 624.06(2) having the largest voluntary direct premiums written  
5 in this state for workers' compensation and employer's  
6 liability insurance, which shall be elected by those 20  
7 foreign insurers;

8           3. One person, who shall serve as the chair, appointed  
9 by the Insurance Commissioner;

10           4. One person appointed by the largest property and  
11 casualty insurance agents' association in this state; and

12           5. The consumer advocate appointed under s. 627.0613  
13 or the consumer advocate's designee.

14

15 Each board member shall serve 4-year terms and may serve  
16 consecutive terms. No board member shall be an insurer which  
17 provides service to the plan or which has an affiliate which  
18 provides services to the plan or which is serviced by a  
19 service company or third-party administrator which provides  
20 services to the plan or which has an affiliate which provides  
21 services to the plan. The minutes, audits, and procedures of  
22 the board of governors are subject to chapter 119.

23           (c) The operation of the plan shall be governed by a  
24 plan of operation that is prepared at the direction of the  
25 board of governors. The plan of operation may be changed at  
26 any time by the board of governors or upon request of the  
27 department. The plan of operation and all changes thereto are  
28 subject to the approval of the department. The plan of  
29 operation shall:

30

31

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

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

12          3. Require notice from the agent to the insured at the  
13 time of the application for coverage that the application is  
14 for coverage with the plan and that coverage may be available  
15 through an insurer, group self-insurers' fund, commercial  
16 self-insurance fund, or assessable mutual insurer through  
17 another agent at a lower cost.

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

21           a. Establishing procedures for an insurer to use in  
22 notifying the plan of the insurer's desire to provide coverage  
23 to applicants to the plan or existing insureds of the plan and  
24 in describing the types of risks in which the insurer is  
25 interested. The description of the desired risks must be on a  
26 form developed by the plan.

27           b. Developing forms and procedures that provide an  
28 insurer with the information necessary to determine whether  
29 the insurer wants to write particular applicants to the plan  
30 or insureds of the plan.

31

1           c. Developing procedures for notice to the plan and  
2 the applicant to the plan or insured of the plan that an  
3 insurer will insure the applicant or the insured of the plan,  
4 and notice of the cost of the coverage offered; and developing  
5 procedures for the selection of an insuring entity by the  
6 applicant or insured of the plan.

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

14           5. Provide for policy and claims services to the  
15 insureds of the plan of the nature and quality provided for  
16 insureds in the voluntary market.

17           6. Provide for the review of applications for coverage  
18 with the plan for reasonableness and accuracy, using any  
19 available historic information regarding the insured.

20           7. Provide for procedures for auditing insureds of the  
21 plan which are based on reasonable business judgment and are  
22 designed to maximize the likelihood that the plan will collect  
23 the appropriate premiums.

24           8. Authorize the plan to terminate the coverage of and  
25 refuse future coverage for any insured that submits a  
26 fraudulent application to the plan or provides fraudulent or  
27 grossly erroneous records to the plan or to any service  
28 provider of the plan in conjunction with the activities of the  
29 plan.

30           9. Establish service standards for agents who submit  
31 business to the plan.



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

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

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

20           13. Authorize the board of governors to provide the  
21 services required by the plan through staff employed by the  
22 plan, through reasonably compensated service providers who  
23 contract with the plan to provide services as specified by the  
24 board of governors, or through a combination of employees and  
25 service providers.

26           14. Provide for service standards for service  
27 providers, methods of determining adherence to those service  
28 standards, incentives and disincentives for service, and  
29 procedures for terminating contracts for service providers  
30 that fail to adhere to service standards.

31

1           15. Provide procedures for selecting service providers  
2 and standards for qualification as a service provider that  
3 reasonably assure that any service provider selected will  
4 continue to operate as an ongoing concern and is capable of  
5 providing the specified services in the manner required.

6           16. Provide for reasonable accounting and  
7 data-reporting practices.

8           17. Provide for annual review of costs associated with  
9 the administration and servicing of the policies issued by the  
10 plan to determine alternatives by which costs can be reduced.

11           18. Authorize the acquisition of such excess insurance  
12 or reinsurance as is consistent with the purposes of the plan.

13           19. Provide for an annual report to the department on  
14 a date specified by the department and containing such  
15 information as the department reasonably requires.

16           20. Establish multiple rating plans for various  
17 classifications of risk which reflect risk of loss, hazard  
18 grade, actual losses, size of premium, and compliance with  
19 loss control. At least one of such plans must be a  
20 preferred-rating plan to accommodate small-premium  
21 policyholders with good experience as defined in  
22 sub-subparagraph 22.a.

23           21. Establish agent commission schedules.

24           22. Establish three subplans as follows:

25           a. Subplan "A" must include those insureds whose  
26 annual premium does not exceed \$2,500 and who have neither  
27 incurred any lost-time claims nor incurred medical-only claims  
28 exceeding 50 percent of their premium for the immediate 2  
29 years.

30           b. Subplan "B" must include insureds that are  
31 employers identified by the board of governors as high-risk

1 employers due solely to the nature of the operations being  
2 performed by those insureds and for whom no market exists in  
3 the voluntary market, and whose experience modifications are  
4 less than 1.00.

5 c. Subplan "C" must include all other insureds within  
6 the plan.

7 Section 13. Chapter 442, Florida Statutes, consisting  
8 of ss. 442.001, 442.002, 442.003, 442.004, 442.005, 442.006,  
9 442.007, 442.008, 442.009, 442.1015, 442.011, 442.012,  
10 442.013, 442.014, 442.015, 442.016, 442.017, 442.018, 442.019,  
11 442.020, 442.021, 442.022, 442.023, 442.101, 442.102, 442.103,  
12 442.104, 442.105, 442.106, 442.107, 442.108, 442.109, 442.111,  
13 442.112, 442.113, 442.115, 442.116, 442.118, 442.1185,  
14 442.119, 442.121, 442.123, 442.125, 442.126, 442.127, 442.20,  
15 and 442.21 is repealed July 1, 2000. The Department of Labor  
16 and Employment Security shall submit to the Governor and the  
17 Legislature by January 1, 2000, a report on a proposed  
18 reauthorization of the Division of Safety and the provisions  
19 of chapter 442, Florida Statutes, based upon the following  
20 criteria:

21 (1) External requirements mandating that the State of  
22 Florida provide a state agency for employment safety issues;

23 (2) Internal organizational requirements that  
24 necessitate a state agency for safety issues and a review of  
25 state agency practices for the provision of existing  
26 safety-related activities.

27 (3) A compilation of best practices among public and  
28 private employers which achieve safety results without the  
29 creation of a governmental regulatory apparatus.

30 (4) The appropriateness of a management-by-exception  
31 system in which the division functions as a contract

1 performance auditor for the development of internal risk and  
2 safety management issues among employers.

3 Section 14. The department shall provide a report to  
4 the Governor and Legislature by January 1, 2000, on  
5 organizational improvements to the delivery of vocational  
6 rehabilitation programs for residents of the state. The report  
7 must examine:

8 (1) The development of model performance contracting  
9 and payment systems which reward quality outcomes.

10 (2) The development of complete cost-recovery systems  
11 that effectively allocate accountability for case-management  
12 costs on the basis of standardized reporting units.

13 (3) A reconfiguration of additional internal reporting  
14 relationships and responsibilities which minimizes central  
15 administrative costs and hierarchical levels of approval.

16 (4) Training and staff-development improvements that  
17 permit agency employees to function as quality managers for  
18 the evaluation of direct-service providers.

19 (5) Required changes to maintain single state agency  
20 recognition by federal grant-in-aid agencies while providing  
21 for flexible and adaptable performance-based delivery systems.

22 (6) Reimbursement and management systems that direct  
23 funds toward program recipients and away from administration  
24 and management.

25 Section 15. The brain and spinal cord injury program  
26 established in sections 400.805 and 413.48, Florida Statutes,  
27 is transferred by a type two transfer, as defined in section  
28 20.06, Florida Statutes, to the Department of Health.

29 Section 16. Section 400.805, Florida Statutes, 1998  
30 Supplement, is amended to read:

31 400.805 Transitional living facilities.--

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

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

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

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

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

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

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

24 (3) Each applicant for licensure must comply with the  
25 following requirements:

26 (a) Upon receipt of a completed, signed, and dated  
27 application, the agency shall require background screening, in  
28 accordance with the level 2 standards for screening set forth  
29 in chapter 435, of the managing employee, or other similarly  
30 titled individual who is responsible for the daily operation  
31 of the facility, and of the financial officer, or other

1 similarly titled individual who is responsible for the  
2 financial operation of the facility, including billings for  
3 client care and services. The applicant must comply with the  
4 procedures for level 2 background screening as set forth in  
5 chapter 435.

6 (b) The agency may require background screening of any  
7 other individual who is an applicant if the agency has  
8 probable cause to believe that he or she has been convicted of  
9 a crime or has committed any other offense prohibited under  
10 the level 2 standards for screening set forth in chapter 435.

11 (c) Proof of compliance with the level 2 background  
12 screening requirements of chapter 435 which has been submitted  
13 within the previous 5 years in compliance with any other  
14 health care or assisted living licensure requirements of this  
15 state is acceptable in fulfillment of the requirements of  
16 paragraph (a).

17 (d) A provisional license may be granted to an  
18 applicant when each individual required by this section to  
19 undergo background screening has met the standards for the  
20 abuse registry background check and the Department of Law  
21 Enforcement background check, but the agency has not yet  
22 received background screening results from the Federal Bureau  
23 of Investigation, or a request for a disqualification  
24 exemption has been submitted to the agency as set forth in  
25 chapter 435, but a response has not yet been issued. A  
26 standard license may be granted to the applicant upon the  
27 agency's receipt of a report of the results of the Federal  
28 Bureau of Investigation background screening for each  
29 individual required by this section to undergo background  
30 screening which confirms that all standards have been met, or  
31 upon the granting of a disqualification exemption by the

1 agency as set forth in chapter 435. Any other person who is  
2 required to undergo level 2 background screening may serve in  
3 his or her capacity pending the agency's receipt of the report  
4 from the Federal Bureau of Investigation. However, the person  
5 may not continue to serve if the report indicates any  
6 violation of background screening standards and a  
7 disqualification exemption has not been requested of and  
8 granted by the agency as set forth in chapter 435.

9 (e) Each applicant must submit to the agency, with its  
10 application, a description and explanation of any exclusions,  
11 permanent suspensions, or terminations of the applicant from  
12 the Medicare or Medicaid programs. Proof of compliance with  
13 the requirements for disclosure of ownership and control  
14 interests under the Medicaid or Medicare programs may be  
15 accepted in lieu of this submission.

16 (f) Each applicant must submit to the agency a  
17 description and explanation of any conviction of an offense  
18 prohibited under the level 2 standards of chapter 435 by a  
19 member of the board of directors of the applicant, its  
20 officers, or any individual owning 5 percent or more of the  
21 applicant. This requirement does not apply to a director of a  
22 not-for-profit corporation or organization if the director  
23 serves solely in a voluntary capacity for the corporation or  
24 organization, does not regularly take part in the day-to-day  
25 operational decisions of the corporation or organization,  
26 receives no remuneration for his or her services on the  
27 corporation or organization's board of directors, and has no  
28 financial interest and has no family members with a financial  
29 interest in the corporation or organization, provided that the  
30 director and the not-for-profit corporation or organization  
31 include in the application a statement affirming that the

1 director's relationship to the corporation satisfies the  
2 requirements of this paragraph.

3 (g) A license may not be granted to an applicant if  
4 the applicant or managing employee has been found guilty of,  
5 regardless of adjudication, or has entered a plea of nolo  
6 contendere or guilty to, any offense prohibited under the  
7 level 2 standards for screening set forth in chapter 435,  
8 unless an exemption from disqualification has been granted by  
9 the agency as set forth in chapter 435.

10 (h) The agency may deny or revoke licensure if the  
11 applicant:

12 1. Has falsely represented a material fact in the  
13 application required by paragraph (e) or paragraph (f), or has  
14 omitted any material fact from the application required by  
15 paragraph (e) or paragraph (f); or

16 2. Has had prior action taken against the applicant  
17 under the Medicaid or Medicare program as set forth in  
18 paragraph (e).

19 (i) An application for license renewal must contain  
20 the information required under paragraphs (e) and (f).

21 (4) An application for renewal of license must be  
22 submitted 90 days before the expiration of the license. Upon  
23 renewal of licensure, each applicant must submit to the  
24 agency, under penalty of perjury, an affidavit as set forth in  
25 paragraph (3)(d).

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

29 (6)(a) The agency shall adopt rules in consultation  
30 with the department ~~division~~ governing the physical plant of  
31



1 transitional living facilities and the fiscal management of  
2 transitional living facilities.

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

11 (c) The agency and the department ~~division~~ shall  
12 enforce requirements under this section, as such requirements  
13 relate to them respectively, and their respective adopted  
14 rules.

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

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

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

26 (8) Any designated officer or employee of the agency,  
27 of the state, or of the local fire marshal may enter  
28 unannounced upon and into the premises of any facility  
29 licensed under this section in order to determine the state of  
30 compliance with this section and the rules or standards in  
31 force under this section. The right of entry and inspection

1 also extends to any premises that the agency has reason to  
2 believe are being operated or maintained as a facility without  
3 a license; but such an entry or inspection may not be made  
4 without the permission of the owner or person in charge of the  
5 facility unless a warrant that authorizes the entry is first  
6 obtained from the circuit court. The warrant requirement  
7 extends only to a facility that the agency has reason to  
8 believe is being operated or maintained as a facility without  
9 a license. An application for a license or renewal thereof  
10 which is made under this section constitutes permission for,  
11 and acquiescence in, any entry or inspection of the premises  
12 for which the license is sought, in order to facilitate  
13 verification of the information submitted on or in connection  
14 with the application; to discover, investigate, and determine  
15 the existence of abuse or neglect; or to elicit, receive,  
16 respond to, and resolve complaints. A current valid license  
17 constitutes unconditional permission for, and acquiescence in,  
18 any entry or inspection of the premises by authorized  
19 personnel. The agency retains the right of entry and  
20 inspection of facilities that have had a license revoked or  
21 suspended within the previous 24 months, to ensure that the  
22 facility is not operating unlawfully. However, before the  
23 facility is entered, a statement of probable cause must be  
24 filed with the director of the agency, who must approve or  
25 disapprove the action within 48 hours. Probable cause  
26 includes, but is not limited to, evidence that the facility  
27 holds itself out to the public as a provider of personal  
28 assistance services, or the receipt by the advisory council on  
29 brain and spinal cord injuries of a complaint about the  
30 facility.

31

1           (9) The agency may institute injunctive proceedings in  
2 a court of competent jurisdiction for temporary or permanent  
3 relief to:

4           (a) Enforce this section or any minimum standard,  
5 rule, or order issued pursuant thereto if the agency's effort  
6 to correct a violation through administrative fines has failed  
7 or when the violation materially affects the health, safety,  
8 or welfare of residents; or

9           (b) Terminate the operation of a facility if a  
10 violation of this section or of any standard or rule adopted  
11 pursuant thereto exists which materially affects the health,  
12 safety, or welfare of residents.

13  
14 The Legislature recognizes that, in some instances, action is  
15 necessary to protect residents of facilities from immediately  
16 life-threatening situations. If it appears by competent  
17 evidence or a sworn, substantiated affidavit that a temporary  
18 injunction should issue, the court, pending the determination  
19 on final hearing, shall enjoin operation of the facility.

20           (10) The agency may impose an immediate moratorium on  
21 admissions to a facility when the agency determines that any  
22 condition in the facility presents a threat to the health,  
23 safety, or welfare of the residents in the facility. If a  
24 facility's license is denied, revoked, or suspended, the  
25 facility may be subject to the immediate imposition of a  
26 moratorium on admissions to run concurrently with licensure  
27 denial, revocation, or suspension.

28           (11)(a) A violation of any provision of this section  
29 or rules adopted by the agency or department ~~division~~ under  
30 this section is punishable by payment of an administrative or  
31 a civil penalty fine not to exceed \$5,000.

1 (b) A violation of subsection (7) or rules adopted  
2 under that subsection is a misdemeanor of the first degree,  
3 punishable as provided in s. 775.082 or s. 775.083. Each day  
4 of a continuing violation is a separate offense.

5 Section 17. Section 413.465, Florida Statutes, is  
6 transferred and renumbered as section 381.73, Florida  
7 Statutes, and amended to read:

8 381.73~~413.465~~ Short title.--Sections 381.73-381.79  
9 ~~413.465-413.74~~ may be cited as the "Charlie Mack Overstreet  
10 Brain or Spinal Cord Injuries Act."

11 Section 18. Section 413.48, Florida Statutes, is  
12 transferred and renumbered as section 381.74, Florida  
13 Statutes, and amended to read:

14 381.74~~413.48~~ Establishment and maintenance of a  
15 central registry.--The department ~~division~~ shall establish and  
16 maintain a central registry of persons who have  
17 moderate-to-severe brain or spinal cord injuries.

18 (1) Every public health agency, private health agency,  
19 public social agency, private social agency, and attending  
20 physician shall report to the division within 5 days after  
21 identification or diagnosis of any person who has a  
22 moderate-to-severe brain or spinal cord injury. The consent of  
23 such person shall not be required.

24 (2) The report shall contain the name, age, residence,  
25 and type of disability of the individual and such additional  
26 information as may be deemed necessary by the department  
27 ~~division~~.

28 Section 19. Section 413.49, Florida Statutes, 1998  
29 Supplement, is transferred and renumbered as section 381.75,  
30 Florida Statutes, and amended to read:

31

1           381.75413.49 Duties and responsibilities of the  
2 division, of transitional living facilities, and of  
3 residents.--Consistent with the mandate of s. 413.46, the  
4 department ~~division~~ shall develop and administer a multilevel  
5 treatment program for persons who have brain or spinal cord  
6 injuries and who are referred to the brain and spinal cord  
7 injury program.

8           (1) Within 15 days after any report of a person who  
9 has a brain or spinal cord injury, the department ~~division~~  
10 shall notify the individual or the most immediate available  
11 family members of their right to assistance from the state,  
12 the services available, and the eligibility requirements.

13           (2) The department ~~division~~ shall refer persons who  
14 have brain or spinal cord injuries to other state agencies to  
15 assure that rehabilitative services, if desired, are obtained  
16 by that person.

17           (3) The department ~~division~~, in consultation with  
18 emergency medical service, shall develop standards for an  
19 emergency medical evacuation system that will ensure that all  
20 persons who sustain traumatic brain or spinal cord injuries  
21 are transported to a department-approved ~~division-approved~~  
22 trauma center that meets the standards and criteria  
23 established by the emergency medical service and the  
24 acute-care standards of the brain and spinal cord injury  
25 program.

26           (4) The department ~~division~~ shall develop standards  
27 for designation of rehabilitation centers to provide  
28 rehabilitation services for persons who have brain or spinal  
29 cord injuries.

30           (5) The department ~~division~~ shall determine the  
31 appropriate number of designated acute-care facilities,

1 inpatient rehabilitation centers, and outpatient  
2 rehabilitation centers, needed based on incidence, volume of  
3 admissions, and other appropriate criteria.

4 (6) The department ~~division~~ shall develop standards  
5 for designation of transitional living facilities to provide  
6 individuals the opportunity to adjust to their disabilities  
7 and to develop physical and functional skills in a supported  
8 living environment.

9 (a) The Agency for Health Care Administration, in  
10 consultation with the department ~~division~~, shall develop rules  
11 for the licensure of transitional living facilities for  
12 persons who have brain or spinal cord injuries.

13 (b) The goal of a transitional living program for  
14 persons who have brain or spinal cord injuries is to assist  
15 each person who has such a disability to achieve a higher  
16 level of independent functioning and to enable that person to  
17 reenter the community. The program shall be focused on  
18 preparing participants to return to community living.

19 (c) A transitional living facility for a person who  
20 has a brain or spinal cord injury shall provide to such  
21 person, in a residential setting, a goal-oriented treatment  
22 program designed to improve the person's physical, cognitive,  
23 communicative, behavioral, psychological, and social  
24 functioning, as well as to provide necessary support and  
25 supervision. A transitional living facility shall offer at  
26 least the following therapies: physical, occupational, speech,  
27 neuropsychology, independent living skills training, behavior  
28 analysis for programs serving brain-injured persons, health  
29 education, and recreation.

30 (d) All residents shall use the transitional living  
31 facility as a temporary measure and not as a permanent home or

1 domicile. The transitional living facility shall develop an  
2 initial treatment plan for each resident within 3 days after  
3 the resident's admission. The transitional living facility  
4 shall develop a comprehensive plan of treatment and a  
5 discharge plan for each resident as soon as practical, but no  
6 later than 30 days after the resident's admission. Each  
7 comprehensive treatment plan and discharge plan must be  
8 reviewed and updated as necessary, but no less often than  
9 quarterly. This subsection does not require the discharge of  
10 an individual who continues to require any of the specialized  
11 services described in paragraph (c) or who is making  
12 measurable progress in accordance with that individual's  
13 comprehensive treatment plan. The transitional living facility  
14 shall discharge any individual who has an appropriate  
15 discharge site and who has achieved the goals of his or her  
16 discharge plan or who is no longer making progress toward the  
17 goals established in the comprehensive treatment plan and the  
18 discharge plan. The discharge location must be the least  
19 restrictive environment in which an individual's health,  
20 well-being, and safety is preserved.

21 (7) Recipients of services, under this section, from  
22 any of the facilities referred to in this section shall pay a  
23 fee based on ability to pay.

24 Section 20. Section 413.507, Florida Statutes, is  
25 transferred and renumbered as section 381.76, Florida  
26 Statutes, and amended to read:

27 381.76~~413.507~~ Eligibility for the brain and spinal  
28 cord injury program.--

29 (1) An individual shall be accepted as eligible for  
30 the brain and spinal cord injury program following  
31 certification by the department ~~division~~ that the individual:

1 (a) Has been referred to the central registry pursuant  
2 to s. 413.48.

3 (b) Is a legal resident of this state at the time of  
4 application for services.

5 (c) Has suffered a traumatic injury as defined in s.  
6 413.20.

7 (d) Is medically stable as defined by rules of the  
8 department ~~division~~.

9 (e) Is reasonably expected to achieve reintegration  
10 into the community through rehabilitative services.

11 (2) In the event the department ~~division~~ is unable to  
12 provide services to all eligible individuals, the department  
13 ~~division~~ may establish an order of selection.

14 Section 21. Section 413.604, Florida Statutes, is  
15 transferred and renumbered as section 381.77, Florida  
16 Statutes, and amended to read:

17 381.77~~413.604~~ Nursing home residents, age 55 and  
18 under; annual survey.--The department ~~division~~ shall conduct  
19 an annual survey of nursing homes in the state to determine  
20 the number of persons 55 years of age and under who reside in  
21 such homes due to brain or spinal cord injuries. All persons  
22 identified in such a survey shall be evaluated as to their  
23 rehabilitation potential, and any person who may benefit from  
24 rehabilitation shall be given an opportunity to participate in  
25 an appropriate rehabilitation program for which she or he may  
26 be eligible.

27 Section 22. Section 413.605, Florida Statutes, 1998  
28 Supplement, is transferred and renumbered as section 381.78,  
29 Florida Statutes, and amended to read:

30 381.78~~413.605~~ Advisory council on brain and spinal  
31 cord injuries.--



1           (1) There is created within the department a 16-member  
2 advisory council on brain and spinal cord injuries. The  
3 council shall be composed of a minimum of four persons who  
4 have brain injuries or are family members of persons who have  
5 brain injuries, a minimum of four persons who have spinal cord  
6 injuries or are family members of persons who have spinal cord  
7 injuries, and a minimum of two persons who represent the  
8 special needs of children who have brain or spinal cord  
9 injuries. The balance of the council members shall be  
10 physicians, other allied health professionals, administrators  
11 of brain and spinal cord injury programs, and representatives  
12 from support groups that have expertise in areas related to  
13 the rehabilitation of persons who have brain or spinal cord  
14 injuries.

15           (2) Members of the council shall be appointed to serve  
16 by the secretary. An individual may not serve more than two  
17 terms.

18           (a) Eight members of the first appointed council shall  
19 serve an initial term of 2 years. This group shall include two  
20 persons who have brain injuries or are family members of  
21 persons who have brain injuries, two persons who have spinal  
22 cord injuries or are family members of persons who have spinal  
23 cord injuries, and four other persons from the previous  
24 council.

25           (b) The remaining members of the first appointed  
26 council shall serve an initial term of 4 years. Thereafter all  
27 members' terms shall be for 4 years.

28           (c) Any council member who is unwilling or unable to  
29 properly fulfill the duties of the office shall be succeeded  
30 by a person chosen by the secretary to serve out the unexpired  
31 balance of the replaced council member's term. If the

1 unexpired balance of the replaced council member's term is  
2 less than 18 months, then, notwithstanding the provisions of  
3 this subsection, the succeeding council member may be  
4 reappointed by the secretary twice.

5 (3) The council shall meet at least two times  
6 annually.

7 (4) The council shall:

8 (a) Provide advice and expertise to the division in  
9 the preparation, implementation, and periodic review of the  
10 brain and spinal cord injury program as referenced in s.  
11 413.49.

12 (b) Annually appoint a five-member committee composed  
13 of one person who has a brain injury or has a family member  
14 with a brain injury, one person who has a spinal cord injury  
15 or has a family member with a spinal cord injury, and three  
16 members who shall be chosen from among these representative  
17 groups: physicians, other allied health professionals,  
18 administrators of brain and spinal cord injury programs, and  
19 representatives from support groups with expertise in areas  
20 related to the rehabilitation of persons who have brain or  
21 spinal cord injuries, except that one and only one member of  
22 the committee shall be an administrator of a transitional  
23 living facility. Membership on the council is not a  
24 prerequisite for membership on this committee.

25 1. The committee shall perform onsite visits to those  
26 transitional living facilities identified by the Agency for  
27 Health Care Administration as being in possible violation of  
28 the statutes and rules regulating such facilities. The  
29 committee members have the same rights of entry and inspection  
30 granted under s. 400.805(7) to designated representatives of  
31 the agency.

1           2. Factual findings of the committee resulting from an  
2 onsite investigation of a facility pursuant to subparagraph 1.  
3 shall be adopted by the agency in developing its  
4 administrative response regarding enforcement of statutes and  
5 rules regulating the operation of the facility.

6           3. Onsite investigations by the committee shall be  
7 funded by the Health Care Trust Fund.

8           4. Travel expenses for committee members shall be  
9 reimbursed in accordance with s. 112.061. Members of the  
10 committee shall recuse themselves from participating in any  
11 investigation that would create a conflict of interest under  
12 state law, and the council shall replace the member, either  
13 temporarily or permanently.

14           (5) The membership of the council shall be appointed  
15 not later than August 1, 1994.

16           Section 23. Section 413.613, Florida Statutes, is  
17 transferred and renumbered as section 381.79, Florida  
18 Statutes, and amended to read:

19           381.79~~413.613~~ Brain and Spinal Cord Injury  
20 Rehabilitation Trust Fund.--

21           (1) There is created in the State Treasury the Brain  
22 and Spinal Cord Injury Rehabilitation Trust Fund. Moneys in  
23 the fund shall be appropriated to the department ~~division~~ for  
24 the purpose of providing the cost of care for brain or spinal  
25 cord injuries as a payor of last resort to residents of this  
26 state, for multilevel programs of care established pursuant to  
27 s. 413.49.

28           (a) Authorization of expenditures for brain or spinal  
29 cord injury care shall be made only by the department  
30 ~~division~~.

31

1 (b) Authorized expenditures include acute care,  
2 rehabilitation, transitional living, equipment, and supplies  
3 necessary for activities of daily living, public information,  
4 prevention, education, and research.

5 (2) The department ~~division~~ shall issue a report to  
6 the President of the Senate and the Speaker of the House of  
7 Representatives by March 1 of each year, summarizing the  
8 activities supported by the trust fund.

9 (3) Annually, 5 percent of the revenues deposited  
10 monthly in the fund pursuant to s. 318.21(2)(d) shall be  
11 appropriated to the University of Florida and 5 percent to the  
12 University of Miami for spinal cord injury and brain injury  
13 research. The amount to be distributed to the universities  
14 shall be calculated based on the deposits into the fund for  
15 each quarter in the fiscal year, but may not exceed \$500,000  
16 per university per year. Funds distributed under this  
17 subsection shall be made in quarterly payments at the end of  
18 each quarter during the fiscal year.

19 (4) The Board of Regents shall establish a program  
20 review process and may allocate up to \$10,000 of such funds  
21 for an overall program review which would include: a  
22 prospective program plan with goals, research design and  
23 proposed outcomes, and an annual report of research activities  
24 and findings. Prospective program plans shall be submitted to  
25 the Board of Regents, and funds shall be released upon  
26 acceptance of the proposed program plans. The annual report of  
27 research activities and findings shall be submitted to the  
28 Board of Regents, with the executive summaries submitted to  
29 the President of the Senate, the Speaker of the House of  
30 Representatives, and the secretary of the Department of Health  
31 ~~Labor and Employment Security~~.

1           Section 24. The Division of Vocational Rehabilitation  
2 will enter into local public-private partnerships to the  
3 extent that it is beneficial to increasing employment outcomes  
4 for persons with disabilities and ensuring their full  
5 involvement in the comprehensive workforce investment system.

6           Section 25. This act shall take effect July 1, 1999.

7  
8                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9                           COMMITTEE SUBSTITUTE FOR  
10                           SB 230

11 Reorganizes field offices to improve coordination among  
12 services that are provided.

13 Clarifies that local offices that provide services may  
14 continue and provides that the five field offices supervise  
15 the local offices within their regions.

16 Reorganizes provisions outlining duties and functions of  
17 assistant secretaries.

18 Clarifies lines of managerial authority.

19 Changes name of Division of Jobs and Benefits to Division of  
20 Workforce and Employment Opportunities.

21 Restores the Division of Vocational Rehabilitation but  
22 requires a study to be performed by January 1, 2000, on  
23 organizational and service-delivery improvements.

24 Limits authority of Division of Safety to private-sector  
25 employers.

26 Repeals Division of Safety and statutory provisions related  
27 thereto on July 1, 2000.

28 Moves the brain and spinal cord injury program to the  
29 Department of Health.

30 Moves statutes relating to Unemployment Appeals Commission in  
31 ch. 20, F.S., to ch. 443, F.S.