

By the Committee on Commerce and Economic Opportunities; and
Senator Kirkpatrick

310-2036A-00

1 A bill to be entitled
2 An act relating to labor and employment
3 security; repealing s. 20.171, F.S., relating
4 to the authority and organizational structure
5 of the Department of Labor and Employment
6 Security; providing for a type two transfer of
7 the Division of Workers' Compensation to the
8 Department of Insurance; amending s. 20.13,
9 F.S.; providing for a Division of Workers'
10 Compensation in the Department of Insurance;
11 providing for a type two transfer of the
12 Division of Unemployment Compensation to the
13 Department of Revenue; providing an exception;
14 providing for a type two transfer of
15 unemployment appeals referees to the
16 Unemployment Appeals Commission; providing for
17 a type two transfer of certain functions of the
18 Division of Workforce and Employment
19 Opportunities relating to labor organizations
20 and child labor to the Department of Business
21 and Professional Regulation; providing for a
22 type two transfer of certain functions of the
23 Division of Workforce and Employment
24 Opportunities relating to migrant and farm
25 labor registration to the Department of
26 Agriculture and Consumer Services; creating the
27 Florida Task Force on Workplace Safety;
28 prescribing membership of the task force;
29 providing a purpose for the task force;
30 providing for staffing, administration, and
31 information sharing; requiring a report;

1 providing for termination of the task force;
2 amending s. 39 of ch. 99-240, Laws of Florida;
3 providing for the transfer of the Division of
4 Blind Services to the Department of Management
5 Services rather than the Department of
6 Education; revising the effective date of such
7 transfer; providing legislative intent on the
8 transfer of functions of the Department of
9 Labor and Employment Security; providing for
10 reemployment assistance to dislocated
11 department employees; providing for hiring
12 preferences for such employees; providing for
13 hiring freezes; providing for the transfer of
14 certain records and funds; creating the Labor
15 and Employment Security Transition Team;
16 prescribing membership of the transition team;
17 providing for staffing; requiring reports;
18 providing for the termination of the transition
19 team; amending s. 287.09451, F.S.; reassigning
20 the Minority Business Advocacy and Assistance
21 Office of the Department of Management
22 Services; conforming provisions; amending s.
23 20.15, F.S.; establishing the Division of
24 Occupational Access and Opportunity within the
25 Department of Education; providing that the
26 Occupational Access and Opportunity Commission
27 is the director of the division; requiring the
28 department to assign certain powers, duties,
29 responsibilities, and functions to the
30 division; excepting from appointment by the
31 Commissioner of Education members of the

1 commission, the Florida Rehabilitation Council,
2 and the Florida Independent Living Council;
3 amending s. 120.80, F.S.; providing that
4 hearings on certain vocational rehabilitation
5 determinations by the Occupational Access and
6 Opportunity Commission need not be conducted by
7 an administrative law judge; amending s.
8 413.011, F.S.; revising the internal
9 organizational structure of the Division of
10 Blind Services; requiring the division to
11 implement the provisions of a 5-year plan;
12 requiring the division to contract with
13 community-based rehabilitation programs for the
14 delivery of certain services; revising
15 references to blind persons; providing
16 definitions for the terms "community-based
17 rehabilitation program," "council," and "plan";
18 renaming the Advisory Council for the Blind;
19 revising the membership and functions of the
20 council to be consistent with federal law;
21 requiring the council to prepare a 5-year
22 strategic plan; requiring the council to
23 coordinate with specified entities; deleting
24 provisions providing for the Governor to
25 resolve funding disagreements between the
26 division and the council; directing that
27 meetings be held in locations accessible to
28 individuals with disabilities; amending s.
29 413.014, F.S.; requiring the Division of Blind
30 Services to report on use of community-based
31 programs to deliver services; amending s.

1 413.034, F.S.; revising the membership of the
2 Commission for Purchase from the Blind or Other
3 Severely Handicapped to conform to transfer of
4 the Division of Blind Services and the transfer
5 and renaming of the Division of Vocational
6 Rehabilitation; amending ss. 413.051, 413.064,
7 413.066, 413.067, F.S.; conforming departmental
8 references to reflect the transfer of the
9 Division of Blind Services to the Department of
10 Management Services; expressing the intent of
11 the Legislature that the provisions of this act
12 relating to blind services not conflict with
13 federal law; providing procedures in the event
14 such conflict is asserted; amending s. 413.82,
15 F.S.; providing definitions for the terms
16 "community rehabilitation provider," "plan,"
17 and "state plan"; conforming references;
18 amending s. 413.83, F.S.; specifying that
19 appointment of members to the commission is not
20 subject to Senate confirmation; revising
21 composition of and appointments to the
22 commission; eliminating a requirement that the
23 Rehabilitation Council serve the commission;
24 authorizing the commission to establish an
25 advisory council composed of representatives
26 from not-for-profit organizations under certain
27 conditions; clarifying the entitlement of
28 commission members to reimbursement for certain
29 expenses; amending s. 413.84, F.S.; designating
30 the commission as the director of the Division
31 of Occupational Access and Opportunity;

1 specifying responsibilities of the commission;
2 authorizing the commission to make
3 administrative rules; authorizing the
4 commission to hire a division director;
5 revising time for implementation of the 5-year
6 plan prepared by the commission; expanding the
7 authority of the commission to contract with
8 the corporation; removing a requirement for
9 federal approval to contract with a
10 direct-support organization; authorizing the
11 commission to appear on its own behalf before
12 the Legislature; amending s. 413.85, F.S.;
13 eliminating limitations on the tax status of
14 the Occupational Access and Opportunity
15 Corporation; specifying that the corporation is
16 not an agency for purposes of certain
17 government procurement laws; applying
18 provisions relating to waiver of sovereign
19 immunity to the corporation; providing that the
20 board of directors of the corporation be
21 composed of no fewer than seven and no more
22 than 15 members and that a majority of its
23 members be members of the commission;
24 authorizing the corporation to hire certain
25 individuals employed by the Division of
26 Vocational Rehabilitation; providing for a
27 lease agreement governing such employees;
28 prescribing terms of such lease agreement;
29 amending s. 413.86, F.S.; conforming an
30 organizational reference; amending s. 413.87,
31 F.S.; conforming provision to changes made in

1 the act; amending s. 413.88, F.S.; conforming
2 provision to changes made in the act; amending
3 s. 413.89, F.S.; designating the department the
4 state agency effective July 1, 2000, and the
5 commission the state agency effective October
6 1, 2000, for purposes of federal law; deleting
7 an obsolete reference; authorizing the
8 department and the commission to provide for
9 continued administration during the time
10 between July 1, 2000, and October 1, 2000;
11 amending s. 413.90, F.S.; deleting provision
12 relating to designation of an administrative
13 entity; designating a state agency and state
14 unit for specified purposes; transferring the
15 Division of Vocational Rehabilitation to the
16 Department of Education through a type two
17 transfer; requiring a reduction in positions;
18 providing for a budget amendment; amending s.
19 413.91, F.S.; deleting reference to designated
20 administrative entity; requiring the commission
21 to assure that all contractors maintain quality
22 control and are fit to undertake
23 responsibilities; amending s. 413.92, F.S.;
24 specifying entities answerable to the Federal
25 Government in the event of a conflict with
26 federal law; repealing s. 413.93, F.S.,
27 relating to the designated state agency under
28 federal law; amending s. 440.02, F.S.;
29 conforming the definitions of "department" and
30 "division" to the transfer of the Division of
31 Workers' Compensation to the Department of

1 Insurance; amending s. 440.207, F.S.;
2 conforming a departmental reference; amending
3 s. 440.385, F.S.; deleting obsolete provisions;
4 conforming departmental references relating to
5 the Florida Self-Insurance Guaranty
6 Association, Inc.; amending s. 440.44, F.S.;
7 conforming provisions; amending s. 440.4416,
8 F.S.; reassigning the Workers' Compensation
9 Oversight Board to the Department of Insurance;
10 amending s. 440.45, F.S.; reassigning the
11 Office of the Judges of Compensation Claims to
12 the Department of Insurance; amending s.
13 440.49, F.S.; reassigning responsibility for a
14 report on the Special Disability Trust Fund to
15 the Department of Insurance; amending s.
16 443.012, F.S.; providing for the Unemployment
17 Appeals Commission to be created within the
18 Department of Management Services rather than
19 the Department of Labor and Employment
20 Security; conforming provisions; providing for
21 the transfer of the Unemployment Appeals
22 Commission to the Department of Management
23 Services by a type two transfer; amending s.
24 443.036, F.S.; conforming the definition of
25 "commission" to the transfer of the
26 Unemployment Appeals Commission to the
27 Department of Management Services; conforming
28 the definition of "division" to the transfer of
29 the Division of Unemployment Compensation to
30 the Department of Revenue; amending s. 443.151,
31 F.S.; providing for unemployment compensation

1 | appeals referees to be appointed by the
2 | Unemployment Appeals Commission; requiring the
3 | Department of Management Services to provide
4 | facilities to the appeals referees and the
5 | commission; requiring the Division of
6 | Unemployment Compensation to post certain
7 | notices in one-stop career centers; amending s.
8 | 443.171, F.S.; conforming duties of the
9 | Division of Unemployment Compensation and
10 | appointment of the Unemployment Compensation
11 | Advisory Council to reflect program transfer to
12 | the Department of Revenue; conforming
13 | cross-references; amending s. 443.211, F.S.;
14 | conforming provisions; authorizing the
15 | Unemployment Appeals Commission to approve
16 | payments from the Employment Security
17 | Administration Trust Fund; providing for use of
18 | funds in the Special Employment Security
19 | Administration Trust Fund by the Unemployment
20 | Appeals Commission and the Agency for Workforce
21 | Innovation; amending ss. 447.02, 447.04,
22 | 447.041, 447.045, 447.06, 447.12, 447.16, F.S.;
23 | providing for part I of ch. 447, F.S., relating
24 | to the regulation of labor organizations, to be
25 | administered by the Department of Business and
26 | Professional Regulation; deleting references to
27 | the Division of Jobs and Benefits and the
28 | Department of Labor and Employment Security;
29 | amending s. 447.203, F.S.; clarifying the
30 | definition of professional employee; amending
31 | s. 447.205, F.S.; conforming provisions to

1 reflect the transfer of the Public Employees
2 Relations Commission to the Department of
3 Management Services and deleting obsolete
4 provisions; amending s. 447.208, F.S.;
5 clarifying the procedure for appeals, charges,
6 and petitions; amending s. 447.305, F.S.,
7 relating to the registration of employee
8 organizations; providing for the Public
9 Employees Relations Commission to share
10 registration information with the Department of
11 Business and Professional Regulation; amending
12 s. 447.307, F.S.; authorizing the commission to
13 modify existing bargaining units; amending s.
14 447.503, F.S.; clarifying procedures; amending
15 s. 447.504, F.S.; authorizing the commission to
16 stay certain procedures; providing for the
17 transfer of the commission to the Department of
18 Management Services by a type two transfer;
19 repealing s. 447.609, F.S., relating to
20 representation in commission cases; amending
21 ss. 450.012, 450.061, 450.081, 450.095,
22 450.121, 450.132, 450.141, F.S.; providing for
23 part I of ch. 450, F.S., relating to child
24 labor, to be administered by the Department of
25 Business and Professional Regulation; deleting
26 references to the Division of Jobs and Benefits
27 and the Department of Labor and Employment
28 Security; amending s. 450.191, F.S., relating
29 to the duties of the Executive Office of the
30 Governor with respect to migrant labor;
31 conforming provisions to changes made by the

1 act; amending ss. 450.28, 450.30, 450.31,
2 450.33, 450.35, 450.36, 450.37, 450.38, F.S.,
3 relating to farm labor registration; providing
4 for part III of ch. 450, F.S., to be
5 administered by the Department of Agriculture
6 and Consumer Services; deleting references to
7 the Division of Jobs and Benefits and the
8 Department of Labor and Employment Security;
9 authorizing the Department of Labor and
10 Employment Security to offer a voluntary
11 reduction-in-force payment to certain
12 employees; requiring a plan to meet specified
13 criteria; providing for legislative review;
14 providing for the continuation of contracts or
15 agreements of the Department of Labor and
16 Employment Security; providing for a successor
17 department, agency, or entity to be substituted
18 for the Department of Labor and Employment
19 Security as a party in interest in pending
20 proceedings; providing for severability;
21 providing a conditional effective date.

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

24
25 Section 1. Section 20.171, Florida Statutes, is
26 repealed.

27 Section 2. The Division of Workers' Compensation is
28 transferred by a type two transfer, as defined in section
29 20.06(2), Florida Statutes, from the Department of Labor and
30 Employment Security to the Department of Insurance. Prior to
31 effecting the transfer under this section, the Department of

1 Labor and Employment Security shall reduce by 25 percent the
2 number of staff in the division to be transferred to the
3 Department of Insurance who are not engaged in directly
4 providing services to customers or in supervising the direct
5 provision of services.

6 Section 3. Subsection (2) of section 20.13, Florida
7 Statutes, is amended to read:

8 20.13 Department of Insurance.--There is created a
9 Department of Insurance.

10 (2) The following divisions of the Department of
11 Insurance are established:

12 (a) Division of Insurer Services.

13 (b) Division of Insurance Consumer Services.

14 (c) Division of Agents and Agencies Services.

15 (d) Division of Rehabilitation and Liquidation.

16 (e) Division of Risk Management.

17 (f) Division of State Fire Marshal.

18 (g) Division of Insurance Fraud.

19 (h) Division of Administration.

20 (i) Division of Treasury.

21 (j) Division of Legal Services.

22 (k) Division of Workers' Compensation.

23 Section 4. The Division of Unemployment Compensation
24 is transferred by a type two transfer, as defined in section
25 20.06(2), Florida Statutes, from the Department of Labor and
26 Employment Security to the Department of Revenue, except that
27 all powers, duties, functions, rules, records, personnel,
28 property, and unexpended balances of appropriations,
29 allocations, and other funds of the division related to the
30 resolution of disputed claims for unemployment compensation
31 benefits through the use of appeals referees are transferred

1 by a type two transfer, as defined in section 20.06(2),
2 Florida Statutes, to the Unemployment Appeals Commission.
3 Prior to effecting the transfer under this section, the
4 Department of Labor and Employment Security shall reduce by 25
5 percent the number of staff in the division to be transferred
6 to the Department of Revenue who are not engaged in directly
7 providing services to customers or in supervising the direct
8 provision of services.

9 Section 5. All powers, duties, functions, rules,
10 records, personnel, property, and unexpended balances of
11 appropriations, allocations, and other funds of the Division
12 of Workforce and Employment Opportunities related to the
13 regulation of labor organizations under chapter 447, Florida
14 Statutes, and the administration of child labor laws under
15 chapter 450, Florida Statutes, are transferred by a type two
16 transfer, as defined in section 20.06(2), Florida Statutes,
17 from the Department of Labor and Employment Security to the
18 Department of Business and Professional Regulation.

19 Section 6. All powers, duties, functions, rules,
20 records, personnel, property, and unexpended balances of
21 appropriations, allocations, and other funds of the Division
22 of Workforce and Employment Opportunities related to migrant
23 labor and farm labor registration under chapter 450, Florida
24 Statutes, are transferred by a type two transfer, as defined
25 in section 20.06(2), Florida Statutes, from the Department of
26 Labor and Employment Security to the Division of Standards of
27 the Department of Agriculture and Consumer Services.

28 Section 7. (1) Effective upon this act becoming a
29 law, the Florida Task Force on Workplace Safety is
30 established. All members of the task force shall be appointed
31 prior to August 1, 2000, and the task force shall hold its

1 first meeting by September 1, 2000. The task force shall be
2 composed of 15 members as follows:

3 (a) Five members appointed by the Governor, one of
4 whom must be a representative of a statewide business
5 organization, one of whom must be a representative of
6 organized labor, and three of whom must be from private-sector
7 businesses. The Governor shall name one of the appointees
8 under this paragraph as chair of the task force;

9 (b) Four members appointed by the President of the
10 Senate, one of whom must be a representative of a statewide
11 business organization, one of whom must be a representative of
12 organized labor, and two of whom must be from private-sector
13 businesses;

14 (c) Four members appointed by the Speaker of the House
15 of Representatives, one of whom must be a representative of a
16 statewide business organization, one of whom must be a
17 representative of organized labor, and two of whom must be
18 from private-sector businesses;

19 (d) One member appointed from the private-sector by
20 the Insurance Commissioner; and

21 (e) The president of Enterprise Florida, Inc., or his
22 or her designee from the organization.

23
24 The Insurance Commissioner or the commissioner's designee from
25 the Department of Insurance shall serve as an ex officio
26 nonvoting member of the task force.

27 (2) The purpose of the task force is to develop
28 findings and issue recommendations on innovative ways in which
29 the state may employ state or federal resources to reduce the
30 incidence of employee accidents, occupational diseases, and
31 fatalities compensable under the workers' compensation law.

1 The task force shall address issues including, but not limited
2 to:

3 (a) Alternative organizational structures for the
4 delivery of workplace safety assistance services to businesses
5 following the repeal of the Division of Safety under chapter
6 99-240, Laws of Florida;

7 (b) The extent to which workplace safety assistance
8 services are or may be provided through private-sector
9 sources;

10 (c) The potential contribution of workplace safety
11 assistance services to a reduction in workers' compensation
12 rates for employers;

13 (d) Differences in the workplace safety needs of
14 businesses based upon the size of the businesses;

15 (e) Differences in the workplace safety needs of
16 private-sector employers and public-sector employers;

17 (f) The relationship between federal and state
18 workplace safety activities; and

19 (g) The impact of workplace safety and workers'
20 compensation on the economic development efforts of the state.

21 (3) The task force shall be located in the Department
22 of Insurance, and staff of the department shall serve as staff
23 for the task force.

24 (4) Members of the task force shall serve without
25 compensation but will be entitled to per diem and travel
26 expenses pursuant to section 112.061, Florida Statutes, while
27 in the performance of their duties.

28 (5) The task force may procure information and
29 assistance from any officer or agency of the state or any
30 subdivision thereof. All such officials and agencies shall
31

1 give the task force all relevant information and assistance on
2 any matter within their knowledge or control.

3 (6) The task force shall submit a report and
4 recommendations to the Governor, the President of the Senate,
5 and the Speaker of the House of Representatives by February 1,
6 2001. The report shall include any specific recommendations
7 for legislative action during the 2001 Regular Session of the
8 Legislature.

9 (7) The task force shall terminate upon submission of
10 its report.

11 Section 8. Effective upon this act becoming a law,
12 section 39 of chapter 99-240, Laws of Florida, is amended to
13 read:

14 Section 39. Effective October 1, 2000 ~~January 1, 2001~~,
15 the Division of Blind Services is transferred by a type two
16 transfer as defined in section 20.06(2)~~20.06(5)~~, Florida
17 Statutes, from the Department of Labor and Employment Security
18 to the Department of Management Services ~~Education~~. Prior to
19 effecting the transfer under this section, the Department of
20 Labor and Employment Security shall reduce by 25 percent the
21 number of staff in the division to be transferred to the
22 Department of Management Services who are not engaged in
23 directly providing services to customers or in supervising the
24 direct provision of services.

25 Section 9. (1) It is the intent of the Legislature
26 that the transfer of responsibilities from the Department of
27 Labor and Employment Security to other units of state
28 government as prescribed by this act be accomplished with
29 minimal disruption of services provided to the public and with
30 minimal disruption to the employees of the department. To that
31 end, the Legislature believes that a transition period during

1 which the activities of the department can be systematically
2 reduced and the activities of the other applicable units of
3 state government can be strategically increased is appropriate
4 and warranted.

5 (2) The Department of Labor and Employment Security
6 and the Department of Management Services shall provide
7 coordinated reemployment assistance to employees of the
8 Department of Labor and Employment Security who are dislocated
9 as a result of this act. The state Workforce Development
10 Board, the regional workforce boards, and staff of the
11 one-stop career centers shall provide assistance to the
12 departments in carrying out the provisions of this section.

13 (3) The state and its political subdivisions shall
14 give preference in the appointment and the retention of
15 employment to employees of the Department of Labor and
16 Employment Security who are dislocated as a result of this
17 act. Furthermore, for those positions for which an examination
18 is used to determine the qualifications for entrance into
19 employment with the state or its political subdivisions, 10
20 points shall be added to the earned ratings of any employee of
21 the Department of Labor and Employment Security who is
22 dislocated as a result of this act if such person has obtained
23 a qualifying score on the examination for the position.
24 Preference is considered to have expired once such person has
25 been employed by any state agency or any agency of a political
26 subdivision of the state.

27 (4) The Secretary of the Department of Labor and
28 Employment Security shall impose a freeze on all hiring by the
29 department effective upon this act becoming a law. The
30 Governor, by executive order, may impose a hiring freeze at
31 all other agencies of state government, under the terms of

1 which employees of the Department of Labor and Employment
2 Security, however, may be hired into vacant positions at such
3 other agencies of state government.

4 (5) The transfer of any programs, activities, and
5 functions under this act shall include the transfer of any
6 records and unexpended balances of appropriations,
7 allocations, or other funds related to such programs,
8 activities, and functions. Any surplus records and unexpended
9 balances of appropriations, allocations, or other funds not so
10 transferred shall be transferred to the Department of
11 Management Services for proper disposition. The Department of
12 Management Services shall become the custodian of any property
13 of the Department of Labor and Employment Security which is
14 not otherwise transferred for the purposes of chapter 273,
15 Florida Statutes. The Department of Management Services is
16 authorized to permit the use of such property by organizations
17 as necessary to implement the provisions of this act.

18 (6) This section shall take effect upon this act
19 becoming a law.

20 Section 10. (1) Effective upon this act becoming a
21 law, there is created the Labor and Employment Security
22 Transition Team, which will be responsible for coordinating
23 and overseeing actions necessary to ensure the timely,
24 comprehensive, efficient, and effective implementation of the
25 provisions of this act.

26 (2) The transition team shall consist of the following
27 members:

28 (a) The Governor or the Governor's designee, who shall
29 serve as chair of the transition team and who shall convene
30 meetings of the transition team;

31

1 (b) The Secretary of Labor and Employment Security or
2 the secretary's designee;

3 (c) The Secretary of Management Services or the
4 secretary's designee;

5 (d) The Secretary of Business and Professional
6 Regulation or the secretary's designee;

7 (e) The Commissioner of Insurance or the
8 commissioner's designee;

9 (f) The executive director of the Department of
10 Revenue or the executive director's designee;

11 (g) The director of the Agency for Workforce
12 Innovation or the director's designee;

13 (h) The president of Workforce Florida, Inc., or the
14 president's designee; and

15 (i) Any other members as deemed necessary by and
16 appointed by the Governor.

17 (3) Staff of the Office of Planning and Budgeting in
18 the Executive Office of the Governor shall serve as staff for
19 the transition team. In addition, each member of the
20 transition team shall appoint appropriate staff members from
21 the organization that he or she represents to serve as
22 liaisons to the transition team and to assist the transition
23 team as necessary. Each member of the transition team shall be
24 responsible for ensuring that the organization that he or she
25 represents cooperates fully in the implementation of this act.

26 (4) Between the date this act becomes a law and
27 December 31, 2000, the transition team shall submit bimonthly
28 to the President of the Senate and the Speaker of the House of
29 Representatives brief status reports on the progress and on
30 any significant problems in implementing this act.

31

1 (5) The transition team shall terminate on February 1,
2 2001. Prior to such date, the transition team shall submit to
3 the President of the Senate and the Speaker of the House of
4 Representatives a final report on the activities of the
5 transition team and on the implementation of this act. The
6 final report shall include any recommendations on legislative
7 action necessary during the 2001 Regular Session of the
8 Legislature to address substantive or technical issues related
9 to the implementation of this act.

10 Section 11. Subsections (2) and (3) and paragraph (h)
11 of subsection (4) of section 287.09451, Florida Statutes, are
12 amended to read:

13 287.09451 Minority Business Advocacy and Assistance
14 Office; powers, duties, and functions.--

15 (2) The Minority Business Advocacy and Assistance
16 Office is established within the Department of Management
17 Services ~~labor and Employment Security~~ to assist minority
18 business enterprises in becoming suppliers of commodities,
19 services, and construction to state government.

20 (3) The Secretary of the Department of Management
21 Services ~~secretary~~ shall appoint an executive director for the
22 Minority Business Advocacy and Assistance Office, who shall
23 serve at the pleasure of the secretary.

24 (4) The Minority Business Advocacy and Assistance
25 Office shall have the following powers, duties, and functions:

26 (h) To develop procedures to investigate complaints
27 against minority business enterprises or contractors alleged
28 to violate any provision related to this section or s.
29 287.0943, that may include visits to worksites or business
30 premises, and to refer all information on businesses suspected
31 of misrepresenting minority status to the Department of

1 Management Services ~~Labor and Employment Security~~ for
2 investigation. When an investigation is completed and there is
3 reason to believe that a violation has occurred, the
4 Department of Management Services ~~Labor and Employment~~
5 ~~Security~~ shall refer the matter to the office of the Attorney
6 General, Department of Legal Affairs, for prosecution.

7 Section 12. Effective upon this act becoming a law,
8 subsections (3), (4), and (6) of section 20.15, Florida
9 Statutes, are amended and paragraph (d) is added to subsection
10 (5) of that section to read:

11 20.15 Department of Education.--There is created a
12 Department of Education.

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

15 (a) Division of Community Colleges.

16 (b) Division of Public Schools and Community
17 Education.

18 (c) Division of Universities.

19 (d) Division of Workforce Development.

20 (e) Division of Human Resource Development.

21 (f) Division of Administration.

22 (g) Division of Financial Services.

23 (h) Division of Support Services.

24 (i) Division of Technology.

25 (j) Division of Occupational Access and Opportunity.

26 (4) DIRECTORS.--The Board of Regents is the director
27 of the Division of Universities, the Occupational Access and
28 Opportunity Commission is the director of the Division of
29 Occupational Access and Opportunity, and the State Board of
30 Community Colleges is the director of the Division of
31 Community Colleges, pursuant to chapter 240. The directors of

1 all other divisions shall be appointed by the commissioner
2 subject to approval by the state board.

3 (5) POWERS AND DUTIES.--The State Board of Education
4 and the Commissioner of Education:

5 (d) Shall assign to the Division of Occupational
6 Access and Opportunity such powers, duties, responsibilities,
7 and functions as are necessary to ensure the coordination,
8 efficiency, and effectiveness of its programs, including, but
9 not limited to, vocational rehabilitation and independent
10 living services to persons with disabilities which services
11 are funded under the Rehabilitation Act of 1973, as amended,
12 except those duties specifically assigned to the Division of
13 Blind Services of the Department of Management Services; those
14 duties specifically assigned to the Commissioner of Education
15 in ss. 229.512 and 229.551; those duties concerning physical
16 facilities in chapter 235; those duties assigned to the State
17 Board of Community Colleges in chapter 240; and those duties
18 assigned to the Division of Workforce Development in chapter
19 239. Effective October 1, 2000, the Occupational Access and
20 Opportunity Commission shall assume all responsibilities
21 necessary to be the designated state agency for purposes of
22 compliance with the Rehabilitation Act of 1973, as amended.

23 (6) COUNCILS AND COMMITTEES.--Notwithstanding anything
24 contained in law to the contrary, the Commissioner of
25 Education shall appoint all members of all councils and
26 committees of the Department of Education, except the Board of
27 Regents, the State Board of Community Colleges, the community
28 college district boards of trustees, the Postsecondary
29 Education Planning Commission, the Education Practices
30 Commission, the Education Standards Commission, the State
31 Board of Independent Colleges and Universities, the

1 Occupational Access and Opportunity Commission, the Florida
2 Rehabilitation Council, the Florida Independent Living
3 Council, and the State Board of Nonpublic Career Education.

4 Section 13. Effective July 1, 2000, subsection (16) is
5 added to section 120.80, Florida Statutes, to read:

6 120.80 Exceptions and special requirements;
7 agencies.--

8 (16) OCCUPATIONAL ACCESS AND OPPORTUNITY
9 COMMISSION.--Notwithstanding s. 120.57(1)(a), hearings
10 concerning determinations by the Occupational Access and
11 Opportunity Commission on eligibility, plans of services, or
12 closure need not be conducted by an administrative law judge
13 assigned by the division. The commission may choose to
14 contract with another appropriate resource in these matters.

15 Section 14. Section 413.011, Florida Statutes, is
16 amended to read:

17 413.011 Division of Blind Services, internal
18 organizational structure; Florida Rehabilitation Advisory
19 Council for the Blind Services.--

20 (1) The internal organizational structure of the
21 Division of Blind Services shall be designed for the purpose
22 of ensuring the greatest possible efficiency and effectiveness
23 of services to the blind and to be consistent with chapter 20.
24 The Division of Blind Services shall ~~plan, supervise, and~~
25 carry out the following activities under planning and policy
26 guidance from the Florida Rehabilitation Council for Blind
27 Services:

28 (a) Implement the provisions of the 5-year strategic
29 plan prepared by the council under paragraph (3)(a) to provide
30 services to individuals who are blind.

31

1 **(b)**~~(a)~~ Recommend personnel as may be necessary to
2 carry out the purposes of this section.

3 **(c)**~~(b)~~ Cause to be compiled and maintained a complete
4 register of individuals in the state who are ~~the blind in the~~
5 ~~state~~, which shall describe the condition, cause of blindness,
6 and capacity for education and industrial training, with such
7 other facts as may seem to the division to be of value. Any
8 information in the register of individuals who are ~~the blind~~
9 which, when released, could identify an individual is
10 confidential and exempt from the provisions of s. 119.07(1).

11 **(d)**~~(c)~~ Inquire into the cause of blindness, inaugurate
12 preventive measures, and provide for the examination and
13 treatment of individuals who are ~~the blind~~, or those
14 threatened with blindness, for the benefit of such persons,
15 and shall pay therefor, including necessary incidental
16 expenses.

17 **(e)**~~(d)~~ Contract with community-based rehabilitation
18 programs, to the maximum extent allowable under federal law,
19 to assist individuals who are blind in obtaining ~~Aid the blind~~
20 ~~in finding~~ employment, teach them trades and occupations
21 within their capacities, assist them in disposing of products
22 made by them in home industries, assist them in obtaining
23 funds for establishing enterprises where federal funds
24 reimburse the state, and do such things as will contribute to
25 the efficiency of self-support of individuals who are ~~the~~
26 blind.

27 **(f)**~~(e)~~ Establish one or more training schools and
28 workshops for the employment of suitable individuals who are
29 blind ~~persons~~; make expenditures of funds for such purposes;
30 receive moneys from sales of commodities involved in such
31 activities and from such funds make payments of wages,

1 repairs, insurance premiums and replacements of equipment. All
2 of the activities provided for in this section may be carried
3 on in cooperation with private workshops for individuals who
4 are ~~the~~ blind, except that all tools and equipment furnished
5 by the division shall remain the property of the state.

6 (g)(f) Contract with community-based rehabilitation
7 programs, to the maximum extent allowable under federal law,
8 to provide special services and benefits for individuals who
9 are ~~the~~ blind in order to assist them in ~~for~~ developing their
10 social life through community activities and recreational
11 facilities.

12 (h)(g) Undertake such other activities as may
13 ameliorate the condition of ~~blind~~ citizens of this state who
14 are blind.

15 (i)(h) Cooperate with other agencies, public or
16 private, especially the Division of the Blind and Physically
17 Handicapped of the Library of Congress and the Division of
18 Library and Information Services of the Department of State,
19 to provide library service to individuals who are ~~the~~ blind
20 and individuals who have other disabilities ~~other handicapped~~
21 ~~persons~~ as defined in federal law and regulations in carrying
22 out any or all of the provisions of this law.

23 (j)(i) Recommend contracts and agreements with
24 federal, state, county, municipal and private corporations,
25 and individuals.

26 (k)(j) Receive moneys or properties by gift or bequest
27 from any person, firm, corporation, or organization for any of
28 the purposes herein set out, but without authority to bind the
29 state to any expenditure or policy except such as may be
30 specifically authorized by law. All such moneys or properties
31 so received by gift or bequest as herein authorized may be

1 disbursed and expended by the division upon its own warrant
2 for any of the purposes herein set forth, and such moneys or
3 properties shall not constitute or be considered a part of any
4 legislative appropriation made by the state for the purpose of
5 carrying out the provisions of this law.

6 (l)~~(k)~~ Prepare and make available to individuals who
7 are ~~the~~ blind, in braille and on electronic recording
8 equipment, Florida Statutes chapters 20, 120, 121, and 413, in
9 their entirety.

10 (m)~~(l)~~ Adopt by rule procedures necessary to comply
11 with any plans prepared by the council and the Occupational
12 Access and Opportunity Commission for providing vocational
13 rehabilitation services for individuals who are ~~the~~ blind.

14 (n)~~(m)~~ Adopt by rule forms and instructions to be used
15 by the division in its general administration.

16 (2) As used in this section:

17 (a) "Act," unless the context indicates otherwise,
18 means the Rehabilitation Act of 1973, 29 U.S.C. ss. 701-797.

19 (b) "Blind" or "blindness" means the condition of any
20 person for whom blindness is a disability as defined by the
21 Rehabilitation Act of 1973, 29 U.S.C. s. 706(8)(b).

22 (c) "Community-based rehabilitation program" means a
23 provider of services to individuals in a community setting
24 which has as its primary function services directed toward
25 individuals who are blind.

26 (d) "Council" means the Florida Rehabilitation Council
27 for Blind Services.

28 (e)~~(c)~~ "Department" means the Department of Management
29 Services Labor and Employment Security.

30 (f) "Plan" means the 5-year strategic plan developed
31 by the council under paragraph (3)(a).

1 (3) There is ~~hereby~~ created in the department the
2 Florida Rehabilitation Advisory Council for the Blind
3 Services. The council shall be established in accordance with
4 the act and must include at least four representatives of
5 private-sector businesses that are not providers of vocational
6 rehabilitation services. Members of the council shall serve
7 without compensation, but may be reimbursed for per diem and
8 travel expenses pursuant to s. 112.061.~~to assist the division~~
9 ~~in the planning and development of statewide rehabilitation~~
10 ~~programs and services, to recommend improvements to such~~
11 ~~programs and services, and to perform the functions provided~~
12 ~~in this section.~~

13 ~~(a) The advisory council shall be composed of:~~

14 ~~1. At least one representative of the Independent~~
15 ~~Living Council, which representative may be the chair or other~~
16 ~~designee of the council;~~

17 ~~2. At least one representative of a parent training~~
18 ~~and information center established pursuant to s. 631(c)(9) of~~
19 ~~the Individuals with Disabilities Act, 20 U.S.C. s.~~
20 ~~1431(c)(9);~~

21 ~~3. At least one representative of the client~~
22 ~~assistance program established under the act;~~

23 ~~4. At least one vocational rehabilitation counselor~~
24 ~~who has knowledge of and experience in vocational~~
25 ~~rehabilitation services for the blind, who shall serve as an~~
26 ~~ex officio nonvoting member of the council if the counselor is~~
27 ~~an employee of the department;~~

28 ~~5. At least one representative of community~~
29 ~~rehabilitation program service providers;~~

30 ~~6. Four representatives of business, industry, and~~
31 ~~labor;~~

1 ~~7. At least one representative of a disability~~
2 ~~advocacy group representing individuals who are blind;~~

3 ~~8. At least one parent, family member, guardian,~~
4 ~~advocate, or authorized representative of an individual who is~~
5 ~~blind, has multiple disabilities, and either has difficulties~~
6 ~~representing himself or herself or is unable, due to~~
7 ~~disabilities, to represent himself or herself;~~

8 ~~9. Current or former applicants for, or recipients of,~~
9 ~~vocational rehabilitation services; and~~

10 ~~10. The director of the division, who shall be an ex~~
11 ~~officio member of the council.~~

12 ~~(b) Members of the council shall be appointed by the~~
13 ~~Governor, who shall select members after soliciting~~
14 ~~recommendations from representatives of organizations~~
15 ~~representing a broad range of individuals who have~~
16 ~~disabilities, and organizations interested in those~~
17 ~~individuals.~~

18 ~~(c) A majority of council members shall be persons who~~
19 ~~are;~~

20 ~~1. Blind; and~~

21 ~~2. >Not employed by the division.~~

22 ~~(d) The council shall select a chair from among its~~
23 ~~membership.~~

24 ~~(e) Each member of the council shall serve for a term~~
25 ~~of not more than 3 years, except that:~~

26 ~~1. A member appointed to fill a vacancy occurring~~
27 ~~prior to the expiration of the term for which a predecessor~~
28 ~~was appointed shall be appointed for the remainder of such~~
29 ~~term; and~~

30 ~~2. The terms of service of the members initially~~
31 ~~appointed shall be, as specified by the Governor, for such~~

1 ~~fewer number of years as will provide for the expiration of~~
2 ~~terms on a staggered basis.~~

3 ~~(f) No member of the council may serve more than two~~
4 ~~consecutive full terms.~~

5 ~~(g) Any vacancy occurring in the membership of the~~
6 ~~council shall be filled in the same manner as the original~~
7 ~~appointment. A vacancy does not affect the power of the~~
8 ~~remaining members to execute the duties of the council.~~

9 ~~(a)(h)~~ In addition to the other functions specified in
10 this act section, the council shall:

11 1. Review, analyze, and advise the division regarding
12 the performance of the responsibilities of the division under
13 Title I of the act, particularly responsibilities relating to:

14 a. Eligibility, including order of selection;
15 b. The extent, scope, and effectiveness of services
16 provided; and

17 c. Functions performed by state agencies that affect
18 or potentially affect the ability of individuals who are blind
19 to achieve rehabilitation goals and objectives under Title I.

20 2. Advise the department and the division, and provide
21 direction for, ~~at the discretion of the department or~~
22 ~~division, assist in~~ the preparation of applications, the state
23 plan as required by federal law, the strategic plan, and
24 amendments to the plans, reports, needs assessments, and
25 evaluations required by Title I.

26 3. Prepare and begin implementing, by January 1, 2001,
27 a 5-year strategic plan to provide services to individuals who
28 are blind. The division must consult with stakeholders and
29 conduct public hearings as part of the development of the
30 plan. The plan must be submitted to the Governor, the
31 President of the Senate, and the Speaker of the House of

1 Representatives. The council annually shall make amendments to
2 the plan, which also must be submitted to the Governor, the
3 President of the Senate, and the Speaker of the House of
4 Representatives. The plan must provide for the maximum use of
5 community-based rehabilitation programs for the delivery of
6 services and a corresponding reduction in the number of state
7 employees in the division to the minimum number necessary to
8 carry out the functions required under this section. The plan
9 also must provide for 90 percent of the funds provided for
10 services to individuals who are blind to be used for direct
11 customer services.

12 ~~4.3.~~ To the extent feasible, conduct a review and
13 analysis of the effectiveness of, and consumer satisfaction
14 with:

15 a. The functions performed by state agencies and other
16 public and private entities responsible for performing
17 functions for individuals who are blind.

18 b. Vocational rehabilitation services:

19 (I) Provided or paid for from funds made available
20 under the act or through other public or private sources.

21 (II) Provided by state agencies and other public and
22 private entities responsible for providing vocational
23 rehabilitation services to individuals who are blind.

24 ~~5.4.~~ Prepare and submit an annual report on the status
25 of vocational rehabilitation services for individuals who are
26 ~~the~~ blind in the state to the Governor and the Commissioner of
27 the Rehabilitative Services Administration, established under
28 s. 702 of the act, and make the report available to the
29 public.

30 ~~6.5.~~ Coordinate with other councils within the state,
31 including the Independent Living Council, the advisory panel

1 established under s. 613(a)(12) of the Individuals with
2 Disabilities Education Act, 20 U.S.C. 1413(a)(12), the State
3 Planning Council described in s. 124 of the Developmental
4 Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s.
5 6024, and the state mental health planning council established
6 under s. 1916(e) of the Public Health Service Act, 42 U.S.C.
7 300X-4(e), the Occupational Access and Opportunity Commission,
8 and the state Workforce Development Board under the federal
9 Workforce Investment Act.

10 7.6. Advise the department and division and provide
11 for coordination and the establishment of working
12 relationships among the department, the division, the
13 Independent Living Council, and centers for independent living
14 in the state.

15 8.7. Perform such other functions consistent with the
16 purposes of the act as the council determines to be
17 appropriate that are comparable to functions performed by the
18 council.

19 (b)(i)1. The council shall prepare, in conjunction
20 with the division, a plan for the provision of such resources,
21 including such staff and other personnel, as may be necessary
22 to carry out the functions of the council. The resource plan
23 shall, to the maximum extent possible, rely on the use of
24 resources in existence during the period of implementation of
25 the plan.

26 ~~2. If there is a disagreement between the council and~~
27 ~~the division in regard to the resources necessary to carry out~~
28 ~~the functions of the council as set forth in this section, the~~
29 ~~disagreement shall be resolved by the Governor.~~

1 ~~2.3.~~ The council shall, consistent with law, supervise
2 and evaluate such staff and other personnel as may be
3 necessary to carry out its functions.

4 ~~3.4.~~ While assisting the council in carrying out its
5 duties, staff and other personnel shall not be assigned duties
6 by the division or any other state agency or office that would
7 create a conflict of interest.

8 ~~(c)(j)~~ No council member shall cast a vote on any
9 matter that would provide direct financial benefit to the
10 member or otherwise give the appearance of a conflict of
11 interest under state law.

12 ~~(d)(k)~~ The council shall convene at least four
13 meetings each year. These meetings shall occur in such places
14 as the council deems necessary to conduct council business.
15 The council may conduct such forums or hearings as the council
16 considers appropriate. The meetings, hearings, and forums
17 shall be publicly announced. The meetings shall be open and
18 accessible to the public. To the maximum extent possible, the
19 meetings shall be held in locations that are accessible to
20 individuals with disabilities. The council shall make a report
21 of each meeting which shall include a record of its
22 discussions and recommendations, all of which reports shall be
23 made available to the public.

24 Section 15. Section 413.014, Florida Statutes, is
25 amended to read:

26 413.014 Community-based rehabilitation programs.--The
27 5-year plan prepared under s. 413.011(3)(a)3. shall require
28 the Division of Blind Services to ~~shall~~ enter into cooperative
29 agreements with community-based rehabilitation programs to be
30 the service providers for the blind citizens of their
31 communities. State employees, however, shall provide all

1 services that may not be delegated under federal law.The
2 division shall, as rapidly as feasible, increase the amount of
3 such services provided by community-based rehabilitation
4 programs. The goal shall be to decrease the amount of such
5 services provided by division employees and to increase to the
6 maximum extent allowed by federal law the amount of such
7 services provided through cooperative agreements with
8 community-based service providers. The division shall seek,
9 to the maximum extent allowed by federal and state law and
10 regulation, all available federal funds for such purposes.
11 Funds and in-kind matching contributions from community and
12 private sources shall be used to maximize federal funds.
13 Unless prohibited by federal law or regulation, the share of
14 the federal vocational rehabilitation grant apportioned for
15 services to the blind shall be not less than 17 percent. By
16 December 31 of each year, the division shall submit to the
17 Governor, the President of the Senate, and the Speaker of the
18 House of Representatives a status report on its progress on
19 increasing the amount of services provided by community-based
20 rehabilitation programs as required by this section. The
21 report shall include recommendations on reductions in the
22 number of division employees based upon increased use of
23 community-based rehabilitation programs.

24 Section 16. Subsection (1) of section 413.034, Florida
25 Statutes, is amended to read:

26 413.034 Commission established; membership.--

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

1 ~~Rehabilitation~~ of the Department of Education ~~Labor and~~
2 ~~Employment Security~~, who shall be an ex officio member with
3 voting rights; the director of the Division of Blind Services
4 of the Department of Management Services ~~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 17. Paragraph (a) of subsection (2) and
14 subsection (3) of section 413.051, Florida Statutes, are
15 amended to read:

16 413.051 Eligible blind persons; operation of vending
17 stands.--

18 (2) As used in this section:

19 (a) "Blind licensee" means any blind person trained
20 and licensed by the Division of Blind Services of the
21 Department of Management Services ~~Labor and Employment~~
22 ~~Security~~ to operate a vending stand.

23 (3) Blind licensees shall be given the first
24 opportunity to participate in the operation of vending stands
25 on all state properties acquired after July 1, 1979, when such
26 facilities are operated under the supervision of the Division
27 of Blind Services of the Department of Management Services
28 ~~Labor and Employment Security~~.

29 Section 18. Section 413.064, Florida Statutes, is
30 amended to read:

31

1 413.064 Rules.--The Department of Management Services
2 ~~Labor and Employment Security~~ shall adopt all necessary rules
3 pertaining to the conduct of a solicitation for the benefit of
4 individuals who are blind persons, including criteria for
5 approval of an application for a permit for such solicitation.

6 Section 19. Section 413.066, Florida Statutes, is
7 amended to read:

8 413.066 Revocation of permit.--Any failure on the part
9 of a person or organization holding a permit under the
10 provisions of ss. 413.061-413.068 to comply with the law or
11 with all rules promulgated by the Department of Management
12 Services ~~Labor and Employment Security~~ as authorized by s.
13 413.064 constitutes a ground for revocation of the permit by
14 the Division of Blind Services.

15 Section 20. Section 413.067, Florida Statutes, is
16 amended to read:

17 413.067 Penalty.--Any person who violates the
18 provisions of ss. 413.061-413.068 or any rule promulgated by
19 the Department of Management Services ~~Labor and Employment~~
20 ~~Security~~ pursuant thereto commits a misdemeanor of the second
21 degree, punishable as provided in s. 775.082 or s. 775.083.

22 Section 21. It is the intent of the Legislature that
23 the provisions of this act relating to services for
24 individuals who are blind not conflict with any federal
25 statute or implementing regulation governing federal
26 grant-in-aid programs administered by the Division of Blind
27 Services or the Florida Rehabilitation Council for Blind
28 Services. Whenever such a conflict is asserted by the U.S.
29 Department of Education or other applicable agency of the
30 Federal Government, the council shall submit to the U.S.
31 Department of Education or other applicable federal agency a

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

16 Section 22. Effective upon this act becoming a law,
17 section 413.82, Florida Statutes, is amended to read:

18 413.82 Definitions.--As used in ss. 413.81-413.93, the
19 term:

20 (1) "Commission" means the Commission on Occupational
21 Access and Opportunity.

22 (2) "Community rehabilitation provider" means a
23 provider of services to people in a community setting which
24 has as its primary function services directed toward
25 employment outcomes for people with disabilities.

26 (3)(2) "Corporation" means the Occupational Access and
27 Opportunity Corporation.

28 (4)(3) "Division" means the Division of Occupational
29 Access and Opportunity ~~Vocational Rehabilitation.~~

30
31

1 (5) "Plan" means the plan required by ss.
2 413.81-413.93.~~(4) "Office" means the Executive Office of the~~
3 ~~Governor.~~

4 (6)~~(5)~~ "State plan" means the state plan for
5 vocational rehabilitation required by Title I of the federal
6 Rehabilitation Act of 1973, as amended, and ss. 413.81-413.93.

7 (7)~~(6)~~ "Region" means a service area for a regional
8 workforce development board established by the Workforce
9 Development Board.

10 Section 23. Effective upon this act becoming a law,
11 subsections (2), (3), (6), (7), (8), and (10) of section
12 413.83, Florida Statutes, are amended to read:

13 413.83 Occupational Access and Opportunity Commission;
14 creation; purpose; membership.--

15 (2) The commission shall consist of 16 voting members,
16 including 15 members appointed, as provided in this section
17 herein, by the Governor, the President of the Senate, and the
18 Speaker of the House of Representatives, and four ex-officio,
19 nonvoting members. ~~The commission must contain a minimum of 50~~
20 ~~percent representation from the private sector.~~

21 Notwithstanding any other law to the contrary, appointment of
22 members is not subject to confirmation by the Senate. The
23 membership of the commission may not include more than two
24 individuals who are, or are employed by, community
25 rehabilitation providers who contract to provide vocational
26 rehabilitation services to individuals who qualify for the
27 program. The members of the commission shall include:

28 (a) The Commissioner of Education, or his or her
29 designee, who shall serve as chair until October 1, 2000;
30 after October 1, 2000, the commission shall elect a chair from
31 its membership;

1 (b) Eight employers from the private sector, three of
2 whom shall be appointed by the Governor for a term of 4 years,
3 three of whom shall be appointed by the President of the
4 Senate for a term of 4 years, and two of whom shall be
5 appointed by the Speaker of the House of Representatives for a
6 term of 4 years;

7 (c) An individual who is a consumer of vocational
8 rehabilitation services, who shall be appointed by the
9 Governor for a term of 4 years;

10 (d) A community rehabilitation provider who contracts
11 to provide vocational rehabilitation services to individuals
12 who qualify for the program and who shall be appointed by the
13 Governor for a term of 4 years;

14 (e) Five representatives of business, workforce
15 development, education, state government, local government, a
16 consumer advocate group, or a community organization, three of
17 whom shall be appointed by the Governor for a term of 4 years,
18 one of whom shall be appointed by the President of the Senate
19 for a term of 4 years, and one of whom shall be appointed by
20 the Speaker of the House of Representatives for a term of 4
21 years; and

22 (f) As exofficio, nonvoting members:

23 1. The executive director or his or her designee from
24 the Advocacy Center for Persons with Disabilities;

25 2. The chair of the Florida Rehabilitation Council;

26 3. The chair of the Council for Independent Living;

27 and

28 4. The chair of the Commission for the Purchase from
29 the Blind or Other Severely Handicapped.

30 ~~(b) The chair of the Florida Rehabilitation Council;~~

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

1 ~~(d) The chair of the Commission for the Purchase from~~
2 ~~the Blind or Other Severely Handicapped;~~

3 ~~(e) A community rehabilitation provider who contracts~~
4 ~~to provide vocational rehabilitation services to individuals~~
5 ~~who qualify for the program, who shall be appointed by the~~
6 ~~Governor for a term of 4 years;~~

7 ~~(f) A representative from the Advocacy Center for~~
8 ~~Persons With Disabilities, who shall be appointed by the~~
9 ~~President of the Senate for a term of 4 years;~~

10 ~~(g) A consumer of vocational rehabilitation services,~~
11 ~~who shall be appointed by the Speaker of the House of~~
12 ~~Representatives for a term of 4 years; and~~

13 ~~(h) Other individuals with disabilities and~~
14 ~~representatives of business, workforce development, education,~~
15 ~~state government, local government, consumer advocate groups,~~
16 ~~employers of individuals with disabilities, or community~~
17 ~~organizations.~~

18 (3) By September 1, 2000, after receiving
19 recommendations from the commission, the Governor, the
20 President of the Senate, and the Speaker of the House of
21 Representatives shall consult together and take actions
22 necessary to bring the membership of the commission into
23 compliance with the requirements of this section. In taking
24 such action, initial terms shall be staggered as necessary to
25 ensure that the terms of no more than one-fourth of the
26 commission's total appointed membership shall expire in any
27 1-year period.~~Initially, the Governor, the President of the~~
28 ~~Senate, and the Speaker of the House of Representatives shall~~
29 ~~each appoint as members meeting the qualifications contained~~
30 ~~in paragraph (2)(h), one member for a term of 3 years, one~~
31 ~~member for a term of 2 years, and one member for a term of 1~~

1 ~~year.~~Thereafter, after receiving recommendations from the
2 commission, the Governor, the President of the Senate, and the
3 Speaker of the House of Representatives shall appoint all
4 members for terms of 4 years. Any vacancy shall be filled by
5 appointment by the original appointing authority for the
6 unexpired portion of the term by a person who possesses the
7 proper qualifications for the vacancy.

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

14 (7) The Rehabilitation Council created by s. 413.405
15 ~~shall serve the commission and~~ shall continue to perform its
16 designated duties, with the commission as the designated state
17 vocational rehabilitation agency. ~~The commission shall~~
18 ~~consider the recommendations made by the council.~~

19 (8) The commission may appoint advisory committees
20 that the commission considers appropriate, which may include
21 members from outside the commission to study special problems
22 or issues and advise the commission on those subjects. The
23 commission shall establish an advisory council composed of
24 representatives from not-for-profit organizations that have
25 submitted a resolution requesting membership and have had the
26 request approved by the commission. ~~Any existing advisory~~
27 ~~board, commission, or council may seek to become an official~~
28 ~~advisory committee to the commission by submitting to the~~
29 ~~commission a resolution requesting affiliation and having the~~
30 ~~request approved by the commission.~~The commission shall
31 establish the operating procedures of the committees.

1 (10) The members of the commission may rely on and are
2 subject to ~~are entitled to be reimbursed for reasonable and~~
3 ~~necessary expenses of attending meetings and performing~~
4 ~~commission duties, including per diem and travel expenses, and~~
5 ~~for personal care attendants and interpreters needed by~~
6 ~~members during meetings, as provided in s. 413.273(1) and (3).~~

7 Section 24. Effective upon this act becoming a law,
8 section 413.84, Florida Statutes, is amended to read:

9 413.84 Powers and duties.--The commission:

10 (1) Effective July 1, 2000, shall serve as the
11 director of the Division of Occupational Access and
12 Opportunity of the Department of Education.

13 (2) Is responsible for establishing policy, planning,
14 and quality assurance for the programs assigned and funded to
15 the division, including, but not limited to, vocational
16 rehabilitation and independent living services to persons with
17 disabilities which services are funded under the federal
18 Rehabilitation Act of 1973, as amended, in a coordinated,
19 efficient, and effective manner. The Occupational Access and
20 Opportunity Commission has authority to adopt rules pursuant
21 to ss. 120.536(1) and 120.54 to implement provisions of law
22 conferring duties upon it. Such rules and policies shall be
23 submitted to the State Board of Education for approval. If any
24 rule is not disapproved by the State Board of Education within
25 45 days after its receipt by the State Board of Education, the
26 rule shall be filed immediately with the Department of State.
27 Effective October 1, 2000, rules adopted by the commission do
28 not require approval by the State Board of Education.

29 (3) Shall, in consultation with the Commissioner of
30 Education, hire a division director to be responsible to the
31

1 commission for operation and maintenance of the programs
2 assigned and funded to the division.

3 (4)(1) Shall, no later than January ~~July~~ 1, 2001 ~~2000~~,
4 after consulting with stakeholders and holding public
5 hearings, develop and implement a 5-year plan to promote
6 occupational access and opportunities for Floridians with
7 disabilities, ~~and to fulfill the federal plan requirements.~~

8 The plan must be submitted to the Governor, the President of
9 the Senate, and the Speaker of the House of Representatives.

10 The commission may make amendments annually to the plan, which
11 must be submitted to the Governor, the President of the
12 Senate, and the Speaker of the House of Representatives by the
13 first of January.

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

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

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

28 (d) The plan must require that the commission enter
29 into cooperative agreements with community-based
30 rehabilitation programs by workforce region to be the service
31 providers for the program; however, state ~~career service~~

1 employees shall provide all services that may not be delegated
2 under mandated by federal law. The commission shall, as
3 rapidly as is feasible, increase the amount of such services
4 provided by community-based rehabilitation programs. The plan
5 must incorporate, to the maximum extent allowed by federal and
6 state law and regulation, all available funds for such
7 purposes. Funds and in-kind contributions from community and
8 private sources shall be used to enhance federal and state
9 resources.

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

21 ~~(5)(2)~~ Notwithstanding the provisions of part I of
22 chapter 287, shall contract, no later than July 1, 2000, with
23 the corporation ~~administrative entity designated in the plan~~
24 to execute the services, functions, and programs prescribed in
25 the plan. The commission shall serve as contract
26 administrator. ~~If approved by the federal Department of~~
27 ~~Education, the administrative entity may be a direct-support~~
28 ~~organization.~~The commission shall define the terms of the
29 contract.
30
31

1 (6)~~(3)~~ Shall work with the employer community to
2 better define, address, and meet its business needs with
3 qualified Floridians with disabilities.

4 (7)~~(4)~~ Is responsible for the prudent use of all
5 public and private funds provided for the commission's use,
6 ensuring that the use of all funds is in accordance with all
7 applicable laws, bylaws, and contractual requirements.

8 (8)~~(5)~~ Shall develop an operational structure to carry
9 out the plan developed by the commission.

10 (9)~~(6)~~ May appear on its own behalf before the
11 Legislature, boards, commissions, departments, or other
12 agencies of municipal, county, state, or Federal Government.

13 (10)~~(7)~~ In the performance of its duties, may
14 undertake or commission research and studies.

15 (11)~~(8)~~ Shall develop a budget, which is in keeping
16 with the plan, for the operation and activities of the
17 commission and functions of its designated administrative
18 entity. The budget shall be submitted to the Governor for
19 inclusion in the Governor's budget recommendations.

20 (12)~~(9)~~ May assign staff from the ~~office or~~ division
21 to assist in implementing the provisions of this act relating
22 to the Occupational Access and Opportunity Commission.

23 Section 25. Effective upon this act becoming a law,
24 subsections (1), (3), and (4) of section 413.85, Florida
25 Statutes, are amended to read:

26 413.85 Occupational Access and Opportunity
27 Corporation; use of property; board of directors; duties;
28 audit.--

29 (1) ESTABLISHMENT.--If the commission elects to
30 contract with the corporation to provide services ~~designate a~~
31 ~~direct-support organization as its administrative entity, such~~

1 organization shall be designated the Occupational Access and
2 Opportunity Corporation:

3 (a) Which is a corporation not for profit, as defined
4 in s. 501(c)~~s. 501(c)(6)~~ of the Internal Revenue Code of
5 1986, as amended, and is incorporated under the provisions of
6 chapter 617 and approved by the Department of State.

7 (b) Which is organized and operated exclusively to
8 carry out such activities and tasks as the commission assigns
9 through contract~~request, receive, hold, invest, and~~
10 ~~administer property and to manage and make expenditures for~~
11 ~~the operation of the activities, services, functions, and~~
12 ~~programs of the provisions of this act relating to the~~
13 ~~Occupational Access and Opportunity Commission.~~

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

17 (d) Which shall not be considered an agency for the
18 purposes of chapters 120, and 216, and 287; ss. 255.25 and
19 255.254, relating to leasing of buildings; ss. 283.33 and
20 283.35, relating to bids for printing; s. 215.31; and parts IV
21 through VIII of chapter 112.

22 (e) Which shall be subject to the provisions of
23 chapter 119, relating to public records; ~~and the provisions~~
24 of chapter 286, relating to public meetings; and the
25 provisions of s. 768.28 as a corporation primarily acting as
26 an instrumentality of this state.

27 (3) BOARD OF DIRECTORS.--The board of directors of the
28 corporation shall be composed of no fewer than 7 and no more
29 than 15 members appointed by the commission, and a majority of
30 its members must be members of the commission ~~15 members,~~
31 ~~appointed by the commission from its own membership.~~ The vice

1 chair of the commission shall serve as chair of the
2 corporation's board of directors.

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

5 (a) May make and enter into contracts and assume such
6 other functions as are necessary to carry out the provisions
7 of the plan and the corporation's contract with the commission
8 which are not inconsistent with this or any other provision of
9 law.

10 (b) May develop a program to leverage the existing
11 federal and state funding and to provide upgraded or expanded
12 services to Floridians with disabilities if directed by the
13 commission.

14 (c) May commission and adopt, in cooperation with the
15 commission, an official business name and logo to be used in
16 all promotional materials directly produced by the
17 corporation.

18 (d) The corporation shall establish cooperative and
19 collaborative memoranda of understanding with One-Stop Career
20 Center operators to increase, upgrade, or expand services to
21 Floridians with disabilities who are seeking employment and
22 self-sufficiency.

23 (e) May hire any individual who, as of June 30, 2000,
24 is employed by the Division of Vocational Rehabilitation. Such
25 hiring may be done through a lease agreement established by
26 the Department of Management Services for the corporation.
27 Under such agreement, the employee shall retain his or her
28 status as a state employee, but shall work under the direct
29 supervision of the corporation. Retention of state employee
30 status shall include the right to participate in the Florida
31

1 Retirement System. The Department of Management Services shall
2 establish the terms and conditions of such lease agreements.

3 Section 26. Effective upon this act becoming a law,
4 section 413.86, Florida Statutes, is amended to read:

5 413.86 Public-private partnerships.--The Division of
6 Occupational Access and Opportunity ~~Vocational Rehabilitation~~
7 will enter into local public-private partnerships to the
8 extent that it is beneficial to increasing employment outcomes
9 for persons with disabilities and ensuring their full
10 involvement in the comprehensive workforce investment system.

11 Section 27. Effective upon this act becoming a law,
12 subsection (2) of section 413.87, Florida Statutes, is amended
13 to read:

14 413.87 Annual audit.--

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

17 (a) Updates its progress and impact in creating
18 employment and increasing the personal income of individuals
19 with disabilities;

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

22 (c) Measures progress towards annual goals and
23 objectives set forth in the contract ~~commission's plan~~;

24 (d) Reviews all pertinent research findings and
25 training efforts; and

26 (e) Provides other measures of accountability as
27 requested by the commission.

28 Section 28. Effective upon this act becoming a law,
29 section 413.88, Florida Statutes, is amended to read:

30 413.88 Annual report of the Occupational Access and
31 Opportunity Commission; audits.--

1 (1) Before January 1 of each year, the commission
2 shall submit to the Governor, the President of the Senate, and
3 the Speaker of the House of Representatives a complete and
4 detailed report setting forth for itself and its designated
5 administrative entity:

6 (a) Its operations and accomplishments during the
7 fiscal year.

8 (b) Its business and operational plan.

9 (c) The assets and liabilities of the corporation
10 ~~designated administrative entity~~ at the end of its most recent
11 fiscal year.

12 (d) A copy of the annual financial and compliance
13 audit.

14 (2) The Auditor General may, pursuant to his or her
15 own authority or at the direction of the Legislative Auditing
16 Committee, conduct an audit of the commission or the
17 corporation ~~its designated administrative entity~~.

18 Section 29. Effective upon this act becoming a law,
19 section 413.89, Florida Statutes, is amended to read:

20 413.89 State vocational rehabilitation plan;
21 preparation and submittal; administration.--Effective July 1,
22 2000, the Department of Education is the designated state
23 agency and the Division of Occupational Access and Opportunity
24 is the designated state unit for purposes of compliance with
25 the federal Rehabilitation Act of 1973, as amended. Effective
26 October 1, 2000, ~~Upon appointment,~~ the Occupational Access and
27 Opportunity Commission is the designated state agency for
28 purposes of compliance with the Rehabilitation Act of 1973, as
29 amended, and authorized to prepare and submit the federally
30 required state vocational rehabilitation plan and to serve as
31 the governing authority of programs administered by the

1 commission, including, but not limited to: administering the
2 state's plan under the Rehabilitation Act of 1973, as amended;
3 receiving federal funds as the state vocational rehabilitation
4 agency; directing the expenditure of legislative
5 appropriations for rehabilitative services through its
6 designated administrative entity or other agents; and, if
7 necessary, making any changes to the plan that the commission
8 considers necessary to maintain compliance with the federal
9 Rehabilitation Act of 1973, as amended, and implementing such
10 changes in order to continue to qualify and maintain federal
11 funding support. During the period of time between July 1,
12 2000, and October 1, 2000, the department and ~~the appointment~~
13 ~~of the commission and the designation of the administrative~~
14 ~~entity,~~the commission ~~and the division~~ may, by agreement,
15 provide for continued administration consistent with federal
16 and state law.

17 Section 30. Effective upon this act becoming a law,
18 section 413.90, Florida Statutes, is amended to read:

19 413.90 Designated State Agency and Designated State
20 Unit Designation of administrative entity.--Effective July 1,
21 2000, the Division of Vocational Rehabilitation ~~The division~~
22 ~~must comply with the transitional direction of the plan. If~~
23 ~~the commission designates an administrative entity other than~~
24 ~~the division, all powers, duties, and functions of and all~~
25 ~~related records, property, and equipment and all contractual~~
26 ~~rights, obligations of, and unexpended balances of~~
27 ~~appropriations and other funds or allocations of the~~
28 ~~division's component programs of the Department of Labor and~~
29 ~~Employment Security shall be transferred to the Department of~~
30 ~~Education by a type two transfer commission as provided in the~~
31 ~~plan,~~pursuant to s. 20.06(2) and shall become the Division of

1 Occupational Access and Opportunity. The commission and the
2 Department of Education, in establishing the Division of
3 Occupational Access and Opportunity, may establish no more
4 than 700 positions inclusive of those positions leased by the
5 corporation. These positions may be filled by former employees
6 of the Division of Vocational Rehabilitation. By October 1,
7 2000, the division shall reduce the number of positions to no
8 more than 300. If unforeseen transition activities occur in
9 moving service delivery from division employees to community
10 rehabilitation providers and create situations negatively
11 affecting client services, and the remedy to those temporary
12 situations would require more than 300 positions, the division
13 may request a budget amendment to retain positions. The
14 request must provide full justification for the continuation
15 and include the number of positions and duration of time
16 required. In no instance shall the time required exceed 3
17 months.The Department of Labor and Employment Security shall
18 assist the commission in carrying out the intent of this
19 chapter and achieving an orderly transition. The Office of
20 Planning and Budget shall submit the necessary budget
21 amendments to the Legislature in order to bring the budget
22 into compliance with the plan.

23 Section 31. Effective upon this act becoming a law,
24 section 413.91, Florida Statutes, is amended to read:

25 413.91 Service providers; quality assurance and
26 fitness for responsibilities.--The Occupational Access and
27 Opportunity Commission shall assure that all contractors ~~the~~
28 ~~designated administrative entity~~ and providers of direct
29 service maintain an internal system of quality assurance, have
30 proven functional systems, and are subject to a due-diligence
31 inquiry for their fitness to undertake service

1 responsibilities regardless of whether a contract for services
2 is competitively or noncompetitively procured.

3 Section 32. Effective upon this act becoming a law,
4 section 413.92, Florida Statutes, is amended to read:

5 413.92 Conflict of laws.--It is the intent of the
6 Legislature that the provisions of this act relating to the
7 Occupational Access and Opportunity Commission not conflict
8 with any federal statute or implementing regulation governing
9 federal grant-in-aid programs administered by the division or
10 the commission. Whenever such a conflict is asserted by the
11 applicable agency of the Federal Government, until October 1,
12 2000, the department, and after October 1, 2000, the
13 commission shall submit to the federal Department of
14 Education, or other applicable federal agency, a request for a
15 favorable policy interpretation of the conflicting portions.
16 If the request is approved, as certified in writing by the
17 secretary of the federal Department of Education, or the head
18 of the other applicable federal agency, the commission or the
19 division is authorized to make the adjustments in the plan
20 which are necessary for achieving conformity to federal
21 statutes and regulations. Before making such adjustments, the
22 commission or the division shall provide to the President of
23 the Senate and the Speaker of the House of Representatives an
24 explanation and justification of the position of the division
25 or the commission and shall outline all feasible alternatives
26 that are consistent with this section. These alternatives may
27 include the state supervision of local service agencies by the
28 commission or the division if the agencies are designated by
29 the Governor.

30 Section 33. Section 413.93, Florida Statutes, is
31 repealed.

1 Section 34. Subsections (11) and (13) of section
2 440.02, Florida Statutes, are amended to read:

3 440.02 Definitions.--When used in this chapter, unless
4 the context clearly requires otherwise, the following terms
5 shall have the following meanings:

6 (11) "Department" means the Department of Insurance
7 ~~Labor and Employment Security~~.

8 (13) "Division" means the Division of Workers'
9 Compensation of the Department of Insurance ~~Labor and~~
10 ~~Employment Security~~.

11 Section 35. Subsection (1) of section 440.207, Florida
12 Statutes, is amended to read:

13 440.207 Workers' compensation system guide.--

14 (1) The Division of Workers' Compensation of the
15 Department of Insurance ~~Labor and Employment Security~~ shall
16 educate all persons providing or receiving benefits pursuant
17 to this chapter as to their rights and responsibilities under
18 this chapter.

19 Section 36. Subsections (2), (4), (5), (6), (9), and
20 (10); paragraph (c) of subsection (3); and paragraph (a) of
21 subsection (8) of section 440.385, Florida Statutes, are
22 amended to read:

23 440.385 Florida Self-Insurers Guaranty Association,
24 Incorporated.--

25 (2) BOARD OF DIRECTORS.--The board of directors of the
26 association shall consist of nine persons and shall be
27 organized as established in the plan of operation. ~~With~~
28 ~~respect to initial appointments, the Secretary of Labor and~~
29 ~~Employment Security shall, by July 15, 1982, approve and~~
30 ~~appoint to the board persons who are experienced with~~
31 ~~self-insurance in this state and who are recommended by the~~

1 ~~individual self-insurers in this state required to become~~
2 ~~members of the association pursuant to the provisions of~~
3 ~~paragraph (1)(a). In the event the secretary finds that any~~
4 ~~person so recommended does not have the necessary~~
5 ~~qualifications for service on the board and a majority of the~~
6 ~~board has been appointed, the secretary shall request the~~
7 ~~directors thus far approved and appointed to recommend another~~
8 ~~person for appointment to the board. Each director shall serve~~
9 ~~for a 4-year term and may be reappointed. Appointments other~~
10 ~~than initial appointments shall be made by the Insurance~~
11 ~~Commissioner and Treasurer Secretary of Labor and Employment~~
12 ~~Security upon recommendation of members of the association.~~
13 Any vacancy on the board shall be filled for the remaining
14 period of the term in the same manner as appointments other
15 than initial appointments are made. Each director shall be
16 reimbursed for expenses incurred in carrying out the duties of
17 the board on behalf of the association.

18 (3) POWERS AND DUTIES.--

19 (c)1. To the extent necessary to secure funds for the
20 payment of covered claims and also to pay the reasonable costs
21 to administer them, the Department of Insurance ~~Labor and~~
22 ~~Employment Security~~, upon certification of the board of
23 directors, shall levy assessments based on the annual normal
24 premium each employer would have paid had the employer not
25 been self-insured. Every assessment shall be made as a
26 uniform percentage of the figure applicable to all individual
27 self-insurers, provided that the assessment levied against any
28 self-insurer in any one year shall not exceed 1 percent of the
29 annual normal premium during the calendar year preceding the
30 date of the assessment. Assessments shall be remitted to and
31 administered by the board of directors in the manner specified

1 by the approved plan. Each employer so assessed shall have at
2 least 30 days' written notice as to the date the assessment is
3 due and payable. The association shall levy assessments
4 against any newly admitted member of the association so that
5 the basis of contribution of any newly admitted member is the
6 same as previously admitted members, provision for which shall
7 be contained in the plan of operation.

8 2. If, in any one year, funds available from such
9 assessments, together with funds previously raised, are not
10 sufficient to make all the payments or reimbursements then
11 owing, the funds available shall be prorated, and the unpaid
12 portion shall be paid as soon thereafter as sufficient
13 additional funds become available.

14 3. No state funds of any kind shall be allocated or
15 paid to the association or any of its accounts except those
16 state funds accruing to the association by and through the
17 assignment of rights of an insolvent employer.

18 (4) INSOLVENCY FUND.--Upon the adoption of a plan of
19 operation ~~or the adoption of rules by the Department of Labor~~
20 ~~and Employment Security~~ pursuant to subsection (5), there
21 shall be created an Insolvency Fund to be managed by the
22 association.

23 (a) The Insolvency Fund is created for purposes of
24 meeting the obligations of insolvent members incurred while
25 members of the association and after the exhaustion of any
26 bond, as required under this chapter. However, if such bond,
27 surety, or reinsurance policy is payable to the Florida
28 Self-Insurers Guaranty Association, the association shall
29 commence to provide benefits out of the Insolvency Fund and be
30 reimbursed from the bond, surety, or reinsurance policy. The
31

1 method of operation of the Insolvency Fund shall be defined in
2 the plan of operation as provided in subsection (5).

3 (b) The department shall have the authority to audit
4 the financial soundness of the Insolvency Fund annually.

5 (c) The department may offer certain amendments to the
6 plan of operation to the board of directors of the association
7 for purposes of assuring the ongoing financial soundness of
8 the Insolvency Fund and its ability to meet the obligations of
9 this section.

10 (d) The department actuary may make certain
11 recommendations to improve the orderly payment of claims.

12 (5) PLAN OF OPERATION.--~~By September 15, 1982,~~The
13 board of directors shall use ~~submit to the Department of Labor~~
14 ~~and Employment Security~~ a proposed plan of operation for the
15 administration of the association and the Insolvency Fund.

16 (a) The purpose of the plan of operation shall be to
17 provide the association and the board of directors with the
18 authority and responsibility to establish the necessary
19 programs and to take the necessary actions to protect against
20 the insolvency of a member of the association. In addition,
21 the plan shall provide that the members of the association
22 shall be responsible for maintaining an adequate Insolvency
23 Fund to meet the obligations of insolvent members provided for
24 under this act and shall authorize the board of directors to
25 contract and employ those persons with the necessary expertise
26 to carry out this stated purpose.

27 ~~(b) The plan of operation, and any amendments thereto,~~
28 ~~shall take effect upon approval in writing by the department.~~
29 ~~If the board of directors fails to submit a plan by September~~
30 ~~15, 1982, or fails to make required amendments to the plan~~
31 ~~within 30 days thereafter, the department shall promulgate~~

1 ~~such rules as are necessary to effectuate the provisions of~~
2 ~~this subsection. Such rules shall continue in force until~~
3 ~~modified by the department or superseded by a plan submitted~~
4 ~~by the board of directors and approved by the department.~~

5 (b)~~(c)~~ All member employers shall comply with the plan
6 of operation.

7 (c)~~(d)~~ The plan of operation shall:

8 1. Establish the procedures whereby all the powers and
9 duties of the association under subsection (3) will be
10 performed.

11 2. Establish procedures for handling assets of the
12 association.

13 3. Establish the amount and method of reimbursing
14 members of the board of directors under subsection (2).

15 4. Establish procedures by which claims may be filed
16 with the association and establish acceptable forms of proof
17 of covered claims. Notice of claims to the receiver or
18 liquidator of the insolvent employer shall be deemed notice to
19 the association or its agent, and a list of such claims shall
20 be submitted periodically to the association or similar
21 organization in another state by the receiver or liquidator.

22 5. Establish regular places and times for meetings of
23 the board of directors.

24 6. Establish procedures for records to be kept of all
25 financial transactions of the association and its agents and
26 the board of directors.

27 7. Provide that any member employer aggrieved by any
28 final action or decision of the association may appeal to the
29 department within 30 days after the action or decision.

30
31

1 8. Establish the procedures whereby recommendations of
2 candidates for the board of directors shall be submitted to
3 the department.

4 9. Contain additional provisions necessary or proper
5 for the execution of the powers and duties of the association.

6 (d)~~(e)~~ The plan of operation may provide that any or
7 all of the powers and duties of the association, except those
8 specified under subparagraphs (c)1.~~(d)1.~~ and 2., be delegated
9 to a corporation, association, or other organization which
10 performs or will perform functions similar to those of this
11 association or its equivalent in two or more states. Such a
12 corporation, association, or organization shall be reimbursed
13 as a servicing facility would be reimbursed and shall be paid
14 for its performance of any other functions of the association.
15 A delegation of powers or duties under this subsection shall
16 take effect only with the approval of both the board of
17 directors and the department and may be made only to a
18 corporation, association, or organization which extends
19 protection which is not substantially less favorable and
20 effective than the protection provided by this section.

21 (6) POWERS AND DUTIES OF DEPARTMENT OF INSURANCE ~~LABOR~~
22 ~~AND EMPLOYMENT SECURITY.~~--

23 (a) The department shall:

24 1. Notify the association of the existence of an
25 insolvent employer not later than 3 days after it receives
26 notice of the determination of insolvency.

27 2. Upon request of the board of directors, provide the
28 association with a statement of the annual normal premiums of
29 each member employer.

30 (b) The department may:

31

1 1. Require that the association notify the member
2 employers and any other interested parties of the
3 determination of insolvency and of their rights under this
4 section. Such notification shall be by mail at the last known
5 address thereof when available; but, if sufficient information
6 for notification by mail is not available, notice by
7 publication in a newspaper of general circulation shall be
8 sufficient.

9 2. Suspend or revoke the authority of any member
10 employer failing to pay an assessment when due or failing to
11 comply with the plan of operation to self-insure in this
12 state. As an alternative, the department may levy a fine on
13 any member employer failing to pay an assessment when due.
14 Such fine shall not exceed 5 percent of the unpaid assessment
15 per month, except that no fine shall be less than \$100 per
16 month.

17 3. Revoke the designation of any servicing facility if
18 the department finds that claims are being handled
19 unsatisfactorily.

20 (8) PREVENTION OF INSOLVENCIES.--To aid in the
21 detection and prevention of employer insolvencies:

22 (a) Upon determination by majority vote that any
23 member employer may be insolvent or in a financial condition
24 hazardous to the employees thereof or to the public, it shall
25 be the duty of the board of directors to notify the Department
26 of Insurance ~~Labor and Employment Security~~ of any information
27 indicating such condition.

28 (9) EXAMINATION OF THE ASSOCIATION.--The association
29 shall be subject to examination and regulation by the
30 Department of Insurance ~~Labor and Employment Security~~. No
31 later than March 30 of each year, the board of directors shall

1 submit a financial report for the preceding calendar year in a
2 form approved by the department.

3 (10) IMMUNITY.--There shall be no liability on the
4 part of, and no cause of action of any nature shall arise
5 against, any member employer, the association or its agents or
6 employees, the board of directors, or the Department of
7 Insurance ~~Labor and Employment Security~~ or its representatives
8 for any action taken by them in the performance of their
9 powers and duties under this section.

10 Section 37. Subsection (6) of section 440.44, Florida
11 Statutes, is amended to read:

12 440.44 Workers' compensation; staff organization.--

13 (6) SEAL.--The division, the judges of compensation
14 claims, and the Chief Judge shall have a seal upon which shall
15 be inscribed the words "State of Florida Department of
16 Insurance ~~Labor and Employment Security~~--Seal."

17 Section 38. Subsections (1) and (3) of section
18 440.4416, Florida Statutes, are amended to read:

19 440.4416 Workers' Compensation Oversight Board.--

20 (1) There is created within the Department of
21 Insurance ~~Labor and Employment Security~~ the Workers'
22 Compensation Oversight Board. The board shall be composed of
23 the following members, each of whom has knowledge of, or
24 experience with, the workers' compensation system:

25 (a) Six members selected by the Governor, none of whom
26 shall be a member of the Legislature at the time of
27 appointment, consisting of the following:

28 1. Two representatives of employers.

29 2. Four representatives of employees, one of whom must
30 be a representative of an employee's union whose members are
31 covered by workers' compensation pursuant to this chapter.

1 (b) Three members selected by the President of the
2 Senate, none of whom shall be members of the Legislature at
3 the time of appointment, consisting of:

4 1. A representative of employers who employs at least
5 10 employees in Florida for which workers' compensation
6 coverage is provided pursuant to this chapter, and who is a
7 licensed general contractor actively engaged in the
8 construction industry in this state.

9 2. A representative of employers who employs fewer
10 than 10 employees in Florida for which workers' compensation
11 coverage is provided pursuant to this chapter.

12 3. A representative of employees.

13 (c) Three members selected by the Speaker of the House
14 of Representatives, none of whom shall be members of the
15 Legislature at the time of appointment, consisting of:

16 1. A representative of employers who employs fewer
17 than 10 employees in Florida and who is a licensed general
18 contractor actively engaged in the construction industry in
19 this state for which workers' compensation coverage is
20 provided pursuant to this chapter.

21 2. A representative of employers who employs at least
22 10 employees in Florida for which workers' compensation
23 coverage is provided pursuant to this chapter.

24 3. A representative of employees.

25 (d) Additionally, the Insurance Commissioner ~~and the~~
26 ~~secretary of the Department of Labor and Employment Security~~
27 shall be a nonvoting ex officio member ~~members~~.

28 (e) The original appointments to the board shall be
29 made on or before January 1, 1994. Vacancies in the membership
30 of the board shall be filled in the same manner as the
31 original appointments. Except as to ex officio members of the

1 board, three appointees of the Governor, two appointees of the
2 President of the Senate, and two appointees of the Speaker of
3 the House of Representatives shall serve for terms of 2 years,
4 and the remaining appointees shall serve for terms of 4 years.
5 Thereafter, all members shall serve for terms of 4 years;
6 except that a vacancy shall be filled by appointment for the
7 remainder of the term. The board shall have an organizational
8 meeting on or before March 1, 1994, the time and place of such
9 meeting to be determined by the Governor.

10 (f) Each member is accountable to the Governor for
11 proper performance of his or her duties as a member of the
12 board. The Governor may remove from office any member for
13 malfeasance, misfeasance, neglect of duty, drunkenness,
14 incompetence, permanent inability to perform official duties,
15 or for pleading guilty or nolo contendere to, or having been
16 adjudicated guilty of, a first degree misdemeanor or a felony.

17 (g) A vacancy shall occur upon failure of a member to
18 attend four consecutive meetings of the board or 50 percent of
19 the meetings of the board during a 12-month period, unless the
20 board by majority votes to excuse the absence of such member.

21 (3) EXECUTIVE DIRECTOR; EXPENSES.--

22 (a) The board shall appoint an executive director to
23 direct and supervise the administrative affairs and general
24 management of the board who shall be subject to the provisions
25 of part IV of chapter 110. The executive director may employ
26 persons and obtain technical assistance as authorized by the
27 board and shall attend all meetings of the board. Board
28 employees shall be exempt from part II of chapter 110.

29 (b) In addition to per diem and travel expenses
30 authorized by s. 112.061, board members shall receive
31 compensation of \$50 for each full day allocable to business of

1 the board. The board shall promulgate procedures defining
2 "business" for purposes of receiving compensation. Such
3 procedures shall require each member to maintain time records
4 and submit such records to the executive director on a monthly
5 basis. Failure to timely file such monthly record shall
6 extinguish the member's entitlement to compensation for the
7 subject period. Travel outside this state shall be approved by
8 the Insurance Commissioner and Treasurer ~~secretary of the~~
9 ~~department~~. Expenses associated with the administration of
10 this section shall be appropriated and paid for from the trust
11 fund created by s. 440.50.

12 Section 39. Subsection (1) of section 440.45, Florida
13 Statutes, is amended to read:

14 440.45 Office of the Judges of Compensation Claims.--

15 (1) There is hereby created the Office of the Judges
16 of Compensation Claims within the Department of Insurance
17 ~~Labor and Employment Security~~. The Office of the Judges of
18 Compensation Claims shall be headed by a Chief Judge. The
19 Chief Judge shall be appointed by the Governor for a term of 4
20 years from a list of three names submitted by the statewide
21 nominating commission created under subsection (2). The Chief
22 Judge must possess the same qualifications for appointment as
23 a judge of compensation claims, and the procedure for
24 reappointment of the Chief Judge will be the same as for
25 reappointment of a judge of compensation claims. The office
26 shall be a separate budget entity and the Chief Judge shall be
27 its agency head for all purposes. The Department of Insurance
28 ~~Labor and Employment Security~~ shall provide administrative
29 support and service to the office to the extent requested by
30 the Chief Judge but shall not direct, supervise, or control
31 the Office of the Judges of Compensation Claims in any manner,

1 including, but not limited to, personnel, purchasing,
2 budgetary matters, or property transactions. The operating
3 budget of the Office of the Judges of Compensation Claims
4 shall be paid out of the Workers' Compensation Administration
5 Trust Fund established in s. 440.50.

6 Section 40. Paragraph (e) of subsection (9) of section
7 440.49, Florida Statutes, is amended to read:

8 440.49 Limitation of liability for subsequent injury
9 through Special Disability Trust Fund.--

10 (9) SPECIAL DISABILITY TRUST FUND.--

11 (e) The Department of Insurance ~~Labor and Employment~~
12 ~~Security~~ or administrator shall report annually on the status
13 of the Special Disability Trust Fund. The report shall update
14 the estimated undiscounted and discounted fund liability, as
15 determined by an independent actuary, change in the total
16 number of notices of claim on file with the fund in addition
17 to the number of newly filed notices of claim, change in the
18 number of proofs of claim processed by the fund, the fee
19 revenues refunded and revenues applied to pay down the
20 liability of the fund, the average time required to reimburse
21 accepted claims, and the average administrative costs per
22 claim. The department or administrator shall submit its
23 report to the Governor, the President of the Senate, and the
24 Speaker of the House of Representatives by December 1 of each
25 year.

26 Section 41. Subsections (1), (4), and (5) of section
27 443.012, Florida Statutes, are amended to read:

28 443.012 Unemployment Appeals Commission.--

29 (1) There is created within the Department of
30 Management Services ~~Labor and Employment Security~~ an
31 Unemployment Appeals Commission, hereinafter referred to as

1 the "commission." The commission shall consist of a chair and
2 two other members to be appointed by the Governor, subject to
3 confirmation by the Senate. Not more than one appointee must
4 be a person who, on account of previous vocation, employment,
5 or affiliation, is classified as a representative of
6 employers; and not more than one such appointee must be a
7 person who, on account of previous vocation, employment, or
8 affiliation, is classified as a representative of employees.

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

12 (b) The chair shall have the authority to appoint a
13 general counsel, a chief appeals referee,and such other
14 personnel as may be necessary to carry out the duties and
15 responsibilities of the commission.

16 (c) The chair shall have the qualifications required
17 by law for a judge of the circuit court and shall not engage
18 in any other business vocation or employment. Notwithstanding
19 any other provisions of existing law, the chair shall be paid
20 a salary equal to that paid under state law to a judge of the
21 circuit court.

22 (d) The remaining members shall be paid a stipend of
23 \$100 for each day they are engaged in the work of the
24 commission. The chair and other members shall also be
25 reimbursed for travel expenses, as provided in s. 112.061.

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

29 (4) The property, personnel, and appropriations
30 relating to the specified authority, powers, duties, and
31 responsibilities of the commission shall be provided to the

1 commission by the Department of Management Services ~~Labor and~~
2 ~~Employment Security~~.

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

7 Section 42. All powers, duties, functions, rules,
8 records, personnel, property, and unexpended balances of
9 appropriations, allocations, and other funds of the
10 Unemployment Appeals Commission relating to the commission's
11 specified authority, powers, duties, and responsibilities are
12 transferred by a type two transfer, as defined in section
13 20.06(2), Florida Statutes, to the Department of Management
14 Services.

15 Section 43. Subsections (12) and (15) of section
16 443.036, Florida Statutes, are amended to read:

17 443.036 Definitions.--As used in this chapter, unless
18 the context clearly requires otherwise:

19 (12) COMMISSION.--"Commission" means the Unemployment
20 Appeals Commission ~~of the Department of Labor and Employment~~
21 ~~Security~~.

22 (15) DIVISION.--"Division" means the Division of
23 Unemployment Compensation of the Department of Revenue ~~Labor~~
24 ~~and Employment Security~~.

25 Section 44. Paragraph (a) of subsection (4) and
26 subsection (8) of section 443.151, Florida Statutes, are
27 amended to read:

28 443.151 Procedure concerning claims.--

29 (4) APPEALS.--

30 (a) Appeals referees.--The commission ~~division~~ shall
31 appoint one or more impartial salaried appeals referees

1 selected in accordance with s. 443.171(4) to hear and decide
2 appealed or disputed claims. Such appeals referees shall have
3 such qualifications as may be established by the Department of
4 Management Services upon the advice and consent of the
5 commission ~~division~~. No person shall participate on behalf of
6 the commission ~~division~~ as an appeals referee in any case in
7 which she or he is an interested party. The commission
8 ~~division~~ may designate alternates to serve in the absence or
9 disqualification of any appeals referee upon a temporary basis
10 and pro hac vice which alternate shall be possessed of the
11 same qualifications required of appeals referees. The
12 Department of Management Services ~~division~~ shall provide the
13 commission and the appeals referees with proper facilities and
14 assistance for the execution of their functions.

15 (8) BILINGUAL REQUIREMENTS.--

16 (a) Based on the estimated total number of households
17 in a county which speak the same non-English language, a
18 single-language minority, the division shall provide printed
19 bilingual instructional and educational materials in the
20 appropriate language in those counties in which 5 percent or
21 more of the households in the county are classified as a
22 single-language minority.

23 (b) The division shall ensure that one-stop career
24 ~~centers jobs and benefits offices and appeals bureaus~~ in
25 counties subject to the requirements of paragraph (c)
26 prominently post notices in the appropriate languages that
27 translators are available in those offices and bureaus.

28 (c) Single-language minority refers to households
29 which speak the same non-English language and which do not
30 contain an adult fluent in English. The division shall develop
31 estimates of the percentages of single-language minority

1 households for each county by using data made available by the
2 United States Bureau of the Census.

3 Section 45. Subsections (1), (5), and (7) of section
4 443.171, Florida Statutes, are amended to read:

5 443.171 Division and commission; powers and duties;
6 rules; advisory council; records and reports.--

7 (1) POWERS AND DUTIES OF DIVISION.--It shall be the
8 duty of the division to administer this chapter; and it shall
9 have power and authority to employ such persons, make such
10 expenditures, require such reports, make such investigations,
11 and take such other action as it deems necessary or suitable
12 to that end. The division shall determine its own
13 organization and methods of procedure in accordance with the
14 provisions of this chapter. Not later than March 15 of each
15 year, the division, through the Department of Revenue and in
16 conjunction with the Unemployment Appeals Commission ~~Labor and~~
17 ~~Employment Security~~, shall submit to the Governor a report
18 covering the administration and operation of this chapter
19 during the preceding calendar year and shall make such
20 recommendations for amendment to this chapter as it deems
21 proper.

22 (5) UNEMPLOYMENT COMPENSATION ADVISORY COUNCIL.--There
23 is created a state Unemployment Compensation Advisory Council
24 to assist the division in reviewing the unemployment insurance
25 program and to recommend improvements for such program.

26 (a) The council shall consist of 18 members, including
27 equal numbers of employer representatives and employee
28 representatives who may fairly be regarded as representative
29 because of their vocations, employments, or affiliations, and
30 representatives of the general public.

31

1 (b) The members of the council shall be appointed by
2 the executive director ~~secretary~~ of the Department of Revenue
3 ~~Labor and Employment Security~~. ~~Initially, the secretary shall~~
4 ~~appoint five members for terms of 4 years, five members for~~
5 ~~terms of 3 years, five members for terms of 2 years, and three~~
6 ~~members for terms of 1 year. Thereafter, Members shall be~~
7 appointed for 4-year terms. A vacancy shall be filled for the
8 remainder of the unexpired term.

9 (c) The council shall meet at the call of its chair,
10 at the request of a majority of its membership, at the request
11 of the division, or at such times as may be prescribed by its
12 rules, but not less than twice a year. The council shall make
13 a report of each meeting, which shall include a record of its
14 discussions and recommendations. The division shall make such
15 reports available to any interested person or group.

16 (d) Members of the council shall serve without
17 compensation but shall be entitled to receive reimbursement
18 for per diem and travel expenses as provided in s. 112.061.

19 (7) RECORDS AND REPORTS.--Each employing unit shall
20 keep true and accurate work records, containing such
21 information as the division may prescribe. Such records shall
22 be open to inspection and be subject to being copied by the
23 division at any reasonable time and as often as may be
24 necessary. The division or an appeals referee may require from
25 any employing unit any sworn or unsworn reports, with respect
26 to persons employed by it, deemed necessary for the effective
27 administration of this chapter. However, a state or local
28 governmental agency performing intelligence or
29 counterintelligence functions need not report an employee if
30 the head of such agency has determined that reporting the
31 employee could endanger the safety of the employee or

1 | compromise an ongoing investigation or intelligence mission.
2 | Information revealing the employing unit's or individual's
3 | identity thus obtained from the employing unit or from any
4 | individual pursuant to the administration of this chapter,
5 | shall, except to the extent necessary for the proper
6 | presentation of a claim or upon written authorization of the
7 | claimant who has a workers' compensation claim pending, be
8 | held confidential and exempt from the provisions of s.
9 | 119.07(1). Such information shall be available only to public
10 | employees in the performance of their public duties, including
11 | employees of the Department of Education in obtaining
12 | information for the Florida Education and Training Placement
13 | Information Program and the Office of Tourism, Trade, and
14 | Economic Development ~~Department of Commerce~~ in its
15 | administration of the qualified defense contractor tax refund
16 | program authorized by s. 288.1045 ~~s. 288.104~~, the qualified
17 | target industry business tax refund program authorized by s.
18 | 288.106. Any claimant, or the claimant's legal representative,
19 | at a hearing before an appeals referee or the commission shall
20 | be supplied with information from such records to the extent
21 | necessary for the proper presentation of her or his claim. Any
22 | employee or member of the commission or any employee of the
23 | division, or any other person receiving confidential
24 | information, who violates any provision of this subsection is
25 | guilty of a misdemeanor of the second degree, punishable as
26 | provided in s. 775.082 or s. 775.083. However, the division
27 | may furnish to any employer copies of any report previously
28 | submitted by such employer, upon the request of such employer,
29 | and the division is authorized to charge therefor such
30 | reasonable fee as the division may by rule prescribe not to
31 | exceed the actual reasonable cost of the preparation of such

1 copies. Fees received by the division for copies provided
2 under this subsection shall be deposited to the credit of the
3 Employment Security Administration Trust Fund.

4 Section 46. Subsections (1) and (2) of section
5 443.211, Florida Statutes, are amended to read:

6 443.211 Employment Security Administration Trust Fund;
7 appropriation; reimbursement.--

8 (1) EMPLOYMENT SECURITY ADMINISTRATION TRUST
9 FUND.--There is created in the State Treasury a special fund
10 to be known as the "Employment Security Administration Trust
11 Fund." All moneys that are deposited into this fund remain
12 continuously available ~~to the division~~ for expenditure in
13 accordance with the provisions of this chapter and do not
14 lapse at any time and may not be transferred to any other
15 fund. All moneys in this fund which are received from the
16 Federal Government or any agency thereof or which are
17 appropriated by this state for the purposes described in ss.
18 443.171 and 443.181, except money received under s.
19 443.191(5)(c), must be expended solely for the purposes and in
20 the amounts found necessary by the authorized cooperating
21 federal agencies for the proper and efficient administration
22 of this chapter. The fund shall consist of all moneys
23 appropriated by this state; all moneys received from the
24 United States or any agency thereof; all moneys received from
25 any other source for such purpose; any moneys received from
26 any agency of the United States or any other state as
27 compensation for services or facilities supplied to such
28 agency; any amounts received pursuant to any surety bond or
29 insurance policy or from other sources for losses sustained by
30 the Employment Security Administration Trust Fund or by reason
31 of damage to equipment or supplies purchased from moneys in

1 such fund; and any proceeds realized from the sale or
2 disposition of any such equipment or supplies which may no
3 longer be necessary for the proper administration of this
4 chapter. Notwithstanding any provision of this section, all
5 money requisitioned and deposited in this fund under s.
6 443.191(5)(c) remains part of the Unemployment Compensation
7 Trust Fund and must be used only in accordance with the
8 conditions specified in s. 443.191(5). All moneys in this
9 fund must be deposited, administered, and disbursed in the
10 same manner and under the same conditions and requirements as
11 is provided by law for other special funds in the State
12 Treasury. Such moneys must be secured by the depository in
13 which they are held to the same extent and in the same manner
14 as required by the general depository law of the state, and
15 collateral pledged must be maintained in a separate custody
16 account. All payments from the Employment Security
17 Administration Trust Fund must be approved by the division,
18 the commission, or by a duly authorized agent and must be made
19 by the Treasurer upon warrants issued by the Comptroller. Any
20 balances in this fund do not lapse at any time and must remain
21 continuously available ~~to the division~~ for expenditure
22 consistent with this chapter.

23 (2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST
24 FUND.--There is created in the State Treasury a special fund,
25 to be known as the "Special Employment Security Administration
26 Trust Fund," into which shall be deposited or transferred all
27 interest on contributions, penalties, and fines or fees
28 collected under this chapter. Interest on contributions,
29 penalties, and fines or fees deposited during any calendar
30 quarter in the clearing account in the Unemployment
31 Compensation Trust Fund shall, as soon as practicable after

1 the close of such calendar quarter and upon certification of
2 the division, be transferred to the Special Employment
3 Security Administration Trust Fund. However, there shall be
4 withheld from any such transfer the amount certified by the
5 division to be required under this chapter to pay refunds of
6 interest on contributions, penalties, and fines or fees
7 collected and erroneously deposited into the clearing account
8 in the Unemployment Compensation Trust Fund. Such amounts of
9 interest and penalties so certified for transfer shall be
10 deemed to have been erroneously deposited in the clearing
11 account, and the transfer thereof to the Special Employment
12 Security Administration Trust Fund shall be deemed to be a
13 refund of such erroneous deposits. All moneys in this fund
14 shall be deposited, administered, and disbursed in the same
15 manner and under the same conditions and requirements as are
16 provided by law for other special funds in the State Treasury.
17 These moneys shall not be expended or be available for
18 expenditure in any manner which would permit their
19 substitution for, or permit a corresponding reduction in,
20 federal funds which would, in the absence of these moneys, be
21 available to finance expenditures for the administration of
22 the Unemployment Compensation Law. But nothing in this
23 section shall prevent these moneys from being used as a
24 revolving fund to cover expenditures, necessary and proper
25 under the law, for which federal funds have been duly
26 requested but not yet received, subject to the charging of
27 such expenditures against such funds when received. The
28 moneys in this fund, with the approval of the Executive Office
29 of the Governor, shall be used by the Division of Unemployment
30 Compensation, the Unemployment Appeals Commission, and the
31 Agency for Workforce Innovation ~~Division of Jobs and Benefits~~

1 for the payment of costs of administration which are found not
2 to have been properly and validly chargeable against funds
3 obtained from federal sources. All moneys in the Special
4 Employment Security Administration Trust Fund shall be
5 continuously available ~~to the division~~ for expenditure in
6 accordance with the provisions of this chapter and shall not
7 lapse at any time. All payments from the Special Employment
8 Security Administration Trust Fund shall be approved by the
9 division or by a duly authorized agent thereof and shall be
10 made by the Treasurer upon warrants issued by the Comptroller.
11 The moneys in this fund are hereby specifically made available
12 to replace, as contemplated by subsection (3), expenditures
13 from the Employment Security Administration Trust Fund,
14 established by subsection (1), which have been found by the
15 Bureau of Employment Security, or other authorized federal
16 agency or authority, because of any action or contingency, to
17 have been lost or improperly expended. The Treasurer shall be
18 liable on her or his official bond for the faithful
19 performance of her or his duties in connection with the
20 Special Employment Security Administration Trust Fund.

21 Section 47. Subsection (3) of section 447.02, Florida
22 Statutes, is amended to read:

23 447.02 Definitions.--The following terms, when used in
24 this chapter, shall have the meanings ascribed to them in this
25 section:

26 (3) The term "department" ~~"division"~~ means ~~the~~
27 ~~Division of Jobs and Benefits of the Department of Business~~
28 ~~and Professional Regulation Labor and Employment Security.~~

29 Section 48. Subsections (2), (3), and (4) of section
30 447.04, Florida Statutes, are amended to read:

31 447.04 Business agents; licenses, permits.--

1 (2)(a) Every person desiring to act as a business
2 agent in this state shall, before doing so, obtain a license
3 or permit by filing an application under oath therefor with
4 ~~the Division of Jobs and Benefits of the department of Labor~~
5 ~~and Employment Security~~, accompanied by a fee of \$25 and a
6 full set of fingerprints of the applicant taken by a law
7 enforcement agency qualified to take fingerprints. There
8 shall accompany the application a statement signed by the
9 president and the secretary of the labor organization for
10 which he or she proposes to act as agent, showing his or her
11 authority to do so. The department ~~division~~ shall hold such
12 application on file for a period of 30 days, during which time
13 any person may file objections to the issuing of such license
14 or permit.

15 (b) The department ~~division~~ may also conduct an
16 independent investigation of the applicant; and, if objections
17 are filed, it may hold, or cause to be held, a hearing in
18 accordance with the requirements of chapter 120. The
19 objectors and the applicant shall be permitted to attend such
20 hearing and present evidence.

21 (3) After the expiration of the 30-day period,
22 regardless of whether or not any objections have been filed,
23 the department ~~division~~ shall review the application, together
24 with all information that it may have, including, but not
25 limited to, any objections that may have been filed to such
26 application, any information that may have been obtained
27 pursuant to an independent investigation, and the results of
28 any hearing on the application. If the department ~~division~~,
29 from a review of the information, finds that the applicant is
30 qualified, pursuant to the terms of this chapter, it shall
31 issue such license or permit; and such license or permit shall

1 run for the calendar year for which issued, unless sooner
2 surrendered, suspended, or revoked.

3 (4) Licenses and permits shall expire at midnight,
4 December 31, but may be renewed by the department ~~division~~ on
5 a form prescribed by it; however, if any such license or
6 permit has been surrendered, suspended, or revoked during the
7 year, then such applicant must go through the same formalities
8 as a new applicant.

9 Section 49. Section 447.041, Florida Statutes, is
10 amended to read:

11 447.041 Hearings.--

12 (1) Any person or labor organization denied a license,
13 permit, or registration shall be afforded the opportunity for
14 a hearing by the department ~~division~~ in accordance with the
15 requirements of chapter 120.

16 (2) The department ~~division~~ may, pursuant to the
17 requirements of chapter 120, suspend or revoke the license or
18 permit of any business agent or the registration of any labor
19 organization for the violation of any provision of this
20 chapter.

21 Section 50. Section 447.045, Florida Statutes, is
22 amended to read:

23 447.045 Information confidential.--Neither the
24 department ~~division~~ nor any investigator or employee of the
25 department ~~division~~ shall divulge in any manner the
26 information obtained pursuant to the processing of applicant
27 fingerprint cards, and such information is confidential and
28 exempt from the provisions of s. 119.07(1).

29 Section 51. Section 447.06, Florida Statutes, is
30 amended to read:

31 447.06 Registration of labor organizations required.--

1 (1) Every labor organization operating in the state
2 shall make a report under oath, in writing, to ~~the Division of~~
3 ~~Jobs and Benefits of~~ the department of Labor and Employment
4 ~~Security~~ annually, on or before December 31. Such report shall
5 be filed by the secretary or business agent of such labor
6 organization, shall be in such form as the department
7 prescribes ~~division may prescribe~~, and shall show the
8 following facts:

9 (a) The name of the labor organization;

10 (b) The location of its office; and

11 (c) The name and address of the president, secretary,
12 treasurer, and business agent.

13 (2) At the time of filing such report, it shall be the
14 duty of every such labor organization to pay the department
15 ~~division~~ an annual fee therefor in the sum of \$1.

16 Section 52. Section 447.12, Florida Statutes, is
17 amended to read:

18 447.12 Fees for registration.--All fees collected by
19 ~~the Division of Jobs and Benefits of~~ the department under this
20 part of Labor and Employment Security hereunder shall be paid
21 to the Treasurer and credited to the General Revenue Fund.

22 Section 53. Section 447.16, Florida Statutes, is
23 amended to read:

24 447.16 Applicability of chapter ~~when effective~~--Any
25 labor business agent licensed on July 1, 1965, may renew such
26 license each year on forms provided by ~~the Division of Jobs~~
27 ~~and Benefits of~~ the department of Labor and Employment
28 ~~Security~~ without submitting fingerprints so long as such
29 license or permit has not expired or has not been surrendered,
30 suspended, or revoked. The fingerprinting requirements of
31 this act shall become effective for a new applicant for a

1 labor business agent license immediately upon this act
2 becoming a law.

3 Section 54. Paragraph (a) of subsection (13) of
4 section 447.203, Florida Statutes, is amended to read:

5 447.203 Definitions.--As used in this part:

6 (13) "Professional employee" means:

7 (a) Any employee engaged in work requiring advanced
8 knowledge in a field of science or learning customarily
9 acquired by a prolonged course of specialized intellectual
10 instruction and study in an institution of higher learning or
11 a hospital, as distinguished from a general academic
12 education, an apprenticeship, or training in the performance
13 of routine mental or physical processes and in any two or more
14 of the following categories:

15 1. Work predominantly intellectual and varied in
16 character as opposed to routine mental, manual, mechanical, or
17 physical work;

18 2. Work involving the consistent exercise of
19 discretion and judgment in its performance; and

20 3. Work of such a character that the output produced
21 or the result accomplished cannot be standardized in relation
22 to a given period of time. ~~and~~

23 ~~4. Work requiring advanced knowledge in a field of~~
24 ~~science or learning customarily acquired by a prolonged course~~
25 ~~of specialized intellectual instruction and study in an~~
26 ~~institution of higher learning or a hospital, as distinguished~~
27 ~~from a general academic education, an apprenticeship, or~~
28 ~~training in the performance of routine mental or physical~~
29 ~~processes.~~

30 Section 55. Subsections (1), (3), and (4) of section
31 447.205, Florida Statutes, are amended to read:

1 447.205 Public Employees Relations Commission.--
2 (1) There is hereby created within the Department of
3 Management Services ~~Labor and Employment Security~~ the Public
4 Employees Relations Commission, hereinafter referred to as the
5 "commission." The commission shall be composed of a chair and
6 two full-time members to be appointed by the Governor, subject
7 to confirmation by the Senate, from persons representative of
8 the public and known for their objective and independent
9 judgment, who shall not be employed by, or hold any commission
10 with, any governmental unit in the state or any employee
11 organization, as defined in this part, while in such office.
12 In no event shall more than one appointee be a person who, on
13 account of previous vocation, employment, or affiliation, is,
14 or has been, classified as a representative of employers; and
15 in no event shall more than one such appointee be a person
16 who, on account of previous vocation, employment, or
17 affiliation, is, or has been, classified as a representative
18 of employees or employee organizations. The commissioners
19 shall devote full time to commission duties and shall not
20 engage in any other business, vocation, or employment while in
21 such office. ~~Beginning January 1, 1980, the chair shall be~~
22 ~~appointed for a term of 4 years, one commissioner for a term~~
23 ~~of 1 year, and one commissioner for a term of 2 years.~~
24 ~~Thereafter,~~Every term of office shall be for 4 years; and
25 each term of the office of chair shall commence on January 1
26 of the second year following each regularly scheduled general
27 election at which a Governor is elected to a full term of
28 office. In the event of a vacancy prior to the expiration of
29 a term of office, an appointment shall be made for the
30 unexpired term of that office. The chair shall be responsible
31 for the administrative functions of the commission and shall

1 have the authority to employ such personnel as may be
2 necessary to carry out the provisions of this part. Once
3 appointed to the office of chair, the chair shall serve as
4 chair for the duration of the term of office of chair.

5 Nothing contained herein prohibits a chair or commissioner
6 from serving multiple terms.

7 (3) The commission, in the performance of its powers
8 and duties under this part, shall not be subject to control,
9 supervision, or direction by the Department of Management
10 Services ~~Labor and Employment Security~~.

11 (4) The property, personnel, and appropriations
12 related to the commission's specified authority, powers,
13 duties, and responsibilities shall be provided to the
14 commission by the Department of Management Services ~~Labor and~~
15 ~~Employment Security~~.

16 Section 56. Subsections (1) and (3) of section
17 447.208, Florida Statutes, are amended to read:

18 447.208 Procedure with respect to certain appeals
19 under s. 447.207.--

20 (1) Any person filing an appeal, charge, or petition
21 pursuant to subsection (6), subsection (8), or subsection (9)
22 of s. 447.207 shall be entitled to a hearing pursuant to
23 subsections (4) and (5) of s. 447.503 and in accordance with
24 chapter 120; however, the hearing shall be conducted within 30
25 days of the filing of an appeal with the commission, unless an
26 extension of time is granted by the commission for good cause
27 or unless the basis for the appeal is an allegation of abuse
28 or neglect under s. 415.1075, in which case the hearing by the
29 Public Employees Relations Commission may not be held until
30 the confirmed report of abuse or neglect has been upheld
31 pursuant to the procedures for appeal in s. 415.1075.

1 Discovery may be granted only upon a showing of extraordinary
2 circumstances. A party requesting discovery shall demonstrate
3 a substantial need for the information requested and an
4 inability to obtain relevant information by other means. To
5 the extent that chapter 120 is inconsistent with these
6 provisions, the procedures contained in this section shall
7 govern.

8 (3) With respect to career service appeal hearings
9 relating to demotions, suspensions, or dismissals pursuant to
10 the provisions of this section:

11 (a) Upon a finding that just cause existed for the
12 demotion, suspension, or dismissal, the commission shall
13 affirm the demotion, suspension, or dismissal.

14 (b) Upon a finding that just cause did not exist for
15 the demotion, suspension, or dismissal, the commission may
16 order the reinstatement of the employee, with or without back
17 pay.

18 (c) Upon a finding that just cause for disciplinary
19 action existed, but did not justify the severity of the action
20 taken, the commission may, in its limited discretion, reduce
21 the penalty.

22 (d) The commission is limited in its discretionary
23 reduction of dismissals and suspensions to consider only the
24 following circumstances:

25 1. The seriousness of the conduct as it relates to the
26 employee's duties and responsibilities.

27 2. Action taken with respect to similar conduct by
28 other employees.

29 3. The previous employment record and disciplinary
30 record of the employee.

31

1 4. Extraordinary circumstances beyond the employee's
2 control which temporarily diminished the employee's capacity
3 to effectively perform his or her duties or which
4 substantially contributed to the violation for which
5 punishment is being considered.

6
7 The agency may present evidence to refute the existence of
8 these circumstances.

9 (e) Any order of the commission issued pursuant to
10 this subsection may include back pay, if applicable, and an
11 amount, to be determined by the commission and paid by the
12 agency, for reasonable attorney's fees, witness fees, and
13 other out-of-pocket expenses incurred during the prosecution
14 of an appeal against an agency in which the commission
15 sustains the employee. In determining the amount of an
16 attorney's fee, the commission shall consider only the number
17 of hours reasonably spent on the appeal, comparing the number
18 of hours spent on similar Career Service System appeals and
19 the reasonable hourly rate charged in the geographic area for
20 similar appeals, but not including litigation over the amount
21 of the attorney's fee. This paragraph applies to future and
22 pending cases.

23 Section 57. Subsection (4) of section 447.305, Florida
24 Statutes, is amended to read:

25 447.305 Registration of employee organization.--

26 (4) Notification of registrations and renewals of
27 registration shall be furnished at regular intervals by the
28 commission to ~~the Division of Jobs and Benefits of the~~
29 Department of Management Services ~~Labor and Employment~~
30 Security.

31

1 Section 58. Paragraph (b) of subsection (3) of section
2 447.307, Florida Statutes, is amended to read:

3 447.307 Certification of employee organization.--

4 (3)

5 (b) When an employee organization is selected by a
6 majority of the employees voting in an election, the
7 commission shall certify the employee organization as the
8 exclusive collective bargaining representative of all
9 employees in the unit. Certification is effective upon the
10 issuance of the final order by the commission or, if the final
11 order is appealed, at the time the appeal is exhausted or any
12 stay is vacated by the commission or the court. A party may
13 petition the commission, pursuant to its established
14 procedures, to modify an existing certification due to changed
15 circumstances, an inadvertent mistake by the commission in the
16 original bargaining unit description, or newly created or
17 deleted jobs, or to recognize a name change of the employee
18 organization.

19 Section 59. Paragraph (a) of subsection (5) of section
20 447.503, Florida Statutes, is amended to read:

21 447.503 Charges of unfair labor practices.--It is the
22 intent of the Legislature that the commission act as
23 expeditiously as possible to settle disputes regarding alleged
24 unfair labor practices. To this end, violations of the
25 provisions of s. 447.501 shall be remedied by the commission
26 in accordance with the following procedures and in accordance
27 with chapter 120; however, to the extent that chapter 120 is
28 inconsistent with the provisions of this section, the
29 procedures contained in this section shall govern:

30
31

1 (5) Whenever the proceeding involves a disputed issue
2 of material fact and an evidentiary hearing is to be
3 conducted:

4 (a) The commission shall issue and serve upon all
5 parties a notice of hearing before an assigned hearing officer
6 at a time and place specified therein. Such notice shall be
7 issued at least 14 days prior to the scheduled hearing. If a
8 party fails to appear for the hearing, the hearing officer
9 shall, after waiting a reasonable time, open the record, note
10 the nonappearance, and close the hearing. Thereafter, the
11 hearing may be reconvened only if the party establishes that
12 the failure to appear was due to circumstances beyond his or
13 her control.

14 Section 60. Subsection (4) of section 447.504, Florida
15 Statutes, is amended to read:

16 447.504 Judicial review.--

17 (4) The commencement of proceedings under this section
18 shall not, unless specifically ordered by the district court
19 of appeal, operate as a stay of the commission's order.
20 However, the commission may stay determination of the amount
21 of back pay, benefits, or attorney's fees until the court
22 decides the appeal.

23 Section 61. All powers, duties, functions, rules,
24 records, personnel, property, and unexpended balances of
25 appropriations, allocations, and other funds of the Public
26 Employees Relations Commission relating to the commission's
27 specified authority, powers, duties, and responsibilities are
28 transferred by a type two transfer, as defined in section
29 20.06, Florida Statutes, to the Department of Management
30 Services.

31

1 Section 62. Section 447.609, Florida Statutes, is
2 repealed.

3 Section 63. Subsection (4) of section 450.012, Florida
4 Statutes, is amended to read:

5 450.012 Definitions.--For the purpose of this chapter,
6 the word, phrase, or term:

7 (4) "Department"~~"Division"~~means ~~the Division of Jobs~~
8 ~~and Benefits of the Department of~~ Business and Professional
9 Regulation, except that for purposes of part III of this
10 chapter, the term "department" means the Department of
11 Agriculture and Consumer Services ~~Labor and Employment~~
12 ~~Security.~~

13 Section 64. Subsection (3) of section 450.061, Florida
14 Statutes, is amended to read:

15 450.061 Hazardous occupations prohibited;
16 exemptions.--

17 (3) No minor under 18 years of age, whether such
18 person's disabilities of nonage have been removed by marriage
19 or otherwise, shall be employed or permitted or suffered to
20 work in any place of employment or at any occupation hazardous
21 or injurious to the life, health, safety, or welfare of such
22 minor, as such places of employment or occupations may be
23 determined and declared by ~~the Division of Jobs and Benefits~~
24 ~~of the department of Labor and Employment Security~~ to be
25 hazardous and injurious to the life, health, safety, or
26 welfare of such minor.

27 Section 65. Paragraph (c) of subsection (5) of section
28 450.081, Florida Statutes, is amended to read:

29 450.081 Hours of work in certain occupations.--

30 (5) The provisions of subsections (1) through (4)
31 shall not apply to:

1 (c) Minors enrolled in a public educational
2 institution who qualify on a hardship basis such as economic
3 necessity or family emergency. Such determination shall be
4 made by the school superintendent or his or her designee, and
5 a waiver of hours shall be issued to the minor and the
6 employer. The form and contents thereof shall be prescribed by
7 the department ~~division~~.

8 Section 66. Section 450.095, Florida Statutes, is
9 amended to read:

10 450.095 Waivers.--In extenuating circumstances when it
11 clearly appears to be in the best interest of the child, the
12 department ~~division~~ may grant a waiver of the restrictions
13 imposed by the Child Labor Law on the employment of a child.
14 Such waivers shall be granted upon a case-by-case basis and
15 shall be based upon such factors as the department ~~division~~,
16 by rule, establishes as determinative of whether such waiver
17 is in the best interest of a child.

18 Section 67. Subsections (1), (2), and (5) of section
19 450.121, Florida Statutes, are amended to read:

20 450.121 Enforcement of Child Labor Law.--

21 (1) The department ~~Division of Jobs and Benefits~~ shall
22 administer this chapter. It shall employ such help as is
23 necessary to effectuate the purposes of this chapter. Other
24 agencies of the state may cooperate with the department
25 ~~division~~ in the administration and enforcement of this part.
26 To accomplish this joint, cooperative effort, the department
27 ~~division~~ may enter into intergovernmental agreements with
28 other agencies of the state whereby the other agencies may
29 assist the department ~~division~~ in the administration and
30 enforcement of this part. Any action taken by an agency
31 pursuant to an intergovernmental agreement entered into

1 pursuant to this section shall be considered to have been
2 taken by the department ~~division~~.

3 (2) It is the duty of the department ~~division~~ and its
4 agents and all sheriffs or other law enforcement officers of
5 the state or of any municipality of the state to enforce the
6 provisions of this law, to make complaints against persons
7 violating its provisions, and to prosecute violations of the
8 same. The department ~~division~~ and its agents have authority to
9 enter and inspect at any time any place or establishment
10 covered by this law and to have access to age certificates
11 kept on file by the employer and such other records as may aid
12 in the enforcement of this law. A designated school
13 representative acting in accordance with s. 232.17 shall
14 report to the department ~~division~~ all violations of the Child
15 Labor Law that may come to his or her knowledge.

16 (5) The department ~~division~~ may adopt rules:

17 (a) Defining words, phrases, or terms used in the
18 child labor rule or in this part, as long as the word, phrase,
19 or term is not a word, phrase, or term defined in s. 450.012.

20 (b) Prescribing additional documents that may be used
21 to prove the age of a minor and the procedure to be followed
22 before a person who claims his or her disability of nonage has
23 been removed by a court of competent jurisdiction may be
24 employed.

25 (c) Requiring certain safety equipment and a safe
26 workplace environment for employees who are minors.

27 (d) Prescribing the deadlines applicable to a response
28 to a request for records under subsection (2).

29 (e) Providing an official address from which child
30 labor forms, rules, laws, and posters may be requested and
31 prescribing the forms to be used in connection with this part.

1 Section 68. Subsections (1), (2), (3), (4), and (5) of
2 section 450.132, Florida Statutes, are amended to read:

3 450.132 Employment of children by the entertainment
4 industry; rules; procedures.--

5 (1) Children within the protection of our child labor
6 statutes may, notwithstanding such statutes, be employed by
7 the entertainment industry in the production of motion
8 pictures, legitimate plays, television shows, still
9 photography, recording, publicity, musical and live
10 performances, circuses, and rodeos, in any work not determined
11 by the department ~~Division of Jobs and Benefits~~ to be
12 hazardous, or detrimental to their health, morals, education,
13 or welfare.

14 (2) The department ~~Division of Jobs and Benefits~~
15 shall, as soon as convenient, and after such investigation as
16 to the department ~~division~~ may seem necessary or advisable,
17 determine what work in connection with the entertainment
18 industry is not hazardous or detrimental to the health,
19 morals, education, or welfare of minors within the purview and
20 protection of our child labor laws. When so adopted, such
21 rules shall have the force and effect of law in this state.

22 (3) Entertainment industry employers or agents wishing
23 to qualify for the employment of minors in work not hazardous
24 or detrimental to their health, morals, or education shall
25 make application to the department ~~division~~ for a permit
26 qualifying them to employ minors in the entertainment
27 industry. The form and contents thereof shall be prescribed by
28 the department ~~division~~.

29 (4) Any duly qualified entertainment industry employer
30 may employ any minor. However, if any entertainment industry
31 employer employing a minor causes, permits, or suffers such

1 minor to be placed under conditions which are dangerous to the
2 life or limb or injurious or detrimental to the health or
3 morals or education of the minor, the right of that
4 entertainment industry employer and its representatives and
5 agents to employ minors as provided herein shall stand
6 revoked, unless otherwise ordered by the department ~~division~~,
7 and the person responsible for such unlawful employment is
8 guilty of a misdemeanor of the second degree, punishable as
9 provided in s. 775.082 or s. 775.083.

10 (5) Any entertainment industry employer and its agents
11 employing minors hereunder are required to notify the
12 department ~~division~~, showing the date of the commencement of
13 work, the number of days worked, the location of the work, and
14 the date of termination.

15 Section 69. Subsections (2) and (3) of section
16 450.141, Florida Statutes, are amended to read:

17 450.141 Employing minor children in violation of law;
18 penalties.--

19 (2) Any person, firm, corporation, or governmental
20 agency, or agent thereof, that has employed minors in
21 violation of this part, or any rule adopted pursuant thereto,
22 may be subject by the department ~~division~~ to fines not to
23 exceed \$2,500 per offense. The department ~~division~~ shall
24 adopt, by rule, disciplinary guidelines specifying a
25 meaningful range of designated penalties based upon the
26 severity and repetition of the offenses, and which distinguish
27 minor violations from those which endanger a minor's health
28 and safety.

29 (3) If the department ~~division~~ has reasonable grounds
30 for believing there has been a violation of this part or any
31 rule adopted pursuant thereto, it shall give written notice to

1 the person alleged to be in violation. Such notice shall
2 include the provision or rule alleged to be violated, the
3 facts alleged to constitute such violation, and requirements
4 for remedial action within a time specified in the notice. No
5 fine may be levied unless the person alleged to be in
6 violation fails to take remedial action within the time
7 specified in the notice.

8 Section 70. Paragraph (j) of subsection (1) of section
9 450.191, Florida Statutes, is amended to read:

10 450.191 Executive Office of the Governor; powers and
11 duties.--

12 (1) The Executive Office of the Governor is authorized
13 and directed to:

14 (j) Cooperate with the regional workforce boards and
15 one-stop career centers ~~farm labor office of the Florida State~~
16 ~~Employment Service~~ in the recruitment and referral of migrant
17 laborers and other persons for the planting, cultivation, and
18 harvesting of agricultural crops in Florida.

19 Section 71. Subsection (2) of section 450.28, Florida
20 Statutes, is amended to read:

21 450.28 Definitions.--

22 (2) "Department" ~~"Division"~~ means ~~the Division of Jobs~~
23 ~~and Benefits of the Department of~~ Agriculture and Consumer
24 Services ~~Labor and Employment Security~~.

25 Section 72. Section 450.30, Florida Statutes, is
26 amended to read:

27 450.30 Requirement of certificate of registration;
28 education and examination program.--

29 (1) No person may act as a farm labor contractor until
30 a certificate of registration has been issued to him or her by
31

1 the department ~~division~~ and unless such certificate is in full
2 force and effect and is in his or her possession.

3 (2) No certificate of registration may be transferred
4 or assigned.

5 (3) Unless sooner revoked, each certificate of
6 registration, regardless of the date of issuance, shall be
7 renewed on the last day of the birth month following the date
8 of issuance and, thereafter, each year on the last day of the
9 birth month of the registrant. The date of incorporation shall
10 be used in lieu of birthdate for registrants that are
11 corporations. Applications for certificates of registration
12 and renewal thereof shall be on a form prescribed by the
13 department ~~division~~.

14 (4) The department ~~division~~ shall provide a program of
15 education and examination for applicants under this part. The
16 program may be provided by the department ~~division~~ or through
17 a contracted agent. The program shall be designed to ensure
18 the competency of those persons to whom the department
19 ~~division~~ issues certificates of registration.

20 (5) The department ~~division~~ shall require each
21 applicant to demonstrate competence by a written or oral
22 examination in the language of the applicant, evidencing that
23 he or she is knowledgeable concerning the duties and
24 responsibilities of a farm labor contractor. The examination
25 shall be prepared, administered, and evaluated by the
26 department ~~division~~ or through a contracted agent.

27 (6) The department ~~division~~ shall require an applicant
28 for renewal of a certificate of registration to retake the
29 examination only if:

30 (a) During the prior certification period, the
31 division issued a final order assessing a civil monetary

1 penalty or revoked or refused to renew or issue a certificate
2 of registration; or

3 (b) The department ~~division~~ determines that new
4 requirements related to the duties and responsibilities of a
5 farm labor contractor necessitate a new examination.

6 (7) The department ~~division~~ shall charge each
7 applicant a \$35 fee for the education and examination program.
8 Such fees shall be deposited in the Crew Chief Registration
9 Trust Fund.

10 (8) The department ~~division~~ may adopt rules
11 prescribing the procedures to be followed to register as a
12 farm labor contractor.

13 Section 73. Subsections (1), (2), and (4) of section
14 450.31, Florida Statutes, are amended to read:

15 450.31 Issuance, revocation, and suspension of, and
16 refusal to issue or renew, certificate of registration.--

17 (1) The department ~~division~~ shall not issue to any
18 person a certificate of registration as a farm labor
19 contractor, nor shall it renew such certificate, until:

20 (a) Such person has executed a written application
21 therefor in a form and pursuant to regulations prescribed by
22 the department ~~division~~ and has submitted such information as
23 the department ~~division~~ may prescribe.

24 (b) Such person has obtained and holds a valid federal
25 certificate of registration as a farm labor contractor, or a
26 farm labor contractor employee, unless exempt by federal law.

27 (c) Such person pays to the department ~~division~~, in
28 cash, certified check, or money order, a nonrefundable
29 application fee of \$75. Fees collected by the department
30 ~~division~~ under this subsection shall be deposited in the State
31 Treasury into the Crew Chief Registration Trust Fund, which is

1 hereby created, and shall be utilized for administration of
2 this part.

3 (d) Such person has successfully taken and passed the
4 farm labor contractor examination.

5 (2) The department ~~division~~ may revoke, suspend, or
6 refuse to renew any certificate of registration when it is
7 shown that the farm labor contractor has:

8 (a) Violated or failed to comply with any provision of
9 this part or the rules adopted pursuant to s. 450.36.

10 (b) Made any misrepresentation or false statement in
11 his or her application for a certificate of registration.

12 (c) Given false or misleading information concerning
13 terms, conditions, or existence of employment to persons who
14 are recruited or hired to work on a farm.

15 (4) The department ~~division~~ may refuse to issue or
16 renew, or may suspend or revoke, a certificate of registration
17 if the applicant or holder is not the real party in interest
18 in the application or certificate of registration and the real
19 party in interest is a person who has been refused issuance or
20 renewal of a certificate, has had a certificate suspended or
21 revoked, or does not qualify under this section for a
22 certificate.

23 Section 74. Subsections (1), (4), (5), (6), (8), (9),
24 and (10) of section 450.33, Florida Statutes, are amended to
25 read:

26 450.33 Duties of farm labor contractor.--Every farm
27 labor contractor must:

28 (1) Carry his or her certificate of registration with
29 him or her at all times and exhibit it to all persons with
30 whom the farm labor contractor intends to deal in his or her
31 capacity as a farm labor contractor prior to so dealing and,

1 upon request, to persons designated by the department
2 division.

3 (4) Display prominently, at the site where the work is
4 to be performed and on all vehicles used by the registrant for
5 the transportation of employees, a single posting containing a
6 written statement in English and in the language of the
7 majority of the non-English-speaking employees disclosing the
8 terms and conditions of employment in a form prescribed by the
9 department ~~division~~ or by the United States Department of
10 Labor for this purpose.

11 (5) Take out a policy of insurance with any insurance
12 carrier which policy insures such registrant against liability
13 for damage to persons or property arising out of the operation
14 or ownership of any vehicle or vehicles for the transportation
15 of individuals in connection with his or her business,
16 activities, or operations as a farm labor contractor. In no
17 event may the amount of such liability insurance be less than
18 that required by the provisions of the financial
19 responsibility law of this state. Any insurance carrier that
20 is licensed to operate in this state and that has issued a
21 policy of liability insurance to operate a vehicle used to
22 transport farm workers shall notify the department ~~division~~
23 when it intends to cancel such policy.

24 (6) Maintain such records as may be designated by the
25 department ~~division~~.

26 (8) File, within such time as the department ~~division~~
27 may prescribe, a set of his or her fingerprints.

28 (9) Produce evidence to the department ~~division~~ that
29 each vehicle he or she uses for the transportation of
30 employees complies with the requirements and specifications
31 established in chapter 316, s. 316.620, or Pub. L. No. 93-518

1 as amended by Pub. L. No. 97-470 meeting Department of
2 Transportation requirements or, in lieu thereof, bears a valid
3 inspection sticker showing that the vehicle has passed the
4 inspection in the state in which the vehicle is registered.

5 (10) Comply with all applicable statutes, rules, and
6 regulations of the United States and of the State of Florida
7 for the protection or benefit of labor, including, but not
8 limited to, those providing for wages, hours, fair labor
9 standards, social security, workers' compensation,
10 unemployment compensation, child labor, and transportation.

11 The department ~~division~~ shall not suspend or revoke a
12 certificate of registration pursuant to this subsection
13 unless:

14 (a) A court or agency of competent jurisdiction
15 renders a judgment or other final decision that a violation of
16 one of the laws, rules, or regulations has occurred and, if
17 invoked, the appellate process is exhausted;

18 (b) An administrative hearing pursuant to ss. 120.569
19 and 120.57 is held on the suspension or revocation and the
20 administrative law judge finds that a violation of one of the
21 laws, rules, or regulations has occurred and, if invoked, the
22 appellate process is exhausted; or

23 (c) The holder of a certificate of registration
24 stipulates that a violation has occurred or defaults in the
25 administrative proceedings brought to suspend or revoke his or
26 her registration.

27 Section 75. Section 450.35, Florida Statutes, is
28 amended to read:

29 450.35 Certain contracts prohibited.--It is unlawful
30 for any person to contract for the employment of farm workers
31 with any farm labor contractor as defined in this act until

1 the labor contractor displays to him or her a current
2 certificate of registration issued by the department ~~division~~
3 pursuant to the requirements of this part.

4 Section 76. Section 450.36, Florida Statutes, is
5 amended to read:

6 450.36 Rules and regulations.--The department ~~division~~
7 may adopt rules necessary to enforce and administer this part.

8 Section 77. Section 450.37, Florida Statutes, is
9 amended to read:

10 450.37 Cooperation with federal agencies.--The
11 department ~~division~~ shall, whenever appropriate, cooperate
12 with any federal agency.

13 Section 78. Subsections (2), (3), and (4) of section
14 450.38, Florida Statutes, are amended to read:

15 450.38 Enforcement of farm labor contractor laws.--

16 (2) Any person who, on or after June 19, 1985, commits
17 a violation of this part or of any rule adopted thereunder may
18 be assessed a civil penalty of not more than \$1,000 for each
19 such violation. Such assessed penalties shall be paid in cash,
20 certified check, or money order and shall be deposited into
21 the General Revenue Fund. The department ~~division~~ shall not
22 institute or maintain any administrative proceeding to assess
23 a civil penalty under this subsection when the violation is
24 the subject of a criminal indictment or information under this
25 section which results in a criminal penalty being imposed, or
26 of a criminal, civil, or administrative proceeding by the
27 United States government or an agency thereof which results in
28 a criminal or civil penalty being imposed. The department
29 ~~division~~ may adopt rules prescribing the criteria to be used
30 to determine the amount of the civil penalty and to provide
31

1 notification to persons assessed a civil penalty under this
2 section.

3 (3) Upon a complaint of the department ~~division~~ being
4 filed in the circuit court of the county in which the farm
5 labor contractor may be doing business, any farm labor
6 contractor who fails to obtain a certificate of registration
7 as required by this part may, in addition to such penalties,
8 be enjoined from engaging in any activity which requires the
9 farm labor contractor to possess a certificate of
10 registration.

11 (4) For the purpose of any investigation or proceeding
12 conducted by the department ~~division~~, the secretary of the
13 department or the secretary's designee shall have the power to
14 administer oaths, take depositions, make inspections when
15 authorized by statute, issue subpoenas which shall be
16 supported by affidavit, serve subpoenas and other process, and
17 compel the attendance of witnesses and the production of
18 books, papers, documents, and other evidence. The secretary of
19 the department or the secretary's designee shall exercise this
20 power on the secretary's own initiative.

21 Section 79. (1) The Department of Labor and
22 Employment Security, in conjunction with the Department of
23 Management Services, may offer, subject to the provisions of
24 this section, active employees of the Department of Labor and
25 Employment Security who have 27 or more years of creditable
26 service in a state-administered retirement system, a one-time
27 voluntary reduction-in-force payment during the 2000-2001
28 fiscal year. Such payment shall represent a payment of
29 insurance costs and shall be paid as an annuity to be
30 purchased by the Department of Labor and Employment Security
31 within the amounts appropriated for salary and benefits in the

1 General Appropriations Act for fiscal year 2000-2001, which
2 shall include funds derived from eliminating vacated
3 positions. There shall be no annualization costs associated
4 with this plan. The Secretary of Labor and Employment Security
5 shall be deemed to be the public employer for purposes of
6 negotiating the terms and conditions related to the
7 reduction-in-force payments authorized by this section. All
8 persons retiring under this program must do so by September
9 30, 2000.

10 (2) The department, in consultation with the
11 Department of Management Services, shall prepare a plan to
12 implement the reduction-in-force payment authority for
13 approval by the Office of Planning and Budgeting. The plan
14 must meet all applicable federal requirements regarding the
15 expenditure of federal funds; all applicable federal tax laws;
16 and all other federal and state laws regarding special
17 compensation to employees, including the Age Discrimination in
18 Employment Act and the Older Workers' Benefit Protection Act.
19 The plan must specify the savings created through the payment
20 mechanism and the reduction-in-force, specify the source of
21 funding of the payments, and delineate a timetable for
22 implementation.

23 (3) If approved by the Office of Planning and
24 Budgeting, the plan shall be submitted to the Legislature
25 subject to the notice, review, and objection process
26 authorized in section 216.177, Florida Statutes.

27 (4) This section shall take effect upon becoming a
28 law.

29 Section 80. Notwithstanding any other provision of
30 law, any binding contract or interagency agreement existing on
31 or before October 1, 2000, between the Department of Labor and

1 Employment Security, or an entity or agent of the department,
2 and any other agency, entity, or person shall continue as a
3 binding contract or agreement for the remainder of the term of
4 such contract or agreement with the successor department,
5 agency, or entity responsible for the program, activity, or
6 functions relative to the contract or agreement.

7 Section 81. This act does not affect the validity of
8 any judicial or administrative proceeding involving the
9 Department of Labor and Employment Security which is pending
10 as of October 1, 2000. The successor department, agency, or
11 entity responsible for the program, activity, or function
12 relative to the proceeding shall be substituted, as of October
13 1, 2000, for the Department of Labor and Employment Security
14 as a party in interest in any such proceedings.

15 Section 82. If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 invalidity does not affect other provisions or applications of
18 the act which can be given effect without the invalid
19 provision or application, and to this end the provisions of
20 this act are severable.

21 Section 83. Except as otherwise expressly provided in
22 this act, this act shall take effect October 1, 2000, except
23 that this act shall not take effect unless Committee
24 Substitute for Senate Bill 2050, or similar legislation
25 reassigning responsibilities of the Division of Workforce and
26 Employment Opportunities of the Department of Labor and
27 Employment Security to another agency or entity, becomes a
28 law.

29
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1206

4 The committee substitute differs substantially and principally
5 from Senate Bill 1206 in that the committee substitute:

6 -Repeals statutory authority for the Department of Labor and
7 Employment Security (DLES) (s. 20.171, F.S.) effective October
8 1, 2000, and transfers DLES functions to other agencies of
9 state government.

10 -Transfers the Division of Workers' Compensation to the
11 Department of Insurance, including the Office of the Judges of
12 Compensation Claims.

13 -Transfers the Division of Unemployment Compensation, except
14 for the appeals referees, to the Department of Revenue.

15 -Transfers the Unemployment Appeals Commission and the appeals
16 referees to the Department of Management Services.

17 -Transfers the Public Employees Relations Commission (PERC) to
18 the Department of Management Services.

19 -Transfers the Division of Blind Services to the Department of
20 Management Services. Directs the Florida Rehabilitation
21 Council on Blind Services to provide planning and policy
22 oversight of the division and increases the emphasis on use of
23 community-based rehabilitation programs for the delivery of
24 services to individuals who are blind.

25 -Transfers the farm-labor functions of the Division of
26 Workforce and Employment Opportunities to the Department of
27 Agriculture and Consumer Services.

28 -Transfers the labor organization registration and child labor
29 law functions of the Division of Workforce and Employment
30 Opportunities to the Department of Business and Professional
31 Regulation.

-Transfers the Division of Vocational Rehabilitation to the
Department of Education. Provides for the Department of
Education to serve as the designated state agency for receipt
of federal vocational rehabilitation funds, until October 1,
2000, at which time the Occupational Access and Opportunity
Commission shall assume such responsibility.

-Transfers the Minority Business Advocacy and Assistance
Office to the Department of Management Services.

-Establishes a Florida Workplace Safety Task Force charged
with developing innovative methods for the state to employ
state or federal resources toward reduction of workplace
injuries and a reduction in workers' compensation rates.

-Establishes a transition team composed of high-level
officials from the affected departments and agencies.

-Authorizes a voluntary reduction-in-force payment to

1 employees of DLES with 27 years of creditable service in the
2 retirement system.
3 -Provides for hiring preferences for DLES employees dislocated
4 as a result of the act, and requires the department to provide
5 re-employment assistance. Authorizes the Governor to impose a
6 hiring freeze, under which dislocated DLES employees may move
7 into vacant positions.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31