

By the Committees on Commerce and Economic Opportunities;
Governmental Oversight and Productivity; and Senator Webster

310-2105A-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 transferring the brain and spinal cord injury

1 program and the Office of Disability
2 Determinations to the Department of Health;
3 amending s. 400.805, F.S., to conform;
4 transferring, renumbering, and amending ss.
5 413.465, 413.48, 413.49, 413.507, 413.604,
6 413.605, 413.613, F.S. to conform to the
7 transfer of duties to the Department of Health;
8 requiring the Division of Vocational
9 Rehabilitation to enter into partnerships;
10 providing legislative intent; providing
11 definitions; creating the Occupational Access
12 and Opportunity Commission; providing for
13 membership; providing for appointment and
14 terms; providing for reimbursement; providing
15 for financial disclosure; providing powers and
16 duties; directing the commission to develop and
17 implement the federally required state
18 vocational rehabilitation plan and to fulfill
19 specified administrative functions; requiring
20 the commission to contract with an
21 administrative entity; providing for the
22 assignment of staff; providing for the
23 Occupational Access and Opportunity
24 Corporation; providing powers and duties;
25 providing for the use of property; providing
26 for a board of directors; providing for an
27 annual audit; providing for an annual report of
28 the Occupational Access and Opportunity
29 Commission; authorizing the commission to
30 prepare the state plan, serve as the governing
31 authority, and receive federal funds; requiring

1 the Division of Vocational Rehabilitation to
2 comply with transitional directives of the plan
3 and, under certain circumstances, to transfer
4 its powers, duties, functions, property, and
5 funds to the commission; providing for quality
6 assurance; providing remedies for conflict with
7 federal law; designating the commission as the
8 official state agency; providing for review by
9 the Office of Program Policy Analysis and
10 Government Accountability; providing an
11 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 20.171 Department of Labor and Employment
18 Security.--There is created a Department of Labor and
19 Employment Security. The department shall operate its programs
20 in a decentralized fashion.

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

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

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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.~~

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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 brain and spinal cord injury program
4 established in sections 400.805 and 413.48, Florida Statutes,
5 and the Office of Disability Determinations administered by
6 the Department of Labor and Employment Security are
7 transferred by a type two transfer, as defined in section
8 20.06, Florida Statutes, to the Department of Health.

9 Section 15. Section 400.805, Florida Statutes, 1998
10 Supplement, is amended to read:

11 400.805 Transitional living facilities.--

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

13 (a) "Agency" means the Agency for Health Care
14 Administration.

15 (b) "Department"~~"Division"~~ means the Department of
16 Health ~~Division of Vocational Rehabilitation of the Department~~
17 ~~of Labor and Employment Security.~~

18 (c) "Transitional living facility" means a site where
19 specialized health care services are provided, including, but
20 not limited to, rehabilitative services, community reentry
21 training, aids for independent living, and counseling to
22 spinal-cord-injured persons and head-injured persons. This
23 term does not include a hospital licensed under chapter 395 or
24 any federally operated hospital or facility.

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

28 (b) The application for a license must be made on a
29 form provided by the agency. A nonrefundable license fee of
30 \$2,000 and a fee of up to \$39.25 per bed must be submitted
31 with the license application.

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

4 (3) Each applicant for licensure must comply with the
5 following requirements:

6 (a) Upon receipt of a completed, signed, and dated
7 application, the agency shall require background screening, in
8 accordance with the level 2 standards for screening set forth
9 in chapter 435, of the managing employee, or other similarly
10 titled individual who is responsible for the daily operation
11 of the facility, and of the financial officer, or other
12 similarly titled individual who is responsible for the
13 financial operation of the facility, including billings for
14 client care and services. The applicant must comply with the
15 procedures for level 2 background screening as set forth in
16 chapter 435.

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

22 (c) Proof of compliance with the level 2 background
23 screening requirements of chapter 435 which has been submitted
24 within the previous 5 years in compliance with any other
25 health care or assisted living licensure requirements of this
26 state is acceptable in fulfillment of the requirements of
27 paragraph (a).

28 (d) A provisional license may be granted to an
29 applicant when each individual required by this section to
30 undergo background screening has met the standards for the
31 abuse registry background check and the Department of Law

1 Enforcement background check, but the agency has not yet
2 received background screening results from the Federal Bureau
3 of Investigation, or a request for a disqualification
4 exemption has been submitted to the agency as set forth in
5 chapter 435, but a response has not yet been issued. A
6 standard license may be granted to the applicant upon the
7 agency's receipt of a report of the results of the Federal
8 Bureau of Investigation background screening for each
9 individual required by this section to undergo background
10 screening which confirms that all standards have been met, or
11 upon the granting of a disqualification exemption by the
12 agency as set forth in chapter 435. Any other person who is
13 required to undergo level 2 background screening may serve in
14 his or her capacity pending the agency's receipt of the report
15 from the Federal Bureau of Investigation. However, the person
16 may not continue to serve if the report indicates any
17 violation of background screening standards and a
18 disqualification exemption has not been requested of and
19 granted by the agency as set forth in chapter 435.

20 (e) Each applicant must submit to the agency, with its
21 application, a description and explanation of any exclusions,
22 permanent suspensions, or terminations of the applicant from
23 the Medicare or Medicaid programs. Proof of compliance with
24 the requirements for disclosure of ownership and control
25 interests under the Medicaid or Medicare programs may be
26 accepted in lieu of this submission.

27 (f) Each applicant must submit to the agency a
28 description and explanation of any conviction of an offense
29 prohibited under the level 2 standards of chapter 435 by a
30 member of the board of directors of the applicant, its
31 officers, or any individual owning 5 percent or more of the

1 applicant. This requirement does not apply to a director of a
2 not-for-profit corporation or organization if the director
3 serves solely in a voluntary capacity for the corporation or
4 organization, does not regularly take part in the day-to-day
5 operational decisions of the corporation or organization,
6 receives no remuneration for his or her services on the
7 corporation or organization's board of directors, and has no
8 financial interest and has no family members with a financial
9 interest in the corporation or organization, provided that the
10 director and the not-for-profit corporation or organization
11 include in the application a statement affirming that the
12 director's relationship to the corporation satisfies the
13 requirements of this paragraph.

14 (g) A license may not be granted to an applicant if
15 the applicant or managing employee has been found guilty of,
16 regardless of adjudication, or has entered a plea of nolo
17 contendere or guilty to, any offense prohibited under the
18 level 2 standards for screening set forth in chapter 435,
19 unless an exemption from disqualification has been granted by
20 the agency as set forth in chapter 435.

21 (h) The agency may deny or revoke licensure if the
22 applicant:

23 1. Has falsely represented a material fact in the
24 application required by paragraph (e) or paragraph (f), or has
25 omitted any material fact from the application required by
26 paragraph (e) or paragraph (f); or

27 2. Has had prior action taken against the applicant
28 under the Medicaid or Medicare program as set forth in
29 paragraph (e).

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

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

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

9 (6)(a) The agency shall adopt rules in consultation
10 with the department ~~division~~ governing the physical plant of
11 transitional living facilities and the fiscal management of
12 transitional living facilities.

13 (b) The department ~~division~~ shall adopt rules in
14 consultation with the agency governing the services provided
15 to clients of transitional living facilities. The department
16 ~~division~~ shall enforce all requirements for providing services
17 to the facility's clients. The department ~~division~~ must
18 notify the agency when it determines that an applicant for
19 licensure meets the service requirements adopted by the
20 division.

21 (c) The agency and the department ~~division~~ shall
22 enforce requirements under this section, as such requirements
23 relate to them respectively, and their respective adopted
24 rules.

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

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

1 (c) It is unlawful for a holder of a license issued
2 under this section to advertise or represent to the public
3 that it holds a license for a type of facility other than the
4 facility for which its license is issued.

5 (8) Any designated officer or employee of the agency,
6 of the state, or of the local fire marshal may enter
7 unannounced upon and into the premises of any facility
8 licensed under this section in order to determine the state of
9 compliance with this section and the rules or standards in
10 force under this section. The right of entry and inspection
11 also extends to any premises that the agency has reason to
12 believe are being operated or maintained as a facility without
13 a license; but such an entry or inspection may not be made
14 without the permission of the owner or person in charge of the
15 facility unless a warrant that authorizes the entry is first
16 obtained from the circuit court. The warrant requirement
17 extends only to a facility that the agency has reason to
18 believe is being operated or maintained as a facility without
19 a license. An application for a license or renewal thereof
20 which is made under this section constitutes permission for,
21 and acquiescence in, any entry or inspection of the premises
22 for which the license is sought, in order to facilitate
23 verification of the information submitted on or in connection
24 with the application; to discover, investigate, and determine
25 the existence of abuse or neglect; or to elicit, receive,
26 respond to, and resolve complaints. A current valid license
27 constitutes unconditional permission for, and acquiescence in,
28 any entry or inspection of the premises by authorized
29 personnel. The agency retains the right of entry and
30 inspection of facilities that have had a license revoked or
31 suspended within the previous 24 months, to ensure that the

1 facility is not operating unlawfully. However, before the
2 facility is entered, a statement of probable cause must be
3 filed with the director of the agency, who must approve or
4 disapprove the action within 48 hours. Probable cause
5 includes, but is not limited to, evidence that the facility
6 holds itself out to the public as a provider of personal
7 assistance services, or the receipt by the advisory council on
8 brain and spinal cord injuries of a complaint about the
9 facility.

10 (9) The agency may institute injunctive proceedings in
11 a court of competent jurisdiction for temporary or permanent
12 relief to:

13 (a) Enforce this section or any minimum standard,
14 rule, or order issued pursuant thereto if the agency's effort
15 to correct a violation through administrative fines has failed
16 or when the violation materially affects the health, safety,
17 or welfare of residents; or

18 (b) Terminate the operation of a facility if a
19 violation of this section or of any standard or rule adopted
20 pursuant thereto exists which materially affects the health,
21 safety, or welfare of residents.

22
23 The Legislature recognizes that, in some instances, action is
24 necessary to protect residents of facilities from immediately
25 life-threatening situations. If it appears by competent
26 evidence or a sworn, substantiated affidavit that a temporary
27 injunction should issue, the court, pending the determination
28 on final hearing, shall enjoin operation of the facility.

29 (10) The agency may impose an immediate moratorium on
30 admissions to a facility when the agency determines that any
31 condition in the facility presents a threat to the health,

1 safety, or welfare of the residents in the facility. If a
2 facility's license is denied, revoked, or suspended, the
3 facility may be subject to the immediate imposition of a
4 moratorium on admissions to run concurrently with licensure
5 denial, revocation, or suspension.

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

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

14 Section 16. Section 413.465, Florida Statutes, is
15 transferred and renumbered as section 381.73, Florida
16 Statutes, and amended to read:

17 381.73~~413.465~~ Short title.--Sections 381.73-381.79
18 ~~413.465-413.74~~ may be cited as the "Charlie Mack Overstreet
19 Brain or Spinal Cord Injuries Act."

20 Section 17. Section 413.48, Florida Statutes, is
21 transferred and renumbered as section 381.74, Florida
22 Statutes, and amended to read:

23 381.74~~413.48~~ Establishment and maintenance of a
24 central registry.--The department ~~division~~ shall establish and
25 maintain a central registry of persons who have
26 moderate-to-severe brain or spinal cord injuries.

27 (1) Every public health agency, private health agency,
28 public social agency, private social agency, and attending
29 physician shall report to the division within 5 days after
30 identification or diagnosis of any person who has a
31

1 moderate-to-severe brain or spinal cord injury. The consent of
2 such person shall not be required.

3 (2) The report shall contain the name, age, residence,
4 and type of disability of the individual and such additional
5 information as may be deemed necessary by the department
6 ~~division~~.

7 Section 18. Section 413.49, Florida Statutes, 1998
8 Supplement, is transferred and renumbered as section 381.75,
9 Florida Statutes, and amended to read:

10 381.75~~413.49~~ Duties and responsibilities of the
11 division, of transitional living facilities, and of
12 residents.--Consistent with the mandate of s. 413.46, the
13 department ~~division~~ shall develop and administer a multilevel
14 treatment program for persons who have brain or spinal cord
15 injuries and who are referred to the brain and spinal cord
16 injury program.

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

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

26 (3) The department ~~division~~, in consultation with
27 emergency medical service, shall develop standards for an
28 emergency medical evacuation system that will ensure that all
29 persons who sustain traumatic brain or spinal cord injuries
30 are transported to a department-approved ~~division-approved~~
31 trauma center that meets the standards and criteria

1 established by the emergency medical service and the
2 acute-care standards of the brain and spinal cord injury
3 program.

4 (4) The department ~~division~~ shall develop standards
5 for designation of rehabilitation centers to provide
6 rehabilitation services for persons who have brain or spinal
7 cord injuries.

8 (5) The department ~~division~~ shall determine the
9 appropriate number of designated acute-care facilities,
10 inpatient rehabilitation centers, and outpatient
11 rehabilitation centers, needed based on incidence, volume of
12 admissions, and other appropriate criteria.

13 (6) The department ~~division~~ shall develop standards
14 for designation of transitional living facilities to provide
15 individuals the opportunity to adjust to their disabilities
16 and to develop physical and functional skills in a supported
17 living environment.

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

22 (b) The goal of a transitional living program for
23 persons who have brain or spinal cord injuries is to assist
24 each person who has such a disability to achieve a higher
25 level of independent functioning and to enable that person to
26 reenter the community. The program shall be focused on
27 preparing participants to return to community living.

28 (c) A transitional living facility for a person who
29 has a brain or spinal cord injury shall provide to such
30 person, in a residential setting, a goal-oriented treatment
31 program designed to improve the person's physical, cognitive,

1 communicative, behavioral, psychological, and social
2 functioning, as well as to provide necessary support and
3 supervision. A transitional living facility shall offer at
4 least the following therapies: physical, occupational, speech,
5 neuropsychology, independent living skills training, behavior
6 analysis for programs serving brain-injured persons, health
7 education, and recreation.

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

30
31

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

4 Section 19. Section 413.507, Florida Statutes, is
5 transferred and renumbered as section 381.76, Florida
6 Statutes, and amended to read:

7 381.76~~413.507~~ Eligibility for the brain and spinal
8 cord injury program.--

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

12 (a) Has been referred to the central registry pursuant
13 to s. 413.48.

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

16 (c) Has suffered a traumatic injury as defined in s.
17 413.20.

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

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

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

25 Section 20. Section 413.604, Florida Statutes, is
26 transferred and renumbered as section 381.77, Florida
27 Statutes, and amended to read:

28 381.77~~413.604~~ Nursing home residents, age 55 and
29 under; annual survey.--The department ~~division~~ shall conduct
30 an annual survey of nursing homes in the state to determine
31 the number of persons 55 years of age and under who reside in

1 such homes due to brain or spinal cord injuries. All persons
2 identified in such a survey shall be evaluated as to their
3 rehabilitation potential, and any person who may benefit from
4 rehabilitation shall be given an opportunity to participate in
5 an appropriate rehabilitation program for which she or he may
6 be eligible.

7 Section 21. Section 413.605, Florida Statutes, 1998
8 Supplement, is transferred and renumbered as section 381.78,
9 Florida Statutes, and amended to read:

10 381.78~~413.605~~ Advisory council on brain and spinal
11 cord injuries.--

12 (1) There is created within the department a 16-member
13 advisory council on brain and spinal cord injuries. The
14 council shall be composed of a minimum of four persons who
15 have brain injuries or are family members of persons who have
16 brain injuries, a minimum of four persons who have spinal cord
17 injuries or are family members of persons who have spinal cord
18 injuries, and a minimum of two persons who represent the
19 special needs of children who have brain or spinal cord
20 injuries. The balance of the council members shall be
21 physicians, other allied health professionals, administrators
22 of brain and spinal cord injury programs, and representatives
23 from support groups that have expertise in areas related to
24 the rehabilitation of persons who have brain or spinal cord
25 injuries.

26 (2) Members of the council shall be appointed to serve
27 by the secretary. An individual may not serve more than two
28 terms.

29 (a) Eight members of the first appointed council shall
30 serve an initial term of 2 years. This group shall include two
31 persons who have brain injuries or are family members of

1 persons who have brain injuries, two persons who have spinal
2 cord injuries or are family members of persons who have spinal
3 cord injuries, and four other persons from the previous
4 council.

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

8 (c) Any council member who is unwilling or unable to
9 properly fulfill the duties of the office shall be succeeded
10 by a person chosen by the secretary to serve out the unexpired
11 balance of the replaced council member's term. If the
12 unexpired balance of the replaced council member's term is
13 less than 18 months, then, notwithstanding the provisions of
14 this subsection, the succeeding council member may be
15 reappointed by the secretary twice.

16 (3) The council shall meet at least two times
17 annually.

18 (4) The council shall:

19 (a) Provide advice and expertise to the division in
20 the preparation, implementation, and periodic review of the
21 brain and spinal cord injury program as referenced in s.
22 413.49.

23 (b) Annually appoint a five-member committee composed
24 of one person who has a brain injury or has a family member
25 with a brain injury, one person who has a spinal cord injury
26 or has a family member with a spinal cord injury, and three
27 members who shall be chosen from among these representative
28 groups: physicians, other allied health professionals,
29 administrators of brain and spinal cord injury programs, and
30 representatives from support groups with expertise in areas
31 related to the rehabilitation of persons who have brain or

1 spinal cord injuries, except that one and only one member of
2 the committee shall be an administrator of a transitional
3 living facility. Membership on the council is not a
4 prerequisite for membership on this committee.

5 1. The committee shall perform onsite visits to those
6 transitional living facilities identified by the Agency for
7 Health Care Administration as being in possible violation of
8 the statutes and rules regulating such facilities. The
9 committee members have the same rights of entry and inspection
10 granted under s. 400.805(7) to designated representatives of
11 the agency.

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

17 3. Onsite investigations by the committee shall be
18 funded by the Health Care Trust Fund.

19 4. Travel expenses for committee members shall be
20 reimbursed in accordance with s. 112.061. Members of the
21 committee shall recuse themselves from participating in any
22 investigation that would create a conflict of interest under
23 state law, and the council shall replace the member, either
24 temporarily or permanently.

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

27 Section 22. Section 413.613, Florida Statutes, is
28 transferred and renumbered as section 381.79, Florida
29 Statutes, and amended to read:

30 381.79~~413.613~~ Brain and Spinal Cord Injury
31 Rehabilitation Trust Fund.--

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

8 (a) Authorization of expenditures for brain or spinal
9 cord injury care shall be made only by the department
10 ~~division~~.

11 (b) Authorized expenditures include acute care,
12 rehabilitation, transitional living, equipment, and supplies
13 necessary for activities of daily living, public information,
14 prevention, education, and research.

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

19 (3) Annually, 5 percent of the revenues deposited
20 monthly in the fund pursuant to s. 318.21(2)(d) shall be
21 appropriated to the University of Florida and 5 percent to the
22 University of Miami for spinal cord injury and brain injury
23 research. The amount to be distributed to the universities
24 shall be calculated based on the deposits into the fund for
25 each quarter in the fiscal year, but may not exceed \$500,000
26 per university per year. Funds distributed under this
27 subsection shall be made in quarterly payments at the end of
28 each quarter during the fiscal year.

29 (4) The Board of Regents shall establish a program
30 review process and may allocate up to \$10,000 of such funds
31 for an overall program review which would include: a

1 prospective program plan with goals, research design and
2 proposed outcomes, and an annual report of research activities
3 and findings. Prospective program plans shall be submitted to
4 the Board of Regents, and funds shall be released upon
5 acceptance of the proposed program plans. The annual report of
6 research activities and findings shall be submitted to the
7 Board of Regents, with the executive summaries submitted to
8 the President of the Senate, the Speaker of the House of
9 Representatives, and the secretary of the Department of Health
10 ~~Labor and Employment Security~~.

11 Section 23. The Division of Vocational Rehabilitation
12 will enter into local public-private partnerships to the
13 extent that it is beneficial to increasing employment outcomes
14 for persons with disabilities and ensuring their full
15 involvement in the comprehensive workforce investment system.

16 Section 24. Legislative intent.--The Legislature finds
17 that individuals with disabilities experience the highest
18 unemployment rate of any group in society, as high as 75
19 percent, and that unemployment and poverty go hand in hand.
20 The Legislature also finds that persons who complete the
21 vocational rehabilitation program are twice as likely to
22 obtain and maintain employment, and the use of private
23 providers is the readiest way to add service capacity for this
24 population. It is the intent of the Legislature to establish
25 an Occupational Access and Opportunity Commission, which will
26 assemble individuals with disabilities, stakeholders, and
27 employers to develop a single self-sufficiency strategy that
28 provides for employment and career options for Floridians with
29 disabilities.

30 Section 25. Definitions.--As used in sections 24
31 through 36, the term:

1 (1) "Commission" means the Commission on Occupational
2 Access and Opportunity.

3 (2) "Corporation" means the Occupational Access and
4 Opportunity Corporation.

5 (3) "Division" means the Division of Vocational
6 Rehabilitation.

7 (4) "Office" means the Executive Office of the
8 Governor.

9 (5) "Plan" means the state plan for vocational
10 rehabilitation required by the federal Rehabilitation Act of
11 1973, as amended, and sections 25-37 of this act.

12 (6) "Region" means a service area for a regional
13 workforce development board established by the Workforce
14 Development Board.

15 Section 26. Occupational Access and Opportunity
16 Commission; creation; purpose; membership.--

17 (1) There is created within the Executive Office of
18 the Governor the Occupational Access and Opportunity
19 Commission.

20 (2) The commission shall consist of no more than 15
21 members appointed by the Governor, the President of the
22 Senate, and the Speaker of the House of Representatives. The
23 commission must contain a minimum of 50 percent representation
24 from the private-sector, who are subject to confirmation by
25 the Senate. The members of the commission shall include:

26 (a) The chair of the Florida Rehabilitation Council;

27 (b) The chair of the Council for Independent Living;

28 (c) The chair of the Commission for the Purchase from
29 the Blind or Other Severely Handicapped;

30
31

1 (d) A community rehabilitation provider who contracts
2 to provide vocational rehabilitation services to individuals
3 who qualify for the program;

4 (e) A representative from the Advocacy Center for
5 Persons With Disabilities;

6 (f) A consumer of vocational rehabilitation services;
7 and

8 (g) Other individuals with disabilities and
9 representatives of business, workforce development, education,
10 state government, local government, consumer advocate groups,
11 employers of individuals with disabilities, or community
12 organizations.

13 (3) Initially, the Governor, the President of the
14 Senate, and the Speaker of the House of Representatives shall
15 each appoint one member for a term of 4 years, one member for
16 a term of 3 years, one member for a term of 2 years, and one
17 member for a term of 1 year. Thereafter, after receiving
18 recommendations from the commission, the Governor, the
19 President of the Senate, and the Speaker of the House of
20 Representatives shall appoint all members for terms of 4
21 years. Any vacancy shall be filled for the unexpired portion
22 of the term by a person who possesses the proper
23 qualifications for the vacancy.

24 (4) The private-sector members shall be limited to two
25 consecutive 4-year terms.

26 (5) The commission shall hold its first meeting no
27 later than September 1999, and must meet at least quarterly. A
28 majority of the members constitute a quorum for the purpose of
29 conducting business.

30 (6) The Governor shall name the chair of the
31 commission from its appointed members. The commission shall

1 biennially elect one of its members as vice chair, who shall
2 preside in the absence of the chair. Neither the chair, nor
3 the vice chair, may be a provider of client services funded
4 through the commission.

5 (7) The Rehabilitation Council created by section
6 413.405, Florida Statutes, shall serve the commission and
7 shall continue to perform its designated duties. The
8 commission shall consider the recommendations made by the
9 council.

10 (8) The commission may appoint advisory committees
11 that the commission considers appropriate, which may include
12 members from outside the commission to study special problems
13 or issues and advise the commission on those subjects. Any
14 existing advisory board, commission, or council may seek to
15 become an official advisory committee to the commission by
16 submitting to the commission a resolution requesting
17 affiliation and having the request approved by the commission.
18 The commission shall establish the operating procedures of the
19 committees.

20 (9) The commission may establish an executive
21 committee consisting of five members recommended by the chair
22 and approved by the commission.

23 (10) The members of the commission are entitled to be
24 reimbursed for reasonable and necessary expenses of attending
25 meetings and performing commission duties, including per diem
26 and travel expenses, and for personal care attendants and
27 interpreters needed by members during meetings, as provided in
28 section 413.273, Florida Statutes.

29 (11) Each member of the commission shall file full and
30 public disclosure of his or her financial interests and is
31

1 subject to the provisions of part III of chapter 112, Florida
2 Statutes.

3 (12) A member of the commission may not vote on a
4 matter under consideration by the board regarding the
5 provision of services by such member, or by any entity that
6 such member represents; vote on a matter that would provide
7 direct financial benefit to such member or the immediate
8 family of such member; or engage in any other activity
9 determined by the Governor to constitute a conflict of
10 interest as specified in the plan.

11 Section 27. Powers and duties.--The commission:

12 (1) Shall, no later than July 1, 2000, after
13 consulting with stakeholders and holding public hearings,
14 develop and implement a 5-year plan to promote occupational
15 access and opportunities for Floridians with disabilities, and
16 to fulfill the federal plan requirements. The plan must be
17 submitted to the Governor, the President of the Senate, and
18 the Speaker of the House of Representatives. The commission
19 may make amendments annually to the plan, which must be
20 submitted to the Governor, the President of the Senate, and
21 the Speaker of the House of Representatives by the first of
22 January.

23 (a) The plan must explore the use of Individual
24 Training Accounts, as described in the federal Workforce Act
25 of 1998, Pub. L. No. 105-220, for eligible clients. If
26 developed, these accounts must be distributed under a written
27 memorandum of understanding with One-Stop Career Center
28 operators.

29 (b) The plan must include an emergency response
30 component to address economic downturns.

31

1 (c) The plan must designate an administrative entity
2 that will support the commission's work; provide technical
3 assistance, training, and capacity-building assistance; help
4 raise additional federal, state, and local funds; and promote
5 innovative contracts that upgrade or enhance direct services
6 to Floridians with disabilities.

7 (d) The plan must require that the commission enter
8 into cooperative agreements with community-based
9 rehabilitation programs to be the service providers for the
10 program; however, state career service employees shall provide
11 all services mandated by federal law. The commission shall, as
12 rapidly as is feasible, increase the amount of such services
13 provided by community-based rehabilitation programs. The plan
14 must incorporate, to the maximum extent allowed by federal and
15 state law and regulation, all available funds for such
16 purposes. Funds and in-kind contributions from community and
17 private sources shall be used to enhance federal and state
18 resources.

19 (e) The plan must include recommendations regarding
20 specific performance standards and measurable outcomes, and
21 must outline procedures for monitoring the commission's and
22 designated administrative entity's operations to ensure that
23 performance data is maintained and supported by records of
24 such entities. The commission shall consult with the Office of
25 Program Policy Analysis and Government Accountability in the
26 establishment of performance standards, measurable outcomes,
27 and monitoring procedures.

28 (2) Notwithstanding the provisions of part I of
29 chapter 287, Florida Statutes, shall contract, no later than
30 July 1, 2000, with the administrative entity designated in the
31 plan to execute the services, functions, and programs

1 prescribed in the plan. The commission shall serve as contract
2 administrator. If approved by the federal Department of
3 Education, the administrative entity may be a direct-support
4 organization. The commission shall define the terms of the
5 contract.

6 (3) Shall work with the employer community to better
7 define, address, and meet its business needs with qualified
8 Floridians with disabilities.

9 (4) Is responsible for the prudent use of all public
10 and private funds provided for the commission's use, ensuring
11 that the use of all funds is in accordance with all applicable
12 laws, bylaws, and contractual requirements.

13 (5) Shall develop an operational structure to carry
14 out the plan developed by the commission.

15 (6) May appear on its own behalf before boards,
16 commissions, departments, or other agencies of municipal,
17 county, state, or Federal Government.

18 (7) In the performance of its duties, may undertake or
19 commission research and studies.

20 (8) Shall develop a budget, which is in keeping with
21 the plan, for the operation and activities of the commission
22 and functions of its designated administrative entity. The
23 budget shall be submitted to the Governor for inclusion in the
24 Governor's budget recommendations.

25 (9) May assign staff from the office or division to
26 assist in implementing the provisions of this act relating to
27 the Occupational Access and Opportunity Commission.

28 Section 28. Occupational Access and Opportunity
29 Corporation; use of property; board of directors; duties;
30 audit.--

31

1 (1) ESTABLISHMENT.--If the commission elects to
2 designate a direct-support organization as its administrative
3 entity, such organization shall be designated the Occupational
4 Access and Opportunity Corporation:

5 (a) Which is a corporation not for profit, as defined
6 in s. 501(c)(6) of the Internal Revenue Code of 1986, as
7 amended, and is incorporated under the provisions of chapter
8 617, Florida Statutes, and approved by the Department of
9 State.

10 (b) Which is organized and operated exclusively to
11 request, receive, hold, invest, and administer property and to
12 manage and make expenditures for the operation of the
13 activities, services, functions, and programs of the
14 provisions of this act relating to the Occupational Access and
15 Opportunity Commission.

16 (c) Which the commission, after review, has certified
17 to be operating in a manner consistent with the policies and
18 goals of the commission and the plan.

19 (d) Which shall not be considered an agency for the
20 purposes of chapters 120 and 216, Florida Statutes; sections
21 255.25 and 255.254, Florida Statutes, relating to leasing of
22 buildings; sections 283.33 and 283.35, Florida Statutes,
23 relating to bids for printing; section 215.31, Florida
24 Statutes; and parts IV through VIII of chapter 112, Florida
25 Statutes.

26 (e) Which shall be subject to the provisions of
27 chapter 119, Florida Statutes, relating to public records, and
28 the provisions of chapter 286, Florida Statutes, relating to
29 public meetings.

30 (2) USE OF PROPERTY.--The commission:

31

1 (a) May permit the use of property and facilities of
2 the commission by the corporation, subject to the provisions
3 of this section.

4 (b) Shall prescribe conditions with which the
5 corporation must comply in order to use property and
6 facilities of the commission. Such conditions must provide for
7 budget and audit review, for oversight by the commission, and
8 for a reversionary interest in any property used by the
9 corporation upon its dissolution.

10 (c) Shall not permit the use of property and
11 facilities of the commission if the corporation does not
12 provide equal employment opportunities to all persons,
13 regardless of race, color, national origin, sex, age, or
14 religion.

15 (3) BOARD OF DIRECTORS.--The board of directors of the
16 corporation shall be composed of 15 members, appointed by the
17 commission from its own membership. The vice chair of the
18 commission shall serve as chair of the corporation's board of
19 directors.

20 (4) POWERS AND DUTIES.--The corporation, in the
21 performance of its duties:

22 (a) May make and enter into contracts and assume such
23 other functions as are necessary to carry out the provisions
24 of the plan and the corporation's contract with the commission
25 which are not inconsistent with this or any other provision of
26 law.

27 (b) May develop a program to leverage the existing
28 federal and state funding and to provide upgraded or expanded
29 services to Floridians with disabilities.

30 (c) May commission and adopt, in cooperation with the
31 commission, an official business name and logo to be used in

1 all promotional materials directly produced by the
2 corporation.

3 (d) The corporation shall establish cooperative and
4 collaborative memorandums of understanding with One-Stop
5 Career Center operators to increase, upgrade, or expand
6 services to Floridians with disabilities who are seeking
7 employment and self-sufficiency.

8 Section 29. Annual audit.--

9 (1) The corporation shall make provision for an annual
10 post-audit of its financial accounts to be conducted by an
11 independent certified public accountant. The annual audit
12 report is due before December 1 of each year, must include a
13 management letter, and must be submitted to the Auditor
14 General, and the Office of Program Policy Analysis and
15 Government Accountability for review. The Office of Program
16 Policy Analysis and Government Accountability, the commission,
17 and the Auditor General have the authority to require and
18 receive from the corporation or from its independent auditor
19 any detail or supplemental data relative to the operation of
20 the corporation. The corporation shall annually certify
21 whether the corporation is operating in a manner that is
22 consistent with, and achieving objectives that are consistent
23 with, the policies and goals of the commission and the plan.

24 (2) The corporation shall provide to the commission a
25 quarterly report that:

26 (a) Updates its progress and impact in creating
27 employment and increasing the personal income of individuals
28 with disabilities;

29 (b) Provides detailed, unaudited financial statements
30 of sources and uses of public and private funds;

31

1 (c) Measures progress towards annual goals and
2 objectives set forth in the commission's plan;

3 (d) Reviews all pertinent research findings and
4 training efforts; and

5 (e) Provides other measures of accountability as
6 requested by the commission.

7 Section 30. Annual report of the Occupational Access
8 and Opportunity Commission; audits.--

9 (1) Before January 1 of each year, the commission
10 shall submit to the Governor, the President of the Senate, and
11 the Speaker of the House of Representatives a complete and
12 detailed report setting forth for itself and its designated
13 administrative entity:

14 (a) Its operations and accomplishments during the
15 fiscal year.

16 (b) Its business and operational plan.

17 (c) The assets and liabilities of the designated
18 administrative entity at the end of its most recent fiscal
19 year.

20 (d) A copy of the annual financial and compliance
21 audit.

22 (2) The Auditor General may, pursuant to his or her
23 own authority or at the direction of the Legislative Auditing
24 Committee, conduct an audit of the commission or its
25 designated administrative entity.

26 Section 31. Upon appointment, the Occupational Access
27 and Opportunity Commission is authorized to prepare and submit
28 the federally required state vocational rehabilitation plan
29 and to serve as the governing authority of programs
30 administered by the commission, including, but not limited to:
31 administering the state's plan under the Rehabilitation Act of

1 1973, as amended; receiving federal funds as the state
2 vocational rehabilitation agency; directing the expenditure of
3 legislative appropriations for rehabilitative services through
4 its designated administrative entity or other agents; and, if
5 necessary, making any changes to the plan that the commission
6 considers necessary to maintain compliance with the federal
7 Rehabilitation Act of 1973, as amended, and implementing such
8 changes in order to continue to qualify and maintain federal
9 funding support. During the period of time between the
10 appointment of the commission and the designation of the
11 administrative entity, the commission and the division may, by
12 agreement, provide for continued administration consistent
13 with federal and state law.

14 Section 32. The division must comply with the
15 transitional direction of the plan. If the commission
16 designates an administrative entity other than the division,
17 all powers, duties, and functions of and all related records,
18 property, and equipment and all contractual rights,
19 obligations of, and unexpended balances of appropriations and
20 other funds or allocations of the division's component
21 programs of the Department of Labor and Employment Security
22 shall be transferred to the commission as provided in the
23 plan, pursuant to section 20.06(2), Florida Statutes. The
24 Department of Labor and Employment Security shall assist the
25 commission in carrying out the intent of this chapter and
26 achieving an orderly transition. The Office of Planning and
27 Budget shall submit the necessary budget amendments to the
28 Legislature in order to bring the budget into compliance with
29 the plan.

30 Section 33. The Occupational Access and Opportunity
31 Commission shall assure that the designated administrative

1 entity and providers of direct service maintain an internal
2 system of quality assurance, have proven functional systems,
3 and are subject to a due-diligence inquiry for their fitness
4 to undertake service responsibilities regardless of whether a
5 contract for services is competitively or noncompetitively
6 procured.

7 Section 34. It is the intent of the Legislature that
8 the provisions of this act relating to the Occupational Access
9 and Opportunity Commission not conflict with any federal
10 statute or implementing regulation governing federal
11 grant-in-aid programs administered by the division or the
12 commission. Whenever such a conflict is asserted by the
13 applicable agency of the Federal Government, the commission
14 shall submit to the federal Department of Education, or other
15 applicable federal agency, a request for a favorable policy
16 interpretation of the conflicting portions. If the request is
17 approved, as certified in writing by the secretary of the
18 federal Department of Education, or the head of the other
19 applicable federal agency, the commission or the division is
20 authorized to make the adjustments in the plan which are
21 necessary for achieving conformity to federal statutes and
22 regulations. Before making such adjustments, the commission or
23 the division shall provide to the President of the Senate and
24 the Speaker of the House of Representatives an explanation and
25 justification of the position of the division or the
26 commission and shall outline all feasible alternatives that
27 are consistent with this section. These alternatives may
28 include the state supervision of local service agencies by the
29 commission or the division if the agencies are designated by
30 the Governor.

31

1 Section 35. For purposes of effecting compliance with
2 the Rehabilitation Act of 1973, as amended, upon appointment,
3 the Commission on Occupational Access and Opportunity is
4 designated the official state agency.

5 Section 36. Before the 2002 Regular Session of the
6 Legislature, the Office of Program Policy Analysis and
7 Government Accountability shall conduct a review of, and
8 prepare a report on, the Occupational Access and Opportunity
9 Commission and its designated administrative entity. The
10 review must be comprehensive in its scope, but, at a minimum,
11 must be conducted in such a manner as to specifically
12 determine:

13 (1) The progress toward achieving the established
14 outcomes.

15 (2) The circumstances contributing to the
16 organization's ability to achieve, not achieve, or exceed its
17 established outcomes.

18 (3) Whether it would be sound public policy to
19 continue or discontinue funding the organizations and the
20 consequences of discontinuing the organizations.

21 (4) The progress toward increasing services through
22 community-based rehabilitation programs.

23 (5) As a result of the provisions of the act relating
24 to the Occupational Access and Opportunity Commission, the net
25 increase or decrease of the associated administrative costs,
26 as defined in the Rehabilitation Act of 1973, as amended.

27
28 The report shall be submitted by January 1, 2002, to the
29 Governor, the President of the Senate, and the Speaker of the
30 House of Representatives.

31 Section 37. This act shall take effect July 1, 1999.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for Senate Bill 230

The committee substitute eliminates the organizational improvement report required from the Division of Vocational Rehabilitation, instead creating the Occupational Access and Opportunity Commission. The commission is authorized to develop the federally required vocational rehabilitation plan, contract with an administrative entity to support the commission's work, and receive federal funds as the state's vocational rehabilitation agency.

The committee substitute transfers the Office of Disability Determinations to the Department of Health by a type two transfer.