

By the Committee on Banking and Insurance; and Senator King

311-2108-00

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 440.02, F.S.; revising a monetary
4 limit in a definition; excluding work done by
5 state prisoners and county inmates from the
6 definition of employment; amending s. 440.09,
7 F.S.; excluding employees covered under the
8 Defense Base Act from payment of benefits;
9 amending s. 440.12, F.S.; providing for
10 electronic payment of compensation payments;
11 amending s. 440.13, F.S.; revising requirements
12 for submission of certain medical reports and
13 bills; granting rehabilitation providers access
14 to medical records; amending s. 440.134, F.S.;
15 revising a definition; requiring certain
16 insurers to provide medically necessary
17 remedial treatment, care, and attendance under
18 certain circumstances; requiring insurers'
19 workers' compensation managed care arrangements
20 to grant or deny requests for medical care
21 within a time certain; requiring insurers'
22 workers' compensation managed care arrangements
23 to notify injured workers of the outcome of
24 grievances within a time certain; providing a
25 presumption of resolution of a grievance absent
26 timely notice; amending s. 440.185, F.S.;
27 authorizing the division to contract with a
28 private entity for collection of certain policy
29 information; providing application; amending s.
30 440.192, F.S.; revising requirements and
31 procedures for filing petitions for benefits;

1 permitting judges to dismiss portions of a
2 petition; specifying that dismissal of
3 petitions is without prejudice; amending s.
4 440.20, F.S.; providing for payment of
5 compensation by direct deposit under certain
6 circumstances; authorizing not holding a
7 hearing under certain circumstances; revising
8 the period for payment; revising lump-sum
9 settlement requirements; amending s. 440.22,
10 F.S.; excluding child support and alimony
11 claims from general exemption of workers'
12 compensation benefits from claims of creditors;
13 amending s. 440.271, F.S.; requiring the First
14 District Court of Appeal to establish a
15 specialized division to hear workers'
16 compensation cases; amending s. 440.38, F.S.;
17 providing for the type of qualifying security
18 deposit necessary to become a self-insured
19 employer; providing requirements, procedures,
20 and criteria; correcting cross references;
21 amending s. 440.45, F.S.; requiring the
22 judicial nominating commission to consider
23 whether judges of compensation claims have met
24 certain requirements; providing procedures;
25 authorizing the Governor to appoint certain
26 judges of compensation claims; requiring the
27 Office of Judges of Compensation Claims to
28 adopt certain additional rules; requiring the
29 Office of the Judges of Compensation Claims to
30 submit draft rules to the Legislature by
31 November 1, 2000; requiring review by the

1 Legislature; providing requirements and
2 procedures; amending s. 61.14, F.S.; requiring
3 judges of compensation claims to consider the
4 interests of the worker and the worker's family
5 when approving settlements of workers'
6 compensation claims; requiring appropriate
7 recovery of any child-support arrearage from
8 those settlements; amending s. 61.30, F.S.;
9 providing that gross income includes all
10 workers' compensation benefits and settlements;
11 amending ss. 489.114, 489.510, F.S.; providing
12 an exception to certain workers' compensation
13 coverage evidence requirements; amending ss.
14 489.115, 489.515, F.S.; revising certification
15 and registration requirements for initial
16 licensure; amending s. 627.311, F.S.; providing
17 for use of policyholder surplus for purposes of
18 funding certain deficits; amending s. 627.914,
19 F.S.; revising the requirements for reports of
20 information by workers' compensation insurers;
21 deleting a reporting requirement for the
22 Division of Workers' Compensation; providing an
23 appropriation; repealing s. 440.45(3), F.S.,
24 relating to judges of compensation claims
25 serving as docketing judges; providing
26 effective dates.

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28 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (4) and paragraph (c) of
2 subsection (16) of section 440.02, Florida Statutes, are
3 amended to read:

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

7 (4) "Casual" as used in this section shall be taken to
8 refer only to employments when the work contemplated is to be
9 completed in not exceeding 10 working days, without regard to
10 the number of persons employed, and when the total labor cost
11 of such work is less than \$1,000~~\$100~~.

12 (16)

13 (c) "Employment" does not include service performed by
14 or as:

15 1. Domestic servants in private homes.

16 2. Agricultural labor performed on a farm in the
17 employ of a bona fide farmer, or association of farmers, who
18 employs 5 or fewer regular employees and who employs fewer
19 than 12 other employees at one time for seasonal agricultural
20 labor that is completed in less than 30 days, provided such
21 seasonal employment does not exceed 45 days in the same
22 calendar year. The term "farm" includes stock, dairy, poultry,
23 fruit, fur-bearing animals, fish, and truck farms, ranches,
24 nurseries, and orchards. The term "agricultural labor"
25 includes field foremen, timekeepers, checkers, and other farm
26 labor supervisory personnel.

27 3. Professional athletes, such as professional boxers,
28 wrestlers, baseball, football, basketball, hockey, polo,
29 tennis, jai alai, and similar players, and motorsports teams
30 competing in a motor racing event as defined in s. 549.08.

31

1 4. Labor under a sentence of a court to perform
2 community services as provided in s. 316.193.

3 5. State prisoners or county inmates except those
4 performing services for private employers or those enumerated
5 in s. 948.03(8)(a).

6 Section 2. Subsection (2) of section 440.09, Florida
7 Statutes, is amended to read:

8 440.09 Coverage.--

9 (2) Benefits are not payable in respect of the
10 disability or death of any employee covered by the Federal
11 Employer's Liability Act, the Longshoremen's and Harbor
12 Worker's Compensation Act, the Defense Base Act, or the Jones
13 Act.

14 Section 3. Subsection (1) of section 440.12, Florida
15 Statutes, is amended to read:

16 440.12 Time for commencement and limits on weekly rate
17 of compensation.--

18 (1) No compensation shall be allowed for the first 7
19 days of the disability, except benefits provided for in s.
20 440.13. However, if the injury results in disability of more
21 than 21 days, compensation shall be allowed from the
22 commencement of the disability. All weekly compensation
23 payments, except for the first payment, shall be paid by check
24 or, if authorized by the employee, deposited directly into the
25 employee's account at a financial institution. For purposes of
26 this subsection, the term "financial institution," means a
27 financial institution as defined in s. 655.005(1)(h).

28 Section 4. Paragraphs (b) and (c) of subsection (4) of
29 section 440.13, Florida Statutes, are amended to read:

30 440.13 Medical services and supplies; penalty for
31 violations; limitations.--

1 (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH
2 DIVISION.--

3 (b) Upon the request of the Division of Workers'
4 Compensation, each medical report or bill obtained or received
5 by the employer, the carrier, or the injured employee, or the
6 attorney for the employer, carrier, or injured employee, with
7 respect to the remedial treatment, or care, and attendance of
8 the injured employee, including any report of an examination,
9 diagnosis, or disability evaluation, must be filed with the
10 Division of Workers' Compensation pursuant to rules adopted by
11 the division. The health care provider shall also furnish to
12 the injured employee or to his or her attorney, on demand, a
13 copy of his or her office chart, records, and reports, and may
14 charge the injured employee an amount authorized by the
15 division for the copies. Each such health care provider shall
16 provide to the division ~~any additional~~ information about the
17 remedial treatment, care, and attendance that the division
18 reasonably requests.

19 (c) It is the policy for the administration of the
20 workers' compensation system that there be reasonable access
21 to medical information by all parties to facilitate the
22 self-executing features of the law. Notwithstanding the
23 limitations in s. 455.667 and subject to the limitations in s.
24 381.004, upon the request of the employer, the carrier, an
25 authorized qualified rehabilitation provider, ~~or the attorney~~
26 for the employer or carrier ~~either of them~~, the medical
27 records of an injured employee must be furnished to those
28 persons and the medical condition of the injured employee must
29 be discussed with those persons, if the records and the
30 discussions are restricted to conditions relating to the
31 workplace injury. Any such discussions may be held before or

1 after the filing of a claim without the knowledge, consent, or
2 presence of any other party or his or her agent or
3 representative. A health care provider who willfully refuses
4 to provide medical records or to discuss the medical condition
5 of the injured employee, after a reasonable request is made
6 for such information pursuant to this subsection, shall be
7 subject by the division to one or more of the penalties set
8 forth in paragraph (8)(b).

9 Section 5. Paragraph (d) of subsection (1), paragraph
10 (b) of subsection (2), and paragraphs (c) and (d) of
11 subsection (15) of section 440.134, Florida Statutes, are
12 amended to read:

13 440.134 Workers' compensation managed care
14 arrangement.--

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

16 (d) "Grievance" means a written complaint filed by an
17 injured worker expressing dissatisfaction with the insurer's
18 workers' compensation managed care arrangement's refusal to
19 provide medical care provided by an insurer's workers'
20 compensation managed care arrangement health care providers,
21 expressed in writing by an injured worker.

22 (2)

23 (b) Effective January 1, 1997, the employer shall,
24 subject to the limitations specified elsewhere in this
25 chapter, furnish to the employee solely through managed care
26 arrangements such medically necessary remedial treatment,
27 care, and attendance for such period as the nature of the
28 injury or the process of recovery requires pursuant to s.
29 440.13(2)(a) and (b). An employer that has secured coverage
30 under s. 440.38(1)(b) as an individual self-insurer or under
31 s. 440.38(6) shall furnish such medically necessary remedial

1 treatment, care, and attendance for such a period as the
2 nature of the injury or the process of recovery requires,
3 pursuant to s. 440.13(2)(a) and (b), through managed care
4 arrangements or without managed care arrangements. An
5 employer that has secured coverage under s. 440.38(1)(b) as an
6 individual self-insurer or under s. 440.38(6) is exempt from
7 the application and approval requirements of s. 440.134(2)(a)
8 and the filing requirements of subsections (5) and (12), and
9 paragraph (15)(g).

10 (15)

11 (c) At the time the workers' compensation managed care
12 arrangement is implemented, the insurer must provide detailed
13 information to workers and health care providers describing
14 how a grievance may be registered with the insurer. Within 30
15 days after the date a request for medical care is received by
16 the insurer or the insurer's workers' compensation managed
17 care arrangement, whichever date is earlier, the insurer shall
18 grant or deny the request. If the insurer denies the request,
19 the insurer shall notify the injured worker in writing of his
20 or her right to file a grievance.

21 (d) Grievances must be considered in a timely manner
22 and must be transmitted to appropriate decisionmakers who have
23 the authority to fully investigate the issue and take
24 corrective action. If the insurer does not notify the injured
25 worker of the outcome of the grievance in writing within 30
26 days from the receipt of the grievance, the grievance shall be
27 presumed to be resolved against the injured worker and the
28 grievance procedures shall be presumed to be exhausted for
29 purposes of s. 440.192(3).

30 Section 6. Subsection (7) of section 440.185, Florida
31 Statutes, is amended to read:

1 440.185 Notice of injury or death; reports; penalties
2 for violations.--

3 (7) Every carrier shall file with the division within
4 21 days after the issuance of a policy or contract of
5 insurance such policy information as the division may require,
6 including notice of whether the policy is a minimum premium
7 policy. Notice of cancellation or expiration of a policy as
8 set out in s. 440.42(2) shall be mailed to the division in
9 accordance with rules promulgated by the division under
10 chapter 120. The division may contract with a private entity
11 for the collection of policy information required to be filed
12 by carriers pursuant to this subsection and the receipt of
13 notices of cancellation or expiration of a policy required to
14 be filed by carriers pursuant to s. 440.42(2). The submission
15 of policy information or notices of cancellation or expiration
16 to the contracted private entity satisfies the filing
17 requirements of this subsection and s. 440.42(2).

18 Section 7. Subsections (1), (2), and (5) of section
19 440.192, Florida Statutes, are amended to read:

20 440.192 Procedure for resolving benefit disputes.--

21 (1) Subject to s. 440.191, any employee who has not
22 received a benefit to which the employee believes she or he is
23 entitled under this chapter shall file by certified mail, or
24 by electronic means approved by the Chief Judge, with the
25 appropriate local Office of the Judges of Compensation Claims
26 a petition for benefits that meets the requirements of this
27 section. The division shall inform employees of the location
28 of the appropriate Office of the Judges of Compensation Claims
29 for purposes of filing a petition for benefits. The employee
30 shall also serve copies of the petition for benefits by
31 certified mail, or by electronic means approved by the Chief

1 Judge, upon the employer, the employer's carrier, and the
2 division in Tallahassee ~~a petition for benefits that meets the~~
3 ~~requirements of this section. The division shall refer the~~
4 ~~petition to the Office of the Judges of Compensation Claims.~~

5 (2) Upon receipt, the judge ~~The Office of the Judges~~
6 of compensation claims shall review each petition and shall
7 dismiss each petition or any portion of such petition, upon
8 the judge's ~~its~~ own motion or upon the motion of any party,
9 that does not on its face specifically identify or itemize the
10 following:

11 (a) Name, address, telephone number, and social
12 security number of the employee.

13 (b) Name, address, and telephone number of the
14 employer.

15 (c) A detailed description of the injury and cause of
16 the injury, including the location of the occurrence.

17 (d) A detailed description of the employee's job, work
18 responsibilities, and work the employee was performing when
19 the injury occurred.

20 (e) The time period for which compensation was not
21 timely provided.

22 (f) Date of maximum medical improvement, character of
23 disability, and specific statement of all benefits or
24 compensation that the employee is seeking.

25 (g) All travel costs to which the employee believes
26 she or he is entitled, including dates of travel and purpose
27 of travel, means of transportation, and mileage.

28 (h) Specific listing of all medical charges alleged
29 unpaid, including the name and address of the medical
30 provider, the amounts due, and the specific dates of
31 treatment.

1 (i) The type or nature of treatment care or attendance
2 sought and the justification for such treatment.

3 (j) Specific explanation of any other disputed issue
4 that a judge of compensation claims will be called to rule
5 upon.

6
7 The dismissal of any petition or any portion of such petition
8 under this section shall be without prejudice and shall not
9 require a hearing.

10 (5) All motions to dismiss must state with
11 particularity the basis for the motion. The judge of
12 compensation claims shall enter an order upon such motions
13 without hearing, unless good cause for hearing is shown. When
14 any petition or portion of such petition is dismissed for lack
15 of specificity under this subsection, the claimant must be
16 allowed 20 days after the date of the order of dismissal in
17 which to file an amended petition. Any grounds for dismissal
18 for lack of specificity under this section not asserted within
19 30 days after receipt of the petition for benefits are thereby
20 waived.

21 Section 8. Paragraph (a) of subsection (1), subsection
22 (6), and paragraph (a) of subsection (11) of section 440.20,
23 Florida Statutes, are amended and paragraph (d) is added to
24 subsection (11), to read:

25 440.20 Time for payment of compensation; penalties for
26 late payment.--

27 (1)(a) Unless it denies compensability or entitlement
28 to benefits, the carrier shall pay compensation directly to
29 the employee as required by ss. 440.14, 440.15, and 440.16, in
30 accordance with the obligations set forth in such sections. If
31 authorized by the employee, the carrier's obligation to pay

1 compensation directly to the employee is satisfied when the
2 carrier directly deposits, by electronic transfer or other
3 means, compensation into the employee's account at a financial
4 institution. For purposes of this paragraph, the term,
5 "financial institution," means a financial institution as
6 defined in s. 655.005(1)(h). Compensation by direct deposit
7 shall be deemed paid on the date the funds become available
8 for withdrawal by the employee.

9 (6) If any installment of compensation for death or
10 dependency benefits, disability, permanent impairment, or wage
11 loss payable without an award is not paid within 7 days after
12 it becomes due, as provided in subsection (2), subsection (3),
13 or subsection (4), there shall be added to such unpaid
14 installment a punitive penalty of an amount equal to 20
15 percent of the unpaid installment or \$5, which shall be paid
16 at the same time as, but in addition to, such installment of
17 compensation, unless notice is filed under subsection (4) or
18 unless such nonpayment results from conditions over which the
19 employer or carrier had no control. When any installment of
20 compensation payable without an award has not been paid within
21 7 days after it became due and the claimant concludes the
22 prosecution of the claim before a judge of compensation claims
23 without having specifically claimed additional compensation in
24 the nature of a penalty under this section, the claimant will
25 be deemed to have acknowledged that, owing to conditions over
26 which the employer or carrier had no control, such installment
27 could not be paid within the period prescribed for payment and
28 to have waived the right to claim such penalty. However,
29 during the course of a hearing, the judge of compensation
30 claims shall on her or his own motion raise the question of
31 whether such penalty should be awarded or excused. The

1 division may assess without a hearing the punitive penalty
2 against either the employer or the insurance carrier,
3 depending upon who was at fault in causing the delay. The
4 insurance policy cannot provide that this sum will be paid by
5 the carrier if the division or the judge of compensation
6 claims determines that the punitive penalty should be made by
7 the employer rather than the carrier. Any additional
8 installment of compensation paid by the carrier pursuant to
9 this section shall be paid directly to the employee by check
10 or, if authorized by the employee, by direct deposit into the
11 employee's account at a financial institution. For purposes of
12 this subsection, the term, "financial institution," means a
13 financial institution as defined in s. 655.005(1)(h).

14 (11)(a) Upon joint petition of all interested parties,
15 a lump-sum payment in exchange for the employer's or carrier's
16 release from liability for future medical expenses, as well as
17 future payments of compensation expenses and any other
18 benefits provided under this chapter, shall be allowed at any
19 time in any case in which the employer or carrier has filed a
20 written notice of denial within 120 days after the employer
21 receives notice ~~date~~ of the injury, and the judge of
22 compensation claims at a hearing to consider the settlement
23 proposal finds a justiciable controversy as to legal or
24 medical compensability of the claimed injury or the alleged
25 accident. A judge of compensation claims shall not be required
26 to hold a hearing if the claimant is represented by an
27 attorney and all parties stipulate that a hearing is
28 unnecessary. The employer or carrier may not pay any
29 attorney's fees on behalf of the claimant for any settlement
30 under this section unless expressly authorized elsewhere in
31 this chapter. Upon the joint petition of all interested

1 parties and after giving due consideration to the interests of
2 all interested parties, the judge of compensation claims may
3 enter a compensation order approving and authorizing the
4 discharge of the liability of the employer for compensation
5 and remedial treatment, care, and attendance, as well as
6 rehabilitation expenses, by the payment of a lump sum. Such a
7 compensation order so entered upon joint petition of all
8 interested parties is not subject to modification or review
9 under s. 440.28. If the settlement proposal together with
10 supporting evidence is not approved by the judge of
11 compensation claims, it shall be considered void. Upon
12 approval of a lump-sum settlement under this subsection, the
13 judge of compensation claims shall send a report to the Chief
14 Judge of the amount of the settlement and a statement of the
15 nature of the controversy. The Chief Judge shall keep a record
16 of all such reports filed by each judge of compensation claims
17 and shall submit to the Legislature a summary of all such
18 reports filed under this subsection annually by September 15.

19 (d) When reviewing any settlement of lump-sum payment
20 pursuant to this subsection, judges of compensation claims
21 shall consider the interests of the worker and the worker's
22 family when approving the settlement, which must consider and
23 provide for appropriate recovery of child-support arrearage.

24 Section 9. Section 440.22, Florida Statutes, is
25 amended to read:

26 440.22 Assignment and exemption from claims of
27 creditors.--No assignment, release, or commutation of
28 compensation or benefits due or payable under this chapter
29 except as provided by this chapter shall be valid, and such
30 compensation and benefits shall be exempt from all claims of
31 creditors, and from levy, execution and attachments or other

1 remedy for recovery or collection of a debt, which exemption
2 may not be waived. However, the exemption of workers'
3 compensation claims from creditors does not extend to claims
4 based on an award of child support or alimony.

5 Section 10. Section 440.271, Florida Statutes, is
6 amended to read:

7 440.271 Appeal of order of judge of compensation
8 claims.--Review of any order of a judge of compensation claims
9 entered pursuant to this chapter shall be by appeal to the
10 District Court of Appeal, First District. To promote
11 consistency and uniformity in the application of this chapter,
12 the District Court of Appeal, First District, shall establish
13 a specialized division to hear all appeals of orders of judges
14 of compensation claims. The court may structure the division
15 to hear workers' compensation cases exclusively or in addition
16 to other appeals. Appeals shall be filed in accordance with
17 rules of procedure prescribed by the Supreme Court for review
18 of such orders. The division shall be given notice of any
19 proceedings pertaining to s. 440.25, regarding indigency, or
20 s. 440.49, regarding the Special Disability Trust Fund, and
21 shall have the right to intervene in any proceedings.

22 Section 11. Subsection (1) of section 440.38, Florida
23 Statutes, is amended to read:

24 440.38 Security for compensation; insurance carriers
25 and self-insurers.--

26 (1) Every employer shall secure the payment of
27 compensation under this chapter:

28 (a) By insuring and keeping insured the payment of
29 such compensation with any stock company or mutual company or
30 association or exchange, authorized to do business in the
31 state;

1 (b) By furnishing satisfactory proof to the division
2 of her or his financial ability to pay such compensation and
3 receiving an authorization from the division to pay such
4 compensation directly in accordance with the following
5 provisions:

6 1. The division may, ~~as a condition to such~~
7 ~~authorization, require an~~ such employer to deposit with in a
8 ~~depository designated by the division a~~ qualifying security
9 ~~deposit.~~ The division shall determine the type and amount of
10 the qualifying security deposit and shall ~~either an indemnity~~
11 ~~bond or securities, at the option of the employer, of a kind~~
12 ~~and in an amount determined by the division and subject to~~
13 ~~such conditions as the division may prescribe~~ conditions for
14 the qualifying security deposit, which shall include
15 authorization for to the division to call the qualifying
16 security deposit in the case of default ~~to sell any such~~
17 ~~securities sufficient to pay compensation awards or to bring~~
18 ~~suit upon such bonds, to procure prompt payment of~~
19 ~~compensation under this chapter.~~ In addition, the division
20 shall require, as a condition to authorization to self-insure,
21 proof that the employer has provided for competent personnel
22 with whom to deliver benefits and to provide a safe working
23 environment. Further, the division shall require such
24 employer to carry reinsurance at levels that will ensure the
25 actuarial soundness of such employer in accordance with rules
26 promulgated by the division. The division may by rule require
27 that, in the event of an individual self-insurer's insolvency,
28 such qualifying security deposits ~~indemnity bonds, securities,~~
29 ~~and reinsurance policies~~ are ~~shall be~~ payable to the Florida
30 Self-Insurers Guaranty Association, Incorporated, created
31 pursuant to s. 440.385. Any employer securing compensation in

1 accordance with the provisions of this paragraph shall be
2 known as a self-insurer and shall be classed as a carrier of
3 her or his own insurance.

4 2. If the employer fails to maintain the foregoing
5 requirements, the division shall revoke the employer's
6 authority to self-insure, unless the employer provides to the
7 division the certified opinion of an independent actuary who
8 is a member of the American Society of Actuaries as to the
9 actuarial present value of the employer's determined and
10 estimated future compensation payments based on cash reserves,
11 using a 4-percent discount rate, and a qualifying security
12 deposit equal to 1.5 times the value so certified. The
13 employer shall thereafter annually provide such a certified
14 opinion until such time as the employer meets the requirements
15 of subparagraph 1. The qualifying security deposit shall be
16 adjusted at the time of each such annual report. Upon the
17 failure of the employer to timely provide such opinion or to
18 timely provide a security deposit in an amount equal to 1.5
19 times the value certified in the latest opinion, the division
20 shall then revoke such employer's authorization to
21 self-insure, and such failure shall be deemed to constitute an
22 immediate serious danger to the public health, safety, or
23 welfare sufficient to justify the summary suspension of the
24 employer's authorization to self-insure pursuant to s. 120.68.

25 3. Upon the suspension or revocation of the employer's
26 authorization to self-insure, the employer shall provide to
27 the division and to the Florida Self-Insurers Guaranty
28 Association, Incorporated, created pursuant to s. 440.385 the
29 certified opinion of an independent actuary who is a member of
30 the American Society of Actuaries of the actuarial present
31 value of the determined and estimated future compensation

1 payments of the employer for claims incurred while the member
2 exercised the privilege of self-insurance, using a discount
3 rate of 4 percent. The employer shall provide such an opinion
4 at 6-month intervals thereafter until such time as the latest
5 opinion shows no remaining value of claims. With each such
6 opinion, the employer shall deposit with the division a
7 qualifying security deposit in an amount equal to the value
8 certified by the actuary. The association has a cause of
9 action against an employer, and against any successor of the
10 employer, who fails to timely provide such opinion or who
11 fails to timely maintain the required security deposit with
12 the division. The association shall recover a judgment in the
13 amount of the actuarial present value of the determined and
14 estimated future compensation payments of the employer for
15 claims incurred while the employer exercised the privilege of
16 self-insurance, together with attorney's fees. For purposes
17 of this section, the successor of an employer means any
18 person, business entity, or group of persons or business
19 entities, which holds or acquires legal or beneficial title to
20 the majority of the assets or the majority of the shares of
21 the employer.

22 4. A qualifying security deposit shall consist, at the
23 option of the employer, of:

24 a. Surety bonds, in a form and containing such terms
25 as prescribed by the division, issued by a corporation surety
26 authorized to transact surety business by the Department of
27 Insurance, and whose policyholders' and financial ratings, as
28 reported in A.M. Best's Insurance Reports, Property-Liability,
29 are not less than "A" and "V", respectively.

30 ~~b. Certificates of deposit with financial~~
31 ~~institutions, the deposits of which are insured through the~~

1 ~~Federal Deposit Insurance Corporation or the Federal Savings~~
2 ~~and Loan Insurance Corporation.~~

3 b.c. Irrevocable letters of credit in favor of the
4 division issued by financial institutions located within this
5 state, the deposits of which are insured through the Federal
6 Deposit Insurance Corporation ~~described in sub-subparagraph b.~~

7 ~~d. Direct obligations of the United States Treasury~~
8 ~~backed by the full faith and credit of the United States.~~

9 ~~e. Securities issued by this state and backed by the~~
10 ~~full faith and credit of this state.~~

11 5. The qualifying security deposit shall be held by
12 the division, ~~or by a depository authorized by the division,~~
13 exclusively for the benefit of workers' compensation
14 claimants. The security shall not be subject to assignment,
15 execution, attachment, or any legal process whatsoever, except
16 as necessary to guarantee the payment of compensation under
17 this chapter. No surety bond may be terminated, and no letter
18 of credit ~~other qualifying security~~ may be allowed to expire
19 ~~lapse~~, without 90 days' prior notice to the division and
20 deposit by the self-insuring employer of some other qualifying
21 security deposit of equal value within 10 business days after
22 such notice. Failure to provide such notice or failure to
23 timely provide qualifying replacement security after such
24 notice shall constitute grounds for the division to call or
25 sue upon the surety bond, or to ~~act with respect to other~~
26 ~~pledged security in any manner necessary to preserve its value~~
27 ~~for the purposes intended by this section, including the~~
28 ~~exercise its~~ of rights under a letter of credit. Current
29 self-insured employers must comply with this section on or
30 before December 31, 2000, or upon maturity of existing
31 security deposits, whichever occurs later, ~~the sale of any~~

1 ~~security at then prevailing market rates, or the withdrawal of~~
2 ~~any funds represented by any certificate of deposit forming~~
3 ~~part of the qualifying security deposit;~~

4 (c) By entering into a contract with a public utility
5 under an approved utility-provided self-insurance program as
6 set forth in s. 624.46225 ~~440.571~~ in effect as of July 1,
7 1983. The division shall adopt rules to implement this
8 paragraph;

9 (d) By entering into an interlocal agreement with
10 other local governmental entities to create a local government
11 pool pursuant to s. 624.4622 ~~440.575~~;

12 (e) In accordance with s. 440.135, an employer, other
13 than a local government unit, may elect coverage under the
14 Workers' Compensation Law and retain the benefit of the
15 exclusiveness of liability provided in s. 440.11 by obtaining
16 a 24-hour health insurance policy from an authorized property
17 and casualty insurance carrier or an authorized life and
18 health insurance carrier, or by participating in a fully or
19 partially self-insured 24-hour health plan that is established
20 or maintained by or for two or more employers, so long as the
21 law of this state is not preempted by the Employee Retirement
22 Income Security Act of 1974, Pub. L. No. 93-406, or any
23 amendment to that law, which policy or plan must provide, for
24 at least occupational injuries and illnesses, medical benefits
25 that are comparable to those required by this chapter. A local
26 government unit, as a single employer, in accordance with s.
27 440.135, may participate in the 24-hour health insurance
28 coverage plan referenced in this paragraph. Disputes and
29 remedies arising under policies issued under this section are
30 governed by the terms and conditions of the policies and under
31 the applicable provisions of the Florida Insurance Code and

1 rules adopted under the insurance code and other applicable
2 laws of this state. The 24-hour health insurance policy may
3 provide for health care by a health maintenance organization
4 or a preferred provider organization. The premium for such
5 24-hour health insurance policy shall be paid entirely by the
6 employer. The 24-hour health insurance policy may use
7 deductibles and coinsurance provisions that require the
8 employee to pay a portion of the actual medical care received
9 by the employee. If an employer obtains a 24-hour health
10 insurance policy or self-insured plan to secure payment of
11 compensation as to medical benefits, the employer must also
12 obtain an insurance policy or policies that provide indemnity
13 benefits as follows:

14 1. If indemnity benefits are provided only for
15 occupational-related disability, such benefits must be
16 comparable to those required by this chapter.

17 2. If indemnity benefits are provided for both
18 occupational-related and nonoccupational-related disability,
19 such benefits must be comparable to those required by this
20 chapter, except that they must be based on 60 percent of the
21 average weekly wages.

22 3. The employer shall provide for each of its
23 employees life insurance with a death benefit of \$100,000.

24 4. Policies providing coverage under this subsection
25 must use prescribed and acceptable underwriting standards,
26 forms, and policies approved by the Department of Insurance.
27 If any insurance policy that provides coverage under this
28 section is canceled, terminated, or nonrenewed for any reason,
29 the cancellation, termination, or nonrenewal is ineffective
30 until the self-insured employer or insurance carrier or
31 carriers notify the division and the Department of Insurance

1 of the cancellation, termination, or nonrenewal, and until the
2 division has actually received the notification. The division
3 must be notified of replacement coverage under a workers'
4 compensation and employer's liability insurance policy or plan
5 by the employer prior to the effective date of the
6 cancellation, termination, or nonrenewal; or

7 (f) By entering into a contract with an individual
8 self-insurer under an approved individual
9 self-insurer-provided self-insurance program as set forth in
10 s. 624.46225 ~~440.571~~. The division may adopt rules to
11 implement this subsection.

12 Section 12. Subsections (2) and (5) of section 440.45,
13 Florida Statutes, are amended to read:

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

15 (2)(a) The Governor shall appoint full-time judges of
16 compensation claims to conduct proceedings as required by this
17 chapter or other law. No person may be nominated to serve as a
18 judge of compensation claims unless he or she has been a
19 member of The Florida Bar in good standing and is
20 knowledgeable in the practice of law of workers' compensation.
21 No judge of compensation claims shall engage in the private
22 practice of law during a term of office.

23 (b) Except as provided in paragraph (c), the Governor
24 shall appoint a judge of compensation claims from a list of
25 three persons nominated by a statewide nominating commission.
26 The statewide nominating commission shall be composed of the
27 following:

28 1. Five members, at least one of whom must be a member
29 of a minority group as defined in s. 288.703(3), one of each
30 who resides in each of the territorial jurisdictions of the
31 district courts of appeal, appointed by the Board of Governors

1 of The Florida Bar from among The Florida Bar members who are
2 engaged in the practice of law. On July 1, 1999, the term of
3 office of each person appointed by the Board of Governors of
4 The Florida Bar to the commission expires. The Board of
5 Governors shall appoint members who reside in the odd-numbered
6 district court of appeal jurisdictions to 4-year terms each,
7 beginning July 1, 1999, and members who reside in the
8 even-numbered district court of appeal jurisdictions to 2-year
9 terms each, beginning July 1, 1999. Thereafter, each member
10 shall be appointed for a 4-year term;

11 2. Five electors, at least one of whom must be a
12 member of a minority group as defined in s. 288.703(3), one of
13 each who resides in each of the territorial jurisdictions of
14 the district courts of appeal, appointed by the Governor. On
15 July 1, 1999, the term of office of each person appointed by
16 the Governor to the commission expires. The Governor shall
17 appoint members who reside in the odd-numbered district court
18 of appeal jurisdictions to 2-year terms each, beginning July
19 1, 1999, and members who reside in the even-numbered district
20 court of appeal jurisdictions to 4-year terms each, beginning
21 July 1, 1999. Thereafter, each member shall be appointed for a
22 4-year term; and

23 3. Five electors, at least one of whom must be a
24 member of a minority group as defined in s. 288.703(3), one of
25 each who resides in the territorial jurisdictions of the
26 district courts of appeal, selected and appointed by a
27 majority vote of the other 10 members of the commission. On
28 October 1, 1999, the term of office of each person appointed
29 to the commission by its other members expires. A majority of
30 the other members of the commission shall appoint members who
31 reside in the odd-numbered district court of appeal

1 jurisdictions to 2-year terms each, beginning October 1, 1999,
2 and members who reside in the even-numbered district court of
3 appeal jurisdictions to 4-year terms each, beginning October
4 1, 1999. Thereafter, each member shall be appointed for a
5 4-year term.

6
7 A vacancy occurring on the commission shall be filled by the
8 original appointing authority for the unexpired balance of the
9 term. No attorney who appears before any judge of compensation
10 claims more than four times a year is eligible to serve on the
11 statewide nominating commission. The meetings and
12 determinations of the nominating commission as to the judges
13 of compensation claims shall be open to the public.

14 (c) Each judge of compensation claims shall be
15 appointed for a term of 4 years, but during the term of office
16 may be removed by the Governor for cause. Prior to the
17 expiration of a judge's term of office, the statewide
18 nominating commission shall review the judge's conduct and
19 determine whether the judge's performance is satisfactory.
20 Effective January 1, 2001, in determining whether a judge's
21 performance is satisfactory, the commission shall consider the
22 extent to which the judge has met the requirements of this
23 chapter, including, but not limited to, the requirements of
24 ss. 440.192(2), 440.25(1), 440.25(4)(a)-(f), 440.34(2), and
25 440.442. If the commission finds that judges generally are
26 unable to meet a particular statutory requirement for reasons
27 beyond their control, the commission shall request the
28 Legislature to review that particular requirement. If the
29 judge's performance is deemed satisfactory, the commission
30 shall report its finding to the Governor no later than 6
31 months prior to the expiration of the judge's term of office.

1 The Governor shall review the commission's report and may
2 reappoint the judge for an additional 4-year term. If the
3 Governor does not reappoint the judge, the Governor shall
4 inform the commission. The judge shall remain in office until
5 the Governor has appointed a successor judge in accordance
6 with paragraphs (a) and (b). If a vacancy occurs during a
7 judge's unexpired term, the statewide nominating commission
8 does not find the judge's performance is satisfactory, or the
9 Governor does not reappoint the judge, the Governor shall
10 appoint a successor judge for a term of 4 years in accordance
11 with paragraph (b).

12 (d) The Governor may appoint any attorney with 5 years
13 of experience in the practice of law in this state to serve as
14 a judge of compensation claims pro hac vice in the absence or
15 disqualification of any full-time judge of compensation claims
16 or to serve temporarily as an additional judge of compensation
17 claims in any area of the state in which the Governor
18 determines that a need exists for such additional judge.
19 However, no attorney so appointed by the Governor shall serve
20 for a period to exceed 60 successive days.

21 (5) The Office of the Judges of Compensation Claims
22 shall promulgate rules to effect the purposes of this section
23 by November 1, 2000. Such rules shall not be subject to rule
24 challenges under s. 120.56(2) or to drawout proceedings under
25 s. 120.54(3)(c)(2).Such rules shall include procedural rules
26 applicable to workers' compensation claim resolution and
27 uniform criteria for measuring the performance of the office,
28 including, but not limited to, the number of cases assigned
29 and disposed, the age of pending and disposed cases,
30 timeliness of decisionmaking, extraordinary fee awards, and
31 the data necessary for the judicial nominating commission to

1 review the performance of judges as required in paragraph
2 (2)(c) and other performance indicators. Such rules shall
3 become effective only after they have been submitted to the
4 President of the Senate and the Speaker of the House of
5 Representatives, for review by the Legislature, no later than
6 30 days prior to the next regular session of the Legislature.
7 The Office of Judges of Compensation Claims shall conform the
8 rules to legislation enacted by the Legislature, or, if no
9 action is taken by the Legislature, the rules of the Office of
10 Judges of Compensation Claims shall become effective. The
11 workers' compensation rules of procedure approved by the
12 Supreme Court shall apply until the rules promulgated by the
13 Office of the Judges of Compensation Claims pursuant to this
14 section become effective.

15 Section 13. Subsection (8) of section 61.14, Florida
16 Statutes, is amended to read:

17 61.14 Enforcement and modification of support,
18 maintenance, or alimony agreements or orders.--

19 (8)(a) When reviewing any settlement of lump-sum
20 payment pursuant to s. 440.20(11)(a) and (b), judges of
21 compensation claims shall consider the interests of the worker
22 and the worker's family when approving the settlement, which
23 must consider and provide for appropriate recovery of
24 child-support arrearage.

25 (b) Notwithstanding the provisions of s. 440.22, any
26 compensation due or that may become due an employee under
27 chapter 440 is exempt from garnishment, attachment, execution,
28 and assignment of income, except for the purposes of enforcing
29 child or spousal support obligations.

30 Section 14. Paragraph (a) of subsection (2) of section
31 61.30, Florida Statutes, is amended to read:

1 61.30 Child support guidelines; retroactive child
2 support.--
3 (2) Income shall be determined on a monthly basis for
4 the obligor and for the obligee as follows:
5 (a) Gross income shall include, but is not limited to,
6 the following items:
7 1. Salary or wages.
8 2. Bonuses, commissions, allowances, overtime, tips,
9 and other similar payments.
10 3. Business income from sources such as
11 self-employment, partnership, close corporations, and
12 independent contracts. "Business income" means gross receipts
13 minus ordinary and necessary expenses required to produce
14 income.
15 4. Disability benefits.
16 5. All worker's compensation benefits and settlements.
17 6. Unemployment compensation.
18 7. Pension, retirement, or annuity payments.
19 8. Social security benefits.
20 9. Spousal support received from a previous marriage
21 or court ordered in the marriage before the court.
22 10. Interest and dividends.
23 11. Rental income, which is gross receipts minus
24 ordinary and necessary expenses required to produce the
25 income.
26 12. Income from royalties, trusts, or estates.
27 13. Reimbursed expenses or in kind payments to the
28 extent that they reduce living expenses.
29 14. Gains derived from dealings in property, unless
30 the gain is nonrecurring.
31

1 Section 15. Section 489.114, Florida Statutes, is
2 amended to read:
3 489.114 Evidence of workers' compensation
4 coverage.--Except as provided in s. 489.115(5)(d), any person,
5 business organization, or qualifying agent engaged in the
6 business of contracting in this state and certified or
7 registered under this part shall, as a condition precedent to
8 the issuance or renewal of a certificate, registration, or
9 certificate of authority of the contractor, provide to the
10 Construction Industry Licensing Board, as provided by board
11 rule, evidence of workers' compensation coverage pursuant to
12 chapter 440. In the event that the Division of Workers'
13 Compensation of the Department of Labor and Employment
14 Security receives notice of the cancellation of a policy of
15 workers' compensation insurance insuring a person or entity
16 governed by this section, the Division of Workers'
17 Compensation shall certify and identify all persons or
18 entities by certification or registration license number to
19 the department after verification is made by the Division of
20 Workers' Compensation that such cancellation has occurred or
21 that persons or entities governed by this section are no
22 longer covered by workers' compensation insurance. Such
23 certification and verification by the Division of Workers'
24 Compensation shall result solely from records furnished to the
25 Division of Workers' Compensation by the persons or entities
26 governed by this section. The department shall notify the
27 persons or entities governed by this section who have been
28 determined to be in noncompliance with chapter 440, and the
29 persons or entities notified shall provide certification of
30 compliance with chapter 440 to the department and pay an
31 administrative fine as provided by rule. The failure to

1 maintain workers' compensation coverage as required by law
2 shall be grounds for the board to revoke, suspend, or deny the
3 issuance or renewal of a certificate, registration, or
4 certificate of authority of the contractor under the
5 provisions of s. 489.129.

6 Section 16. Paragraph (d) is added to subsection (5)
7 of section 489.115, Florida Statutes, to read:

8 489.115 Certification and registration; endorsement;
9 reciprocity; renewals; continuing education.--

10 (5)

11 (d) If qualifying for an exemption from workers'
12 compensation coverage requirements under s. 440.05, an
13 applicant for initial issuance of a certificate or
14 registration shall submit as a prerequisite an affidavit
15 attesting to the fact that the applicant will obtain an
16 exemption within 30 days after the date the initial
17 certificate or registration is issued by the board.

18 Section 17. Section 489.510, Florida Statutes, is
19 amended to read:

20 489.510 Evidence of workers' compensation
21 coverage.--Except as provided in s. 489.515(3)(b),any person,
22 business organization, or qualifying agent engaged in the
23 business of contracting in this state and certified or
24 registered under this part shall, as a condition precedent to
25 the issuance or renewal of a certificate or registration of
26 the contractor, provide to the Electrical Contractors'
27 Licensing Board, as provided by board rule, evidence of
28 workers' compensation coverage pursuant to chapter 440. In
29 the event that the Division of Workers' Compensation of the
30 Department of Labor and Employment Security receives notice of
31 the cancellation of a policy of workers' compensation

1 insurance insuring a person or entity governed by this
2 section, the Division of Workers' Compensation shall certify
3 and identify all persons or entities by certification or
4 registration license number to the department after
5 verification is made by the Division of Workers' Compensation
6 that such cancellation has occurred or that persons or
7 entities governed by this section are no longer covered by
8 workers' compensation insurance. Such certification and
9 verification by the Division of Workers' Compensation shall
10 result solely from records furnished to the Division of
11 Workers' Compensation by the persons or entities governed by
12 this section. The department shall notify the persons or
13 entities governed by this section who have been determined to
14 be in noncompliance with chapter 440, and the persons or
15 entities notified shall provide certification of compliance
16 with chapter 440 to the department and pay an administrative
17 fine as provided by rule. The failure to maintain workers'
18 compensation coverage as required by law shall be grounds for
19 the board to revoke, suspend, or deny the issuance or renewal
20 of a certificate or registration of the contractor under the
21 provisions of s. 489.533.

22 Section 18. Subsection (3) of section 489.515, Florida
23 Statutes, is amended to read:

24 489.515 Issuance of certificates; registrations.--

25 (3)(a) As a prerequisite to the initial issuance or
26 the renewal of a certificate or registration, the applicant
27 shall submit an affidavit on a form provided by the board
28 attesting to the fact that the applicant has obtained both
29 workers' compensation insurance or an acceptable exemption
30 certificate issued by the department and public liability and
31 property damage insurance for the health, safety, and welfare

1 of the public in amounts determined by rule of the board. The
2 board shall by rule establish a procedure to verify the
3 accuracy of such affidavits based upon a random audit method.

4 (b) If qualifying for an exemption from workers'
5 compensation coverage requirements under s. 440.05, an
6 applicant for initial issuance of a certificate or
7 registration shall submit as a prerequisite an affidavit
8 attesting to the fact that the applicant will obtain an
9 exemption within 30 days after the date the initial
10 certificate or registration is issued by the board.

11 Section 19. Paragraphs (g) and (p) of subsection (4)
12 of section 627.311, Florida Statutes, are amended to read:

13 627.311 Joint underwriters and joint reinsurers.--

14 (4)

15 (g) Whenever a deficit exists, the plan shall, within
16 90 days, provide the department with a program to eliminate
17 the deficit within a reasonable time. The deficit may be
18 funded both through increased premiums charged to insureds of
19 the plan for subsequent years, through the use of policyholder
20 surplus attributable to any year, and through assessments on
21 insureds in the plan if the plan uses assessable policies.

22 (p) Neither the plan nor any member of the board of
23 governors is liable for monetary damages to any person for any
24 statement, vote, decision, or failure to act, regarding the
25 management or policies of the plan, unless:

26 1. The member breached or failed to perform her or his
27 duties as a member; and

28 2. The member's breach of, or failure to perform,
29 duties constitutes:

30 a. A violation of the criminal law, unless the member
31 had reasonable cause to believe her or his conduct was not

1 unlawful. A judgment or other final adjudication against a
2 member in any criminal proceeding for violation of the
3 criminal law estops that member from contesting the fact that
4 her or his breach, or failure to perform, constitutes a
5 violation of the criminal law; but does not estop the member
6 from establishing that she or he had reasonable cause to
7 believe that her or his conduct was lawful or had no
8 reasonable cause to believe that her or his conduct was
9 unlawful;

10 b. A transaction from which the member derived an
11 improper personal benefit, either directly or indirectly; or

12 c. Recklessness or any act or omission that was
13 committed in bad faith or with malicious purpose or in a
14 manner exhibiting wanton and willful disregard of human
15 rights, safety, or property. For purposes of this
16 sub-subparagraph, the term "recklessness" means the acting, or
17 omission to act, in conscious disregard of a risk:

18 (I) Known, or so obvious that it should have been
19 known, to the member; and

20 (II) Known to the member, or so obvious that it should
21 have been known, to be so great as to make it highly probable
22 that harm would follow from such act or omission.

23 Section 20. Effective July 1, 2000, section 627.914,
24 Florida Statutes, is amended to read:

25 627.914 Reports of information by workers'
26 compensation insurers required.--

27 (1) The department shall promulgate rules and
28 statistical plans which shall thereafter be used by each
29 insurer and self-insurance fund as defined in s. 624.461 in
30 the recording and reporting of loss, expense, and claims
31 experience, in order that the experience of all insurers and

1 self-insurance funds ~~self-insurers~~ may be made available at
2 least annually in such form and detail as may be necessary to
3 aid the department in determining whether Florida experience
4 for workers' compensation insurance is sufficient for
5 establishing rates.

6 ~~(2) Any insurer authorized to write a policy of~~
7 ~~workers' compensation insurance shall transmit the following~~
8 ~~information to the department each year with its annual~~
9 ~~report, and such information shall be reported on a net basis~~
10 ~~with respect to reinsurance for nationwide experience and on a~~
11 ~~direct basis for Florida experience:~~

12 ~~(a) Premiums written;~~

13 ~~(b) Premiums earned;~~

14 ~~(c) Dividends paid or credited to policyholders;~~

15 ~~(d) Losses paid;~~

16 ~~(e) Allocated loss adjustment expenses;~~

17 ~~(f) The ratio of allocated loss adjustment expenses to~~
18 ~~losses paid;~~

19 ~~(g) Unallocated loss adjustment expenses;~~

20 ~~(h) The ratio of unallocated loss adjustment expenses~~
21 ~~to losses paid;~~

22 ~~(i) The total of losses paid and unallocated and~~
23 ~~allocated loss adjustment expenses;~~

24 ~~(j) The ratio of losses paid and unallocated and~~
25 ~~allocated loss adjustment expenses to premiums earned;~~

26 ~~(k) The number of claims outstanding as of December 31~~
27 ~~of each year;~~

28 ~~(l) The total amount of losses unpaid as of December~~
29 ~~31 of each year;~~

30 ~~(m) The total amount of allocated and unallocated loss~~
31 ~~adjustment expenses unpaid as of December 31 of each year; and~~

1 ~~(n) The total of losses paid and allocated loss~~
2 ~~adjustment expenses and unallocated loss adjustment expenses,~~
3 ~~plus the total of losses unpaid as of December 31 of each year~~
4 ~~and loss adjustment expenses unpaid as of December 31 of each~~
5 ~~year.~~

6 ~~(3) A report of the information required in subsection~~
7 ~~(2) shall be filed no later than April 1 of each year and~~
8 ~~shall include the information for the preceding year ending~~
9 ~~December 31. All reports shall be on a calendar-accident year~~
10 ~~basis, and each calendar-accident year shall be reported at~~
11 ~~eight stages of development.~~

12 ~~(2)(4)~~ Each insurer and self-insurance fund authorized
13 to write a policy of workers' compensation insurance shall
14 transmit the information for paragraphs (a), (b), (c), (d),
15 and (e) annually on both Florida experience and nationwide
16 experience separately:

- 17 (a) Payrolls by classification.
18 (b) Manual premiums by classification.
19 (c) Standard premiums by classification.
20 (d) Losses by classification and injury type.
21 (e) Expenses.

22
23 A report of this information shall be filed no later than July
24 ~~April~~ 1 of each year. All reports shall be filed in
25 accordance with standard reporting procedures for insurers,
26 which procedures have received approval by the department, and
27 shall contain data for the most recent policy period
28 available. A statistical or rating organization may be used
29 by insurers and self-insurance funds to report the data
30 required by this section. The statistical or rating
31 organization shall report each data element in the aggregate

1 only for insurers and self-insurance funds required to report
2 under this section who elect to have the ~~rating~~ organization
3 report on their behalf. Such insurers and self-insurance funds
4 shall be named in the report.

5 ~~(3)(5)~~ Individual self-insurers as defined authorized
6 ~~to transact workers' compensation insurance as provided in s.~~
7 440.02 shall report only Florida data as prescribed in
8 paragraphs (a) through (e) of subsection ~~(2)(4)~~ to the
9 Division of Workers' Compensation of the Department of Labor
10 and Employment Security.

11 (a) The Division of Workers' Compensation shall
12 publish the dates and forms necessary to enable individual
13 self-insurers to comply with this section.

14 ~~(b) The Division of Workers' Compensation shall report~~
15 ~~the information collected under this section to the Department~~
16 ~~of Insurance in a manner prescribed by the department.~~

17 ~~(b)(c)~~ A statistical or rating organization may be
18 used by individual self-insurers for the purposes of reporting
19 the data required by this section and calculating experience
20 ratings.

21 ~~(4)(6)~~ The department shall provide a summary of
22 information provided pursuant to subsection ~~subsections~~ (2)
23 ~~and (4)~~ in its annual report.

24 Section 21. There is appropriated to the Department of
25 Labor and Employment Security from the Workers' Compensation
26 Administration Trust Fund \$1,400,000 for the purpose of hiring
27 additional mediators to carry out the functions of section
28 440.25(3), Florida Statutes.

29 Section 22. Subsection (3) of section 440.45, Florida
30 Statutes, is repealed.

31

1 Section 23. Except as otherwise provided in this act,
2 this act shall take effect October 1, 2000.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1992

- 4 1. Clarifies that an employee can authorize the carrier to
5 provide for the direct deposit of compensation benefits
6 to an account established by the employee at a financial
7 institution, as defined in s. 655.055(1)(h), F.S., and
8 eliminates the option of the carrier establishing a
9 direct deposit account for the employee.
- 10 2. Authorizes Judges of Compensation Claims to specifically
11 consider the interest of the worker and the worker's
12 family when approving a workers' compensation lump-sum
13 settlement, which must include recovery of any child
14 support arrearage. The committee substitute clarifies
15 that the current exemption for creditors claims as to
16 workers' compensation benefits does not apply to child
17 support claims. The committee substitute also clarifies
18 in the child support guidelines, that workers'
19 compensation income which is considered in determining a
20 person's child support obligation, includes all workers'
21 compensation benefits and settlements.
- 22 3. Requires an individual obtaining a contractor's license
23 under ch. 489, F.S., to attest in the affidavit that an
24 exemption from workers' compensation coverage would be
25 obtained within 30 instead of 10 days after the date of
26 obtaining the contractor's license. This would conform
27 with the Division of Workers' Compensation requirement
28 that an exemption must be approved or denied within 30
29 days.
- 30 4. Requires the Office of Judges of Compensation Claims to
31 promulgate rules no later than November 1, 2000, and to
submit the rules to the Legislature within 30 days prior
to the next regular session. Such rules would not be
subject to rule challenge under ch. 120, F.S. The Office
of the Judges of Compensation Claims would be required
to conform the rules to legislation enacted by the
Legislature, or, if no action was taken by the
Legislature, the Office of Judges of Compensation Claims
rules would become effective.
5. Specifies that an authorized qualified medical
rehabilitation provider may have access to medical
information of an injured employee.
6. Requires an authorization or denial of medical treatment
for the injured worker within 30 days after receipt of a
request for medical services by the insurer or the
insurer's managed care arrangement, whichever is
earlier.
7. Clarifies that the tolling of time for determining
whether the outcome of the grievance is resolved against
the injured worker, by the carrier not responding,
begins 30 days from the receipt of the grievance.
8. Provides a January 1, 2001, implementation date for the

1 nominating commission to evaluate the judges'
2 performance, based upon the judges' ability to meet
statutory deadlines and other statutory requirements.
3 9. Requires temporary judges of compensation claims
4 appointed by the Governor to have at least 5 instead of
3 years experience in the practice of law.
5 10. Makes technical and conforming changes.
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