

By the Committee on Banking and Insurance

311-635D-01

1 A bill to be entitled
2 An act relating to the judges of compensation
3 claims; amending s. 112.3145, F.S.; redefining
4 the term "specified state employee" to include
5 the Deputy Chief Judge of Compensation Claims;
6 amending s. 120.65, F.S.; establishing
7 requirements for the Deputy Chief Judge;
8 amending s. 121.055, F.S.; including the Deputy
9 Chief Judge in the Senior Management Service
10 Class; conforming provisions to the transfer of
11 the judges of compensation claims from the
12 Department of Labor and Employment Security to
13 the Division of Administrative Hearings;
14 amending s. 381.004, F.S.; conforming
15 provisions to the transfer of the judges of
16 compensation claims to the Division of
17 Administrative Hearings; amending s. 440.105,
18 F.S.; reclassifying the Chief Judge of
19 Compensation Claims as the Deputy Chief Judge
20 of Compensation Claims; amending s. 440.192,
21 F.S.; revising requirements and procedures for
22 the petition for benefits; permitting judges to
23 dismiss portions of the petition; specifying
24 that dismissal of petition is without
25 prejudice; amending s. 440.20, F.S.; waiving
26 hearing requirements under certain
27 circumstances; revising the period for payment;
28 revising lump-sum settlement reporting
29 requirements; amending s. 440.25, F.S.;
30 revising mediation procedures; requiring
31 written consent of the claimant for

1 continuances; authorizing the director of the
2 Division of Administrative Hearings to employ
3 mediators; requiring the director of the
4 Division of Administrative Hearings to file an
5 annual report; eliminating adoption and
6 enforcement of local rules; amending s. 440.29,
7 F.S.; conforming provisions to the
8 reclassification of the Chief Judge as the
9 Deputy Chief Judge of Compensation Claims;
10 amending s. 440.345, F.S.; providing for the
11 reporting of information concerning attorney's
12 fees to the Office of the Judges of
13 Compensation Claims instead of the Division of
14 Workers' Compensation; amending s. 440.44,
15 F.S.; authorizing the director of the Division
16 of Administrative Hearings to make expenditures
17 relating to the Office of the Judges of
18 Compensation Claims; requiring legislative
19 approval before modifying the number or
20 location of the judges or mediators; conforming
21 provisions to the transfer of the Office of the
22 Judges of Compensation Claims to the Division
23 of Administrative Hearings; amending s.
24 440.442, F.S.; revising Judicial Code of
25 Conduct requirements; amending s. 440.45, F.S.;
26 eliminating the Chief Judge position; creating
27 the position of Deputy Chief Judge of
28 Compensation Claims; conforming provisions to
29 the transfer of the judges of compensation
30 claims from the Department of Labor and
31 Employment Security to the Division of

1 Administrative Hearings within the Department
2 of Management Services; requiring nominees for
3 the judges of compensation claims to meet
4 additional experience requirements; authorizing
5 the director of the Division of Administrative
6 Hearings to initiate and investigate complaints
7 against the Deputy Chief Judge and judges of
8 compensation claims and make recommendations to
9 the Governor; requiring the statewide
10 nominating commission to consider whether
11 judges of compensation claims have met certain
12 statutory requirements; revising procedures;
13 authorizing the Governor to appoint temporary
14 judges of compensation claims; requiring the
15 Office of the Judges of Compensation Claims to
16 collect certain data for the statewide
17 nominating commission; revising reporting
18 requirements for the judges of compensation
19 claims; amending s. 440.47, F.S.; conforming
20 provisions to the reclassification of the Chief
21 Judge as the Deputy Chief Judge; providing that
22 the director of the Division of Administrative
23 Hearings must approve travel expenses; amending
24 s. 440.59, F.S.; revising reporting
25 requirements; transferring the Office of the
26 Judges of Compensation Claims to the Division
27 of Administrative Hearings; transferring
28 positions from the Division of Workers'
29 Compensation to the Office of Judges of
30 Compensation Claims; providing an effective
31 date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Paragraph (b) of subsection (1) and
4 subsection (4) of section 112.3145, Florida Statutes, are
5 amended to read:

6 112.3145 Disclosure of financial interests and clients
7 represented before agencies.--

8 (1) For purposes of this section, unless the context
9 otherwise requires, the term:

10 (b) "Specified state employee" means:

11 1. Public counsel created by chapter 350, an assistant
12 state attorney, an assistant public defender, a full-time
13 state employee who serves as counsel or assistant counsel to
14 any state agency, the Deputy Chief Judge of Compensation
15 Claims, a judge of compensation claims, an administrative law
16 judge, or a hearing officer.

17 2. Any person employed in the office of the Governor
18 or in the office of any member of the Cabinet if that person
19 is exempt from the Career Service System, except persons
20 employed in clerical, secretarial, or similar positions.

21 3. Each appointed secretary, assistant secretary,
22 deputy secretary, executive director, assistant executive
23 director, or deputy executive director of each state
24 department, commission, board, or council; unless otherwise
25 provided, the division director, assistant division director,
26 deputy director, bureau chief, and assistant bureau chief of
27 any state department or division; or any person having the
28 power normally conferred upon such persons, by whatever title.

29 4. The superintendent or institute director of a state
30 mental health institute established for training and research
31 in the mental health field or the warden or director of any

1 major state institution or facility established for
2 corrections, training, treatment, or rehabilitation.

3 5. Business managers, purchasing agents having the
4 power to make any purchase exceeding the threshold amount
5 provided for in s. 287.017 for CATEGORY ONE, finance and
6 accounting directors, personnel officers, or grants
7 coordinators for any state agency.

8 6. Any person, other than a legislative assistant
9 exempted by the presiding officer of the house by which the
10 legislative assistant is employed, who is employed in the
11 legislative branch of government, except persons employed in
12 maintenance, clerical, secretarial, or similar positions.

13 7. Each employee of the Commission on Ethics.

14 (4) Each elected constitutional officer, state
15 officer, local officer, and specified state employee shall
16 file a quarterly report of the names of clients represented
17 for a fee or commission, except for appearances in ministerial
18 matters, before agencies at his or her level of government.
19 For the purposes of this part, agencies of government shall be
20 classified as state-level agencies or agencies below state
21 level. Each local officer shall file such report with the
22 supervisor of elections of the county in which the officer is
23 principally employed or is a resident. Each state officer,
24 elected constitutional officer, and specified state employee
25 shall file such report with the commission. The report shall
26 be filed only when a reportable representation is made during
27 the calendar quarter and shall be filed no later than the last
28 day of each calendar quarter, for the previous calendar
29 quarter. Representation before any agency shall be deemed to
30 include representation by such officer or specified state
31 employee or by any partner or associate of the professional

1 firm of which he or she is a member and of which he or she has
2 actual knowledge. For the purposes of this subsection, the
3 term "representation before any agency" does not include
4 appearances before any court or the Deputy Chief Judge ~~Judges~~
5 of Compensation Claims or judges of compensation claims or
6 representations on behalf of one's agency in one's official
7 capacity. Such term does not include the preparation and
8 filing of forms and applications merely for the purpose of
9 obtaining or transferring a license based on a quota or a
10 franchise of such agency or a license or operation permit to
11 engage in a profession, business, or occupation, so long as
12 the issuance or granting of such license, permit, or transfer
13 does not require substantial discretion, a variance, a special
14 consideration, or a certificate of public convenience and
15 necessity.

16 Section 2. Subsection (1) of section 120.65, Florida
17 Statutes, is amended to read:

18 120.65 Administrative law judges.--

19 (1) The Division of Administrative Hearings within the
20 Department of Management Services shall be headed by a
21 director who shall be appointed by the Administration
22 Commission and confirmed by the Senate. The director, who
23 shall also serve as the chief administrative law judge, and
24 any deputy chief administrative law judge must possess the
25 same minimum qualifications as the administrative law judges
26 employed by the division. The Deputy Chief Judge of
27 Compensation Claims must possess the minimum qualifications
28 established in s. 440.45(2) and shall report to the director.
29 The division shall be a separate budget entity, and the
30 director shall be its agency head for all purposes. The
31 Department of Management Services shall provide administrative

1 support and service to the division to the extent requested by
2 the director. The division shall not be subject to control,
3 supervision, or direction by the Department of Management
4 Services in any manner, including, but not limited to,
5 personnel, purchasing, transactions involving real or personal
6 property, and budgetary matters.

7 Section 3. Paragraph (i) of subsection (1) of section
8 121.055, Florida Statutes, is amended to read:

9 121.055 Senior Management Service Class.--There is
10 hereby established a separate class of membership within the
11 Florida Retirement System to be known as the "Senior
12 Management Service Class," which shall become effective
13 February 1, 1987.

14 (1)

15 (i)1. Except as provided in subparagraph 2., effective
16 July 1, 1999, participation in the Senior Management Service
17 Class is compulsory for any member of the Florida Retirement
18 System who is employed as the Deputy Chief Judge of
19 Compensation Claims or as a judge of compensation claims with
20 the Office of the Judges of Compensation Claims within the
21 Division of Administrative Hearings ~~Department of Labor and~~
22 ~~Employment Security.~~

23 2. In lieu of participating in the Senior Management
24 Service Class, the Deputy Chief Judge of Compensation Claims
25 or a judge of compensation claims may participate in the
26 Senior Management Service Optional Annuity Program established
27 under subsection (6).

28 Section 4. Paragraph (e) of subsection (3) of section
29 381.004, Florida Statutes, is amended to read:

30 381.004 HIV testing.--

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1 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
2 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

3 (e) Except as provided in this section, the identity
4 of any person upon whom a test has been performed and test
5 results are confidential and exempt from the provisions of s.
6 119.07(1). No person who has obtained or has knowledge of a
7 test result pursuant to this section may disclose or be
8 compelled to disclose the identity of any person upon whom a
9 test is performed, or the results of such a test in a manner
10 which permits identification of the subject of the test,
11 except to the following persons:

12 1. The subject of the test or the subject's legally
13 authorized representative.

14 2. Any person, including third-party payors,
15 designated in a legally effective release of the test results
16 executed prior to or after the test by the subject of the test
17 or the subject's legally authorized representative. The test
18 subject may in writing authorize the disclosure of the test
19 subject's HIV test results to third party payors, who need not
20 be specifically identified, and to other persons to whom the
21 test subject subsequently issues a general release of medical
22 information. A general release without such prior written
23 authorization is not sufficient to release HIV test results.

24 3. An authorized agent or employee of a health
25 facility or health care provider if the health facility or
26 health care provider itself is authorized to obtain the test
27 results, the agent or employee participates in the
28 administration or provision of patient care or handles or
29 processes specimens of body fluids or tissues, and the agent
30 or employee has a need to know such information. The

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1 department shall adopt a rule defining which persons have a
2 need to know pursuant to this subparagraph.

3 4. Health care providers consulting between themselves
4 or with health care facilities to determine diagnosis and
5 treatment. For purposes of this subparagraph, health care
6 providers shall include licensed health care professionals
7 employed by or associated with state, county, or municipal
8 detention facilities when such health care professionals are
9 acting exclusively for the purpose of providing diagnoses or
10 treatment of persons in the custody of such facilities.

11 5. The department, in accordance with rules for
12 reporting and controlling the spread of disease, as otherwise
13 provided by state law.

14 6. A health facility or health care provider which
15 procures, processes, distributes, or uses:

16 a. A human body part from a deceased person, with
17 respect to medical information regarding that person; or

18 b. Semen provided prior to July 6, 1988, for the
19 purpose of artificial insemination.

20 7. Health facility staff committees, for the purposes
21 of conducting program monitoring, program evaluation, or
22 service reviews pursuant to chapters 395 and 766.

23 8. Authorized medical or epidemiological researchers
24 who may not further disclose any identifying characteristics
25 or information.

26 9. A person allowed access by a court order which is
27 issued in compliance with the following provisions:

28 a. No court of this state shall issue such order
29 unless the court finds that the person seeking the test
30 results has demonstrated a compelling need for the test
31 results which cannot be accommodated by other means. In

1 assessing compelling need, the court shall weigh the need for
2 disclosure against the privacy interest of the test subject
3 and the public interest which may be disserved by disclosure
4 which deters blood, organ, and semen donation and future human
5 immunodeficiency virus-related testing or which may lead to
6 discrimination. This paragraph shall not apply to blood bank
7 donor records.

8 b. Pleadings pertaining to disclosure of test results
9 shall substitute a pseudonym for the true name of the subject
10 of the test. The disclosure to the parties of the subject's
11 true name shall be communicated confidentially in documents
12 not filed with the court.

13 c. Before granting any such order, the court shall
14 provide the individual whose test result is in question with
15 notice and a reasonable opportunity to participate in the
16 proceedings if he or she is not already a party.

17 d. Court proceedings as to disclosure of test results
18 shall be conducted in camera, unless the subject of the test
19 agrees to a hearing in open court or unless the court
20 determines that a public hearing is necessary to the public
21 interest and the proper administration of justice.

22 e. Upon the issuance of an order to disclose test
23 results, the court shall impose appropriate safeguards against
24 unauthorized disclosure which shall specify the persons who
25 may have access to the information, the purposes for which the
26 information shall be used, and appropriate prohibitions on
27 future disclosure.

28 10. A person allowed access by order of a judge of
29 compensation claims of the Division of Administrative Hearings
30 ~~Workers' Compensation of the Department of Labor and~~
31 ~~Employment Security~~. A judge of compensation claims shall not

1 issue such order unless he or she finds that the person
2 seeking the test results has demonstrated a compelling need
3 for the test results which cannot be accommodated by other
4 means.

5 11. Those employees of the department or of
6 child-placing or child-caring agencies or of family foster
7 homes, licensed pursuant to s. 409.175, who are directly
8 involved in the placement, care, control, or custody of such
9 test subject and who have a need to know such information;
10 adoptive parents of such test subject; or any adult custodian,
11 any adult relative, or any person responsible for the child's
12 welfare, if the test subject was not tested under subparagraph
13 (b)2. and if a reasonable attempt has been made to locate and
14 inform the legal guardian of a test result. The department
15 shall adopt a rule to implement this subparagraph.

16 12. Those employees of residential facilities or of
17 community-based care programs that care for developmentally
18 disabled persons, pursuant to chapter 393, who are directly
19 involved in the care, control, or custody of such test subject
20 and who have a need to know such information.

21 13. A health care provider involved in the delivery of
22 a child can note the mother's HIV test results in the child's
23 medical record.

24 14. Medical personnel or nonmedical personnel who have
25 been subject to a significant exposure during the course of
26 medical practice or in the performance of professional duties,
27 or individuals who are the subject of the significant exposure
28 as provided in subparagraphs (h)10., 11., and 13.

29 15. The medical examiner shall disclose positive HIV
30 test results to the department in accordance with rules for
31 reporting and controlling the spread of disease.

1 Section 5. Paragraph (b) of section (3) of section
2 440.105, Florida Statutes, is amended to read:

3 440.105 Prohibited activities; reports; penalties;
4 limitations.--

5 (3) Whoever violates any provision of this subsection
6 commits a misdemeanor of the first degree, punishable as
7 provided in s. 775.082 or s. 775.083.

8 (b) It is ~~shall be~~ unlawful for any attorney or other
9 person, in his or her individual capacity or in his or her
10 capacity as a public or private employee, or for any firm,
11 corporation, partnership, or association to receive any fee or
12 other consideration or any gratuity from a person on account
13 of services rendered for a person in connection with any
14 proceedings arising under this chapter, unless such fee,
15 consideration, or gratuity is approved by a judge of
16 compensation claims or by the Deputy Chief Judge of
17 Compensation Claims.

18 Section 6. Subsections (1) and (2) of section 440.192,
19 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 serve by certified mail upon
24 the employer, the employer's carrier, and the Office of the
25 Judges of Compensation Claims ~~division~~ in Tallahassee a
26 petition for benefits that meets the requirements of this
27 section. The Deputy Chief Judge ~~division~~ shall refer the
28 petitions ~~petition~~ to the ~~Office of the~~ judges of compensation
29 claims.

30 (2) The ~~Office of the~~ judges of compensation claims
31 shall review each petition and shall dismiss each petition or

- 1 any portion of the petition, upon the judge's ~~its~~ own motion
2 or upon the motion of any party, that does not on its face
3 specifically identify or itemize the following:
- 4 (a) Name, address, telephone number, and social
5 security number of the employee.
- 6 (b) Name, address, and telephone number of the
7 employer.
- 8 (c) A detailed description of the injury and cause of
9 the injury, including the location of the occurrence.
- 10 (d) A detailed description of the employee's job, work
11 responsibilities, and work the employee was performing when
12 the injury occurred.
- 13 (e) The time period for which compensation was not
14 timely provided.
- 15 (f) Date of maximum medical improvement, character of
16 disability, and specific statement of all benefits or
17 compensation that the employee is seeking.
- 18 (g) All travel costs to which the employee believes
19 she or he is entitled, including dates of travel and purpose
20 of travel, means of transportation, and mileage.
- 21 (h) Specific listing of all medical charges alleged
22 unpaid, including the name and address of the medical
23 provider, the amounts due, and the specific dates of
24 treatment.
- 25 (i) The type or nature of treatment care or attendance
26 sought and the justification for such treatment.
- 27 (j) Specific explanation of any other disputed issue
28 that a judge of compensation claims will be called to rule
29 upon.
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1 The dismissal of any petition or any portion of the petition
2 under this section is without prejudice and does not require a
3 hearing.

4 Section 7. Paragraph (a) of subsection (11) and
5 paragraph (c) of subsection (12) of section 440.20, Florida
6 Statutes, are amended to read:

7 440.20 Time for payment of compensation; penalties for
8 late payment.--

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

1 payment of a lump sum. Such a compensation order so entered
2 upon joint petition of all interested parties is not subject
3 to modification or review under s. 440.28. If the settlement
4 proposal together with supporting evidence is not approved by
5 the judge of compensation claims, it shall be considered void.
6 Upon approval of a lump-sum settlement under this subsection,
7 the judge of compensation claims shall send a report to the
8 Deputy Chief Judge of the amount of the settlement and a
9 statement of the nature of the controversy. The Deputy Chief
10 Judge shall keep a record of all such reports filed by each
11 judge of compensation claims and shall submit to the
12 Legislature a summary of all such reports filed under this
13 subsection annually by September 15.

14 (12)

15 (c) In the event the claimant has not returned to the
16 same or equivalent employment with no substantial reduction in
17 wages or has suffered a substantial loss of earning capacity
18 or a physical impairment, actual or apparent:

19 1. An advance payment of compensation not in excess of
20 \$2,000 may be approved informally by letter, without hearing,
21 by any judge of compensation claims or the Deputy Chief Judge.

22 2. An advance payment of compensation not in excess of
23 \$2,000 may be ordered by any judge of compensation claims
24 after giving the interested parties an opportunity for a
25 hearing thereon pursuant to not less than 10 days' notice by
26 mail, unless such notice is waived, and after giving due
27 consideration to the interests of the person entitled thereto.
28 When the parties have stipulated to an advance payment of
29 compensation not in excess of \$2,000, such advance may be
30 approved by an order of a judge of compensation claims, with
31 or without hearing, or informally by letter by any such judge

1 of compensation claims, or by the division director, if such
2 advance is found to be for the best interests of the person
3 entitled thereto.

4 3. When the parties have stipulated to an advance
5 payment in excess of \$2,000, subject to the approval of the
6 division, such payment may be approved by a judge of
7 compensation claims by order if the judge finds that such
8 advance payment is for the best interests of the person
9 entitled thereto and is reasonable under the circumstances of
10 the particular case. The judge of compensation claims shall
11 make or cause to be made such investigations as she or he
12 considers necessary concerning the stipulation and, in her or
13 his discretion, may have an investigation of the matter made
14 by the Rehabilitation Section of the division. The stipulation
15 and the report of any investigation shall be deemed a part of
16 the record of the proceedings.

17 Section 8. Subsections (2), (3), and (4) of section
18 440.25, Florida Statutes, are amended to read:

19 440.25 Procedures for mediation and hearings.--

20 (2) Any party who participates in a mediation
21 conference shall not be precluded from requesting a hearing
22 following the mediation conference should both parties not
23 agree to be bound by the results of the mediation conference.
24 A mediation conference is required to be held unless this
25 requirement is waived by the Deputy Chief Judge. No later than
26 3 days prior to the mediation conference, all parties must
27 submit any applicable motions, including, but not limited to,
28 a motion to waive the mediation conference, to the judge of
29 compensation claims.

30 (3) Such mediation conference shall be conducted
31 informally and does not require the use of formal rules of

1 evidence or procedure. Any information from the files,
2 reports, case summaries, mediator's notes, or other
3 communications or materials, oral or written, relating to a
4 mediation conference under this section obtained by any person
5 performing mediation duties is privileged and confidential and
6 may not be disclosed without the written consent of all
7 parties to the conference. Any research or evaluation effort
8 directed at assessing the mediation program activities or
9 performance must protect the confidentiality of such
10 information. Each party to a mediation conference has a
11 privilege during and after the conference to refuse to
12 disclose and to prevent another from disclosing communications
13 made during the conference whether or not the contested issues
14 are successfully resolved. This subsection and paragraphs
15 (4)(a) and (b) shall not be construed to prevent or inhibit
16 the discovery or admissibility of any information that is
17 otherwise subject to discovery or that is admissible under
18 applicable law or rule of procedure, except that any conduct
19 or statements made during a mediation conference or in
20 negotiations concerning the conference are inadmissible in any
21 proceeding under this chapter. The director of the Division of
22 Administrative Hearings ~~Chief Judge~~ shall select a mediator.
23 The mediator shall be employed on a full-time basis by the
24 Office of the Judges of Compensation Claims. A mediator must
25 be a member of The Florida Bar for at least 5 years and must
26 complete a mediation training program approved by the director
27 of the Division of Administrative Hearings ~~Chief Judge~~.
28 Adjunct mediators may be employed by the Office of the Judges
29 of Compensation Claims on an as-needed basis and shall be
30 selected from a list prepared by the director of the Division
31 of Administrative Hearings ~~Chief Judge~~. An adjunct mediator

1 must be independent of all parties participating in the
2 mediation conference. An adjunct mediator must be a member of
3 The Florida Bar for at least 5 years and must complete a
4 mediation training program approved by the director of the
5 Division of Administrative Hearings ~~Chief Judge~~. An adjunct
6 mediator shall have access to the office, equipment, and
7 supplies of the judge of compensation claims in each district.
8 In the event both parties agree, the results of the mediation
9 conference shall be binding and neither party shall have a
10 right to appeal the results. In the event either party refuses
11 to agree to the results of the mediation conference, the
12 results of the mediation conference as well as the testimony,
13 witnesses, and evidence presented at the conference shall not
14 be admissible at any subsequent proceeding on the claim. The
15 mediator shall not be called in to testify or give deposition
16 to resolve any claim for any hearing before the judge of
17 compensation claims. The employer may be represented by an
18 attorney at the mediation conference if the employee is also
19 represented by an attorney at the mediation conference.

20 (4)(a) If, on the 10th day following commencement of
21 mediation, the questions in dispute have not been resolved,
22 the judge of compensation claims shall hold a pretrial
23 hearing. The judge of compensation claims shall give the
24 interested parties at least 7 days' advance notice of the
25 pretrial hearing by mail. At the pretrial hearing, the judge
26 of compensation claims shall, subject to paragraph (b), set a
27 date for the final hearing that allows the parties at least 30
28 days to conduct discovery unless the parties consent to an
29 earlier hearing date.

30 (b) The final hearing must be held and concluded
31 within 45 days after the pretrial hearing. Continuances may be

1 granted only if the requesting party demonstrates to the judge
2 of compensation claims that the reason for requesting the
3 continuance arises from circumstances beyond the party's
4 control. The written consent of the claimant must be obtained
5 before any request is granted for an additional continuance
6 after the initial continuance has been granted.

7 (c) The judge of compensation claims shall give the
8 interested parties at least 7 days' advance notice of the
9 final hearing, served upon the interested parties by mail.

10 (d) The hearing shall be held in the county where the
11 injury occurred, if the injury occurred in this state, unless
12 otherwise agreed to between the parties and authorized by the
13 judge of compensation claims in the county where the injury
14 occurred. If the injury occurred without the state and is one
15 for which compensation is payable under this chapter, then the
16 hearing above referred to may be held in the county of the
17 employer's residence or place of business, or in any other
18 county of the state which will, in the discretion of the
19 Deputy Chief Judge, be the most convenient for a hearing. The
20 hearing shall be conducted by a judge of compensation claims,
21 who shall, within 30 ~~14~~ days after final hearing or closure of
22 the hearing record, unless otherwise agreed by the parties,
23 enter a final order on the merits of the disputed issues
24 ~~determine the dispute in a summary manner. The judge of~~
25 compensation claims may enter an abbreviated final order in
26 cases in which compensability is not disputed. Either party
27 may request separate findings of fact and conclusions of law.

28 At such hearing, the claimant and employer may each present
29 evidence in respect of such claim and may be represented by
30 any attorney authorized in writing for such purpose. When
31 there is a conflict in the medical evidence submitted at the

1 hearing, the provisions of s. 440.13 shall apply. The report
2 or testimony of the expert medical advisor shall be made a
3 part of the record of the proceeding and shall be given the
4 same consideration by the judge of compensation claims as is
5 accorded other medical evidence submitted in the proceeding;
6 and all costs incurred in connection with such examination and
7 testimony may be assessed as costs in the proceeding, subject
8 to the provisions of s. 440.13. No judge of compensation
9 claims may make a finding of a degree of permanent impairment
10 that is greater than the greatest permanent impairment rating
11 given the claimant by any examining or treating physician,
12 except upon stipulation of the parties.

13 (e) The order making an award or rejecting the claim,
14 referred to in this chapter as a "compensation order," shall
15 set forth the findings of ultimate facts and the mandate; and
16 the order need not include any other reason or justification
17 for such mandate. The compensation order shall be filed with
18 the Office of the Judges of Compensation Claims in the office
19 of the division at Tallahassee. A copy of such compensation
20 order shall be sent by mail to the parties and attorneys of
21 record at the last known address of each, with the date of
22 mailing noted thereon.

23 (f) Each judge of compensation claims is required to
24 submit a special report to the Deputy Chief Judge in each
25 contested workers' compensation case in which the case is not
26 determined within 30 ~~14~~ days of final hearing or closure of
27 the hearing record. Said form shall be provided by the
28 director of the Division of Administrative Hearings ~~Chief~~
29 ~~Judge~~ and shall contain the names of the judge of compensation
30 claims and of the attorneys involved and a brief explanation
31 by the judge of compensation claims as to the reason for such

1 a delay in issuing a final order. ~~The Chief Judge shall~~
2 ~~compile these special reports into an annual public report to~~
3 ~~the Governor, the Secretary of Labor and Employment Security,~~
4 ~~the Legislature, The Florida Bar, and the appellate district~~
5 ~~judicial nominating commissions.~~

6 ~~(g) Judges of compensation claims shall adopt and~~
7 ~~enforce uniform local rules for workers' compensation.~~

8 (g)~~(h)~~ Notwithstanding any other provision of this
9 section, the judge of compensation claims may require the
10 appearance of the parties and counsel before her or him
11 without written notice for an emergency conference where there
12 is a bona fide emergency involving the health, safety, or
13 welfare of an employee. An emergency conference under this
14 section may result in the entry of an order or the rendering
15 of an adjudication by the judge of compensation claims.

16 (h)~~(i)~~ To expedite dispute resolution and to enhance
17 the self-executing features of the Workers' Compensation Law,
18 the Deputy Chief Judge shall make provision by rule or order
19 for the resolution of appropriate motions by judges of
20 compensation claims without oral hearing upon submission of
21 brief written statements in support and opposition, and for
22 expedited discovery and docketing.

23 (i)~~(j)~~ To further expedite dispute resolution and to
24 enhance the self-executing features of the system, those
25 petitions filed in accordance with s. 440.192 that involve a
26 claim for benefits of \$5,000 or less shall, in the absence of
27 compelling evidence to the contrary, be presumed to be
28 appropriate for expedited resolution under this paragraph; and
29 any other claim filed in accordance with s. 440.192, upon the
30 written agreement of both parties and application by either
31 party, may similarly be resolved under this paragraph. For

1 purposes of expedited resolution pursuant to this paragraph,
2 the Deputy Chief Judge shall make provision by rule or order
3 for expedited and limited discovery and expedited docketing in
4 such cases. At least 15 days prior to hearing, the parties
5 shall exchange and file with the judge of compensation claims
6 a pretrial outline of all issues, defenses, and witnesses on a
7 form promulgated by the Deputy Chief Judge; provided, in no
8 event shall such hearing be held without 15 days' written
9 notice to all parties. No pretrial hearing shall be held. The
10 judge of compensation claims shall limit all argument and
11 presentation of evidence at the hearing to a maximum of 30
12 minutes, and such hearings shall not exceed 30 minutes in
13 length. Neither party shall be required to be represented by
14 counsel. The employer or carrier may be represented by an
15 adjuster or other qualified representative. The employer or
16 carrier and any witness may appear at such hearing by
17 telephone. The rules of evidence shall be liberally construed
18 in favor of allowing introduction of evidence.

19 Section 9. Subsection (2) of section 440.29, Florida
20 Statutes, is amended to read:

21 440.29 Procedure before the judge of compensation
22 claims.--

23 (2) Hearings before the judge of compensation claims
24 shall be open to the public, and the Deputy Chief Judge is
25 authorized to designate the manner in which particular types
26 of hearings are recorded and reported and, when necessary, to
27 contract for the reporting of such hearings. The Deputy Chief
28 Judge shall arrange for the preparation of a record of the
29 hearings and other proceedings before judges of compensation
30 claims, as necessary, and is authorized to allow for the
31 attendance of court reporters at hearings, for preparation of

1 transcripts of testimony, for copies of any instrument, and
2 for other reporting or recording services. The Deputy Chief
3 Judge may charge the same fees allowed by law or court rule to
4 reporters, persons preparing transcripts, or clerks of courts
5 of this state for like services.

6 Section 10. Section 440.345, Florida Statutes, is
7 amended to read:

8 440.345 Reporting of attorney's fees.--All fees paid
9 to attorneys for services rendered under this chapter shall be
10 reported to the Office of the Judges of Compensation Claims
11 ~~division as the division requires by rule. The division shall~~
12 ~~annually summarize such data in a report to the Workers'~~
13 ~~Compensation Oversight Board.~~

14 Section 11. Subsections (3), (5), (6), and (7) of
15 section 440.44, Florida Statutes, are amended to read:

16 440.44 Workers' compensation; staff organization.--

17 (3) EXPENDITURES.--The division and the director of
18 the Division of Administrative Hearings ~~Chief Judge~~ shall make
19 such expenditures, including expenditures for personal
20 services and rent at the seat of government and elsewhere, for
21 law books; for telephone services and WATS lines; for books of
22 reference, periodicals, equipment, and supplies; and for
23 printing and binding as may be necessary in the administration
24 of this chapter. All expenditures in the administration of
25 this chapter shall be allowed and paid as provided in s.
26 440.50 upon the presentation of itemized vouchers therefor
27 approved by the division or the director of the Division of
28 Administrative Hearings ~~Chief Judge~~.

29 (5) OFFICE.--The division and the Deputy Chief Judge
30 shall maintain and keep open during reasonable business hours
31 an office, which shall be provided in the Capitol or some

1 other suitable building in the City of Tallahassee, for the
2 transaction of business under this chapter, at which office
3 the official records and papers shall be kept. The office
4 shall be furnished and equipped. The division, any judge of
5 compensation claims, or the Deputy Chief Judge may hold
6 sessions and conduct hearings at any place within the state.
7 The Office of the Judges of Compensation Claims shall maintain
8 the 17 district offices, 31 judges of compensation claims, and
9 31 mediators as they exist on June 30, 2001.

10 (6) SEAL.--The ~~division, the~~ judges of compensation
11 claims, and the Deputy Chief Judge shall have a seal upon
12 which shall be inscribed the words "State of Florida Division
13 of Administrative Hearings ~~Department of Labor and Employment~~
14 ~~Security~~--Seal."

15 (7) DESTRUCTION OF OBSOLETE RECORDS.--The division may
16 ~~is expressly authorized to~~ provide by rule ~~regulation~~ for the
17 destruction of ~~and to destroy~~ obsolete records of the division
18 ~~and commission.~~ The Division of Administrative Hearings may
19 provide by rule for the destruction of obsolete records of the
20 Office of the Judges of Compensation Claims.

21 Section 12. Section 440.442, Florida Statutes, is
22 amended to read:

23 440.442 Code of Judicial Conduct.--The Deputy Chief
24 Judge, and judges of compensation claims shall observe and
25 abide by the Code of Judicial Conduct as adopted by the
26 Florida Supreme Court ~~provided in this section.~~ Any material
27 violation of a provision of the Code of Judicial Conduct shall
28 constitute either malfeasance or misfeasance in office and
29 shall be grounds for suspension and removal of the Deputy ~~such~~
30 Chief Judge, or judge of compensation claims by the Governor.

31

1 ~~(1) A JUDGE SHOULD UPHOLD THE INTEGRITY AND~~
2 ~~INDEPENDENCE OF THE JUDICIARY.--An independent and honorable~~
3 ~~judiciary is indispensable to justice in our society. A judge~~
4 ~~should participate in establishing, maintaining, and~~
5 ~~enforcing, and should himself or herself observe, high~~
6 ~~standards of conduct so that the integrity and independence of~~
7 ~~the judiciary may be preserved. The provisions of this code~~
8 ~~should be construed and applied to further that objective.~~

9 ~~(2) A JUDGE SHOULD AVOID IMPROPRIETY AND THE~~
10 ~~APPEARANCE OF IMPROPRIETY IN ALL HIS OR HER ACTIVITIES.--~~

11 ~~(a) A judge should respect and comply with the law and~~
12 ~~should conduct himself or herself at all times in a manner~~
13 ~~that promotes public confidence in the integrity and~~
14 ~~impartiality of the judiciary.~~

15 ~~(b) A judge should not allow his or her personal~~
16 ~~relationships to influence his or her judicial conduct of~~
17 ~~judgment. A judge should not lend the prestige of the office~~
18 ~~to advance the private interest of others; nor convey or~~
19 ~~authorize others to convey the impression that they are in a~~
20 ~~special position to influence him or her. A judge should not~~
21 ~~testify voluntarily as a character witness.~~

22 ~~(3) A JUDGE SHOULD PERFORM THE DUTIES OF OFFICE~~
23 ~~IMPARTIALLY AND DILIGENTLY.--The judicial duties of a judge~~
24 ~~take precedence over all his or her other activities. The~~
25 ~~judicial duties include all the duties of office prescribed by~~
26 ~~law. In the performance of these duties, the following~~
27 ~~standards with respect to adjudicative responsibilities apply:~~

28 ~~(a) A judge should be faithful to the law and maintain~~
29 ~~professional competence in it. A judge should be unswayed by~~
30 ~~partisan interests, public clamor, or fear of criticism.~~

31

1 ~~(b) A judge should maintain order and decorum in~~
2 ~~proceedings.~~

3 ~~(c) A judge should be patient, dignified, and~~
4 ~~courteous to litigants, jurors, witnesses, lawyers, and others~~
5 ~~with whom he or she must deal in an official capacity, and~~
6 ~~should request similar conduct of lawyers, and of his or her~~
7 ~~staff, court officials, and others subject to his or her~~
8 ~~direction and control.~~

9 ~~(4) A JUDGE MAY ENGAGE IN ACTIVITIES TO IMPROVE THE~~
10 ~~LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE. --A~~
11 ~~judge, subject to the proper performance of his or her~~
12 ~~judicial duties, may engage in the following quasi-judicial~~
13 ~~activities, if in doing so he or she does not cast doubt on~~
14 ~~his or her capacity to decide impartially on any issue that~~
15 ~~may come before him or her:~~

16 ~~(a) Speak, write, lecture, teach, and participate in~~
17 ~~other activities concerning the law, the legal system, and the~~
18 ~~administration of justice.~~

19 ~~(b) Appear at a public hearing before an executive or~~
20 ~~legislative body or official on matters concerning the law,~~
21 ~~the legal system, and the administration of justice, and may~~
22 ~~otherwise consult with an executive or legislative body or~~
23 ~~official, but only on matters concerning the administration of~~
24 ~~justice.~~

25 ~~(c) Serve as a member, officer, or director of an~~
26 ~~organization or governmental agency devoted to the improvement~~
27 ~~of the law, the legal system, or the administration of justice~~
28 ~~and assist such an organization in raising funds and may~~
29 ~~participate in their management and investment, but should not~~
30 ~~personally participate in public fundraising activities.~~

31

1 ~~(d) Make recommendations to public and private~~
2 ~~fund-granting agencies on projects and programs concerning the~~
3 ~~law, the legal system, and the administration of justice.~~

4 ~~(5) A JUDGE SHOULD REGULATE EXTRAJUDICIAL ACTIVITIES~~
5 ~~TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL DUTIES.--~~

6 ~~(a) Avocational activities.--A judge may write,~~
7 ~~lecture, teach, and speak on nonlegal subjects, and engage in~~
8 ~~the arts, sports, or other social and recreational activities,~~
9 ~~if such avocational activities do not detract from the dignity~~
10 ~~of the office or interfere with the performance of judicial~~
11 ~~duties.~~

12 ~~(b) Civil and charitable activities.--A judge may not~~
13 ~~participate in civic and charitable activities that reflect~~
14 ~~adversely upon his or her impartiality or interfere with the~~
15 ~~performance of his or her duties. A judge may serve as an~~
16 ~~officer, director, trustee, or nonlegal advisory of an~~
17 ~~educational, religious, charitable, fraternal, or civic~~
18 ~~organization not conducted for the economic or political~~
19 ~~advantage of its members, subject to the following~~
20 ~~limitations:~~

21 ~~1. A judge should not serve if it is likely that the~~
22 ~~organization will be engaged in proceedings that would~~
23 ~~ordinarily come before him or her or will be regularly engaged~~
24 ~~in adversary proceedings in any court.~~

25 ~~2. A judge should not solicit funds for any~~
26 ~~educational, religious, charitable, fraternal, or civil~~
27 ~~organization, or use or permit the use of the prestige of the~~
28 ~~office for that purpose, but may be listed as an officer,~~
29 ~~director, or trustee of such an organization. A judge should~~
30 ~~not be a speaker or a guest of honor at any organization's~~
31 ~~fundraising events, but may attend such events.~~

1 ~~3. A judge should not give investment advice to such~~
2 ~~an organization, but may serve on its board of directors or~~
3 ~~trustees even though it has the responsibility for approving~~
4 ~~investment decisions.~~

5 ~~(c) Financial activities.--~~

6 ~~1. A judge should refrain from financial and business~~
7 ~~dealings that tend to reflect adversely on his or her~~
8 ~~impartiality, interfere with the proper performance of his or~~
9 ~~her judicial duties, exploit his or her judicial position, or~~
10 ~~involve the judge in frequent transactions with lawyers or~~
11 ~~persons likely to come before the court on which he or she~~
12 ~~serves.~~

13 ~~2. Subject to the requirements of subsection (1), a~~
14 ~~judge in an individual or corporate capacity may hold and~~
15 ~~manage investments, including real estate, and engage in other~~
16 ~~remunerative activity, but should not serve as an officer,~~
17 ~~director, manager, advisor, or employee of any business,~~
18 ~~except a closely held family business that does not conflict~~
19 ~~with subsection (1).~~

20 ~~3. A judge should manage his or her investments and~~
21 ~~other financial interests to minimize the number of cases in~~
22 ~~which he or she is disqualified. As soon as the judge can do~~
23 ~~so without serious financial detriment, he or she should~~
24 ~~divest himself or herself of investments and other financial~~
25 ~~interests that might require frequent disqualifications.~~

26 ~~4. A judge should not accept a gift, bequest, favor,~~
27 ~~or loan from anyone except as follows:~~

28 ~~a. A judge may accept a gift incident to a public~~
29 ~~testimonial to him or her; books supplied by publishers on a~~
30 ~~complimentary basis for official use; or an invitation to the~~
31 ~~judge and spouse to attend a bar-related function or activity~~

1 ~~devoted to the improvement of the law, the legal system, or~~
2 ~~the administration of justice;~~

3 ~~b. A judge may accept ordinary hospitality; a gift,~~
4 ~~bequest, favor, or loan from a relative; a wedding or an~~
5 ~~engagement gift; a loan from a lending institution in its~~
6 ~~regular course of business on the same terms generally~~
7 ~~available to persons who are not judges; or a scholarship or~~
8 ~~fellowship awarded on the same terms applied to other~~
9 ~~applicants;~~

10 ~~c. A judge may accept any other gift, bequest, favor,~~
11 ~~or loan exceeding \$100 only if the donor is not a party or~~
12 ~~other person whose interests have recently come or may likely~~
13 ~~come before him or her in the immediate future.~~

14 ~~5. A judge should make a reasonable effort to be~~
15 ~~informed about the personal financial interests of members of~~
16 ~~his or her family residing in the judge's household and shall~~
17 ~~report any gift, bequest, favor, or loan received thereby of~~
18 ~~which he or she has knowledge and which tends to reflect~~
19 ~~adversely on his or her impartiality, in the same manner as he~~
20 ~~or she reports compensation in subsection (6).~~

21 ~~6. For the purpose of this section, "member of his or~~
22 ~~her family residing in the judge's household" means any~~
23 ~~relative of a judge by blood or marriage, or a person treated~~
24 ~~by a judge as a member of his or her family, who resides in~~
25 ~~the judge's household.~~

26 ~~7. A judge is not required by this section to disclose~~
27 ~~his or her income, debts, or investments, except as provided~~
28 ~~in subsections (3) and (6).~~

29 ~~8. Information required by a judge in which his or her~~
30 ~~judicial capacity should not be used or disclosed by the judge~~
31

1 ~~in financial dealings or for any other purpose not related to~~
2 ~~his or her judicial duties.~~

3 ~~(6) FISCAL MATTERS OF JUDGES.--Fiscal matters of a~~
4 ~~judge should be conducted in a manner that will not give the~~
5 ~~appearance of influence or impropriety. A judge should~~
6 ~~regularly file public reports as required by s. 8, Art. II of~~
7 ~~the State Constitution, and should publicly report gifts.~~

8 ~~(a) Compensation for quasi-judicial and extrajudicial~~
9 ~~services and reimbursement of expenses.--A judge may receive~~
10 ~~compensation and reimbursement of expenses for the~~
11 ~~quasi-judicial and extrajudicial activities permitted by this~~
12 ~~section, if the source of such payments does not give the~~
13 ~~appearance of influencing the judge in his or her judicial~~
14 ~~duties or otherwise give the impression of impropriety subject~~
15 ~~to the following restrictions:~~

16 ~~1. Compensation: Compensation should not exceed a~~
17 ~~reasonable amount nor should it exceed what a person who is~~
18 ~~not a judge would receive for the same activity.~~

19 ~~2. Expense reimbursement: Expense reimbursement~~
20 ~~should be limited to the actual cost of travel, food, and~~
21 ~~lodging reasonably incurred by the judge and, where~~
22 ~~appropriate to the occasion, to his or her spouse. Any payment~~
23 ~~in excess of such an amount is compensation.~~

24 ~~(b) Public financial reporting.--~~

25 ~~1. Income and assets: A judge shall file such public~~
26 ~~reports as may be required by law for all public officials to~~
27 ~~comply fully with the provisions of s. 8, Art. II of the State~~
28 ~~Constitution. The form for public financial disclosure shall~~
29 ~~be that recommended or adopted by the Florida Commission on~~
30 ~~Ethics for use by all public officials. The form shall be~~

31

1 ~~filed in the office of the Commission on Ethics on the date~~
2 ~~prescribed by law.~~

3 2. ~~Gifts: A judge shall file a public report of all~~
4 ~~gifts which are required to be disclosed under Canons 5D(5)(h)~~
5 ~~and 6B(2) of the Code of Judicial Conduct. The report of gifts~~
6 ~~received in the preceding calendar year shall be filed in the~~
7 ~~office of the Commission on Ethics on or before July 1 of each~~
8 ~~year.~~

9 Section 13. Section 440.45, Florida Statutes, is
10 amended to read:

11 440.45 Office of the Judges of Compensation Claims.--

12 (1)(a) There is ~~hereby~~ created the Office of the
13 Judges of Compensation Claims within the Department of
14 Management Services ~~Labor and Employment Security~~. The Office
15 of the Judges of Compensation Claims shall be headed by the
16 Deputy Chief Judge of Compensation Claims. The Deputy Chief
17 Judge shall report to the director of the Division of
18 Administrative Hearings ~~a Chief Judge~~. The Deputy Chief Judge
19 shall be appointed by the Governor for a term of 4 years from
20 a list of three names submitted by the statewide nominating
21 commission created under subsection (2). The Deputy Chief
22 Judge must demonstrate prior administrative experience and
23 possess the same qualifications for appointment as a judge of
24 compensation claims, and the procedure for reappointment of
25 the Deputy Chief Judge will be the same as for reappointment
26 of a judge of compensation claims. The office shall be a
27 separate budget entity and the director of the Division of
28 Administrative Hearings ~~Chief Judge~~ shall be its agency head
29 for all purposes. The Department of Management Services ~~Labor~~
30 ~~and Employment Security~~ shall provide administrative support
31 and service to the office to the extent requested by the

1 director of the Division of Administrative Hearings ~~Chief~~
2 ~~Judge~~ but shall not direct, supervise, or control the Office
3 of the Judges of Compensation Claims in any manner, including,
4 but not limited to, personnel, purchasing, budgetary matters,
5 or property transactions. The operating budget of the Office
6 of the Judges of Compensation Claims shall be paid out of the
7 Workers' Compensation Administration Trust Fund established in
8 s. 440.50.

9 (b) The current term of the Chief Judge of
10 Compensation Claims expires October 1, 2001. The position of
11 Deputy Chief Judge of Compensation Claims is created and
12 becomes effective October 1, 2001.

13 (2)(a) The Governor shall appoint full-time judges of
14 compensation claims to conduct proceedings as required by this
15 chapter or other law. No person may be nominated to serve as a
16 judge of compensation claims unless he or she has been a
17 member of The Florida Bar in good standing for the prior 5
18 years and is experienced ~~knowledgeable~~ in the practice of law
19 of workers' compensation. No judge of compensation claims
20 shall engage in the private practice of law during a term of
21 office.

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

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

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

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

22 3. Five electors, at least one of whom must be a
23 member of a minority group as defined in s. 288.703(3), one of
24 each who resides in the territorial jurisdictions of the
25 district courts of appeal, selected and appointed by a
26 majority vote of the other 10 members of the commission. On
27 October 1, 1999, the term of office of each person appointed
28 to the commission by its other members expires. A majority of
29 the other members of the commission shall appoint members who
30 reside in the odd-numbered district court of appeal
31 jurisdictions to 2-year terms each, beginning October 1, 1999,

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

5
6 A vacancy occurring on the commission shall be filled by the
7 original appointing authority for the unexpired balance of the
8 term. No attorney who appears before any judge of compensation
9 claims more than four times a year is eligible to serve on the
10 statewide nominating commission. The meetings and
11 determinations of the nominating commission as to the judges
12 of compensation claims shall be open to the public.

13 (c) Each judge of compensation claims shall be
14 appointed for a term of 4 years, but during the term of office
15 may be removed by the Governor for cause. Prior to the
16 expiration of a judge's term of office, the statewide
17 nominating commission shall review the judge's conduct and
18 determine whether the judge's performance is satisfactory.
19 Effective July 1, 2002, in determining whether a judge's
20 performance is satisfactory, the commission shall consider the
21 extent to which the judge has met the requirements of this
22 chapter, including, but not limited to, the requirements of
23 ss. 440.192(2), 440.25(1), 440.25(4)(a)-(f), 440.34(2), and
24 440.442.If the judge's performance is deemed satisfactory,
25 the commission shall report its finding to the Governor no
26 later than 6 months prior to the expiration of the judge's
27 term of office. The Governor shall review the commission's
28 report and may reappoint the judge for an additional 4-year
29 term. If the Governor does not reappoint the judge, the
30 Governor shall inform the commission. The judge shall remain
31 in office until the Governor has appointed a successor judge

1 in accordance with paragraphs (a) and (b). If a vacancy occurs
2 during a judge's unexpired term, the statewide nominating
3 commission does not find the judge's performance is
4 satisfactory, or the Governor does not reappoint the judge,
5 the Governor shall appoint a successor judge for a term of 4
6 years in accordance with paragraph (b).

7 (d) The Governor may appoint any attorney who has 5
8 years of experience in the practice of law in this state to
9 serve as a Deputy Chief Judge or a judge of compensation
10 claims on a temporary basis in the absence or disqualification
11 of any full-time judge of compensation claims. However, an
12 attorney so appointed by the Governor may not serve for a
13 period exceeding 60 successive days.

14 (e) The director of the Division of Administrative
15 Hearings may receive or initiate complaints, conduct
16 investigations, and dismiss complaints against the Deputy
17 Chief Judge and the judges of compensation claims. The
18 director may recommend to the Governor the removal of the
19 Deputy Chief Judge or a judge of compensation claims or
20 recommend the discipline of a judge whose conduct during his
21 or her term of office warrants such discipline. For purposes
22 of this section, the term "discipline" includes reprimand,
23 fine, and suspension with or without pay. At the conclusion of
24 each investigation, the director shall submit preliminary
25 findings of fact and recommendations to the judge of
26 compensation claims who is the subject of the complaint. The
27 judge of compensation claims has 20 days within which to
28 respond to the tentative findings. The response and the
29 director's rebuttal to the response must be included in the
30 final report submitted to the Governor.

31

1 ~~(3) The Chief Judge shall select from among the full~~
2 ~~time judges of the office two or more judges to rotate as~~
3 ~~docketing judges. Docketing judges shall review all claims for~~
4 ~~benefits for consistency with the requirements of this chapter~~
5 ~~and the rules of procedure, including, but not limited to,~~
6 ~~specificity requirements, and shall dismiss any claim that~~
7 ~~fails to comport with such rules and requirements. The~~
8 ~~docketing judge shall not dismiss any claim with prejudice~~
9 ~~without offering the parties an opportunity to appear and~~
10 ~~present argument. The Chief Judge may as he or she deems~~
11 ~~appropriate expand the duties of the docketing judges to~~
12 ~~include resolution without hearing of other types of~~
13 ~~procedural and substantive matters, including resolution of~~
14 ~~fee disputes.~~

15 (3)~~(4)~~ ~~The Chief Judge shall have the discretion to~~
16 ~~require mediation and to designate qualified persons to act as~~
17 ~~mediators in any dispute pending before the judges of~~
18 ~~compensation claims and the division. The Deputy Chief Judge~~
19 ~~shall coordinate with the Director of the Division of Workers'~~
20 ~~Compensation to establish a mandatory mediation program to~~
21 ~~facilitate early and efficient resolution of disputes arising~~
22 ~~under this chapter and to establish training and continuing~~
23 ~~education for new and sitting judges.~~

24 (4)~~(5)~~ ~~The Office of the Judges of Compensation Claims~~
25 ~~shall promulgate rules to effect the purposes of this section.~~
26 ~~Such rules shall include procedural rules applicable to~~
27 ~~workers' compensation claim resolution and uniform criteria~~
28 ~~for measuring the performance of the office, including, but~~
29 ~~not limited to, the number of cases assigned and disposed, the~~
30 ~~age of pending and disposed cases, timeliness of~~
31 ~~decisionmaking, extraordinary fee awards and other data~~

1 necessary for the statewide nominating commission to review
2 the performances of judges as required in paragraph (2)(c)
3 ~~performance indicators~~. The workers' compensation rules of
4 procedure approved by the Supreme Court shall apply until the
5 rules promulgated by the Office of the Judges of Compensation
6 Claims pursuant to this section become effective.

7 (5)(6) Not later than December 1 of each year, the
8 Office of the Judges of Compensation Claims ~~and the Division~~
9 ~~of Workers' Compensation~~ shall jointly issue a written report
10 to the Governor, the House of Representatives, ~~and~~ the Senate,
11 The Florida Bar, and the statewide nominating commission
12 summarizing the amount, cost, and outcome of all litigation
13 resolved in the prior fiscal year, summarizing the disposition
14 of mediation conferences, the number of mediation conferences
15 waived, the number of continuances granted, the number and
16 disposition of litigated cases, the amount of attorney's fees
17 paid in each case, and the number of final orders not issued
18 within 30 days after the final hearing or closure of the
19 hearing record ~~applications and motions for mediation~~
20 ~~conferences~~ and recommending changes or improvements to the
21 dispute resolution elements of the Workers' Compensation Law
22 and regulations. If the Deputy Chief Judge finds that judges
23 generally are unable to meet a particular statutory
24 requirement for reasons beyond their control, the Deputy Chief
25 Judge shall submit such findings and any recommendations to
26 the Legislature.

27 Section 14. Section 440.47, Florida Statutes, is
28 amended to read:

29 440.47 Travel expenses.--The Deputy Chief Judge,
30 judges of compensation claims, and employees of the department
31 shall be reimbursed for travel expenses as provided in s.

1 112.061. Such expenses shall be sworn to by the person who
2 incurred the same and shall be allowed and paid as provided in
3 s. 440.50 upon the presentation of vouchers therefor approved
4 by the director of the Division of Administrative Hearings
5 ~~Chief Judge~~ or the department, whichever is applicable.

6 Section 15. Subsections (4) and (5) of section 440.59,
7 Florida Statutes, are amended to read:

8 440.59 Reporting requirements.--

9 (4) The division shall prepare an annual report for
10 all claims for which the employee lost more than 7 days from
11 work and shall submit a copy of the report to the Governor,
12 the President of the Senate, the Speaker of the House of
13 Representatives, the Democratic and Republican Leaders of the
14 Senate and the House of Representatives, and the chairs of the
15 legislative committees having jurisdiction over workers'
16 compensation, on or before September 15 of each year. The
17 annual report shall include a status report on all cases
18 involving work-related injuries in the previous 10 years. The
19 annual report shall include, but not be limited to, the number
20 of open and closed cases, the number of cases receiving
21 various types of benefits, the cash and medical benefits paid
22 between the date of injury and the evaluation date, ~~the number~~
23 ~~of litigated cases, and the amount of attorney's fees paid in~~
24 ~~each case.~~

25 ~~(5) The Chief Judge must prepare an annual report~~
26 ~~summarizing the disposition of mediation conferences and must~~
27 ~~submit the report to the Governor, the President of the~~
28 ~~Senate, the Speaker of the House of Representatives, the~~
29 ~~Democratic and Republican Leaders of the Senate and the House~~
30 ~~of Representatives, and the chairs of the legislative~~

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1 ~~committees having jurisdiction over workers' compensation, on~~
2 ~~or before September 15 of each year.~~

3 Section 16. (1) The Office of the Judges of
4 Compensation Claims is transferred by a type two transfer, as
5 defined in section 20.06(2), Florida Statutes, from the
6 Department of Labor and Employment Security to the Division of
7 Administrative Hearings of the Department of Management
8 Services.

9 (2) Four positions within the Division of Workers'
10 Compensation of the Department of Labor and Employment
11 Security responsible for coding or entering data contained
12 within final orders issued by the judges of compensation
13 claims are transferred by a type two transfer, as defined in
14 section 20.06(2), Florida Statutes, to the Office of the
15 Judges of Compensation Claims within the Division of
16 Administrative Hearings of the Department of Management
17 Services.

18 (3) Ten positions within the Division of Workers'
19 Compensation of the Department of Labor and Employment
20 Security responsible for receiving and preparing docketing
21 orders for the petitions for benefits and for receiving and
22 entering data related to the petitions for benefits are
23 transferred by a type two transfer, as defined in section
24 20.06(2), Florida Statutes, to the Office of the Judges of
25 Compensation Claims within the Division of Administrative
26 Hearings of the Department of Management Services.

27 (4) Four positions within the Division of Workers'
28 Compensation of the Department of Labor and Employment
29 Security responsible for financial management, accounting, and
30 budgeting for the Office of the Judges of Compensation Claims
31 are transferred by a type two transfer, as defined in section

1 20.06(2), Florida Statutes, to the Office of the Judges of
2 Compensation Claims within the Division of Administrative
3 Hearings of the Department of Management Services.

4 Section 17. This act shall take effect October 1,
5 2001.

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8 SENATE SUMMARY

9 Transfers the responsibility for handling Workers'
10 Compensation claim petitions and hearings from the
11 Division of Workers' Compensation in the Department of
12 Labor and Employment Security to the Office of the Judges
13 of Compensation Claims within the Division of
14 Administrative Hearings of the Department of Management
15 Services. (See bill for details.)
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