

1
2 An act relating to governmental reorganization;
3 amending s. 20.15, F.S.; clarifying duties of
4 the Deputy Commissioner for Educational
5 Programs; creating the position of Deputy
6 Commissioner for Technology and Administration
7 and providing powers, duties, responsibilities,
8 and functions; creating the Division of
9 Technology; authorizing the Commissioner of
10 Education to reorganize portions of the
11 Department of Education; providing limitations;
12 providing for future repeal; amending s.
13 20.171, F.S.; creating s. 443.1716, F.S.;
14 requiring the Department of Labor and
15 Employment Security to contract with
16 consumer-reporting agencies to provide
17 creditors with secured electronic access to
18 employer-provided information relating to the
19 quarterly wages reports; providing conditions;
20 requiring consent from the credit applicant;
21 prescribing information that must be included
22 in the written consent; providing for
23 confidentiality; limiting use of the
24 information released; providing for termination
25 of contracts under certain circumstances;
26 defining the term "creditor"; requiring the
27 department to establish minimum audit,
28 security, net worth, and liability insurance
29 standards and other requirements it considers
30 necessary; providing that any revenues
31 generated from a contract with a consumer

1 reporting agency must be used to pay the entire
2 cost of providing access to the information;
3 providing that any additional revenues
4 generated must be paid into the department's
5 trust fund for the administration of the
6 unemployment compensation system; providing
7 restrictions on the release of information
8 under the act; defining the term
9 "consumer-reporting" agency; amending s.
10 20.171, F.S.; providing that the department
11 shall operate its programs in a decentralized
12 fashion; providing for the appointment of
13 assistant secretaries; providing for the powers
14 and duties of such secretaries; providing for
15 the creation of field offices; amending s.
16 110.205, F.S.; providing that certain employees
17 of the department shall be in the Senior
18 Management Service; providing that certain
19 actions contemplated by the act shall be done
20 within the available resources of the
21 department; amending ss. 393.11, 410.0245,
22 627.212, 627.311, F.S., to conform; amending s.
23 442.006, F.S.; limiting the authority of the
24 division to the public sector; amending s.
25 442.008, F.S.; prescribing duties of the
26 division; amending s. 442.013, F.S.;
27 authorizing penalties for public-sector
28 employers; amending s. 442.019, F.S.;
29 authorizing the division to seek compliance in
30 circuit court against public-sector employers;
31 creating s. 443.012, F.S.; recreating the

1 Unemployment Appeals Commission; describing its
2 duties; providing for the future repeal of ch.
3 442, F.S.; requiring the department to provide
4 a report relating to the Division of Safety;
5 transferring the brain and spinal cord injury
6 program and the Office of Disability
7 Determinations to the Department of Health;
8 amending s. 400.805, F.S., to conform;
9 transferring, renumbering, and amending ss.
10 413.465, 413.48, 413.49, 413.507, 413.604,
11 413.605, 413.613, F.S. to conform to the
12 transfer of duties to the Department of Health;
13 requiring the Division of Vocational
14 Rehabilitation to enter into partnerships;
15 providing legislative intent; providing
16 definitions; creating the Occupational Access
17 and Opportunity Commission; providing for
18 membership; providing for appointment and
19 terms; providing for reimbursement; providing
20 for financial disclosure; providing powers and
21 duties; directing the commission to develop and
22 implement the federally required state
23 vocational rehabilitation plan and to fulfill
24 specified administrative functions; requiring
25 the commission to contract with an
26 administrative entity; providing for the
27 assignment of staff; providing for the
28 Occupational Access and Opportunity
29 Corporation; providing powers and duties;
30 providing for the use of property; providing
31 for a board of directors; providing for an

1 annual audit; providing for an annual report of
2 the Occupational Access and Opportunity
3 Commission; authorizing the commission to
4 prepare the state plan, serve as the governing
5 authority, and receive federal funds; requiring
6 the Division of Vocational Rehabilitation to
7 comply with transitional directives of the plan
8 and, under certain circumstances, to transfer
9 its powers, duties, functions, property, and
10 funds to the commission; providing for quality
11 assurance; providing remedies for conflict with
12 federal law; designating the commission as the
13 official state agency; providing for review by
14 the Office of Program Policy Analysis and
15 Government Accountability; transferring the
16 Division of Blind Services to the Department of
17 Education; repealing s. 440.05(8)(a), F.S.,
18 relating to fees charged by the Division of
19 Workers' Compensation for nonconstruction
20 elections; authorizing the department to offer
21 voluntary reduction-in-force payment to certain
22 employees; requiring the plan to meet specified
23 criteria; requiring legislative review;
24 providing an appropriation; providing effective
25 dates.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 443.1716, Florida Statutes, is
30 created to read:

31

1 443.1716 Authorized electronic access to employer
2 information.--

3 (1) Notwithstanding any other provisions of this
4 chapter, the Department of Labor and Employment Security shall
5 contract with one or more consumer-reporting agencies to
6 provide creditors with secured electronic access to
7 employer-provided information relating to the quarterly wages
8 report submitted in accordance with the state's unemployment
9 compensation law. Such access is limited to the wage reports
10 for the preceding 16 calendar quarters.

11 (2) Creditors must obtain written consent from the
12 credit applicant. Any such written consent from the credit
13 applicant must be signed and must include the following:

14 (a) Specific notice that the individual's wage and
15 employment history information will be released to a
16 consumer-reporting agency;

17 (b) Notice that such release is made for the sole
18 purpose of reviewing a specific application for credit made by
19 the individual;

20 (c) Notice that the files of the Department of Labor
21 and Employment Security containing wage and employment history
22 information submitted by the individual or his or her
23 employers may be accessed; and

24 (d) A listing of the parties authorized to receive the
25 released information.

26 (3) Consumer-reporting agencies and creditors
27 accessing information under this section must safeguard the
28 confidentiality of such information and shall use the
29 information only to support a single consumer credit
30 transaction for the creditor to satisfy standard financial
31 underwriting requirements or other requirements imposed upon

1 the creditor, and to satisfy the creditor's obligations under
2 applicable state or federal Fair Credit Reporting laws and
3 rules governing this section.

4 (4) Should any consumer-reporting agency or creditor
5 violate any provision of this section, the Department of Labor
6 and Employment Security shall, upon thirty days written notice
7 to the consumer-reporting agency, terminate the contract
8 established between the department and the consumer-reporting
9 agency resulting from this section.

10 (5) For purposes of this section, "creditor" has the
11 same meaning as set forth in the federal Fair Debt Collection
12 Practices Act, 15 U.S.C. s. 1692 et seq.

13 (6) The Department of Labor and Employment Security
14 shall establish minimum audit, security, net-worth, and
15 liability-insurance standards, technical requirements, and any
16 other terms and conditions considered necessary in the
17 discretion of the state agency to safeguard the
18 confidentiality of the information released under this section
19 and to otherwise serve the public interest. The Department of
20 Labor and Employment Security shall also include, in
21 coordination with any necessary state agencies, necessary
22 audit procedures to ensure that these rules are followed.

23 (7) In contracting with one or more consumer-reporting
24 agencies under this section, any revenues generated by such
25 contract must be used to pay the entire cost of providing
26 access to the information. Further, in accordance with federal
27 regulations, any additional revenues generated by the
28 department or the state under this section must be paid into
29 the department's trust fund for the administration of the
30 unemployment compensation system.

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1 (8) The department may not provide wage and employment
2 history information to any consumer-reporting agency before
3 the consumer-reporting agency or agencies under contract with
4 the department pay all development and other startup costs
5 incurred by the state in connection with the design,
6 installation, and administration of technological systems and
7 procedures for the electronic-access program.

8 (9) The release of any information under this section
9 must be for a purpose authorized by and in the manner
10 permitted by the United States Department of Labor and any
11 subsequent rules or regulations adopted by that department.

12 (10) As used in this section, the term
13 "consumer-reporting agency" has the same meaning as that set
14 forth in the Federal Fair Credit Reporting Act, 15 U.S.C. s.
15 1681a.

16 Section 2. Section 20.171, Florida Statutes, 1998
17 Supplement, is amended to read:

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

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

27 (2)(a) There shall be two assistant secretaries who
28 are to be appointed by and shall serve at the pleasure of the
29 secretary. The assistant secretaries shall be titled:
30 Assistant Secretary for Finance and Administration and
31 Assistant Secretary for Programs and Operations. The

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

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

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

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

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

5 1. The following functional areas:

6 a. Financial planning and management.

7 b. Information systems.

8 c. Accounting systems.

9 d. Administrative functions.

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

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

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

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

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

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

30 2. The comptroller is the chief financial officer of
31 the department and shall be a proven, effective administrator

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

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

27 4. The department shall, by rule or internal
28 management memoranda as required by chapter 120, provide for
29 the maintenance by the comptroller of financial records and
30 accounts of the department as will afford a full and complete
31 check against the improper payment of bills and provide a

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

1 (b) The assistant secretary is responsible for
2 developing, monitoring, and enforcing policy and managing
3 major technical programs and supervising the Bureau of Appeals
4 of the Division of Unemployment Compensation. The
5 responsibilities and duties of the position include, but are
6 not limited to, the following functional areas:

7 1. Workers' compensation management and policy
8 implementation.

9 2. Jobs and benefits management and policy
10 information.

11 3. Unemployment compensation management and policy
12 implementation.

13 4. Blind services management and policy
14 implementation.

15 5. Oversight of the five field offices and any local
16 offices.

17 (5) The following divisions are established and shall
18 be headed by division directors who shall be supervised by and
19 shall be responsible to the Assistant Secretary for Programs
20 and Operations:

21 (a) Division of Workforce and Employment
22 Opportunities.

23 (b) Division of Unemployment Compensation.

24 (c) Division of Workers' Compensation.

25 (d) Division of Blind Services.

26 (e) Division of Safety, which is repealed July 1,
27 2000.

28 (f) Division of Vocational Rehabilitation.

29 (6) It is the intent of the Legislature that the
30 functions and programs of the divisions are to be coordinated
31 and integrated to the maximum extent practicably feasible.

1 The department shall have flexibility to minimize costs in
2 managing its contractual obligations with respect to existing
3 leases. Further, it is the intent of the Legislature that all
4 key programs be co-located in five field offices. The
5 department is directed to develop a schedule to achieve this
6 co-location, to the maximum extent feasible, by no later than
7 July 1, 2001; provided, however, in those instances where the
8 department has contractual obligations with respect to
9 existing leases which expire after July 1, 2001, the
10 department may phase in relocations to the five field offices
11 as said leases expire. The following field offices are
12 established and shall be headed by managers:

13 (a) Field Office I--Panama City, which shall serve the
14 following counties: Escambia, Santa Rosa, Okaloosa, Walton,
15 Holmes, Washington, Bay, Jefferson, Calhoun, Gulf, Liberty,
16 Franklin, Wakulla, Leon, Gadsden, and Jefferson.

17 (b) Field Office II--Lake City, which shall serve the
18 following counties: Madison, Taylor, Dixie, Lafayette,
19 Suwannee, Hamilton, Columbia, Baker, Union, Bradford, Clay,
20 St. Johns, Duval, Nassau, Alachua, Putnam, Marion, Levy,
21 Gilchrist, and Flagler.

22 (c) Field Office III--Orlando, which shall serve the
23 following counties: Volusia, Lake, Seminole, Orange, Sumter,
24 Brevard, Osceola, Indian River, Highlands, St. Lucie,
25 Okeechobee, and Martin.

26 (d) Field Office IV--Tampa, which shall serve the
27 following counties: Citrus, Hernando, Pasco, Pinellas,
28 Hillsborough, Polk, Hardee, Manatee, Sarasota, DeSoto,
29 Charlotte, and Lee.

30
31

1 (e) Field Office V--Miami, which shall serve the
2 following counties: Palm Beach, Glades, Hendry, Collier,
3 Broward, Monroe, and Dade.

4 ~~(2) The following divisions, and bureaus within the~~
5 ~~divisions, of the Department of Labor and Employment Security~~
6 ~~are established:~~

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

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

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

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

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

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

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

14 (7)(3) The following commissions are established
15 within the Department of Labor and Employment Security:

16 (a) Public Employees Relations Commission.

17 (b) Unemployment Appeals Commission.

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

29 ~~1. The chair shall devote his or her entire time to~~
30 ~~commission duties and shall be responsible for the~~
31 ~~administrative functions of the commission.~~

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

5 ~~3. The chair shall have the qualifications required by~~
6 ~~law for a judge of the circuit court and shall not engage in~~
7 ~~any other business vocation or employment. Notwithstanding any~~
8 ~~other provisions of existing law, the chair shall be paid a~~
9 ~~salary equal to that paid under state law to a judge of the~~
10 ~~circuit court.~~

11 ~~4. The remaining members shall be paid a stipend of~~
12 ~~\$100 for each day they are engaged in the work of the~~
13 ~~commission. The chair and other members shall also be~~
14 ~~reimbursed for travel expenses, as provided in s. 112.061.~~

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

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

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

29 ~~(d) The property, personnel, and appropriations~~
30 ~~relating to the specified authority, powers, duties, and~~
31

1 ~~responsibilities of the commission shall be provided to the~~
2 ~~commission by the Department of Labor and Employment Security.~~

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

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

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

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

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

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1 ~~(j) The commission shall have a seal for~~
2 ~~authentication of its orders, awards, and proceedings, upon~~
3 ~~which shall be inscribed the words "State of~~
4 ~~Florida-Unemployment Appeals Commission-Seal"; and it shall be~~
5 ~~judicially noticed.~~

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

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

13 Section 3. Paragraph (1) of subsection (2) of section
14 110.205, Florida Statutes, is amended to read:

15 110.205 Career service; exemptions.--

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

21 (1) All assistant division director, deputy division
22 director, and bureau chief positions in any department, and
23 those positions determined by the department to have
24 managerial responsibilities comparable to such positions,
25 which positions include, but are not limited to, positions in
26 the Department of Health and Rehabilitative Services and the
27 Department of Corrections that are assigned primary duties of
28 serving as the superintendent of an institution: positions in
29 the Department of Transportation that are assigned primary
30 duties of serving as regional toll managers and managers of
31 offices as defined in s. 20.23(3)(d)3. and (4)(d); positions

1 in the Department of Environmental Protection that are
2 assigned the duty of an Environmental Administrator or program
3 administrator; those positions described in s. 20.171 as
4 included in the Senior Management Service;and positions in
5 the Department of Health and Rehabilitative Services that are
6 assigned the duty of an Environmental Administrator. Unless
7 otherwise fixed by law, the department shall set the salary
8 and benefits of these positions in accordance with the rules
9 established for the Selected Exempt Service.

10 Section 4. All actions required by this act shall be
11 accomplished within available appropriations of the Department
12 of Labor and Employment Security.

13 Section 5. Subsection (1) of section 393.11, Florida
14 Statutes, 1998 Supplement, is amended to read:

15 393.11 Involuntary admission to residential
16 services.--

17 (1) JURISDICTION.--When a person is mentally retarded
18 and requires involuntary admission to residential services
19 provided by the developmental services program of the
20 Department of Children and Family ~~Health and Rehabilitative~~
21 Services, the circuit court of the county in which the person
22 resides shall have jurisdiction to conduct a hearing and enter
23 an order involuntarily admitting the person in order that the
24 person may receive the care, treatment, habilitation, and
25 rehabilitation which the person needs. For the purpose of
26 identifying mental retardation, diagnostic capability shall be
27 established in every program function of the department in the
28 districts, including, but not limited to, programs provided by
29 children and families; delinquency services; alcohol, drug
30 abuse, and mental health; and economic services, and by ~~the~~
31 ~~Division of Vocational Rehabilitation~~ of the Department of

1 Labor and Employment Security. Except as otherwise specified,
2 the proceedings under this section shall be governed by the
3 Florida Rules of Civil Procedure.

4 Section 6. Paragraph (a) of subsection (1) of section
5 410.0245, Florida Statutes, is amended to read:

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

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

19 Section 7. Section 442.006, Florida Statutes, 1998
20 Supplement, is amended to read:

21 442.006 Investigations by the division; refusal to
22 admit; penalty.--

23 (1) The division shall make studies and investigations
24 with respect to safety provisions and the causes of injuries
25 in public-sector places of employment ~~employments covered by~~
26 ~~this chapter~~, and shall make to the Legislature and
27 public-sector employers and carriers such recommendations as
28 it considers proper as to the best means of preventing
29 injuries. In making such studies and investigations, the
30 division may:

31

1 (a) Cooperate with any agency of the United States
2 charged with the duty of enforcing any law securing safety
3 against injury in any public-sector place of employment
4 covered by this chapter, or any agency or department of the
5 state engaged in enforcing any laws to assure safety for
6 employees.

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

9 (2) The division and its authorized representatives
10 may enter and inspect any public-sector place of employment at
11 any reasonable time for the purpose of investigating
12 compliance with this chapter and making inspections for the
13 proper enforcement of this chapter. Any public-sector employer
14 ~~or owner~~ who refuses to admit any member of the division or
15 its authorized representative to any public-sector place of
16 employment or to allow investigation and inspection pursuant
17 to this paragraph is guilty of a misdemeanor of the second
18 degree, punishable as provided in s. 775.082 or s. 775.083.

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

22 Section 8. Section 442.008, Florida Statutes, 1998
23 Supplement, is amended to read:

24 442.008 Division authority.--The division shall:

25 (1) Investigate and prescribe what safety devices,
26 safeguards, or other means of protection must be adopted for
27 the prevention of accidents in every public-sector employment
28 ~~or~~ place of employment; determine what suitable devices,
29 safeguards, or other means of protection for the prevention of
30 occupational diseases must be adopted or followed in any or
31 all such public-sector ~~employments or~~ places of employment;

1 and adopt reasonable rules for the prevention of accidents and
2 the prevention of occupational diseases.

3 (2) Ascertain, fix, and order such reasonable
4 standards and rules for the construction, repair, and
5 maintenance of public-sector places of employment as shall
6 render them safe. Such rules and standards must be adopted in
7 accordance with chapter 120.

8 (3) Assist employers in the development and
9 implementation of employee safety training programs by
10 contracting with professional safety organizations.

11 (4) Adopt rules prescribing recordkeeping
12 responsibilities for public sector employers, which may
13 include rules for maintaining a log and summary of
14 occupational injuries, diseases, and illnesses and for
15 producing on request a notice of injury and employee accident
16 investigation records, and rules prescribing a retention
17 schedule for such records.

18 Section 9. Section 442.013, Florida Statutes, is
19 amended to read:

20 442.013 Public-sector employer penalties.--If any
21 public-sector employer violates or fails or refuses to comply
22 with this chapter or with any rule adopted by the division, in
23 accordance with chapter 120, for the prevention of injuries,
24 accidents, or occupational diseases or with any lawful order
25 of the division in connection with this chapter, or fails or
26 refuses to furnish or adopt any safety device, safeguard, or
27 other means of protection prescribed by the division under
28 this chapter for the prevention of accidents or occupational
29 diseases, the division may assess against the public-sector
30 employer a civil penalty of not less than \$100 nor more than
31 \$5,000 for each day the violation, omission, failure, or

1 refusal continues after the public-sector employer has been
2 given notice thereof in writing. The total penalty for each
3 violation may not exceed \$50,000. The division shall adopt
4 rules requiring penalties commensurate with the frequency or
5 severity, or both, of safety violations. A hearing must be
6 held in the county where the violation, omission, failure, or
7 refusal is alleged to have occurred, unless otherwise agreed
8 to by the public-sector employer and authorized by the
9 division.

10 Section 10. Section 442.019, Florida Statutes, is
11 amended to read:

12 442.019 Compliance.--Failure of a public-sector ~~an~~
13 employer or a carrier to comply with this chapter or with any
14 rules adopted under this chapter constitutes grounds for the
15 division to seek remedies, including injunctive relief, for
16 compliance by making appropriate filings with the Circuit
17 Court of Leon County.

18 Section 11. Section 443.012, Florida Statutes, is
19 created to read:

20 443.012 Unemployment Appeals Commission.--

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

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

4 (b) The chair shall have the authority to appoint a
5 general counsel and such other personnel as may be necessary
6 to carry out the duties and responsibilities of the
7 commission.

8 (c) The chair shall have the qualifications required
9 by law for a judge of the circuit court and shall not engage
10 in any other business vocation or employment. Notwithstanding
11 any other provisions of existing law, the chair shall be paid
12 a salary equal to that paid under state law to a judge of the
13 circuit court.

14 (d) The remaining members shall be paid a stipend of
15 \$100 for each day they are engaged in the work of the
16 commission. The chair and other members shall also be
17 reimbursed for travel expenses, as provided in s. 112.061.

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

21 (2) Members shall serve for terms of 4 years each,
22 except that, beginning July 1, 1977, the chair shall be
23 appointed for a term of 4 years, one member for 3 years, and
24 one member for 2 years. A vacancy for the unexpired term of a
25 member shall be filled in the same manner as provided in this
26 subsection for an original appointment. The presence of two
27 members shall constitute a quorum for any called meeting of
28 the commission.

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

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

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

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

19 (7) The commission may charge, in its discretion, for
20 publications, subscriptions, and copies of records and
21 documents. Such fees shall be deposited in the Employment
22 Security Administration Trust Fund.

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

31

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

3 (10) The commission shall have a seal for
4 authentication of its orders, awards, and proceedings, upon
5 which shall be inscribed the words "State of
6 Florida-Unemployment Appeals Commission-Seal," and it shall be
7 judicially noticed.

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

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

15 Section 12. Section 627.212, Florida Statutes, is
16 amended to read:

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

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

31 627.311 Joint underwriters and joint reinsurers.--

1 (4)

2 (b) The operation of the plan is subject to the
3 supervision of a 13-member board of governors. The board of
4 governors shall be comprised of:

5 1. Five of the 20 domestic insurers, as defined in s.
6 624.06(1), having the largest voluntary direct premiums
7 written in this state for workers' compensation and employer's
8 liability insurance, which shall be elected by those 20
9 domestic insurers;

10 2. Five of the 20 foreign insurers as defined in s.
11 624.06(2) having the largest voluntary direct premiums written
12 in this state for workers' compensation and employer's
13 liability insurance, which shall be elected by those 20
14 foreign insurers;

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

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

19 5. The consumer advocate appointed under s. 627.0613
20 or the consumer advocate's designee.

21

22 Each board member shall serve 4-year terms and may serve
23 consecutive terms. No board member shall be an insurer which
24 provides service to the plan or which has an affiliate which
25 provides services to the plan or which is serviced by a
26 service company or third-party administrator which provides
27 services to the plan or which has an affiliate which provides
28 services to the plan. The minutes, audits, and procedures of
29 the board of governors are subject to chapter 119.

30 (c) The operation of the plan shall be governed by a
31 plan of operation that is prepared at the direction of the

1 board of governors. The plan of operation may be changed at
2 any time by the board of governors or upon request of the
3 department. The plan of operation and all changes thereto are
4 subject to the approval of the department. The plan of
5 operation shall:

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

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

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

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

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

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

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

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

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

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

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

28 8. Authorize the plan to terminate the coverage of and
29 refuse future coverage for any insured that submits a
30 fraudulent application to the plan or provides fraudulent or
31 grossly erroneous records to the plan or to any service

1 provider of the plan in conjunction with the activities of the
2 plan.

3 9. Establish service standards for agents who submit
4 business to the plan.

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

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

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

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

30 14. Provide for service standards for service
31 providers, methods of determining adherence to those service

1 standards, incentives and disincentives for service, and
2 procedures for terminating contracts for service providers
3 that fail to adhere to service standards.

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

9 16. Provide for reasonable accounting and
10 data-reporting practices.

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

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

16 19. Provide for an annual report to the department on
17 a date specified by the department and containing such
18 information as the department reasonably requires.

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

26 21. Establish agent commission schedules.

27 22. Establish three subplans as follows:

28 a. Subplan "A" must include those insureds whose
29 annual premium does not exceed \$2,500 and who have neither
30 incurred any lost-time claims nor incurred medical-only claims
31

1 exceeding 50 percent of their premium for the immediate 2
2 years.

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

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

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

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

27 (2) Internal organizational requirements that
28 necessitate a state agency for safety issues and a review of
29 state agency practices for the provision of existing
30 safety-related activities.

31

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

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

8 Section 15. Effective January 1, 2000, the brain and
9 spinal cord injury program established in sections 400.805 and
10 413.48, Florida Statutes, and the Office of Disability
11 Determinations administered by the Department of Labor and
12 Employment Security are transferred by a type two transfer, as
13 defined in section 20.06, Florida Statutes, to the Department
14 of Health.

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

17 400.805 Transitional living facilities.--

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

19 (a) "Agency" means the Agency for Health Care
20 Administration.

21 (b) "Department"~~"Division"~~ means the Department of
22 Health ~~Division of Vocational Rehabilitation of the Department~~
23 ~~of Labor and Employment Security.~~

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

31

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

4 (b) The application for a license must be made on a
5 form provided by the agency. A nonrefundable license fee of
6 \$2,000 and a fee of up to \$39.25 per bed must be submitted
7 with the license application.

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

11 (3) Each applicant for licensure must comply with the
12 following requirements:

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

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

29 (c) Proof of compliance with the level 2 background
30 screening requirements of chapter 435 which has been submitted
31 within the previous 5 years in compliance with any other

1 health care or assisted living licensure requirements of this
2 state is acceptable in fulfillment of the requirements of
3 paragraph (a).

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

27 (e) Each applicant must submit to the agency, with its
28 application, a description and explanation of any exclusions,
29 permanent suspensions, or terminations of the applicant from
30 the Medicare or Medicaid programs. Proof of compliance with
31 the requirements for disclosure of ownership and control

1 interests under the Medicaid or Medicare programs may be
2 accepted in lieu of this submission.

3 (f) Each applicant must submit to the agency a
4 description and explanation of any conviction of an offense
5 prohibited under the level 2 standards of chapter 435 by a
6 member of the board of directors of the applicant, its
7 officers, or any individual owning 5 percent or more of the
8 applicant. This requirement does not apply to a director of a
9 not-for-profit corporation or organization if the director
10 serves solely in a voluntary capacity for the corporation or
11 organization, does not regularly take part in the day-to-day
12 operational decisions of the corporation or organization,
13 receives no remuneration for his or her services on the
14 corporation or organization's board of directors, and has no
15 financial interest and has no family members with a financial
16 interest in the corporation or organization, provided that the
17 director and the not-for-profit corporation or organization
18 include in the application a statement affirming that the
19 director's relationship to the corporation satisfies the
20 requirements of this paragraph.

21 (g) A license may not be granted to an applicant if
22 the applicant or managing employee has been found guilty of,
23 regardless of adjudication, or has entered a plea of nolo
24 contendere or guilty to, any offense prohibited under the
25 level 2 standards for screening set forth in chapter 435,
26 unless an exemption from disqualification has been granted by
27 the agency as set forth in chapter 435.

28 (h) The agency may deny or revoke licensure if the
29 applicant:

30 1. Has falsely represented a material fact in the
31 application required by paragraph (e) or paragraph (f), or has

1 omitted any material fact from the application required by
2 paragraph (e) or paragraph (f); or

3 2. Has had prior action taken against the applicant
4 under the Medicaid or Medicare program as set forth in
5 paragraph (e).

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

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

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

16 (6)(a) The agency shall adopt rules in consultation
17 with the department ~~division~~ governing the physical plant of
18 transitional living facilities and the fiscal management of
19 transitional living facilities.

20 (b) The department ~~division~~ shall adopt rules in
21 consultation with the agency governing the services provided
22 to clients of transitional living facilities. The department
23 ~~division~~ shall enforce all requirements for providing services
24 to the facility's clients. The department ~~division~~ must
25 notify the agency when it determines that an applicant for
26 licensure meets the service requirements adopted by the
27 division.

28 (c) The agency and the department ~~division~~ shall
29 enforce requirements under this section, as such requirements
30 relate to them respectively, and their respective adopted
31 rules.

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

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

8 (c) It is unlawful for a holder of a license issued
9 under this section to advertise or represent to the public
10 that it holds a license for a type of facility other than the
11 facility for which its license is issued.

12 (8) Any designated officer or employee of the agency,
13 of the state, or of the local fire marshal may enter
14 unannounced upon and into the premises of any facility
15 licensed under this section in order to determine the state of
16 compliance with this section and the rules or standards in
17 force under this section. The right of entry and inspection
18 also extends to any premises that the agency has reason to
19 believe are being operated or maintained as a facility without
20 a license; but such an entry or inspection may not be made
21 without the permission of the owner or person in charge of the
22 facility unless a warrant that authorizes the entry is first
23 obtained from the circuit court. The warrant requirement
24 extends only to a facility that the agency has reason to
25 believe is being operated or maintained as a facility without
26 a license. An application for a license or renewal thereof
27 which is made under this section constitutes permission for,
28 and acquiescence in, any entry or inspection of the premises
29 for which the license is sought, in order to facilitate
30 verification of the information submitted on or in connection
31 with the application; to discover, investigate, and determine

1 the existence of abuse or neglect; or to elicit, receive,
2 respond to, and resolve complaints. A current valid license
3 constitutes unconditional permission for, and acquiescence in,
4 any entry or inspection of the premises by authorized
5 personnel. The agency retains the right of entry and
6 inspection of facilities that have had a license revoked or
7 suspended within the previous 24 months, to ensure that the
8 facility is not operating unlawfully. However, before the
9 facility is entered, a statement of probable cause must be
10 filed with the director of the agency, who must approve or
11 disapprove the action within 48 hours. Probable cause
12 includes, but is not limited to, evidence that the facility
13 holds itself out to the public as a provider of personal
14 assistance services, or the receipt by the advisory council on
15 brain and spinal cord injuries of a complaint about the
16 facility.

17 (9) The agency may institute injunctive proceedings in
18 a court of competent jurisdiction for temporary or permanent
19 relief to:

20 (a) Enforce this section or any minimum standard,
21 rule, or order issued pursuant thereto if the agency's effort
22 to correct a violation through administrative fines has failed
23 or when the violation materially affects the health, safety,
24 or welfare of residents; or

25 (b) Terminate the operation of a facility if a
26 violation of this section or of any standard or rule adopted
27 pursuant thereto exists which materially affects the health,
28 safety, or welfare of residents.

29

30 The Legislature recognizes that, in some instances, action is
31 necessary to protect residents of facilities from immediately

1 life-threatening situations. If it appears by competent
2 evidence or a sworn, substantiated affidavit that a temporary
3 injunction should issue, the court, pending the determination
4 on final hearing, shall enjoin operation of the facility.

5 (10) The agency may impose an immediate moratorium on
6 admissions to a facility when the agency determines that any
7 condition in the facility presents a threat to the health,
8 safety, or welfare of the residents in the facility. If a
9 facility's license is denied, revoked, or suspended, the
10 facility may be subject to the immediate imposition of a
11 moratorium on admissions to run concurrently with licensure
12 denial, revocation, or suspension.

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

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

21 Section 17. Section 413.465, Florida Statutes, is
22 transferred and renumbered as section 381.73, Florida
23 Statutes, and amended to read:

24 381.73 ~~413.465~~ Short title.--Sections 381.73-381.79
25 ~~413.465-413.74~~ may be cited as the "Charlie Mack Overstreet
26 Brain or Spinal Cord Injuries Act."

27 Section 18. Section 413.48, Florida Statutes, is
28 transferred and renumbered as section 381.74, Florida
29 Statutes, and amended to read:

30 381.74 ~~413.48~~ Establishment and maintenance of a
31 central registry.--The department ~~division~~ shall establish and

1 maintain a central registry of persons who have
2 moderate-to-severe brain or spinal cord injuries.

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

9 (2) The report shall contain the name, age, residence,
10 and type of disability of the individual and such additional
11 information as may be deemed necessary by the department
12 division.

13 Section 19. Section 413.49, Florida Statutes, 1998
14 Supplement, is transferred and renumbered as section 381.75,
15 Florida Statutes, and amended to read:

16 381.75 ~~413.49~~ Duties and responsibilities of the
17 division, of transitional living facilities, and of
18 residents.--Consistent with the mandate of s. 413.46, the
19 department division shall develop and administer a multilevel
20 treatment program for persons who have brain or spinal cord
21 injuries and who are referred to the brain and spinal cord
22 injury program.

23 (1) Within 15 days after any report of a person who
24 has a brain or spinal cord injury, the department division
25 shall notify the individual or the most immediate available
26 family members of their right to assistance from the state,
27 the services available, and the eligibility requirements.

28 (2) The department division shall refer persons who
29 have brain or spinal cord injuries to other state agencies to
30 assure that rehabilitative services, if desired, are obtained
31 by that person.

1 (3) The department ~~division~~, in consultation with
2 emergency medical service, shall develop standards for an
3 emergency medical evacuation system that will ensure that all
4 persons who sustain traumatic brain or spinal cord injuries
5 are transported to a department-approved ~~division-approved~~
6 trauma center that meets the standards and criteria
7 established by the emergency medical service and the
8 acute-care standards of the brain and spinal cord injury
9 program.

10 (4) The department ~~division~~ shall develop standards
11 for designation of rehabilitation centers to provide
12 rehabilitation services for persons who have brain or spinal
13 cord injuries.

14 (5) The department ~~division~~ shall determine the
15 appropriate number of designated acute-care facilities,
16 inpatient rehabilitation centers, and outpatient
17 rehabilitation centers, needed based on incidence, volume of
18 admissions, and other appropriate criteria.

19 (6) The department ~~division~~ shall develop standards
20 for designation of transitional living facilities to provide
21 individuals the opportunity to adjust to their disabilities
22 and to develop physical and functional skills in a supported
23 living environment.

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

28 (b) The goal of a transitional living program for
29 persons who have brain or spinal cord injuries is to assist
30 each person who has such a disability to achieve a higher
31 level of independent functioning and to enable that person to

1 reenter the community. The program shall be focused on
2 preparing participants to return to community living.

3 (c) A transitional living facility for a person who
4 has a brain or spinal cord injury shall provide to such
5 person, in a residential setting, a goal-oriented treatment
6 program designed to improve the person's physical, cognitive,
7 communicative, behavioral, psychological, and social
8 functioning, as well as to provide necessary support and
9 supervision. A transitional living facility shall offer at
10 least the following therapies: physical, occupational, speech,
11 neuropsychology, independent living skills training, behavior
12 analysis for programs serving brain-injured persons, health
13 education, and recreation.

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

1 goals established in the comprehensive treatment plan and the
2 discharge plan. The discharge location must be the least
3 restrictive environment in which an individual's health,
4 well-being, and safety is preserved.

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

8 Section 20. Section 413.507, Florida Statutes, is
9 transferred and renumbered as section 381.76, Florida
10 Statutes, and amended to read:

11 381.76 ~~413.507~~ Eligibility for the brain and spinal
12 cord injury program.--

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

16 (a) Has been referred to the central registry pursuant
17 to s. 413.48.

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

20 (c) Has suffered a traumatic injury as defined in s.
21 413.20.

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

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

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

29 Section 21. Section 413.604, Florida Statutes, is
30 transferred and renumbered as section 381.77, Florida
31 Statutes, and amended to read:

1 381.77 ~~413.604~~ Nursing home residents, age 55 and
2 under; annual survey.--The department ~~division~~ shall conduct
3 an annual survey of nursing homes in the state to determine
4 the number of persons 55 years of age and under who reside in
5 such homes due to brain or spinal cord injuries. All persons
6 identified in such a survey shall be evaluated as to their
7 rehabilitation potential, and any person who may benefit from
8 rehabilitation shall be given an opportunity to participate in
9 an appropriate rehabilitation program for which she or he may
10 be eligible.

11 Section 22. Section 413.605, Florida Statutes, 1998
12 Supplement, is transferred and renumbered as section 381.78,
13 Florida Statutes, and amended to read:

14 381.78 ~~413.605~~ Advisory council on brain and spinal
15 cord injuries.--

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

30
31

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

4 (a) Eight members of the first appointed council shall
5 serve an initial term of 2 years. This group shall include two
6 persons who have brain injuries or are family members of
7 persons who have brain injuries, two persons who have spinal
8 cord injuries or are family members of persons who have spinal
9 cord injuries, and four other persons from the previous
10 council.

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

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

22 (3) The council shall meet at least two times
23 annually.

24 (4) The council shall:

25 (a) Provide advice and expertise to the division in
26 the preparation, implementation, and periodic review of the
27 brain and spinal cord injury program as referenced in s.
28 413.49.

29 (b) Annually appoint a five-member committee composed
30 of one person who has a brain injury or has a family member
31 with a brain injury, one person who has a spinal cord injury

1 or has a family member with a spinal cord injury, and three
2 members who shall be chosen from among these representative
3 groups: physicians, other allied health professionals,
4 administrators of brain and spinal cord injury programs, and
5 representatives from support groups with expertise in areas
6 related to the rehabilitation of persons who have brain or
7 spinal cord injuries, except that one and only one member of
8 the committee shall be an administrator of a transitional
9 living facility. Membership on the council is not a
10 prerequisite for membership on this committee.

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

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

23 3. Onsite investigations by the committee shall be
24 funded by the Health Care Trust Fund.

25 4. Travel expenses for committee members shall be
26 reimbursed in accordance with s. 112.061. Members of the
27 committee shall recuse themselves from participating in any
28 investigation that would create a conflict of interest under
29 state law, and the council shall replace the member, either
30 temporarily or permanently.

31

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

3 Section 23. Section 413.613, Florida Statutes, is
4 transferred and renumbered as section 381.79, Florida
5 Statutes, and amended to read:

6 381.79 ~~413.613~~ Brain and Spinal Cord Injury
7 Rehabilitation Trust Fund.--

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

15 (a) Authorization of expenditures for brain or spinal
16 cord injury care shall be made only by the department
17 ~~division~~.

18 (b) Authorized expenditures include acute care,
19 rehabilitation, transitional living, equipment, and supplies
20 necessary for activities of daily living, public information,
21 prevention, education, and research.

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

26 (3) Annually, 5 percent of the revenues deposited
27 monthly in the fund pursuant to s. 318.21(2)(d) shall be
28 appropriated to the University of Florida and 5 percent to the
29 University of Miami for spinal cord injury and brain injury
30 research. The amount to be distributed to the universities
31 shall be calculated based on the deposits into the fund for

1 each quarter in the fiscal year, but may not exceed \$500,000
2 per university per year. Funds distributed under this
3 subsection shall be made in quarterly payments at the end of
4 each quarter during the fiscal year.

5 (4) The Board of Regents shall establish a program
6 review process and may allocate up to \$10,000 of such funds
7 for an overall program review which would include: a
8 prospective program plan with goals, research design and
9 proposed outcomes, and an annual report of research activities
10 and findings. Prospective program plans shall be submitted to
11 the Board of Regents, and funds shall be released upon
12 acceptance of the proposed program plans. The annual report of
13 research activities and findings shall be submitted to the
14 Board of Regents, with the executive summaries submitted to
15 the President of the Senate, the Speaker of the House of
16 Representatives, and the secretary of the Department of Health
17 ~~Labor and Employment Security~~.

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

23 Section 25. Legislative intent.--The Legislature finds
24 that individuals with disabilities experience the highest
25 unemployment rate of any group in society, as high as 75
26 percent, and that unemployment and poverty go hand in hand.
27 The Legislature also finds that persons who complete the
28 vocational rehabilitation program are twice as likely to
29 obtain and maintain employment, and the use of private
30 providers is the readiest way to add service capacity for this
31 population. It is the intent of the Legislature to establish

1 an Occupational Access and Opportunity Commission, which will
2 assemble individuals with disabilities, stakeholders, and
3 employers to develop a single self-sufficiency strategy that
4 provides for employment and career options for Floridians with
5 disabilities.

6 Section 26. Definitions.--As used in sections 24
7 through 36, the term:

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

10 (2) "Corporation" means the Occupational Access and
11 Opportunity Corporation.

12 (3) "Division" means the Division of Vocational
13 Rehabilitation.

14 (4) "Office" means the Executive Office of the
15 Governor.

16 (5) "Plan" means the state plan for vocational
17 rehabilitation required by the federal Rehabilitation Act of
18 1973, as amended, and sections 24-36 of this act.

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

22 Section 27. Occupational Access and Opportunity
23 Commission; creation; purpose; membership.--

24 (1) There is created within the Department of
25 Education the Occupational Access and Opportunity Commission.

26 (2) The commission shall consist of 16 members
27 appointed, as provided herein, by the Governor, the President
28 of the Senate, and the Speaker of the House of
29 Representatives. The commission must contain a minimum of 50
30 percent representation from the private-sector. The members of
31 the commission shall include:

1 (a) The Commissioner of Education, or his or her
2 designee, who shall serve as chair;

3 (b) The chair of the Florida Rehabilitation Council;

4 (c) The chair of the Council for Independent Living;

5 (d) The chair of the Commission for the Purchase from
6 the Blind or Other Severely Handicapped;

7 (e) A community rehabilitation provider who contracts
8 to provide vocational rehabilitation services to individuals
9 who qualify for the program, who shall be appointed by the
10 Governor for a term of 4 years;

11 (f) A representative from the Advocacy Center for
12 Persons With Disabilities, who shall be appointed by the
13 President of the Senate for a term of 4 years;

14 (g) A consumer of vocational rehabilitation services,
15 who shall be appointed by the Speaker of the House of
16 Representatives for a term of 4 years; and

17 (h) Other individuals with disabilities and
18 representatives of business, workforce development, education,
19 state government, local government, consumer advocate groups,
20 employers of individuals with disabilities, or community
21 organizations.

22 (3) Initially, the Governor, the President of the
23 Senate, and the Speaker of the House of Representatives shall
24 each appoint as members meeting the qualifications contained
25 in paragraph (h) of subsection (2), one member for a term of 3
26 years, one member for a term of 2 years, and one member for a
27 term of 1 year. Thereafter, after receiving recommendations
28 from the commission, the Governor, the President of the
29 Senate, and the Speaker of the House of Representatives shall
30 appoint all members for terms of 4 years. Any vacancy shall be
31 filled by appointment by the original appointing authority for

1 the unexpired portion of the term by a person who possesses
2 the proper qualifications for the vacancy.

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

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

9 (6) The Governor shall name the chair of the
10 commission from its appointed members. The commission shall
11 biennially elect one of its members as vice chair, who shall
12 preside in the absence of the chair. Neither the chair, nor
13 the vice chair, may be a provider of client services funded
14 through the commission.

15 (7) The Rehabilitation Council created by section
16 413.405, Florida Statutes, shall serve the commission and
17 shall continue to perform its designated duties. The
18 commission shall consider the recommendations made by the
19 council.

20 (8) The commission may appoint advisory committees
21 that the commission considers appropriate, which may include
22 members from outside the commission to study special problems
23 or issues and advise the commission on those subjects. Any
24 existing advisory board, commission, or council may seek to
25 become an official advisory committee to the commission by
26 submitting to the commission a resolution requesting
27 affiliation and having the request approved by the commission.
28 The commission shall establish the operating procedures of the
29 committees.

30
31

1 (9) The commission may establish an executive
2 committee consisting of five members recommended by the chair
3 and approved by the commission.

4 (10) The members of the commission are entitled to be
5 reimbursed for reasonable and necessary expenses of attending
6 meetings and performing commission duties, including per diem
7 and travel expenses, and for personal care attendants and
8 interpreters needed by members during meetings, as provided in
9 section 413.273, Florida Statutes.

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

14 (12) A member of the commission may not vote on a
15 matter under consideration by the board regarding the
16 provision of services by such member, or by any entity that
17 such member represents; vote on a matter that would provide
18 direct financial benefit to such member or the immediate
19 family of such member; or engage in any other activity
20 determined by the Governor to constitute a conflict of
21 interest as specified in the plan.

22 Section 28. Powers and duties.--The commission:

23 (1) Shall, no later than July 1, 2000, after
24 consulting with stakeholders and holding public hearings,
25 develop and implement a 5-year plan to promote occupational
26 access and opportunities for Floridians with disabilities, and
27 to fulfill the federal plan requirements. The plan must be
28 submitted to the Governor, the President of the Senate, and
29 the Speaker of the House of Representatives. The commission
30 may make amendments annually to the plan, which must be
31 submitted to the Governor, the President of the Senate, and

1 the Speaker of the House of Representatives by the first of
2 January.

3 (a) The plan must explore the use of Individual
4 Training Accounts, as described in the federal Workforce Act
5 of 1998, Pub. L. No. 105-220, for eligible clients. If
6 developed, these accounts must be distributed under a written
7 memorandum of understanding with One-Stop Career Center
8 operators.

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

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

17 (d) The plan must require that the commission enter
18 into cooperative agreements with community-based
19 rehabilitation programs to be the service providers for the
20 program; however, state career service employees shall provide
21 all services mandated by federal law. The commission shall, as
22 rapidly as is feasible, increase the amount of such services
23 provided by community-based rehabilitation programs. The plan
24 must incorporate, to the maximum extent allowed by federal and
25 state law and regulation, all available funds for such
26 purposes. Funds and in-kind contributions from community and
27 private sources shall be used to enhance federal and state
28 resources.

29 (e) The plan must include recommendations regarding
30 specific performance standards and measurable outcomes, and
31 must outline procedures for monitoring the commission's and

1 designated administrative entity's operations to ensure that
2 performance data is maintained and supported by records of
3 such entities. The commission shall consult with the Office of
4 Program Policy Analysis and Government Accountability in the
5 establishment of performance standards, measurable outcomes,
6 and monitoring procedures.

7 (2) Notwithstanding the provisions of part I of
8 chapter 287, Florida Statutes, shall contract, no later than
9 July 1, 2000, with the administrative entity designated in the
10 plan to execute the services, functions, and programs
11 prescribed in the plan. The commission shall serve as contract
12 administrator. If approved by the federal Department of
13 Education, the administrative entity may be a direct-support
14 organization. The commission shall define the terms of the
15 contract.

16 (3) Shall work with the employer community to better
17 define, address, and meet its business needs with qualified
18 Floridians with disabilities.

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

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

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

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

30 (8) Shall develop a budget, which is in keeping with
31 the plan, for the operation and activities of the commission

1 and functions of its designated administrative entity. The
2 budget shall be submitted to the Governor for inclusion in the
3 Governor's budget recommendations.

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

7 Section 29. Occupational Access and Opportunity
8 Corporation; use of property; board of directors; duties;
9 audit.--

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

14 (a) Which is a corporation not for profit, as defined
15 in s. 501(c)(6) of the Internal Revenue Code of 1986, as
16 amended, and is incorporated under the provisions of chapter
17 617, Florida Statutes, and approved by the Department of
18 State.

19 (b) Which is organized and operated exclusively to
20 request, receive, hold, invest, and administer property and to
21 manage and make expenditures for the operation of the
22 activities, services, functions, and programs of the
23 provisions of this act relating to the Occupational Access and
24 Opportunity Commission.

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

28 (d) Which shall not be considered an agency for the
29 purposes of chapters 120 and 216, Florida Statutes; sections
30 255.25 and 255.254, Florida Statutes, relating to leasing of
31 buildings; sections 283.33 and 283.35, Florida Statutes,

1 relating to bids for printing; section 215.31, Florida
2 Statutes; and parts IV through VIII of chapter 112, Florida
3 Statutes.

4 (e) Which shall be subject to the provisions of
5 chapter 119, Florida Statutes, relating to public records, and
6 the provisions of chapter 286, Florida Statutes, relating to
7 public meetings.

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

9 (a) May permit the use of property and facilities of
10 the commission by the corporation, subject to the provisions
11 of this section.

12 (b) Shall prescribe conditions with which the
13 corporation must comply in order to use property and
14 facilities of the commission. Such conditions must provide for
15 budget and audit review, for oversight by the commission, and
16 for a reversionary interest in any property used by the
17 corporation upon its dissolution.

18 (c) Shall not permit the use of property and
19 facilities of the commission if the corporation does not
20 provide equal employment opportunities to all persons,
21 regardless of race, color, national origin, sex, age, or
22 religion.

23 (3) BOARD OF DIRECTORS.--The board of directors of the
24 corporation shall be composed of 15 members, appointed by the
25 commission from its own membership. The vice chair of the
26 commission shall serve as chair of the corporation's board of
27 directors.

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

30 (a) May make and enter into contracts and assume such
31 other functions as are necessary to carry out the provisions

1 of the plan and the corporation's contract with the commission
2 which are not inconsistent with this or any other provision of
3 law.

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

7 (c) May commission and adopt, in cooperation with the
8 commission, an official business name and logo to be used in
9 all promotional materials directly produced by the
10 corporation.

11 (d) The corporation shall establish cooperative and
12 collaborative memorandums of understanding with One-Stop
13 Career Center operators to increase, upgrade, or expand
14 services to Floridians with disabilities who are seeking
15 employment and self-sufficiency.

16 Section 30. Annual audit.--

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

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

3 (a) Updates its progress and impact in creating
4 employment and increasing the personal income of individuals
5 with disabilities;

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

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

10 (d) Reviews all pertinent research findings and
11 training efforts; and

12 (e) Provides other measures of accountability as
13 requested by the commission.

14 Section 31. Annual report of the Occupational Access
15 and Opportunity Commission; audits.--

16 (1) Before January 1 of each year, the commission
17 shall submit to the Governor, the President of the Senate, and
18 the Speaker of the House of Representatives a complete and
19 detailed report setting forth for itself and its designated
20 administrative entity:

21 (a) Its operations and accomplishments during the
22 fiscal year.

23 (b) Its business and operational plan.

24 (c) The assets and liabilities of the designated
25 administrative entity at the end of its most recent fiscal
26 year.

27 (d) A copy of the annual financial and compliance
28 audit.

29 (2) The Auditor General may, pursuant to his or her
30 own authority or at the direction of the Legislative Auditing
31

1 Committee, conduct an audit of the commission or its
2 designated administrative entity.

3 Section 32. Upon appointment, the Occupational Access
4 and Opportunity Commission is authorized to prepare and submit
5 the federally required state vocational rehabilitation plan
6 and to serve as the governing authority of programs
7 administered by the commission, including, but not limited to:
8 administering the state's plan under the Rehabilitation Act of
9 1973, as amended; receiving federal funds as the state
10 vocational rehabilitation agency; directing the expenditure of
11 legislative appropriations for rehabilitative services through
12 its designated administrative entity or other agents; and, if
13 necessary, making any changes to the plan that the commission
14 considers necessary to maintain compliance with the federal
15 Rehabilitation Act of 1973, as amended, and implementing such
16 changes in order to continue to qualify and maintain federal
17 funding support. During the period of time between the
18 appointment of the commission and the designation of the
19 administrative entity, the commission and the division may, by
20 agreement, provide for continued administration consistent
21 with federal and state law.

22 Section 33. The division must comply with the
23 transitional direction of the plan. If the commission
24 designates an administrative entity other than the division,
25 all powers, duties, and functions of and all related records,
26 property, and equipment and all contractual rights,
27 obligations of, and unexpended balances of appropriations and
28 other funds or allocations of the division's component
29 programs of the Department of Labor and Employment Security
30 shall be transferred to the commission as provided in the
31 plan, pursuant to section 20.06(2), Florida Statutes. The

1 Department of Labor and Employment Security shall assist the
2 commission in carrying out the intent of this chapter and
3 achieving an orderly transition. The Office of Planning and
4 Budget shall submit the necessary budget amendments to the
5 Legislature in order to bring the budget into compliance with
6 the plan.

7 Section 34. (1) The Department of Labor and
8 Employment Security may offer, subject to the provisions of
9 this section, active employees with 30 or more years of
10 creditable service in a state-administered retirement system,
11 or who are at least 62 years of age and are eligible for
12 retirement in a state-administered retirement system, a
13 one-time voluntary reduction-in-force payment during the
14 1999-2000 fiscal year. Such payment shall represent a payment
15 of insurance costs and shall be paid as an annuity to be
16 purchased by the department within funds appropriated for
17 salary and benefits in the General Appropriations Act for
18 fiscal year 1999-2000, which shall include funds derived from
19 eliminating vacated positions. There shall be no annualization
20 costs associated with this plan. The Secretary of Labor and
21 Employment Security shall be deemed to be the public employer
22 for purposes of negotiating the terms and conditions related
23 to the reduction-in-force payments authorized by this section.
24 All persons retiring under this program shall do so no later
25 than January 1, 2000.

26 (2) The department, in consultation with the
27 Department of Management Services, shall prepare a plan to
28 implement the reduction-in-force payment authority for
29 approval by the Office of Planning and Budgeting. Such plan
30 must meet all applicable federal requirements regarding the
31 expenditure of federal funds; all applicable federal tax laws;

1 and all other federal and state laws regarding special
2 compensation to employees, including the Age Discrimination in
3 Employment Act and the Older Workers' Benefit Protection Act.
4 The plan must specify the savings created through the payment
5 mechanism and the reduction-in-force, specify the source of
6 funding of the payments, and delineate a timetable for
7 implementation.

8 (3) If approved by the Office of Planning and
9 Budgeting, such plan shall be submitted to the Legislature
10 subject to the notice, review, and objection process
11 authorized in s. 216.177, Florida Statutes.

12 (4) This section shall take effect upon becoming law.

13 Section 35. The Occupational Access and Opportunity
14 Commission shall assure that the designated administrative
15 entity and providers of direct service maintain an internal
16 system of quality assurance, have proven functional systems,
17 and are subject to a due-diligence inquiry for their fitness
18 to undertake service responsibilities regardless of whether a
19 contract for services is competitively or noncompetitively
20 procured.

21 Section 36. It is the intent of the Legislature that
22 the provisions of this act relating to the Occupational Access
23 and Opportunity Commission not conflict with any federal
24 statute or implementing regulation governing federal
25 grant-in-aid programs administered by the division or the
26 commission. Whenever such a conflict is asserted by the
27 applicable agency of the Federal Government, the commission
28 shall submit to the federal Department of Education, or other
29 applicable federal agency, a request for a favorable policy
30 interpretation of the conflicting portions. If the request is
31 approved, as certified in writing by the secretary of the

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

14 Section 37. Effective July 1, 2000, for purposes of
15 effecting compliance with the Rehabilitation Act of 1973, as
16 amended, upon appointment, the Commission on Occupational
17 Access and Opportunity is designated the official state
18 agency.

19 Section 38. Before the 2002 Regular Session of the
20 Legislature, the Office of Program Policy Analysis and
21 Government Accountability shall conduct a review of, and
22 prepare a report on, the Occupational Access and Opportunity
23 Commission and its designated administrative entity. The
24 review must be comprehensive in its scope, but, at a minimum,
25 must be conducted in such a manner as to specifically
26 determine:

27 (1) The progress toward achieving the established
28 outcomes.

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

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

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

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

10
11 The report shall be submitted by January 1, 2002, to the
12 Governor, the President of the Senate, and the Speaker of the
13 House of Representatives.

14 Section 39. Effective January 1, 2001, the Division of
15 Blind Services is transferred by a type two transfer as
16 defined in section 20.06(5), Florida Statutes, from the
17 Department of Labor and Employment Security to the Department
18 of Education.

19 Section 40. Paragraph (a) of subsection (8) of section
20 440.05, Florida Statutes, 1998 Supplement, is repealed.

21 Section 41. There is hereby appropriated \$500,000 from
22 the General Revenue Fund to the Department of Education for
23 Fiscal Year 1999-2000.

24 Section 42. Subsections (2) and (3) of section 20.15,
25 Florida Statutes, 1998 Supplement, are amended to read:

26 20.15 Department of Education.--There is created a
27 Department of Education.

28 (2) COMMISSIONER OF EDUCATION.--The head of the
29 Department of Education is the Commissioner of Education who
30 shall be elected by vote of the qualified electors of the
31 state pursuant to s. 5, Art. IV of the State Constitution.

1 (a) The Commissioner of Education shall appoint a
2 Deputy Commissioner for Educational Programs who has such
3 powers, duties, responsibilities, and functions as are
4 necessary to ensure the greatest possible coordination,
5 efficiency, and effectiveness of kindergarten through
6 12th-grade education and vocational and continuing education
7 programs, including workforce development.

8 (b) The Commissioner of Education shall appoint a
9 Deputy Commissioner for Planning, Budgeting, and Management
10 who has such powers, duties, responsibilities, and functions
11 as are necessary to ensure the greatest possible coordination
12 of policies, programs, and procedures for the statewide system
13 of education and the department.

14 (c) The Commissioner of Education shall appoint a
15 Deputy Commissioner for Technology and Administration who has
16 such powers, duties, responsibilities, and functions as are
17 necessary to ensure the greatest possible coordination and
18 development of technological supports for the education system
19 and efficient administration of the department.

20 (3) DIVISIONS.--The following divisions of the
21 Department of Education are established:

22 (a) Division of Community Colleges.

23 (b) Division of Public Schools and Community
24 Education.

25 (c) Division of Universities.

26 (d) Division of Workforce Development.

27 (e) Division of Human Resource Development.

28 (f) Division of Administration.

29 (g) Division of Financial Services.

30 (h) Division of Support Services.

31 (i) Division of Technology.

1 Section 43. The Commissioner of Education is
2 authorized to establish, abolish, or consolidate bureaus,
3 sections, and subsections; to reallocate duties and functions;
4 and to reassign positions in pay grade 25 and above to the
5 Select Exempt Service category within the Department of
6 Education in order to promote effective and efficient
7 operation of the department. Authorized positions and
8 appropriations may be transferred from one budget entity to
9 another as required to implement the reorganization. The
10 provisions of this section are subject to the requirements of
11 section 216.181, Florida Statutes. The commissioner may not
12 establish, abolish, or consolidate bureaus, sections, or
13 subsections after January 31, 2000, unless such action is
14 approved by the Legislature or by law. The commissioner shall
15 provide a report on the reorganization to the President of the
16 Senate, the Speaker of the House of Representatives, the
17 minority leaders of the Senate and the House of
18 Representatives, and the chairs of the education and
19 appropriations committees of the Legislature by January 31,
20 2001. This section is repealed on July 1, 2000.

21 Section 44. Except as otherwise provided herein, this
22 act shall take effect October 1, 1999.

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