

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 transfer of the  
7           Division of Workers' Compensation and the  
8           Office of the Judges of Compensation Claims to  
9           the Department of Insurance; providing an  
10          exception; providing for transfer of certain  
11          workers' compensation medical services  
12          positions to the Agency for Health Care  
13          Administration; providing for transfer of  
14          certain functions of the Division of Workforce  
15          and Employment Opportunities of the Department  
16          of Labor and Employment Security relating to  
17          labor organizations, child labor laws, and  
18          migrant and farm labor registration to the  
19          Department of Insurance; providing for transfer  
20          of other workplace regulation functions to the  
21          Department of Insurance; providing for transfer  
22          of certain administrative resources of the  
23          Department of Labor and Employment Security to  
24          the Department of Insurance and the Agency for  
25          Health Care Administration; providing  
26          exceptions relating to hiring and salary  
27          requirements; amending s. 20.13, F.S.;  
28          providing for a Division of Workers'  
29          Compensation in the Department of Insurance;  
30          creating a Bureau of Workplace Regulation and a  
31          Bureau of Workplace Safety within the Division

1 of Workers' Compensation of the Department of  
2 Insurance; providing for a type two transfer of  
3 the Division of Unemployment Compensation to  
4 the Agency for Workforce Innovation; providing  
5 an exception; providing for transfer of  
6 unemployment appeals referees to the  
7 Unemployment Appeals Commission; requiring a  
8 contract for the Department of Revenue to  
9 provide unemployment tax collection services;  
10 providing for transfer of the Office of  
11 Information Systems from the Department of  
12 Labor and Employment Security to the Department  
13 of Management Services; providing an exception  
14 for certain portions of the office to be  
15 transferred to the Agency for Workforce  
16 Innovation; providing for a type two transfer  
17 of the Minority Business Advocacy and  
18 Assistance Office from the Department of Labor  
19 and Employment Security to the Department of  
20 Management Services; creating the Florida Task  
21 Force on Workplace Safety; prescribing  
22 membership of the task force; providing a  
23 purpose for the task force; providing for  
24 staffing, administration, and information  
25 sharing; requiring a report; authorizing the  
26 Division of Workers' Compensation to establish  
27 time-limited positions related to workplace  
28 safety; authorizing the division to establish  
29 permanent positions upon completion of the task  
30 force report; providing for transfer of certain  
31 records and property; providing for termination

1 of the task force; amending s. 39 of ch.  
2 99-240, Laws of Florida; providing for the  
3 transfer of the Division of Blind Services to  
4 the Department of Management Services rather  
5 than the Department of Education; revising the  
6 effective date of such transfer; providing  
7 legislative intent on the transfer of functions  
8 of the Department of Labor and Employment  
9 Security; providing for reemployment assistance  
10 to dislocated department employees; providing  
11 for hiring preferences for such employees;  
12 providing for the transfer of certain records  
13 and funds; creating the Labor and Employment  
14 Security Transition Team; prescribing  
15 membership of the transition team; providing  
16 for staffing; requiring reports; providing for  
17 the termination of the transition team;  
18 authorizing the transition team to use  
19 unexpended funds to settle certain claims;  
20 requiring the transition team to approve  
21 certain personnel hirings and transfers;  
22 requiring the submission of a budget amendment  
23 to allocate resources of the Department of  
24 Labor and Employment Security; exempting  
25 specified state agencies, on a temporary basis,  
26 from provisions relating to procurement of  
27 property and services and leasing of space;  
28 authorizing specified state agencies to develop  
29 temporary emergency rules relating to the  
30 implementation of this act; requiring the  
31 Department of Revenue to notify businesses

1 relating to the transfer of unemployment  
2 compensation tax responsibilities; amending s.  
3 287.012, F.S.; revising a definition to conform  
4 to the transfer of the Minority Business  
5 Advocacy and Assistance Office to the  
6 Department of Management Services; amending s.  
7 287.0947, F.S.; providing for the Florida  
8 Advisory Council on Small and Minority Business  
9 Development to be created within the Department  
10 of Management Services; amending s. 287.09451,  
11 F.S.; reassigning the Minority Business  
12 Advocacy and Assistance Office to the  
13 Department of Management Services; conforming  
14 provisions; amending s. 20.15, F.S.;  
15 establishing the Division of Occupational  
16 Access and Opportunity within the Department of  
17 Education; providing that the Occupational  
18 Access and Opportunity Commission is the  
19 director of the division; requiring the  
20 department to assign certain powers, duties,  
21 responsibilities, and functions to the  
22 division; excepting from appointment by the  
23 Commissioner of Education members of the  
24 commission, the Florida Rehabilitation Council,  
25 and the Florida Independent Living Council;  
26 amending s. 120.80, F.S.; providing that  
27 hearings on certain vocational rehabilitation  
28 determinations by the Occupational Access and  
29 Opportunity Commission need not be conducted by  
30 an administrative law judge; amending s.  
31 413.011, F.S.; revising the internal

1 organizational structure of the Division of  
2 Blind Services; requiring the division to  
3 implement the provisions of a 5-year plan;  
4 requiring the division to contract with  
5 community-based rehabilitation providers for  
6 the delivery of certain services; revising  
7 references to blind persons; requiring the  
8 Division of Blind Services to issue  
9 recommendations to the Legislature on a method  
10 of privatizing the Business Enterprise Program;  
11 providing definitions for the terms  
12 "community-based rehabilitation provider,"  
13 "council," "plan," and "state plan"; renaming  
14 the Advisory Council for the Blind; revising  
15 the membership and functions of the council to  
16 be consistent with federal law; requiring the  
17 council to prepare a 5-year strategic plan;  
18 requiring the council to coordinate with  
19 specified entities; deleting provisions  
20 providing for the Governor to resolve funding  
21 disagreements between the division and the  
22 council; directing that meetings be held in  
23 locations accessible to individuals with  
24 disabilities; amending s. 413.014, F.S.;  
25 requiring the Division of Blind Services to  
26 report on use of community-based providers to  
27 deliver services; amending s. 413.034, F.S.;  
28 revising the membership of the Commission for  
29 Purchase from the Blind or Other Severely  
30 Handicapped to conform to transfer of the  
31 Division of Blind Services and renaming of the

1 Division of Vocational Rehabilitation; amending  
2 ss. 413.051, 413.064, 413.066, 413.067,  
3 413.345, F.S.; conforming departmental  
4 references to reflect the transfer of the  
5 Division of Blind Services to the Department of  
6 Management Services; expressing the intent of  
7 the Legislature that the provisions of this act  
8 relating to blind services not conflict with  
9 federal law; providing procedures in the event  
10 such conflict is asserted; amending s. 413.82,  
11 F.S.; providing definitions for the terms  
12 "community rehabilitation provider," "plan,"  
13 and "state plan"; conforming references;  
14 amending s. 413.83, F.S.; specifying that  
15 appointment of members to the commission is  
16 subject to Senate confirmation; revising  
17 composition of and appointments to the  
18 commission; eliminating a requirement that the  
19 Rehabilitation Council serve the commission;  
20 authorizing the commission to establish an  
21 advisory council composed of representatives  
22 from not-for-profit organizations under certain  
23 conditions; clarifying the entitlement of  
24 commission members to reimbursement for certain  
25 expenses; amending s. 413.84, F.S.; designating  
26 the commission as the director of the Division  
27 of Occupational Access and Opportunity;  
28 specifying responsibilities of the commission;  
29 authorizing the commission to make  
30 administrative rules; authorizing the  
31 commission to hire a division director;

1 revising time for implementation of the 5-year  
2 plan prepared by the commission; expanding the  
3 authority of the commission to contract with  
4 the corporation; removing a requirement for  
5 federal approval to contract with a  
6 direct-support organization; authorizing the  
7 commission to appear on its own behalf before  
8 the Legislature; amending s. 413.85, F.S.;  
9 eliminating limitations on the tax status of  
10 the Occupational Access and Opportunity  
11 Corporation; specifying that the corporation is  
12 not an agency for purposes of certain  
13 government procurement laws; applying  
14 provisions relating to waiver of sovereign  
15 immunity to the corporation; providing that the  
16 board of directors of the corporation be  
17 composed of no fewer than seven and no more  
18 than 15 members and that a majority of its  
19 members be members of the commission;  
20 authorizing the corporation to hire certain  
21 individuals employed by the Division of  
22 Vocational Rehabilitation; providing for a  
23 lease agreement governing such employees;  
24 prescribing terms of such lease agreement;  
25 amending s. 413.86, F.S.; conforming an  
26 organizational reference; creating s. 413.865,  
27 F.S.; requiring coordination between vocational  
28 rehabilitation and other workforce activities;  
29 requiring development of performance  
30 measurement methodologies; 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  
15 certain components of the Division of  
16 Vocational Rehabilitation to the Department of  
17 Education; requiring a reduction in positions;  
18 providing for a budget amendment; providing for  
19 a transfer of certain administrative resources  
20 of the Department of Labor and Employment  
21 Security to the Department of Education;  
22 amending s. 413.91, F.S.; deleting reference to  
23 designated administrative entity; requiring the  
24 commission to assure that all contractors  
25 maintain quality control and are fit to  
26 undertake responsibilities; amending s. 413.92,  
27 F.S.; specifying entities answerable to the  
28 Federal Government in the event of a conflict  
29 with federal law; repealing s. 413.93, F.S.,  
30 relating to the designated state agency under  
31 federal law; amending s. 440.02, F.S.;



1 providing a definition for the term "agency";  
2 conforming definitions of "department" and  
3 "division" to the transfer of the Division of  
4 Workers' Compensation to the Department of  
5 Insurance; amending s. 440.13, F.S., relating  
6 to medical services and supplies under the  
7 workers' compensation law; reassigning certain  
8 functions from the Division of Workers'  
9 Compensation to the Agency for Health Care  
10 Administration; amending s. 440.15, F.S.;  
11 providing for the agency to participate in the  
12 establishment and use of a uniform permanent  
13 impairment rating schedule; amending s.  
14 440.491, F.S.; providing for agency oversight  
15 of workers' compensation rehabilitation  
16 providers; amending s. 440.207, F.S.;  
17 conforming a departmental reference; amending  
18 s. 440.385, F.S.; deleting obsolete provisions;  
19 conforming departmental references relating to  
20 the Florida Self-Insurance Guaranty  
21 Association, Inc.; amending s. 440.44, F.S.;  
22 conforming provisions; amending s. 440.4416,  
23 F.S.; reassigning the Workers' Compensation  
24 Oversight Board to the Department of Insurance;  
25 amending s. 440.45, F.S.; reassigning the  
26 Office of the Judges of Compensation Claims to  
27 the Department of Insurance; amending s.  
28 440.49, F.S.; reassigning responsibility for a  
29 report on the Special Disability Trust Fund to  
30 the Department of Insurance; amending ss.  
31 215.311, 413.091, 440.102, 440.125, 440.25,

1 440.525, and 440.59, F.S.; conforming agency  
2 references to reflect the transfer of programs  
3 from the Department of Labor and Employment  
4 Security to the Department of Management  
5 Services and the Department of Insurance;  
6 amending s. 443.012, F.S.; providing for the  
7 Unemployment Appeals Commission to be created  
8 within the Department of Management Services  
9 rather than the Department of Labor and  
10 Employment Security; conforming provisions;  
11 providing for the transfer of the Unemployment  
12 Appeals Commission to the Department of  
13 Management Services by a type two transfer;  
14 amending s. 443.036, F.S.; conforming the  
15 definition of "commission" to the transfer of  
16 the Unemployment Appeals Commission to the  
17 Department of Management Services; conforming  
18 the definition of "division" to the transfer of  
19 the Division of Unemployment Compensation to  
20 the Agency for Workforce Innovation; amending  
21 s. 443.151, F.S.; providing for unemployment  
22 compensation appeals referees to be appointed  
23 by the Unemployment Appeals Commission;  
24 requiring the Department of Management Services  
25 to provide facilities to the appeals referees  
26 and the commission; requiring the Division of  
27 Unemployment Compensation to post certain  
28 notices in one-stop career centers; amending s.  
29 443.171, F.S.; conforming duties of the  
30 Division of Unemployment Compensation and  
31 appointment of the Unemployment Compensation

1           Advisory Council to reflect program transfer to  
2           the Agency for Workforce Innovation; conforming  
3           cross-references; amending s. 443.211, F.S.;  
4           conforming provisions; authorizing the  
5           Unemployment Appeals Commission to approve  
6           payments from the Employment Security  
7           Administration Trust Fund; providing for use of  
8           funds in the Special Employment Security  
9           Administration Trust Fund by the Unemployment  
10          Appeals Commission and the Agency for Workforce  
11          Innovation; amending ss. 447.02, 447.04,  
12          447.041, 447.045, 447.06, 447.12, 447.16, F.S.;  
13          providing for part I of ch. 447, F.S., relating  
14          to the regulation of labor organizations, to be  
15          administered by the Department of Insurance;  
16          deleting references to the Division of Jobs and  
17          Benefits and the Department of Labor and  
18          Employment Security; amending s. 447.203, F.S.;  
19          clarifying the definition of professional  
20          employee; amending s. 447.205, F.S.; conforming  
21          provisions to reflect the transfer of the  
22          Public Employees Relations Commission to the  
23          Department of Management Services and deleting  
24          obsolete provisions; amending s. 447.208, F.S.;  
25          clarifying the procedure for appeals, charges,  
26          and petitions; amending s. 447.305, F.S.,  
27          relating to the registration of employee  
28          organizations; providing for the Public  
29          Employees Relations Commission to share  
30          registration information with the Department of  
31          Insurance; amending s. 447.307, F.S.;

1 authorizing the commission to modify existing  
2 bargaining units; amending s. 447.503, F.S.;  
3 specifying procedures when a party fails to  
4 appear for a hearing; amending s. 447.504,  
5 F.S.; authorizing the commission to stay  
6 certain procedures; providing for the transfer  
7 of the commission to the Department of  
8 Management Services by a type two transfer;  
9 amending ss. 450.012, 450.061, 450.081,  
10 450.095, 450.121, 450.132, 450.141, F.S.;  
11 providing for part I of ch. 450, F.S., relating  
12 to child labor, to be administered by the  
13 Department of Insurance; deleting references to  
14 the Division of Jobs and Benefits and the  
15 Department of Labor and Employment Security;  
16 amending s. 450.191, F.S., relating to the  
17 duties of the Executive Office of the Governor  
18 with respect to migrant labor; conforming  
19 provisions to changes made by the act; amending  
20 ss. 450.28, 450.30, 450.31, 450.33, 450.35,  
21 450.36, 450.37, 450.38, F.S., relating to farm  
22 labor registration; providing for part III of  
23 ch. 450, F.S., to be administered by the  
24 Department of Insurance; deleting references to  
25 the Division of Jobs and Benefits and the  
26 Department of Labor and Employment Security;  
27 requiring the Department of Revenue to report  
28 on disbursement and cost-allocation of  
29 unemployment compensation funds; requiring the  
30 Department of Revenue to conduct a feasibility  
31 study on privatization of unemployment

1 compensation activities; authorizing the  
2 Department of Labor and Employment Security to  
3 offer a voluntary reduction-in-force payment to  
4 certain employees; requiring a plan to meet  
5 specified criteria; providing for legislative  
6 review; providing for the continuation of  
7 contracts or agreements of the Department of  
8 Labor and Employment Security; providing for a  
9 successor department, agency, or entity to be  
10 substituted for the Department of Labor and  
11 Employment Security as a party in interest in  
12 pending proceedings; providing for  
13 severability; providing a conditional effective  
14 date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Section 20.171, Florida Statutes, is  
19 repealed effective January 1, 2001.

20 Section 2. (1) Effective July 1, 2000, the Division  
21 of Workers' Compensation and the Office of the Judges of  
22 Compensation Claims are transferred by a type two transfer, as  
23 defined in section 20.06(2), Florida Statutes, from the  
24 Department of Labor and Employment Security to the Department  
25 of Insurance, except that 29 full-time equivalent positions,  
26 and the associated salaries and benefits and expenses funding,  
27 related to oversight of medical services in workers'  
28 compensation provider relations, dispute and complaint  
29 resolution, program evaluation, data management, and carrier  
30 compliance and review, are transferred by a type two transfer,  
31 as defined in section 20.06(2), Florida Statutes, from the

1 Department of Labor and Employment Security to the Agency for  
2 Health Care Administration.

3 (2) Effective July 1, 2000, all powers, duties,  
4 functions, rules, records, personnel, property, and unexpended  
5 balances of appropriations, allocations, and other funds of  
6 the Division of Workforce and Employment Opportunities related  
7 to the regulation of labor organizations under chapter 447,  
8 Florida Statutes; the administration of child labor laws under  
9 chapter 450, Florida Statutes; and the administration of  
10 migrant labor and farm labor laws under chapter 450, Florida  
11 Statutes, are transferred by a type two transfer, as defined  
12 in section 20.06(2), Florida Statutes, from the Department of  
13 Labor and Employment Security to the Bureau of Workplace  
14 Regulation in the Division of Workers' Compensation of the  
15 Department of Insurance.

16 (3) Effective July 1, 2000, any other powers, duties,  
17 functions, rules, records, personnel, property, and unexpended  
18 balances of appropriations, allocations, and other funds of  
19 the Department of Labor and Employment Security, not otherwise  
20 transferred by this act, relating to workplace regulation and  
21 enforcement, including, but not limited to, those under  
22 chapter 448, Florida Statutes, are transferred by a type two  
23 transfer, as defined in section 20.06(2), Florida Statutes,  
24 from the department to the Bureau of Workplace Regulation in  
25 the Division of Workers' Compensation of the Department of  
26 Insurance.

27 (4)(a) Effective July 1, 2000, and except as provided  
28 in paragraph (b), the records, property, and unexpended  
29 balances of appropriations, allocations, and other funds and  
30 resources of the Office of the Secretary and the Office of  
31 Administrative Services of the Department of Labor and

1 Employment Security which support the activities and functions  
2 transferred under subsections (1), (2), and (3) are  
3 transferred as provided in section 20.06(2), Florida Statutes,  
4 to the Division of Worker's Compensation and the Office of the  
5 Judges of Compensation Claims. The Department of Insurance, in  
6 consultation with the Department of Labor and Employment  
7 Security, shall determine the number of positions needed for  
8 administrative support of the programs within the Division of  
9 Workers' Compensation and the Office of the Judges of  
10 Compensation Claims as transferred to the Department of  
11 Insurance. The number of administrative support positions that  
12 the Department of Insurance determines are needed shall not  
13 exceed the number of administrative support positions that  
14 prior to the transfer were authorized to the Department of  
15 Labor and Employment Security for this purpose. Upon transfer  
16 of the Division of Workers' Compensation and the Office of the  
17 Judges of Compensation Claims, the number of required  
18 administrative support positions as determined by the  
19 Department of Insurance shall be authorized within the  
20 Department of Insurance. The Department of Insurance may  
21 transfer and reassign positions as deemed necessary to  
22 effectively integrate the activities of the Division of  
23 Workers' Compensation. Appointments to time-limited positions  
24 under this act and authorized positions under this section may  
25 be made without regard to the provisions of 60K-3, 4 and 17,  
26 Florida Administrative Code. Notwithstanding the provisions of  
27 section 216.181(8), Florida Statutes, the Department of  
28 Insurance is authorized, during Fiscal Year 2000-2001, to  
29 exceed the approved salary in the budget entities affected by  
30 this act.  
31

1           (b) Effective July 1, 2000, the records, property, and  
2 unexpended balances of appropriations, allocations, and other  
3 funds and resources of the Office of the Secretary and the  
4 Office of Administrative Services of the Department of Labor  
5 and Employment Security which support the activities and  
6 functions transferred under subsection (1) to the Agency for  
7 Health Care Administration are transferred as provided in  
8 section 20.06(2), Florida Statutes, to the Agency for Health  
9 Care Administration.

10           Section 3. Subsection (2) of section 20.13, Florida  
11 Statutes, is amended, and subsection (7) is added to that  
12 section, to read:

13           20.13 Department of Insurance.--There is created a  
14 Department of Insurance.

15           (2) The following divisions of the Department of  
16 Insurance are established:

17           (a) Division of Insurer Services.

18           (b) Division of Insurance Consumer Services.

19           (c) Division of Agents and Agencies Services.

20           (d) Division of Rehabilitation and Liquidation.

21           (e) Division of Risk Management.

22           (f) Division of State Fire Marshal.

23           (g) Division of Insurance Fraud.

24           (h) Division of Administration.

25           (i) Division of Treasury.

26           (j) Division of Legal Services.

27           (k) Division of Workers' Compensation.

28           (7)(a) A Bureau of Workplace Regulation is created  
29 within the Division of Workers' Compensation.

30           (b) A Bureau of Workplace Safety is created within the  
31 Division of Workers' Compensation.



1           Section 4. Effective January 1, 2001, the Division of  
2 Unemployment Compensation is transferred by a type two  
3 transfer, as defined in section 20.06(2), Florida Statutes,  
4 from the Department of Labor and Employment Security to the  
5 Agency for Workforce Innovation, except that all powers,  
6 duties, functions, rules, records, personnel, property, and  
7 unexpended balances of appropriations, allocations, and other  
8 funds of the division related to the resolution of disputed  
9 claims for unemployment compensation benefits through the use  
10 of appeals referees are transferred by a type two transfer, as  
11 defined in section 20.06(2), Florida Statutes, to the  
12 Unemployment Appeals Commission. Additionally, by January 1,  
13 2001, the Agency for Workforce Innovation shall enter into a  
14 contract with the Department of Revenue to have the Department  
15 of Revenue provide unemployment tax administration and  
16 collection services to the Agency for Workforce Innovation.  
17 Upon entering into such contract with the Agency for Workforce  
18 Innovation to provide unemployment tax administration and  
19 collection services, the Department of Revenue may transfer  
20 from the agency or is authorized to establish the number of  
21 positions determined by that contract. The Department of  
22 Revenue, as detailed in that contract, may exercise all and  
23 any authority that is provided in law to the Division of  
24 Unemployment Compensation to fulfill the duties of that  
25 contract as the division's tax-administration and  
26 collection-services agent including, but not limited to, the  
27 promulgating of rules necessary to administer and collect  
28 unemployment taxes. The Department of Revenue is authorized to  
29 contract with the Department of Management Services or other  
30 appropriate public or private entities for professional  
31 services, regarding the development, revision, implementation,

1 maintenance, and monitoring of electronic data systems and  
2 management information systems associated with the  
3 administration and collection of unemployment taxes.

4 Section 5. Effective January 1, 2001, the Office of  
5 Information Systems is transferred by a type two transfer, as  
6 defined in section 20.06(2), Florida Statutes, from the  
7 Department of Labor and Employment Security to the Department  
8 of Management Services, except that all powers, duties,  
9 functions, rules, records, personnel, property, and unexpended  
10 balances of appropriations, allocations, and other funds of  
11 the office related to workforce information systems planning  
12 are transferred effective October 1, 2000, by a type two  
13 transfer as defined in section 20.06(2), Florida Statutes, to  
14 the Agency for Workforce Innovation.

15 Section 6. Effective October 1, 2000, the Minority  
16 Business Advocacy and Assistance Office is transferred by a  
17 type two transfer as defined in section 20.06(2), Florida  
18 Statutes, from the Department of Labor and Employment Security  
19 to the Department of Management Services.

20 Section 7. (1) Effective upon this act becoming a  
21 law, the Florida Task Force on Workplace Safety is established  
22 within the Department of Insurance. All members of the task  
23 force shall be appointed prior to July 15, 2000, and the task  
24 force shall hold its first meeting by August 15, 2000. The  
25 task force shall be composed of 15 members as follows:

26 (a) Five members appointed by the Governor, one of  
27 whom must be a representative of a statewide business  
28 organization, one of whom must be a representative of  
29 organized labor, and three of whom must be from private-sector  
30 businesses. The Governor shall name one of the appointees  
31 under this paragraph as chair of the task force;

1           (b) Four members appointed by the President of the  
2 Senate, one of whom must be a representative of a statewide  
3 business organization, one of whom must be a representative of  
4 organized labor, and two of whom must be from private-sector  
5 businesses;

6           (c) Four members appointed by the Speaker of the House  
7 of Representatives, one of whom must be a representative of a  
8 statewide business organization, one of whom must be a  
9 representative of organized labor, and two of whom must be  
10 from private-sector businesses;

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

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

15  
16 The Insurance Commissioner or the commissioner's designee from  
17 the Department of Insurance shall serve as an ex officio  
18 nonvoting member of the task force.

19           (2) The purpose of the task force is to develop  
20 findings and issue recommendations on innovative ways in which  
21 the state may employ state or federal resources to reduce the  
22 incidence of employee accidents, occupational diseases, and  
23 fatalities compensable under the workers' compensation law.  
24 The task force shall address issues including, but not limited  
25 to:

26           (a) Alternative organizational structures for the  
27 delivery of workplace safety assistance services to businesses  
28 following the repeal of the Division of Safety of the  
29 Department of Labor and Employment Security under chapter  
30 99-240, Laws of Florida;

31

1           (b) The extent to which workplace safety assistance  
2 services are or may be provided through private-sector  
3 sources;

4           (c) The potential contribution of workplace safety  
5 assistance services to a reduction in workers' compensation  
6 rates for employers;

7           (d) Differences in the workplace safety needs of  
8 businesses based upon the size of the businesses and the  
9 nature of the businesses;

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

12           (f) The relationship between federal and state  
13 workplace safety activities; and

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

16           (3) The task force shall be located in the Department  
17 of Insurance, and staff of the department shall serve as staff  
18 for the task force.

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

23           (5) The task force may procure information and  
24 assistance from any officer or agency of the state or any  
25 subdivision thereof. All such officials and agencies shall  
26 give the task force all relevant information and assistance on  
27 any matter within their knowledge or control.

28           (6) The task force shall submit a report and  
29 recommendations to the Governor, the Insurance Commissioner,  
30 the President of the Senate, and the Speaker of the House of  
31 Representatives no later than January 1, 2001. The report

1 shall include recommendations on the organizational structure,  
2 mission, staffing structure and qualifications, and funding  
3 level for the Bureau of Workplace Safety within the Division  
4 of Workers' Compensation of the Department of Insurance. The  
5 report also shall include any specific recommendations for  
6 legislative action during the 2001 Regular Session of the  
7 Legislature.

8 (7)(a) During Fiscal Year 2000-2001, the Division of  
9 Workers' Compensation of the Department of Insurance is  
10 authorized to establish 40 time-limited positions on July 1,  
11 2000, responsible for the 21(d) federal grant from the  
12 Occupational Safety and Health Administration and for the core  
13 responsibilities under a program for enforcement of safety and  
14 health regulations in the public sector.

15 (b) After the Task Force on Workplace Safety has  
16 issued its report and recommendations, the Division of  
17 Workers' Compensation may eliminate the 40 time-limited  
18 positions and establish and classify permanent positions as  
19 authorized in the Fiscal Year 2000-2001 General Appropriations  
20 Act or seek a budget amendment as provided in chapter 216,  
21 Florida Statutes, to implement the recommendations of the task  
22 force.

23 (c) All records, property, and equipment of the  
24 Division of Safety of the Department of Labor and Employment  
25 Security, repealed under chapter 99-240, Laws of Florida,  
26 shall be transferred to the Bureau of Workplace Safety of the  
27 Division of Workers' Compensation of the Department of  
28 Insurance for the bureau to retain, use, and maintain during  
29 the deliberations of the task force.

30 (8) The task force shall terminate upon submission of  
31 its report.

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

4           Section 39. Effective October 1, 2000 ~~January 1, 2001~~,  
5 the Division of Blind Services is transferred by a type two  
6 transfer as defined in section 20.06(2)~~20.06(5)~~, Florida  
7 Statutes, from the Department of Labor and Employment Security  
8 to the Department of Management Services ~~Education~~.

9           Section 9. (1) It is the intent of the Legislature  
10 that the transfer of responsibilities from the Department of  
11 Labor and Employment Security to other units of state  
12 government as prescribed by this act be accomplished with  
13 minimal disruption of services provided to the public and with  
14 minimal disruption to the employees of the department. To that  
15 end, the Legislature believes that a transition period during  
16 which the activities of the department can be systematically  
17 reduced and the activities of the other applicable units of  
18 state government can be strategically increased is appropriate  
19 and warranted.

20           (2) The Department of Labor and Employment Security  
21 and the Department of Management Services shall provide  
22 coordinated reemployment assistance to employees of the  
23 Department of Labor and Employment Security who are dislocated  
24 as a result of this act. The state Workforce Development  
25 Board, the regional workforce boards, and staff of the  
26 one-stop career centers shall provide assistance to the  
27 departments in carrying out the provisions of this section.

28           (3) The state and its political subdivisions shall  
29 give preference in the appointment and the retention of  
30 employment to employees of the Department of Labor and  
31 Employment Security who are dislocated as a result of this

1 act. Furthermore, for those positions for which an examination  
2 is used to determine the qualifications for entrance into  
3 employment with the state or its political subdivisions, 10  
4 points shall be added to the earned ratings of any employee of  
5 the Department of Labor and Employment Security who is  
6 dislocated as a result of this act if such person has obtained  
7 a qualifying score on the examination for the position.  
8 Preference is considered to have expired once such person has  
9 been employed by any state agency or any agency of a political  
10 subdivision of the state.

11 (4)(a) There is created the Labor and Employment  
12 Security Transition Team, which will be responsible for  
13 coordinating and overseeing actions necessary to ensure the  
14 timely, comprehensive, efficient, and effective implementation  
15 of the provisions of this act, as well as implementation of  
16 any statutory changes to the Department of Labor and  
17 Employment Security's provision of workforce placement and  
18 development services through the Division of Workforce and  
19 Employment Opportunities. By February 1, 2001, the transition  
20 team shall submit to the Governor, the President of the  
21 Senate, and the Speaker of the House of Representatives a  
22 comprehensive report on the transition of the Department of  
23 Labor and Employment Security. The report shall include any  
24 recommendations on legislative action necessary during the  
25 2001 Regular Session of the Legislature to address substantive  
26 or technical issues related to the department's transition.  
27 The transition team shall terminate on May 15, 2001.

28 (b) The transition team shall consist of the following  
29 members:  
30  
31

1           1. The Governor or the Governor's designee, who shall  
2 serve as chair of the transition team and who shall convene  
3 meetings of the transition team;

4           2. The Secretary of Labor and Employment Security or  
5 the secretary's designee;

6           3. The Secretary of Management Services or the  
7 secretary's designee;

8           4. The Commissioner of Insurance or the commissioner's  
9 designee;

10          5. The executive director of the Department of Revenue  
11 or the executive director's designee;

12          6. The director of the Agency for Workforce Innovation  
13 or the director's designee;

14          7. The president of Workforce Florida, Inc., or the  
15 president's designee;

16          8. The Chief Information Officer for the State; and

17          9. Any other members as deemed necessary by and  
18 appointed by the Governor.

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

28          (d) Between the date this act becomes a law and  
29 January 1, 2001, the transition team shall submit bimonthly to  
30 the President of the Senate and the Speaker of the House of  
31



1 Representatives brief status reports on the progress and on  
2 any significant problems in implementing this act.

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

17 (6) The transition team, in conjunction with the  
18 Office of the Attorney General, may use any unexpended  
19 balances of the Department of Labor and Employment Security to  
20 settle any claims or leases, pay out personnel annual leave or  
21 sick leave, or close out other costs owed by the department,  
22 regardless of whether such costs relate to federal, state, or  
23 local governments; department employees; or the private  
24 sector. Any remaining balances of the department shall be  
25 transferred as directed by this act or by budget amendment.

26 (7) The transition team shall monitor any personnel  
27 plans of the Department of Labor and Employment Security and  
28 any implementation activities of the department required by  
29 this act. The department shall not fill a vacant position or  
30 transfer an employee laterally between any divisions or other

31

1 units of the department without the approval of the transition  
2 team.

3 (8) The transition team may submit proposals to the  
4 Governor and recommend budget amendments to ensure the  
5 effective implementation of this act, maintenance of federal  
6 funding, and continuation of services to customers without  
7 interruption. Prior to October 1, 2000, the transition team,  
8 through the Office of Policy and Budget, shall prepare a  
9 budget amendment to allocate the resources of the Office of  
10 the Secretary, Office of Administrative Services, Division of  
11 Unemployment Compensation, and other resources of the  
12 Department of Labor and Employment Security not otherwise  
13 transferred by this act. The allocation of resources under  
14 this budget amendment must provide for the maintenance of the  
15 department until January 1, 2001, in order to complete  
16 activities related to the dissolution of the department and  
17 must reserve any remaining funds or positions.

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

20 Section 10. To expedite the acquisition of goods and  
21 services for implementing the provisions of this act, the  
22 Department of Revenue, the Department of Insurance, the  
23 Department of Management Services, and the Agency for  
24 Workforce Innovation are exempt from the provisions of chapter  
25 287, Florida Statutes, when contracting for the purchase or  
26 lease of goods or services under this act. This section shall  
27 take effect upon this act becoming a law and shall expire  
28 January 1, 2001.

29 Section 11. To expedite the leasing of facilities for  
30 implementing the provisions of this act, the Department of  
31 Revenue, the Department of Insurance, the Department of

1 Management Services, and the Agency for Workforce Innovation  
2 are exempt from the requirements of any state laws relating to  
3 the leasing of space, including, but not limited to, the  
4 requirements imposed by section 255.25, Florida Statutes, and  
5 any rules adopted under such laws, provided, however, that all  
6 leases entered into under this act through January 1, 2001,  
7 must be submitted for approval to the Department of Management  
8 Services at the earliest practicable time. This section shall  
9 take effect upon this act becoming a law and shall expire  
10 January 1, 2001.

11       Section 12. Notwithstanding the provisions of chapter  
12 120, Florida Statutes, to the contrary, the Department of  
13 Revenue, the Department of Insurance, the Department of  
14 Management Services, and the Agency for Workforce Innovation  
15 are authorized to develop emergency rules relating to and in  
16 furtherance of the orderly implementation of the provisions of  
17 this act. These emergency rules shall be valid for a period of  
18 270 days after the effective date of this act.

19       Section 13. (1) The Department of Revenue shall  
20 develop and issue notification to all businesses registered  
21 with the Department of Labor and Employment Security for the  
22 purpose of paying unemployment compensation tax imposed  
23 pursuant to chapter 443, Florida Statutes. Such notification  
24 shall include, but not be limited to, information on the  
25 transfer of responsibilities from the Department of Labor and  
26 Employment Security to the Department of Revenue and other  
27 agencies relating to unemployment compensation activities.

28       (2) The Department of Revenue is authorized to issue  
29 any notices, forms, documents, or publications relating to the  
30 unemployment compensation tax which the Division of  
31 Unemployment Compensation of the Department of Labor and

1 Employment Security was authorized to issue or publish under  
2 chapter 443, Florida Statutes, prior to the transfer of any  
3 responsibilities under this act.

4 (3) The Department of Revenue is authorized to  
5 determine the most efficient and effective method for  
6 administering, collecting, enforcing, and auditing the  
7 unemployment compensation tax in consultation with the  
8 businesses that pay such tax and consistent with the  
9 provisions of chapter 443, Florida Statutes.

10 Section 14. Effective October 1, 2000, subsection (19)  
11 of section 287.012, Florida Statutes, is amended to read:

12 287.012 Definitions.--The following definitions shall  
13 apply in this part:

14 (19) "Office" means the Minority Business Advocacy and  
15 Assistance Office of the Department of Management Services  
16 ~~Labor and Employment Security~~.

17 Section 15. Effective October 1, 2000, subsection (1)  
18 of section 287.0947, Florida Statutes, is amended to read:

19 287.0947 Florida Council on Small and Minority  
20 Business Development; creation; membership; duties.--

21 (1) On or after October 1, 2000 ~~1996~~, the secretary of  
22 the Department of Management Services ~~Labor and Employment~~  
23 ~~Security~~ may create the Florida Advisory Council on Small and  
24 Minority Business Development with the purpose of advising and  
25 assisting the secretary in carrying out the secretary's duties  
26 with respect to minority businesses and economic and business  
27 development. It is the intent of the Legislature that the  
28 membership of such council include practitioners, laypersons,  
29 financiers, and others with business development experience  
30 who can provide invaluable insight and expertise for this  
31 state in the diversification of its markets and networking of

1 business opportunities. The council shall initially consist of  
2 19 persons, each of whom is or has been actively engaged in  
3 small and minority business development, either in private  
4 industry, in governmental service, or as a scholar of  
5 recognized achievement in the study of such matters.

6 Initially, the council shall consist of members representing  
7 all regions of the state and shall include at least one member  
8 from each group identified within the definition of "minority  
9 person" in s. 288.703(3), considering also gender and  
10 nationality subgroups, and shall consist of the following:

11 (a) Four members consisting of representatives of  
12 local and federal small and minority business assistance  
13 programs or community development programs.

14 (b) Eight members composed of representatives of the  
15 minority private business sector, including certified minority  
16 business enterprises and minority supplier development  
17 councils, among whom at least two shall be women and at least  
18 four shall be minority persons.

19 (c) Two representatives of local government, one of  
20 whom shall be a representative of a large local government,  
21 and one of whom shall be a representative of a small local  
22 government.

23 (d) Two representatives from the banking and insurance  
24 industry.

25 (e) Two members from the private business sector,  
26 representing the construction and commodities industries.

27 (f) The chairperson of the Florida Black Business  
28 Investment Board or the chairperson's designee.

29

30 A candidate for appointment may be considered if eligible to  
31 be certified as an owner of a minority business enterprise, or

1 if otherwise qualified under the criteria above. Vacancies may  
2 be filled by appointment of the secretary, in the manner of  
3 the original appointment.

4 Section 16. Effective October 1, 2000, subsections (2)  
5 and (3) and paragraph (h) of subsection (4) of section  
6 287.09451, Florida Statutes, are amended to read:

7 287.09451 Minority Business Advocacy and Assistance  
8 Office; powers, duties, and functions.--

9 (2) The Minority Business Advocacy and Assistance  
10 Office is established within the Department of Management  
11 Services ~~Labor and Employment Security~~ to assist minority  
12 business enterprises in becoming suppliers of commodities,  
13 services, and construction to state government.

14 (3) The Secretary of the Department of Management  
15 Services ~~secretary~~ shall appoint an executive director for the  
16 Minority Business Advocacy and Assistance Office, who shall  
17 serve at the pleasure of the secretary.

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

20 (h) To develop procedures to investigate complaints  
21 against minority business enterprises or contractors alleged  
22 to violate any provision related to this section or s.  
23 287.0943, that may include visits to worksites or business  
24 premises, and to refer all information on businesses suspected  
25 of misrepresenting minority status to the Department of  
26 Management Services ~~Labor and Employment Security~~ for  
27 investigation. When an investigation is completed and there is  
28 reason to believe that a violation has occurred, the  
29 Department of Management Services ~~Labor and Employment~~  
30 ~~Security~~ shall refer the matter to the office of the Attorney  
31 General, Department of Legal Affairs, for prosecution.

1           Section 17. Effective upon this act becoming a law,  
2 subsections (3), (4), and (6) of section 20.15, Florida  
3 Statutes, are amended and paragraph (d) is added to subsection  
4 (5) of that section to read:

5           20.15 Department of Education.--There is created a  
6 Department of Education.

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

9           (a) Division of Community Colleges.

10           (b) Division of Public Schools and Community  
11 Education.

12           (c) Division of Universities.

13           (d) Division of Workforce Development.

14           (e) Division of Human Resource Development.

15           (f) Division of Administration.

16           (g) Division of Financial Services.

17           (h) Division of Support Services.

18           (i) Division of Technology.

19           (j) Division of Occupational Access and Opportunity.

20           (4) DIRECTORS.--The Board of Regents is the director  
21 of the Division of Universities, the Occupational Access and  
22 Opportunity Commission is the director of the Division of  
23 Occupational Access and Opportunity,and the State Board of  
24 Community Colleges is the director of the Division of  
25 Community Colleges, pursuant to chapter 240. The directors of  
26 all other divisions shall be appointed by the commissioner  
27 subject to approval by the state board.

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

30           (d) Shall assign to the Division of Occupational  
31 Access and Opportunity such powers, duties, responsibilities,

1 and functions as are necessary to ensure the coordination,  
2 efficiency, and effectiveness of its programs, including, but  
3 not limited to, vocational rehabilitation and independent  
4 living services to persons with disabilities which services  
5 are funded under the Rehabilitation Act of 1973, as amended,  
6 except:

7 1. Those duties specifically assigned to the Division  
8 of Blind Services of the Department of Management Services;

9 2. Those duties specifically assigned to the  
10 Commissioner of Education in ss. 229.512 and 229.551;

11 3. Those duties concerning physical facilities in  
12 chapter 235;

13 4. Those duties assigned to the State Board of  
14 Community Colleges in chapter 240; and

15 5. Those duties assigned to the Division of Workforce  
16 Development in chapter 239.

17  
18 Effective October 1, 2000, the Occupational Access and  
19 Opportunity Commission shall assume all responsibilities  
20 necessary to be the designated state agency for purposes of  
21 compliance with the Rehabilitation Act of 1973, as amended.

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



1 Rehabilitation Council, the Florida Independent Living  
2 Council, and the State Board of Nonpublic Career Education.

3 Section 18. Subsection (16) is added to section  
4 120.80, Florida Statutes, to read:

5 120.80 Exceptions and special requirements;  
6 agencies.--

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

14 Section 19. Effective October 1, 2000, section  
15 413.011, Florida Statutes, is amended to read:

16 413.011 Division of Blind Services, internal  
17 organizational structure; Florida Rehabilitation Advisory  
18 Council for the Blind Services.--

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

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

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

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

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

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

25            (f)~~(e)~~ Establish one or more training schools and  
26 workshops for the employment of suitable individuals who are  
27 blind ~~persons~~; make expenditures of funds for such purposes;  
28 receive moneys from sales of commodities involved in such  
29 activities and from such funds make payments of wages,  
30 repairs, insurance premiums and replacements of equipment. All  
31 of the activities provided for in this section may be carried

1 on in cooperation with private workshops for individuals who  
2 are ~~the~~ blind, except that all tools and equipment furnished  
3 by the division shall remain the property of the state.

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

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

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

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

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

1 properties shall not constitute or be considered a part of any  
2 legislative appropriation made by the state for the purpose of  
3 carrying out the provisions of this law.

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

8 (m)~~(l)~~ Adopt by rule procedures necessary to comply  
9 with any plans prepared by the council for providing  
10 vocational rehabilitation services for individuals who are ~~the~~  
11 blind.

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

14 (o) Recommend to the Legislature a method to privatize  
15 the Business Enterprise Program established under s. 413.051  
16 by creating a not-for-profit entity. The entity shall conform  
17 to requirements of the federal Randolph Sheppard Act and shall  
18 be composed of blind licensees with expertise in operating  
19 business enterprises. The division shall submit its  
20 recommendations to the Governor, the President of the Senate,  
21 and the Speaker of the House of Representatives, as well as to  
22 the appropriate substantive committees of the Legislature, by  
23 January 1, 2001.

24 (2) As used in this section:

25 (a) "Act," unless the context indicates otherwise,  
26 means the Rehabilitation Act of 1973, 29 U.S.C. ss. 701-797,  
27 as amended.

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

31

1           (c) "Community-based rehabilitation provider" means a  
2 provider of services to individuals in a community setting  
3 which has as its primary function services directed toward  
4 individuals who are blind.

5           (d) "Council" means the Florida Rehabilitation Council  
6 for Blind Services.

7           (e)(e) "Department" means the Department of Management  
8 Services Labor and Employment Security.

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

11           (g) "State plan" means the state plan for vocational  
12 rehabilitation required by the federal Rehabilitation Act of  
13 1973, as amended.

14           (3) There is ~~hereby~~ created in the department the  
15 Florida Rehabilitation Advisory Council for the Blind  
16 Services. The council shall be established in accordance with  
17 the act and must include at least four representatives of  
18 private-sector businesses that are not providers of vocational  
19 rehabilitation services. Members of the council shall serve  
20 without compensation, but may be reimbursed for per diem and  
21 travel expenses pursuant to s. 112.061.~~to assist the division~~  
22 ~~in the planning and development of statewide rehabilitation~~  
23 ~~programs and services, to recommend improvements to such~~  
24 ~~programs and services, and to perform the functions provided~~  
25 ~~in this section.~~

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

27           ~~1. At least one representative of the Independent~~  
28 ~~Living Council, which representative may be the chair or other~~  
29 ~~designee of the council;~~

30           ~~2. At least one representative of a parent training~~  
31 ~~and information center established pursuant to s. 631(c)(9) of~~

1 ~~the Individuals with Disabilities Act, 20 U.S.C. s.~~  
2 ~~1431(c)(9);~~

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

5 ~~4. At least one vocational rehabilitation counselor~~  
6 ~~who has knowledge of and experience in vocational~~  
7 ~~rehabilitation services for the blind, who shall serve as an~~  
8 ~~ex officio nonvoting member of the council if the counselor is~~  
9 ~~an employee of the department;~~

10 ~~5. At least one representative of community~~  
11 ~~rehabilitation program service providers;~~

12 ~~6. Four representatives of business, industry, and~~  
13 ~~labor;~~

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

16 ~~8. At least one parent, family member, guardian,~~  
17 ~~advocate, or authorized representative of an individual who is~~  
18 ~~blind, has multiple disabilities, and either has difficulties~~  
19 ~~representing himself or herself or is unable, due to~~  
20 ~~disabilities, to represent himself or herself;~~

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

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

25 ~~(b) Members of the council shall be appointed by the~~  
26 ~~Governor, who shall select members after soliciting~~  
27 ~~recommendations from representatives of organizations~~  
28 ~~representing a broad range of individuals who have~~  
29 ~~disabilities, and organizations interested in those~~  
30 ~~individuals.~~

31

1           ~~(c) A majority of council members shall be persons who~~  
2 ~~are:~~

- 3           1. ~~Blind; and~~  
4           2. ~~Not employed by the division.~~

5           ~~(d) The council shall select a chair from among its~~  
6 ~~membership.~~

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

9           1. ~~A member appointed to fill a vacancy occurring~~  
10 ~~prior to the expiration of the term for which a predecessor~~  
11 ~~was appointed shall be appointed for the remainder of such~~  
12 ~~term; and~~

13           2. ~~The terms of service of the members initially~~  
14 ~~appointed shall be, as specified by the Governor, for such~~  
15 ~~fewer number of years as will provide for the expiration of~~  
16 ~~terms on a staggered basis.~~

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

19           ~~(g) Any vacancy occurring in the membership of the~~  
20 ~~council shall be filled in the same manner as the original~~  
21 ~~appointment. A vacancy does not affect the power of the~~  
22 ~~remaining members to execute the duties of the council.~~

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

25           1. Review, analyze, and direct ~~advise~~ the division  
26 regarding the performance of the responsibilities of the  
27 division under Title I of the act, particularly  
28 responsibilities relating to:

- 29           a. Eligibility, including order of selection;  
30           b. The extent, scope, and effectiveness of services  
31 provided; and

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

4 2. Advise the department and the division, and provide  
5 direction for, ~~at the discretion of the department or~~  
6 ~~division, assist in~~ the preparation of applications, the state  
7 plan as required by federal law, the strategic plan, and  
8 amendments to the plans, reports, needs assessments, and  
9 evaluations required by Title I.

10 3. Prepare by March 1, 2001, and begin implementing,  
11 by July 1, 2001, subject to approval by the Federal  
12 Government, a 5-year strategic plan to provide services to  
13 individuals who are blind. The council must consult with  
14 stakeholders and conduct public hearings as part of the  
15 development of the plan. The plan must be submitted to the  
16 Governor, the President of the Senate, and the Speaker of the  
17 House of Representatives. The council annually shall make  
18 amendments to the plan, which also must be submitted to the  
19 Governor, the President of the Senate, and the Speaker of the  
20 House of Representatives. The plan must provide for the  
21 maximum use of community-based rehabilitation providers for  
22 the delivery of services and a corresponding reduction in the  
23 number of state employees in the division to the minimum  
24 number necessary to carry out the functions required under  
25 this section. The plan also must provide for 90 percent of the  
26 funds provided for services to individuals who are blind to be  
27 used for direct customer services.

28 4.3. To the extent feasible, conduct a review and  
29 analysis of the effectiveness of, and consumer satisfaction  
30 with:  
31



1 a. The functions performed by state agencies and other  
2 public and private entities responsible for performing  
3 functions for individuals who are blind.

4 b. Vocational rehabilitation services:

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

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

10 ~~5.4.~~ Prepare and submit an annual report on the status  
11 of vocational rehabilitation services for individuals who are  
12 ~~the~~ blind in the state to the Governor and the Commissioner of  
13 the Rehabilitative Services Administration, established under  
14 s. 702 of the act, and make the report available to the  
15 public.

16 ~~6.5.~~ Coordinate with other councils within the state,  
17 including the Independent Living Council, the advisory panel  
18 established under s. 613(a)(12) of the Individuals with  
19 Disabilities Education Act, 20 U.S.C. 1413(a)(12), the State  
20 Planning Council described in s. 124 of the Developmental  
21 Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s.  
22 6024, and the state mental health planning council established  
23 under s. 1916(e) of the Public Health Service Act, 42 U.S.C.  
24 300X-4(e), the Occupational Access and Opportunity Commission,  
25 and the state Workforce Development Board under the federal  
26 Workforce Investment Act.

27 ~~7.6.~~ Advise the department and division and provide  
28 for coordination and the establishment of working  
29 relationships among the department, the division, the  
30 Independent Living Council, and centers for independent living  
31 in the state.

1           8.7. Perform such other functions consistent with the  
2 purposes of the act as the council determines to be  
3 appropriate that are comparable to functions performed by the  
4 council.

5           **(b)(i)**1. The council shall prepare, in conjunction  
6 with the division, a plan for the provision of such resources,  
7 including such staff and other personnel, as may be necessary  
8 to carry out the functions of the council. The resource plan  
9 shall, to the maximum extent possible, rely on the use of  
10 resources in existence during the period of implementation of  
11 the plan.

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

16           ~~2.3.~~ The council shall, consistent with law, supervise  
17 and evaluate such staff and other personnel as may be  
18 necessary to carry out its functions.

19           ~~3.4.~~ While assisting the council in carrying out its  
20 duties, staff and other personnel shall not be assigned duties  
21 by the division or any other state agency or office that would  
22 create a conflict of interest.

23           **(c)(j)** No council member shall cast a vote on any  
24 matter that would provide direct financial benefit to the  
25 member or otherwise give the appearance of a conflict of  
26 interest under state law.

27           **(d)(k)** The council shall convene at least four  
28 meetings each year. These meetings shall occur in such places  
29 as the council deems necessary to conduct council business.  
30 The council may conduct such forums or hearings as the council  
31 considers appropriate. The meetings, hearings, and forums

1 shall be publicly announced. The meetings shall be open and  
2 accessible to the public. To the maximum extent possible, the  
3 meetings shall be held in locations that are accessible to  
4 individuals with disabilities.The council shall make a report  
5 of each meeting which shall include a record of its  
6 discussions and recommendations, all of which reports shall be  
7 made available to the public.

8 Section 20. Effective October 1, 2000, section  
9 413.014, Florida Statutes, is amended to read:

10 413.014 Community-based rehabilitation providers  
11 ~~programs.~~--The 5-year plan prepared under s. 413.011(3)(a)3.  
12 shall require the Division of Blind Services to ~~shall~~ enter  
13 into cooperative agreements with community-based  
14 rehabilitation providers ~~programs~~ to be the service providers  
15 for the blind citizens of their communities. State employees,  
16 however, shall provide all services that may not be delegated  
17 under federal law.The division shall, as rapidly as feasible,  
18 increase the amount of such services provided by  
19 community-based rehabilitation providers ~~programs~~. The goal  
20 shall be to decrease the amount of such services provided by  
21 division employees and to increase to the maximum extent  
22 allowed by federal law the amount of such services provided  
23 through cooperative agreements with community-based service  
24 providers. The division shall seek, to the maximum extent  
25 allowed by federal and state law and regulation, all available  
26 federal funds for such purposes. Funds and in-kind matching  
27 contributions from community and private sources shall be used  
28 to maximize federal funds. Unless prohibited by federal law or  
29 regulation, the share of the federal vocational rehabilitation  
30 grant apportioned for services to the blind shall be not less  
31 than 17 percent. By December 31 of each year, the division

1 shall submit to the Governor, the President of the Senate, and  
2 the Speaker of the House of Representatives a status report on  
3 its progress on increasing the amount of services provided by  
4 community-based rehabilitation providers as required by this  
5 section. The report shall include recommendations on  
6 reductions in the number of division employees based upon  
7 increased use of community-based rehabilitation providers.

8 Section 21. Effective October 1, 2000, subsection (1)  
9 of section 413.034, Florida Statutes, is amended to read:

10 413.034 Commission established; membership.--

11 (1) There is created within the Department of  
12 Management Services the Commission for Purchase from the Blind  
13 or Other Severely Handicapped, to be composed of the secretary  
14 of the Department of Management Services; the director of the  
15 Division of Occupational Access and Opportunity ~~Vocational~~  
16 ~~Rehabilitation~~ of the Department of Education ~~Labor and~~  
17 ~~Employment Security~~, who shall be an ex officio member with  
18 voting rights; the director of the Division of Blind Services  
19 of the Department of Management Services ~~Labor and Employment~~  
20 ~~Security~~; and four members to be appointed by the Governor,  
21 which four members shall be an executive director of a  
22 nonprofit agency for the blind, an executive director of a  
23 nonprofit agency for other severely handicapped persons, a  
24 representative of private enterprise, and a representative of  
25 other political subdivisions. All appointed members shall  
26 serve for terms of 4 years. Appointed commission members  
27 shall serve subject to confirmation by the Senate.

28 Section 22. Effective October 1, 2000, paragraph (a)  
29 of subsection (2) and subsection (3) of section 413.051,  
30 Florida Statutes, are amended to read:

31

1           413.051 Eligible blind persons; operation of vending  
2 stands.--

3           (2) As used in this section:

4           (a) "Blind licensee" means any person who is blind and  
5 who is ~~person~~ trained and licensed by the Division of Blind  
6 Services of the Department of Management Services ~~Labor and~~  
7 ~~Employment Security~~ to operate a vending stand.

8           (3) Blind licensees shall be given the first  
9 opportunity to participate in the operation of vending stands  
10 on all state properties acquired after July 1, 1979, when such  
11 facilities are operated under the supervision of the Division  
12 of Blind Services of the Department of Management Services  
13 ~~Labor and Employment Security~~.

14           Section 23. Effective October 1, 2000, section  
15 413.064, Florida Statutes, is amended to read:

16           413.064 Rules.--The Department of Management Services  
17 ~~Labor and Employment Security~~ shall adopt all necessary rules  
18 pertaining to the conduct of a solicitation for the benefit of  
19 individuals who are blind persons, including criteria for  
20 approval of an application for a permit for such solicitation.

21           Section 24. Effective October 1, 2000, section  
22 413.066, Florida Statutes, is amended to read:

23           413.066 Revocation of permit.--Any failure on the part  
24 of a person or organization holding a permit under the  
25 provisions of ss. 413.061-413.068 to comply with the law or  
26 with all rules promulgated by the Department of Management  
27 Services ~~Labor and Employment Security~~ as authorized by s.  
28 413.064 constitutes a ground for revocation of the permit by  
29 the Division of Blind Services.

30           Section 25. Effective October 1, 2000, section  
31 413.067, Florida Statutes, is amended to read:

1           413.067 Penalty.--Any person who violates the  
2 provisions of ss. 413.061-413.068 or any rule promulgated by  
3 the Department of Management Services ~~Labor and Employment~~  
4 ~~Security~~ pursuant thereto commits a misdemeanor of the second  
5 degree, punishable as provided in s. 775.082 or s. 775.083.

6           Section 26. Effective October 1, 2000, subsection (1)  
7 of section 413.395, Florida Statutes, is amended to read:

8           413.395 Florida Independent Living Council.--

9           (1) There is created the Florida Independent Living  
10 Council to assist the division and the Division of Blind  
11 Services of the Department of Management Services ~~Labor and~~  
12 ~~Employment Security~~, as well as other state agencies and local  
13 planning and administrative entities assisted under Title VII  
14 of the act, in the expansion and development of statewide  
15 independent living policies, programs, and concepts and to  
16 recommend improvements for such programs and services. The  
17 council shall function independently of the division and,  
18 unless the council elects to incorporate as a not-for-profit  
19 corporation, is assigned to the division for administrative  
20 purposes only. The council may elect to be incorporated as a  
21 Florida corporation not for profit and, upon such election,  
22 shall be assisted in the incorporation by the division for the  
23 purposes stated in this section. The appointed members of the  
24 council may constitute the board of directors for the  
25 corporation.

26           Section 27. It is the intent of the Legislature that  
27 the provisions of this act relating to services for  
28 individuals who are blind not conflict with any federal  
29 statute or implementing regulation governing federal  
30 grant-in-aid programs administered by the Division of Blind  
31 Services or the Florida Rehabilitation Council for Blind

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

20 Section 28. Effective upon this act becoming a law,  
21 section 413.82, Florida Statutes, is amended to read:

22 413.82 Definitions.--As used in ss. 413.81-413.93, the  
23 term:

24 (1) "Commission" means the Commission on Occupational  
25 Access and Opportunity.

26 (2) "Community rehabilitation provider" means a  
27 provider of services to people in a community setting which  
28 has as its primary function services directed toward  
29 employment outcomes for people with disabilities.

30 ~~(3)~~(2) "Corporation" means the Occupational Access and  
31 Opportunity Corporation.

1           ~~(4)(3)~~ "Division" means the Division of Occupational  
2 Access and Opportunity Vocational Rehabilitation.

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

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

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

12           Section 29. Effective upon this act becoming a law,  
13 subsections (2), (3), (6), (7), (8), and (10) of section  
14 413.83, Florida Statutes, are amended to read:

15           413.83 Occupational Access and Opportunity Commission;  
16 creation; purpose; membership.--

17           (2) The commission shall consist of 16 voting members,  
18 including 15 members appointed, as provided in this section  
19 herein, by the Governor, the President of the Senate, and the  
20 Speaker of the House of Representatives, and four ex-officio,  
21 nonvoting members. ~~The commission must contain a minimum of 50~~  
22 ~~percent representation from the private sector.~~Appointment of  
23 members is subject to confirmation by the Senate. The  
24 membership of the commission may not include more than two  
25 individuals who are, or are employed by, community  
26 rehabilitation providers who contract to provide vocational  
27 rehabilitation services to individuals who qualify for the  
28 program.The members of the commission shall include:

29           (a) The Commissioner of Education, or his or her  
30 designee, who shall serve as chair until October 1, 2000;  
31



1 after October 1, 2000, the commission shall elect a chair from  
2 its membership;

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

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

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

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

24 (f) As exofficio, nonvoting members:

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

27 2. The chair of the Florida Rehabilitation Council;

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

29 and

30 4. The chair of the Commission for the Purchase from  
31 the Blind or Other Severely Handicapped.

- 1           ~~(b) The chair of the Florida Rehabilitation Council;~~  
2           ~~(c) The chair of the Council for Independent Living;~~  
3           ~~(d) The chair of the Commission for the Purchase from~~  
4 ~~the Blind or Other Severely Handicapped;~~  
5           ~~(e) A community rehabilitation provider who contracts~~  
6 ~~to provide vocational rehabilitation services to individuals~~  
7 ~~who qualify for the program, who shall be appointed by the~~  
8 ~~Governor for a term of 4 years;~~  
9           ~~(f) A representative from the Advocacy Center for~~  
10 ~~Persons With Disabilities, who shall be appointed by the~~  
11 ~~President of the Senate for a term of 4 years;~~  
12           ~~(g) A consumer of vocational rehabilitation services,~~  
13 ~~who shall be appointed by the Speaker of the House of~~  
14 ~~Representatives for a term of 4 years; and~~  
15           ~~(h) Other individuals with disabilities and~~  
16 ~~representatives of business, workforce development, education,~~  
17 ~~state government, local government, consumer advocate groups,~~  
18 ~~employers of individuals with disabilities, or community~~  
19 ~~organizations.~~
- 20           (3) By September 1, 2000, after receiving  
21 recommendations from the commission, the Governor, the  
22 President of the Senate, and the Speaker of the House of  
23 Representatives shall consult together and take actions  
24 necessary to bring the membership of the commission into  
25 compliance with the requirements of this section. In taking  
26 such action, initial terms shall be staggered as necessary to  
27 ensure that the terms of no more than one-fourth of the  
28 commission's total appointed membership shall expire in any  
29 1-year period.~~Initially, the Governor, the President of the~~  
30 ~~Senate, and the Speaker of the House of Representatives shall~~  
31 ~~each appoint as members meeting the qualifications contained~~

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

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

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

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

1 ~~request approved by the commission.~~The commission shall  
2 establish the operating procedures of the committees.

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

9 Section 30. Effective upon this act becoming a law,  
10 section 413.84, Florida Statutes, is amended to read:

11 413.84 Powers and duties.--The commission:

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

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

31

1           (3) Shall, in consultation with the Commissioner of  
2 Education, hire a division director to be responsible to the  
3 commission for operation and maintenance of the programs  
4 assigned and funded to the division.

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

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

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

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

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

30           (d) The plan must require that the commission enter  
31 into cooperative agreements with community-based

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

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

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

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 31. 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 32. 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 33. Effective upon this act becoming law,  
12 section 413.865, Florida Statutes, is created to read:

13 413.865 Coordination with workforce system.--

14 (1) The Occupational Access and Opportunity  
15 Commission, the Division of Occupational Access and  
16 Opportunity, the corporation, and community-based service  
17 providers shall coordinate and integrate their planning,  
18 programs, and services with the planning, programs, and  
19 services of Workforce Florida, Inc., the Agency for Workforce  
20 Innovation, regional workforce boards, and one-stop center  
21 operators to ensure that persons with disabilities can easily  
22 receive all intended and available federal, state, and local  
23 program services.

24 (2) These public and private partners shall work  
25 together to ensure and provide continuity of service to  
26 persons with disabilities throughout the state, as well as to  
27 provide consistent and upgraded services to persons with  
28 disabilities throughout the state.

29 (3) These public and private partners shall work  
30 together to ensure that Florida's design and implementation of  
31 the federal Workforce Investment Act:

1           (a) Integrates these partners in the One-Stop Delivery  
2 System through memorandums of understanding;

3           (b) Includes qualified and eligible providers of  
4 services to persons with disabilities in consumer reports to  
5 promote choice;

6           (c) Develops, using the Untried Worker Placement and  
7 Employment Incentive Act, a tailored Individual Training  
8 Account design for persons with disabilities; and

9           (d) Provides electronic access for persons with  
10 disabilities to workforce development services.

11           (4) These partners, with resources under their control  
12 or by budget amendment, shall establish the collaboration  
13 prescribed by this section. The Commission and Workforce  
14 Florida, Inc., may adopt a joint agreement that commits,  
15 contracts, redirects, and obligates resources under their  
16 control to support the strategy detailed in this section.

17           (5) The commission, in cooperation with its public and  
18 private partners, shall be responsible for developing and  
19 implementing comprehensive performance measurement  
20 methodologies to monitor and evaluate the progress of the  
21 commission and its public and private partners in meeting the  
22 statutory responsibilities for providing services to  
23 individuals with disabilities. These methodologies shall  
24 include, but are not limited to, measures to evaluate the  
25 performance of community rehabilitation providers who contract  
26 with the commission. The commission shall emphasize  
27 integration with performance measurement methodologies of the  
28 state's workforce development system.

29           Section 34. Effective upon this act becoming a law,  
30 subsection (2) of section 413.87, Florida Statutes, is amended  
31 to read:

1           413.87 Annual audit.--

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

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

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

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

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

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

15           Section 35. Effective upon this act becoming a law,  
16 section 413.88, Florida Statutes, is amended to read:

17           413.88 Annual report of the Occupational Access and  
18 Opportunity Commission; audits.--

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

24           (a) Its operations and accomplishments during the  
25 fiscal year.

26           (b) Its business and operational plan.

27           (c) The assets and liabilities of the corporation  
28 ~~designated administrative entity~~ at the end of its most recent  
29 fiscal year.

30           (d) A copy of the annual financial and compliance  
31 audit.

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

5           Section 36. Effective upon this act becoming a law,  
6 section 413.89, Florida Statutes, is amended to read:

7           413.89 State vocational rehabilitation plan;  
8 preparation and submittal; administration.--Effective July 1,  
9 2000, the Department of Education is the designated state  
10 agency and the Division of Occupational Access and Opportunity  
11 is the designated state unit for purposes of compliance with  
12 the federal Rehabilitation Act of 1973, as amended. Effective  
13 October 1, 2000,~~Upon appointment,~~the Occupational Access and  
14 Opportunity Commission is the designated state agency for  
15 purposes of compliance with the Rehabilitation Act of 1973, as  
16 amended, and authorized to prepare and submit the federally  
17 required state vocational rehabilitation plan and to serve as  
18 the governing authority of programs administered by the  
19 commission, including, but not limited to: administering the  
20 state's plan under the Rehabilitation Act of 1973, as amended;  
21 receiving federal funds as the state vocational rehabilitation  
22 agency; directing the expenditure of legislative  
23 appropriations for rehabilitative services through its  
24 designated administrative entity or other agents; and, if  
25 necessary, making any changes to the plan that the commission  
26 considers necessary to maintain compliance with the federal  
27 Rehabilitation Act of 1973, as amended, and implementing such  
28 changes in order to continue to qualify and maintain federal  
29 funding support. During the period of time between July 1,  
30 2000, and October 1, 2000, the department and the appointment  
31 ~~of the commission and the designation of the administrative~~

1 ~~entity,~~the commission ~~and the division~~ may, by agreement,  
2 provide for continued administration consistent with federal  
3 and state law.

4 Section 37. Effective upon this act becoming a law,  
5 section 413.90, Florida Statutes, is amended to read:

6 413.90 Designated State Agency and Designated State  
7 Unit Designation of administrative entity.--Effective July 1,  
8 2000,~~The division must comply with the transitional direction~~  
9 ~~of the plan. If the commission designates an administrative~~  
10 ~~entity other than the division,~~all powers, duties, and  
11 functions of and all related records, property, and equipment  
12 and all contractual rights, obligations of, and unexpended  
13 balances of appropriations and other funds or allocations of  
14 the ~~division's~~ component programs of the Division of  
15 Vocational Rehabilitation of the Department of Labor and  
16 Employment Security shall be transferred to the Division of  
17 Occupational Access and Opportunity of the Department of  
18 Education ~~commission as provided in the plan,~~pursuant to s.  
19 20.06(2). The commission and the Department of Education, in  
20 establishing the Division of Occupational Access and  
21 Opportunity, may establish no more than 700 positions  
22 inclusive of those positions leased by the corporation. These  
23 positions may be filled initially by former employees of the  
24 Division of Vocational Rehabilitation. By October 1, 2000, the  
25 division shall reduce the number of positions to no more than  
26 300. Notwithstanding the provisions of s. 110.227, if a layoff  
27 becomes necessary with respect to the Division of Occupational  
28 Access and Opportunity, the competitive area identified for  
29 such layoff shall not include any other division of the  
30 Department of Education. If unforeseen transition activities  
31 occur in moving service delivery from division employees to

1 community rehabilitation providers and create situations  
2 negatively affecting client services, and the remedy to those  
3 temporary situations would require more than 300 positions,  
4 the division may request a budget amendment to retain  
5 positions. The request must provide full justification for the  
6 continuation and include the number of positions and duration  
7 of time required. In no instance shall the time required  
8 exceed 3 months. Effective July 1, 2000, the records,  
9 property, and unexpended balances of appropriations,  
10 allocations, and other funds and resources of the Office of  
11 the Secretary and the Office of Administrative Services of the  
12 Department of Labor and Employment Security which support the  
13 activities and functions of the Division of Vocational  
14 Rehabilitation are transferred as provided in s. 20.06(2), to  
15 the Division of Occupational Access and Opportunity at the  
16 Department of Education.The Department of Labor and  
17 Employment Security shall assist the commission in carrying  
18 out the intent of this chapter and achieving an orderly  
19 transition. The Office of Planning and Budget shall submit the  
20 necessary budget amendments to the Legislature in order to  
21 bring the budget into compliance with the plan.

22 Section 38. Effective upon this act becoming a law,  
23 section 413.91, Florida Statutes, is amended to read:

24 413.91 Service providers; quality assurance and  
25 fitness for responsibilities.--The Occupational Access and  
26 Opportunity Commission shall assure that all contractors ~~the~~  
27 ~~designated administrative entity~~ and providers of direct  
28 service maintain an internal system of quality assurance, have  
29 proven functional systems, and are subject to a due-diligence  
30 inquiry for their fitness to undertake service

31

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

3 Section 39. 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 40. Effective upon this act becoming a law,  
31 section 413.93, Florida Statutes, is repealed.



1           Section 41. Present subsection (3) of section 440.02,  
2 Florida Statutes, is redesignated as subsection (4), a new  
3 subsection (3) is added to that section and subsequent  
4 subsections are redesignated, and subsections (11) and (13)  
5 are amended to read:

6           440.02 Definitions.--When used in this chapter, unless  
7 the context clearly requires otherwise, the following terms  
8 shall have the following meanings:

9           (3) "Agency" means the Agency for Health Care  
10 Administration.

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

13           (13) "Division" means the Division of Workers'  
14 Compensation of the Department of Insurance ~~Labor and~~  
15 ~~Employment Security.~~

16           Section 42. Subsections (3), (4), (5), (6), (7), (8),  
17 (9), (11), (12), and (13) of section 440.13, Florida Statutes,  
18 are amended to read:

19           440.13 Medical services and supplies; penalty for  
20 violations; limitations.--

21           (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

22           (a) As a condition to eligibility for payment under  
23 this chapter, a health care provider who renders services must  
24 be a certified health care provider and must receive  
25 authorization from the carrier before providing treatment.  
26 This paragraph does not apply to emergency care. The agency  
27 ~~division~~ shall adopt rules to implement the certification of  
28 health care providers. As a one-time prerequisite to obtaining  
29 certification, the agency ~~division~~ shall require each  
30 physician to demonstrate proof of completion of a minimum  
31 5-hour course that covers the subject areas of cost

1 containment, utilization control, ergonomics, and the practice  
2 parameters adopted by the agency division governing the  
3 physician's field of practice. The agency division shall  
4 coordinate with ~~the Agency for Health Care Administration,~~ the  
5 Florida Medical Association, the Florida Osteopathic Medical  
6 Association, the Florida Chiropractic Association, the Florida  
7 Podiatric Medical Association, the Florida Optometric  
8 Association, the Florida Dental Association, and other health  
9 professional organizations and their respective boards as  
10 deemed necessary by the agency ~~Agency for Health Care~~  
11 ~~Administration~~ in complying with this subsection. No later  
12 than October 1, 1994, the agency division shall adopt rules  
13 regarding the criteria and procedures for approval of courses  
14 and the filing of proof of completion by the physicians.

15 (b) A health care provider who renders emergency care  
16 must notify the carrier by the close of the third business day  
17 after it has rendered such care. If the emergency care results  
18 in admission of the employee to a health care facility, the  
19 health care provider must notify the carrier by telephone  
20 within 24 hours after initial treatment. Emergency care is not  
21 compensable under this chapter unless the injury requiring  
22 emergency care arose as a result of a work-related accident.  
23 Pursuant to chapter 395, all licensed physicians and health  
24 care providers in this state shall be required to make their  
25 services available for emergency treatment of any employee  
26 eligible for workers' compensation benefits. To refuse to make  
27 such treatment available is cause for revocation of a license.

28 (c) A health care provider may not refer the employee  
29 to another health care provider, diagnostic facility, therapy  
30 center, or other facility without prior authorization from the  
31 carrier, except when emergency care is rendered. Any referral

1 must be to a health care provider that has been certified by  
2 the agency ~~division~~, unless the referral is for emergency  
3 treatment.

4 (d) A carrier must respond, by telephone or in  
5 writing, to a request for authorization by the close of the  
6 third business day after receipt of the request. A carrier who  
7 fails to respond to a written request for authorization for  
8 referral for medical treatment by the close of the third  
9 business day after receipt of the request consents to the  
10 medical necessity for such treatment. All such requests must  
11 be made to the carrier. Notice to the carrier does not include  
12 notice to the employer.

13 (e) Carriers shall adopt procedures for receiving,  
14 reviewing, documenting, and responding to requests for  
15 authorization. Such procedures shall be for a health care  
16 provider certified under this section.

17 (f) By accepting payment under this chapter for  
18 treatment rendered to an injured employee, a health care  
19 provider consents to the jurisdiction of the agency ~~division~~  
20 as set forth in subsection (11) and to the submission of all  
21 records and other information concerning such treatment to the  
22 agency ~~division~~ in connection with a reimbursement dispute,  
23 audit, or review as provided by this section. The health care  
24 provider must further agree to comply with any decision of the  
25 agency ~~division~~ rendered under this section.

26 (g) The employee is not liable for payment for medical  
27 treatment or services provided pursuant to this section except  
28 as otherwise provided in this section.

29 (h) The provisions of s. 455.654 are applicable to  
30 referrals among health care providers, as defined in  
31 subsection (1), treating injured workers.

1 (i) Notwithstanding paragraph (d), a claim for  
2 specialist consultations, surgical operations,  
3 physiotherapeutic or occupational therapy procedures, X-ray  
4 examinations, or special diagnostic laboratory tests that cost  
5 more than \$1,000 and other specialty services that the agency  
6 ~~division~~ identifies by rule is not valid and reimbursable  
7 unless the services have been expressly authorized by the  
8 carrier, or unless the carrier has failed to respond within 10  
9 days to a written request for authorization, or unless  
10 emergency care is required. The insurer shall not refuse to  
11 authorize such consultation or procedure unless the health  
12 care provider or facility is not authorized or certified or  
13 unless an expert medical advisor has determined that the  
14 consultation or procedure is not medically necessary or  
15 otherwise compensable under this chapter. Authorization of a  
16 treatment plan does not constitute express authorization for  
17 purposes of this section, except to the extent the carrier  
18 provides otherwise in its authorization procedures. This  
19 paragraph does not limit the carrier's obligation to identify  
20 and disallow overutilization or billing errors.

21 (j) Notwithstanding anything in this chapter to the  
22 contrary, a sick or injured employee shall be entitled, at all  
23 times, to free, full, and absolute choice in the selection of  
24 the pharmacy or pharmacist dispensing and filling  
25 prescriptions for medicines required under this chapter. It is  
26 expressly forbidden for the agency ~~division~~, an employer, or a  
27 carrier, or any agent or representative of the agency  
28 ~~division~~, an employer, or a carrier to select the pharmacy or  
29 pharmacist which the sick or injured employee must use;  
30 condition coverage or payment on the basis of the pharmacy or  
31 pharmacist utilized; or to otherwise interfere in the

1 selection by the sick or injured employee of a pharmacy or  
2 pharmacist.

3 (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH AGENCY  
4 DIVISION.--

5 (a) Any health care provider providing necessary  
6 remedial treatment, care, or attendance to any injured worker  
7 shall submit treatment reports to the carrier in a format  
8 prescribed by the agency division. A claim for medical or  
9 surgical treatment is not valid or enforceable against such  
10 employer or employee, unless, by the close of the third  
11 business day following the first treatment, the physician  
12 providing the treatment furnishes to the employer or carrier a  
13 preliminary notice of the injury and treatment on forms  
14 prescribed by the agency division and, within 15 days  
15 thereafter, furnishes to the employer or carrier a complete  
16 report, and subsequent thereto furnishes progress reports, if  
17 requested by the employer or insurance carrier, at intervals  
18 of not less than 3 weeks apart or at less frequent intervals  
19 if requested on forms prescribed by the agency division.

20 (b) Each medical report or bill obtained or received  
21 by the employer, the carrier, or the injured employee, or the  
22 attorney for the employer, carrier, or injured employee, with  
23 respect to the remedial treatment or care of the injured  
24 employee, including any report of an examination, diagnosis,  
25 or disability evaluation, must be filed with the Agency for  
26 Health Care Administration Division of Workers' Compensation  
27 pursuant to rules adopted by the agency division. The health  
28 care provider shall also furnish to the injured employee or to  
29 his or her attorney, on demand, a copy of his or her office  
30 chart, records, and reports, and may charge the injured  
31 employee an amount authorized by the agency division for the

1 copies. Each such health care provider shall provide to the  
2 agency division any additional information about the remedial  
3 treatment, care, and attendance that the agency division  
4 reasonably requests.

5 (c) It is the policy for the administration of the  
6 workers' compensation system that there be reasonable access  
7 to medical information by all parties to facilitate the  
8 self-executing features of the law. Notwithstanding the  
9 limitations in s. 455.667 and subject to the limitations in s.  
10 381.004, upon the request of the employer, the carrier, or the  
11 attorney for either of them, the medical records of an injured  
12 employee must be furnished to those persons and the medical  
13 condition of the injured employee must be discussed with those  
14 persons, if the records and the discussions are restricted to  
15 conditions relating to the workplace injury. Any such  
16 discussions may be held before or after the filing of a claim  
17 without the knowledge, consent, or presence of any other party  
18 or his or her agent or representative. A health care provider  
19 who willfully refuses to provide medical records or to discuss  
20 the medical condition of the injured employee, after a  
21 reasonable request is made for such information pursuant to  
22 this subsection, shall be subject by the agency division to  
23 one or more of the penalties set forth in paragraph (8)(b).

24 (5) INDEPENDENT MEDICAL EXAMINATIONS.--

25 (a) In any dispute concerning overutilization, medical  
26 benefits, compensability, or disability under this chapter,  
27 the carrier or the employee may select an independent medical  
28 examiner. The examiner may be a health care provider treating  
29 or providing other care to the employee. An independent  
30 medical examiner may not render an opinion outside his or her  
31

1 area of expertise, as demonstrated by licensure and applicable  
2 practice parameters.

3 (b) Each party is bound by his or her selection of an  
4 independent medical examiner and is entitled to an alternate  
5 examiner only if:

6 1. The examiner is not qualified to render an opinion  
7 upon an aspect of the employee's illness or injury which is  
8 material to the claim or petition for benefits;

9 2. The examiner ceases to practice in the specialty  
10 relevant to the employee's condition;

11 3. The examiner is unavailable due to injury, death,  
12 or relocation outside a reasonably accessible geographic area;  
13 or

14 4. The parties agree to an alternate examiner.  
15

16 Any party may request, or a judge of compensation claims may  
17 require, designation of an agency ~~a division~~ medical advisor  
18 as an independent medical examiner. The opinion of the  
19 advisors acting as examiners shall not be afforded the  
20 presumption set forth in paragraph (9)(c).

21 (c) The carrier may, at its election, contact the  
22 claimant directly to schedule a reasonable time for an  
23 independent medical examination. The carrier must confirm the  
24 scheduling agreement in writing within 5 days and notify  
25 claimant's counsel, if any, at least 7 days before the date  
26 upon which the independent medical examination is scheduled to  
27 occur. An attorney representing a claimant is not authorized  
28 to schedule independent medical evaluations under this  
29 subsection.

30 (d) If the employee fails to appear for the  
31 independent medical examination without good cause and fails

1 to advise the physician at least 24 hours before the scheduled  
2 date for the examination that he or she cannot appear, the  
3 employee is barred from recovering compensation for any period  
4 during which he or she has refused to submit to such  
5 examination. Further, the employee shall reimburse the carrier  
6 50 percent of the physician's cancellation or no-show fee  
7 unless the carrier that schedules the examination fails to  
8 timely provide to the employee a written confirmation of the  
9 date of the examination pursuant to paragraph (c) which  
10 includes an explanation of why he or she failed to appear. The  
11 employee may appeal to a judge of compensation claims for  
12 reimbursement when the carrier withholds payment in excess of  
13 the authority granted by this section.

14 (e) No medical opinion other than the opinion of a  
15 medical advisor appointed by the judge of compensation claims  
16 or agency division, an independent medical examiner, or an  
17 authorized treating provider is admissible in proceedings  
18 before the judges of compensation claims.

19 (f) Attorney's fees incurred by an injured employee in  
20 connection with delay of or opposition to an independent  
21 medical examination, including, but not limited to, motions  
22 for protective orders, are not recoverable under this chapter.

23 (6) UTILIZATION REVIEW.--Carriers shall review all  
24 bills, invoices, and other claims for payment submitted by  
25 health care providers in order to identify overutilization and  
26 billing errors, and may hire peer review consultants or  
27 conduct independent medical evaluations. Such consultants,  
28 including peer review organizations, are immune from liability  
29 in the execution of their functions under this subsection to  
30 the extent provided in s. 766.101. If a carrier finds that  
31 overutilization of medical services or a billing error has



1 occurred, it must disallow or adjust payment for such services  
2 or error without order of a judge of compensation claims or  
3 the agency division, if the carrier, in making its  
4 determination, has complied with this section and rules  
5 adopted by the agency division.

6 (7) UTILIZATION AND REIMBURSEMENT DISPUTES.--

7 (a) Any health care provider, carrier, or employer who  
8 elects to contest the disallowance or adjustment of payment by  
9 a carrier under subsection (6) must, within 30 days after  
10 receipt of notice of disallowance or adjustment of payment,  
11 petition the agency division to resolve the dispute. The  
12 petitioner must serve a copy of the petition on the carrier  
13 and on all affected parties by certified mail. The petition  
14 must be accompanied by all documents and records that support  
15 the allegations contained in the petition. Failure of a  
16 petitioner to submit such documentation to the agency division  
17 results in dismissal of the petition.

18 (b) The carrier must submit to the agency division  
19 within 10 days after receipt of the petition all documentation  
20 substantiating the carrier's disallowance or adjustment.  
21 Failure of the carrier to submit the requested documentation  
22 to the agency division within 10 days constitutes a waiver of  
23 all objections to the petition.

24 (c) Within 60 days after receipt of all documentation,  
25 the agency division must provide to the petitioner, the  
26 carrier, and the affected parties a written determination of  
27 whether the carrier properly adjusted or disallowed payment.  
28 The agency division must be guided by standards and policies  
29 set forth in this chapter, including all applicable  
30 reimbursement schedules, in rendering its determination.

31

1 (d) If the agency ~~division~~ finds an improper  
2 disallowance or improper adjustment of payment by an insurer,  
3 the insurer shall reimburse the health care provider,  
4 facility, insurer, or employer within 30 days, subject to the  
5 penalties provided in this subsection.

6 (e) The agency ~~division~~ shall adopt rules to carry out  
7 this subsection. The rules may include provisions for  
8 consolidating petitions filed by a petitioner and expanding  
9 the timetable for rendering a determination upon a  
10 consolidated petition.

11 (f) Any carrier that engages in a pattern or practice  
12 of arbitrarily or unreasonably disallowing or reducing  
13 payments to health care providers may be subject to one or  
14 more of the following penalties imposed by the agency  
15 ~~division~~:

16 1. Repayment of the appropriate amount to the health  
17 care provider.

18 2. An administrative fine assessed by the agency  
19 ~~division~~ in an amount not to exceed \$5,000 per instance of  
20 improperly disallowing or reducing payments.

21 3. Award of the health care provider's costs,  
22 including a reasonable attorney's fee, for prosecuting the  
23 petition.

24 (8) PATTERN OR PRACTICE OF OVERUTILIZATION.--

25 (a) Carriers must report to the agency ~~division~~ all  
26 instances of overutilization including, but not limited to,  
27 all instances in which the carrier disallows or adjusts  
28 payment. The agency ~~division~~ shall determine whether a pattern  
29 or practice of overutilization exists.

30 (b) If the agency ~~division~~ determines that a health  
31 care provider has engaged in a pattern or practice of

1 overutilization or a violation of this chapter or rules  
2 adopted by the agency ~~division~~, it may impose one or more of  
3 the following penalties:

4 1. An order of the agency ~~division~~ barring the  
5 provider from payment under this chapter;

6 2. Deauthorization of care under review;

7 3. Denial of payment for care rendered in the future;

8 4. Decertification of a health care provider certified  
9 as an expert medical advisor under subsection (9) or of a  
10 rehabilitation provider certified under s. 440.49;

11 5. An administrative fine assessed by the agency  
12 ~~division~~ in an amount not to exceed \$5,000 per instance of  
13 overutilization or violation; and

14 6. Notification of and review by the appropriate  
15 licensing authority pursuant to s. 440.106(3).

16 (9) EXPERT MEDICAL ADVISORS.--

17 (a) The agency ~~division~~ shall certify expert medical  
18 advisors in each specialty to assist the agency ~~division~~ and  
19 the judges of compensation claims within the advisor's area of  
20 expertise as provided in this section. The agency ~~division~~  
21 shall, in a manner prescribed by rule, in certifying,  
22 recertifying, or decertifying an expert medical advisor,  
23 consider the qualifications, training, impartiality, and  
24 commitment of the health care provider to the provision of  
25 quality medical care at a reasonable cost. As a prerequisite  
26 for certification or recertification, the agency ~~division~~  
27 shall require, at a minimum, that an expert medical advisor  
28 have specialized workers' compensation training or experience  
29 under the workers' compensation system of this state and board  
30 certification or board eligibility.

31

1           (b) The agency ~~division~~ shall contract with or employ  
2 expert medical advisors to provide peer review or medical  
3 consultation to the agency ~~division~~ or to a judge of  
4 compensation claims in connection with resolving disputes  
5 relating to reimbursement, differing opinions of health care  
6 providers, and health care and physician services rendered  
7 under this chapter. Expert medical advisors contracting with  
8 the agency ~~division~~ shall, as a term of such contract, agree  
9 to provide consultation or services in accordance with the  
10 timetables set forth in this chapter and to abide by rules  
11 adopted by the agency ~~division~~, including, but not limited to,  
12 rules pertaining to procedures for review of the services  
13 rendered by health care providers and preparation of reports  
14 and recommendations for submission to the agency ~~division~~.

15           (c) If there is disagreement in the opinions of the  
16 health care providers, if two health care providers disagree  
17 on medical evidence supporting the employee's complaints or  
18 the need for additional medical treatment, or if two health  
19 care providers disagree that the employee is able to return to  
20 work, the agency ~~division~~ may, and the judge of compensation  
21 claims shall, upon his or her own motion or within 15 days  
22 after receipt of a written request by either the injured  
23 employee, the employer, or the carrier, order the injured  
24 employee to be evaluated by an expert medical advisor. The  
25 opinion of the expert medical advisor is presumed to be  
26 correct unless there is clear and convincing evidence to the  
27 contrary as determined by the judge of compensation claims.  
28 The expert medical advisor appointed to conduct the evaluation  
29 shall have free and complete access to the medical records of  
30 the employee. An employee who fails to report to and cooperate  
31

1 with such evaluation forfeits entitlement to compensation  
2 during the period of failure to report or cooperate.

3 (d) The expert medical advisor must complete his or  
4 her evaluation and issue his or her report to the agency  
5 ~~division~~ or to the judge of compensation claims within 45 days  
6 after receipt of all medical records. The expert medical  
7 advisor must furnish a copy of the report to the carrier and  
8 to the employee.

9 (e) An expert medical advisor is not liable under any  
10 theory of recovery for evaluations performed under this  
11 section without a showing of fraud or malice. The protections  
12 of s. 766.101 apply to any officer, employee, or agent of the  
13 agency ~~division~~ and to any officer, employee, or agent of any  
14 entity with which the agency ~~division~~ has contracted under  
15 this subsection.

16 (f) If the agency ~~division~~ or a judge of compensation  
17 claims determines that the services of a certified expert  
18 medical advisor are required to resolve a dispute under this  
19 section, the carrier must compensate the advisor for his or  
20 her time in accordance with a schedule adopted by the agency  
21 ~~division~~. The agency ~~division~~ may assess a penalty not to  
22 exceed \$500 against any carrier that fails to timely  
23 compensate an advisor in accordance with this section.

24 (11) AUDITS BY AGENCY ~~DIVISION~~; JURISDICTION.--

25 (a) The Agency for Health Care Administration ~~Division~~  
26 ~~of Workers' Compensation of the Department of Labor and~~  
27 ~~Employment Security~~ may investigate health care providers to  
28 determine whether providers are complying with this chapter  
29 and with rules adopted by the agency ~~division~~, whether the  
30 providers are engaging in overutilization, and whether  
31 providers are engaging in improper billing practices. If the

1 agency ~~division~~ finds that a health care provider has  
2 improperly billed, overutilized, or failed to comply with  
3 agency ~~division~~ rules or the requirements of this chapter it  
4 must notify the provider of its findings and may determine  
5 that the health care provider may not receive payment from the  
6 carrier or may impose penalties as set forth in subsection (8)  
7 or other sections of this chapter. If the health care provider  
8 has received payment from a carrier for services that were  
9 improperly billed or for overutilization, it must return those  
10 payments to the carrier. The agency ~~division~~ may assess a  
11 penalty not to exceed \$500 for each overpayment that is not  
12 refunded within 30 days after notification of overpayment by  
13 the agency ~~division~~ or carrier.

14 (b) The agency ~~division~~ shall monitor and audit  
15 carriers to determine if medical bills are paid in accordance  
16 with this section and agency ~~division~~ rules. Any employer, if  
17 self-insured, or carrier found by the agency ~~division~~ not to  
18 be within 90 percent compliance as to the payment of medical  
19 bills after July 1, 1994, must be assessed a fine not to  
20 exceed 1 percent of the prior year's assessment levied against  
21 such entity under s. 440.51 for every quarter in which the  
22 entity fails to attain 90-percent compliance. The agency  
23 ~~division~~ shall fine an employer or carrier, pursuant to rules  
24 adopted by the agency ~~division~~, for each late payment of  
25 compensation that is below the minimum 90-percent performance  
26 standard. Any carrier that is found to be not in compliance in  
27 subsequent consecutive quarters must implement a medical-bill  
28 review program approved by the agency ~~division~~, and the  
29 carrier is subject to disciplinary action by the Department of  
30 Insurance.

31

1           (c) The agency ~~division~~ has exclusive jurisdiction to  
2 decide any matters concerning reimbursement, to resolve any  
3 overutilization dispute under subsection (7), and to decide  
4 any question concerning overutilization under subsection (8),  
5 which question or dispute arises after January 1, 1994.

6           (d) The following ~~division~~ actions do not constitute  
7 agency action subject to review under ss. 120.569 and 120.57  
8 and do not constitute actions subject to s. 120.56: referral  
9 by the entity responsible for utilization review; a decision  
10 by the agency ~~division~~ to refer a matter to a peer review  
11 committee; establishment by a health care provider or entity  
12 of procedures by which a peer review committee reviews the  
13 rendering of health care services; and the review proceedings,  
14 report, and recommendation of the peer review committee.

15           (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
16 REIMBURSEMENT ALLOWANCES.--

17           (a) A three-member panel is created, consisting of the  
18 Insurance Commissioner, or the Insurance Commissioner's  
19 designee, and two members to be appointed by the Governor,  
20 subject to confirmation by the Senate, one member who, on  
21 account of present or previous vocation, employment, or  
22 affiliation, shall be classified as a representative of  
23 employers, the other member who, on account of previous  
24 vocation, employment, or affiliation, shall be classified as a  
25 representative of employees. The panel shall determine  
26 statewide schedules of maximum reimbursement allowances for  
27 medically necessary treatment, care, and attendance provided  
28 by physicians, hospitals, ambulatory surgical centers,  
29 work-hardening programs, pain programs, and durable medical  
30 equipment. The maximum reimbursement allowances for inpatient  
31 hospital care shall be based on a schedule of per diem rates,

1 to be approved by the three-member panel no later than March  
2 1, 1994, to be used in conjunction with a precertification  
3 manual as determined by the agency ~~division~~. All compensable  
4 charges for hospital outpatient care shall be reimbursed at 75  
5 percent of usual and customary charges. Until the three-member  
6 panel approves a schedule of per diem rates for inpatient  
7 hospital care and it becomes effective, all compensable  
8 charges for hospital inpatient care must be reimbursed at 75  
9 percent of their usual and customary charges. Annually, the  
10 three-member panel shall adopt schedules of maximum  
11 reimbursement allowances for physicians, hospital inpatient  
12 care, hospital outpatient care, ambulatory surgical centers,  
13 work-hardening programs, and pain programs. However, the  
14 maximum percentage of increase in the individual reimbursement  
15 allowance may not exceed the percentage of increase in the  
16 Consumer Price Index for the previous year. An individual  
17 physician, hospital, ambulatory surgical center, pain program,  
18 or work-hardening program shall be reimbursed either the usual  
19 and customary charge for treatment, care, and attendance, the  
20 agreed-upon contract price, or the maximum reimbursement  
21 allowance in the appropriate schedule, whichever is less.

22 (b) As to reimbursement for a prescription medication,  
23 the reimbursement amount for a prescription shall be the  
24 average wholesale price times 1.2 plus \$4.18 for the  
25 dispensing fee, except where the carrier has contracted for a  
26 lower amount. Fees for pharmaceuticals and pharmaceutical  
27 services shall be reimbursable at the applicable fee schedule  
28 amount. Where the employer or carrier has contracted for such  
29 services and the employee elects to obtain them through a  
30 provider not a party to the contract, the carrier shall  
31



1 reimburse at the schedule, negotiated, or contract price,  
2 whichever is lower.

3 (c) Reimbursement for all fees and other charges for  
4 such treatment, care, and attendance, including treatment,  
5 care, and attendance provided by any hospital or other health  
6 care provider, ambulatory surgical center, work-hardening  
7 program, or pain program, must not exceed the amounts provided  
8 by the uniform schedule of maximum reimbursement allowances as  
9 determined by the panel or as otherwise provided in this  
10 section. This subsection also applies to independent medical  
11 examinations performed by health care providers under this  
12 chapter. Until the three-member panel approves a uniform  
13 schedule of maximum reimbursement allowances and it becomes  
14 effective, all compensable charges for treatment, care, and  
15 attendance provided by physicians, ambulatory surgical  
16 centers, work-hardening programs, or pain programs shall be  
17 reimbursed at the lowest maximum reimbursement allowance  
18 across all 1992 schedules of maximum reimbursement allowances  
19 for the services provided regardless of the place of service.  
20 In determining the uniform schedule, the panel shall first  
21 approve the data which it finds representative of prevailing  
22 charges in the state for similar treatment, care, and  
23 attendance of injured persons. Each health care provider,  
24 health care facility, ambulatory surgical center,  
25 work-hardening program, or pain program receiving workers'  
26 compensation payments shall maintain records verifying their  
27 usual charges. In establishing the uniform schedule of maximum  
28 reimbursement allowances, the panel must consider:

29 1. The levels of reimbursement for similar treatment,  
30 care, and attendance made by other health care programs or  
31 third-party providers;

1           2. The impact upon cost to employers for providing a  
2 level of reimbursement for treatment, care, and attendance  
3 which will ensure the availability of treatment, care, and  
4 attendance required by injured workers;

5           3. The financial impact of the reimbursement  
6 allowances upon health care providers and health care  
7 facilities, including trauma centers as defined in s. 395.401,  
8 and its effect upon their ability to make available to injured  
9 workers such medically necessary remedial treatment, care, and  
10 attendance. The uniform schedule of maximum reimbursement  
11 allowances must be reasonable, must promote health care cost  
12 containment and efficiency with respect to the workers'  
13 compensation health care delivery system, and must be  
14 sufficient to ensure availability of such medically necessary  
15 remedial treatment, care, and attendance to injured workers;  
16 and

17           4. The most recent average maximum allowable rate of  
18 increase for hospitals determined by the Health Care Board  
19 under chapter 408.

20           (13) REMOVAL OF PHYSICIANS FROM LISTS OF THOSE  
21 AUTHORIZED TO RENDER MEDICAL CARE.--The agency ~~division~~ shall  
22 remove from the list of physicians or facilities authorized to  
23 provide remedial treatment, care, and attendance under this  
24 chapter the name of any physician or facility found after  
25 reasonable investigation to have:

26           (a) Engaged in professional or other misconduct or  
27 incompetency in connection with medical services rendered  
28 under this chapter;

29           (b) Exceeded the limits of his or her or its  
30 professional competence in rendering medical care under this  
31

1 chapter, or to have made materially false statements regarding  
2 his or her or its qualifications in his or her application;

3 (c) Failed to transmit copies of medical reports to  
4 the employer or carrier, or failed to submit full and truthful  
5 medical reports of all his or her or its findings to the  
6 employer or carrier as required under this chapter;

7 (d) Solicited, or employed another to solicit for  
8 himself or herself or itself or for another, professional  
9 treatment, examination, or care of an injured employee in  
10 connection with any claim under this chapter;

11 (e) Refused to appear before, or to answer upon  
12 request of, the agency division or any duly authorized officer  
13 of the state, any legal question, or to produce any relevant  
14 book or paper concerning his or her conduct under any  
15 authorization granted to him or her under this chapter;

16 (f) Self-referred in violation of this chapter or  
17 other laws of this state; or

18 (g) Engaged in a pattern of practice of  
19 overutilization or a violation of this chapter or rules  
20 adopted by the agency division.

21 Section 43. Paragraph (a) of subsection (3) of section  
22 440.15, Florida Statutes, is amended to read:

23 440.15 Compensation for disability.--Compensation for  
24 disability shall be paid to the employee, subject to the  
25 limits provided in s. 440.12(2), as follows:

26 (3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.--

27 (a) Impairment benefits.--

28 1. Once the employee has reached the date of maximum  
29 medical improvement, impairment benefits are due and payable  
30 within 20 days after the carrier has knowledge of the  
31 impairment.

1           2. The three-member panel, in cooperation with the  
2 agency division, shall establish and use a uniform permanent  
3 impairment rating schedule. This schedule must be based on  
4 medically or scientifically demonstrable findings as well as  
5 the systems and criteria set forth in the American Medical  
6 Association's Guides to the Evaluation of Permanent  
7 Impairment; the Snellen Charts, published by American Medical  
8 Association Committee for Eye Injuries; and the Minnesota  
9 Department of Labor and Industry Disability Schedules. The  
10 schedule should be based upon objective findings. The schedule  
11 shall be more comprehensive than the AMA Guides to the  
12 Evaluation of Permanent Impairment and shall expand the areas  
13 already addressed and address additional areas not currently  
14 contained in the guides. On August 1, 1979, and pending the  
15 adoption, by rule, of a permanent schedule, Guides to the  
16 Evaluation of Permanent Impairment, copyright 1977, 1971,  
17 1988, by the American Medical Association, shall be the  
18 temporary schedule and shall be used for the purposes hereof.  
19 For injuries after July 1, 1990, pending the adoption by  
20 division rule of a uniform disability rating schedule, the  
21 Minnesota Department of Labor and Industry Disability Schedule  
22 shall be used unless that schedule does not address an injury.  
23 In such case, the Guides to the Evaluation of Permanent  
24 Impairment by the American Medical Association shall be used.  
25 Determination of permanent impairment under this schedule must  
26 be made by a physician licensed under chapter 458, a doctor of  
27 osteopathic medicine licensed under chapters 458 and 459, a  
28 chiropractic physician licensed under chapter 460, a podiatric  
29 physician licensed under chapter 461, an optometrist licensed  
30 under chapter 463, or a dentist licensed under chapter 466, as  
31 appropriate considering the nature of the injury. No other

1 persons are authorized to render opinions regarding the  
2 existence of or the extent of permanent impairment.

3           3. All impairment income benefits shall be based on an  
4 impairment rating using the impairment schedule referred to in  
5 subparagraph 2. Impairment income benefits are paid weekly at  
6 the rate of 50 percent of the employee's average weekly  
7 temporary total disability benefit not to exceed the maximum  
8 weekly benefit under s. 440.12. An employee's entitlement to  
9 impairment income benefits begins the day after the employee  
10 reaches maximum medical improvement or the expiration of  
11 temporary benefits, whichever occurs earlier, and continues  
12 until the earlier of:

13           a. The expiration of a period computed at the rate of  
14 3 weeks for each percentage point of impairment; or

15           b. The death of the employee.

16           4. After the employee has been certified by a doctor  
17 as having reached maximum medical improvement or 6 weeks  
18 before the expiration of temporary benefits, whichever occurs  
19 earlier, the certifying doctor shall evaluate the condition of  
20 the employee and assign an impairment rating, using the  
21 impairment schedule referred to in subparagraph 2.

22 Compensation is not payable for the mental, psychological, or  
23 emotional injury arising out of depression from being out of  
24 work. If the certification and evaluation are performed by a  
25 doctor other than the employee's treating doctor, the  
26 certification and evaluation must be submitted to the treating  
27 doctor, and the treating doctor must indicate agreement or  
28 disagreement with the certification and evaluation. The  
29 certifying doctor shall issue a written report to the  
30 division, the employee, and the carrier certifying that  
31 maximum medical improvement has been reached, stating the

1 impairment rating, and providing any other information  
2 required by the division. If the employee has not been  
3 certified as having reached maximum medical improvement before  
4 the expiration of 102 weeks after the date temporary total  
5 disability benefits begin to accrue, the carrier shall notify  
6 the treating doctor of the requirements of this section.

7         5. The carrier shall pay the employee impairment  
8 income benefits for a period based on the impairment rating.

9         6. The division may by rule specify forms and  
10 procedures governing the method of payment of wage loss and  
11 impairment benefits for dates of accidents before January 1,  
12 1994, and for dates of accidents on or after January 1, 1994.

13         Section 44. Subsection (7) of section 440.491, Florida  
14 Statutes, is amended to read:

15             440.491 Reemployment of injured workers;  
16 rehabilitation.--

17             (7) PROVIDER QUALIFICATIONS.--

18             (a) The Agency for Health Care Administration ~~division~~  
19 shall investigate and maintain a directory of each qualified  
20 public and private rehabilitation provider, facility, and  
21 agency, and shall establish by rule the minimum  
22 qualifications, credentials, and requirements that each  
23 rehabilitation service provider, facility, and agency must  
24 satisfy to be eligible for listing in the directory. These  
25 minimum qualifications and credentials must be based on those  
26 generally accepted within the service specialty for which the  
27 provider, facility, or agency is approved.

28             (b) The agency ~~division~~ shall impose a biennial  
29 application fee of \$25 for each listing in the directory, and  
30 all such fees must be deposited in the Workers' Compensation  
31 Administration Trust Fund.

1           (c) The agency ~~division~~ shall monitor and evaluate  
2 each rehabilitation service provider, facility, and agency  
3 qualified under this subsection to ensure its compliance with  
4 the minimum qualifications and credentials established by the  
5 division. The failure of a qualified rehabilitation service  
6 provider, facility, or agency to provide the agency ~~division~~  
7 with information requested or access necessary for the agency  
8 ~~division~~ to satisfy its responsibilities under this subsection  
9 is grounds for disqualifying the provider, facility, or agency  
10 from further referrals.

11           (d) A qualified rehabilitation service provider,  
12 facility, or agency may not be authorized by an employer, a  
13 carrier, or the agency ~~division~~ to provide any services,  
14 including expert testimony, under this section in this state  
15 unless the provider, facility, or agency is listed or has been  
16 approved for listing in the directory. This restriction does  
17 not apply to services provided outside this state under this  
18 section.

19           (e) The agency ~~division~~, after consultation with  
20 representatives of employees, employers, carriers,  
21 rehabilitation providers, and qualified training and education  
22 providers, shall adopt rules governing professional practices  
23 and standards.

24           Section 45. Subsection (1) of section 440.207, Florida  
25 Statutes, is amended to read:

26           440.207 Workers' compensation system guide.--

27           (1) The Division of Workers' Compensation of the  
28 Department of Insurance ~~Labor and Employment Security~~ shall  
29 educate all persons providing or receiving benefits pursuant  
30 to this chapter as to their rights and responsibilities under  
31 this chapter.

1           Section 46. Subsections (2), (4), (5), (6), (9), and  
2 (10); paragraph (c) of subsection (3); and paragraph (a) of  
3 subsection (8) of section 440.385, Florida Statutes, are  
4 amended to read:

5           440.385 Florida Self-Insurers Guaranty Association,  
6 Incorporated.--

7           (2) BOARD OF DIRECTORS.--The board of directors of the  
8 association shall consist of nine persons and shall be  
9 organized as established in the plan of operation. ~~With~~  
10 ~~respect to initial appointments, the Secretary of Labor and~~  
11 ~~Employment Security shall, by July 15, 1982, approve and~~  
12 ~~appoint to the board persons who are experienced with~~  
13 ~~self-insurance in this state and who are recommended by the~~  
14 ~~individual self-insurers in this state required to become~~  
15 ~~members of the association pursuant to the provisions of~~  
16 ~~paragraph (1)(a). In the event the secretary finds that any~~  
17 ~~person so recommended does not have the necessary~~  
18 ~~qualifications for service on the board and a majority of the~~  
19 ~~board has been appointed, the secretary shall request the~~  
20 ~~directors thus far approved and appointed to recommend another~~  
21 ~~person for appointment to the board.~~Each director shall serve  
22 for a 4-year term and may be reappointed. Appointments ~~other~~  
23 ~~than initial appointments~~ shall be made by the Insurance  
24 Commissioner and Treasurer ~~Secretary of Labor and Employment~~  
25 ~~Security~~ upon recommendation of members of the association.  
26 Any vacancy on the board shall be filled for the remaining  
27 period of the term in the same manner as appointments other  
28 than initial appointments are made. Each director shall be  
29 reimbursed for expenses incurred in carrying out the duties of  
30 the board on behalf of the association.

31           (3) POWERS AND DUTIES.--



1           (c)1. To the extent necessary to secure funds for the  
2 payment of covered claims and also to pay the reasonable costs  
3 to administer them, the Department of Insurance ~~Labor and~~  
4 ~~Employment Security~~, upon certification of the board of  
5 directors, shall levy assessments based on the annual normal  
6 premium each employer would have paid had the employer not  
7 been self-insured. Every assessment shall be made as a  
8 uniform percentage of the figure applicable to all individual  
9 self-insurers, provided that the assessment levied against any  
10 self-insurer in any one year shall not exceed 1 percent of the  
11 annual normal premium during the calendar year preceding the  
12 date of the assessment. Assessments shall be remitted to and  
13 administered by the board of directors in the manner specified  
14 by the approved plan. Each employer so assessed shall have at  
15 least 30 days' written notice as to the date the assessment is  
16 due and payable. The association shall levy assessments  
17 against any newly admitted member of the association so that  
18 the basis of contribution of any newly admitted member is the  
19 same as previously admitted members, provision for which shall  
20 be contained in the plan of operation.

21           2. If, in any one year, funds available from such  
22 assessments, together with funds previously raised, are not  
23 sufficient to make all the payments or reimbursements then  
24 owing, the funds available shall be prorated, and the unpaid  
25 portion shall be paid as soon thereafter as sufficient  
26 additional funds become available.

27           3. No state funds of any kind shall be allocated or  
28 paid to the association or any of its accounts except those  
29 state funds accruing to the association by and through the  
30 assignment of rights of an insolvent employer.

31

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

6           (a) The Insolvency Fund is created for purposes of  
7 meeting the obligations of insolvent members incurred while  
8 members of the association and after the exhaustion of any  
9 bond, as required under this chapter. However, if such bond,  
10 surety, or reinsurance policy is payable to the Florida  
11 Self-Insurers Guaranty Association, the association shall  
12 commence to provide benefits out of the Insolvency Fund and be  
13 reimbursed from the bond, surety, or reinsurance policy. The  
14 method of operation of the Insolvency Fund shall be defined in  
15 the plan of operation as provided in subsection (5).

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

18           (c) The department may offer certain amendments to the  
19 plan of operation to the board of directors of the association  
20 for purposes of assuring the ongoing financial soundness of  
21 the Insolvency Fund and its ability to meet the obligations of  
22 this section.

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

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

29           (a) The purpose of the plan of operation shall be to  
30 provide the association and the board of directors with the  
31 authority and responsibility to establish the necessary

1 programs and to take the necessary actions to protect against  
2 the insolvency of a member of the association. In addition,  
3 the plan shall provide that the members of the association  
4 shall be responsible for maintaining an adequate Insolvency  
5 Fund to meet the obligations of insolvent members provided for  
6 under this act and shall authorize the board of directors to  
7 contract and employ those persons with the necessary expertise  
8 to carry out this stated purpose.

9 ~~(b) The plan of operation, and any amendments thereto,~~  
10 ~~shall take effect upon approval in writing by the department.~~  
11 ~~If the board of directors fails to submit a plan by September~~  
12 ~~15, 1982, or fails to make required amendments to the plan~~  
13 ~~within 30 days thereafter, the department shall promulgate~~  
14 ~~such rules as are necessary to effectuate the provisions of~~  
15 ~~this subsection. Such rules shall continue in force until~~  
16 ~~modified by the department or superseded by a plan submitted~~  
17 ~~by the board of directors and approved by the department.~~

18 (b)(c) All member employers shall comply with the plan  
19 of operation.

20 (c)(d) The plan of operation shall:

21 1. Establish the procedures whereby all the powers and  
22 duties of the association under subsection (3) will be  
23 performed.

24 2. Establish procedures for handling assets of the  
25 association.

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

28 4. Establish procedures by which claims may be filed  
29 with the association and establish acceptable forms of proof  
30 of covered claims. Notice of claims to the receiver or  
31 liquidator of the insolvent employer shall be deemed notice to

1 the association or its agent, and a list of such claims shall  
2 be submitted periodically to the association or similar  
3 organization in another state by the receiver or liquidator.

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

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

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

12 8. Establish the procedures whereby recommendations of  
13 candidates for the board of directors shall be submitted to  
14 the department.

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

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

1           (6) POWERS AND DUTIES OF DEPARTMENT OF INSURANCE ~~LABOR~~  
2 ~~AND EMPLOYMENT SECURITY~~.--

3           (a) The department shall:

4           1. Notify the association of the existence of an  
5 insolvent employer not later than 3 days after it receives  
6 notice of the determination of insolvency.

7           2. Upon request of the board of directors, provide the  
8 association with a statement of the annual normal premiums of  
9 each member employer.

10          (b) The department may:

11          1. Require that the association notify the member  
12 employers and any other interested parties of the  
13 determination of insolvency and of their rights under this  
14 section. Such notification shall be by mail at the last known  
15 address thereof when available; but, if sufficient information  
16 for notification by mail is not available, notice by  
17 publication in a newspaper of general circulation shall be  
18 sufficient.

19          2. Suspend or revoke the authority of any member  
20 employer failing to pay an assessment when due or failing to  
21 comply with the plan of operation to self-insure in this  
22 state. As an alternative, the department may levy a fine on  
23 any member employer failing to pay an assessment when due.  
24 Such fine shall not exceed 5 percent of the unpaid assessment  
25 per month, except that no fine shall be less than \$100 per  
26 month.

27          3. Revoke the designation of any servicing facility if  
28 the department finds that claims are being handled  
29 unsatisfactorily.

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

1 (a) Upon determination by majority vote that any  
2 member employer may be insolvent or in a financial condition  
3 hazardous to the employees thereof or to the public, it shall  
4 be the duty of the board of directors to notify the Department  
5 of Insurance ~~Labor and Employment Security~~ of any information  
6 indicating such condition.

7 (9) EXAMINATION OF THE ASSOCIATION.--The association  
8 shall be subject to examination and regulation by the  
9 Department of Insurance ~~Labor and Employment Security~~. No  
10 later than March 30 of each year, the board of directors shall  
11 submit a financial report for the preceding calendar year in a  
12 form approved by the department.

13 (10) IMMUNITY.--There shall be no liability on the  
14 part of, and no cause of action of any nature shall arise  
15 against, any member employer, the association or its agents or  
16 employees, the board of directors, or the Department of  
17 Insurance ~~Labor and Employment Security~~ or its representatives  
18 for any action taken by them in the performance of their  
19 powers and duties under this section.

20 Section 47. Subsection (6) of section 440.44, Florida  
21 Statutes, is amended to read:

22 440.44 Workers' compensation; staff organization.--

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

27 Section 48. Subsections (1) and (3) of section  
28 440.4416, Florida Statutes, are amended to read:

29 440.4416 Workers' Compensation Oversight Board.--

30 (1) There is created within the Department of  
31 Insurance ~~Labor and Employment Security~~ the Workers'

1 Compensation Oversight Board. The board shall be composed of  
2 the following members, each of whom has knowledge of, or  
3 experience with, the workers' compensation system:

4 (a) Six members selected by the Governor, none of whom  
5 shall be a member of the Legislature at the time of  
6 appointment, consisting of the following:

7 1. Two representatives of employers.

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

11 (b) Three members selected by the President of the  
12 Senate, none of whom shall be members of the Legislature at  
13 the time of appointment, consisting of:

14 1. A representative of employers who employs at least  
15 10 employees in Florida for which workers' compensation  
16 coverage is provided pursuant to this chapter, and who is a  
17 licensed general contractor actively engaged in the  
18 construction industry in this state.

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

22 3. A representative of employees.

23 (c) Three members selected by the Speaker of the House  
24 of Representatives, none of whom shall be members of the  
25 Legislature at the time of appointment, consisting of:

26 1. A representative of employers who employs fewer  
27 than 10 employees in Florida and who is a licensed general  
28 contractor actively engaged in the construction industry in  
29 this state for which workers' compensation coverage is  
30 provided pursuant to this chapter.

31

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

4           3. A representative of employees.

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

8           (e) The original appointments to the board shall be  
9 made on or before January 1, 1994. Vacancies in the membership  
10 of the board shall be filled in the same manner as the  
11 original appointments. Except as to ex officio members of the  
12 board, three appointees of the Governor, two appointees of the  
13 President of the Senate, and two appointees of the Speaker of  
14 the House of Representatives shall serve for terms of 2 years,  
15 and the remaining appointees shall serve for terms of 4 years.  
16 Thereafter, all members shall serve for terms of 4 years;  
17 except that a vacancy shall be filled by appointment for the  
18 remainder of the term. The board shall have an organizational  
19 meeting on or before March 1, 1994, the time and place of such  
20 meeting to be determined by the Governor.

21           (f) Each member is accountable to the Governor for  
22 proper performance of his or her duties as a member of the  
23 board. The Governor may remove from office any member for  
24 malfeasance, misfeasance, neglect of duty, drunkenness,  
25 incompetence, permanent inability to perform official duties,  
26 or for pleading guilty or nolo contendere to, or having been  
27 adjudicated guilty of, a first degree misdemeanor or a felony.

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



1           (3) EXECUTIVE DIRECTOR; EXPENSES.--

2           (a) The board shall appoint an executive director to  
3 direct and supervise the administrative affairs and general  
4 management of the board who shall be subject to the provisions  
5 of part IV of chapter 110. The executive director may employ  
6 persons and obtain technical assistance as authorized by the  
7 board and shall attend all meetings of the board. Board  
8 employees shall be exempt from part II of chapter 110.

9           (b) In addition to per diem and travel expenses  
10 authorized by s. 112.061, board members shall receive  
11 compensation of \$50 for each full day allocable to business of  
12 the board. The board shall promulgate procedures defining  
13 "business" for purposes of receiving compensation. Such  
14 procedures shall require each member to maintain time records  
15 and submit such records to the executive director on a monthly  
16 basis. Failure to timely file such monthly record shall  
17 extinguish the member's entitlement to compensation for the  
18 subject period. Travel outside this state shall be approved by  
19 the Insurance Commissioner and Treasurer ~~secretary of the~~  
20 ~~department~~. Expenses associated with the administration of  
21 this section shall be appropriated and paid for from the trust  
22 fund created by s. 440.50.

23           Section 49. Subsection (1) of section 440.45, Florida  
24 Statutes, is amended to read:

25           440.45 Office of the Judges of Compensation Claims.--

26           (1) There is hereby created the Office of the Judges  
27 of Compensation Claims within the Department of Insurance  
28 ~~Labor and Employment Security~~. The Office of the Judges of  
29 Compensation Claims shall be headed by a Chief Judge. The  
30 Chief Judge shall be appointed by the Governor for a term of 4  
31 years from a list of three names submitted by the statewide

1 nominating commission created under subsection (2). The Chief  
2 Judge must possess the same qualifications for appointment as  
3 a judge of compensation claims, and the procedure for  
4 reappointment of the Chief Judge will be the same as for  
5 reappointment of a judge of compensation claims. The office  
6 shall be a separate budget entity and the Chief Judge shall be  
7 its agency head for all purposes. The Department of Insurance  
8 ~~Labor and Employment Security~~ shall provide administrative  
9 support and service to the office to the extent requested by  
10 the Chief Judge but shall not direct, supervise, or control  
11 the Office of the Judges of Compensation Claims in any manner,  
12 including, but not limited to, personnel, purchasing,  
13 budgetary matters, or property transactions. The operating  
14 budget of the Office of the Judges of Compensation Claims  
15 shall be paid out of the Workers' Compensation Administration  
16 Trust Fund established in s. 440.50.

17 Section 50. Paragraph (e) of subsection (9) of section  
18 440.49, Florida Statutes, is amended to read:

19 440.49 Limitation of liability for subsequent injury  
20 through Special Disability Trust Fund.--

21 (9) SPECIAL DISABILITY TRUST FUND.--

22 (e) The Department of Insurance ~~Labor and Employment~~  
23 ~~Security~~ or administrator shall report annually on the status  
24 of the Special Disability Trust Fund. The report shall update  
25 the estimated undiscounted and discounted fund liability, as  
26 determined by an independent actuary, change in the total  
27 number of notices of claim on file with the fund in addition  
28 to the number of newly filed notices of claim, change in the  
29 number of proofs of claim processed by the fund, the fee  
30 revenues refunded and revenues applied to pay down the  
31 liability of the fund, the average time required to reimburse

1 accepted claims, and the average administrative costs per  
2 claim. The department or administrator shall submit its  
3 report to the Governor, the President of the Senate, and the  
4 Speaker of the House of Representatives by December 1 of each  
5 year.

6 Section 51. Effective October 1, 2000, section  
7 215.311, Florida Statutes, is amended to read:

8 215.311 State funds; exceptions.--The provisions of s.  
9 215.31 shall not apply to funds collected by and under the  
10 direction and supervision of the Division of Blind Services of  
11 the Department of Management Services ~~Labor and Employment~~  
12 ~~Security~~ as provided under ss. 413.011, 413.041, and 413.051;  
13 however, nothing in this section shall be construed to except  
14 from the provisions of s. 215.31 any appropriations made by  
15 the state to the division.

16 Section 52. Effective October 1, 2000, subsection (1)  
17 of section 413.091, Florida Statutes, is amended to read:

18 413.091 Identification cards.--

19 (1) The Division of Blind Services of the Department  
20 of Management Services ~~Labor and Employment Security~~ is hereby  
21 empowered to issue identification cards to persons known to be  
22 blind or partially sighted, upon the written request of such  
23 individual.

24 Section 53. Subsection (3) of section 440.102, Florida  
25 Statutes, is amended to read:

26 440.102 Drug-free workplace program requirements.--The  
27 following provisions apply to a drug-free workplace program  
28 implemented pursuant to law or to rules adopted by the Agency  
29 for Health Care Administration:

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

31

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

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

6 a. The types of drug testing an employee or job  
7 applicant may be required to submit to, including  
8 reasonable-suspicion drug testing or drug testing conducted on  
9 any other basis.

10 b. The actions the employer may take against an  
11 employee or job applicant on the basis of a positive confirmed  
12 drug test result.

13 2. A statement advising the employee or job applicant  
14 of the existence of this section.

15 3. A general statement concerning confidentiality.

16 4. Procedures for employees and job applicants to  
17 confidentially report to a medical review officer the use of  
18 prescription or nonprescription medications to a medical  
19 review officer both before and after being tested.

20 5. A list of the most common medications, by brand  
21 name or common name, as applicable, as well as by chemical  
22 name, which may alter or affect a drug test. A list of such  
23 medications as developed by the Agency for Health Care  
24 Administration shall be available to employers through the  
25 Division of Workers' Compensation of the Department of  
26 Insurance ~~Labor and Employment Security~~.

27 6. The consequences of refusing to submit to a drug  
28 test.

29 7. A representative sampling of names, addresses, and  
30 telephone numbers of employee assistance programs and local  
31 drug rehabilitation programs.

1           8. A statement that an employee or job applicant who  
2 receives a positive confirmed test result may contest or  
3 explain the result to the medical review officer within 5  
4 working days after receiving written notification of the test  
5 result; that if an employee's or job applicant's explanation  
6 or challenge is unsatisfactory to the medical review officer,  
7 the medical review officer shall report a positive test result  
8 back to the employer; and that a person may contest the drug  
9 test result pursuant to law or to rules adopted by the Agency  
10 for Health Care Administration.

11           9. A statement informing the employee or job applicant  
12 of his or her responsibility to notify the laboratory of any  
13 administrative or civil action brought pursuant to this  
14 section.

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

18           11. A statement regarding any applicable collective  
19 bargaining agreement or contract and the right to appeal to  
20 the Public Employees Relations Commission or applicable court.

21           12. A statement notifying employees and job applicants  
22 of their right to consult with a medical review officer for  
23 technical information regarding prescription or  
24 nonprescription medication.

25           (b) An employer not having a drug-testing program  
26 shall ensure that at least 60 days elapse between a general  
27 one-time notice to all employees that a drug-testing program  
28 is being implemented and the beginning of actual drug testing.  
29 An employer having a drug-testing program in place prior to  
30 July 1, 1990, is not required to provide a 60-day notice  
31 period.

1 (c) An employer shall include notice of drug testing  
2 on vacancy announcements for positions for which drug testing  
3 is required. A notice of the employer's drug-testing policy  
4 must also be posted in an appropriate and conspicuous location  
5 on the employer's premises, and copies of the policy must be  
6 made available for inspection by the employees or job  
7 applicants of the employer during regular business hours in  
8 the employer's personnel office or other suitable locations.

9 Section 54. Subsection (1) of section 440.125, Florida  
10 Statutes, is amended to read:

11 440.125 Medical records and reports; identifying  
12 information in employee medical bills; confidentiality.--

13 (1) Any medical records and medical reports of an  
14 injured employee and any information identifying an injured  
15 employee in medical bills which are provided to the Division  
16 of Workers' Compensation of the Department of Insurance ~~labor~~  
17 ~~and Employment Security~~ pursuant to s. 440.13 are confidential  
18 and exempt from the provisions of s. 119.07(1) and s. 24(a),  
19 Art. I of the State Constitution, except as otherwise provided  
20 by this chapter.

21 Section 55. Paragraph (f) of subsection (4) and  
22 paragraph (b) of subsection (5) of section 440.25, Florida  
23 Statutes, are amended to read:

24 440.25 Procedures for mediation and hearings.--

25 (4)

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

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

8 (5)

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

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



1           Section 56. Section 440.525, Florida Statutes, is  
2 amended to read:

3           440.525 Examination of carriers.--~~Beginning July 1,~~  
4 ~~1994,~~The Division of Workers' Compensation of the Department  
5 of Insurance ~~Labor and Employment Security~~ may examine each  
6 carrier as often as is warranted to ensure that carriers are  
7 fulfilling their obligations under the law, and shall examine  
8 each carrier not less frequently than once every 3 years. The  
9 examination must cover the preceding 3 fiscal years of the  
10 carrier's operations and must commence within 12 months after  
11 the end of the most recent fiscal year being covered by the  
12 examination. The examination may cover any period of the  
13 carrier's operations since the last previous examination.

14           Section 57. Subsections (1) and (2) of section 440.59,  
15 Florida Statutes, are amended to read:

16           440.59 Reporting requirements.--

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

31

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

14           Section 58. Effective January 1, 2001, subsections  
15 (1), (4), and (5) of section 443.012, Florida Statutes, are  
16 amended to read:

17           443.012 Unemployment Appeals Commission.--

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

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

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

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

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

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

18 (4) The property, personnel, and appropriations  
19 relating to the specified authority, powers, duties, and  
20 responsibilities of the commission shall be provided to the  
21 commission by the Department of Management Services ~~Labor and~~  
22 ~~Employment Security~~.

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

27 Section 59. Effective January 1, 2001, all powers,  
28 duties, functions, rules, records, personnel, property, and  
29 unexpended balances of appropriations, allocations, and other  
30 funds of the Unemployment Appeals Commission relating to the  
31 commission's specified authority, powers, duties, and

1 responsibilities are transferred by a type two transfer, as  
2 defined in section 20.06(2), Florida Statutes, to the  
3 Department of Management Services.

4 Section 60. Effective January 1, 2001, subsections  
5 (12) and (15) of section 443.036, Florida Statutes, are  
6 amended to read:

7 443.036 Definitions.--As used in this chapter, unless  
8 the context clearly requires otherwise:

9 (12) COMMISSION.--"Commission" means the Unemployment  
10 Appeals Commission ~~of the Department of Labor and Employment~~  
11 ~~Security.~~

12 (15) DIVISION.--"Division" means the Division of  
13 Unemployment Compensation of the Agency for Workforce  
14 Innovation ~~Department of Labor and Employment Security.~~

15 Section 61. Effective January 1, 2001, paragraph (a)  
16 of subsection (4) and subsection (8) of section 443.151,  
17 Florida Statutes, are amended to read:

18 443.151 Procedure concerning claims.--

19 (4) APPEALS.--

20 (a) Appeals referees.--The commission ~~division~~ shall  
21 appoint one or more impartial salaried appeals referees  
22 selected in accordance with s. 443.171(4) to hear and decide  
23 appealed or disputed claims. Such appeals referees shall have  
24 such qualifications as may be established by the Department of  
25 Management Services upon the advice and consent of the  
26 commission ~~division~~. No person shall participate on behalf of  
27 the commission ~~division~~ as an appeals referee in any case in  
28 which she or he is an interested party. The commission  
29 ~~division~~ may designate alternates to serve in the absence or  
30 disqualification of any appeals referee upon a temporary basis  
31 and pro hac vice which alternate shall be possessed of the

1 same qualifications required of appeals referees. The  
2 Department of Management Services ~~division~~ shall provide the  
3 commission and the appeals referees with proper facilities and  
4 assistance for the execution of their functions.

5 (8) BILINGUAL REQUIREMENTS.--

6 (a) Based on the estimated total number of households  
7 in a county which speak the same non-English language, a  
8 single-language minority, the division shall provide printed  
9 bilingual instructional and educational materials in the  
10 appropriate language in those counties in which 5 percent or  
11 more of the households in the county are classified as a  
12 single-language minority.

13 (b) The division shall ensure that one-stop career  
14 centers ~~jobs and benefits offices and appeals bureaus~~ in  
15 counties subject to the requirements of paragraph (c)  
16 prominently post notices in the appropriate languages that  
17 translators are available in those offices and bureaus.

18 (c) Single-language minority refers to households  
19 which speak the same non-English language and which do not  
20 contain an adult fluent in English. The division shall develop  
21 estimates of the percentages of single-language minority  
22 households for each county by using data made available by the  
23 United States Bureau of the Census.

24 Section 62. Effective January 1, 2001, subsections  
25 (1), (5), and (7) of section 443.171, Florida Statutes, are  
26 amended to read:

27 443.171 Division and commission; powers and duties;  
28 rules; advisory council; records and reports.--

29 (1) POWERS AND DUTIES OF DIVISION.--It shall be the  
30 duty of the division to administer this chapter; and it shall  
31 have power and authority to employ such persons, make such

1 expenditures, require such reports, make such investigations,  
2 and take such other action as it deems necessary or suitable  
3 to that end. The division shall determine its own  
4 organization and methods of procedure in accordance with the  
5 provisions of this chapter. Not later than March 15 of each  
6 year, the division, through the Agency for Workforce  
7 Innovation and in conjunction with the Unemployment Appeals  
8 Commission ~~Department of Labor and Employment Security~~, shall  
9 submit to the Governor a report covering the administration  
10 and operation of this chapter during the preceding calendar  
11 year and shall make such recommendations for amendment to this  
12 chapter as it deems proper.

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

17 (a) The council shall consist of 18 members, including  
18 equal numbers of employer representatives and employee  
19 representatives who may fairly be regarded as representative  
20 because of their vocations, employments, or affiliations, and  
21 representatives of the general public.

22 (b) The members of the council shall be appointed by  
23 the executive director ~~secretary~~ of the Agency for Workforce  
24 Innovation ~~Department of Labor and Employment Security~~.  
25 ~~Initially, the secretary shall appoint five members for terms~~  
26 ~~of 4 years, five members for terms of 3 years, five members~~  
27 ~~for terms of 2 years, and three members for terms of 1 year.~~  
28 ~~Thereafter,~~Members shall be appointed for 4-year terms. A  
29 vacancy shall be filled for the remainder of the unexpired  
30 term.

31

1 (c) The council shall meet at the call of its chair,  
2 at the request of a majority of its membership, at the request  
3 of the division, or at such times as may be prescribed by its  
4 rules, but not less than twice a year. The council shall make  
5 a report of each meeting, which shall include a record of its  
6 discussions and recommendations. The division shall make such  
7 reports available to any interested person or group.

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

11 (7) RECORDS AND REPORTS.--Each employing unit shall  
12 keep true and accurate work records, containing such  
13 information as the division may prescribe. Such records shall  
14 be open to inspection and be subject to being copied by the  
15 division at any reasonable time and as often as may be  
16 necessary. The division or an appeals referee may require from  
17 any employing unit any sworn or unsworn reports, with respect  
18 to persons employed by it, deemed necessary for the effective  
19 administration of this chapter. However, a state or local  
20 governmental agency performing intelligence or  
21 counterintelligence functions need not report an employee if  
22 the head of such agency has determined that reporting the  
23 employee could endanger the safety of the employee or  
24 compromise an ongoing investigation or intelligence mission.  
25 Information revealing the employing unit's or individual's  
26 identity thus obtained from the employing unit or from any  
27 individual pursuant to the administration of this chapter,  
28 shall, except to the extent necessary for the proper  
29 presentation of a claim or upon written authorization of the  
30 claimant who has a workers' compensation claim pending, be  
31 held confidential and exempt from the provisions of s.

1 119.07(1). Such information shall be available only to public  
2 employees in the performance of their public duties, including  
3 employees of the Department of Education in obtaining  
4 information for the Florida Education and Training Placement  
5 Information Program and the Office of Tourism, Trade, and  
6 Economic Development ~~Department of Commerce~~ in its  
7 administration of the qualified defense contractor tax refund  
8 program authorized by s. 288.1045 ~~s. 288.104~~, the qualified  
9 target industry business tax refund program authorized by s.  
10 288.106. Any claimant, or the claimant's legal representative,  
11 at a hearing before an appeals referee or the commission shall  
12 be supplied with information from such records to the extent  
13 necessary for the proper presentation of her or his claim. Any  
14 employee or member of the commission or any employee of the  
15 division, or any other person receiving confidential  
16 information, who violates any provision of this subsection is  
17 guilty of a misdemeanor of the second degree, punishable as  
18 provided in s. 775.082 or s. 775.083. However, the division  
19 may furnish to any employer copies of any report previously  
20 submitted by such employer, upon the request of such employer,  
21 and the division is authorized to charge therefor such  
22 reasonable fee as the division may by rule prescribe not to  
23 exceed the actual reasonable cost of the preparation of such  
24 copies. Fees received by the division for copies provided  
25 under this subsection shall be deposited to the credit of the  
26 Employment Security Administration Trust Fund.

27 Section 63. Effective January 1, 2001, subsections (1)  
28 and (2) of section 443.211, Florida Statutes, are amended to  
29 read:

30 443.211 Employment Security Administration Trust Fund;  
31 appropriation; reimbursement.--



1           (1) EMPLOYMENT SECURITY ADMINISTRATION TRUST  
2 FUND.--There is created in the State Treasury a special fund  
3 to be known as the "Employment Security Administration Trust  
4 Fund." All moneys that are deposited into this fund remain  
5 continuously available ~~to the division~~ for expenditure in  
6 accordance with the provisions of this chapter and do not  
7 lapse at any time and may not be transferred to any other  
8 fund. All moneys in this fund which are received from the  
9 Federal Government or any agency thereof or which are  
10 appropriated by this state for the purposes described in ss.  
11 443.171 and 443.181, except money received under s.  
12 443.191(5)(c), must be expended solely for the purposes and in  
13 the amounts found necessary by the authorized cooperating  
14 federal agencies for the proper and efficient administration  
15 of this chapter. The fund shall consist of all moneys  
16 appropriated by this state; all moneys received from the  
17 United States or any agency thereof; all moneys received from  
18 any other source for such purpose; any moneys received from  
19 any agency of the United States or any other state as  
20 compensation for services or facilities supplied to such  
21 agency; any amounts received pursuant to any surety bond or  
22 insurance policy or from other sources for losses sustained by  
23 the Employment Security Administration Trust Fund or by reason  
24 of damage to equipment or supplies purchased from moneys in  
25 such fund; and any proceeds realized from the sale or  
26 disposition of any such equipment or supplies which may no  
27 longer be necessary for the proper administration of this  
28 chapter. Notwithstanding any provision of this section, all  
29 money requisitioned and deposited in this fund under s.  
30 443.191(5)(c) remains part of the Unemployment Compensation  
31 Trust Fund and must be used only in accordance with the

1 conditions specified in s. 443.191(5). All moneys in this  
2 fund must be deposited, administered, and disbursed in the  
3 same manner and under the same conditions and requirements as  
4 is provided by law for other special funds in the State  
5 Treasury. Such moneys must be secured by the depositary in  
6 which they are held to the same extent and in the same manner  
7 as required by the general depositary law of the state, and  
8 collateral pledged must be maintained in a separate custody  
9 account. All payments from the Employment Security  
10 Administration Trust Fund must be approved by the division,  
11 the commission, or by a duly authorized agent and must be made  
12 by the Treasurer upon warrants issued by the Comptroller. Any  
13 balances in this fund do not lapse at any time and must remain  
14 continuously available ~~to the division~~ for expenditure  
15 consistent with this chapter.

16 (2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST  
17 FUND.--There is created in the State Treasury a special fund,  
18 to be known as the "Special Employment Security Administration  
19 Trust Fund," into which shall be deposited or transferred all  
20 interest on contributions, penalties, and fines or fees  
21 collected under this chapter. Interest on contributions,  
22 penalties, and fines or fees deposited during any calendar  
23 quarter in the clearing account in the Unemployment  
24 Compensation Trust Fund shall, as soon as practicable after  
25 the close of such calendar quarter and upon certification of  
26 the division, be transferred to the Special Employment  
27 Security Administration Trust Fund. However, there shall be  
28 withheld from any such transfer the amount certified by the  
29 division to be required under this chapter to pay refunds of  
30 interest on contributions, penalties, and fines or fees  
31 collected and erroneously deposited into the clearing account

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

1 Security Administration Trust Fund shall be approved by the  
2 division or by a duly authorized agent thereof and shall be  
3 made by the Treasurer upon warrants issued by the Comptroller.  
4 The moneys in this fund are hereby specifically made available  
5 to replace, as contemplated by subsection (3), expenditures  
6 from the Employment Security Administration Trust Fund,  
7 established by subsection (1), which have been found by the  
8 Bureau of Employment Security, or other authorized federal  
9 agency or authority, because of any action or contingency, to  
10 have been lost or improperly expended. The Treasurer shall be  
11 liable on her or his official bond for the faithful  
12 performance of her or his duties in connection with the  
13 Special Employment Security Administration Trust Fund.

14 Section 64. Subsection (3) of section 447.02, Florida  
15 Statutes, is amended to read:

16 447.02 Definitions.--The following terms, when used in  
17 this chapter, shall have the meanings ascribed to them in this  
18 section:

19 (3) The term "department" ~~"division"~~ means the  
20 ~~Division of Jobs and Benefits of the Bureau of Workplace~~  
21 ~~Regulation of the Division of Workers' Compensation of the~~  
22 ~~Department of Insurance Labor and Employment Security.~~

23 Section 65. Subsections (2), (3), and (4) of section  
24 447.04, Florida Statutes, are amended to read:

25 447.04 Business agents; licenses, permits.--

26 (2)(a) Every person desiring to act as a business  
27 agent in this state shall, before doing so, obtain a license  
28 or permit by filing an application under oath therefor with  
29 ~~the Division of Jobs and Benefits of the department of Labor~~  
30 ~~and Employment Security~~, accompanied by a fee of \$25 and a  
31 full set of fingerprints of the applicant taken by a law

1 enforcement agency qualified to take fingerprints. There  
2 shall accompany the application a statement signed by the  
3 president and the secretary of the labor organization for  
4 which he or she proposes to act as agent, showing his or her  
5 authority to do so. The department ~~division~~ shall hold such  
6 application on file for a period of 30 days, during which time  
7 any person may file objections to the issuing of such license  
8 or permit.

9 (b) The department ~~division~~ may also conduct an  
10 independent investigation of the applicant; and, if objections  
11 are filed, it may hold, or cause to be held, a hearing in  
12 accordance with the requirements of chapter 120. The  
13 objectors and the applicant shall be permitted to attend such  
14 hearing and present evidence.

15 (3) After the expiration of the 30-day period,  
16 regardless of whether or not any objections have been filed,  
17 the department ~~division~~ shall review the application, together  
18 with all information that it may have, including, but not  
19 limited to, any objections that may have been filed to such  
20 application, any information that may have been obtained  
21 pursuant to an independent investigation, and the results of  
22 any hearing on the application. If the department ~~division~~,  
23 from a review of the information, finds that the applicant is  
24 qualified, pursuant to the terms of this chapter, it shall  
25 issue such license or permit; and such license or permit shall  
26 run for the calendar year for which issued, unless sooner  
27 surrendered, suspended, or revoked.

28 (4) Licenses and permits shall expire at midnight,  
29 December 31, but may be renewed by the department ~~division~~ on  
30 a form prescribed by it; however, if any such license or  
31 permit has been surrendered, suspended, or revoked during the

1 year, then such applicant must go through the same formalities  
2 as a new applicant.

3 Section 66. Section 447.041, Florida Statutes, is  
4 amended to read:

5 447.041 Hearings.--

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

10 (2) The department ~~division~~ may, pursuant to the  
11 requirements of chapter 120, suspend or revoke the license or  
12 permit of any business agent or the registration of any labor  
13 organization for the violation of any provision of this  
14 chapter.

15 Section 67. Section 447.045, Florida Statutes, is  
16 amended to read:

17 447.045 Information confidential.--Neither the  
18 department ~~division~~ nor any investigator or employee of the  
19 department ~~division~~ shall divulge in any manner the  
20 information obtained pursuant to the processing of applicant  
21 fingerprint cards, and such information is confidential and  
22 exempt from the provisions of s. 119.07(1).

23 Section 68. Section 447.06, Florida Statutes, is  
24 amended to read:

25 447.06 Registration of labor organizations required.--

26 (1) Every labor organization operating in the state  
27 shall make a report under oath, in writing, to ~~the Division of~~  
28 ~~Jobs and Benefits of the department of Labor and Employment~~  
29 ~~Security~~ annually, on or before December 31. Such report shall  
30 be filed by the secretary or business agent of such labor  
31 organization, shall be in such form as the department

1 prescribes ~~division may prescribe~~, and shall show the  
2 following facts:

- 3 (a) The name of the labor organization;  
4 (b) The location of its office; and  
5 (c) The name and address of the president, secretary,  
6 treasurer, and business agent.  
7 (2) At the time of filing such report, it shall be the  
8 duty of every such labor organization to pay the department  
9 ~~division~~ an annual fee therefor in the sum of \$1.

10 Section 69. Section 447.12, Florida Statutes, is  
11 amended to read:

12 447.12 Fees for registration.--All fees collected by  
13 ~~the Division of Jobs and Benefits of the department~~ under this  
14 part of Labor and Employment Security hereunder shall be paid  
15 to the Treasurer and credited to the General Revenue Fund.

16 Section 70. Section 447.16, Florida Statutes, is  
17 amended to read:

18 447.16 Applicability of chapter ~~when effective~~.--Any  
19 labor business agent licensed on July 1, 1965, may renew such  
20 license each year on forms provided by ~~the Division of Jobs~~  
21 ~~and Benefits of the department of Labor and Employment~~  
22 Security without submitting fingerprints so long as such  
23 license or permit has not expired or has not been surrendered,  
24 suspended, or revoked. The fingerprinting requirements of  
25 this act shall become effective for a new applicant for a  
26 labor business agent license immediately upon this act  
27 becoming a law.

28 Section 71. Paragraph (a) of subsection (13) of  
29 section 447.203, Florida Statutes, is amended to read:

30 447.203 Definitions.--As used in this part:

31 (13) "Professional employee" means:

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

9 1. Work predominantly intellectual and varied in  
10 character as opposed to routine mental, manual, mechanical, or  
11 physical work;

12 2. Work involving the consistent exercise of  
13 discretion and judgment in its performance; and

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

17 ~~4. Work requiring advanced knowledge in a field of~~  
18 ~~science or learning customarily acquired by a prolonged course~~  
19 ~~of specialized intellectual instruction and study in an~~  
20 ~~institution of higher learning or a hospital, as distinguished~~  
21 ~~from a general academic education, an apprenticeship, or~~  
22 ~~training in the performance of routine mental or physical~~  
23 ~~processes.~~

24 Section 72. Effective October 1, 2000, subsections  
25 (1), (3), and (4) of section 447.205, Florida Statutes, are  
26 amended to read:

27 447.205 Public Employees Relations Commission.--

28 (1) There is hereby created within the Department of  
29 Management Services ~~Labor and Employment Security~~ the Public  
30 Employees Relations Commission, hereinafter referred to as the  
31 "commission." The commission shall be composed of a chair and



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

1 Nothing contained herein prohibits a chair or commissioner  
2 from serving multiple terms.

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

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

12 Section 73. Subsections (1) and (3) of section  
13 447.208, Florida Statutes, are amended to read:

14 447.208 Procedure with respect to certain appeals  
15 under s. 447.207.--

16 (1) Any person filing an appeal, charge, or petition  
17 pursuant to subsection (6), subsection (8), or subsection (9)  
18 of s. 447.207 shall be entitled to a hearing pursuant to  
19 subsections (4) and (5) of s. 447.503 and in accordance with  
20 chapter 120; however, the hearing shall be conducted within 30  
21 days of the filing of an appeal with the commission, unless an  
22 extension of time is granted by the commission for good cause  
23 or unless the basis for the appeal is an allegation of abuse  
24 or neglect under s. 415.1075, in which case the hearing by the  
25 Public Employees Relations Commission may not be held until  
26 the confirmed report of abuse or neglect has been upheld  
27 pursuant to the procedures for appeal in s. 415.1075.  
28 Discovery may be granted only upon a showing of extraordinary  
29 circumstances. A party requesting discovery shall demonstrate  
30 a substantial need for the information requested and an  
31 inability to obtain relevant information by other means. To

1 the extent that chapter 120 is inconsistent with these  
2 provisions, the procedures contained in this section shall  
3 govern.

4 (3) With respect to career service appeal hearings  
5 relating to demotions, suspensions, or dismissals pursuant to  
6 the provisions of this section:

7 (a) Upon a finding that just cause existed for the  
8 demotion, suspension, or dismissal, the commission shall  
9 affirm the demotion, suspension, or dismissal.

10 (b) Upon a finding that just cause did not exist for  
11 the demotion, suspension, or dismissal, the commission may  
12 order the reinstatement of the employee, with or without back  
13 pay.

14 (c) Upon a finding that just cause for disciplinary  
15 action existed, but did not justify the severity of the action  
16 taken, the commission may, in its limited discretion, reduce  
17 the penalty.

18 (d) The commission is limited in its discretionary  
19 reduction of dismissals and suspensions to consider only the  
20 following circumstances:

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

23 2. Action taken with respect to similar conduct by  
24 other employees.

25 3. The previous employment record and disciplinary  
26 record of the employee.

27 4. Extraordinary circumstances beyond the employee's  
28 control which temporarily diminished the employee's capacity  
29 to effectively perform his or her duties or which  
30 substantially contributed to the violation for which  
31 punishment is being considered.

1  
2 The agency may present evidence to refute the existence of  
3 these circumstances.

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

18 Section 74. Subsection (4) of section 447.305, Florida  
19 Statutes, is amended to read:

20 447.305 Registration of employee organization.--

21 (4) Notification of registrations and renewals of  
22 registration shall be furnished at regular intervals by the  
23 commission to the Bureau of Workplace Regulation of the  
24 Division of Workers' Compensation ~~Division of Jobs and~~  
25 ~~Benefits~~ of the Department of Insurance ~~Labor and Employment~~  
26 ~~Security~~.

27 Section 75. Paragraph (b) of subsection (3) of section  
28 447.307, Florida Statutes, is amended to read:

29 447.307 Certification of employee organization.--

30 (3)  
31

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

15 Section 76. Paragraph (a) of subsection (5) of section  
16 447.503, Florida Statutes, is amended to read:

17 447.503 Charges of unfair labor practices.--It is the  
18 intent of the Legislature that the commission act as  
19 expeditiously as possible to settle disputes regarding alleged  
20 unfair labor practices. To this end, violations of the  
21 provisions of s. 447.501 shall be remedied by the commission  
22 in accordance with the following procedures and in accordance  
23 with chapter 120; however, to the extent that chapter 120 is  
24 inconsistent with the provisions of this section, the  
25 procedures contained in this section shall govern:

26 (5) Whenever the proceeding involves a disputed issue  
27 of material fact and an evidentiary hearing is to be  
28 conducted:

29 (a) The commission shall issue and serve upon all  
30 parties a notice of hearing before an assigned hearing officer  
31 at a time and place specified therein. Such notice shall be

1 issued at least 14 days prior to the scheduled hearing. If a  
2 party fails to appear for the hearing, the hearing officer  
3 shall, after waiting a reasonable time, open the record, note  
4 the nonappearance, and close the hearing. Thereafter, the  
5 hearing may be reconvened only if the party establishes that  
6 the failure to appear was due to circumstances beyond his or  
7 her control.

8 Section 77. Subsection (4) of section 447.504, Florida  
9 Statutes, is amended to read:

10 447.504 Judicial review.--

11 (4) The commencement of proceedings under this section  
12 shall not, unless specifically ordered by the district court  
13 of appeal, operate as a stay of the commission's order.  
14 However, the commission may stay determination of the amount  
15 of back pay, benefits, or attorney's fees until the court  
16 decides the appeal.

17 Section 78. Effective October 1, 2000, all powers,  
18 duties, functions, rules, records, personnel, property, and  
19 unexpended balances of appropriations, allocations, and other  
20 funds of the Public Employees Relations Commission relating to  
21 the commission's specified authority, powers, duties, and  
22 responsibilities are transferred by a type two transfer, as  
23 defined in section 20.06, Florida Statutes, to the Department  
24 of Management Services.

25 Section 79. Subsection (4) of section 450.012, Florida  
26 Statutes, is amended to read:

27 450.012 Definitions.--For the purpose of this chapter,  
28 the word, phrase, or term:

29 (4) "Department"~~"Division"~~ means the Bureau of  
30 Workplace Regulation of the Division of Workers' Compensation

31

1 ~~Division of Jobs and Benefits~~ of the Department of Insurance  
2 ~~Labor and Employment Security~~.

3 Section 80. Subsection (3) of section 450.061, Florida  
4 Statutes, is amended to read:

5 450.061 Hazardous occupations prohibited;  
6 exemptions.--

7 (3) No minor under 18 years of age, whether such  
8 person's disabilities of nonage have been removed by marriage  
9 or otherwise, shall be employed or permitted or suffered to  
10 work in any place of employment or at any occupation hazardous  
11 or injurious to the life, health, safety, or welfare of such  
12 minor, as such places of employment or occupations may be  
13 determined and declared by ~~the Division of Jobs and Benefits~~  
14 ~~of the department of Labor and Employment Security~~ to be  
15 hazardous and injurious to the life, health, safety, or  
16 welfare of such minor.

17 Section 81. Paragraph (c) of subsection (5) of section  
18 450.081, Florida Statutes, is amended to read:

19 450.081 Hours of work in certain occupations.--

20 (5) The provisions of subsections (1) through (4)  
21 shall not apply to:

22 (c) Minors enrolled in a public educational  
23 institution who qualify on a hardship basis such as economic  
24 necessity or family emergency. Such determination shall be  
25 made by the school superintendent or his or her designee, and  
26 a waiver of hours shall be issued to the minor and the  
27 employer. The form and contents thereof shall be prescribed by  
28 the department division.

29 Section 82. Section 450.095, Florida Statutes, is  
30 amended to read:

31

1           450.095 Waivers.--In extenuating circumstances when it  
2 clearly appears to be in the best interest of the child, the  
3 department ~~division~~ may grant a waiver of the restrictions  
4 imposed by the Child Labor Law on the employment of a child.  
5 Such waivers shall be granted upon a case-by-case basis and  
6 shall be based upon such factors as the department ~~division~~,  
7 by rule, establishes as determinative of whether such waiver  
8 is in the best interest of a child.

9           Section 83. Subsections (1), (2), and (5) of section  
10 450.121, Florida Statutes, are amended to read:

11           450.121 Enforcement of Child Labor Law.--

12           (1) The department ~~Division of Jobs and Benefits~~ shall  
13 administer this chapter. It shall employ such help as is  
14 necessary to effectuate the purposes of this chapter. Other  
15 agencies of the state may cooperate with the department  
16 ~~division~~ in the administration and enforcement of this part.  
17 To accomplish this joint, cooperative effort, the department  
18 ~~division~~ may enter into intergovernmental agreements with  
19 other agencies of the state whereby the other agencies may  
20 assist the department ~~division~~ in the administration and  
21 enforcement of this part. Any action taken by an agency  
22 pursuant to an intergovernmental agreement entered into  
23 pursuant to this section shall be considered to have been  
24 taken by the department ~~division~~.

25           (2) It is the duty of the department ~~division~~ and its  
26 agents and all sheriffs or other law enforcement officers of  
27 the state or of any municipality of the state to enforce the  
28 provisions of this law, to make complaints against persons  
29 violating its provisions, and to prosecute violations of the  
30 same. The department ~~division~~ and its agents have authority to  
31 enter and inspect at any time any place or establishment



1 covered by this law and to have access to age certificates  
2 kept on file by the employer and such other records as may aid  
3 in the enforcement of this law. A designated school  
4 representative acting in accordance with s. 232.17 shall  
5 report to the department ~~division~~ all violations of the Child  
6 Labor Law that may come to his or her knowledge.

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

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

11 (b) Prescribing additional documents that may be used  
12 to prove the age of a minor and the procedure to be followed  
13 before a person who claims his or her disability of nonage has  
14 been removed by a court of competent jurisdiction may be  
15 employed.

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

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

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

23 Section 84. Subsections (1), (2), (3), (4), and (5) of  
24 section 450.132, Florida Statutes, are amended to read:

25 450.132 Employment of children by the entertainment  
26 industry; rules; procedures.--

27 (1) Children within the protection of our child labor  
28 statutes may, notwithstanding such statutes, be employed by  
29 the entertainment industry in the production of motion  
30 pictures, legitimate plays, television shows, still  
31 photography, recording, publicity, musical and live

1 performances, circuses, and rodeos, in any work not determined  
2 by the department ~~Division of Jobs and Benefits~~ to be  
3 hazardous, or detrimental to their health, morals, education,  
4 or welfare.

5 (2) The department ~~Division of Jobs and Benefits~~  
6 shall, as soon as convenient, and after such investigation as  
7 to the department ~~division~~ may seem necessary or advisable,  
8 determine what work in connection with the entertainment  
9 industry is not hazardous or detrimental to the health,  
10 morals, education, or welfare of minors within the purview and  
11 protection of our child labor laws. When so adopted, such  
12 rules shall have the force and effect of law in this state.

13 (3) Entertainment industry employers or agents wishing  
14 to qualify for the employment of minors in work not hazardous  
15 or detrimental to their health, morals, or education shall  
16 make application to the department ~~division~~ for a permit  
17 qualifying them to employ minors in the entertainment  
18 industry. The form and contents thereof shall be prescribed by  
19 the department ~~division~~.

20 (4) Any duly qualified entertainment industry employer  
21 may employ any minor. However, if any entertainment industry  
22 employer employing a minor causes, permits, or suffers such  
23 minor to be placed under conditions which are dangerous to the  
24 life or limb or injurious or detrimental to the health or  
25 morals or education of the minor, the right of that  
26 entertainment industry employer and its representatives and  
27 agents to employ minors as provided herein shall stand  
28 revoked, unless otherwise ordered by the department ~~division~~,  
29 and the person responsible for such unlawful employment is  
30 guilty of a misdemeanor of the second degree, punishable as  
31 provided in s. 775.082 or s. 775.083.

1           (5) Any entertainment industry employer and its agents  
2 employing minors hereunder are required to notify the  
3 department division, showing the date of the commencement of  
4 work, the number of days worked, the location of the work, and  
5 the date of termination.

6           Section 85. Subsections (2) and (3) of section  
7 450.141, Florida Statutes, are amended to read:

8           450.141 Employing minor children in violation of law;  
9 penalties.--

10          (2) Any person, firm, corporation, or governmental  
11 agency, or agent thereof, that has employed minors in  
12 violation of this part, or any rule adopted pursuant thereto,  
13 may be subject by the department division to fines not to  
14 exceed \$2,500 per offense. The department division shall  
15 adopt, by rule, disciplinary guidelines specifying a  
16 meaningful range of designated penalties based upon the  
17 severity and repetition of the offenses, and which distinguish  
18 minor violations from those which endanger a minor's health  
19 and safety.

20          (3) If the department division has reasonable grounds  
21 for believing there has been a violation of this part or any  
22 rule adopted pursuant thereto, it shall give written notice to  
23 the person alleged to be in violation. Such notice shall  
24 include the provision or rule alleged to be violated, the  
25 facts alleged to constitute such violation, and requirements  
26 for remedial action within a time specified in the notice. No  
27 fine may be levied unless the person alleged to be in  
28 violation fails to take remedial action within the time  
29 specified in the notice.

30          Section 86. Paragraph (j) of subsection (1) of section  
31 450.191, Florida Statutes, is amended to read:

1           450.191 Executive Office of the Governor; powers and  
2 duties.--

3           (1) The Executive Office of the Governor is authorized  
4 and directed to:

5           (j) Cooperate with the regional workforce boards and  
6 one-stop career centers ~~farm labor office of the Florida State~~  
7 ~~Employment Service~~ in the recruitment and referral of migrant  
8 laborers and other persons for the planting, cultivation, and  
9 harvesting of agricultural crops in Florida.

10           Section 87. Subsection (2) of section 450.28, Florida  
11 Statutes, is amended to read:

12           450.28 Definitions.--

13           (2) "Department"~~"Division"~~ means the Bureau of  
14 Workplace Regulation of the Division of Workers' Compensation  
15 ~~Jobs and Benefits~~ of the Department of Insurance ~~Labor and~~  
16 ~~Employment Security~~.

17           Section 88. Section 450.30, Florida Statutes, is  
18 amended to read:

19           450.30 Requirement of certificate of registration;  
20 education and examination program.--

21           (1) No person may act as a farm labor contractor until  
22 a certificate of registration has been issued to him or her by  
23 the department ~~division~~ and unless such certificate is in full  
24 force and effect and is in his or her possession.

25           (2) No certificate of registration may be transferred  
26 or assigned.

27           (3) Unless sooner revoked, each certificate of  
28 registration, regardless of the date of issuance, shall be  
29 renewed on the last day of the birth month following the date  
30 of issuance and, thereafter, each year on the last day of the  
31 birth month of the registrant. The date of incorporation shall

1 be used in lieu of birthdate for registrants that are  
2 corporations. Applications for certificates of registration  
3 and renewal thereof shall be on a form prescribed by the  
4 department ~~division~~.

5 (4) The department ~~division~~ shall provide a program of  
6 education and examination for applicants under this part. The  
7 program may be provided by the department ~~division~~ or through  
8 a contracted agent. The program shall be designed to ensure  
9 the competency of those persons to whom the department  
10 ~~division~~ issues certificates of registration.

11 (5) The department ~~division~~ shall require each  
12 applicant to demonstrate competence by a written or oral  
13 examination in the language of the applicant, evidencing that  
14 he or she is knowledgeable concerning the duties and  
15 responsibilities of a farm labor contractor. The examination  
16 shall be prepared, administered, and evaluated by the  
17 department ~~division~~ or through a contracted agent.

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

21 (a) During the prior certification period, the  
22 division issued a final order assessing a civil monetary  
23 penalty or revoked or refused to renew or issue a certificate  
24 of registration; or

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

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

1           (8) The department ~~division~~ may adopt rules  
2 prescribing the procedures to be followed to register as a  
3 farm labor contractor.

4           Section 89. Subsections (1), (2), and (4) of section  
5 450.31, Florida Statutes, are amended to read:

6           450.31 Issuance, revocation, and suspension of, and  
7 refusal to issue or renew, certificate of registration.--

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

11           (a) Such person has executed a written application  
12 therefor in a form and pursuant to regulations prescribed by  
13 the department ~~division~~ and has submitted such information as  
14 the department ~~division~~ may prescribe.

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

18           (c) Such person pays to the department ~~division~~, in  
19 cash, certified check, or money order, a nonrefundable  
20 application fee of \$75. Fees collected by the department  
21 ~~division~~ under this subsection shall be deposited in the State  
22 Treasury into the Crew Chief Registration Trust Fund, which is  
23 hereby created, and shall be utilized for administration of  
24 this part.

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

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

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

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

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

6           (4) The department ~~division~~ may refuse to issue or  
7 renew, or may suspend or revoke, a certificate of registration  
8 if the applicant or holder is not the real party in interest  
9 in the application or certificate of registration and the real  
10 party in interest is a person who has been refused issuance or  
11 renewal of a certificate, has had a certificate suspended or  
12 revoked, or does not qualify under this section for a  
13 certificate.

14           Section 90. Subsections (1), (4), (5), (6), (8), (9),  
15 and (10) of section 450.33, Florida Statutes, are amended to  
16 read:

17           450.33 Duties of farm labor contractor.--Every farm  
18 labor contractor must:

19           (1) Carry his or her certificate of registration with  
20 him or her at all times and exhibit it to all persons with  
21 whom the farm labor contractor intends to deal in his or her  
22 capacity as a farm labor contractor prior to so dealing and,  
23 upon request, to persons designated by the department  
24 ~~division~~.

25           (4) Display prominently, at the site where the work is  
26 to be performed and on all vehicles used by the registrant for  
27 the transportation of employees, a single posting containing a  
28 written statement in English and in the language of the  
29 majority of the non-English-speaking employees disclosing the  
30 terms and conditions of employment in a form prescribed by the  
31

1 department ~~division~~ or by the United States Department of  
2 Labor for this purpose.

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

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

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

20 (9) Produce evidence to the department ~~division~~ that  
21 each vehicle he or she uses for the transportation of  
22 employees complies with the requirements and specifications  
23 established in chapter 316, s. 316.620, or Pub. L. No. 93-518  
24 as amended by Pub. L. No. 97-470 meeting Department of  
25 Transportation requirements or, in lieu thereof, bears a valid  
26 inspection sticker showing that the vehicle has passed the  
27 inspection in the state in which the vehicle is registered.

28 (10) Comply with all applicable statutes, rules, and  
29 regulations of the United States and of the State of Florida  
30 for the protection or benefit of labor, including, but not  
31 limited to, those providing for wages, hours, fair labor



1 standards, social security, workers' compensation,  
2 unemployment compensation, child labor, and transportation.

3 The department ~~division~~ shall not suspend or revoke a  
4 certificate of registration pursuant to this subsection  
5 unless:

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

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

15 (c) The holder of a certificate of registration  
16 stipulates that a violation has occurred or defaults in the  
17 administrative proceedings brought to suspend or revoke his or  
18 her registration.

19 Section 91. Section 450.35, Florida Statutes, is  
20 amended to read:

21 450.35 Certain contracts prohibited.--It is unlawful  
22 for any person to contract for the employment of farm workers  
23 with any farm labor contractor as defined in this act until  
24 the labor contractor displays to him or her a current  
25 certificate of registration issued by the department ~~division~~  
26 pursuant to the requirements of this part.

27 Section 92. Section 450.36, Florida Statutes, is  
28 amended to read:

29 450.36 Rules and regulations.--The department ~~division~~  
30 may adopt rules necessary to enforce and administer this part.

31

1           Section 93. Section 450.37, Florida Statutes, is  
2 amended to read:

3           450.37 Cooperation with federal agencies.--The  
4 department ~~division~~ shall, whenever appropriate, cooperate  
5 with any federal agency.

6           Section 94. Subsections (2), (3), and (4) of section  
7 450.38, Florida Statutes, are amended to read:

8           450.38 Enforcement of farm labor contractor laws.--

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

26           (3) Upon a complaint of the department ~~division~~ being  
27 filed in the circuit court of the county in which the farm  
28 labor contractor may be doing business, any farm labor  
29 contractor who fails to obtain a certificate of registration  
30 as required by this part may, in addition to such penalties,  
31 be enjoined from engaging in any activity which requires the

1 farm labor contractor to possess a certificate of  
2 registration.

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

13 Section 95. (1) In anticipation of its assumption of  
14 responsibilities from the Department of Labor and Employment  
15 Security relating to unemployment compensation, as provided in  
16 this act, the Department of Revenue shall prepare a report  
17 with recommendations on the fiscal management of funds under  
18 the Unemployment Compensation Trust Fund and any other funds  
19 related to unemployment compensation activities conducted  
20 under state or federal law. The report shall include, but is  
21 not limited to, an analysis of options and recommendations for  
22 distributing unemployment compensation funds to units of state  
23 government with responsibilities under the unemployment  
24 compensation program and for allocating costs associated with  
25 such program and funds. The report and recommendations shall  
26 be submitted to the Governor, the President of the Senate, the  
27 Speaker of the House of Representatives, and members of the  
28 Labor and Employment Security Transition Team by September 1,  
29 2000.

30 (2) The Department of Revenue shall conduct a  
31 feasibility study regarding the privatization of unemployment

1 tax collection services or other functions of the state  
2 related to unemployment compensation activities conducted  
3 under state or federal law. The study findings and  
4 recommendations shall be submitted in a report to the  
5 Governor, the President of the Senate, and the Speaker of the  
6 House of Representatives by March 1, 2001.

7 (3) This section shall take effect upon this act  
8 becoming a law.

9 Section 96. (1) The Department of Labor and  
10 Employment Security, in conjunction with the Department of  
11 Management Services, may offer, subject to the provisions of  
12 this section, active employees of the Department of Labor and  
13 Employment Security who have 27 or more years of creditable  
14 service in a state-administered retirement system, a one-time  
15 voluntary reduction-in-force payment. Such payment shall  
16 represent a payment of insurance costs and shall be paid as an  
17 annuity to be purchased by the Department of Labor and  
18 Employment Security within the amounts appropriated for salary  
19 and benefits in the General Appropriations Act for fiscal year  
20 2000-2001, which shall include funds derived from eliminating  
21 vacated positions. There shall be no annualization costs  
22 associated with this plan. The Secretary of Labor and  
23 Employment Security shall be deemed to be the public employer  
24 for purposes of negotiating the terms and conditions related  
25 to the reduction-in-force payments authorized by this section.  
26 All persons retiring under this program must do so by  
27 September 30, 2000.

28 (2) The department, in consultation with the  
29 Department of Management Services, shall prepare a plan to  
30 implement the reduction-in-force payment authority for  
31 approval by the Office of Policy and Budget. The plan must

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

10 (3) If approved by the Office of Policy and Budget,  
11 the plan shall be submitted to the Legislature subject to the  
12 notice, review, and objection process authorized in section  
13 216.177, Florida Statutes.

14 (4) This section shall take effect upon becoming a  
15 law.

16 Section 97. Notwithstanding any other provision of  
17 law, any binding contract or interagency agreement existing on  
18 or before January 1, 2001, between the Department of Labor and  
19 Employment Security, or an entity or agent of the department,  
20 and any other agency, entity, or person shall continue as a  
21 binding contract or agreement for the remainder of the term of  
22 such contract or agreement with the successor department,  
23 agency, or entity responsible for the program, activity, or  
24 functions relative to the contract or agreement.

25 Section 98. This act does not affect the validity of  
26 any judicial or administrative proceeding involving the  
27 Department of Labor and Employment Security which is pending  
28 as of the effective date of any transfer under this act. The  
29 successor department, agency, or entity responsible for the  
30 program, activity, or function relative to the proceeding  
31 shall be substituted, as of the effective date of the

1 applicable transfer under this act, for the Department of  
2 Labor and Employment Security as a party in interest in any  
3 such proceedings.

4 Section 99. If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 invalidity does not affect other provisions or applications of  
7 the act which can be given effect without the invalid  
8 provision or application, and to this end the provisions of  
9 this act are severable.

10 Section 100. Except as otherwise expressly provided in  
11 this act, this act shall take effect July 1, 2000, except that  
12 this act shall not take effect unless Committee Substitute for  
13 Senate Bill 2050, or similar legislation reassigning  
14 responsibilities of the Division of Workforce and Employment  
15 Opportunities of the Department of Labor and Employment  
16 Security to another agency or entity, becomes a law.

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