

By Representatives Merchant, Feeney, Warner, Villalobos, Barreiro, Cantens, Andrews, Bitner, Wallace, K. Smith and Minton

1 A bill to be entitled
 2 An act relating to the Department of Labor and
 3 Employment Security; amending s. 20.171, F.S.;
 4 providing that the department shall operate its
 5 programs in a decentralized fashion; providing
 6 for the appointment of three assistant
 7 secretaries; providing for the powers and
 8 duties of such secretaries; providing for the
 9 creation of field offices; revising divisions
 10 within the department; amending s. 110.205,
 11 F.S.; providing that certain employees of the
 12 department shall be in the Senior Management
 13 Service; providing that certain actions
 14 contemplated by the act shall be done within
 15 the available resources of the department;
 16 amending ss. 393.11, 400.805, 410.0245,
 17 410.604, 413.034, 413.445, 442.003, 442.014,
 18 442.20, 553.512, 627.0915, 627.212, and
 19 627.311, F.S., to conform; repealing s.
 20 442.023, F.S., to conform; providing an
 21 effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 20.171, Florida Statutes, 1998
 26 Supplement, is amended to read:
 27 20.171 Department of Labor and Employment
 28 Security.--There is created a Department of Labor and
 29 Employment Security. The department shall operate its programs
 30 in a decentralized fashion.
 31

1 (1) The head of the Department of Labor and Employment
2 Security is the Secretary of Labor and Employment Security.
3 The secretary shall be appointed by the Governor subject to
4 confirmation by the Senate. The secretary shall serve at the
5 pleasure of the Governor.

6 (2) There shall be three assistant secretaries who
7 shall be appointed by and serve at the pleasure of the
8 Secretary of Labor and Employment Security. The assistant
9 secretaries shall be titled Assistant Secretary for Finance
10 and Administration, Assistant Secretary for Programs, and
11 Assistant Secretary for Field Operations. The Secretary of
12 Labor and Employment Security may assign any assistant
13 secretary the responsibility of supervising, coordinating, and
14 formulating policy for any division, office, or field office.
15 The following special offices are established within the
16 department to be headed by managers, each of whom shall be
17 appointed by and serve at the pleasure of the Secretary of
18 Labor and Employment Security: the Office of General Counsel,
19 the Office of Inspector General, and the Office of the
20 Executive Staff Director. There shall be five field offices
21 involved in the administration and management of the
22 department's programs for workers' compensation, jobs and
23 benefits, and unemployment compensation. The five field
24 offices shall be headed by managers, each of whom shall be
25 appointed by and serve at the pleasure of the Secretary of
26 Labor and Employment Security. The managers of all divisions
27 and offices specifically named in this section and the
28 directors of the five field offices are exempt from part II of
29 chapter 110 and are included in the Senior Management Service
30 in accordance with s. 110.205(2)(1). No other assistant
31 secretaries or senior management positions at or above the

1 division level, except those established in chapter 110, may
2 be created without specific legislative authority.

3 (a) The Assistant Secretary for Finance and
4 Administration is responsible for developing, monitoring, and
5 enforcing policy and managing major technical programs.

6 1. The responsibilities and duties of the Assistant
7 Secretary for Finance and Administration include, but are not
8 limited to, the following functional areas:

9 a. Financial planning and management.

10 b. Information systems.

11 c. Accounting systems.

12 d. Administrative functions.

13 2. The following offices are established and shall be
14 headed by managers:

15 a. The Office of Administration.

16 b. The Office of Comptroller.

17 c. The Office of Management and Budget.

18 d. The Office of Civil Rights.

19 e. The Office of Information Systems.

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

1 Administration shall include, but are not limited to,
2 implementing the following by December 1, 1999:
3 1. The preparation of detailed documentation of the
4 internal controls, including general and application controls,
5 the department relies on for accurate and complete financial
6 information.
7 2. The monthly reconciliation of the department's
8 accounting, planning and budgeting, cash forecasting, and
9 grants-in-aid program.
10 3. The development of a long-range information systems
11 plan for the department which addresses the computing and
12 informational requirements of the five field and special
13 offices. Financial, personnel, and technical resources must
14 all be identified and quantified, as appropriate.
15 (c) Within the central office there is created an
16 Office of Management and Budget. The head of the Office of
17 Management and Budget is responsible to the Assistant
18 Secretary for Finance and Administration and is exempt from
19 part II of chapter 110. The functions of the Office of
20 Management and Budget include, but are not limited to:
21 1. Financial planning.
22 2. Preparation of the department budget.
23 3. Coordination of related policies and procedures.
24 4. The development of uniform implementation and
25 monitoring procedures for all activities performed at the
26 field office level involving the budget and agency programs.
27 (d)1. The Secretary of Labor and Employment Security
28 shall appoint a comptroller who shall be responsible to the
29 Assistant Secretary for Finance and Administration. This
30 position is exempt from part II of chapter 110.
31

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

28 3. The comptroller must give bond in the amount of
29 \$100,000, payable to the Governor and his or her successors in
30 office, to be approved by the Department of Banking and
31 Finance and conditioned upon the faithful performance of his

1 or her duties. The premiums of such bond shall be paid from
2 the funds for the maintenance of the department.

3 4. The department shall, by rule or internal
4 management memoranda as required by chapter 120, provide for
5 the maintenance by the comptroller of financial records and
6 accounts of the department as will afford a full and complete
7 check against the improper payment of bills and provide a
8 system for the prompt payment of the just obligations of the
9 department, which records must at all times disclose:

10 a. The several appropriations available for the use of
11 the department.

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

14 c. The apportionment or division of all such
15 appropriations among the several counties and field offices,
16 when such apportionment or division is made.

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

19 e. The amount expended and the amount still to be
20 expended in connection with each contractual and other
21 obligations of the department.

22 f. The expense and operating costs of the various
23 activities of the department.

24 g. The receipts accruing to the department and the
25 distribution thereof.

26 h. The assets, investments, and liabilities of the
27 department.

28 i. The cash requirements of the department of a
29 36-month period.

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

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

3 (e) The Assistant Secretary for Programs is
4 responsible for developing, monitoring, and enforcing policy
5 and managing major technical programs. The responsibilities
6 and duties of the Assistant Secretary for Programs include,
7 but are not limited to, the following functional areas:

8 1.a. Workers' compensation management and policy.

9 b. Jobs and benefits management and policy.

10 c. Unemployment compensation management and policy.

11 d. Blind services management and policy.

12 2. The following divisions are established and shall
13 be headed by managers, each of whom shall be appointed by and
14 serve at the pleasure of the Secretary of Labor and Employment
15 Security:

16 a. Division of Jobs and Benefits.

17 b. Division of Unemployment Compensation.

18 c. Division of Workers' Compensation.

19 d. Division of Blind Services.

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

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

29 1.a. Oversight of the five field offices.

30 b. Workers' compensation policy implementation.

31 c. Jobs and benefits policy implementation.

- 1 d. Unemployment compensation policy implementation.
2 2. The following field offices are established and
3 shall be headed by managers:
4 a. Field Office I--Panama City, which shall serve the
5 following counties: Escambia, Santa Rosa, Okaloosa, Walton,
6 Holmes, Washington, Bay, Jefferson, Calhoun, Gulf, Liberty,
7 Franklin, Wakulla, Leon, Gadsden, and Jefferson.
8 b. Field Office II--Lake City, which shall serve the
9 following counties: Madison, Taylor, Dixie, Lafayette,
10 Suwannee, Hamilton, Columbia, Baker, Union, Bradford, Clay,
11 St. Johns, Duval, Nassau, Alachua, Putnam, Marion, Levy,
12 Gilchrist, and Flagler.
13 c. Field Office III--Orlando, which shall serve the
14 following counties: Volusia, Lake, Seminole, Orange, Sumter,
15 Brevard, Osceola, Indian River, Highlands, St. Lucie,
16 Okeechobee, and Martin.
17 d. Field Office IV--Tampa, which shall serve the
18 following counties: Citrus, Hernando, Pasco, Pinellas,
19 Hillsborough, Polk, Hardee, Manatee, Sarasota, DeSoto,
20 Charlotte, and Lee.
21 e. Field Office V--Miami, which shall serve the
22 following counties: Palm Beach, Glades, Hendry, Collier,
23 Broward, Monroe, and Dade.
24 (h) The Assistant Secretary for Field Operations must
25 possess a broad knowledge of the administrative, financial,
26 and technical aspects of the divisions within the department.
27 ~~(2) The following divisions, and bureaus within the~~
28 ~~divisions, of the Department of Labor and Employment Security~~
29 ~~are established:~~
30 ~~(a) Division of Jobs and Benefits.~~
31 ~~(b) Division of Unemployment Compensation.~~

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

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

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

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

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

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

8 (a) Public Employees Relations Commission.

9 (b) Unemployment Appeals Commission.

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

21 1. The chair shall devote his or her entire time to
22 commission duties and shall be responsible for the
23 administrative functions of the commission.

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

28 3. The chair shall have the qualifications required by
29 law for a judge of the circuit court and shall not engage in
30 any other business vocation or employment. Notwithstanding any
31 other provisions of existing law, the chair shall be paid a

1 salary equal to that paid under state law to a judge of the
2 circuit court.

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

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

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

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

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

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

29 (f) The commission shall make such expenditures,
30 including expenditures for personal services and rent at the
31 seat of government and elsewhere; for law books, books of

1 reference, periodicals, furniture, equipment, and supplies;
2 and for printing and binding as may be necessary in exercising
3 its authority and powers and carrying out its duties and
4 responsibilities. All such expenditures of the commission
5 shall be allowed and paid as provided in s. 443.211 upon the
6 presentation of itemized vouchers therefor, approved by the
7 chair.

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

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

20 (i) The commission shall prepare and submit a budget
21 covering the necessary administrative cost of the commission.

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

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

30 (l) Orders of the commission relating to unemployment
31 compensation under chapter 443 shall be subject to review only

1 by notice of appeal to the district courts of appeal in the
2 manner provided in s. 443.151(4)(e).

3 Section 2. Paragraph (1) of subsection (2) of section
4 110.205, Florida Statutes, is amended to read:

5 110.205 Career service; exemptions.--

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

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

31

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

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

6 393.11 Involuntary admission to residential
7 services.--

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

26 Section 5. Section 400.805, Florida Statutes, 1998
27 Supplement, is amended to read:

28 400.805 Transitional living facilities.--

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

30 (a) "Agency" means the Agency for Health Care
31 Administration.

1 ~~(b) "Division" means the Division of Vocational~~
2 ~~Rehabilitation of the Department of Labor and Employment~~
3 ~~Security.~~

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

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

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

18 (c) The agency may not issue a license to an applicant
19 until the agency receives notice from the Department of Labor
20 and Employment Security ~~division~~ as provided in paragraph
21 (5)(b).

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

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

1 client care and services. The applicant must comply with the
2 procedures for level 2 background screening as set forth in
3 chapter 435.

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

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

15 (d) A provisional license may be granted to an
16 applicant when each individual required by this section to
17 undergo background screening has met the standards for the
18 abuse registry background check and the Department of Law
19 Enforcement background check, but the agency has not yet
20 received background screening results from the Federal Bureau
21 of Investigation, or a request for a disqualification
22 exemption has been submitted to the agency as set forth in
23 chapter 435, but a response has not yet been issued. A
24 standard license may be granted to the applicant upon the
25 agency's receipt of a report of the results of the Federal
26 Bureau of Investigation background screening for each
27 individual required by this section to undergo background
28 screening which confirms that all standards have been met, or
29 upon the granting of a disqualification exemption by the
30 agency as set forth in chapter 435. Any other person who is
31 required to undergo level 2 background screening may serve in

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

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

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

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

8 (h) The agency may deny or revoke licensure if the
9 applicant:

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

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

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

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

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

27 (6)(a) The agency shall adopt rules in consultation
28 with the Department of Labor and Employment Security ~~division~~
29 governing the physical plant of transitional living facilities
30 and the fiscal management of transitional living facilities.

31

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

10 (c) The agency and the Department of Labor and
11 Employment Security division shall enforce requirements under
12 this section, as such requirements relate to them
13 respectively, and their respective adopted rules.

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

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

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

25 Section 6. Paragraph (a) of subsection (1) of section
26 410.0245, Florida Statutes, is amended to read:

27 410.0245 Study of service needs; report; multiyear
28 plan.--

29 (1)(a) The Aging and Adult Services Program Office of
30 the Department of Children and Family Health and
31 ~~Rehabilitative~~ Services shall contract for a study of the

1 service needs of the 18-to-59-year-old disabled adult
2 population served or waiting to be served by the community
3 care for disabled adults program. The ~~Division of Vocational~~
4 ~~Rehabilitation of the~~ Department of Labor and Employment
5 Security and other appropriate state agencies shall provide
6 information to the Department of Children and Family Health
7 ~~and Rehabilitative~~ Services when requested for the purposes of
8 this study.

9 Section 7. Subsection (2) of section 410.604, Florida
10 Statutes, is amended to read:

11 410.604 Community care for disabled adults program;
12 powers and duties of the department.--

13 (2) Any person who meets the definition of a disabled
14 adult pursuant to s. 410.603(2) is eligible to receive the
15 services of the community care for disabled adults program.
16 However, the community care for disabled adults program shall
17 operate within the funds appropriated by the Legislature.
18 Priority shall be given to disabled adults who are not
19 eligible for comparable services in programs of or funded by
20 the department or ~~the Division of Vocational Rehabilitation of~~
21 the Department of Labor and Employment Security; who are
22 determined to be at risk of institutionalization; and whose
23 income is at or below the existing institutional care program
24 eligibility standard.

25 Section 8. Subsection (1) of section 413.034, Florida
26 Statutes, is amended to read:

27 413.034 Commission established; membership.--

28 (1) There is created within the Department of
29 Management Services the Commission for Purchase from the Blind
30 or Other Severely Handicapped, to be composed of the secretary
31 of the Department of Management Services, ~~and the director of the~~

1 ~~Division of Vocational Rehabilitation of the Department of~~
2 ~~Labor and Employment Security, who shall be an ex officio~~
3 ~~member with voting rights;~~the director of the Division of
4 Blind Services of the Department of Labor and Employment
5 Security, and four members to be appointed by the Governor,
6 which four members shall be an executive director of a
7 nonprofit agency for the blind, an executive director of a
8 nonprofit agency for other severely handicapped persons, a
9 representative of private enterprise, and a representative of
10 other political subdivisions. All appointed members shall
11 serve for terms of 4 years. Appointed commission members
12 shall serve subject to confirmation by the Senate.

13 Section 9. Subsection (1) of section 413.445, Florida
14 Statutes, is amended to read:

15 413.445 Recovery of third-party payments for
16 vocational rehabilitation and related services.--

17 (1) As used in this section, "vocational
18 rehabilitation and related services" means any services which
19 are provided or paid for by ~~the Division of Vocational~~
20 ~~Rehabilitation of the Department of Labor and Employment~~
21 Security.

22 Section 10. Section 442.003, Florida Statutes, is
23 amended to read:

24 442.003 Legislative intent.--It is the intent of the
25 Legislature to enhance occupational safety and health in this
26 state through the implementation and maintenance of policies,
27 procedures, practices, rules, and standards that reduce the
28 incidence of employee accidents, occupational diseases, and
29 fatalities compensable under chapter 440. The Legislature
30 further intends that ~~the Division of Safety of the Department~~
31 of Labor and Employment Security develop a means by which it

1 can identify individual employers with a high frequency or
2 severity of work-related injuries; conduct safety inspections
3 of those employers; and assist those employers in the
4 development and implementation of employee safety and health
5 programs. In addition, it is the intent of the Legislature
6 that ~~the Division of Safety~~ of the Department of Labor and
7 Employment Security administer the provisions of this chapter;
8 provide assistance to employers, employees, and insurance
9 carriers; and enforce the policies, rules, and standards set
10 forth in this chapter.

11 Section 11. Section 442.014, Florida Statutes, is
12 amended to read:

13 442.014 Division cooperation with Federal Government
14 ~~exemption from Division of Safety requirements.--~~

15 (1) The division shall cooperate with the Federal
16 Government so that duplicate inspections will be avoided yet
17 assure safe places of employment for the citizens of this
18 state.

19 ~~(2) Except as provided in this section, a private~~
20 ~~sector employer is not subject to the requirements of the~~
21 ~~Division of Safety if:~~

22 ~~(a) The employer is subject to the federal regulations~~
23 ~~in 29 C.F.R. ss. 1910 and 1926; and~~

24 ~~(b) The employer has adopted and implemented a written~~
25 ~~safety program that conforms to the requirements of 29 C.F.R.~~
26 ~~ss. 1910 and 1926; and~~

27 ~~(c) An employer with 20 or more full-time employees~~
28 ~~shall include provisions for a safety committee in the safety~~
29 ~~program. The safety committee must include employee~~
30 ~~representation and must meet at least once each calendar~~
31 ~~quarter. The employer must make adequate records of each~~

1 ~~meeting and maintain the records subject to inspections under~~
2 ~~subsection (3). The safety committee shall, if appropriate,~~
3 ~~make recommendations regarding improvements to the safety~~
4 ~~program and corrections of hazards affecting workplace safety;~~
5 ~~and~~

6 ~~(d) The employer provides the Division of Safety with~~
7 ~~a written statement that certifies compliance with this~~
8 ~~subsection.~~

9 ~~(3) The Division of Safety may enter at any reasonable~~
10 ~~time any place of employment for the purposes of verifying the~~
11 ~~accuracy of the written certification. If the Division of~~
12 ~~Safety determines that the employer has not complied with the~~
13 ~~requirements of subsection (2), the employer shall be subject~~
14 ~~to the rules of the Division of Safety until the employer~~
15 ~~complies with subsection (2) and recertifies that fact to the~~
16 ~~Division of Safety.~~

17 ~~(4) This section shall not restrict the Division of~~
18 ~~Safety from performing any duties pursuant to a written~~
19 ~~contract between the Division of Safety and the Federal~~
20 ~~Occupational Safety and Health Administration (OSHA).~~

21 Section 12. Section 442.023, Florida Statutes, is
22 repealed.

23 Section 13. Section 442.20, Florida Statutes, 1998
24 Supplement, is amended to read:

25 442.20 Workplace safety.--

26 (1) The ~~Division of Safety~~ within the Department of
27 Labor and Employment Security shall assist in making the
28 workplace a safer place to work and decreasing the frequency
29 and severity of on-the-job injuries.

30 (2) The ~~department~~ Division of Safety shall have the
31 authority to adopt rules for the purpose of assuring safe

1 working conditions for all workers by authorizing the
2 enforcement of effective standards, assisting and encouraging
3 employers to maintain safe working conditions, and by
4 providing for education and training in the field of safety.

5 (3) The provisions of chapter 440 which pertain to
6 workplace safety shall be applicable to the department
7 ~~Division of Safety~~.

8 ~~(4) The administrative rules of the Department of~~
9 ~~Labor and Employment Security pertaining to the function of~~
10 ~~the Bureau of Industrial Safety and Health which are in effect~~
11 ~~immediately before July 1, 1990, continue in effect as rules~~
12 ~~of the Division of Safety until specifically amended by the~~
13 ~~Department of Labor and Employment Security.~~

14 Section 14. Subsection (1) of section 553.512, Florida
15 Statutes, is amended to read:

16 553.512 Modifications and waivers; advisory council.--

17 (1) The Florida Board of Building Codes and Standards
18 shall provide by regulation criteria for granting individual
19 modifications of, or exceptions from, the literal requirements
20 of this part upon a determination of unnecessary,
21 unreasonable, or extreme hardship, provided such waivers shall
22 not violate federal accessibility laws and regulations and
23 shall be reviewed by the Handicapped Accessibility Advisory
24 Council consisting of the following seven members, who shall
25 be knowledgeable in the area of handicapped accessibility.
26 The Secretary of Community Affairs shall appoint the
27 following: a representative from the Advocacy Center for
28 Persons with Disabilities, Inc.; a representative from the
29 ~~Division of Blind Services; a representative from the Division~~
30 ~~of Vocational Rehabilitation;~~ a representative from a
31 statewide organization representing the physically

1 handicapped; a representative from the hearing impaired; a
2 representative from the President, Florida Council of
3 Handicapped Organizations; and a representative of the
4 Paralyzed Veterans of America. The terms for the first three
5 council members appointed subsequent to October 1, 1991, shall
6 be for 4 years, the terms for the next two council members
7 appointed shall be for 3 years, and the terms for the next two
8 members shall be for 2 years. Thereafter, all council member
9 appointments shall be for terms of 4 years. No council member
10 shall serve more than two 4-year terms subsequent to October
11 1, 1991. Any member of the council may be replaced by the
12 secretary upon three unexcused absences. Upon application
13 made in the form provided, an individual waiver or
14 modification may be granted by the board so long as such
15 modification or waiver is not in conflict with more stringent
16 standards provided in another chapter.

17 Section 15. Section 627.0915, Florida Statutes, 1998
18 Supplement, is amended to read:

19 627.0915 Rate filings; workers' compensation,
20 drug-free workplace, and safe employers.--The Department of
21 Insurance shall approve rating plans for workers' compensation
22 insurance that give specific identifiable consideration in the
23 setting of rates to employers that either implement a
24 drug-free workplace program pursuant to rules adopted by the
25 Division of Workers' Compensation of the Department of Labor
26 and Employment Security or implement a safety program approved
27 ~~by the Division of Safety~~ pursuant to rules adopted by ~~the~~
28 ~~Division of Safety~~ of the Department of Labor and Employment
29 Security or implement both a drug-free workplace program and a
30 safety program. The Department of Labor and Employment
31 Security ~~Division of Safety~~ may by rule require that the

1 client of a help supply services company comply with the
2 essential requirements of a workplace safety program as a
3 condition for receiving a premium credit. The plans must take
4 effect January 1, 1994, must be actuarially sound, and must
5 state the savings anticipated to result from such drug-testing
6 and safety programs.

7 Section 16. Section 627.212, Florida Statutes, is
8 amended to read:

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

20 Section 17. Paragraph (b) of subsection (4) of section
21 627.311, Florida Statutes, 1998 Supplement, is amended to
22 read:

23 627.311 Joint underwriters and joint reinsurers.--

24 (4)

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

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

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

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

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

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

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

14

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

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

30

31

- 1 1. Authorize the board to engage in the activities
2 necessary to implement this subsection, including, but not
3 limited to, borrowing money.
- 4 2. Develop criteria for eligibility for coverage by
5 the plan, including, but not limited to, documented rejection
6 by at least two insurers which reasonably assures that
7 insureds covered under the plan are unable to acquire coverage
8 in the voluntary market. Any insured may voluntarily elect to
9 accept coverage from an insurer for a premium equal to or
10 greater than the plan premium if the insurer writing the
11 coverage adheres to the provisions of s. 627.171.
- 12 3. Require notice from the agent to the insured at the
13 time of the application for coverage that the application is
14 for coverage with the plan and that coverage may be available
15 through an insurer, group self-insurers' fund, commercial
16 self-insurance fund, or assessable mutual insurer through
17 another agent at a lower cost.
- 18 4. Establish programs to encourage insurers to provide
19 coverage to applicants of the plan in the voluntary market and
20 to insureds of the plan, including, but not limited to:
- 21 a. Establishing procedures for an insurer to use in
22 notifying the plan of the insurer's desire to provide coverage
23 to applicants to the plan or existing insureds of the plan and
24 in describing the types of risks in which the insurer is
25 interested. The description of the desired risks must be on a
26 form developed by the plan.
- 27 b. Developing forms and procedures that provide an
28 insurer with the information necessary to determine whether
29 the insurer wants to write particular applicants to the plan
30 or insureds of the plan.
- 31

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

23 21. Establish agent commission schedules.

24 22. Establish three subplans as follows:

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

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

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

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

7 Section 18. This act shall take effect July 1, 1999.

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HOUSE SUMMARY

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12 Reorganizes the Department of Labor and Employment
13 Security as a decentralized agency. Creates the
14 positions of Assistant Secretary for Finance and
15 Administration, Assistant Secretary for Programs, and
16 Assistant Secretary for Field Operations. Establishes
17 requirements and responsibilities for each assistant and
18 specifically requires that the individual appointed to
19 the role of Assistant Secretary for Finance and
20 Administration have a complete understanding of modern
21 financial management practices. Establishes the
22 following offices with responsibilities under the
23 Assistant Secretary for Finance and Administration:
24 Office of Comptroller, Office of Management and Budget,
25 and Office of Administration. Establishes the comptroller
26 as the department's chief financial officer with specific
27 financial management requirements and provides specific
28 qualifications of the individual appointed. Establishes
29 five geographically based field offices to be under the
30 direction of the Assistant Secretary for Field
31 Operations. Establishes divisions within the central
office to be under the direction of the Assistant
Secretary for Programs. Provides that all actions
required by the act are to be made within existing agency
resources. See bill for details.

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