

**STORAGE NAME:** h0073z.grr  
**DATE:** June 30, 1999

**\*\*FINAL ACTION\*\***  
**\*\*SEE FINAL ACTION STATUS SECTION\*\***

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE COMMITTEE ON  
GOVERNMENTAL RULES AND REGULATIONS  
FINAL ANALYSIS**

**BILL #:** HB 73 (Passed as CS/CS/SB 230, Chapter No. 99-240, Laws of Florida)

**RELATING TO:** Governmental Reorganization

**SPONSOR(S):** Representative Merchant and others

**COMPANION BILL(S):** 2nd Eng/CS/CS/SB 230 (compare)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
- (2) GOVERNMENTAL RULES AND REGULATIONS YEAS 5 NAYS 2
- (3) GENERAL GOVERNMENT APPROPRIATIONS (W/D)
- (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 9 NAYS 1
- (5)

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**I. FINAL ACTION STATUS:**

HB 73 died on the House calendar on April 30, 1999. Its Senate companion, 2nd Eng/CS/CS/SB 230, passed the Legislature on April 30, 1999. It was signed into law by the Governor on June 8, 1999. See Chapter 99-240, Laws of Florida.

**II. SUMMARY:**

House Bill 73 reorganizes the Department of Labor and Employment Security and requires the Department of Labor and Employment Security to contract with consumer reporting agencies to provide creditors with secured electronic access to employer provided information relating to the quarterly wages report submitted in accordance with the state's unemployment compensation law. The bill authorizes the reorganization of the Department of Education and also provides the Department of Education with an appropriation of \$500,000 from the General Revenue Fund for the FY2000.

The Department of Labor and Employment Security is reorganized so as to operate its programs in a decentralized fashion. This bill creates, within the department, the two Assistant Secretary positions to be appointed by and serve at the pleasure of the Secretary of the Department of Labor and Employment Security. This bill establishes requirements and responsibilities for each of the assistant secretaries. The following offices with concomitant responsibilities are established under the Assistant Secretary for Finance and Administration: Office of Management and Budget, Office of Administration, and Office of Information Systems. The bill establishes the Comptroller as the department's chief financial officer with specific financial management requirements and provides specific qualifications of the individual appointed. It establishes the special offices of the Office of General Counsel and Office of Inspector General. Current divisions within the central office are deleted and are reconstituted under the direction of the Assistant Secretary for Programs and Field Operations: Division of Workforce and Employment Security, Division of Unemployment Compensation, Division of Workers' Compensation, Division of Vocational Rehabilitation, Division of Safety, and Division of Blind Services. Statutory provisions relating to operations of the Division of Safety are repealed July 1, 2000. The Brain and Spinal Cord Injury Program is transferred to the Department of Health. The Division of Blind Services is transferred to the Department of Education January 1, 2001. The bill creates five geographically based field offices.

The bill creates the Occupational Access and Opportunity Commission as the authorized entity to prepare the state vocational rehabilitation plan and to be the receiver of federal vocational rehabilitation funds. The Division of Vocational Rehabilitation is directed to comply with the transitional directions of the commission and if required, to transfers its authority and material to the commission.

The bill provides for a one time reduction-in-force payment to those employees who qualify and directs the department to prepare a reduction-in-force plan. This bill further provides that all actions required of the Department of Labor and Employment Security by this proposed legislation shall be accomplished within available appropriations and existing resources of the Department of Labor and Employment Security.

The bill creates s. 443.1716, F.S., which directs the Department to contract with consumer reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wage reports submitted in accordance with the state's unemployment compensation law.

The Commissioner of Education is authorized to reorganize the Department of Education. The bill creates a Deputy Commissioner for Technology and Administration, creates a Division of Technology within the department, and adds workforce development to the duties of the Deputy Commissioner of Educational Programs. The department is also appropriated \$500,000 from the General Revenue Fund for FY2000.

**III. SUBSTANTIVE ANALYSIS:**

A. PRESENT SITUATION:

**Department of Labor and Employment Security**

Chapter 78-201, L.O.F., removed from the Department of Commerce the Divisions of Labor and Employment Security and created the Department of Labor and Employment Security, including the Division of Labor, Division of Employment Security, Public Employees Relations Commission and Unemployment Appeals Commission.

Statutory authority for the creation of the Department of Labor and Employment Security is found at s. 20.171, F.S. The head of the Department of Labor and Employment Security is the Secretary of Labor and Employment Security, appointed by the Governor subject to confirmation by the Senate. The secretary serves at the pleasure of the Governor.

Seven divisions are currently established within the Department of Labor and Employment Security: Division of Jobs and Benefits, Division of Unemployment Compensation, Division of Administrative Services, Division of Workers' Compensation, Division of Vocational Rehabilitation, Division of Safety, and Division of Blind Services. Two commissions are established within the Department of Labor and Employment Security: the Public Employees Relations Commission and the Unemployment Appeals Commission.

**Access to Certain Wage and Tax Reports of the Division of Unemployment Compensation**

Chapter 443, F.S., the unemployment compensation law, implements the provisions of the Federal Unemployment Tax Act, Chapter 23 of the Internal Revenue Code. The chapter delineates how Florida carries out these federal requirements, especially with regard to the tax on employers, the duration and amount of benefits paid to eligible claimants, procedures to appeal benefit and tax determinations, and the regulation of the Unemployment Compensation Trust Fund. The Division of Unemployment Compensation in the Department of Labor and Employment Security is responsible for implementing the provisions of ch. 443, F.S.

Rule 38B-2.025, F.A.C., provides that employers liable for unemployment compensation contributions must file a quarterly wage and tax report. These reports are due no later than the last day of the month following the calendar quarter for which they apply, and become delinquent on the first working day of the following month. Rule 38B-2.023, F.A.C., requires all reports submitted to the division to include the worker's social security number.

Sections 443.171(7) and 443.1715, F.S. (1998 Supp.), provide that information revealing an individual's identity obtained from an employer or from any individual pursuant to the administration of the unemployment compensation program, and any determination revealing such information, must, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a workers' compensation claim pending, be held confidential and exempt from the Public Records Law [s. 24(a), Art. I, Fla. Const. and s. 119.07(1), F.S.]. This information may be made available only to public employees in the performance of their public duties. Any employee or member of the Unemployment Appeals Commission or any employee of the division, or any other person receiving confidential information, who violates the record's confidentiality, commits a misdemeanor of the second degree, punishable as provided in ss. 775.082 or 775.083, F.S.

The first law affording access to public records was enacted by the Florida Legislature in 1909. In 1992, Floridians voted to adopt an amendment to the Florida Constitution that raised the statutory right of public access to public records to a constitutional level. Article I, s. 24, Florida Constitution, provides:

- (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each

constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the Florida Constitution, Chapter 119, F.S., the Public Records Law, specifies conditions under which public access must be provided to governmental records of the executive branch and other governmental agencies. This law further authorizes the custodian of the records to charge for the costs associated with providing access to these records. Section 119.07(1)(a) and (b), F.S. (1998 Supp.), requires in part:

(a) Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

(b) If the nature or volume of public records requested to be inspected, examined, or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.

The federal Fair Credit Reporting Act (FCRA) regulates the operations of consumer credit reporting agencies and users of consumer reports. 15 U.S.C. § 1681a, provides definitions and rules of construction for the FCRA, and defines the term "consumer reporting agency" as any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

The U.S. Department of Labor's Employment and Training Administration (department) interprets federal law requirements pertaining to unemployment compensation as part of its role in the administration of the federal-state unemployment compensation program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to state employment security agencies. Because of a growing interest by private entities to have electronic access to the wage data collected by states in order to verify income for individuals who apply for loans, the department released UIPL 23-96 in May 1996, advising states of the department's interpretation of federal law in regard to the disclosure of this information to private entities. In this UIPL, the department concluded that states may disclose employment and wage information to a private entity under a written agreement which:

- Requires informed consent from the individual to whom the information pertains;
- Continues to safeguard the information once in the hands of the private entity, and permits states to terminate the agreement if the state determines that the confidentiality provisions are not adhered to; and
- Requires the private entity to pay all costs associated with disclosure.

Furthermore, it is the department's position that income generated by a state unemployment compensation agency from the sale of its wage records must be used only as necessary for the proper and efficient administration of the unemployment compensation program pursuant to administrative requirements for grants to the states. See 29 CFR 97.25(g)(2) and Employment and Training Handbook No. 336, the *Program and Budget Plan*.

To date, Iowa, Minnesota, Texas, North Carolina, and Pennsylvania provide consumer reporting agencies with access to unemployment compensation wage reports.

**Department of Education**

Statutory authority for the creation of the Department of Education is found at s. 20.15, F.S. The head of the Department of Education is the Commissioner of Education, elected by the voters of the State of Florida. The commissioner is part of State Board of Education, the governing board of the department. The department currently has five divisions: Division of Community Colleges, Division of Public Schools and Community Education, Division of Universities, Division of Workforce Development, and Division of Human Resource Development. Section 20.15, F.S., provides for deputy commissioners, the powers and duties of the commissioner, and provides the power to appoint members to those boards of the department not excepted in the section.

**B. EFFECT OF PROPOSED CHANGES:**

**Department of Labor and Employment Security**

The bill reorganizes the Department of Labor and Employment Security as a decentralized agency. It creates the positions of Assistant Secretary for Finance and Administration, Assistant Secretary for Programs and Field Operations. It provides for appointment of these individuals by the Secretary of the department. It establishes requirements and responsibilities for each assistant secretary and specifically requires that the individual appointed to the position of Assistant Secretary for Finance and Administration have a complete understanding of modern financial management practices.

The bill establishes the following offices with responsibilities under the Assistant Secretary for Finance and Administration: Office of Administration, Office of Management and Budget, and Office of Information Systems. It establishes the comptroller as the department's chief financial officer with specific financial management requirements and provides specific qualifications the individual appointed must possess. It establishes the special offices of the Office of General Counsel and Office of Inspector General. It establishes the special offices of the Office of General Counsel and Office of Inspector General.

This bill establishes five geographically based field offices to be under the direction of the Assistant Secretary for Field Operations; establishes the headquarters location of each field office; establishes which Florida Counties each field office will serve; and provides for a manager to head each field office.

This bill deletes the current seven divisions within the central office and reestablishes the divisions within the central office to be under the direction of the Assistant Secretary for Programs and Field Operations. These divisions are: Division of Workforce and Employment Security; Division of Unemployment Compensation; Division of Workers' Compensation; Division of Vocational Rehabilitation; Division of Safety; and Division of Blind Services. Each division shall be headed by a director appointed by and serving at the pleasure of the Secretary of Labor and Employment Security.

Provision is made in the bill for the managers of all divisions and offices, including the Comptroller and the manager of the five field offices, to be exempt from part II of chapter 110, F.S., and to be included in the Senior Management Service in accordance with s. 110.205(2)(l).

The bill repeals Chapter 442, F.S., effective July 1, 2000, which appear to effectively abolish the Division of Safety. The bill provides for a report to the Legislature on the reorganization of the Division of Safety by January 1, 2000. The Brain and Spinal Cord Injury Program is transferred to the Department of Health. The Division of Blind Services is transferred to the Department of Education effective January 1, 2001.

The bill creates the Occupational Access and Opportunity Commission (Commission) and provides for its powers and duties, for the creation of a direct-support organization, for annual audits and reports, and for the Commission to be the federally recognized entity for purposes of vocational rehabilitation. The bill also directs the Division of Vocational Rehabilitation to comply with the transitional direction of the Commission's federally required state vocational rehabilitation plan. The bill also provides for an OPPAGA review of the Commission and submittal of its report by January 1, 2001.

The bill directs the Division of Vocational Rehabilitation to enter into public/private partnerships to the extent that it is beneficial to increasing employment outcomes for persons with disabilities and ensuring their full involvement in the comprehensive workforce investment system.

Finally, the bill makes necessary nomenclature changes in the Florida Statutes as a result of the reorganizational changes reflected in the legislation.

### **Unemployment Compensation**

This bill creates s. 443.1716, F.S., to require the Florida Department of Labor and Employment Security (department) to contract with consumer reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wage reports submitted pursuant to the unemployment compensation law. Such access is subject to s. 119.07(1), F.S., s. 24(a), Art. I, Fla. Const., and the federal Fair Credit Reporting Act (15 U.S.C. s. 1681a), and is limited to the wage reports for the preceding 16 calendar quarters.

The information released under this section may be used only to support a single consumer credit transaction, and qualified creditors must obtain a signed written consent from the credit applicant, which contains:

- Specific notice that the individual's wage and employment history information will be released to an approved consumer reporting agency;
- Notice that such release is made for the sole purpose of reviewing a specific application for credit made by the individual;
- Notice that the files of the department containing wage and employment history information submitted by the individual or his or her employers may be accessed; and
- A listing of the parties authorized to receive the released information.

The department must establish minimum audit, security, net-worth, and liability-insurance standards, technical requirements, and any other terms and conditions considered necessary in the discretion of the department to safeguard the confidentiality of the information released under this section and to otherwise serve the public interest.

Furthermore, in accordance with federal regulations, any additional revenues generated by the department or the state under this section must be paid into the department's trust fund for the administration of the unemployment compensation system.

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

The release of any information under this section must be for a purpose authorized by and in the manner permitted by the U.S. Department of Labor and any subsequent rules or regulations adopted by that department.

### **Department of Education**

The bill authorizes the Commissioner of Education to reorganize the Department of Education at the bureau level, to reassign certain positions, and reallocate duties and functions. The authority to reorganize ceases on January 1, 2000. The bills also creates a Deputy Commissioner for Technology and Administration and a Division of Technology within the department. Finally, the department is appropriated \$500,000 from the General Fund for FY2000.

#### **C. APPLICATION OF PRINCIPLES:**

##### **1. Less Government:**

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

In addition to the rulemaking authority already specifically granted to the department, the department shall, by rule or internal management memoranda as required by chapter 120, provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for prompt payment of the just obligations of the department.

The bill transfers authority for the Brain and Spinal Cord Injury Program and the Office of Disability Determination to the Department of Health, for the Division of Blind Services to the Department of Education, and for the vocational rehabilitation activities of the Division of Vocational Rehabilitation to the Occupational Access and Opportunity Commission but does not enlarge any rulemaking authority now found within the implementing statutes of these programs.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Transfers authority for vocational rehabilitation activities from the Division of Vocational Rehabilitation to the Occupational Access and Opportunity Commission.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Authority for vocational rehabilitation activities are transferred to the Commission.

- (2) what is the cost of such responsibility at the new level/agency?

This bill provides that all actions required by this bill shall be accomplished within available appropriations of the Department of Labor and Employment Security.

- (3) how is the new agency accountable to the people governed?

The members of the Occupational Access and Opportunity Commission are appointed by the Governor, Senate President, and the Speaker of the House.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

This bill does not purport to provide services to families or children.

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

Amending ss. 20.15, 50.171, 110.205, 393.11, 400.805, 410.01245, 442.06, 442.008, 442.013, 442.019, 627.212, and 627.311, F.S. Renumbering ss. 431.465, 413.48, 413.49, 413.507, 413.604, 413.605, and 413.613, F.S. Creating ss 443.1716 and 443.012, F.S. Repealing Chapter 442, F.S., effective July 1, 2000, and s. 440.05, F.S.

**E. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Creates Section 443.1716, Florida Statutes to allow electronic access to employer information contained in the records of the Division of Unemployment Compensation. Requires DLES to contract with consumer-reporting agencies. These agencies will provide creditors with electronic access to employer-provided information relating to quarterly wage reports submitted in accordance with the unemployment compensation program. The division will be required to allow access to 16 quarters of wage data submitted by employers.

Requires qualified creditors to obtain a written and signed consent from the credit applicant that must include the following:

- a. Specific notice that the individual's wage and employment history will be released to a consumer-reporting agency.
- b. Notice that such release is made for the sole purpose of reviewing a specific credit application made by the individual.
- c. Notice that records in DLES containing wage and employment history information submitted by the individual or the individual's employer may be accessed.
- d. A listing of the parties authorized to receive the released information.

The bill provides that the information released by DLES may be used only to support a single consumer credit transaction for a subscriber and can be used only to satisfy standard financial underwriting requirements and the subscriber's obligations under applicable state and federal Fair Credit Reporting laws and rules.

The bill requires DLES to establish minimum audit, security, net-worth, and liability standards, technical requirements and any other terms and conditions considered necessary in the department's discretion to safeguard the confidentiality of the information released. Requires DLES to coordinate with any necessary state agency to create audit procedures to ensure compliance by the consumer-reporting agency.



DLES is prohibited from providing any information to a consumer-reporting agency before such agency with whom DLES has a contract pays all developmental and start-up costs incurred by the state in connection with the design, installation, and administration of technological systems and procedures for electronic access to the data source.

The release of any information under this section must be in a manner permitted by the U.S. Department of Labor.

Provides that the term consumer-reporting agency has the same meaning as set forth in the Federal Fair Credit Reporting Act, 15 U.S.C. s. 1681a.

**Section 2.** Amends s. 20.171, F.S.; providing that the department shall operate its programs in a decentralized fashion; providing for the appointment of two assistant secretaries who shall be appointed by and serve at the pleasure of the Secretary of Labor and Employment Security; establishing the titles of Assistant Secretary for Finance and Administration and Assistant Secretary for Programs and Field Operations; providing that the Secretary may assign any assistant secretary the responsibility of supervising, coordinating, and formulating policy for any division, office, or field office; establishing special offices within the department to be headed by managers, each of whom shall be appointed by and serve at the pleasure of the Secretary; establishing the Office of General Counsel, Office of Inspector General; designating five field offices to be involved in the administration and management of the department's programs for workers' compensation, jobs and benefits, and unemployment compensation; providing for the five field offices to be headed by managers appointed by and serving at the pleasure of the Secretary; providing that the managers of all divisions and offices including field offices are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(I), F.S.; and providing that no other assistant secretaries or senior management positions at or above the division level, except those established in chapter 110, may be created without specific legislative authority.

Providing for duties and responsibilities of the Assistant Secretary for Finance and Administration to include: developing, monitoring, and enforcing policy and managing major technical programs; financial planning and management; information systems; accounting systems; and administrative functions. Providing for the establishment of the following offices, under the Assistant Secretary for Finance and Administration, to be headed by managers: the Office of Administration; the Office of Management and Budget; and the Office of Information Systems.

Delineating the following knowledge and skills that the Assistant Secretary for Finance and Management must possess: broad knowledge of the administrative, financial, and technical aspects of a complete cost-accounting system; budget preparation and management; management information systems; proven, effective manager with specialized skills in financial planning and management; and the ability to ensure that financial information is processed in a timely, accurate, and complete manner. The following responsibilities are assigned to the Assistant Secretary for Finance and Management to be implemented by December 1, 1999: the preparation of detailed documentation of the internal controls, including general and application controls, the department relies on for accurate and complete financial information; the monthly reconciliation of the department's accounting, planning and budgeting, cash forecasting, and grants-in-aid program; the development of a long-range information systems plan for the department which addresses the computing and informational requirements of the five field offices and the special offices; and identification and quantification of financial, personnel, and technical resources, as appropriate.

Providing for the appointment of a comptroller who shall be responsible to the Secretary and shall be exempt from part II of chapter 110. Providing that the comptroller is the chief financial officer of the department and shall be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system; requiring a working knowledge of generally accepted accounting principles; and holding an active license to practice public accounting in Florida pursuant to chapter 473 or an active license to practice public accounting in another state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system which will in a timely manner accurately reflect the revenues

and expenditures of the department and which shall include a cost-accounting system to properly identify, segregate, allocate, and report department costs; supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and be responsible for managing and determining cash requirements; review all comparative cost studies which examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data; and provide that the comptroller may be required to give bond pursuant to s. 20.059(4), F.S.

Additionally providing that the department shall, by rule or internal management memoranda as required by chapter 120, provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, disclosing: the several appropriations available for the use of the department; specific amounts of each such appropriation budgeted by the department for each improvement or purpose; apportionment or division of all such appropriations among the several counties and field offices, when such apportionment or division is made; the amount or portion of each such apportionment against contractual and other obligations of the department; expenditures and encumbrances in connection with each contractual and other obligation of the department; receipts accruing to the department and their distribution; assets, liabilities, and investments of the department; cash requirements of the department for a 36-month period; maintenance of a separate account for each fund administered by the department; and the performance of such other related duties as may be designated by the department.

Establishing that the Assistant Secretary for Programs and Field Operations is responsible for developing, monitoring, enforcing policy, and managing major technical programs in the following functional areas: workers' compensation management and policy, jobs and benefits management and policy, unemployment compensation management and policy, and blind services management and policy; establishing the following divisions to be headed by directors supervised by and shall be responsible to the Assistant Secretary for Programs and Field Operations: Workforce and Employment Security, Unemployment Compensation, Workers' Compensation, Vocational Rehabilitation, Safety and Blind Services; and providing that the Assistant Secretary for Programs and Field Operations must possess a broad knowledge of the administrative, financial, and technical aspects of the divisions within the department.

Establishing the following field offices headed by managers:

Field Office I -- Panama City, which shall serve the counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Calhoun, Gulf, Liberty, Franklin, Wakulla, Leon, Gadsden, and Jefferson. **[N.B.** 2nd Eng/CS/CS/SB 230 mistakenly references Jefferson County twice. This mistake had been corrected in previous committee amendments to both the House and Senate bills to provide for reference to Jackson and Jefferson Counties but it appears not to have been followed through in the floor amendments to the Senate bill.]

Field Office II -- Lake City, which shall serve the counties of Madison, Taylor, Dixie, Lafayette, Suwannee, Hamilton, Columbia, Baker, Union, Bradford, Clay, St. Johns, Duval, Nassau, Alachua, Putnam, Marion, Levy, Gilchrist, and Flagler.

Field Office III -- Orlando, which shall serve the counties of Volusia, Lake, Seminole, Orange, Sumter, Brevard, Osceola, Indian River, Highlands, St. Lucie, Okeechobee, and Martin.

Field Office IV -- Tampa, which shall serve the counties of Citrus, Hernando, Pasco, Pinellas, Hillsborough, Polk, Hardee, Manatee, Sarasota, DeSoto, Charlotte, and Lee.

Field Office V -- Miami, which shall serve the counties of Palm Beach, Glades, Hendry, Collier, Broward, Monroe, and Dade.

Deletes reference to the Unemployment Appeals Commission (recreated in section 11 of the bill as section 443.012, F.S.).

**Section 3.** Amends s. 110.205(2)(I), F.S., providing that the positions described in s. 20.171 as exempt be included in the Senior Management Service.

**Section 4.** Creates an unnumbered section providing that all actions required by the bill shall be accomplished within available appropriations of the Department of Labor and Employment Security.

**Section 5.** Amends s. 393.11(1), F.S., removing an incorrect reference to Health and Rehabilitative Services and a reference to the Division of Vocational Rehabilitation, a division that is deleted in the bill.

**Section 6.** Amends s. 410.0245, F.S., removing an incorrect reference to Health and Rehabilitative Services.

**Section 7.** Amends s. 442.06, F.S. (1998 Supp.), to provide that the Division of Safety shall only conduct investigations of public-sector places of employment.

**Section 8.** Amends s. 442.008, F.S. (1998 Supp.), to provide that the Division of Safety authority is limited to public-sector places of employment.

**Section 9.** Amends s. 442.013, F.S. to provide that the Division of Safety shall only impose penalties on public-sector employers.

**Section 10.** Amends s. 442.019, F.S., to limit compliance with the provisions of Chapter 442 to public sector employers.

**Section 11.** Creates s. 443.012, F.S., the authority for the Unemployment Appeals Commission.

**Section 12.** Amends s. 627.212, F.S., to remove reference to the Division of Safety.

**Section 13.** Amends s. 627.311(4)(b) - (c), F.S., removing a reference to the Division of Safety.

**Section 14.** Repeals Chapter 442, F.S., effective July 1, 2000. Provides that those sections of Chapter 442, F.S., relating to the Division of Safety are repealed effective July 1, 2000, and that the DLES shall submit a report to the Governor and Legislature by January 1, 2000, on the reorganization of the Division of Safety based on the criteria found in this section.

**Section 15.** Transfers the brain and spinal cord injury program and the Office of Disability Determinations from the Department of Labor to the Department of Health by a type two transfer pursuant to s. 20.06, F.S.

**Section 16.** Amends s. 400.805 to remove reference to the Division of Vocational Rehabilitation and substitute reference to the Department of Health with respect to the operation of this statute section.

**Section 17.** Renumbers s.413.465, F.S. as s. 381.73, F.S., pursuant to the transfer of the brain and spinal cord injury program to the Department of Health.

**Section 18.** Renumbers s.413.48, F.S. as s. 381.74, F.S., pursuant to the transfer of the brain and spinal cord injury program to the Department of Health.

**Section 19.** Renumbers s.413.49, F.S. as s. 381.75, F.S., pursuant to the transfer of the brain and spinal cord injury program to the Department of Health.

**Section 20.** Renumbers s.413.507, F.S. as s. 381.76, F.S., pursuant to the transfer of the brain and spinal cord injury program to the Department of Health.

**Section 21.** Renumbers s.413.604, F.S. as s. 381.77, F.S., pursuant to the transfer of the brain and spinal cord injury program to the Department of Health.

**Section 22.** Renumbers s.413.605, F.S. as s. 381.78, F.S., pursuant to the transfer of the brain and spinal cord injury program to the Department of Health.

**Section 23.** Renumbers s.413.613, F.S. as s. 381.79, F.S., pursuant to the transfer of the brain and spinal cord injury program to the Department of Health.

**Section 24.** Directs the Division of Vocational Rehabilitation to enter into public-private partnerships to the extent that it is beneficial to increasing employment outcomes for persons with disabilities and ensuring their full involvement in the comprehensive workforce investment system.

**Section 25.** Provides for legislative intent for the establishment of the Occupational Access and Opportunity Commission (hereinafter Commission).

**Section 26.** Provides definitions as used in sections 24 through 36 of the act.

**Section 27.** Provides for the creation, purpose, and membership of the Commission.

**Section 28.** Provides for the powers and duties of the Commission.

**Section 29.** Provides for the establishment of a direct-support organization (DSO) if the Commission elects to designate such an organization as its administrative entity.

**Section 30.** Provides for an annual audit of the direct-support organization by an independent certified public accountant and for the submittal of the audit to the appropriate public agencies, and for quarterly reports from the DSO to the Commission.

**Section 31.** Provides for an annual report prepared by the Commission and submitted to the appropriate legislative officers, and provides that the Auditor General may conduct an audit of the Commission or its DSO

**Section 32.** Provides that the Commission is authorized to submit federally required state vocational rehabilitation plans.

**Section 33.** Directs the Division of Vocational Rehabilitation to comply with the transitional direction of the plan (developed by the Commission). If the Commission designates an administrative entity other than the Division, then all powers, duties, functions of and all related records, property, and equipment and all contractual rights, obligations of, and unexpended balances of appropriations and other funds or allocation of the division's component programs are to be transferred by a type two transfer pursuant to s. 20.06, F.S.

**Section 34.** Provides that the Department of Labor may offer a "one-time voluntary reduction -in-force payment" to those employees of the department that qualify under the criteria described in the bill. The section also provides for development of a reduction-in-force plan by the department in consultation with the Department of Management Services and with the approval of the Office of Planning and Budgeting.

**Section 35.** Provides that the Commission is to assure that the designated administrative entity and providers of direct service maintain an internal system of quality assurance, have proved functional systems, and are subject to a due-diligence inquiry for their fitness to undertake service responsibilities regardless of whether a contract for services is competitively or noncompetitively procured.

**Section 36.** Provides for the legislative intent. Provides that where a provision of the act conflicts with federal requirements, the Commission shall submit to the applicable federal agency a request for a favorable policy interpretation of the conflicting portions. If the request is approved, the Commission shall make adjustments to the (federally required state vocational rehabilitation) plan after providing an explanation of the alternatives to the Legislature.

**Section 37.** Designates the Commission as the official state agency for the purposes of effecting compliance with the Rehabilitation Act of 1973.

**Section 38.** Directs OPPAGA to conduct a review of the Commission and its designated administrative entity based on criteria found in the section and submit the report to the Legislature and the Governor by January 1, 2002.

**Section 39.** Transfers the Division of Blind Services from the Department of Labor to the Department of Education by a type two transfer pursuant to s. 20.06, F.S., effective January 1, 2001.

**Section 40.** Repeals s. 440.05, F.S. (1998 Supp.).

**Section 41.** Appropriates \$500,000 from the General Revenue Fund to the Department of Education for FY2000.

**Section 42.** Amends section 20.15(2) and (3), F.S. (1998 Supp.), to include workforce development in the description of the powers and duties of the Deputy Commissioner of Educational Programs, to create a Deputy Commissioner for Technology and Administration and prescribe powers and duties for that position, and to create a Division of Technology within the Department of Education.

**Section 43.** Provides the Commissioner of Education with the authority to reorganize the department, reallocate duties and functions, and to reassign certain positions within the department to promote efficient and effective operation of the department. The authority expires January 1, 2000. The commissioner is to report to the Legislature on the reorganization by January 31, 2001. The section is repealed on July 1, 2000.

**Section 44.** Provides, except as otherwise provided within the bill, an effective date of October 1, 1999.

#### IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

##### A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

Fiscal information provided within this document refers to HB 73 in the form it was considered in the House Committee on Transportation and Economic Development on April 20, 1999. It does not consider the fiscal impact of:

- the authorization of the department to contract with consumer reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wages reports;
- the transfers of the brain and spinal cord injury program, Office of Disability Determination, or the Division of Blind Services;
- the reorganization of the state's vocational rehabilitation programs;
- the department's reduction-in-force program as authorized by this bill; and
- the unspecified reorganization of the Department of Education, the creation of an additional deputy commissioner of education position, and a new division of technology within the Department of Education.

##### 1. Non-recurring Effects:

All action required of the Department of Labor and Employment Security by this bill are to be accomplished within available appropriations of the Department of Labor and Employment Security.

##### 2. Recurring Effects:

All actions required of the Department of Labor and Employment Security by this bill are to be accomplished within available appropriations of the Department of Labor and Employment Security. However, the reduction of regional offices from 8 to 5 regions, may require the closing of field offices. The department estimates that the cost of vacated lease space could

be as much as \$1.3 million in FY 1999-2000. If the department is given flexibility to extend the implementation of the regional offices, the impact to the department will be minimum.

The department will experience a revenue impact, which is estimated at \$1.3 million as a result of adding fifteen management positions needed for the five regional offices. However, some of the impact can be accommodated by deleting approximately 34 positions from the field offices. The department will also need some ability to transfer/delete positions as needed to minimize the direct fiscal impact to the individual divisions that are affected.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

The Department of Labor and Employment Security was appropriated a total of \$2,629.6 million from all funds for 1998-99. This bill requires that all actions required by the legislation are to be accomplished within available appropriations of the department.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

Section 4 of this bill provides that all actions required by this bill shall be accomplished within available appropriations of the Department of Labor and Employment Security.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

E. APPLICABILITY OF THE MANDATES PROVISION:

This bill will not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

F. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

G. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its February 17, 1999, meeting, the Committee on Governmental Operations adopted five amendments to HB 73.

Amendment 1 is a technical amendment adopted by the committee to correct a statutory citation that was drafted in error.

Amendment 2 is a technical amendment adopted by the committee to remove the county of Jefferson which was included twice as drafted and replace it with the proper reference to the county of Jackson.

Amendment 3 is a technical amendment adopted by the committee to remove two references to the Department of Health and Rehabilitative Services and replace them with proper references to the Department of Children and Family Services.

Amendment 4 is a major substantive amendment adopted by the committee as a result of the Division of Vocational Rehabilitation being eliminated in the bill. This amendment establishes legislative intent regarding individuals with disabilities; provides for definitions; establishes the Commission on Occupational Access and Opportunity within the Office of Tourism, Trade and Economic Development; provides for members appointed by the Governor; defines the purpose of the commission to design and implement a 5-year plan to increase career opportunities of Floridians with disabilities, increasing their employment and personal income; provides a deadline for holding the first meeting of the commission; provides for advisory committees to the commission; provides for reimbursement of reasonable and necessary expenses of members of the commission in attending meetings and performing their duties; provides for financial disclosure of members; provides for powers and duties of the commission; includes provisions for the establishment of a direct-support organization to support the commission's work; provides for community-based private rehabilitation providers of services to the disabled; provides for performance standards and measurable outcomes; provides for justification reviews by the Office of Program Policy Analysis and Government Accountability (OPPAGA); provides for operational duties and responsibilities of the direct-support organization (Occupational Access and Opportunity Corporation); provides for a board of directors of the corporation; provides for powers and duties of the corporation; permits use of commission property by the corporation; provides for annual audits of the commission and corporation; and provides for a direct service sunset of the Division of Vocational Rehabilitation on June 30, 2000.

Amendment 5 removes Tampa as the headquarters location for the Region IV Field Office and replaces it with St. Petersburg.

The Committee on Governmental Rules and Regulations adopted a strike-everything amendment that conformed the bill to its Senate companion, CS/SB 230 at its meeting on March 17, 1999. Major changes include:

- Establishment of field offices in Pensacola, Jacksonville, Orlando, Ft. Lauderdale, and Miami;
- Renames the Division of Jobs and Benefits as the Division of Workforce and Employment Opportunities;
- Keeps the Division of Vocational Rehabilitation in place but directs the Department to provide, by January 1, 2000, a report to the Governor and Legislature on organizational improvements

to the delivery of vocational rehabilitation services to the citizens of the state, where such report examines:

- the development of model performance contracting and payment systems which reward quality outcomes;
- the development of complete cost recovery systems which effectively allocate accountability for case management costs on the basis of standardized reporting units;
- a reconfiguration of additional internal reporting relationships and responsibilities which minimize central administrative costs and hierarchical levels of approval;
- training and staff development improvements which permit agency employees to function as quality managers for the evaluation of direct service providers;
- required changes to maintain single state agency recognition by federal grant-in-aid agencies while providing for flexible and adaptable performance-based delivery systems; and
- reimbursement and management systems which direct funds toward program recipients and away from administration and management;
- Directs the Division of Vocational Rehabilitation to enter into local public/private partnerships to the extent that it is beneficial to increasing employment outcomes for persons with disabilities and ensuring their full involvement in the comprehensive workforce investment system;
- Repeals those sections of Chapter 442, F.S., relating to occupational safety and health, that provide the statutory basis for operations of the Division of Safety effective July 1, 2000, and directs the Department to provide by January 1, 2000, a report to the Governor and Legislature on the proposed reauthorization of the Division based on the following criteria:
  - a review of external requirements mandating the State of Florida provide a state agency for employment safety issues;
  - a review of internal organizational requirements which necessitate a state agency for safety issues and a review of state agency practices for the provision of existing safety-related activities;
  - preparation of a compilation of best practices among public and private employers which achieve safety results without the creation of a governmental regulatory apparatus; and
  - a review of the appropriateness of a management by exception system in which the division functions as a contract performance auditor for the development of internal risk and safety management issues among employers;
- Transfers the Brain and Spinal Cord Injury program from the Department of Labor and Employment Security to the Department of Health; and
- Transfers the statutory basis for the Unemployment Appeals Commission from s. 20.171, F.S., to s. 443.012, F.S., so to create the Commission in Chapter 443, F.S., relating to unemployment compensation.

Note that House Committee on Governmental Operations amendment number four is not incorporated into this strike-everything amendment because the maintenance of the Division of Vocational Rehabilitation obviates the need to create an organization elsewhere in state government to operate vocational rehabilitation programs.

The Committee on Governmental Rules and Regulations voted on March 8, 1999, to report the bill, as amended, unfavorably, with a vote of three yeas and three nays; the Committee left HB 73 pending a motion for reconsideration. On March 17, 1999, the Committee reconsidered its vote on the bill, and reported the bill, as amended, favorably on a vote of five yeas and two nays.

On April 20, 1999 the Committee on Transportation and Economic Development Appropriations adopted a strike-everything amendment with two amendments to the strike-everything amendment. Highlights of the strike-everything amendment are as follows:

- ▶ Establishes three assistant secretaries within the department: Assistant Secretary for Finance and Administration, Assistant Secretary for Programs and Assistance Secretary for Field Operations.
- ▶ Establishes five field offices and names the location
- ▶ Defines the functional responsibilities for all of the Assistant Secretaries
- ▶ Establishes offices supervised by the Assistant Secretary for Finance and Administration.



- ▶ Defines the comptroller as the chief financial officer and to hold an active license to practice public accounting
- ▶ Limits services to the public sector in the Division of Safety
- ▶ Creates the Unemployment Appeals Commission and its duties and responsibilities
- ▶ Transfers the Brain and Spinal Cord Injury Program and the Office of Disability Determinations to the Department of Health by a type two transfer.
- ▶ Allows the Division of Vocational Rehabilitation to enter into local public-private partnerships
- ▶ Establishes an Occupational Access and Opportunity Commission in the Executive Office of the Governor
- ▶ Directs the Commission to submit a plan on the use of Individual Training Accounts
- ▶ Authorizes the Commission to prepare and submit the federally required state vocational rehabilitation plans
- ▶ Provides an effected of July 1, 1999.

Amendment 1 transfers the Division of Blind Services from the Department of Labor and Employment Security to the Department of Education by a type two transfer

Amendment 2 directs the Assistant Secretary for Programs to be responsible for supervising the Bureau of Appeals of the Division of Unemployment Compensation.

The changes have a significant fiscal impact to the department. The strike all amendment will impact the department as follows:

Impacts to Division of Administration:

- Based on administrative cost contribution for 1999-2000 in the Division of Administration for Blind Services, Office of Disability Determination, and Vocational Rehabilitation the transfer of these entities would reduce \$4.8 Million.
- Included in the proposed 1999-2000 Proposed General Appropriations Act for Department of Labor is 330 positions and 15.4 million in funding for the Division of Administration. In fiscal year 1999-2000, the department must absorb a \$2.9 million reduction resulting federal funding reduction (not as a result HB 73) expected in the Division of Jobs & Benefits resulting in a total reduction of \$7.7 million.
- The resulting reduction in the Division of Administration's funding is approximately 50%. The Divisions of Unemployment Compensation, Workers Compensation, And Jobs and Benefits are the major functions which remain in the Department requiring administration. According to the Department these entities represent greater than 50% of its current administrative duties.

Cost of Vacated Leases:

- Consolidation of eight to five districts will incur \$1.3 million in vacated lease costs in FY 1999-2000 with recurring but decreasing costs over the next two years as the department closes out its leases.
- The transfer of the Division of Vocational Rehabilitation does not result in vacated leases unless it is decided to contract with some entity other than the Department.

Data Processing:

- HB 73 in its amended form does not require the Division of Vocational Rehabilitation to contract with the Department of Labor's Information Management Center for its data processing. The fixed costs allocated supported by the Vocational Rehabilitation program are \$1.5 million and would need to be recouped from another Division if the Vocational Rehabilitation program contracted its data processing from an entity other than the department.

Potential Loss of Federal Funding: Transfer of Vocational Rehabilitation

- A letter dated April 16, 1999, from the U.S. Department of Education Rehabilitative Services Administration clarifying the impacts of an amendment SB 230, stated that the transfer may jeopardizes continued funding by the state/federal vocational rehab program, currently over \$100

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Million in federal funds. According to the letter there are specific responsibilities and functions that can not be delegated to any other agency or individual.

VII. SIGNATURES:

**COMMITTEE ON GOVERNMENTAL OPERATIONS:**

Prepared by:

Staff Director:

Jimmy O. Helms

Jimmy O. Helms

**AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:**

Prepared by:

Staff Director:

David M. Greenbaum

David M. Greenbaum

**AS FURTHER REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:**

Prepared by:

Staff Director:

Loretta Darity

Eliza Hawkins

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:**

Prepared by:

Staff Director:

David M. Greenbaum

David M. Greenbaum