

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 assistant secretaries;  
7           providing for the powers and duties of such  
8           secretaries; providing for the creation of  
9           field offices; amending s. 110.205, F.S.;  
10          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; amending s.  
20          442.013, F.S.; authorizing penalties for  
21          public-sector employers; amending s. 442.019,  
22          F.S.; authorizing the division to seek  
23          compliance in circuit court against  
24          public-sector employers; creating s. 443.012,  
25          F.S.; recreating the Unemployment Appeals  
26          Commission; describing its duties; providing  
27          for the future repeal of ch. 442, F.S.;  
28          requiring the department to provide a report  
29          relating to the Division of Safety;  
30          transferring the brain and spinal cord injury  
31          program and the Office of Disability

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

1           comply with transitional directives of the plan  
2           and, under certain circumstances, to transfer  
3           its powers, duties, functions, property, and  
4           funds to the commission; providing for quality  
5           assurance; providing remedies for conflict with  
6           federal law; designating the commission as the  
7           official state agency; providing for review by  
8           the Office of Program Policy Analysis and  
9           Government Accountability; transferring the  
10          Division of Blind Services to the Department of  
11          Education; repealing s. 440.05(8)(a), F.S.,  
12          relating to fees charged by the Division of  
13          Workers' Compensation for nonconstruction  
14          elections; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Section 20.171, Florida Statutes, 1998  
19 Supplement, is amended to read:

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

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

29           (2)(a) There shall be two assistant secretaries who  
30 are to be appointed by and shall serve at the pleasure of the  
31 secretary. The assistant secretaries shall be titled:

1 Assistant Secretary for Finance and Administration and  
2 Assistant Secretary for Programs and Operations. The  
3 secretary may assign either assistant secretary the  
4 responsibility to supervise, coordinate, and formulate policy  
5 for any division, office, or field office. The Office of  
6 General Counsel and the Office of Inspector General are  
7 established as special offices and shall be headed by  
8 managers, each of whom shall be appointed by and serve at the  
9 pleasure of the secretary.

10 (b) There shall be five field offices involved in the  
11 administration and management of the department's programs.  
12 These field offices shall be responsible for the  
13 administration and management of any local offices within  
14 their jurisdiction. The five field offices shall be headed by  
15 managers, each of whom is to be appointed by and serve at the  
16 pleasure of the secretary.

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

25 (3)(a) The Assistant Secretary for Finance and  
26 Administration must possess a broad knowledge of the  
27 administrative, financial, and technical aspects of a complete  
28 cost-accounting system, budget preparation and management, and  
29 management information systems. The assistant secretary must  
30 be a proven, effective manager with specialized skills in  
31 financial planning and management. The assistant secretary

1 shall ensure that financial information is processed in a  
2 timely, accurate, and complete manner.

3 (b) The assistant secretary is responsible for  
4 developing, monitoring, and enforcing policy and managing  
5 major technical programs. The responsibilities and duties of  
6 the position include, but are not limited to:

7 1. The following functional areas:

8 a. Financial planning and management.

9 b. Information systems.

10 c. Accounting systems.

11 d. Administrative functions.

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

13 a. The preparation of detailed documentation of  
14 internal controls, including, but not limited to, general and  
15 application controls the department relies on for accurate and  
16 complete financial information.

17 b. The monthly reconciliation of the department's  
18 accounting, planning and budgeting, cash forecasting, and  
19 grants-in-aid program.

20 c. The development of a long-range information systems  
21 plan for the department which addresses the computing and  
22 information requirements of the five field and central  
23 offices. Financial, personnel, and technical resources must  
24 all be identified and quantified, as appropriate.

25 (c) The Office of Administration, the Office of  
26 Comptroller, and the Office of Information Systems are  
27 established and shall be headed by managers who are supervised  
28 by and responsible to the assistant secretary.

29 (d)1. The secretary shall appoint a comptroller who  
30 shall be responsible to the assistant secretary. This  
31 position is exempt from part II of chapter 110.

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

27           3. The comptroller may be required to give bond as  
28 provided by s. 20.059(4).

29           4. The department shall, by rule or internal  
30 management memoranda as required by chapter 120, provide for  
31 the maintenance by the comptroller of financial records and

- 1 accounts of the department as will afford a full and complete  
2 check against the improper payment of bills and provide a  
3 system for the prompt payment of the just obligations of the  
4 department, which records must at all times disclose:
- 5 a. The several appropriations available for the use of  
6 the department.
- 7 b. The specific amounts of each such appropriation  
8 budgeted by the department for each improvement or purpose.
- 9 c. The apportionment or division of all such  
10 appropriations among the several counties and field offices,  
11 when such apportionment or division is made.
- 12 d. The amount or portion of each such apportionment  
13 against general contractual and other obligations of the  
14 department.
- 15 e. The amount expended and still to be expended in  
16 connection with each contractual and each other obligation of  
17 the department.
- 18 f. The expense and operating costs of the various  
19 activities of the department.
- 20 g. The receipts accruing to the department and the  
21 distribution thereof.
- 22 h. The assets, investments, and liabilities of the  
23 department.
- 24 i. The cash requirements of the department for a  
25 36-month period.
- 26 5. The comptroller shall maintain a separate account  
27 for each fund administered by the department.
- 28 6. The comptroller shall perform such other related  
29 duties as may be designated by the department.
- 30 (e)1. The Bureau of Management and Budget is created  
31 within the Office of the Comptroller. The head of the bureau

1 is responsible to the Comptroller and is exempt from part II  
2 of chapter 110.

3 2. The functions of the bureau include, but are not  
4 limited to, financial planning, preparation of the  
5 departmental budget, and coordination of related policies and  
6 procedures.

7 3. The bureau shall also be responsible for developing  
8 uniform implementation and monitoring procedures for all  
9 activities performed at the field office level involving the  
10 budget and agency programs.

11 (4)(a) The Assistant Secretary for Programs and  
12 Operations must possess a broad knowledge of the  
13 administrative, financial, and technical aspects of the  
14 divisions within the department.

15 (b) The assistant secretary is responsible for  
16 developing, monitoring, and enforcing policy and managing  
17 major technical programs and supervising the Bureau of Appeals  
18 of the Division of Unemployment Compensation. The  
19 responsibilities and duties of the position include, but are  
20 not limited to, the following functional areas:

21 1. Workers' compensation management and policy  
22 implementation.

23 2. Jobs and benefits management and policy  
24 information.

25 3. Unemployment compensation management and policy  
26 implementation.

27 4. Blind services management and policy  
28 implementation.

29 5. Oversight of the five field offices and any local  
30 offices.

31



1           (5) The following divisions are established and shall  
2 be headed by division directors who shall be supervised by and  
3 shall be responsible to the Assistant Secretary for Programs  
4 and Operations:

5           (a) Division of Workforce and Employment  
6 Opportunities.

7           (b) Division of Unemployment Compensation.

8           (c) Division of Workers' Compensation.

9           (d) Division of Blind Services.

10           (e) Division of Safety, which is repealed July 1,  
11 2000.

12           (f) Division of Vocational Rehabilitation.

13           (6) It is the intent of the Legislature that the  
14 functions and programs of the divisions are to be coordinated  
15 and integrated to the maximum extent practicably feasible.  
16 The department shall have flexibility to minimize costs in  
17 managing its contractual obligations with respect to existing  
18 leases. Further, it is the intent of the Legislature that all  
19 key programs be co-located in five field offices. The  
20 department is directed to develop a schedule to achieve this  
21 co-location, to the maximum extent feasible, by no later than  
22 July 1, 2001; provided, however, in those instances where the  
23 department has contractual obligations with respect to  
24 existing leases which expire after July 1, 2001, the  
25 department may phase in relocations to the five field offices  
26 as said leases expire. The following field offices are  
27 established and shall be headed by managers:

28           (a) Field Office I--Pensacola, which shall serve the  
29 following counties: Escambia, Santa Rosa, Okaloosa, Walton,  
30 Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Liberty,  
31 Franklin, Wakulla, Leon, Gadsden, Jefferson, Madison,

1 Lafayette, Suwannee, Hamilton, Dixie, Gilchrist, Columbia,  
2 Taylor, and Union.

3 (b) Field Office II--Jacksonville, which shall serve  
4 the following counties: Baker, Bradford, Clay, St. Johns,  
5 Duval, Nassau, Alachua, Putnam, Marion, Citrus, Levy, Flagler,  
6 Volusia, and Brevard.

7 (c) Field Office III--Orlando, which shall serve the  
8 following counties: Lake, Seminole, Orange, Sumter, Sarasota,  
9 Hardee, DeSoto, Highlands, Osceola, Polk, Hernando, Pasco,  
10 Pinellas, Manatee, and Hillsborough.

11 (d) Field Office IV--Ft. Lauderdale, which shall serve  
12 the following counties: Broward, Palm Beach, Martin, St.  
13 Lucie, Indian River, Glades, Hendry, Collier, Okeechobee,  
14 Charlotte, and Lee.

15 (e) Field Office V--Miami, which shall serve the  
16 following counties: Dade and Monroe.

17 ~~(2) The following divisions, and bureaus within the~~  
18 ~~divisions, of the Department of Labor and Employment Security~~  
19 ~~are established:~~

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

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

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

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

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

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

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

27 (7)(3) The following commissions are established  
28 within the Department of Labor and Employment Security:

29 (a) Public Employees Relations Commission.

30 (b) Unemployment Appeals Commission.

31

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

12           ~~1. The chair shall devote his or her entire time to~~  
13 ~~commission duties and shall be responsible for the~~  
14 ~~administrative functions of the commission.~~

15           ~~2. The chair shall have the authority to appoint a~~  
16 ~~general counsel and such other personnel as may be necessary~~  
17 ~~to carry out the duties and responsibilities of the~~  
18 ~~commission.~~

19           ~~3. The chair shall have the qualifications required by~~  
20 ~~law for a judge of the circuit court and shall not engage in~~  
21 ~~any other business vocation or employment. Notwithstanding any~~  
22 ~~other provisions of existing law, the chair shall be paid a~~  
23 ~~salary equal to that paid under state law to a judge of the~~  
24 ~~circuit court.~~

25           ~~4. The remaining members shall be paid a stipend of~~  
26 ~~\$100 for each day they are engaged in the work of the~~  
27 ~~commission. The chair and other members shall also be~~  
28 ~~reimbursed for travel expenses, as provided in s. 112.061.~~

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

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

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

12           ~~(d) The property, personnel, and appropriations~~  
13 ~~relating to the specified authority, powers, duties, and~~  
14 ~~responsibilities of the commission shall be provided to the~~  
15 ~~commission by the Department of Labor and Employment Security.~~

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

20           ~~(f) The commission shall make such expenditures,~~  
21 ~~including expenditures for personal services and rent at the~~  
22 ~~seat of government and elsewhere; for law books, books of~~  
23 ~~reference, periodicals, furniture, equipment, and supplies;~~  
24 ~~and for printing and binding as may be necessary in exercising~~  
25 ~~its authority and powers and carrying out its duties and~~  
26 ~~responsibilities. All such expenditures of the commission~~  
27 ~~shall be allowed and paid as provided in s. 443.211 upon the~~  
28 ~~presentation of itemized vouchers therefor, approved by the~~  
29 ~~chair.~~

30           ~~(g) The commission may charge, in its discretion, for~~  
31 ~~publications, subscriptions, and copies of records and~~

1 ~~documents. Such fees shall be deposited in the Employment~~  
2 ~~Security Administration Trust Fund.~~

3 ~~(h) The commission shall maintain and keep open during~~  
4 ~~reasonable business hours an office, which shall be provided~~  
5 ~~in the Capitol or some other suitable building in the City of~~  
6 ~~Tallahassee, for the transaction of its business, at which~~  
7 ~~office its official records and papers shall be kept. The~~  
8 ~~offices shall be furnished and equipped by the commission.~~  
9 ~~The commission may hold sessions and conduct hearings at any~~  
10 ~~place within the state.~~

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

13 ~~(j) The commission shall have a seal for~~  
14 ~~authentication of its orders, awards, and proceedings, upon~~  
15 ~~which shall be inscribed the words "State of~~  
16 ~~Florida-Unemployment Appeals Commission-Seal"; and it shall be~~  
17 ~~judicially noticed.~~

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

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

25 Section 2. Paragraph (1) of subsection (2) of section  
26 110.205, Florida Statutes, is amended to read:

27 110.205 Career service; exemptions.--

28 (2) EXEMPT POSITIONS.--The exempt positions which are  
29 not covered by this part include the following, provided that  
30 no position, except for positions established for a limited  
31

1 period of time pursuant to paragraph (h), shall be exempted if  
2 the position reports to a position in the career service:

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

23 Section 3. All actions required by this act shall be  
24 accomplished within available appropriations of the Department  
25 of Labor and Employment Security.

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

28 393.11 Involuntary admission to residential  
29 services.--

30 (1) JURISDICTION.--When a person is mentally retarded  
31 and requires involuntary admission to residential services

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

17 Section 5. Paragraph (a) of subsection (1) of section  
18 410.0245, Florida Statutes, is amended to read:

19 410.0245 Study of service needs; report; multiyear  
20 plan.--

21 (1)(a) The Aging and Adult Services Program Office of  
22 the Department of Children and Family ~~Health and~~  
23 ~~Rehabilitative~~ Services shall contract for a study of the  
24 service needs of the 18-to-59-year-old disabled adult  
25 population served or waiting to be served by the community  
26 care for disabled adults program. The Division of Vocational  
27 Rehabilitation of the Department of Labor and Employment  
28 Security and other appropriate state agencies shall provide  
29 information to the Department of Children and Family ~~Health~~  
30 ~~and Rehabilitative~~ Services when requested for the purposes of  
31 this study.

1           Section 6. Section 442.006, Florida Statutes, 1998  
2 Supplement, is amended to read:

3           442.006 Investigations by the division; refusal to  
4 admit; penalty.--

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

13           (a) Cooperate with any agency of the United States  
14 charged with the duty of enforcing any law securing safety  
15 against injury in any public-sector place of employment  
16 covered by this chapter, or any agency or department of the  
17 state engaged in enforcing any laws to assure safety for  
18 employees.

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

21           (2) The division and its authorized representatives  
22 may enter and inspect any public-sector place of employment at  
23 any reasonable time for the purpose of investigating  
24 compliance with this chapter and making inspections for the  
25 proper enforcement of this chapter. Any public-sector employer  
26 ~~or owner~~ who refuses to admit any member of the division or  
27 its authorized representative to any public-sector place of  
28 employment or to allow investigation and inspection pursuant  
29 to this paragraph is guilty of a misdemeanor of the second  
30 degree, punishable as provided in s. 775.082 or s. 775.083.

31



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

4           Section 7. Section 442.008, Florida Statutes, 1998  
5 Supplement, is amended to read:

6           442.008 Division authority.--The division shall:

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

16           (2) Ascertain, fix, and order such reasonable  
17 standards and rules for the construction, repair, and  
18 maintenance of public-sector places of employment as shall  
19 render them safe. Such rules and standards must be adopted in  
20 accordance with chapter 120.

21           (3) Assist employers in the development and  
22 implementation of employee safety training programs by  
23 contracting with professional safety organizations.

24           (4) Adopt rules prescribing recordkeeping  
25 responsibilities for public sector employers, which may  
26 include rules for maintaining a log and summary of  
27 occupational injuries, diseases, and illnesses and for  
28 producing on request a notice of injury and employee accident  
29 investigation records, and rules prescribing a retention  
30 schedule for such records.

31

1           Section 8. Section 442.013, Florida Statutes, is  
2 amended to read:

3           442.013 Public-sector employer penalties.--If any  
4 public-sector employer violates or fails or refuses to comply  
5 with this chapter or with any rule adopted by the division, in  
6 accordance with chapter 120, for the prevention of injuries,  
7 accidents, or occupational diseases or with any lawful order  
8 of the division in connection with this chapter, or fails or  
9 refuses to furnish or adopt any safety device, safeguard, or  
10 other means of protection prescribed by the division under  
11 this chapter for the prevention of accidents or occupational  
12 diseases, the division may assess against the public-sector  
13 employer a civil penalty of not less than \$100 nor more than  
14 \$5,000 for each day the violation, omission, failure, or  
15 refusal continues after the public-sector employer has been  
16 given notice thereof in writing. The total penalty for each  
17 violation may not exceed \$50,000. The division shall adopt  
18 rules requiring penalties commensurate with the frequency or  
19 severity, or both, of safety violations. A hearing must be  
20 held in the county where the violation, omission, failure, or  
21 refusal is alleged to have occurred, unless otherwise agreed  
22 to by the public-sector employer and authorized by the  
23 division.

24           Section 9. Section 442.019, Florida Statutes, is  
25 amended to read:

26           442.019 Compliance.--Failure of a public-sector ~~an~~  
27 employer or a carrier to comply with this chapter or with any  
28 rules adopted under this chapter constitutes grounds for the  
29 division to seek remedies, including injunctive relief, for  
30 compliance by making appropriate filings with the Circuit  
31 Court of Leon County.

1           Section 10. Section 443.012, Florida Statutes, is  
2 created to read:

3           443.012 Unemployment Appeals Commission.--

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

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

18           (b) The chair shall have the authority to appoint a  
19 general counsel and such other personnel as may be necessary  
20 to carry out the duties and responsibilities of the  
21 commission.

22           (c) The chair shall have the qualifications required  
23 by law for a judge of the circuit court and shall not engage  
24 in any other business vocation or employment. Notwithstanding  
25 any other provisions of existing law, the chair shall be paid  
26 a salary equal to that paid under state law to a judge of the  
27 circuit court.

28           (d) The remaining members shall be paid a stipend of  
29 \$100 for each day they are engaged in the work of the  
30 commission. The chair and other members shall also be  
31 reimbursed for travel expenses, as provided in s. 112.061.

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

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

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

15           (4) The property, personnel, and appropriations  
16 relating to the specified authority, powers, duties, and  
17 responsibilities of the commission shall be provided to the  
18 commission by the Department of Labor and Employment Security.

19           (5) The commission shall not be subject to control,  
20 supervision, or direction by the Department of Labor and  
21 Employment Security in the performance of its powers and  
22 duties under chapter 443.

23           (6) The commission shall make such expenditures,  
24 including expenditures for personal services and rent at the  
25 seat of government and elsewhere, for law books, books of  
26 reference, periodicals, furniture, equipment, and supplies,  
27 and for printing and binding as are necessary in exercising  
28 its authority and powers and carrying out its duties and  
29 responsibilities. All such expenditures of the commission  
30 shall be allowed and paid as provided in s. 443.211 upon the  
31

1 presentation of itemized vouchers therefor, approved by the  
2 chair.

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

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

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

17 (10) The commission shall have a seal for  
18 authentication of its orders, awards, and proceedings, upon  
19 which shall be inscribed the words "State of  
20 Florida-Unemployment Appeals Commission-Seal," and it shall be  
21 judicially noticed.

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

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

29 Section 11. Section 627.212, Florida Statutes, is  
30 amended to read:

31

1           627.212 Workplace safety program surcharge.--The  
2 department shall approve a rating plan for workers'  
3 compensation coverage insurance that provides for carriers  
4 voluntarily to impose a surcharge of no more than 10 percent  
5 on the premium of a policyholder or fund member if that  
6 policyholder or fund member has been identified by ~~the~~  
7 ~~Division of Safety of~~ the Department of Labor and Employment  
8 Security as having been required to implement a safety program  
9 and having failed to establish or maintain, either in whole or  
10 in part, a safety program. The division shall adopt rules  
11 prescribing the criteria for the employee safety programs.

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

15           627.311 Joint underwriters and joint reinsurers.--  
16           (4)

17           (b) The operation of the plan is subject to the  
18 supervision of a 13-member board of governors. The board of  
19 governors shall be comprised of:

20           1. Five of the 20 domestic insurers, as defined in s.  
21 624.06(1), having the largest voluntary direct premiums  
22 written in this state for workers' compensation and employer's  
23 liability insurance, which shall be elected by those 20  
24 domestic insurers;

25           2. Five of the 20 foreign insurers as defined in s.  
26 624.06(2) having the largest voluntary direct premiums written  
27 in this state for workers' compensation and employer's  
28 liability insurance, which shall be elected by those 20  
29 foreign insurers;

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

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

3           5. The consumer advocate appointed under s. 627.0613  
4 or the consumer advocate's designee.

5  
6 Each board member shall serve 4-year terms and may serve  
7 consecutive terms. No board member shall be an insurer which  
8 provides service to the plan or which has an affiliate which  
9 provides services to the plan or which is serviced by a  
10 service company or third-party administrator which provides  
11 services to the plan or which has an affiliate which provides  
12 services to the plan. The minutes, audits, and procedures of  
13 the board of governors are subject to chapter 119.

14           (c) The operation of the plan shall be governed by a  
15 plan of operation that is prepared at the direction of the  
16 board of governors. The plan of operation may be changed at  
17 any time by the board of governors or upon request of the  
18 department. The plan of operation and all changes thereto are  
19 subject to the approval of the department. The plan of  
20 operation shall:

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

24           2. Develop criteria for eligibility for coverage by  
25 the plan, including, but not limited to, documented rejection  
26 by at least two insurers which reasonably assures that  
27 insureds covered under the plan are unable to acquire coverage  
28 in the voluntary market. Any insured may voluntarily elect to  
29 accept coverage from an insurer for a premium equal to or  
30 greater than the plan premium if the insurer writing the  
31 coverage adheres to the provisions of s. 627.171.

1           3. Require notice from the agent to the insured at the  
2 time of the application for coverage that the application is  
3 for coverage with the plan and that coverage may be available  
4 through an insurer, group self-insurers' fund, commercial  
5 self-insurance fund, or assessable mutual insurer through  
6 another agent at a lower cost.

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

10           a. Establishing procedures for an insurer to use in  
11 notifying the plan of the insurer's desire to provide coverage  
12 to applicants to the plan or existing insureds of the plan and  
13 in describing the types of risks in which the insurer is  
14 interested. The description of the desired risks must be on a  
15 form developed by the plan.

16           b. Developing forms and procedures that provide an  
17 insurer with the information necessary to determine whether  
18 the insurer wants to write particular applicants to the plan  
19 or insureds of the plan.

20           c. Developing procedures for notice to the plan and  
21 the applicant to the plan or insured of the plan that an  
22 insurer will insure the applicant or the insured of the plan,  
23 and notice of the cost of the coverage offered; and developing  
24 procedures for the selection of an insuring entity by the  
25 applicant or insured of the plan.

26           d. Provide for a market-assistance plan to assist in  
27 the placement of employers. All applications for coverage in  
28 the plan received 45 days before the effective date for  
29 coverage shall be processed through the market-assistance  
30 plan. A market-assistance plan specifically designed to serve  
31



1 the needs of small good policyholders as defined by the board  
2 must be finalized by January 1, 1994.

3 5. Provide for policy and claims services to the  
4 insureds of the plan of the nature and quality provided for  
5 insureds in the voluntary market.

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

9 7. Provide for procedures for auditing insureds of the  
10 plan which are based on reasonable business judgment and are  
11 designed to maximize the likelihood that the plan will collect  
12 the appropriate premiums.

13 8. Authorize the plan to terminate the coverage of and  
14 refuse future coverage for any insured that submits a  
15 fraudulent application to the plan or provides fraudulent or  
16 grossly erroneous records to the plan or to any service  
17 provider of the plan in conjunction with the activities of the  
18 plan.

19 9. Establish service standards for agents who submit  
20 business to the plan.

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

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

30 12. Authorize the plan to terminate the coverage of  
31 and refuse future coverage to any insured who fails to pay

1 premiums or surcharges when due; who, at the time of  
2 application, is delinquent in payments of workers'  
3 compensation or employer's liability insurance premiums or  
4 surcharges owed to an insurer, group self-insurers' fund,  
5 commercial self-insurance fund, or assessable mutual insurer  
6 licensed to write such coverage in this state; or who refuses  
7 to substantially comply with any safety programs recommended  
8 by the plan.

9           13. Authorize the board of governors to provide the  
10 services required by the plan through staff employed by the  
11 plan, through reasonably compensated service providers who  
12 contract with the plan to provide services as specified by the  
13 board of governors, or through a combination of employees and  
14 service providers.

15           14. Provide for service standards for service  
16 providers, methods of determining adherence to those service  
17 standards, incentives and disincentives for service, and  
18 procedures for terminating contracts for service providers  
19 that fail to adhere to service standards.

20           15. Provide procedures for selecting service providers  
21 and standards for qualification as a service provider that  
22 reasonably assure that any service provider selected will  
23 continue to operate as an ongoing concern and is capable of  
24 providing the specified services in the manner required.

25           16. Provide for reasonable accounting and  
26 data-reporting practices.

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

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

1 19. Provide for an annual report to the department on  
2 a date specified by the department and containing such  
3 information as the department reasonably requires.

4 20. Establish multiple rating plans for various  
5 classifications of risk which reflect risk of loss, hazard  
6 grade, actual losses, size of premium, and compliance with  
7 loss control. At least one of such plans must be a  
8 preferred-rating plan to accommodate small-premium  
9 policyholders with good experience as defined in  
10 sub-subparagraph 22.a.

11 21. Establish agent commission schedules.

12 22. Establish three subplans as follows:

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

18 b. Subplan "B" must include insureds that are  
19 employers identified by the board of governors as high-risk  
20 employers due solely to the nature of the operations being  
21 performed by those insureds and for whom no market exists in  
22 the voluntary market, and whose experience modifications are  
23 less than 1.00.

24 c. Subplan "C" must include all other insureds within  
25 the plan.

26 Section 13. Chapter 442, Florida Statutes, consisting  
27 of ss. 442.001, 442.002, 442.003, 442.004, 442.005, 442.006,  
28 442.007, 442.008, 442.009, 442.1015, 442.011, 442.012,  
29 442.013, 442.014, 442.015, 442.016, 442.017, 442.018, 442.019,  
30 442.020, 442.021, 442.022, 442.023, 442.101, 442.102, 442.103,  
31 442.104, 442.105, 442.106, 442.107, 442.108, 442.109, 442.111,

1 442.112, 442.113, 442.115, 442.116, 442.118, 442.1185,  
2 442.119, 442.121, 442.123, 442.125, 442.126, 442.127, 442.20,  
3 and 442.21 is repealed July 1, 2000. The Department of Labor  
4 and Employment Security shall submit to the Governor and the  
5 Legislature by January 1, 2000, a report on a proposed  
6 reauthorization of the Division of Safety and the provisions  
7 of chapter 442, Florida Statutes, based upon the following  
8 criteria:

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

11 (2) Internal organizational requirements that  
12 necessitate a state agency for safety issues and a review of  
13 state agency practices for the provision of existing  
14 safety-related activities.

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

18 (4) The appropriateness of a management-by-exception  
19 system in which the division functions as a contract  
20 performance auditor for the development of internal risk and  
21 safety management issues among employers.

22 Section 14. The brain and spinal cord injury program  
23 established in sections 400.805 and 413.48, Florida Statutes,  
24 and the Office of Disability Determinations administered by  
25 the Department of Labor and Employment Security are  
26 transferred by a type two transfer, as defined in section  
27 20.06, Florida Statutes, to the Department of Health.

28 Section 15. Section 400.805, Florida Statutes, 1998  
29 Supplement, is amended to read:

30 400.805 Transitional living facilities.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31



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

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

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

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

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

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

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

1 also extends to any premises that the agency has reason to  
2 believe are being operated or maintained as a facility without  
3 a license; but such an entry or inspection may not be made  
4 without the permission of the owner or person in charge of the  
5 facility unless a warrant that authorizes the entry is first  
6 obtained from the circuit court. The warrant requirement  
7 extends only to a facility that the agency has reason to  
8 believe is being operated or maintained as a facility without  
9 a license. An application for a license or renewal thereof  
10 which is made under this section constitutes permission for,  
11 and acquiescence in, any entry or inspection of the premises  
12 for which the license is sought, in order to facilitate  
13 verification of the information submitted on or in connection  
14 with the application; to discover, investigate, and determine  
15 the existence of abuse or neglect; or to elicit, receive,  
16 respond to, and resolve complaints. A current valid license  
17 constitutes unconditional permission for, and acquiescence in,  
18 any entry or inspection of the premises by authorized  
19 personnel. The agency retains the right of entry and  
20 inspection of facilities that have had a license revoked or  
21 suspended within the previous 24 months, to ensure that the  
22 facility is not operating unlawfully. However, before the  
23 facility is entered, a statement of probable cause must be  
24 filed with the director of the agency, who must approve or  
25 disapprove the action within 48 hours. Probable cause  
26 includes, but is not limited to, evidence that the facility  
27 holds itself out to the public as a provider of personal  
28 assistance services, or the receipt by the advisory council on  
29 brain and spinal cord injuries of a complaint about the  
30 facility.  
31

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

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

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

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

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

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

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

5 Section 16. Section 413.465, Florida Statutes, is  
6 transferred and renumbered as section 381.73, Florida  
7 Statutes, and amended to read:

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

11 Section 17. Section 413.48, Florida Statutes, is  
12 transferred and renumbered as section 381.74, Florida  
13 Statutes, and amended to read:

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

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

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

28 Section 18. Section 413.49, Florida Statutes, 1998  
29 Supplement, is transferred and renumbered as section 381.75,  
30 Florida Statutes, and amended to read:

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 Section 19. Section 413.507, Florida Statutes, is  
25 transferred and renumbered as section 381.76, Florida  
26 Statutes, and amended to read:

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

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

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

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

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

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

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

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

14 Section 20. Section 413.604, Florida Statutes, is  
15 transferred and renumbered as section 381.77, Florida  
16 Statutes, and amended to read:

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

27 Section 21. Section 413.605, Florida Statutes, 1998  
28 Supplement, is transferred and renumbered as section 381.78,  
29 Florida Statutes, and amended to read:

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



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

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

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

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

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

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

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

7 (4) The council shall:

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

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

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

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

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

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

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

16           Section 22. Section 413.613, Florida Statutes, is  
17 transferred and renumbered as section 381.79, Florida  
18 Statutes, and amended to read:

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

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

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

31

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

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

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

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

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

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

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

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

24           (2) "Corporation" means the Occupational Access and  
25 Opportunity Corporation.

26           (3) "Division" means the Division of Vocational  
27 Rehabilitation.

28           (4) "Office" means the Executive Office of the  
29 Governor.

30  
31

1           (5) "Plan" means the state plan for vocational  
2 rehabilitation required by the federal Rehabilitation Act of  
3 1973, as amended, and sections 24-36 of this act.

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

7           Section 26. Occupational Access and Opportunity  
8 Commission; creation; purpose; membership.--

9           (1) There is created within the Executive Office of  
10 the Governor the Occupational Access and Opportunity  
11 Commission.

12           (2) The commission shall consist of no more than 15  
13 members appointed by the Governor, the President of the  
14 Senate, and the Speaker of the House of Representatives. The  
15 commission must contain a minimum of 50 percent representation  
16 from the private-sector, who are subject to confirmation by  
17 the Senate. The members of the commission shall include:

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

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

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

22           (d) A community rehabilitation provider who contracts  
23 to provide vocational rehabilitation services to individuals  
24 who qualify for the program;

25           (e) A representative from the Advocacy Center for  
26 Persons With Disabilities;

27           (f) A consumer of vocational rehabilitation services;  
28 and

29           (g) Other individuals with disabilities and  
30 representatives of business, workforce development, education,  
31 state government, local government, consumer advocate groups,

1 employers of individuals with disabilities, or community  
2 organizations.

3 (3) Initially, the Governor, the President of the  
4 Senate, and the Speaker of the House of Representatives shall  
5 each appoint one member for a term of 4 years, one member for  
6 a term of 3 years, one member for a term of 2 years, and one  
7 member for a term of 1 year. Thereafter, after receiving  
8 recommendations from the commission, the Governor, the  
9 President of the Senate, and the Speaker of the House of  
10 Representatives shall appoint all members for terms of 4  
11 years. Any vacancy shall be filled for the unexpired portion  
12 of the term by a person who possesses the proper  
13 qualifications for the vacancy.

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

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

20 (6) The Governor shall name the chair of the  
21 commission from its appointed members. The commission shall  
22 biennially elect one of its members as vice chair, who shall  
23 preside in the absence of the chair. Neither the chair, nor  
24 the vice chair, may be a provider of client services funded  
25 through the commission.

26 (7) The Rehabilitation Council created by section  
27 413.405, Florida Statutes, shall serve the commission and  
28 shall continue to perform its designated duties. The  
29 commission shall consider the recommendations made by the  
30 council.

31

1           (8) The commission may appoint advisory committees  
2 that the commission considers appropriate, which may include  
3 members from outside the commission to study special problems  
4 or issues and advise the commission on those subjects. Any  
5 existing advisory board, commission, or council may seek to  
6 become an official advisory committee to the commission by  
7 submitting to the commission a resolution requesting  
8 affiliation and having the request approved by the commission.  
9 The commission shall establish the operating procedures of the  
10 committees.

11           (9) The commission may establish an executive  
12 committee consisting of five members recommended by the chair  
13 and approved by the commission.

14           (10) The members of the commission are entitled to be  
15 reimbursed for reasonable and necessary expenses of attending  
16 meetings and performing commission duties, including per diem  
17 and travel expenses, and for personal care attendants and  
18 interpreters needed by members during meetings, as provided in  
19 section 413.273, Florida Statutes.

20           (11) Each member of the commission shall file full and  
21 public disclosure of his or her financial interests and is  
22 subject to the provisions of part III of chapter 112, Florida  
23 Statutes.

24           (12) A member of the commission may not vote on a  
25 matter under consideration by the board regarding the  
26 provision of services by such member, or by any entity that  
27 such member represents; vote on a matter that would provide  
28 direct financial benefit to such member or the immediate  
29 family of such member; or engage in any other activity  
30 determined by the Governor to constitute a conflict of  
31 interest as specified in the plan.



1           Section 27. Powers and duties.--The commission:  
2           (1) Shall, no later than July 1, 2000, after  
3 consulting with stakeholders and holding public hearings,  
4 develop and implement a 5-year plan to promote occupational  
5 access and opportunities for Floridians with disabilities, and  
6 to fulfill the federal plan requirements. The plan must be  
7 submitted to the Governor, the President of the Senate, and  
8 the Speaker of the House of Representatives. The commission  
9 may make amendments annually to the plan, which must be  
10 submitted to the Governor, the President of the Senate, and  
11 the Speaker of the House of Representatives by the first of  
12 January.

13           (a) The plan must explore the use of Individual  
14 Training Accounts, as described in the federal Workforce Act  
15 of 1998, Pub. L. No. 105-220, for eligible clients. If  
16 developed, these accounts must be distributed under a written  
17 memorandum of understanding with One-Stop Career Center  
18 operators.

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

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

27           (d) The plan must require that the commission enter  
28 into cooperative agreements with community-based  
29 rehabilitation programs to be the service providers for the  
30 program; however, state career service employees shall provide  
31 all services mandated by federal law. The commission shall, as

1 rapidly as is feasible, increase the amount of such services  
2 provided by community-based rehabilitation programs. The plan  
3 must incorporate, to the maximum extent allowed by federal and  
4 state law and regulation, all available funds for such  
5 purposes. Funds and in-kind contributions from community and  
6 private sources shall be used to enhance federal and state  
7 resources.

8 (e) The plan must include recommendations regarding  
9 specific performance standards and measurable outcomes, and  
10 must outline procedures for monitoring the commission's and  
11 designated administrative entity's operations to ensure that  
12 performance data is maintained and supported by records of  
13 such entities. The commission shall consult with the Office of  
14 Program Policy Analysis and Government Accountability in the  
15 establishment of performance standards, measurable outcomes,  
16 and monitoring procedures.

17 (2) Notwithstanding the provisions of part I of  
18 chapter 287, Florida Statutes, shall contract, no later than  
19 July 1, 2000, with the administrative entity designated in the  
20 plan to execute the services, functions, and programs  
21 prescribed in the plan. The commission shall serve as contract  
22 administrator. If approved by the federal Department of  
23 Education, the administrative entity may be a direct-support  
24 organization. The commission shall define the terms of the  
25 contract.

26 (3) Shall work with the employer community to better  
27 define, address, and meet its business needs with qualified  
28 Floridians with disabilities.

29 (4) Is responsible for the prudent use of all public  
30 and private funds provided for the commission's use, ensuring  
31

1 that the use of all funds is in accordance with all applicable  
2 laws, bylaws, and contractual requirements.

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

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

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

10 (8) Shall develop a budget, which is in keeping with  
11 the plan, for the operation and activities of the commission  
12 and functions of its designated administrative entity. The  
13 budget shall be submitted to the Governor for inclusion in the  
14 Governor's budget recommendations.

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

18 Section 28. Occupational Access and Opportunity  
19 Corporation; use of property; board of directors; duties;  
20 audit.--

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

25 (a) Which is a corporation not for profit, as defined  
26 in s. 501(c)(6) of the Internal Revenue Code of 1986, as  
27 amended, and is incorporated under the provisions of chapter  
28 617, Florida Statutes, and approved by the Department of  
29 State.

30 (b) Which is organized and operated exclusively to  
31 request, receive, hold, invest, and administer property and to

1 manage and make expenditures for the operation of the  
2 activities, services, functions, and programs of the  
3 provisions of this act relating to the Occupational Access and  
4 Opportunity Commission.

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

8 (d) Which shall not be considered an agency for the  
9 purposes of chapters 120 and 216, Florida Statutes; sections  
10 255.25 and 255.254, Florida Statutes, relating to leasing of  
11 buildings; sections 283.33 and 283.35, Florida Statutes,  
12 relating to bids for printing; section 215.31, Florida  
13 Statutes; and parts IV through VIII of chapter 112, Florida  
14 Statutes.

15 (e) Which shall be subject to the provisions of  
16 chapter 119, Florida Statutes, relating to public records, and  
17 the provisions of chapter 286, Florida Statutes, relating to  
18 public meetings.

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

20 (a) May permit the use of property and facilities of  
21 the commission by the corporation, subject to the provisions  
22 of this section.

23 (b) Shall prescribe conditions with which the  
24 corporation must comply in order to use property and  
25 facilities of the commission. Such conditions must provide for  
26 budget and audit review, for oversight by the commission, and  
27 for a reversionary interest in any property used by the  
28 corporation upon its dissolution.

29 (c) Shall not permit the use of property and  
30 facilities of the commission if the corporation does not  
31 provide equal employment opportunities to all persons,

1 regardless of race, color, national origin, sex, age, or  
2 religion.

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

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

10 (a) May make and enter into contracts and assume such  
11 other functions as are necessary to carry out the provisions  
12 of the plan and the corporation's contract with the commission  
13 which are not inconsistent with this or any other provision of  
14 law.

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

18 (c) May commission and adopt, in cooperation with the  
19 commission, an official business name and logo to be used in  
20 all promotional materials directly produced by the  
21 corporation.

22 (d) The corporation shall establish cooperative and  
23 collaborative memorandums of understanding with One-Stop  
24 Career Center operators to increase, upgrade, or expand  
25 services to Floridians with disabilities who are seeking  
26 employment and self-sufficiency.

27 Section 29. Annual audit.--

28 (1) The corporation shall make provision for an annual  
29 post-audit of its financial accounts to be conducted by an  
30 independent certified public accountant. The annual audit  
31 report is due before December 1 of each year, must include a

1 management letter, and must be submitted to the Auditor  
2 General, and the Office of Program Policy Analysis and  
3 Government Accountability for review. The Office of Program  
4 Policy Analysis and Government Accountability, the commission,  
5 and the Auditor General have the authority to require and  
6 receive from the corporation or from its independent auditor  
7 any detail or supplemental data relative to the operation of  
8 the corporation. The corporation shall annually certify  
9 whether the corporation is operating in a manner that is  
10 consistent with, and achieving objectives that are consistent  
11 with, the policies and goals of the commission and the plan.

12 (2) The corporation shall provide to the commission a  
13 quarterly report that:

14 (a) Updates its progress and impact in creating  
15 employment and increasing the personal income of individuals  
16 with disabilities;

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

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

21 (d) Reviews all pertinent research findings and  
22 training efforts; and

23 (e) Provides other measures of accountability as  
24 requested by the commission.

25 Section 30. Annual report of the Occupational Access  
26 and Opportunity Commission; audits.--

27 (1) Before January 1 of each year, the commission  
28 shall submit to the Governor, the President of the Senate, and  
29 the Speaker of the House of Representatives a complete and  
30 detailed report setting forth for itself and its designated  
31 administrative entity:

1           (a) Its operations and accomplishments during the  
2 fiscal year.

3           (b) Its business and operational plan.

4           (c) The assets and liabilities of the designated  
5 administrative entity at the end of its most recent fiscal  
6 year.

7           (d) A copy of the annual financial and compliance  
8 audit.

9           (2) The Auditor General may, pursuant to his or her  
10 own authority or at the direction of the Legislative Auditing  
11 Committee, conduct an audit of the commission or its  
12 designated administrative entity.

13           Section 31. Upon appointment, the Occupational Access  
14 and Opportunity Commission is authorized to prepare and submit  
15 the federally required state vocational rehabilitation plan  
16 and to serve as the governing authority of programs  
17 administered by the commission, including, but not limited to:  
18 administering the state's plan under the Rehabilitation Act of  
19 1973, as amended; receiving federal funds as the state  
20 vocational rehabilitation agency; directing the expenditure of  
21 legislative appropriations for rehabilitative services through  
22 its designated administrative entity or other agents; and, if  
23 necessary, making any changes to the plan that the commission  
24 considers necessary to maintain compliance with the federal  
25 Rehabilitation Act of 1973, as amended, and implementing such  
26 changes in order to continue to qualify and maintain federal  
27 funding support. During the period of time between the  
28 appointment of the commission and the designation of the  
29 administrative entity, the commission and the division may, by  
30 agreement, provide for continued administration consistent  
31 with federal and state law.

1           Section 32. The division must comply with the  
2 transitional direction of the plan. If the commission  
3 designates an administrative entity other than the division,  
4 all powers, duties, and functions of and all related records,  
5 property, and equipment and all contractual rights,  
6 obligations of, and unexpended balances of appropriations and  
7 other funds or allocations of the division's component  
8 programs of the Department of Labor and Employment Security  
9 shall be transferred to the commission as provided in the  
10 plan, pursuant to section 20.06(2), Florida Statutes. The  
11 Department of Labor and Employment Security shall assist the  
12 commission in carrying out the intent of this chapter and  
13 achieving an orderly transition. The Office of Planning and  
14 Budget shall submit the necessary budget amendments to the  
15 Legislature in order to bring the budget into compliance with  
16 the plan.

17           Section 33. The Occupational Access and Opportunity  
18 Commission shall assure that the designated administrative  
19 entity and providers of direct service maintain an internal  
20 system of quality assurance, have proven functional systems,  
21 and are subject to a due-diligence inquiry for their fitness  
22 to undertake service responsibilities regardless of whether a  
23 contract for services is competitively or noncompetitively  
24 procured.

25           Section 34. It is the intent of the Legislature that  
26 the provisions of this act relating to the Occupational Access  
27 and Opportunity Commission not conflict with any federal  
28 statute or implementing regulation governing federal  
29 grant-in-aid programs administered by the division or the  
30 commission. Whenever such a conflict is asserted by the  
31 applicable agency of the Federal Government, the commission



1 shall submit to the federal Department of Education, or other  
2 applicable federal agency, a request for a favorable policy  
3 interpretation of the conflicting portions. If the request is  
4 approved, as certified in writing by the secretary of the  
5 federal Department of Education, or the head of the other  
6 applicable federal agency, the commission or the division is  
7 authorized to make the adjustments in the plan which are  
8 necessary for achieving conformity to federal statutes and  
9 regulations. Before making such adjustments, the commission or  
10 the division shall provide to the President of the Senate and  
11 the Speaker of the House of Representatives an explanation and  
12 justification of the position of the division or the  
13 commission and shall outline all feasible alternatives that  
14 are consistent with this section. These alternatives may  
15 include the state supervision of local service agencies by the  
16 commission or the division if the agencies are designated by  
17 the Governor.

18       Section 35. For purposes of effecting compliance with  
19 the Rehabilitation Act of 1973, as amended, upon appointment,  
20 the Commission on Occupational Access and Opportunity is  
21 designated the official state agency.

22       Section 36. Before the 2002 Regular Session of the  
23 Legislature, the Office of Program Policy Analysis and  
24 Government Accountability shall conduct a review of, and  
25 prepare a report on, the Occupational Access and Opportunity  
26 Commission and its designated administrative entity. The  
27 review must be comprehensive in its scope, but, at a minimum,  
28 must be conducted in such a manner as to specifically  
29 determine:

30           (1) The progress toward achieving the established  
31 outcomes.

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

4           (3) Whether it would be sound public policy to  
5 continue or discontinue funding the organizations and the  
6 consequences of discontinuing the organizations.

7           (4) The progress toward increasing services through  
8 community-based rehabilitation programs.

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

13  
14 The report shall be submitted by January 1, 2002, to the  
15 Governor, the President of the Senate, and the Speaker of the  
16 House of Representatives.

17           Section 37. Effective January 1, 2001, the Division of  
18 Blind Services is transferred by a type two transfer as  
19 defined in section 20.06(5), Florida Statutes, from the  
20 Department of Labor and Employment Security to the Department  
21 of Education.

22           Section 38. Paragraph (a) of subsection (8) of section  
23 440.05, Florida Statutes, 1998 Supplement, is repealed.

24           Section 39. This act shall take effect October 1,  
25 1999.