

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; amending s.  
26 440.102, F.S.; redefining the term  
27 "safety-sensitive position"; amending s.  
28 624.461, F.S.; redefining the term  
29 "self-insurance fund" to include local  
30 government self-insurance funds organized under  
31 s. 624.4622, F.S., for purposes of regulation

1 by the Department of Insurance; amending s.  
2 624.4621, F.S.; exempting local government  
3 self-insurance funds from the premium tax;  
4 applying other provisions applicable to group  
5 self-insurance funds to local government  
6 self-insurance funds; amending s. 624.4622,  
7 F.S.; conforming changes to requirements for  
8 local government self-insurance funds; amending  
9 s. 631.904, F.S.; revising definitions to  
10 include local government self-insurance funds  
11 in the Florida Workers' Compensation Insurance  
12 Guaranty Association; providing appropriations  
13 to the Department of Insurance to cover  
14 workers' compensation claims of the  
15 Governmental Risk Insurance Trust; authorizing  
16 the department to enter into repayment  
17 agreements with the insured employer and to  
18 require reimbursement from a reinsurer;  
19 authorizing the department to contract for the  
20 administration of claims; authorizing the  
21 department to request appointment as receiver  
22 of GRIT in a specified court; providing that  
23 the appropriation is null and void unless such  
24 appointment is made; immunizing the state and  
25 specified agencies from liability; requiring  
26 the department to report to the Governor and  
27 Legislature; providing for the reversion of  
28 remaining funds; providing effective dates.

29  
30 Be It Enacted by the Legislature of the State of Florida:  
31

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

31

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

3           61.30 Child support guidelines; retroactive child  
4 support.--

5           (2) Income shall be determined on a monthly basis for  
6 the obligor and for the obligee as follows:

7           (a) Gross income shall include, but is not limited to,  
8 the following items:

9           1. Salary or wages.

10           2. Bonuses, commissions, allowances, overtime, tips,  
11 and other similar payments.

12           3. Business income from sources such as  
13 self-employment, partnership, close corporations, and  
14 independent contracts. "Business income" means gross receipts  
15 minus ordinary and necessary expenses required to produce  
16 income.

17           4. Disability benefits.

18           5. All worker's compensation benefits and settlements.

19           6. Unemployment compensation.

20           7. Pension, retirement, or annuity payments.

21           8. Social security benefits.

22           9. Spousal support received from a previous marriage  
23 or court ordered in the marriage before the court.

24           10. Interest and dividends.

25           11. Rental income, which is gross receipts minus  
26 ordinary and necessary expenses required to produce the  
27 income.

28           12. Income from royalties, trusts, or estates.

29           13. Reimbursed expenses or in kind payments to the  
30 extent that they reduce living expenses.

31

1           14. Gains derived from dealings in property, unless  
2 the gain is nonrecurring.

3           Section 15. Section 489.114, Florida Statutes, is  
4 amended to read:

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

1 compliance with chapter 440 to the department and pay an  
2 administrative fine as provided by rule. The failure to  
3 maintain workers' compensation coverage as required by law  
4 shall be grounds for the board to revoke, suspend, or deny the  
5 issuance or renewal of a certificate, registration, or  
6 certificate of authority of the contractor under the  
7 provisions of s. 489.129.

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

10 489.115 Certification and registration; endorsement;  
11 reciprocity; renewals; continuing education.--

12 (5)

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

20 Section 17. Section 489.510, Florida Statutes, is  
21 amended to read:

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

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

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

26 489.515 Issuance of certificates; registrations.--

27 (3)(a) As a prerequisite to the initial issuance or  
28 the renewal of a certificate or registration, the applicant  
29 shall submit an affidavit on a form provided by the board  
30 attesting to the fact that the applicant has obtained both  
31 workers' compensation insurance or an acceptable exemption

1 certificate issued by the department and public liability and  
2 property damage insurance for the health, safety, and welfare  
3 of the public in amounts determined by rule of the board. The  
4 board shall by rule establish a procedure to verify the  
5 accuracy of such affidavits based upon a random audit method.

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

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

15 627.311 Joint underwriters and joint reinsurers.--

16 (4)

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

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

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

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



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

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

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

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

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

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

27           627.914 Reports of information by workers'  
28 compensation insurers required.--

29           (1) The department shall promulgate rules and  
30 statistical plans which shall thereafter be used by each  
31 insurer and self-insurance fund as defined in s. 624.461 in

1 the recording and reporting of loss, expense, and claims  
2 experience, in order that the experience of all insurers and  
3 self-insurance funds ~~self-insurers~~ may be made available at  
4 least annually in such form and detail as may be necessary to  
5 aid the department in determining whether Florida experience  
6 for workers' compensation insurance is sufficient for  
7 establishing rates.

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

14 ~~(a) Premiums written;~~

15 ~~(b) Premiums earned;~~

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

17 ~~(d) Losses paid;~~

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

19 ~~(f) The ratio of allocated loss adjustment expenses to~~  
20 ~~losses paid;~~

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

22 ~~(h) The ratio of unallocated loss adjustment expenses~~  
23 ~~to losses paid;~~

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

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

28 ~~(k) The number of claims outstanding as of December 31~~  
29 ~~of each year;~~

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

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

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

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

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

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

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

1 required by this section. The statistical or rating  
2 organization shall report each data element in the aggregate  
3 only for insurers and self-insurance funds required to report  
4 under this section who elect to have the ~~rating~~ organization  
5 report on their behalf. Such insurers and self-insurance funds  
6 shall be named in the report.

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

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

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

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

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

26 Section 21. There is appropriated to the Department of  
27 Labor and Employment Security from the Workers' Compensation  
28 Administration Trust Fund \$1,400,000 for the purpose of hiring  
29 additional mediators to carry out the functions of section  
30 440.25(3), Florida Statutes.

31

1           Section 22. Subsection (3) of section 440.45, Florida  
2 Statutes, is repealed.

3           Section 23. Paragraph (o) of subsection (1) of section  
4 440.102, Florida Statutes, is amended to read:

5           440.102 Drug-free workplace program requirements.--The  
6 following provisions apply to a drug-free workplace program  
7 implemented pursuant to law or to rules adopted by the Agency  
8 for Health Care Administration:

9           (1) DEFINITIONS.--Except where the context otherwise  
10 requires, as used in this act:

11           (o) "Safety-sensitive position" means, with respect to  
12 a public employer, a position in which a drug impairment  
13 constitutes an immediate and direct threat to public health or  
14 safety, such as a position that requires the employee to carry  
15 a firearm, perform life-threatening procedures, work with  
16 confidential information or documents pertaining to criminal  
17 investigations, or work with controlled substances; a position  
18 in the Family Safety and Preservation Program of the  
19 Department of Children and Family Services in which the  
20 employee is responsible for the well-being of a minor; a  
21 position subject to s. 110.1127; or a position in which a  
22 momentary lapse in attention could result in injury or death  
23 to another person.

24           Section 24. Effective October 1, 2001, section  
25 624.461, Florida Statutes, is amended to read:

26           624.461 Definition.--For the purposes of the Florida  
27 Insurance Code, "self-insurance fund" means ~~both~~ commercial  
28 self-insurance funds organized under s. 624.462, and group  
29 self-insurance funds organized under s. 624.4621, and local  
30 government self-insurance funds organized under s. 624.4622.

31

1 The term "self-insurance fund" does not include a governmental  
2 self-insurance pool created under s. 768.28(15).

3 Section 25. Effective October 1, 2001, subsections  
4 (7), (8), and (9) of section 624.4621, Florida Statutes, are  
5 amended to read:

6 624.4621 Group self-insurance funds.--

7 (7) Premiums, contributions, and assessments received  
8 by a group self-insurer's fund are subject to ss. 624.509(1)  
9 and (2) and 624.5092, except that the tax rate shall be 1.6  
10 percent of the gross amount of such premiums, contributions,  
11 and assessments. This subsection does not apply to a local  
12 government self-insurance fund organized under s. 624.4622.

13 (8) This section does not apply to any program,  
14 intergovernmental agreement, cooperative effort, consortium,  
15 or agency through which two or more governmental entities,  
16 without pooling their liabilities, administer the payment of  
17 workers' compensation to their respective employees, except  
18 for a local government self-insurance fund organized under s.  
19 624.4622.

20 (9) A group self-insurance fund shall participate in  
21 the Florida Workers' Compensation Insurance Self-Insurance  
22 ~~Fund~~ Guaranty Association.

23 Section 26. Effective October 1, 2001, subsection (2)  
24 of section 624.4622, Florida Statutes, is amended to read:

25 624.4622 Local government self-insurance funds.--

26 (2) A local government self-insurance fund that meets  
27 the requirements of this section is ~~not~~ subject to s. 624.4621  
28 and all other provisions of law applicable to group  
29 self-insurance funds organized is not required to file any  
30 report with the department under s. 440.38(2)(b) which is  
31 uniquely required of group self-insurer funds qualified under

1 ~~s. 624.4621. If any of the requirements of this section are~~  
2 ~~not met, the local government self-insurance fund is subject~~  
3 ~~to the requirements of s. 624.4621.~~

4 Section 27. Effective October 1, 2001, subsections (6)  
5 and (7) of section 631.904, Florida Statutes, are amended to  
6 read:

7 631.904 Definitions.--As used in this part, the term:

8 (6) "Insurer" means an insurance carrier or  
9 self-insurance fund authorized to insure under chapter 440.  
10 For purposes of this act, "insurer" does not include a  
11 ~~qualified local government self-insurance fund, as defined in~~  
12 ~~s. 624.4622, or an individual self-insurer as defined in s.~~  
13 ~~440.385.~~

14 (7) "Self-insurance fund" means a group self-insurance  
15 fund authorized under s. 624.4621, a commercial self-insurance  
16 fund writing workers' compensation insurance authorized under  
17 s. 624.462, ~~or an assessable mutual insurer authorized under~~  
18 ~~s. 628.6011, or a local government self-insurance fund~~  
19 ~~authorized under s. 624.4622.~~ For purposes of this act,  
20 "self-insurance fund" does not include a ~~qualified local~~  
21 ~~government self-insurance fund, as defined in s. 624.4622, or~~  
22 an individual self-insurer as defined in s. 440.385.

23 Section 28. Effective upon this act becoming a law:

24 (1)(a) There is appropriated \$10 million from the  
25 General Revenue Fund and \$5 million from the Workers'  
26 Compensation Administrative Trust Fund in the Department of  
27 Labor and Employment Security to the Insurance Commissioner's  
28 Regulatory Trust Fund in the Department of Insurance.

29 (b) There is appropriated \$15 million from the  
30 Insurance Commissioner's Regulatory Trust Fund to the  
31 Department of Insurance as receiver of the Governmental Risk

1 Insurance Trust (GRIT) to cover exclusively and solely the  
2 claims and the administration of claims for injured employees  
3 formerly insured for workers' compensation claims by GRIT.  
4 These funds may not be used for any purpose other than that  
5 specified in this section. Prior to making claim settlements,  
6 the department shall seek a repayment agreement with the  
7 insured employer member for reimbursement of claim payments  
8 and related administrative expenses paid on that member's  
9 behalf. The department shall require reimbursement from the  
10 applicable reinsurer for any claims covered by reinsurance.  
11 The department may contract with third parties to administer  
12 its responsibilities under this section.

13 (2) The Department of Insurance must request  
14 appointment as receiver of the Governmental Risk Insurance  
15 Trust under chapter 631, Florida Statutes, in the Circuit  
16 Court of the Second Judicial Circuit of Florida. If the  
17 department is not appointed receiver, this appropriation is  
18 null and void. Upon the department's appointment as receiver,  
19 the department shall transfer the funds appropriated under  
20 subsection (1) to the receivership account.

21 (3) The State of Florida, the Division of Workers'  
22 Compensation, the Workers' Compensation Administration Trust  
23 Fund, and the Department of Insurance are immune from  
24 liability for any claims, whether those claims are made by  
25 creditors, either secured or unsecured, debtors, or former  
26 insured employer members of GRIT.

27 (4) The department shall report to the Governor, the  
28 President of the Senate, and the Speaker of the House of  
29 Representatives by February 1 of each year on the status of  
30 the implementation of this section.

31



1 Of the funds remaining after all the liability claims of  
2 insured workers have been resolved, two-thirds of such funds  
3 shall revert to the Insurance Commissioner's Regulatory Trust  
4 Fund and one-third of such funds shall revert to the Workers'  
5 Compensation Administrative Trust Fund.

6           Section 29. Except as otherwise provided in this act,  
7 and except for this section, which shall take effect upon  
8 becoming a law, this act shall take effect October 1, 2000.

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