

STORAGE NAME: h2357s1.ted

DATE: April 26, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB 2357

RELATING TO: Occupational Access and Opportunity

SPONSOR(S): Committee on Transportation & Economic Development Appropriations and Representative Gay

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 8 NAYS 0
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 9 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The Committee Substitute provides for the dissolution of the Florida Department of Labor and Employment Security (DLES) and the assumption of comparable workforce development, labor regulation, and employment security functions by the Department of Insurance, the Department of Management Services, the Department of Education, and Agency for Workforce Innovation and contracting with the Department of Revenue.

The bill relates to the transfer of the Division of Vocational Rehabilitation of the Department of Labor and Employment Security to the Department of Education, and creates the Division of Occupational Access and Opportunity. It specifies that hearings concerning determinations made by the commission need not be conducted by an administrative law judge. Additionally, it changes the date of the transfer of the Division of Blind Services to the Department of Education from January 1, 2001, to July 1, 2000.

The bill provides an effective date of July 1, 2000.

The Revenue Estimating Conference has yet to review this bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Vocational Rehabilitation

The federal Rehabilitation Act of 1973, as amended, allows states to empower individuals with disabilities in order to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society. To receive federal funds to administer programs under the act, states must submit to the Rehabilitation Services Administration (RSA) of the U.S. Department of Education a state plan for vocational rehabilitation services. The state plan must designate a state agency or a state unit to administer the program.

Currently, vocational rehabilitation services are administered by the Department of Labor and Employment Security (DLES). As Florida's designated state agency, the department provides rehabilitation services to individuals with disabilities. The Florida Rehabilitation Council serves as the state's Rehabilitation Council for purposes of compliance with federal regulations. To comply with the due process requirements of title I of the Rehabilitation Act of 1973, as amended, DLES has established a formal review process, conducted by the Division of Administrative Hearings within the Department of Management Services, to review determinations or decisions made under the Act and to carry out the responsibilities of the impartial hearing officer.

Occupational Access and Opportunity Commission and Occupational Access and Opportunity Corporation

In 1999, the Legislature passed CS/CS/SB 230, 2nd eng., codified as ch. 99-240, Laws of Florida, which reorganized DLES to operate in a more decentralized fashion. The law also established the Occupational Access and Opportunity Commission (OAOC) in the Department of Education to assemble individuals with disabilities, stakeholders, and employers to develop a single self-sufficiency strategy that provides for employment and career options for Floridians with disabilities. Effective July 1, 2000, the commission is designated the state agency for purposes of compliance with the Rehabilitation Act of 1973, as amended. As required by the bill, appointments of the 16 members to the commission have been made by the Governor, the President of the Senate, and the Speaker of the House of Representatives. At least 50 percent of the members are required to be from the private sector. The Governor is required to name a chair of the commission and the commission is required to name the vice chair. Neither the chair nor the vice chair may be

a provider of client services funded through the commission. Additionally, members of the commission are entitled to be reimbursed for reasonable and necessary expenses of attending meetings and performing commission duties, including per diem and travel expenses, and for personal care attendants and interpreters needed by members during meetings. The commission may appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, state, or Federal Government.

In addition to its advisory role to the Division of Vocational Rehabilitation of DLES, the Florida Rehabilitation Council is to serve the commission and continue to perform its designated duties. The OAOC is to consider the recommendations made by the council.

The OAOC is required to develop and implement a 5-year plan to promote occupational access and opportunities for Floridians with disabilities, and to fulfill the federal plan requirements. The plan must require that the OAOC enter into cooperative agreements with community-based rehabilitation programs to be the service providers for the program. However, state career service employees must provide all services mandated by federal law. The OAOC must contract by July 1, 2000, with the administrative entity designated in the plan to execute services, functions, and programs prescribed in the plan. While the commission will serve as contract administrator, the administrative entity may be a direct-support organization, if approved by the federal Department of Education.

The Occupational Access and Opportunity Corporation, a not-for-profit entity as defined s. 501(c)(6) of the Internal Revenue Code of 1986, as amended, is created to act as the administrative arm of the commission. The board of directors of the corporation is composed 15 members, appointed by the commission from its own membership. The vice chair of the commission serves as the chair of the corporation's board of directors. The corporation is not to be considered an agency for the purposes of administrative procedures, state planning and budgeting, and leasing of buildings.

Department Organizational Structure in Florida

Section 6, Art. IV of the Florida Constitution outlines requirements for state agencies. First, it limits all functions of the executive branch of state government to not more than 25 departments, exclusive of those specifically provided for or authorized in the constitution. Additionally, the provision requires the administration of each department, unless otherwise provided in the constitution, to be placed by law under the direct supervision of the Governor, the Lieutenant Governor, the Governor and Cabinet, a cabinet member, or an officer or board appointed by and serving at the pleasure of the Governor. The constitution authorizes, but does not require, either confirmation by the Senate or approval of three cabinet members for the appointment or removal of an appointee to a designated statutory office. Section 20.05(2), F.S., however, requires that each secretary appointed as an agency head by the Governor be confirmed by the Senate.

In addition to the constitutional requirement for agency heads, ch. 20, F.S., outlines requirements for the organizational structure of departments. Section 20.02(1), F.S., reiterating Section 3, Art. II of the Florida Constitution, notes the division of governmental powers among the three branches of state government and states:

The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the Legislature and of making policy recommendations to the Legislature. The judicial branch has the purpose of determining the constitutional

propriety of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws.

Section 20.02(3), F.S., provides that structural reorganization must be a continuing process through careful executive and legislative appraisal of the placement of proposed new programs and the coordination of existing programs in response to public needs. Additionally, s. 20.02, F.S., requires that:

- * The responsibility of implementing programs within the executive branch must be clearly fixed and ascertainable.
- * Departments must be organized along functional or program lines.
- * Management and coordination of state services must be improved, and overlapping activities must be eliminated.
- * When a reorganization abolishes positions, the individuals affected, when otherwise qualified, must be given priority consideration for any new positions created by reorganization or other vacant positions in state government.

Section 20.06, F.S., governs methods of reorganization of the executive branch of state government. Subsection (1) of this section defines a type one transfer as the transferring intact of an existing agency or department so that the agency or department becomes a unit of another agency or a department. Subsection (2) of this section defines a type two transfer as the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.

Department of Labor and Employment Security

Section 20.171, F.S., creates the Department of Labor and Employment Security (DLES). The department's programs are authorized by various state and federal laws and rules. The department's mission is to increase the ability of Floridians to lead independent lives and secure gainful employment and provide employers with skilled workers, thereby enabling Florida to compete successfully in the global economy .

DLES consists of six program divisions and one administrative support division:

- Division of Workforce and Employment Opportunities;
- Division of Unemployment Compensation;
- Division of Workers' Compensation;
- Division of Blind Services;
- Division of Safety; and
- Division of Vocational Rehabilitation.

The Division of Workforce and Employment Opportunities focuses on assisting workers find jobs and employers with recruitment of qualified applicants. Although its authority is found largely in chs. 446 and 450, F.S., the division administers several federal programs,

including, Job Training Partnership Act (JTPA); Workforce Investment Act (WIA), which, effective July 1, 2000, repeals JTPA; apprenticeship; child labor; labor market information; and school-to-work.

The Division of Unemployment Compensation administers the federal unemployment insurance program and must comply with the requirements of the federal Social Security Act, as amended; the Wagner-Peyser Act, as amended; the Federal Unemployment Tax Act; ch. 443, F.S., the Florida Unemployment Compensation Law; and rules promulgated in 38B, F.A.C. Employees and employers may appeal the award or denial of unemployment compensation claims. (s. 443.151, F.S.) Appeals referees hear appealed or disputed claims. (s. 443.151(4), F.S.) Review from the decision of an appeals referee is conducted by the Unemployment Appeals Commission.

The Division of Workers' Compensation is governed by the Workers Compensation Law in ch. 440, F.S., and rules promulgated in ch. 38F, F.A.C. The division's mission is to ensure prompt, accurate benefit payments and appropriate, timely services to workers injured on the job to facilitate their gainful re-employment at a reasonable cost to employers. The Office of Judges of Compensation Claims resolves workers compensation disputes by determining the obligations of employers and insurance companies to injured workers, whether it is compensation payments, medical care, rehabilitation, or other injury-related expenses. The office is composed of 17 district offices. The office's sole duty is to resolve disputed workers compensation claims. Once a dispute reaches the judiciary level, it is guided through mediation. When mediation does not solve the problem, a compensation judge will hear the claim.

The Division of Blind Services is authorized by the federal Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990; part I of ch. 413, F.S.; and rules promulgated under ch. 38K, F.A.C. The division provides rehabilitation, job placement, and follow-up services designed to find employment for Florida's blind residents. While vocational rehabilitation and independent living services are also provided by the Division of Vocational Rehabilitation, the Rehabilitation Act allows the state to provide these services to individuals who are blind through a separate state agency. (29 U.S.C. s. 725(2).)

The Division of Safety is governed by ch. 442, F.S., the Florida Occupational Safety and Health Act; ch. 38I, F.A.C.; and the federal Occupational Safety and Health Act of 1970. The division's mission is to reduce the incidence of employee accidents, occupational diseases, and fatalities compensable under Florida's workers compensation law by implementing and maintaining policies, procedures, practices, rules, and standards which work toward accomplishing this purpose.

The Division of Vocational Rehabilitation is governed by part II of ch. 413, F.S., and ch. 38J, F.A.C., and provides vocational and rehabilitative services to individuals with mental or physical disabilities to enable them to live and work as independently as possible. The division is also responsible for ensuring state compliance with the federal Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990. The Public Employees Relations Commission (PERC), the Unemployment Appeals Commission, and the Minority Business Advocacy and Assistance Office (MBAAO) are also administratively housed within the department.

PERC, governed by s. 447.205, F.S., is responsible for enforcement of constitutional and statutory provisions giving public employees rights in bargaining with their employer. The

commission is composed of a chair and two full-time members appointed by the Governor, subject to Senate confirmation. (s. 447.205, F.S.)

The Unemployment Appeals Commission, authorized in s. 443.171, F.S., decides contested unemployment compensation claims. The commission consists of a chair and two other members, appointed by the Governor and subject to Senate confirmation. Decisions of the commission are appealable to the appropriate Florida District Court of Appeal.

The MBAAO, established in s. 287.09451, F.S., is charged with recording the utilization of Certified Minority Business Enterprises; maintaining statistics on contract participation, agency goals, and subcontract activity; and identifying the participation of Minority Business Enterprise (MBEs) by industry and minority status.

Reorganization of the Department of Labor and Employment Security

In 1999, the Legislature passed CS/CS/SB 230, 2nd eng. (ch. 99-240, L.O.F.), which reorganized the Department of Labor and Employment Security to operate in a more decentralized fashion. The law required that two assistant secretaries be appointed by the secretary: (1) Assistant Secretary for Finance and Administration; and (2) Assistant Secretary for Programs and Operations. The Office of General Counsel and the Office of Inspector General were established as special offices and headed by managers. The law provided for six divisions, headed by division directors, which are under the Assistant Secretary for Programs and Operations: (1) Division of Workforce and Employment Opportunities; (2) Division of Unemployment Compensation; (3) Division of Workers' Compensation; (4) Division of Blind Services; (5) Division of Safety, which is repealed July 1, 2000; and (6) the Division of Vocational Rehabilitation.

CS/CS/SB 230 also limited the authority of the Division of Safety to public-sector places of employment and required DLES to report on a proposed re-authorization of the division based upon specific criteria.

The law required the Division of Vocational Rehabilitation to enter into local public-private partnerships to the extent that it is beneficial to increasing employment outcomes for persons with disabilities and to ensuring their full involvement in the comprehensive workforce investment system. The law also established the Occupational Access and Opportunity Commission within the Department of Education, which is responsible for developing and implementing a five-year plan to promote occupational access and opportunities for Floridians with disabilities, and fulfilling the federal plan requirements. Effective July 1, 2000, the commission will be the designated state agency for purposes of compliance with the Rehabilitation Act.

Other Agencies of State Government

The Department of Insurance seeks to promote an insurance marketplace where consumers have access to a variety of insurance products with fair provisions at reasonable prices offered by insurance companies in sound financial condition, and where consumers receive prompt and equitable service; serve as the statewide entity to promote fire safety, assure that Florida citizens are protected by fire safety standards, and to investigate and facilitate the prosecution of the crime of arson; and maximize return on funds invested while balancing fiduciary responsibilities with appropriate liquidity requirements. The Florida Department of Insurance is headed by the state treasurer. The Treasurer is a constitutional officer of Florida, elected to a four-year term that runs

concurrently with the Governor and other cabinet members. The Treasurer is also the state's Insurance Commissioner and Fire Marshal.

The mission of the Department of Revenue is to increase voluntary payment of taxes and child support; reduce the burden on those it serves; and to continually improve the way it does business. To accomplish its mission, the department has established three programs:

- * the General Tax Administration Program, which involves the collection of 36 taxes, including sales tax, corporate income tax, intangible property tax, and fuel tax;
- * the Property Tax Administration Program, which ensures that taxpayers are treated equitably by county property appraisers, tax collectors, and taxing authorities across the state and to ensure that state funds are distributed equitably among school districts; and
- * the Child Support Enforcement Program, which assures custodians of the stable income necessary to raise children.

The mission of the Department of Management Services is to deliver best value quality services to state and local governments; to help these governmental entities deliver front line services to citizens; and to provide essential tools for managers to manage effectively and employees to work efficiently. As a support agency that provides services to other state agencies, the department develops and supervises the procedures under which agencies purchase commodities; designs, constructs, operates and maintains state facilities; provides security services for state-owned property; operates motor vehicle and aircraft pools; acquires and disposes of surplus federal property; and directs planning, develops policies, and regulates acquisition of information technology resources. The department is also responsible for the design and implementation of the state's personnel management and retirement systems and the administration of employees benefit programs. The department represents the Governor as public employer in collective bargaining activities and provides administrative support, but does not set policy for the Division of Administrative Hearings, Correctional Privatization Commission, Smart Schools Clearinghouse, State Employee Leasing Program, and Florida Commission on Human Relations.

The Department of Education's mission is to ensure that Florida has a state system of schools, courses, classes, institutions, and services that can adequately meet the educational needs of Florida's citizens. The constitution requires Florida's system of public education to be a uniform system of free public schools and establishes the Governor and the Cabinet as the State Board of Education. Florida law requires that public education be a state function and responsibility. The state has the responsibility for establishing minimum standards and regulations to assure that schools and institutions are efficiently operated and provide adequate educational opportunities for all students. The Commissioner of Education is the state's chief educational officer, the secretary and executive officer of the State Board of Education, and the head of the Department of Education. The department provides leadership, technical assistance, and support to the local educational entities and institutions comprising Florida's public education system. The state education system consists of publicly supported and controlled schools, institutions of higher education, and other educational institutions and services as may be provided or authorized by the constitution and state laws.

C. EFFECT OF PROPOSED CHANGES:

The bill repeals statutory authority for the Department of Labor and Employment Security (DLES) (s. 20.171, F.S.) effective January 1, 2001.

It transfers the Division of Workers' Compensation to the Department of Insurance, including the Office of the Judges of Compensation Claims. Further, it transfers the Division of Unemployment Compensation to the Agency for Workforce Innovation. It authorizes the Agency for Workforce Innovation to contract with the Department of Revenue for the tax collection unit of Unemployment Compensation. Additionally, it transfers the Public Employees Relations Commission (PERC) to the Department of Management Services.

It creates a Bureau of Workplace Regulation as well as a Bureau of Workplace Safety within a Division of Workers' Compensation at the Department of Insurance.

The bill establishes a Florida Workplace Safety Task Force charged with developing innovative methods for the state to employ state and federal resources toward reduction of workplace injuries and a reduction in workers compensation rates. It authorizes the Division of Workers' Compensation at the Department of Insurance to carry out certain workplace safety functions pending the outcome of the task force.

It transfers the farm-labor functions, labor organizations registration, and child labor law functions of the Division of Workforce and Employment Opportunities to the Bureau of Workplace Regulation at the Department of Insurance. Further, it transfers the Office of Information Systems of the Department of Labor and Employment Security to the Department of Management Services, except for those functions of the office related to workforce information, which are transferred to the Agency for Workforce Innovation. Additionally, it transfers the Minority Business Advocacy and Assistance Office to the Department of Management Services.

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

It authorizes a voluntary reduction-in-force payment to employees of DLES with 27 years of creditable service in the retirement system.

It provides for hiring preferences for DLES employees dislocated as a result of the act.

The committee substitute adopted by the Transportation and Economic Development Appropriations Committee on April 26, 2000 produced significant changes. See the following Section-By-Section Analysis for further detail.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Repeals s. 20.171, F.S., regarding the creation of the Department of Labor and Employment Security, effective January 1, 2001.

Section 2 Transfers the Division of Workers' Compensation and the Office of the Judges of Compensation Claims by a type one transfer from DLES to the Department of Insurance, effective July 1, 2000. Directs the Department of Insurance, in consultation with DLES, to

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determine the number of positions needed for administrative support of those programs within the transferred entities.. Provides that the number of support positions are not to exceed the number of administrative support positions that were authorized to DLES prior to the transfer. Authorizes within the Department of Insurance the required number of administrative support positions as determined by the department.

Transfers all powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Division of Workforce and Employment Opportunities related to the regulation of labor organizations under chapter 447, F.S., the administration of child labor laws under chapter 450, F.S., and the administration of migrant labor and farm labor laws under chapter 450, F.S., from DLES to the Bureau of Workplace Regulation in the Division of Workers' Compensation of the Department of Insurance by a type two transfer effective July 1, 2000.

Transfers any other powers, duties, functions, rules, records, property, and unexpended balances of appropriations, allocations, and other funds of DLES, not otherwise transferred by the act, relating to workplace regulations and enforcement, including, but not limited to, those under chapter 448, F.S., from the DLES to the Bureau of Workplace Regulation in the Division of Workers' Compensation of the Department of Insurance by a type two transfer effective July 1, 2000.

Transfers the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of DLES to the Division of Workers' Compensation.

Section 3 Amends s. 20.13, F.S., to establish the Division of Workers' Compensation under the Department of Insurance. Creates a Bureau of Workplace Regulation and a Bureau of Workplace Safety under the aforementioned division.

Section 4 Transfers the Division of Unemployment Compensation and all supporting resources of the Office of the Secretary or any other entity within DLES from the department to the Agency for Workforce Innovation by a type two transfer effective January 1, 2001. Directs the Agency for Workforce Innovation to enter into a contract with the Department of Revenue to have the department provide unemployment tax collection services by January 1, 2001. Directs the Department of Revenue, in consultation with DLES, to determine the number of positions needed to provide unemployment tax collection services with the department. Provides that the number of unemployment tax collection service positions determined is not to exceed the number of positions that were authorized by DLES prior to the contract. Authorizes the aforementioned positions within the Department of Revenue. Directs the Office of Program Policy Analysis and Accountability to conduct a feasibility study regarding the privatization of unemployment tax collection services. Requires a report on the study to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Changes all references to the "division" to "agency" in chapter 443, F.S.

Section 5 Transfers the Office of Information Systems from DLES to the State Technology Office by a type two transfer effective January 1, 2001. Transfers all support services regarding workforce information systems planning from DLES to the Agency for Workforce Innovation by a type two transfer effective October 1, 2000.

Section 6 Transfers the Minority Business Advocacy and Assistance Office from DLES to the Department of Management Services by a type two transfer effective October 1, 2000.

Section 7 Establishes the Florida Task Force on Workplace Safety within the Department of Insurance effective upon the bill becoming law. Requires the members of the task force to be appointed prior to July 15, 2000, and the first meeting of the task force to be held by August 15, 2000. Provides the commission is to be composed of 15 members. Directs the Governor to appoint five members, one of whom must be a representative of a statewide business organization, one of whom must be a representative of organized labor, and three of whom must be from private-sector businesses. Authorizes the Governor to name one of the appointees as chair of the task force. Provides that four members are to be appointed by the President of the Senate, one of whom must be a representative of a statewide business organization, one of whom must be a representative of organized labor, and two of whom must be from private-sector businesses. Directs the Speaker of the House of Representatives to appoint four members, one of whom must be a representative as a statewide business organization, one of whom must be a representative of organized labor, and two of whom must be from private-sector businesses. Directs the Insurance Commissioner to appoint one member from the private sector. Authorizes the president of Enterprise Florida, Inc., or his or her designee from the organization to serve on the task force. Provides that the Insurance Commissioner or the commissioner's designee from the Department of Insurance is to serve as an ex-officio nonvoting member.

Provides that the purpose of the task force is to develop findings and issue recommendations on ways in which the state may employ state or federal resources to reduce the incidence of employee accidents, occupational diseases, and fatalities compensable under the workers' compensation law. Provides that the task force is to address issues including, but not limited to, alternative organizational structures for the delivery of workplace safety assistance services to businesses following the repeal of the Division of Safety of DLES under ch. 99-240, L.O.F., the extent to which workplace safety assistance services are or may be provided through private-sector sources, the potential contribution of workplace safety assistance services to a reduction in workers' compensation rates for employers, differences in the workplace safety needs of businesses based upon the size of the business and the nature of businesses, differences in the workplace safety needs of private-sector employers and public-sector employers, the relationship between federal and state workplace safety activities, the impact of workplace safety and workers' compensation on the economic development efforts of the state.

Provides that the task force is to be located in the Department of Insurance, and the staff of the department is to serve as staff for the task force. Requires the members of the task force to serve without compensation but are entitled to per diem and travel expenses pursuant to s. 112.061, F.S.

Authorizes the task force to obtain information and assistance from any officer or agency of the state. Requires all such officials and agencies to give the task force all relevant information and assistance on any matter within their control.

Requires the task force to submit a report and recommendations to the Governor, the Insurance Commissioner, the President of the Senate, and the Speaker of the House of Representatives no later than January 1, 2001. Provides that the report is to include recommendations on the organizational structure, mission, staffing structure and staffing qualifications, and funding level for the Bureau of Workplace Safety within the Division of Workers' Compensation of the Department of Insurance. Requires the report to include any specific recommendations for legislative action during the 2001 Regular Legislative Session.

Authorizes the Division of Workers' Compensation to establish 60 time-limited positions on July 1, 2000, responsible for the 21(d) federal grant from the Occupational Safety and Health Administration and for the core responsibilities under a program of enforcement of safety and health regulations in the public sector. Provides that after the submission of the task force's report and recommendations, the division may eliminate those time-limited positions and establish and classify permanent positions as authorized in the FY 2000-01 General Appropriations Act or seek a budget amendment as provided in ch. 216, F.S., to implement the recommendations of the task force.

Directs all records, property, and equipment of the Division of Safety of DLES, repealed under ch. 99-240, L.O.F., be transferred to the Bureau of Workplace Safety of the division of Workers' Compensation of the Department of Insurance for the entity to retain, use, and maintain during the deliberation of the task force. Authorizes the termination of the task force upon submission of its report.

Section 8 Amends s. 39 of ch. 99-240, L.O.F., providing a new effective date of October 1, 2000. Corrects a cross reference. Provides that the Department of Education, in consultation with DLES, is to determine the number of positions needed for administrative support of the programs within the Division of Blind Services. Requires that number to not exceed the number of positions prior to the transfer. Authorizes the number of administrative support positions upon transfer.

Section 9 Provides that it is the intent of the Legislature that the transfer of responsibilities from DLES to other units of state government be accomplished with minimal disruption of services provided to the public and with minimal disruption to the employees of the department. Provides that the Legislature believes a transition period is warranted to allow for a reduction of the department's activities and an increase in the activities of other applicable state entities. Directs DLES and DMS to provide coordinated reemployment assistance to employees of the DLES who are dislocated as a result of this bill. Directs the state Workforce Development Board, the regional boards, and staff of the one-stop career centers is to provide assistance to the departments in carrying out the provisions of the section. Provides that the state and its political subdivisions are to give preference in the appointment and the retention of employment to employees of DLES who are dislocated as a result of this act. Adds 10 points to the earned ratings of any employee of DLES who is dislocated as a result of the bill if the person has obtained a qualifying score on the examination for the position. Provides that preference is considered to have expired once such person has been employed by any state agency or any agency of a political subdivision of the state.

Creates the Labor and Employment Security Transition Team, which will be responsible for coordinating and overseeing actions necessary to ensure the implementation of the provisions of this act as well as implementation of any statutory changes to the department's provision of workforce placement and development services through the Division of Workforce and Employment Opportunities. Provides the team is to consist of the Governor, or the Governor's designee, who shall serve as chair and convene meetings, the Secretary of Labor and Employment Security or the secretary's designee, the Secretary of Management Services, or the secretary's designee, the Commissioner of Insurance or the commissioner's designee, the executive director of the Department of Revenue or the executive director's designee, the director or the Agency for Workforce Innovation, or the director's designee, the president of Workforce Florida, Inc., or the president's designee, the Chief Information Officer of the state, and any other members deemed necessary by and appointed by the Governor. Requires the staff of the Office of Policy and Budget in the Executive Office of the Governor to serve as staff for the transition team. Authorizes each

member of the transition team to appoint appropriate staff from the organization that he or she represents to serve as liaisons to the transition team and to assist the transition team as necessary. Holds each member of the transition team responsible for ensuring the organization that he or she represents cooperates fully in the implementation of this bill.

Requires the team to submit bimonthly between the date the act becomes law and January 1, 2001, brief status reports on the progress and on any significant problems in implementing the provisions of the bill to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Requires the team to submit a comprehensive report on the transition of DLES by February 2, 2001, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Provides the report is to include any recommendations of legislative action necessary during the 2001 Regular Session to address substantive or technical issues related to the transition. Directs the transition team to terminate on May 15, 2001.

Provides that the transfer of any programs, activities, and functions under this act shall include the transfer of any records and unexpended balances of appropriations, allocations, and functions. Transfers any surplus records and unexpended balances of appropriations, allocations, or other funds not so transferred to the Department of Management Services for proper disposition. Authorizes the Department of Management Services to become the custodian of any property of DLES which is not otherwise transferred for the purposes of ch. 273, F.S. Authorizes DMS to permit the use of such property by organizations as necessary to implement the provisions of this act.

Directs the transition team, in conjunction with the Office of the Attorney General, to use any unexpended balances of DLES to settle any claims or leases, pay out personnel annual leave, or sick leave, or close out other costs owed by the department, regardless of whether such costs relate to federal, state, or local governments, department employees, or the private sector. Directs any remaining balances to be transferred as directed by this act or by budget amendment.

Directs the transition team to monitor any personnel plans of DLES and any implementation activities of the department required by the act. Directs the department to not fill a vacant position or transfer an employee laterally between any divisions or other units of the department without the written approval of the transition team.

Authorizes the team to submit proposals to the Governor and recommend budget amendments to ensure the effective implementation of this act, maintenance of federal funding, and continuation of services to customers without interruption. Requires the team to recommend by October 1, 2000, the provisions of a DLES budget amendment to allocate the resources of the Office of the Secretary, Office of Administrative Services, Division of Unemployment Compensation, and other resources of DLES not otherwise transferred by this act. Requires the allocation of resources under this budget amendment to provide for the maintenance of the department until January 1, 2001, in order to complete activities related to the dissolution of the department, and must reserve any remaining funds or positions. Provides the section will take effect upon the bill becoming law.

Section 10 Exempts the Department of Revenue, the Department of Insurance, the Department of Management Services, and the Agency for Workforce Innovation from the provisions of ch. 287, F.S., when contracting for the purchase or lease of goods or services under this act. Provides the section will take effect upon the bill becoming law and will expire January 1, 2001.

Section 11 Exempts DOR, the Department of Insurance, DMS, and the Agency for Workforce Innovation from the requirements of any state laws relating to the leasing of space, including, but not limited to , the requirements imposed by s. 255.25, F.S., and any rules adopted under such laws, provided, however, that all leases entered into under the act through January 1, 2001, must be submitted for approval to DMS at the earliest practicable time. Provides the section will take effect upon the bill becoming law and will expire January 1, 2001.

Section 12 Authorizes DOR, the Department of Insurance, DMS, and the Agency for Workforce Innovation to develop emergency rules relating to and in furtherance of the orderly implementation of the provisions of this act. Provides that these rules will be valid for a period of 270 days after the effective date of this act.

Section 13 Authorizes DOR to develop and issue notification to all businesses registered with DLES for the purpose of paying unemployment compensation tax imposed pursuant to ch. 443, F.S. Requires the notification to include, but not be limited to, information on the transfer of unemployment tax collection responsibilities from DLES to DOR. Authorizes DOR to issue any notices, forms, documents, or publications relating to the unemployment compensation tax which the Division of Unemployment Compensation was authorized to issue or publish under ch. 443, F.S., prior to the transfer of any responsibilities under this act. Authorizes DOR to determine the most efficient and effective method for administering, collecting, enforcing, and auditing the unemployment compensation tax, in consultation with the businesses that pay such tax and consistent with the provisions of ch. 443, F.S.

Section 14 Amends s. 287.012, F.S., conforming.

Section 15 Amends s. 287.0947, F.S., corrects a date reference and provides conforming language.

Section 16 Amends s. 287.09451, F.S., conforming.

Section 17 Amends s. 20.15, F.S., creating the Division of Occupational Access and Opportunity within the Department of Education. Assigns the OAOC the administrative responsibility of the Division of Occupational Access and Opportunity. Assigns powers, duties, and responsibilities to the Occupational Access and Opportunity Division. Provides an effective date of January 1, 2001, for the assumption of all responsibilities by the OAOC necessary to be the designated state agency for the purposes of compliance with the Rehabilitation Act of 1973, as amended. Includes the OAOC, the Florida Rehabilitation Council, and the Florida Independent Living Council in an exemption regarding appointments by the Commissioner of Education.

Section 18 Amends s.120.80, F.S., allowing the Occupational Access and Opportunity Commission to contract with an appropriate resource, other than an administrative law judge to conduct certain hearings.

Section 19 Amends s. 413.034, F.S., providing conforming language.

Section 20 Amends s. 413.051, F.S., conforming departmental references to reflect the transfer of the Division of Blind Services to the Department of Education. Revises the definition of "blind licensee."

Section 21 Amends s. 413.064, F.S., conforming departmental references to reflect the transfer of the Division of Blind Services to the Department of Education.

Section 22 Amends s. 413.066, F.S., conforming departmental references to reflect the transfer of the Division of Blind Services to the Department of Education.

Section 23 Amends s. 413.067, F.S., conforming departmental references to reflect the transfer of the Division of Blind Services to the Department of Education.

Section 24 Amends s. 413.395, F.S., providing conforming language.

Section 25 Amends s. 413.83, F.S., revising the membership of the OAOC. Provides the commission is to consist of 16 voting members, including 15 members appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, as well as four ex officio, nonvoting members. Requires the membership of the commission to include no more than two individuals who are, or are employed by, community rehabilitation providers who contract to provide vocational rehabilitation services to individuals who qualify for the program. Deletes a requirement that commission contain a minimum of 50 percent representation from the private sector.

Allows the Commissioner of Education, or his or her designee, to serve as the chair and voting member of the commission until January 1, 2001. Requires the commission to elect a chair from among its members after January 1, 2001. Provides that the commission is to include eight employers from the private sector, three of whom are to be appointed by the Governor for a term of four years, three appointed by the President of the Senate for a term of four years, and the remaining two appointed by the Speaker of the House of Representatives for a term of four years. Designates that an individual who is a consumer of vocational rehabilitation services be appointed by the Governor for a term of four years. Provides that a community rehabilitation provider who contracts to provide vocational rehabilitation services is to be appointed by the Governor for a term of four years. Provides for the appointment of five representatives of business, workforce development, education, state government, local government, a consumer advocate group, or a community organization, three of whom are to be appointed by the Governor for a term of four years, one of whom is to be appointed by the President of the Senate for a term of four years, and one of whom is to be appointed by the Speaker of the House of Representatives for a term of four years.

Provides that, by September 1, 2000, the Governor, the President of the Senate, and the Speaker of the House of Representatives are to consult together and take those actions necessary to bring the commission's membership into compliance with the section after receiving recommendations from the commission. Provides that initial terms are to be staggered to ensure that the terms of no more than one-fourth of the commission's total appointed membership expires in any 1-year period.

Deletes a requirement allowing the governor to appoint the chair of the commission from its appointed members.

Requires the OAOC to establish an advisory council composed of representatives from not-for-profit organizations that have submitted a resolution requesting membership.

Requires the members of the OAOC to comply with the provisions of s. 413.273(1) and (3), F.S., which entitles members to be reimbursed for per diem and travel expenses and establishes the conditions for removal from office.

Section 26 Amends s. 413.84, F.S., requiring the OAOC to serve as the director of the Division of Occupational Access and Opportunity of the Department of Education, effective

July 1, 2000. Provides that the commission is responsible for establishing policy, planning, and quality assurance for its assigned programs, including vocational rehabilitation and independent living services for individuals with disabilities funded under the Rehabilitation Act of 1973, as amended. Allows the commission to adopt all rules and policies necessary to implement provisions of law. Such rules and policies must be submitted to the State Board of Education for approval. The section provides that effective October 1, 2000, rules adopted by the OAOC do not require approval by the state board. Requires the commission, in consultation with the Commissioner of Education, to hire a division director to be responsible for the operation and maintenance of the programs assigned to the division.

Requires a 5-year plan no later than January 1, 2001, which is designed to promote occupational access and opportunities for Floridians with disabilities, to include a provision that state employees provide all services that are not delegated under federal law. The section requires the plan to provide for the monitoring of the operations of the Occupational Access and Opportunity Corporation, the OAOC, and contracted providers of services. Provides the plan must require the commission enter into cooperative agreements with community-based rehabilitation programs by workforce region to be the service providers for the program; however, state employees must provide all services that are not delegated under federal law.

Section 26 requires the commission to contract with the Occupational Access and Opportunity Corporation to execute services, functions, and programs prescribed in the plan. It authorizes the commission to appear on its own behalf before the legislature. Deletes references to the designated administrative entity.

Section 27 Amends s. 413.85, F.S., deleting the authorization for the commission to designate a direct-support organization as its administrative entity. Revises the function of the corporation allowing it to carry out such activities and tasks as the commission assigns through contract. Provides for the corporation, as a corporation acting as an instrumentality of the state, to be subject to s. 768.28, F.S., relating to sovereign immunity. Revises the composition of the board of directors to include no less than 7 and no more than 15 members, appointed by the commission. Requires a majority of the board to be appointed from the membership of the commission. Revises the powers and duties of the corporation to conform to its new function. Encourages the employment of certain employees from the Division of Vocational Rehabilitation. Such an arrangement would allow employees to retain state employee status including participation in the Florida Retirement System.

Section 28 Amends s. 413.86, F.S., revising a reference to the Division of Vocational Rehabilitation.

Section 29 Amends s. 413.87, F.S., revising the required content of a quarterly report which the corporation is to provide to the commission.

Section 30 Amends s. 413.88, F.S., revising the provisions of an annual report the commission is required to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Deletes references to the designated administrative entity.

Section 31 Amends s. 413.89, F.S., designates the Department of Education as the state agency and the Division of Occupational Access and Opportunity as the state unit for purposes of compliance with the federal Rehabilitation Act of 1973, as amended effective

July 1, 2000. Designates the Occupational Access and Opportunity Commission the state agency for purposes of compliance with the federal Rehabilitation Act of 1973, as amended. Provides a time frame of July 1, 2000, and October 1, 2000, for the department and the commission to provide for continued administration consistent with federal and state law.

Section 32 Amends s. 413.90, F.S. Provides for the transfer, effective July 1, 2000, of the Division of Vocational Rehabilitation of the Department of Labor and Employment Security to the Department of Education by a type two transfer. Provides for the transfer, effective July 1, 2000, of the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of DLES which support the activities and functions of the Division of Vocational Rehabilitation to the Division of Occupational Access and Opportunity at the Department of Education. Renames the division as the Division of Occupational Access and Opportunity. Requires the commission, acting as the director of the division, to reduce the number of positions within the division to no more than 700, inclusive of those positions leased by the corporation. Provides that these positions may be filled by former employees of the Division of Vocational Rehabilitation. Requires the division to reduce the number of positions to no more than 300 by October 1, 2001. Provides for a budget amendment in the event that unforeseen transition activities occur in moving service delivery from division employees to community rehabilitation providers and the retention of additional positions are necessary. Designates the competitive area for any necessary layoff in the division.

Section 33 Amends s. 413.91, F.S., revising a reference to “the designated administrative entity” to “all contractors.”

Section 34 Amends s. 413.92, F.S., specifying the state entity responsible for submitting a request to the appropriate federal agency upon conflict of laws.

Section 35 Repeals s. 413.93, F.S., relating to the designated state agency under federal law.

Section 36 - Section 43 Provide conforming changes.

Section 44 Transfers all powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Unemployment Appeals Commission relating to the commission’s specified authority, powers, duties, and responsibilities by a type two transfer to DMS.

Section 45 - 50 Provide conforming changes.

Section 51 Amends s. 443.1716, F.S., providing conforming language. Requires the credit applicant to include in their written consent to creditors notice that the wage information that was supplied to the creditor must be provided, upon request, to the credit applicant at no cost and notice that the consent to disclose is voluntary and not required by law and that refusal to consent to disclosure of state wage and employment information is not a basis for denial of credit.

Section 52 - Section 54 Provide conforming changes.

Section 55 Amends s. 447.02, defining “department” as the Bureau of Workplace Regulation of the Division of Workers’ Compensation of the Department of Insurance.

Section 56 - Section 61 Provides conforming changes.

Section 62 Amends s. 447.203, F.S., defining “professional employee” as any employee engaged in work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education, an apprenticeship, or training in the performance of routine mental or physical processes as well as three categories of work.

Section 63 Amends s. 447.205, F.S., providing conforming language. Deletes obsolete language.

Section 64 Amends s. 447.208, F.S., including language regarding the filing of a charge or petition pursuant to subsection (6) of s. 447.207, F.S., which concerns the resolution of claims.

Section 65 Amends s. 447.305, F.S., providing conforming language.

Section 66 Amends s. 447.307, F.S., allowing a party to petition the Public Employees Relations Commission, pursuant to its established procedures, to modify an existing certification due to changed circumstances, an inadvertent mistake by the commission in the original bargaining unit description, or newly created or deleted jobs, or to recognize a name change of the employee organization.

Section 67 Amends s. 447.503, F.S., authorizing the hearing officer, after waiting a reasonable time, to open the record, note a nonappearance, and close the hearing if a party fails to appear for a hearing. Directs the hearing to be reconvened only if the party establishes that the failure to appear was due to circumstances beyond his or her control.

Section 68 Amends s. 447.504, F.S., allowing the commission to stay determination of the amount of back pay, benefits, or attorney’s fees until the court decides the appeal.

Section 69 Transfers all powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Public Employees Relations Commission relating to the commission’s specified authority, powers, duties, and responsibilities by a type two transfer to DMS.

Section 70 Repeals s. 447.609, F.S., regarding representation in proceedings.

Section 71 Amends s. 450.012, F.S., defining the “department” as the Bureau of Workplace Regulation of the Division of Workers’ Compensation of the Department of Insurance.

Section 72 - Section 77 Provide conforming language.

Section 78 Amends s. 450.191, F.S., directing the Executive Office of the Governor to cooperate with the regional workforce boards and one-stop career centers in the recruitment and referral of migrant workers.

Section 79 Amends s. 450.28, F.S., defining “department” as the Bureau of Workplace Regulation of the Division of Workers’ Compensation of the Department of Insurance.

Section 80 - Section 86 Provide conforming language.

Section 87 Requires the Agency for Workforce Innovation to prepare a report with recommendations on the fiscal management of funds under the Unemployment Compensation Trust Fund and any other funds related to unemployment compensation activities conducted under state or federal law. Provides the report is to include, but not be limited to, an analysis of options and recommendations for distributing unemployment compensation funds to units of state government with responsibilities under the unemployment compensation program and for allocating costs associated with such programs and funds. Requires the report be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the members of the Labor and Employment Security Transition Team by January 1, 2001.

Requires the Department of Revenue to conduct a feasibility study regarding the privatization of unemployment tax collection services or other functions of the state related to unemployment compensation activities conducted under state or federal law. Requires the findings and recommendations to be submitted in a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2001.

Provides the section is to take effect upon the bill becoming a law.

Section 88 Authorizes DLES, in conjunction with DMS, to offer, subject to the provisions of this section, active employees of DLES who have 27 or more years of creditable service in a state-administered retirement system, a one-time voluntary reduction-in-force payment during the 2000-01 fiscal year, not to exceed \$20,000. Provides that for those employees with 27 or more years but less than 30 years of creditable service, the payment will be reduced by the amount required to be paid by DLES to the Division of Retirement for reimbursement of the normal retirement contributions and any penalties. Sets the length of period upon which the reimbursement is paid at no more than 36 months. Provides that the remaining balance of the payment will be paid to the employee. Provides that employees of the department within the Senior Executive Service or the Senior Management Service are eligible for the payment; however, any contribution by the department for such employees to the Division of Retirement exceeding \$20,000 is to be paid by those employees. Requires all employees who elect to retire under the program to do so by September 30, 2000, with the exception of employees of the Division of Vocational Rehabilitation and the Division of Safety, who must retire by June 30, 2000.

Requires the plan to be submitted to the Legislature subject to the notice, review, and objection process authorized in s. 216.177, F.S., if approved by the Office of Policy and Budget.

Provides the section will take effect upon this bill becoming law.

Section 89 Provides that any binding contract or interagency agreement existing on or before January 1, 2001, between DLES or an entity or agent of the department, and any other agency, entity, or person is to continue as a binding contract or agreement with the successor department, agency, or entity responsible for the program or activity.

Section 90 Provides that the act does not affect the validity of any judicial or administrative proceeding involving DLES which is pending as of the effective date of any transfer under this act. Requires the successor department, agency, or entity responsible for the program

or activity relative to the proceeding to be the substitute for DLES as the party of interest in any such proceeding.

Section 91 Provides that if any provision of the act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of the act are severable.

Section 92 Except as otherwise expressly provided in the act, this act shall take effect July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate.

2. Expenditures:

Indeterminate

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has yet to review this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Business Development & International Trade Committee adopted a strike-everything amendment on April 17, 2000, which made substantial changes to the bill.

On April 26, 2000, the Committee on Transportation & Economic Development Appropriations adopted a Committee Substitute which produced significant changes. See the Section-by-Section Analysis for further detail.

VI. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

Staff Director:

James Marshall Cox

J. Paul Whitfield, Jr.

AS REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:

Staff Director:

Loretta J. Darity

Eliza Hawkins