

Bill No. CS for CS for SB 1206

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Kirkpatrick moved the following amendment:

Senate Amendment (with title amendment)

On page 73, between lines 25 and 26,

insert:

Section 48. Effective October 1, 2000, section 215.311, Florida Statutes, is amended to read:

215.311 State funds; exceptions.--The provisions of s. 215.31 shall not apply to funds collected by and under the direction and supervision of the Division of Blind Services of the Department of Management Services ~~Labor and Employment Security~~ as provided under ss. 413.011, 413.041, and 413.051; however, nothing in this section shall be construed to except from the provisions of s. 215.31 any appropriations made by the state to the division.

Section 49. Effective October 1, 2000, subsection (1) of section 413.091, Florida Statutes, is amended to read:

413.091 Identification cards.--

(1) The Division of Blind Services of the Department of Management Services ~~Labor and Employment Security~~ is hereby

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1 empowered to issue identification cards to persons known to be
2 blind or partially sighted, upon the written request of such
3 individual.

4 Section 50. Subsection (3) of section 440.102, Florida
5 Statutes, is amended to read:

6 440.102 Drug-free workplace program requirements.--The
7 following provisions apply to a drug-free workplace program
8 implemented pursuant to law or to rules adopted by the Agency
9 for Health Care Administration:

10 (3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.--

11 (a) One time only, prior to testing, an employer shall
12 give all employees and job applicants for employment a written
13 policy statement which contains:

14 1. A general statement of the employer's policy on
15 employee drug use, which must identify:

16 a. The types of drug testing an employee or job
17 applicant may be required to submit to, including
18 reasonable-suspicion drug testing or drug testing conducted on
19 any other basis.

20 b. The actions the employer may take against an
21 employee or job applicant on the basis of a positive confirmed
22 drug test result.

23 2. A statement advising the employee or job applicant
24 of the existence of this section.

25 3. A general statement concerning confidentiality.

26 4. Procedures for employees and job applicants to
27 confidentially report to a medical review officer the use of
28 prescription or nonprescription medications to a medical
29 review officer both before and after being tested.

30 5. A list of the most common medications, by brand
31 name or common name, as applicable, as well as by chemical

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1 name, which may alter or affect a drug test. A list of such
2 medications as developed by the Agency for Health Care
3 Administration shall be available to employers through the
4 Division of Workers' Compensation of the Department of
5 Insurance ~~Labor and Employment Security~~.

6 6. The consequences of refusing to submit to a drug
7 test.

8 7. A representative sampling of names, addresses, and
9 telephone numbers of employee assistance programs and local
10 drug rehabilitation programs.

11 8. A statement that an employee or job applicant who
12 receives a positive confirmed test result may contest or
13 explain the result to the medical review officer within 5
14 working days after receiving written notification of the test
15 result; that if an employee's or job applicant's explanation
16 or challenge is unsatisfactory to the medical review officer,
17 the medical review officer shall report a positive test result
18 back to the employer; and that a person may contest the drug
19 test result pursuant to law or to rules adopted by the Agency
20 for Health Care Administration.

21 9. A statement informing the employee or job applicant
22 of his or her responsibility to notify the laboratory of any
23 administrative or civil action brought pursuant to this
24 section.

25 10. A list of all drugs for which the employer will
26 test, described by brand name or common name, as applicable,
27 as well as by chemical name.

28 11. A statement regarding any applicable collective
29 bargaining agreement or contract and the right to appeal to
30 the Public Employees Relations Commission or applicable court.

31 12. A statement notifying employees and job applicants

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1 of their right to consult with a medical review officer for
2 technical information regarding prescription or
3 nonprescription medication.

4 (b) An employer not having a drug-testing program
5 shall ensure that at least 60 days elapse between a general
6 one-time notice to all employees that a drug-testing program
7 is being implemented and the beginning of actual drug testing.
8 An employer having a drug-testing program in place prior to
9 July 1, 1990, is not required to provide a 60-day notice
10 period.

11 (c) An employer shall include notice of drug testing
12 on vacancy announcements for positions for which drug testing
13 is required. A notice of the employer's drug-testing policy
14 must also be posted in an appropriate and conspicuous location
15 on the employer's premises, and copies of the policy must be
16 made available for inspection by the employees or job
17 applicants of the employer during regular business hours in
18 the employer's personnel office or other suitable locations.

19 Section 51. Subsection (1) of section 440.125, Florida
20 Statutes, is amended to read:

21 440.125 Medical records and reports; identifying
22 information in employee medical bills; confidentiality.--

23 (1) Any medical records and medical reports of an
24 injured employee and any information identifying an injured
25 employee in medical bills which are provided to the Division
26 of Workers' Compensation of the Department of Insurance Labor
27 ~~and Employment Security~~ pursuant to s. 440.13 are confidential
28 and exempt from the provisions of s. 119.07(1) and s. 24(a),
29 Art. I of the State Constitution, except as otherwise provided
30 by this chapter.

31 Section 52. Paragraph (a) of subsection (11) of

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1 section 440.13, Florida Statutes, is amended to read:

2 440.13 Medical services and supplies; penalty for
3 violations; limitations.--

4 (11) AUDITS BY DIVISION; JURISDICTION.--

5 (a) The Division of Workers' Compensation of the
6 Department of Insurance ~~Labor and Employment Security~~ may
7 investigate health care providers to determine whether
8 providers are complying with this chapter and with rules
9 adopted by the division, whether the providers are engaging in
10 overutilization, and whether providers are engaging in
11 improper billing practices. If the division finds that a
12 health care provider has improperly billed, overutilized, or
13 failed to comply with division rules or the requirements of
14 this chapter it must notify the provider of its findings and
15 may determine that the health care provider may not receive
16 payment from the carrier or may impose penalties as set forth
17 in subsection (8) or other sections of this chapter. If the
18 health care provider has received payment from a carrier for
19 services that were improperly billed or for overutilization,
20 it must return those payments to the carrier. The division may
21 assess a penalty not to exceed \$500 for each overpayment that
22 is not refunded within 30 days after notification of
23 overpayment by the division or carrier.

24 Section 53. Paragraph (f) of subsection (4) and
25 paragraph (b) of subsection (5) of section 440.25, Florida
26 Statutes, are amended to read:

27 (4)

28 (f) Each judge of compensation claims is required to
29 submit a special report to the Chief Judge in each contested
30 workers' compensation case in which the case is not determined
31 within 14 days of final hearing. Said form shall be provided

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1 by the Chief Judge and shall contain the names of the judge of
2 compensation claims and of the attorneys involved and a brief
3 explanation by the judge of compensation claims as to the
4 reason for such a delay in issuing a final order. The Chief
5 Judge shall compile these special reports into an annual
6 public report to the Governor, the Insurance Commissioner
7 ~~Secretary of Labor and Employment Security~~, the Legislature,
8 The Florida Bar, and the appellate district judicial
9 nominating commissions.

10 (5)

11 (b) An appellant may be relieved of any necessary
12 filing fee by filing a verified petition of indigency for
13 approval as provided in s. 57.081(1) and may be relieved in
14 whole or in part from the costs for preparation of the record
15 on appeal if, within 15 days after the date notice of the
16 estimated costs for the preparation is served, the appellant
17 files with the judge of compensation claims a copy of the
18 designation of the record on appeal, and a verified petition
19 to be relieved of costs. A verified petition filed prior to
20 the date of service of the notice of the estimated costs shall
21 be deemed not timely filed. The verified petition relating to
22 record costs shall contain a sworn statement that the
23 appellant is insolvent and a complete, detailed, and sworn
24 financial affidavit showing all the appellant's assets,
25 liabilities, and income. Failure to state in the affidavit all
26 assets and income, including marital assets and income, shall
27 be grounds for denying the petition with prejudice. The
28 division shall promulgate rules as may be required pursuant to
29 this subsection, including forms for use in all petitions
30 brought under this subsection. The appellant's attorney, or
31 the appellant if she or he is not represented by an attorney,

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1 shall include as a part of the verified petition relating to
2 record costs an affidavit or affirmation that, in her or his
3 opinion, the notice of appeal was filed in good faith and that
4 there is a probable basis for the District Court of Appeal,
5 First District, to find reversible error, and shall state with
6 particularity the specific legal and factual grounds for the
7 opinion. Failure to so affirm shall be grounds for denying the
8 petition. A copy of the verified petition relating to record
9 costs shall be served upon all interested parties, including
10 the division and the Office of the General Counsel, Department
11 of Insurance ~~Labor and Employment Security~~, in Tallahassee.
12 The judge of compensation claims shall promptly conduct a
13 hearing on the verified petition relating to record costs,
14 giving at least 15 days' notice to the appellant, the
15 division, and all other interested parties, all of whom shall
16 be parties to the proceedings. The judge of compensation
17 claims may enter an order without such hearing if no objection
18 is filed by an interested party within 20 days from the
19 service date of the verified petition relating to record
20 costs. Such proceedings shall be conducted in accordance with
21 the provisions of this section and with the workers'
22 compensation rules of procedure, to the extent applicable. In
23 the event an insolvency petition is granted, the judge of
24 compensation claims shall direct the division to pay record
25 costs and filing fees from the Workers' Compensation Trust
26 Fund pending final disposition of the costs of appeal. The
27 division may transcribe or arrange for the transcription of
28 the record in any proceeding for which it is ordered to pay
29 the cost of the record. In the event the insolvency petition
30 is denied, the judge of compensation claims may enter an order
31 requiring the petitioner to reimburse the division for costs

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1 incurred in opposing the petition, including investigation and
2 travel expenses.

3 Section 54. Section 440.525, Florida Statutes, is
4 amended to read:

5 440.525 Examination of carriers.--~~Beginning July 1,~~
6 ~~1994,~~The Division of Workers' Compensation of the Department
7 of Insurance ~~Labor and Employment Security~~ may examine each
8 carrier as often as is warranted to ensure that carriers are
9 fulfilling their obligations under the law, and shall examine
10 each carrier not less frequently than once every 3 years. The
11 examination must cover the preceding 3 fiscal years of the
12 carrier's operations and must commence within 12 months after
13 the end of the most recent fiscal year being covered by the
14 examination. The examination may cover any period of the
15 carrier's operations since the last previous examination.

16 Section 55. Subsections (1) and (2) of section 440.59,
17 Florida Statutes, are amended to read:

18 440.59 Reporting requirements.--

19 (1) The Department of Insurance ~~Labor and Employment~~
20 ~~Security~~ shall annually prepare a report of the administration
21 of this chapter for the preceding calendar year, including a
22 detailed statement of the receipts of and expenditures from
23 the fund established in s. 440.50 and a statement of the
24 causes of the accidents leading to the injuries for which the
25 awards were made, together with such recommendations as the
26 department considers advisable. On or before September 15 of
27 each year, the department shall submit a copy of the report to
28 the Governor, the President of the Senate, the Speaker of the
29 House of Representatives, the Democratic and Republican
30 Leaders of the Senate and the House of Representatives, and
31 the chairs of the legislative committees having jurisdiction

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1 over workers' compensation.

2 (2) The Division of Workers' Compensation of the
 3 Department of Insurance ~~Labor and Employment Security~~ shall
 4 complete on a quarterly basis an analysis of the previous
 5 quarter's injuries which resulted in workers' compensation
 6 claims. The analysis shall be broken down by risk
 7 classification, shall show for each such risk classification
 8 the frequency and severity for the various types of injury,
 9 and shall include an analysis of the causes of such injuries.
 10 The division shall distribute to each employer and
 11 self-insurer in the state covered by the Workers' Compensation
 12 Law the data relevant to its workforce. The report shall also
 13 be distributed to the insurers authorized to write workers'
 14 compensation insurance in the state.

15

16 (Redesignate subsequent sections.)

17

18

19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 On page 9, line 11, after the semicolon

22

23 insert:

24 amending ss. 215.311, 413.091, 440.102,
 25 440.125, 440.13, 440.25, 440.525, and 440.59,
 26 F.S.; conforming agency references to reflect
 27 the transfer of programs from the Department of
 28 Labor and Employment Security to the Department
 29 of Management Services and the Department of
 30 Insurance;

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