

By Representative Clarke

1                                   A bill to be entitled  
2           An act relating to transferring and reassigning  
3           divisions, functions, and responsibilities of  
4           the Department of Labor and Employment  
5           Security; providing for a type two transfer of  
6           the Division of Workers' Compensation and the  
7           Office of the Judges of Compensation Claims to  
8           the Department of Insurance; providing for a  
9           type two transfer of workers' compensation  
10          medical services to the Agency for Health Care  
11          Administration; providing for a type two  
12          transfer of workers' compensation  
13          rehabilitation and reemployment services to the  
14          Department of Education; providing for a type  
15          two transfer of the administration of child  
16          labor laws to the Department of Business and  
17          Professional Regulation; providing for a type  
18          two transfer of certain functions of the Office  
19          of the Secretary and the Office of  
20          Administrative Services of the Department of  
21          Labor and Employment Security relating to labor  
22          organizations and migrant and farm labor  
23          registration to the Department of Business and  
24          Professional Regulation; providing for a type  
25          two transfer of other workplace regulation  
26          functions to the Department of Business and  
27          Professional Regulation; providing for the  
28          transfer of the Unemployment Appeals Commission  
29          to the Agency for Workforce Innovation by a  
30          type two transfer; providing for the transfer  
31          of the Public Employees Relations Commission to

1 the Department of Management Services by a type  
2 two transfer; providing for the transfer of the  
3 Office of Information Systems to the State  
4 Technology Office by a type two transfer;  
5 authorizing the Department of Banking and  
6 Finance, in conjunction with the Office of the  
7 Attorney General, to use unexpended funds to  
8 settle certain claims; providing for the  
9 continuation of contracts or agreements of the  
10 Department of Labor and Employment Security;  
11 providing for a successor department, agency,  
12 or entity to be substituted for the Department  
13 of Labor and Employment Security as a party in  
14 interest in pending proceedings; exempting  
15 specified state agencies, on a temporary basis,  
16 from provisions relating to procurement of  
17 property and services and leasing of space;  
18 authorizing specified state agencies to develop  
19 temporary emergency rules relating to the  
20 implementation of this act; amending s. 20.13,  
21 F.S.; providing for a Division of Workers'  
22 Compensation in the Department of Insurance;  
23 amending s. 440.02, F.S.; providing a  
24 definition for the term "agency"; conforming  
25 definitions of "department" and "division" to  
26 the transfer of the Division of Workers'  
27 Compensation to the Department of Insurance;  
28 amending ss. 440.102 and 440.125, F.S.;  
29 conforming agency references to reflect the  
30 transfer of the Division of Workers'  
31 Compensation to the Department of Insurance;

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

1 conforming references based on the transfer of  
2 rehabilitation and reemployment services to the  
3 Department of Education; amending ss. 440.525  
4 and 440.59, F.S.; conforming agency references  
5 to reflect the transfer of programs from the  
6 Department of Labor and Employment Security to  
7 the Department of Insurance; amending s.  
8 443.012, F.S.; providing for the Unemployment  
9 Appeals Commission to be created within the  
10 Agency for Workforce Innovation rather than the  
11 Department of Labor and Employment Security;  
12 conforming provisions; amending s. 443.036,  
13 F.S.; conforming the definition of "commission"  
14 to the transfer of the Unemployment Appeals  
15 Commission to the Agency for Workforce  
16 Innovation; amending s. 447.02, F.S.;  
17 conforming the definition of "department" to  
18 the transfer of the regulation of labor  
19 organizations to the Department of Business and  
20 Professional Regulation; amending s. 447.203,  
21 F.S.; clarifying the definition of professional  
22 employee; amending s. 447.205, F.S.; conforming  
23 provisions to reflect the transfer of the  
24 Public Employees Relations Commission to the  
25 Department of Management Services and deleting  
26 obsolete provisions; amending s. 447.208, F.S.;  
27 clarifying the procedure for appeals, charges,  
28 and petitions; amending s. 447.305, F.S.,  
29 relating to the registration of employee  
30 organizations; providing for the Public  
31 Employees Relations Commission to share

1 registration information with the Department of  
2 Insurance; amending s. 447.307, F.S.;  
3 authorizing the commission to modify existing  
4 bargaining units; amending s. 447.503, F.S.;  
5 specifying procedures when a party fails to  
6 appear for a hearing; amending s. 447.504,  
7 F.S.; authorizing the commission to stay  
8 certain procedures; amending s. 450.012, F.S.;  
9 conforming the definition of "department" to  
10 the transfer of the regulation of child labor  
11 to the Department of Business and Professional  
12 Regulation; amending s. 450.191, F.S., relating  
13 to the duties of the Executive Office of the  
14 Governor with respect to migrant labor;  
15 conforming provisions to changes made by the  
16 act; amending s. 450.28, F.S.; conforming the  
17 definition of "department" to the transfer of  
18 the regulation of farm labor to the Department  
19 of Business and Professional Regulation;  
20 amending s. 627.0915, F.S.; conforming  
21 departmental references to changes made by the  
22 act; amending ss. 110.205, 112.19, 112.191,  
23 121.125, 122.03, 238.06, 440.10, 440.104, and  
24 440.14, F.S., to conform; repealing s. 20.171,  
25 F.S., relating to establishment and the  
26 authority and organizational structure of the  
27 Department of Labor and Employment Security;  
28 providing for severability; providing an  
29 effective date.

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

1           Section 1. (1) All powers, duties, functions, rules,  
2 records, personnel, property, and unexpended balances of  
3 appropriations, allocations, and other funds of the Division  
4 of Workers' Compensation and the Office of the Judges of  
5 Compensation Claims are transferred by a type two transfer, as  
6 defined in s. 20.06(2), Florida Statutes, from the Department  
7 of Labor and Employment Security to the Department of  
8 Insurance, except that 29 full-time equivalent positions, and  
9 the associated salaries and benefits and expenses funding,  
10 related to oversight of medical services in workers'  
11 compensation provider relations, dispute and complaint  
12 resolution, program evaluation, data management, and carrier  
13 compliance and review, are transferred by a type two transfer,  
14 as defined in s. 20.06(2), Florida Statutes, from the  
15 Department of Labor and Employment Security to the Agency for  
16 Health Care Administration, and except that 113 full-time  
17 equivalent positions, and the associated salaries and benefits  
18 and expenses funding, related to the rehabilitation and  
19 reemployment of injured workers, are transferred by a type two  
20 transfer, as defined in s. 20.06(2), Florida Statutes, from  
21 the Department of Labor and Employment Security to the  
22 Department of Education, and except that 11 full-time  
23 equivalent positions, and the associated salaries and benefits  
24 and expenses funding, related to the administration of child  
25 labor laws under chapter 450, Florida Statutes, are  
26 transferred by a type two transfer, as defined in s. 20.06(2),  
27 Florida Statutes, from the Department of Labor and Employment  
28 Security to the Department of Business and Professional  
29 Regulation.  
30           (2) All powers, duties, functions, rules, records,  
31 personnel, property, and unexpended balances of

1 appropriations, allocations, and other funds of the Office of  
2 the Secretary and the Office of Administrative Services of the  
3 Department of Labor and Employment Security related to the  
4 regulation of labor organizations under chapter 447, Florida  
5 Statutes, and the administration of migrant labor and farm  
6 labor laws under chapter 450, Florida Statutes, are  
7 transferred by a type two transfer, as defined in s. 20.06(2),  
8 Florida Statutes, from the Department of Labor and Employment  
9 Security to the Department of Business and Professional  
10 Regulation.

11 (3) Any other powers, duties, functions, rules,  
12 records, property, and unexpended balances of appropriations,  
13 allocations, and other funds of the Department of Labor and  
14 Employment Security not otherwise transferred by this act,  
15 relating to workplace regulation and enforcement, including,  
16 but not limited to, those under chapter 448, Florida Statutes,  
17 are transferred by a type two transfer, as defined in s.  
18 20.06(2), Florida Statutes, from the Department of Labor and  
19 Employment Security to the Department of Business and  
20 Professional Regulation.

21 (4) All powers, duties, functions, rules, records,  
22 personnel, property, and unexpended balances of  
23 appropriations, allocations, and other funds of the  
24 Unemployment Appeals Commission relating to the commission's  
25 specified authority, powers, duties, and responsibilities are  
26 transferred by a type two transfer, as defined in s. 20.06(2),  
27 Florida Statutes, to the Agency for Workforce Innovation.

28 (5) All powers, duties, functions, rules, records,  
29 personnel, property, and unexpended balances of  
30 appropriations, allocations, and other funds of the Public  
31 Employees Relations Commission relating to the commission's

1 specified authority, powers, duties, and responsibilities are  
2 transferred by a type two transfer, as defined in s. 20.06(2),  
3 Florida Statutes, to the Department of Management Services.

4 (6) The Office of Information Systems is transferred  
5 by a type two transfer, as defined in s. 20.06(2), Florida  
6 Statutes, from the Department of Labor and Employment Security  
7 to the State Technology Office.

8 (7)(a) The records, property, and unexpended balances  
9 of appropriations, allocations, and other funds and resources  
10 of the Office of the Secretary and the Office of  
11 Administrative Services of the Department of Labor and  
12 Employment Security which support the activities and functions  
13 transferred under subsection (1) to the Department of  
14 Insurance are transferred as provided in s. 20.06(2), Florida  
15 Statutes, to the Department of Insurance.

16 (b) The records, property, and unexpended balances of  
17 appropriations, allocations, and other funds and resources of  
18 the Office of the Secretary and the Office of Administrative  
19 Services of the Department of Labor and Employment Security  
20 which support the activities and functions transferred under  
21 subsection (1) to the Agency for Health Care Administration  
22 are transferred as provided in s. 20.06(2), Florida Statutes,  
23 to the Agency for Health Care Administration.

24 (c) The records, property, and unexpended balances of  
25 appropriations, allocations, and other funds and resources of  
26 the Office of the Secretary and the Office of Administrative  
27 Services of the Department of Labor and Employment Security  
28 which support the activities and functions transferred under  
29 subsection (1) to the Department of Education are transferred  
30 as provided in s. 20.06(2), Florida Statutes, to the  
31 Department of Education.



1       (d) The records, property, and unexpended balances of  
2 appropriations, allocations, and other funds and resources of  
3 the Office of the Secretary and the Office of Administrative  
4 Services of the Department of Labor and Employment Security  
5 which support the activities and functions transferred under  
6 subsections (1), (2), and (3) to the Department of Business  
7 and Professional Regulation are transferred as provided in s.  
8 20.06(2), Florida Statutes, to the Department of Business and  
9 Professional Regulation.

10       (e) The records, property, and unexpended balances of  
11 appropriations, allocations, and other funds and resources of  
12 the Office of the Secretary and the Office of Administrative  
13 Services of the Department of Labor and Employment Security  
14 which support the activities and functions transferred under  
15 subsection (4) to the Agency for Workforce Innovation are  
16 transferred as provided in s. 20.06(2), Florida Statutes, to  
17 the Agency for Workforce Innovation.

18       (f) The records, property, and unexpended balances of  
19 appropriations, allocations, and other funds and resources of  
20 the Office of the Secretary and the Office of Administrative  
21 Services of the Department of Labor and Employment Security  
22 which support the activities and functions transferred under  
23 subsection (5) to the Department of Management Services are  
24 transferred as provided in s. 20.06(2), Florida Statutes, to  
25 the Department of Management Services.

26       (g) The records, property, and unexpended balances of  
27 appropriations, allocations, and other funds and resources of  
28 the Office of the Secretary and the Office of Administrative  
29 Services of the Department of Labor and Employment Security  
30 which support the activities and functions transferred under  
31 subsection (6) to the State Technology Office are transferred

1 as provided in s. 20.06(2), Florida Statutes, to the State  
2 Technology Office.

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

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

27 (10) Notwithstanding any other provision of law, any  
28 binding contract or interagency agreement existing on or  
29 before July 1, 2001, between the Department of Labor and  
30 Employment Security, or an entity or agent of the department,  
31 and any other agency, entity, or person shall continue as a

1 binding contract or agreement for the remainder of the term of  
2 such contract or agreement with the successor department,  
3 agency, or entity responsible for the program, activity, or  
4 functions relative to the contract or agreement.

5 (11) This act does not affect the validity of any  
6 judicial or administrative proceeding involving the Department  
7 of Labor and Employment Security which is pending as of the  
8 effective date of any transfer under this act. The successor  
9 department, agency, or entity responsible for the program,  
10 activity, or function relative to the proceeding shall be  
11 substituted, as of the effective date of the applicable  
12 transfer under this act, for the Department of Labor and  
13 Employment Security as a party in interest in any such  
14 proceedings.

15 (12) To expedite the acquisition of goods and services  
16 for implementation of the provisions of this act, the  
17 Department of Insurance, the Agency for Health Care  
18 Administration, the Department of Education, the Department of  
19 Business and Professional Regulation, the Agency for Workforce  
20 Innovation, the Department of Management Services, and the  
21 State Technology Office are exempt from the provisions of  
22 chapter 287, Florida Statutes, when contracting for the  
23 purchase or lease of goods or services under this act. This  
24 section shall take effect upon this act becoming a law and  
25 shall expire January 1, 2002.

26 (13) To expedite the leasing of facilities for  
27 implementation of the provisions of this act, the Department  
28 of Insurance, the Agency for Health Care Administration, the  
29 Department of Education, the Department of Business and  
30 Professional Regulation, the Agency for Workforce Innovation,  
31 the Department of Management Services, and the State

1 Technology Office are exempt from the requirements of any  
2 state laws relating to the leasing of space, including, but  
3 not limited to, the requirements imposed by s. 255.25, Florida  
4 Statutes, and any rules adopted under such laws; provided,  
5 however, that all leases entered into under this act through  
6 January 1, 2002, must be submitted for approval to the  
7 Department of Management Services at the earliest practicable  
8 time. This section shall take effect upon this act becoming a  
9 law and shall expire January 1, 2002.

10 (14) Notwithstanding any provisions of chapter 120,  
11 Florida Statutes, to the contrary, the Department of  
12 Insurance, the Agency for Health Care Administration, the  
13 Department of Education, the Department of Business and  
14 Professional Regulation, the Agency for Workforce Innovation,  
15 the Department of Management Services, and the State  
16 Technology Office are authorized to develop emergency rules  
17 relating to and in furtherance of the orderly implementation  
18 of the provisions of this act. This section shall take effect  
19 upon this act becoming a law, and these emergency rules shall  
20 be valid for a period of 180 days after July 1, 2001.

21 Section 2. Paragraph (k) is added to subsection (2) of  
22 section 20.13, Florida Statutes, to read:

23 20.13 Department of Insurance.--There is created a  
24 Department of Insurance.

25 (2) The following divisions of the Department of  
26 Insurance are established:

27 (k) Division of Workers' Compensation.

28 Section 3. Subsections (3) through (39) of section  
29 440.02, Florida Statutes, are renumbered as subsections (4)  
30 through (40), respectively, a new subsection (3) is added to  
31

1 said section, and renumbered subsections (12) and (14) are  
2 amended, to read:

3 440.02 Definitions.--When used in this chapter, unless  
4 the context clearly requires otherwise, the following terms  
5 shall have the following meanings:

6 (3) "Agency" means the Agency for Health Care  
7 Administration.

8 (12)(11) "Department" means the Department of  
9 Insurance Labor and Employment Security.

10 (14)(13) "Division" means the Division of Workers'  
11 Compensation of the Department of Insurance Labor and  
12 Employment Security.

13 Section 4. Paragraph (a) of subsection (3) of section  
14 440.102, Florida Statutes, is amended to read:

15 440.102 Drug-free workplace program requirements.--The  
16 following provisions apply to a drug-free workplace program  
17 implemented pursuant to law or to rules adopted by the Agency  
18 for Health Care Administration:

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

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

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

25 a. The types of drug testing an employee or job  
26 applicant may be required to submit to, including  
27 reasonable-suspicion drug testing or drug testing conducted on  
28 any other basis.

29 b. The actions the employer may take against an  
30 employee or job applicant on the basis of a positive confirmed  
31 drug test result.

- 1           2. A statement advising the employee or job applicant  
2 of the existence of this section.
- 3           3. A general statement concerning confidentiality.
- 4           4. Procedures for employees and job applicants to  
5 confidentially report to a medical review officer the use of  
6 prescription or nonprescription medications to a medical  
7 review officer both before and after being tested.
- 8           5. A list of the most common medications, by brand  
9 name or common name, as applicable, as well as by chemical  
10 name, which may alter or affect a drug test. A list of such  
11 medications as developed by the Agency for Health Care  
12 Administration shall be available to employers through the  
13 Division of Workers' Compensation of the Department of  
14 Insurance ~~Labor and Employment Security~~.
- 15           6. The consequences of refusing to submit to a drug  
16 test.
- 17           7. A representative sampling of names, addresses, and  
18 telephone numbers of employee assistance programs and local  
19 drug rehabilitation programs.
- 20           8. A statement that an employee or job applicant who  
21 receives a positive confirmed test result may contest or  
22 explain the result to the medical review officer within 5  
23 working days after receiving written notification of the test  
24 result; that if an employee's or job applicant's explanation  
25 or challenge is unsatisfactory to the medical review officer,  
26 the medical review officer shall report a positive test result  
27 back to the employer; and that a person may contest the drug  
28 test result pursuant to law or to rules adopted by the Agency  
29 for Health Care Administration.
- 30           9. A statement informing the employee or job applicant  
31 of his or her responsibility to notify the laboratory of any

1 administrative or civil action brought pursuant to this  
2 section.

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

6 11. A statement regarding any applicable collective  
7 bargaining agreement or contract and the right to appeal to  
8 the Public Employees Relations Commission or applicable court.

9 12. A statement notifying employees and job applicants  
10 of their right to consult with a medical review officer for  
11 technical information regarding prescription or  
12 nonprescription medication.

13 Section 5. Subsection (1) of section 440.125, Florida  
14 Statutes, is amended to read:

15 440.125 Medical records and reports; identifying  
16 information in employee medical bills; confidentiality.--

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

25 Section 6. Paragraphs (a), (c), (f), (i), and (j) of  
26 subsection (3), paragraphs (a) and (b) of subsection (4),  
27 paragraphs (b) and (e) of subsection (5), subsections (6),  
28 (7), (8), (9), and (11), paragraph (a) of subsection (12), and  
29 paragraphs (e) and (g) of subsection (13) of section 440.13,  
30 Florida Statutes, are amended to read:

31

1           440.13 Medical services and supplies; penalty for  
2 violations; limitations.--

3           (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

4           (a) As a condition to eligibility for payment under  
5 this chapter, a health care provider who renders services must  
6 be a certified health care provider and must receive  
7 authorization from the carrier before providing treatment.

8 This paragraph does not apply to emergency care. The agency

9 ~~division~~ shall adopt rules to implement the certification of  
10 health care providers. As a one-time prerequisite to obtaining  
11 certification, the agency ~~division~~ shall require each  
12 physician to demonstrate proof of completion of a minimum  
13 5-hour course that covers the subject areas of cost  
14 containment, utilization control, ergonomics, and the practice  
15 parameters adopted by the agency ~~division~~ governing the  
16 physician's field of practice. The agency ~~division~~ shall  
17 coordinate with ~~the Agency for Health Care Administration,~~the  
18 Florida Medical Association, the Florida Osteopathic Medical  
19 Association, the Florida Chiropractic Association, the Florida  
20 Podiatric Medical Association, the Florida Optometric  
21 Association, the Florida Dental Association, and other health  
22 professional organizations and their respective boards as  
23 deemed necessary by the ~~agency for Health Care Administration~~  
24 in complying with this subsection. No later than October 1,  
25 1994, the agency ~~division~~ shall adopt rules regarding the  
26 criteria and procedures for approval of courses and the filing  
27 of proof of completion by the physicians.

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



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

4 (f) By accepting payment under this chapter for  
5 treatment rendered to an injured employee, a health care  
6 provider consents to the jurisdiction of the agency ~~division~~  
7 as set forth in subsection (11) and to the submission of all  
8 records and other information concerning such treatment to the  
9 agency ~~division~~ in connection with a reimbursement dispute,  
10 audit, or review as provided by this section. The health care  
11 provider must further agree to comply with any decision of the  
12 agency ~~division~~ rendered under this section.

13 (i) Notwithstanding paragraph (d), a claim for  
14 specialist consultations, surgical operations,  
15 physiotherapeutic or occupational therapy procedures, X-ray  
16 examinations, or special diagnostic laboratory tests that cost  
17 more than \$1,000 and other specialty services that the agency  
18 ~~division~~ identifies by rule is not valid and reimbursable  
19 unless the services have been expressly authorized by the  
20 carrier, or unless the carrier has failed to respond within 10  
21 days to a written request for authorization, or unless  
22 emergency care is required. The insurer shall not refuse to  
23 authorize such consultation or procedure unless the health  
24 care provider or facility is not authorized or certified or  
25 unless an expert medical advisor has determined that the  
26 consultation or procedure is not medically necessary or  
27 otherwise compensable under this chapter. Authorization of a  
28 treatment plan does not constitute express authorization for  
29 purposes of this section, except to the extent the carrier  
30 provides otherwise in its authorization procedures. This  
31

1 paragraph does not limit the carrier's obligation to identify  
2 and disallow overutilization or billing errors.

3 (j) Notwithstanding anything in this chapter to the  
4 contrary, a sick or injured employee shall be entitled, at all  
5 times, to free, full, and absolute choice in the selection of  
6 the pharmacy or pharmacist dispensing and filling  
7 prescriptions for medicines required under this chapter. It is  
8 expressly forbidden for the agency division, an employer, or a  
9 carrier, or any agent or representative of the agency  
10 division, an employer, or a carrier to select the pharmacy or  
11 pharmacist which the sick or injured employee must use;  
12 condition coverage or payment on the basis of the pharmacy or  
13 pharmacist utilized; or to otherwise interfere in the  
14 selection by the sick or injured employee of a pharmacy or  
15 pharmacist.

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

18 (a) Any health care provider providing necessary  
19 remedial treatment, care, or attendance to any injured worker  
20 shall submit treatment reports to the carrier in a format  
21 prescribed by the agency division. A claim for medical or  
22 surgical treatment is not valid or enforceable against such  
23 employer or employee, unless, by the close of the third  
24 business day following the first treatment, the physician  
25 providing the treatment furnishes to the employer or carrier a  
26 preliminary notice of the injury and treatment on forms  
27 prescribed by the agency division and, within 15 days  
28 thereafter, furnishes to the employer or carrier a complete  
29 report, and subsequent thereto furnishes progress reports, if  
30 requested by the employer or insurance carrier, at intervals  
31

1 of not less than 3 weeks apart or at less frequent intervals  
2 if requested on forms prescribed by the agency ~~division~~.  
3 (b) Each medical report or bill obtained or received  
4 by the employer, the carrier, or the injured employee, or the  
5 attorney for the employer, carrier, or injured employee, with  
6 respect to the remedial treatment or care of the injured  
7 employee, including any report of an examination, diagnosis,  
8 or disability evaluation, must be filed with the agency  
9 ~~Division of Workers' Compensation~~ pursuant to rules adopted by  
10 the agency ~~division~~. The health care provider shall also  
11 furnish to the injured employee or to his or her attorney, on  
12 demand, a copy of his or her office chart, records, and  
13 reports, and may charge the injured employee an amount  
14 authorized by the agency ~~division~~ for the copies. Each such  
15 health care provider shall provide to the agency ~~division~~ any  
16 additional information about the remedial treatment, care, and  
17 attendance that the agency ~~division~~ reasonably requests.

18 (5) INDEPENDENT MEDICAL EXAMINATIONS.--

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

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

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

27 3. The examiner is unavailable due to injury, death,  
28 or relocation outside a reasonably accessible geographic area;  
29 or

30 4. The parties agree to an alternate examiner.  
31

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

6 (e) No medical opinion other than the opinion of a  
7 medical advisor appointed by the judge of compensation claims  
8 or agency ~~division~~, an independent medical examiner, or an  
9 authorized treating provider is admissible in proceedings  
10 before the judges of compensation claims.

11 (6) UTILIZATION REVIEW.--Carriers shall review all  
12 bills, invoices, and other claims for payment submitted by  
13 health care providers in order to identify overutilization and  
14 billing errors, and may hire peer review consultants or  
15 conduct independent medical evaluations. Such consultants,  
16 including peer review organizations, are immune from liability  
17 in the execution of their functions under this subsection to  
18 the extent provided in s. 766.101. If a carrier finds that  
19 overutilization of medical services or a billing error has  
20 occurred, it must disallow or adjust payment for such services  
21 or error without order of a judge of compensation claims or  
22 the agency ~~division~~, if the carrier, in making its  
23 determination, has complied with this section and rules  
24 adopted by the agency ~~division~~.

25 (7) UTILIZATION AND REIMBURSEMENT DISPUTES.--

26 (a) Any health care provider, carrier, or employer who  
27 elects to contest the disallowance or adjustment of payment by  
28 a carrier under subsection (6) must, within 30 days after  
29 receipt of notice of disallowance or adjustment of payment,  
30 petition the agency ~~division~~ to resolve the dispute. The  
31 petitioner must serve a copy of the petition on the carrier

1 and on all affected parties by certified mail. The petition  
2 must be accompanied by all documents and records that support  
3 the allegations contained in the petition. Failure of a  
4 petitioner to submit such documentation to the agency division  
5 results in dismissal of the petition.

6 (b) The carrier must submit to the agency division  
7 within 10 days after receipt of the petition all documentation  
8 substantiating the carrier's disallowance or adjustment.  
9 Failure of the carrier to submit the requested documentation  
10 to the agency division within 10 days constitutes a waiver of  
11 all objections to the petition.

12 (c) Within 60 days after receipt of all documentation,  
13 the agency division must provide to the petitioner, the  
14 carrier, and the affected parties a written determination of  
15 whether the carrier properly adjusted or disallowed payment.  
16 The agency division must be guided by standards and policies  
17 set forth in this chapter, including all applicable  
18 reimbursement schedules, in rendering its determination.

19 (d) If the agency division finds an improper  
20 disallowance or improper adjustment of payment by an insurer,  
21 the insurer shall reimburse the health care provider,  
22 facility, insurer, or employer within 30 days, subject to the  
23 penalties provided in this subsection.

24 (e) The agency division shall adopt rules to carry out  
25 this subsection. The rules may include provisions for  
26 consolidating petitions filed by a petitioner and expanding  
27 the timetable for rendering a determination upon a  
28 consolidated petition.

29 (f) Any carrier that engages in a pattern or practice  
30 of arbitrarily or unreasonably disallowing or reducing  
31 payments to health care providers may be subject to one or

1 more of the following penalties imposed by the agency  
2 ~~division~~:

3       1. Repayment of the appropriate amount to the health  
4 care provider.

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

8       3. Award of the health care provider's costs,  
9 including a reasonable attorney's fee, for prosecuting the  
10 petition.

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

12       (a) Carriers must report to the agency ~~division~~ all  
13 instances of overutilization including, but not limited to,  
14 all instances in which the carrier disallows or adjusts  
15 payment. The agency ~~division~~ shall determine whether a pattern  
16 or practice of overutilization exists.

17       (b) If the agency ~~division~~ determines that a health  
18 care provider has engaged in a pattern or practice of  
19 overutilization or a violation of this chapter or rules  
20 adopted by the agency ~~division~~, it may impose one or more of  
21 the following penalties:

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

24       2. Deauthorization of care under review;

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

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

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

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

3           (9) EXPERT MEDICAL ADVISORS.--

4           (a) The agency ~~division~~ shall certify expert medical  
5 advisors in each specialty to assist the agency ~~division~~ and  
6 the judges of compensation claims within the advisor's area of  
7 expertise as provided in this section. The agency ~~division~~  
8 shall, in a manner prescribed by rule, in certifying,  
9 recertifying, or decertifying an expert medical advisor,  
10 consider the qualifications, training, impartiality, and  
11 commitment of the health care provider to the provision of  
12 quality medical care at a reasonable cost. As a prerequisite  
13 for certification or recertification, the agency ~~division~~  
14 shall require, at a minimum, that an expert medical advisor  
15 have specialized workers' compensation training or experience  
16 under the workers' compensation system of this state and board  
17 certification or board eligibility.

18           (b) The agency ~~division~~ shall contract with or employ  
19 expert medical advisors to provide peer review or medical  
20 consultation to the agency ~~division~~ or to a judge of  
21 compensation claims in connection with resolving disputes  
22 relating to reimbursement, differing opinions of health care  
23 providers, and health care and physician services rendered  
24 under this chapter. Expert medical advisors contracting with  
25 the agency ~~division~~ shall, as a term of such contract, agree  
26 to provide consultation or services in accordance with the  
27 timetables set forth in this chapter and to abide by rules  
28 adopted by the agency ~~division~~, including, but not limited to,  
29 rules pertaining to procedures for review of the services  
30 rendered by health care providers and preparation of reports  
31 and recommendations for submission to the agency ~~division~~.

1           (c) If there is disagreement in the opinions of the  
2 health care providers, if two health care providers disagree  
3 on medical evidence supporting the employee's complaints or  
4 the need for additional medical treatment, or if two health  
5 care providers disagree that the employee is able to return to  
6 work, the agency ~~division~~ may, and the judge of compensation  
7 claims shall, upon his or her own motion or within 15 days  
8 after receipt of a written request by either the injured  
9 employee, the employer, or the carrier, order the injured  
10 employee to be evaluated by an expert medical advisor. The  
11 opinion of the expert medical advisor is presumed to be  
12 correct unless there is clear and convincing evidence to the  
13 contrary as determined by the judge of compensation claims.  
14 The expert medical advisor appointed to conduct the evaluation  
15 shall have free and complete access to the medical records of  
16 the employee. An employee who fails to report to and cooperate  
17 with such evaluation forfeits entitlement to compensation  
18 during the period of failure to report or cooperate.

19           (d) The expert medical advisor must complete his or  
20 her evaluation and issue his or her report to the agency  
21 ~~division~~ or to the judge of compensation claims within 45 days  
22 after receipt of all medical records. The expert medical  
23 advisor must furnish a copy of the report to the carrier and  
24 to the employee.

25           (e) An expert medical advisor is not liable under any  
26 theory of recovery for evaluations performed under this  
27 section without a showing of fraud or malice. The protections  
28 of s. 766.101 apply to any officer, employee, or agent of the  
29 agency ~~division~~ and to any officer, employee, or agent of any  
30 entity with which the agency ~~division~~ has contracted under  
31 this subsection.



1           (f) If the agency division or a judge of compensation  
2 claims determines that the services of a certified expert  
3 medical advisor are required to resolve a dispute under this  
4 section, the carrier must compensate the advisor for his or  
5 her time in accordance with a schedule adopted by the agency  
6 division. The agency division may assess a penalty not to  
7 exceed \$500 against any carrier that fails to timely  
8 compensate an advisor in accordance with this section.

9           (11) AUDITS BY AGENCY DIVISION; JURISDICTION.--

10           (a) The agency ~~Division of Workers' Compensation of~~  
11 ~~the Department of Labor and Employment Security~~ may  
12 investigate health care providers to determine whether  
13 providers are complying with this chapter and with rules  
14 adopted by the agency division, whether the providers are  
15 engaging in overutilization, and whether providers are  
16 engaging in improper billing practices. If the agency division  
17 finds that a health care provider has improperly billed,  
18 overutilized, or failed to comply with agency division rules  
19 or the requirements of this chapter it must notify the  
20 provider of its findings and may determine that the health  
21 care provider may not receive payment from the carrier or may  
22 impose penalties as set forth in subsection (8) or other  
23 sections of this chapter. If the health care provider has  
24 received payment from a carrier for services that were  
25 improperly billed or for overutilization, it must return those  
26 payments to the carrier. The agency division may assess a  
27 penalty not to exceed \$500 for each overpayment that is not  
28 refunded within 30 days after notification of overpayment by  
29 the agency division or carrier.

30           (b) The agency division shall monitor and audit  
31 carriers to determine if medical bills are paid in accordance

1 with this section and agency ~~division~~ rules. Any employer, if  
2 self-insured, or carrier found by the agency ~~division~~ not to  
3 be within 90 percent compliance as to the payment of medical  
4 bills after July 1, 1994, must be assessed a fine not to  
5 exceed 1 percent of the prior year's assessment levied against  
6 such entity under s. 440.51 for every quarter in which the  
7 entity fails to attain 90-percent compliance. The agency  
8 ~~division~~ shall fine an employer or carrier, pursuant to rules  
9 adopted by the agency ~~division~~, for each late payment of  
10 compensation that is below the minimum 90-percent performance  
11 standard. Any carrier that is found to be not in compliance in  
12 subsequent consecutive quarters must implement a medical-bill  
13 review program approved by the agency ~~division~~, and the  
14 carrier is subject to disciplinary action by the Department of  
15 Insurance.

16 (c) The agency ~~division~~ has exclusive jurisdiction to  
17 decide any matters concerning reimbursement, to resolve any  
18 overutilization dispute under subsection (7), and to decide  
19 any question concerning overutilization under subsection (8),  
20 which question or dispute arises after January 1, 1994.

21 (d) The following ~~division~~ actions do not constitute  
22 agency action subject to review under ss. 120.569 and 120.57  
23 and do not constitute actions subject to s. 120.56: referral  
24 by the entity responsible for utilization review; a decision  
25 by the agency ~~division~~ to refer a matter to a peer review  
26 committee; establishment by a health care provider or entity  
27 of procedures by which a peer review committee reviews the  
28 rendering of health care services; and the review proceedings,  
29 report, and recommendation of the peer review committee.

30 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
31 REIMBURSEMENT ALLOWANCES.--

1           (a) A three-member panel is created, consisting of the  
2 Insurance Commissioner, or the Insurance Commissioner's  
3 designee, and two members to be appointed by the Governor,  
4 subject to confirmation by the Senate, one member who, on  
5 account of present or previous vocation, employment, or  
6 affiliation, shall be classified as a representative of  
7 employers, the other member who, on account of previous  
8 vocation, employment, or affiliation, shall be classified as a  
9 representative of employees. The panel shall determine  
10 statewide schedules of maximum reimbursement allowances for  
11 medically necessary treatment, care, and attendance provided  
12 by physicians, hospitals, ambulatory surgical centers,  
13 work-hardening programs, pain programs, and durable medical  
14 equipment. The maximum reimbursement allowances for inpatient  
15 hospital care shall be based on a schedule of per diem rates,  
16 to be approved by the three-member panel no later than March  
17 1, 1994, to be used in conjunction with a precertification  
18 manual as determined by the agency ~~division~~. All compensable  
19 charges for hospital outpatient care shall be reimbursed at 75  
20 percent of usual and customary charges. Until the three-member  
21 panel approves a schedule of per diem rates for inpatient  
22 hospital care and it becomes effective, all compensable  
23 charges for hospital inpatient care must be reimbursed at 75  
24 percent of their usual and customary charges. Annually, the  
25 three-member panel shall adopt schedules of maximum  
26 reimbursement allowances for physicians, hospital inpatient  
27 care, hospital outpatient care, ambulatory surgical centers,  
28 work-hardening programs, and pain programs. However, the  
29 maximum percentage of increase in the individual reimbursement  
30 allowance may not exceed the percentage of increase in the  
31 Consumer Price Index for the previous year. An individual

1 physician, hospital, ambulatory surgical center, pain program,  
2 or work-hardening program shall be reimbursed either the usual  
3 and customary charge for treatment, care, and attendance, the  
4 agreed-upon contract price, or the maximum reimbursement  
5 allowance in the appropriate schedule, whichever is less.

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

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

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

20 Section 7. Paragraph (c) of subsection (2) and  
21 paragraph (a) of subsection (3) of section 440.15, Florida  
22 Statutes, are amended to read:

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

26 (2) TEMPORARY TOTAL DISABILITY.--

27 (c) Temporary total disability benefits paid pursuant  
28 to this subsection shall include such period as may be  
29 reasonably necessary for training in the use of artificial  
30 members and appliances, and shall include such period as the  
31 employee may be receiving training and education under a

1 program pursuant to s. 440.49(1). Notwithstanding s.  
2 440.02(9), the date of maximum medical improvement for  
3 purposes of paragraph (3)(b) shall be no earlier than the last  
4 day for which such temporary disability benefits are paid.

5 (3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.--  
6 (a) Impairment benefits.--

7 1. Once the employee has reached the date of maximum  
8 medical improvement, impairment benefits are due and payable  
9 within 20 days after the carrier has knowledge of the  
10 impairment.

11 2. The three-member panel, in cooperation with the  
12 agency ~~division~~, shall establish and use a uniform permanent  
13 impairment rating schedule. This schedule must be based on  
14 medically or scientifically demonstrable findings as well as  
15 the systems and criteria set forth in the American Medical  
16 Association's Guides to the Evaluation of Permanent  
17 Impairment; the Snellen Charts, published by American Medical  
18 Association Committee for Eye Injuries; and the Minnesota  
19 Department of Labor and Industry Disability Schedules. The  
20 schedule should be based upon objective findings. The schedule  
21 shall be more comprehensive than the AMA Guides to the  
22 Evaluation of Permanent Impairment and shall expand the areas  
23 already addressed and address additional areas not currently  
24 contained in the guides. On August 1, 1979, and pending the  
25 adoption, by rule, of a permanent schedule, Guides to the  
26 Evaluation of Permanent Impairment, copyright 1977, 1971,  
27 1988, by the American Medical Association, shall be the  
28 temporary schedule and shall be used for the purposes hereof.  
29 For injuries after July 1, 1990, pending the adoption by  
30 division rule of a uniform disability rating schedule, the  
31 Minnesota Department of Labor and Industry Disability Schedule

1 shall be used unless that schedule does not address an injury.  
2 In such case, the Guides to the Evaluation of Permanent  
3 Impairment by the American Medical Association shall be used.  
4 Determination of permanent impairment under this schedule must  
5 be made by a physician licensed under chapter 458, a doctor of  
6 osteopathic medicine licensed under chapters 458 and 459, a  
7 chiropractic physician licensed under chapter 460, a podiatric  
8 physician licensed under chapter 461, an optometrist licensed  
9 under chapter 463, or a dentist licensed under chapter 466, as  
10 appropriate considering the nature of the injury. No other  
11 persons are authorized to render opinions regarding the  
12 existence of or the extent of permanent impairment.

13         3. All impairment income benefits shall be based on an  
14 impairment rating using the impairment schedule referred to in  
15 subparagraph 2. Impairment income benefits are paid weekly at  
16 the rate of 50 percent of the employee's average weekly  
17 temporary total disability benefit not to exceed the maximum  
18 weekly benefit under s. 440.12. An employee's entitlement to  
19 impairment income benefits begins the day after the employee  
20 reaches maximum medical improvement or the expiration of  
21 temporary benefits, whichever occurs earlier, and continues  
22 until the earlier of:

23             a. The expiration of a period computed at the rate of  
24 3 weeks for each percentage point of impairment; or

25             b. The death of the employee.

26         4. After the employee has been certified by a doctor  
27 as having reached maximum medical improvement or 6 weeks  
28 before the expiration of temporary benefits, whichever occurs  
29 earlier, the certifying doctor shall evaluate the condition of  
30 the employee and assign an impairment rating, using the  
31 impairment schedule referred to in subparagraph 2.

1 Compensation is not payable for the mental, psychological, or  
2 emotional injury arising out of depression from being out of  
3 work. If the certification and evaluation are performed by a  
4 doctor other than the employee's treating doctor, the  
5 certification and evaluation must be submitted to the treating  
6 doctor, and the treating doctor must indicate agreement or  
7 disagreement with the certification and evaluation. The  
8 certifying doctor shall issue a written report to the  
9 division, the employee, and the carrier certifying that  
10 maximum medical improvement has been reached, stating the  
11 impairment rating, and providing any other information  
12 required by the division. If the employee has not been  
13 certified as having reached maximum medical improvement before  
14 the expiration of 102 weeks after the date temporary total  
15 disability benefits begin to accrue, the carrier shall notify  
16 the treating doctor of the requirements of this section.

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

19         6. The agency ~~division~~ may by rule specify forms and  
20 procedures governing the method of payment of wage loss and  
21 impairment benefits for dates of accidents before January 1,  
22 1994, and for dates of accidents on or after January 1, 1994.

23         Section 8. Subsection (1) of section 440.207, Florida  
24 Statutes, is amended to read:

25             440.207 Workers' compensation system guide.--

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

31

1           Section 9. Paragraph (f) of subsection (4) and  
2 paragraph (b) of subsection (5) of section 440.25, Florida  
3 Statutes, are amended to read:

4           440.25 Procedures for mediation and hearings.--

5           (4)

6           (f) Each judge of compensation claims is required to  
7 submit a special report to the Chief Judge in each contested  
8 workers' compensation case in which the case is not determined  
9 within 14 days of final hearing. Said form shall be provided  
10 by the Chief Judge and shall contain the names of the judge of  
11 compensation claims and of the attorneys involved and a brief  
12 explanation by the judge of compensation claims as to the  
13 reason for such a delay in issuing a final order. The Chief  
14 Judge shall compile these special reports into an annual  
15 public report to the Governor, the Insurance Commissioner  
16 ~~Secretary of Labor and Employment Security~~, the Legislature,  
17 The Florida Bar, and the appellate district judicial  
18 nominating commissions.

19           (5)

20           (b) An appellant may be relieved of any necessary  
21 filing fee by filing a verified petition of indigency for  
22 approval as provided in s. 57.081(1) and may be relieved in  
23 whole or in part from the costs for preparation of the record  
24 on appeal if, within 15 days after the date notice of the  
25 estimated costs for the preparation is served, the appellant  
26 files with the judge of compensation claims a copy of the  
27 designation of the record on appeal, and a verified petition  
28 to be relieved of costs. A verified petition filed prior to  
29 the date of service of the notice of the estimated costs shall  
30 be deemed not timely filed. The verified petition relating to  
31 record costs shall contain a sworn statement that the



1 appellant is insolvent and a complete, detailed, and sworn  
2 financial affidavit showing all the appellant's assets,  
3 liabilities, and income. Failure to state in the affidavit all  
4 assets and income, including marital assets and income, shall  
5 be grounds for denying the petition with prejudice. The  
6 division shall promulgate rules as may be required pursuant to  
7 this subsection, including forms for use in all petitions  
8 brought under this subsection. The appellant's attorney, or  
9 the appellant if she or he is not represented by an attorney,  
10 shall include as a part of the verified petition relating to  
11 record costs an affidavit or affirmation that, in her or his  
12 opinion, the notice of appeal was filed in good faith and that  
13 there is a probable basis for the District Court of Appeal,  
14 First District, to find reversible error, and shall state with  
15 particularity the specific legal and factual grounds for the  
16 opinion. Failure to so affirm shall be grounds for denying the  
17 petition. A copy of the verified petition relating to record  
18 costs shall be served upon all interested parties, including  
19 the division and the Office of the General Counsel, Department  
20 of Insurance ~~Labor and Employment Security~~, in Tallahassee.  
21 The judge of compensation claims shall promptly conduct a  
22 hearing on the verified petition relating to record costs,  
23 giving at least 15 days' notice to the appellant, the  
24 division, and all other interested parties, all of whom shall  
25 be parties to the proceedings. The judge of compensation  
26 claims may enter an order without such hearing if no objection  
27 is filed by an interested party within 20 days from the  
28 service date of the verified petition relating to record  
29 costs. Such proceedings shall be conducted in accordance with  
30 the provisions of this section and with the workers'  
31 compensation rules of procedure, to the extent applicable. In

1 the event an insolvency petition is granted, the judge of  
2 compensation claims shall direct the division to pay record  
3 costs and filing fees from the Workers' Compensation Trust  
4 Fund pending final disposition of the costs of appeal. The  
5 division may transcribe or arrange for the transcription of  
6 the record in any proceeding for which it is ordered to pay  
7 the cost of the record. In the event the insolvency petition  
8 is denied, the judge of compensation claims may enter an order  
9 requiring the petitioner to reimburse the division for costs  
10 incurred in opposing the petition, including investigation and  
11 travel expenses.

12 Section 10. Paragraph (a) of subsection (1),  
13 subsection (2), paragraph (c) of subsection (3), subsections  
14 (4), (5), and (6), paragraph (a) of subsection (8), and  
15 subsections (9) and (10) of section 440.385, Florida Statutes,  
16 are amended to read:

17 440.385 Florida Self-Insurers Guaranty Association,  
18 Incorporated.--

19 (1) CREATION OF ASSOCIATION.--

20 (a) There is created a nonprofit corporation to be  
21 known as the "Florida Self-Insurers Guaranty Association,  
22 Incorporated," hereinafter referred to as "the association."  
23 Upon incorporation of the association, all individual  
24 self-insurers as defined in ss. 440.02(24)(~~23~~)(a) and  
25 440.38(1)(b), other than individual self-insurers which are  
26 public utilities or governmental entities, shall be members of  
27 the association as a condition of their authority to  
28 individually self-insure in this state. The association shall  
29 perform its functions under a plan of operation as established  
30 and approved under subsection (5) and shall exercise its  
31 powers and duties through a board of directors as established

1 under subsection (2). The corporation shall have those powers  
2 granted or permitted corporations not for profit, as provided  
3 in chapter 617.

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

28 (3) POWERS AND DUTIES.--

29 (c)1. To the extent necessary to secure funds for the  
30 payment of covered claims and also to pay the reasonable costs  
31 to administer them, the Department of Insurance ~~Labor and~~

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

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

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

28         (4) INSOLVENCY FUND.--Upon the adoption of a plan of  
29 operation ~~or the adoption of rules by the Department of Labor~~  
30 ~~and Employment Security~~ pursuant to subsection (5), there  
31

1 shall be created an Insolvency Fund to be managed by the  
2 association.

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

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

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

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

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

26 (a) The purpose of the plan of operation shall be to  
27 provide the association and the board of directors with the  
28 authority and responsibility to establish the necessary  
29 programs and to take the necessary actions to protect against  
30 the insolvency of a member of the association. In addition,  
31 the plan shall provide that the members of the association

1 shall be responsible for maintaining an adequate Insolvency  
2 Fund to meet the obligations of insolvent members provided for  
3 under this act and shall authorize the board of directors to  
4 contract and employ those persons with the necessary expertise  
5 to carry out this stated purpose.

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

15 (b)(c) All member employers shall comply with the plan  
16 of operation.

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

18 1. Establish the procedures whereby all the powers and  
19 duties of the association under subsection (3) will be  
20 performed.

21 2. Establish procedures for handling assets of the  
22 association.

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

25 4. Establish procedures by which claims may be filed  
26 with the association and establish acceptable forms of proof  
27 of covered claims. Notice of claims to the receiver or  
28 liquidator of the insolvent employer shall be deemed notice to  
29 the association or its agent, and a list of such claims shall  
30 be submitted periodically to the association or similar  
31 organization in another state by the receiver or liquidator.

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

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

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

9           8. Establish the procedures whereby recommendations of  
10 candidates for the board of directors shall be submitted to  
11 the department.

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

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

29           (6) POWERS AND DUTIES OF DEPARTMENT OF INSURANCE ~~LABOR~~  
30 ~~AND EMPLOYMENT SECURITY~~.--

31           (a) The department shall:

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

4           2. Upon request of the board of directors, provide the  
5 association with a statement of the annual normal premiums of  
6 each member employer.

7           (b) The department may:

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

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

24           3. Revoke the designation of any servicing facility if  
25 the department finds that claims are being handled  
26 unsatisfactorily.

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

29           (a) Upon determination by majority vote that any  
30 member employer may be insolvent or in a financial condition  
31 hazardous to the employees thereof or to the public, it shall



1 be the duty of the board of directors to notify the Department  
2 of Insurance ~~Labor and Employment Security~~ of any information  
3 indicating such condition.

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

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

17 Section 11. Subsection (6) of section 440.44, Florida  
18 Statutes, is amended to read:

19 440.44 Workers' compensation; staff organization.--

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

24 Section 12. Subsection (1) and paragraph (b) of  
25 subsection (3) of section 440.4416, Florida Statutes, are  
26 amended to read:

27 440.4416 Workers' Compensation Oversight Board.--

28 (1) There is created within the Department of  
29 Insurance ~~Labor and Employment Security~~ the Workers'  
30 Compensation Oversight Board. The board shall be composed of  
31

1 the following members, each of whom has knowledge of, or  
2 experience with, the workers' compensation system:

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

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

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

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

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

21 3. A representative of employees.

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

25 1. A representative of employers who employs fewer  
26 than 10 employees in Florida and who is a licensed general  
27 contractor actively engaged in the construction industry in  
28 this state for which workers' compensation coverage is  
29 provided pursuant to this chapter.  
30  
31

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

4           3. A representative of employees.

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

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

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

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

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

16           Section 13. Subsection (1) of section 440.45, Florida  
17 Statutes, is amended to read:

18           440.45 Office of the Judges of Compensation Claims.--

19           (1) There is hereby created the Office of the Judges  
20 of Compensation Claims within the Department of Insurance  
21 ~~Labor and Employment Security~~. The Office of the Judges of  
22 Compensation Claims shall be headed by a Chief Judge. The  
23 Chief Judge shall be appointed by the Governor for a term of 4  
24 years from a list of three names submitted by the statewide  
25 nominating commission created under subsection (2). The Chief  
26 Judge must possess the same qualifications for appointment as  
27 a judge of compensation claims, and the procedure for  
28 reappointment of the Chief Judge will be the same as for  
29 reappointment of a judge of compensation claims. The office  
30 shall be a separate budget entity and the Chief Judge shall be  
31 its agency head for all purposes. The Department of Insurance

1 ~~Labor and Employment Security~~ shall provide administrative  
2 support and service to the office to the extent requested by  
3 the Chief Judge but shall not direct, supervise, or control  
4 the Office of the Judges of Compensation Claims in any manner,  
5 including, but not limited to, personnel, purchasing,  
6 budgetary matters, or property transactions. The operating  
7 budget of the Office of the Judges of Compensation Claims  
8 shall be paid out of the Workers' Compensation Administration  
9 Trust Fund established in s. 440.50.

10 Section 14. Paragraph (e) of subsection (9) of section  
11 440.49, Florida Statutes, is amended to read:

12 440.49 Limitation of liability for subsequent injury  
13 through Special Disability Trust Fund.--

14 (9) SPECIAL DISABILITY TRUST FUND.--

15 (e) The Department of Insurance ~~Labor and Employment~~  
16 ~~Security~~ or administrator shall report annually on the status  
17 of the Special Disability Trust Fund. The report shall update  
18 the estimated undiscounted and discounted fund liability, as  
19 determined by an independent actuary, change in the total  
20 number of notices of claim on file with the fund in addition  
21 to the number of newly filed notices of claim, change in the  
22 number of proofs of claim processed by the fund, the fee  
23 revenues refunded and revenues applied to pay down the  
24 liability of the fund, the average time required to reimburse  
25 accepted claims, and the average administrative costs per  
26 claim. The department or administrator shall submit its  
27 report to the Governor, the President of the Senate, and the  
28 Speaker of the House of Representatives by December 1 of each  
29 year.

30 Section 15. Paragraphs (b) through (h) of subsection  
31 (1) of section 440.491, Florida Statutes, are redesignated as

1 paragraphs (c) through (i), respectively, and a new paragraph  
2 (b) is added to said subsection, and paragraph (a) of  
3 subsection (3), paragraph (b) of subsection (4), paragraphs  
4 (b) and (c) of subsection (5), and subsections (6), (7), and  
5 (8) of said section are amended, to read:

6 440.491 Reemployment of injured workers;  
7 rehabilitation.--

8 (1) DEFINITIONS.--As used in this section, the term:

9 (b) "Department" means the Department of Education.

10 (3) REEMPLOYMENT STATUS REVIEWS AND REPORTS.--

11 (a) When an employee who has suffered an injury  
12 compensable under this chapter is unemployed 60 days after the  
13 date of injury and is receiving benefits for temporary total  
14 disability, temporary partial disability, or wage loss, and  
15 has not yet been provided medical care coordination and  
16 reemployment services voluntarily by the carrier, the carrier  
17 must determine whether the employee is likely to return to  
18 work and must report its determination to the department  
19 ~~division~~. The carrier must thereafter determine the  
20 reemployment status of the employee at 90-day intervals as  
21 long as the employee remains unemployed, is not receiving  
22 medical care coordination or reemployment services, and is  
23 receiving the benefits specified in this subsection.

24 (4) REEMPLOYMENT ASSESSMENTS.--

25 (b) The carrier shall authorize only a qualified  
26 rehabilitation provider to provide the reemployment  
27 assessment. The rehabilitation provider shall conduct its  
28 assessment and issue a report to the carrier, the employee,  
29 and the department ~~division~~ within 30 days after the time such  
30 assessment is complete.

31

1           (5) MEDICAL CARE COORDINATION AND REEMPLOYMENT  
2 SERVICES.--  
3           (b) If the rehabilitation provider concludes that  
4 training and education are necessary to return the employee to  
5 suitable gainful employment, or if the employee has not  
6 returned to suitable gainful employment within 180 days after  
7 referral for reemployment services or receives \$2,500 in  
8 reemployment services, whichever comes first, the carrier must  
9 discontinue reemployment services and refer the employee to  
10 the department ~~division~~ for a vocational evaluation.  
11 Notwithstanding any provision of chapter 289 or chapter 627,  
12 the cost of a reemployment assessment and the first \$2,500 in  
13 reemployment services to an injured employee must not be  
14 treated as loss adjustment expense for workers' compensation  
15 ratemaking purposes.  
16           (c) A carrier may voluntarily provide medical care  
17 coordination or reemployment services to the employee at  
18 intervals more frequent than those required in this section.  
19 For the purpose of monitoring reemployment, the carrier or the  
20 rehabilitation provider shall report to the department  
21 ~~division~~, in the manner prescribed by the department ~~division~~,  
22 the date of reemployment and wages of the employee. The  
23 carrier shall report its voluntary service activity to the  
24 division as required by rule. Voluntary services offered by  
25 the carrier for any of the following injuries must be  
26 considered benefits for purposes of ratemaking: traumatic  
27 brain injury; spinal cord injury; amputation, including loss  
28 of an eye or eyes; burns of 5 percent or greater of the total  
29 body surface.  
30           (6) TRAINING AND EDUCATION.--  
31

1           (a) Upon referral of an injured employee by the  
2 carrier, or upon the request of an injured employee, the  
3 department ~~division~~ shall conduct a training and education  
4 screening to determine whether it should refer the employee  
5 for a vocational evaluation and, if appropriate, approve  
6 training and education or other vocational services for the  
7 employee. The department ~~division~~ may not approve formal  
8 training and education programs unless it determines, after  
9 consideration of the reemployment assessment, pertinent  
10 reemployment status reviews or reports, and such other  
11 relevant factors as it prescribes by rule, that the  
12 reemployment plan is likely to result in return to suitable  
13 gainful employment. The department ~~division~~ is authorized to  
14 expend moneys from the Workers' Compensation Administration  
15 Trust Fund, established by s. 440.50, to secure appropriate  
16 training and education or other vocational services when  
17 necessary to satisfy the recommendation of a vocational  
18 evaluator. The department ~~division~~ shall establish training  
19 and education standards pertaining to employee eligibility,  
20 course curricula and duration, and associated costs.

21           (b) When it appears that an employee who has attained  
22 maximum medical improvement requires training and education to  
23 obtain suitable gainful employment, the employer shall pay the  
24 employee additional temporary total compensation while the  
25 employee receives such training and education for a period not  
26 to exceed 26 weeks, which period may be extended for an  
27 additional 26 weeks or less, if such extended period is  
28 determined to be necessary and proper by a judge of  
29 compensation claims. However, a carrier or employer is not  
30 precluded from voluntarily paying additional temporary total  
31 disability compensation beyond that period. If an employee



1 requires temporary residence at or near a facility or an  
2 institution providing training and education which is located  
3 more than 50 miles away from the employee's customary  
4 residence, the reasonable cost of board, lodging, or travel  
5 must be borne by the department ~~division~~ from the Workers'  
6 Compensation Administration Trust Fund established by s.  
7 440.50. An employee who refuses to accept training and  
8 education that is recommended by the vocational evaluator and  
9 considered necessary by the department ~~division~~ is subject to  
10 a 50-percent reduction in weekly compensation benefits,  
11 including wage-loss benefits, as determined under s.  
12 440.15(3)(b).

13 (7) PROVIDER QUALIFICATIONS.--

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

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

28 (c) The department ~~division~~ shall monitor and evaluate  
29 each rehabilitation service provider, facility, and agency  
30 qualified under this subsection to ensure its compliance with  
31 the minimum qualifications and credentials established by the

1 department ~~division~~. The failure of a qualified rehabilitation  
2 service provider, facility, or agency to provide the  
3 department ~~division~~ with information requested or access  
4 necessary for the department ~~division~~ to satisfy its  
5 responsibilities under this subsection is grounds for  
6 disqualifying the provider, facility, or agency from further  
7 referrals.

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

16 (e) The department ~~division~~, after consultation with  
17 representatives of employees, employers, carriers,  
18 rehabilitation providers, and qualified training and education  
19 providers, shall adopt rules governing professional practices  
20 and standards.

21 (8) CARRIER PRACTICES.--The department ~~division~~ shall  
22 monitor the selection of providers and the provision of  
23 services by carriers under this section for consistency with  
24 legislative intent set forth in subsection (2).

25 Section 16. Section 440.525, Florida Statutes, is  
26 amended to read:

27 440.525 Examination of carriers.--~~Beginning July 1,~~  
28 ~~1994,~~The Division of Workers' Compensation of the Department  
29 of Insurance ~~Labor and Employment Security~~ may examine each  
30 carrier as often as is warranted to ensure that carriers are  
31 fulfilling their obligations under the law, and shall examine

1 each carrier not less frequently than once every 3 years. The  
2 examination must cover the preceding 3 fiscal years of the  
3 carrier's operations and must commence within 12 months after  
4 the end of the most recent fiscal year being covered by the  
5 examination. The examination may cover any period of the  
6 carrier's operations since the last previous examination.

7 Section 17. Subsections (1) and (2) of section 440.59,  
8 Florida Statutes, are amended to read:

9 440.59 Reporting requirements.--

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

24 (2) The Division of Workers' Compensation of the  
25 Department of Insurance ~~Labor and Employment Security~~ shall  
26 complete on a quarterly basis an analysis of the previous  
27 quarter's injuries which resulted in workers' compensation  
28 claims. The analysis shall be broken down by risk  
29 classification, shall show for each such risk classification  
30 the frequency and severity for the various types of injury,  
31 and shall include an analysis of the causes of such injuries.

1 The division shall distribute to each employer and  
2 self-insurer in the state covered by the Workers' Compensation  
3 Law the data relevant to its workforce. The report shall also  
4 be distributed to the insurers authorized to write workers'  
5 compensation insurance in the state.

6 Section 18. Subsections (1), (4), and (5) of section  
7 443.012, Florida Statutes, are amended to read:

8 443.012 Unemployment Appeals Commission.--

9 (1) There is created within the Agency for Workforce  
10 Innovation ~~Department of Labor and Employment Security~~ an  
11 Unemployment Appeals Commission, hereinafter referred to as  
12 the "commission." The commission shall consist of a chair and  
13 two other members to be appointed by the Governor, subject to  
14 confirmation by the Senate. Not more than one appointee must  
15 be a person who, on account of previous vocation, employment,  
16 or affiliation, is classified as a representative of  
17 employers; and not more than one such appointee must be a  
18 person who, on account of previous vocation, employment, or  
19 affiliation, is classified as a representative of employees.

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

23 (b) The chair shall have the authority to appoint a  
24 general counsel and such other personnel as may be necessary  
25 to carry out the duties and responsibilities of the  
26 commission.

27 (c) The chair shall have the qualifications required  
28 by law for a judge of the circuit court and shall not engage  
29 in any other business vocation or employment. Notwithstanding  
30 any other provisions of existing law, the chair shall be paid  
31

1 a salary equal to that paid under state law to a judge of the  
2 circuit court.

3 (d) The remaining members shall be paid a stipend of  
4 \$100 for each day they are engaged in the work of the  
5 commission. The chair and other members shall also be  
6 reimbursed for travel expenses, as provided in s. 112.061.

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

10 (4) The property, personnel, and appropriations  
11 relating to the specified authority, powers, duties, and  
12 responsibilities of the commission shall be provided to the  
13 commission by the Agency for Workforce Innovation ~~Department~~  
14 ~~of Labor and Employment Security~~.

15 (5) The commission shall not be subject to control,  
16 supervision, or direction by the Agency for Workforce  
17 Innovation ~~Department of Labor and Employment Security~~ in the  
18 performance of its powers and duties under this chapter.

19 Section 19. Subsection (12) of section 443.036,  
20 Florida Statutes, is amended to read:

21 443.036 Definitions.--As used in this chapter, unless  
22 the context clearly requires otherwise:

23 (12) COMMISSION.--"Commission" means the Unemployment  
24 Appeals Commission ~~of the Department of Labor and Employment~~  
25 ~~Security~~.

26 Section 20. Subsection (3) of section 447.02, Florida  
27 Statutes, is amended to read:

28 447.02 Definitions.--The following terms, when used in  
29 this chapter, shall have the meanings ascribed to them in this  
30 section:

31

1           (3) The term "department" means the Department of  
2 Business and Professional Regulation ~~Labor and Employment~~  
3 ~~Security~~.

4           Section 21. Paragraph (a) of subsection (13) of  
5 section 447.203, Florida Statutes, is amended to read:

6           447.203 Definitions.--As used in this part:

7           (13) "Professional employee" means:

8           (a) Any employee engaged in work requiring advanced  
9 knowledge in a field of science or learning customarily  
10 acquired by a prolonged course of specialized intellectual  
11 instruction and study in an institution of higher learning or  
12 a hospital, as distinguished from a general academic  
13 education, an apprenticeship, or training in the performance  
14 of routine mental or physical processes and in any two or more  
15 of the following categories:

16           1. Work predominantly intellectual and varied in  
17 character as opposed to routine mental, manual, mechanical, or  
18 physical work;

19           2. Work involving the consistent exercise of  
20 discretion and judgment in its performance; and

21           3. Work of such a character that the output produced  
22 or the result accomplished cannot be standardized in relation  
23 to a given period of time; ~~and~~

24           ~~4. Work requiring advanced knowledge in a field of~~  
25 ~~science or learning customarily acquired by a prolonged course~~  
26 ~~of specialized intellectual instruction and study in an~~  
27 ~~institution of higher learning or a hospital, as distinguished~~  
28 ~~from a general academic education, an apprenticeship, or~~  
29 ~~training in the performance of routine mental or physical~~  
30 ~~processes.~~

31

1           Section 22. Subsections (1), (3), and (4) of section  
2 447.205, Florida Statutes, are amended to read:

3           447.205 Public Employees Relations Commission.--

4           (1) There is hereby created within the Department of  
5 Management Services ~~Labor and Employment Security~~ the Public  
6 Employees Relations Commission, hereinafter referred to as the  
7 "commission." The commission shall be composed of a chair and  
8 two full-time members to be appointed by the Governor, subject  
9 to confirmation by the Senate, from persons representative of  
10 the public and known for their objective and independent  
11 judgment, who shall not be employed by, or hold any commission  
12 with, any governmental unit in the state or any employee  
13 organization, as defined in this part, while in such office.

14 In no event shall more than one appointee be a person who, on  
15 account of previous vocation, employment, or affiliation, is,  
16 or has been, classified as a representative of employers; and  
17 in no event shall more than one such appointee be a person  
18 who, on account of previous vocation, employment, or  
19 affiliation, is, or has been, classified as a representative  
20 of employees or employee organizations. The commissioners  
21 shall devote full time to commission duties and shall not  
22 engage in any other business, vocation, or employment while in  
23 such office. ~~Beginning January 1, 1980, the chair shall be~~  
24 ~~appointed for a term of 4 years, one commissioner for a term~~  
25 ~~of 1 year, and one commissioner for a term of 2 years.~~

26 ~~Thereafter,~~Every term of office shall be for 4 years; and  
27 each term of the office of chair shall commence on January 1  
28 of the second year following each regularly scheduled general  
29 election at which a Governor is elected to a full term of  
30 office. In the event of a vacancy prior to the expiration of  
31 a term of office, an appointment shall be made for the

1 unexpired term of that office. The chair shall be responsible  
2 for the administrative functions of the commission and shall  
3 have the authority to employ such personnel as may be  
4 necessary to carry out the provisions of this part. Once  
5 appointed to the office of chair, the chair shall serve as  
6 chair for the duration of the term of office of chair.  
7 Nothing contained herein prohibits a chair or commissioner  
8 from serving multiple terms.

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

13 (4) The property, personnel, and appropriations  
14 related to the commission's specified authority, powers,  
15 duties, and responsibilities shall be provided to the  
16 commission by the Department of Management Services ~~Labor and~~  
17 ~~Employment Security~~.

18 Section 23. Subsections (1) and (3) of section  
19 447.208, Florida Statutes, are amended to read:

20 447.208 Procedure with respect to certain appeals  
21 under s. 447.207.--

22 (1) Any person filing an appeal, charge, or petition  
23 pursuant to subsection (6), subsection (8), or subsection (9)  
24 of s. 447.207 shall be entitled to a hearing pursuant to  
25 subsections (4) and (5) of s. 447.503 and in accordance with  
26 chapter 120; however, the hearing shall be conducted within 30  
27 days of the filing of an appeal with the commission, unless an  
28 extension of time is granted by the commission for good cause.  
29 Discovery may be granted only upon a showing of extraordinary  
30 circumstances. A party requesting discovery shall demonstrate  
31 a substantial need for the information requested and an



1 inability to obtain relevant information by other means. To  
2 the extent that chapter 120 is inconsistent with these  
3 provisions, the procedures contained in this section shall  
4 govern.

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

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

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

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

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

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

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

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

28 4. Extraordinary circumstances beyond the employee's  
29 control which temporarily diminished the employee's capacity  
30 to effectively perform his or her duties or which  
31

1 substantially contributed to the violation for which  
2 punishment is being considered.

3

4 The agency may present evidence to refute the existence of  
5 these circumstances.

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

20 Section 24. Subsection (4) of section 447.305, Florida  
21 Statutes, is amended to read:

22 447.305 Registration of employee organization.--

23 (4) Notification of registrations and renewals of  
24 registration shall be furnished at regular intervals by the  
25 commission to the Department of Business and Professional  
26 Regulation ~~Labor and Employment Security~~.

27 Section 25. Paragraph (b) of subsection (3) of section  
28 447.307, Florida Statutes, is amended to read:

29 447.307 Certification of employee organization.--

30 (3)

31

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

15           Section 26. Paragraph (a) of subsection (5) of section  
16 447.503, Florida Statutes, is amended to read:

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

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

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

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

8 Section 27. Subsection (4) of section 447.504, Florida  
9 Statutes, is amended to read:

10 447.504 Judicial review.--

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

17 Section 28. Subsection (4) of section 450.012, Florida  
18 Statutes, is amended to read:

19 450.012 Definitions.--For the purpose of this chapter,  
20 the word, phrase, or term:

21 (4) "Department" means the Department of Business and  
22 Professional Regulation ~~Labor and Employment Security~~.

23 Section 29. Paragraph (j) of subsection (1) of section  
24 450.191, Florida Statutes, is amended to read:

25 450.191 Executive Office of the Governor; powers and  
26 duties.--

27 (1) The Executive Office of the Governor is authorized  
28 and directed to:

29 (j) Cooperate with the farm labor office of the  
30 Department of Business and Professional Regulation ~~Labor and~~  
31 ~~Employment Security~~ in the recruitment and referral of migrant

1 laborers and other persons for the planting, cultivation, and  
2 harvesting of agricultural crops in Florida.

3 Section 30. Subsection (2) of section 450.28, Florida  
4 Statutes, is amended to read:

5 450.28 Definitions.--

6 (2) "Department" means the Department of Business and  
7 Professional Regulation ~~Labor and Employment Security~~.

8 Section 31. Section 627.0915, Florida Statutes, is  
9 amended to read:

10 627.0915 Rate filings; workers' compensation,  
11 drug-free workplace, and safe employers.--The Department of  
12 Insurance shall approve rating plans for workers' compensation  
13 insurance that give specific identifiable consideration in the  
14 setting of rates to employers that either implement a  
15 drug-free workplace program pursuant to rules adopted by the  
16 Division of Workers' Compensation of the Department of  
17 Insurance ~~Labor and Employment Security~~ or implement a safety  
18 program approved by the division of ~~Safety~~ pursuant to rules  
19 ~~adopted by the division of Safety of the Department of Labor~~  
20 ~~and Employment Security~~ or implement both a drug-free  
21 workplace program and a safety program. The division of ~~Safety~~  
22 may by rule require that the client of a help supply services  
23 company comply with the essential requirements of a workplace  
24 safety program as a condition for receiving a premium credit.  
25 The plans must take effect January 1, 1994, must be  
26 actuarially sound, and must state the savings anticipated to  
27 result from such drug-testing and safety programs.

28 Section 32. Paragraph (1) of subsection (2) of section  
29 110.205, Florida Statutes, is amended to read:

30 110.205 Career service; exemptions.--

31

1           (2) EXEMPT POSITIONS.--The exempt positions which are  
2 not covered by this part include the following, provided that  
3 no position, except for positions established for a limited  
4 period of time pursuant to paragraph (h), shall be exempted if  
5 the position reports to a position in the career service:  
6           (1) All assistant division director, deputy division  
7 director, and bureau chief positions in any department, and  
8 those positions determined by the department to have  
9 managerial responsibilities comparable to such positions,  
10 which positions include, but are not limited to, positions in  
11 the Department of Health, the Department of Children and  
12 Family Services, and the Department of Corrections that are  
13 assigned primary duties of serving as the superintendent or  
14 assistant superintendent, or warden or assistant warden, of an  
15 institution; positions in the Department of Corrections that  
16 are assigned primary duties of serving as the circuit  
17 administrator or deputy circuit administrator; positions in  
18 the Department of Transportation that are assigned primary  
19 duties of serving as regional toll managers and managers of  
20 offices as defined in s. 20.23(3)(d)3. and (4)(d); positions  
21 in the Department of Environmental Protection that are  
22 assigned the duty of an Environmental Administrator or program  
23 administrator; ~~those positions described in s. 20.171 as~~  
24 ~~included in the Senior Management Service~~ and positions in  
25 the Department of Health that are assigned the duties of  
26 Environmental Administrator, Assistant County Health  
27 Department Director, and County Health Department Financial  
28 Administrator. Unless otherwise fixed by law, the department  
29 shall set the salary and benefits of these positions in  
30 accordance with the rules established for the Selected Exempt  
31 Service.

1           Section 33. Paragraph (h) of subsection (2) of section  
2 112.19, Florida Statutes, is amended to read:

3           112.19 Law enforcement, correctional, and correctional  
4 probation officers; death benefits.--

5           (2)

6           (h)1. Any employer who employs a full-time law  
7 enforcement, correctional, or correctional probation officer  
8 who, on or after January 1, 1995, suffers a catastrophic  
9 injury, as defined in s. 440.02~~(37)~~, in the line of duty shall  
10 pay the entire premium of the employer's health insurance plan  
11 for the injured employee, the injured employee's spouse, and  
12 for each dependent child of the injured employee until the  
13 child reaches the age of majority or until the end of the  
14 calendar year in which the child reaches the age of 25 if the  
15 child continues to be dependent for support, or the child is a  
16 full-time or part-time student and is dependent for support.  
17 The term "health insurance plan" does not include supplemental  
18 benefits that are not part of the basic group health insurance  
19 plan. If the injured employee subsequently dies, the employer  
20 shall continue to pay the entire health insurance premium for  
21 the surviving spouse until remarried, and for the dependent  
22 children, under the conditions outlined in this paragraph.

23 However:

24           a. Health insurance benefits payable from any other  
25 source shall reduce benefits payable under this section.

26           b. It is unlawful for a person to willfully and  
27 knowingly make, or cause to be made, or to assist, conspire  
28 with, or urge another to make, or cause to be made, any false,  
29 fraudulent, or misleading oral or written statement to obtain  
30 health insurance coverage as provided under this paragraph. A  
31 person who violates this sub-subparagraph commits a

1 misdemeanor of the first degree, punishable as provided in s.  
2 775.082 or s. 775.083.

3           c. In addition to any applicable criminal penalty,  
4 upon conviction for a violation as described in  
5 sub-subparagraph b., a law enforcement, correctional, or  
6 correctional probation officer or other beneficiary who  
7 receives or seeks to receive health insurance benefits under  
8 this paragraph shall forfeit the right to receive such health  
9 insurance benefits, and shall reimburse the employer for all  
10 benefits paid due to the fraud or other prohibited activity.  
11 For purposes of this sub-subparagraph, "conviction" means a  
12 determination of guilt that is the result of a plea or trial,  
13 regardless of whether adjudication is withheld.

14           2. In order for the officer, spouse, and dependent  
15 children to be eligible for such insurance coverage, the  
16 injury must have occurred as the result of the officer's  
17 response to fresh pursuit, the officer's response to what is  
18 reasonably believed to be an emergency, or an unlawful act  
19 perpetrated by another. Except as otherwise provided herein,  
20 nothing in this paragraph shall be construed to limit health  
21 insurance coverage for which the officer, spouse, or dependent  
22 children may otherwise be eligible, except that a person who  
23 qualifies under this section shall not be eligible for the  
24 health insurance subsidy provided under chapter 121, chapter  
25 175, or chapter 185.

26           Section 34. Paragraph (g) of subsection (2) of section  
27 112.191, Florida Statutes, is amended to read:

28           112.191 Firefighters; death benefits.--

29           (2)

30           (g)1. Any employer who employs a full-time firefighter  
31 who, on or after January 1, 1995, suffers a catastrophic



1 injury, as defined in s. 440.02~~(37)~~, in the line of duty shall  
2 pay the entire premium of the employer's health insurance plan  
3 for the injured employee, the injured employee's spouse, and  
4 for each dependent child of the injured employee until the  
5 child reaches the age of majority or until the end of the  
6 calendar year in which the child reaches the age of 25 if the  
7 child continues to be dependent for support, or the child is a  
8 full-time or part-time student and is dependent for support.  
9 The term "health insurance plan" does not include supplemental  
10 benefits that are not part of the basic group health insurance  
11 plan. If the injured employee subsequently dies, the employer  
12 shall continue to pay the entire health insurance premium for  
13 the surviving spouse until remarried, and for the dependent  
14 children, under the conditions outlined in this paragraph.  
15 However:  
16       a. Health insurance benefits payable from any other  
17 source shall reduce benefits payable under this section.  
18       b. It is unlawful for a person to willfully and  
19 knowingly make, or cause to be made, or to assist, conspire  
20 with, or urge another to make, or cause to be made, any false,  
21 fraudulent, or misleading oral or written statement to obtain  
22 health insurance coverage as provided under this paragraph. A  
23 person who violates this sub-subparagraph commits a  
24 misdemeanor of the first degree, punishable as provided in s.  
25 775.082 or s. 775.083.  
26       c. In addition to any applicable criminal penalty,  
27 upon conviction for a violation as described in  
28 sub-subparagraph b., a firefighter or other beneficiary who  
29 receives or seeks to receive health insurance benefits under  
30 this paragraph shall forfeit the right to receive such health  
31 insurance benefits, and shall reimburse the employer for all

1 benefits paid due to the fraud or other prohibited activity.  
2 For purposes of this sub-subparagraph, "conviction" means a  
3 determination of guilt that is the result of a plea or trial,  
4 regardless of whether adjudication is withheld.

5           2. In order for the firefighter, spouse, and dependent  
6 children to be eligible for such insurance coverage, the  
7 injury must have occurred as the result of the firefighter's  
8 response to what is reasonably believed to be an emergency  
9 involving the protection of life or property, or an unlawful  
10 act perpetrated by another. Except as otherwise provided  
11 herein, nothing in this paragraph shall be construed to limit  
12 health insurance coverage for which the firefighter, spouse,  
13 or dependent children may otherwise be eligible, except that a  
14 person who qualifies for benefits under this section shall not  
15 be eligible for the health insurance subsidy provided under  
16 chapter 121, chapter 175, or chapter 185.

17  
18 Notwithstanding any provision of this section to the contrary,  
19 the death benefits provided in paragraphs (b), (c), and (f)  
20 shall also be applicable and paid in cases where a firefighter  
21 received bodily injury prior to July 1, 1993, and subsequently  
22 died on or after July 1, 1993, as a result of such  
23 in-line-of-duty injury.

24           Section 35. Section 121.125, Florida Statutes, is  
25 amended to read:

26           121.125 Credit for workers' compensation payment  
27 periods.--A member of the retirement system created by this  
28 chapter who has been eligible or becomes eligible to receive  
29 workers' compensation payments for an injury or illness  
30 occurring during his or her employment while a member of any  
31 state retirement system shall, upon return to active

1 employment with a covered employer for 1 calendar month or  
2 upon approval for disability retirement in accordance with s.  
3 121.091(4), receive full retirement credit for the period  
4 prior to such return to active employment or disability  
5 retirement for which the workers' compensation payments were  
6 received. However, no member may receive retirement credit  
7 for any such period occurring after the earlier of the date of  
8 maximum medical improvement ~~has been attained~~ as defined in s.  
9 440.02(9) or the date termination has occurred as defined in  
10 s. 121.021(39). The employer of record at the time of the  
11 worker's compensation injury or illness shall make the  
12 required retirement contributions based on the member's rate  
13 of monthly compensation immediately prior to his or her  
14 receiving workers' compensation payments for retirement credit  
15 received by the member.

16 Section 36. Subsection (7) of section 122.03, Florida  
17 Statutes, is amended to read:

18 122.03 Contributions; participants; prior service  
19 credit.--

20 (7) A member of the retirement system created by this  
21 chapter who has been eligible or becomes eligible to receive  
22 workers' compensation payments for an injury or illness  
23 occurring during his or her employment while a member of any  
24 state retirement system shall, upon his or her return to  
25 active employment with a covered employer for 1 calendar month  
26 or upon his or her approval for disability retirement in  
27 accordance with s. 122.09, receive full retirement credit for  
28 the period prior to such return to active employment or  
29 disability retirement for which the workers' compensation  
30 payments were received. However, no member may receive  
31 retirement credit for any such period occurring after the

1 earlier of the date of maximum medical improvement ~~has been~~  
2 ~~attained~~ as defined in s. 440.02(9) or the date termination  
3 has occurred as defined in s. 121.021(39). The employer of  
4 record at the time of the worker's compensation injury or  
5 illness shall make the required employee and employer  
6 retirement contributions based on the member's rate of monthly  
7 compensation immediately prior to receipt of workers'  
8 compensation payments.

9 Section 37. Subsection (10) of section 238.06, Florida  
10 Statutes, is amended to read:

11 238.06 Membership application, creditable service, and  
12 time for making contributions.--

13 (10) A member of the retirement system created by this  
14 chapter who has been eligible or becomes eligible to receive  
15 workers' compensation payments for an injury or illness  
16 occurring during his or her employment while a member of any  
17 state retirement system shall, upon his or her return to  
18 active employment with a covered employer for 1 calendar month  
19 or upon his or her approval for disability retirement in  
20 accordance with s. 238.07, receive full retirement credit for  
21 the period prior to such return to active employment or  
22 disability retirement for which the workers' compensation  
23 payments were received. However, no member may receive  
24 retirement credit for any such period occurring after the  
25 earlier of the date of maximum medical improvement ~~has been~~  
26 ~~attained~~ as defined in s. 440.02(9) or the date termination  
27 has occurred as defined in s. 121.021(39). The employer of  
28 record at the time of the worker's compensation injury or  
29 illness shall make the required employee and employer  
30 retirement contributions based on the member's rate of monthly  
31

1 compensation immediately prior to his or her receiving  
2 workers' compensation payments.

3 Section 38. Subsection (1) of section 440.10, Florida  
4 Statutes, is amended to read:

5 440.10 Liability for compensation.--

6 (1)(a) Every employer coming within the provisions of  
7 this chapter, including any brought within the chapter by  
8 waiver of exclusion or of exemption, shall be liable for, and  
9 shall secure, the payment to his or her employees, or any  
10 physician, surgeon, or pharmacist providing services under the  
11 provisions of s. 440.13, of the compensation payable under ss.  
12 440.13, 440.15, and 440.16. Any contractor or subcontractor  
13 who engages in any public or private construction in the state  
14 shall secure and maintain compensation for his or her  
15 employees under this chapter as provided in s. 440.38.

16 (b) In case a contractor sublets any part or parts of  
17 his or her contract work to a subcontractor or subcontractors,  
18 all of the employees of such contractor and subcontractor or  
19 subcontractors engaged on such contract work shall be deemed  
20 to be employed in one and the same business or establishment;  
21 and the contractor shall be liable for, and shall secure, the  
22 payment of compensation to all such employees, except to  
23 employees of a subcontractor who has secured such payment.

24 (c) A contractor may require a subcontractor to  
25 provide evidence of workers' compensation insurance or a copy  
26 of his or her certificate of election. A subcontractor  
27 electing to be exempt as a sole proprietor, partner, or  
28 officer of a corporation shall provide a copy of his or her  
29 certificate of election to the contractor.

30 (d)1. If a contractor becomes liable for the payment  
31 of compensation to the employees of a subcontractor who has

1 failed to secure such payment in violation of s. 440.38, the  
2 contractor or other third-party payor shall be entitled to  
3 recover from the subcontractor all benefits paid or payable  
4 plus interest unless the contractor and subcontractor have  
5 agreed in writing that the contractor will provide coverage.

6         2. If a contractor or third-party payor becomes liable  
7 for the payment of compensation to the employee of a  
8 subcontractor who is actively engaged in the construction  
9 industry and has elected to be exempt from the provisions of  
10 this chapter, but whose election is invalid, the contractor or  
11 third-party payor may recover from the claimant, partnership,  
12 or corporation all benefits paid or payable plus interest,  
13 unless the contractor and the subcontractor have agreed in  
14 writing that the contractor will provide coverage.

15         (e) A subcontractor is not liable for the payment of  
16 compensation to the employees of another subcontractor on such  
17 contract work and is not protected by the  
18 exclusiveness-of-liability provisions of s. 440.11 from action  
19 at law or in admiralty on account of injury of such employee  
20 of another subcontractor.

21         (f) If an employer willfully fails to secure  
22 compensation as required by this chapter, the division may  
23 assess against the employer a penalty not to exceed \$5,000 for  
24 each employee of that employer who is classified by the  
25 employer as an independent contractor but who is found by the  
26 division to not meet the criteria for an independent  
27 contractor that are set forth in s. 440.02.

28         (g) For purposes of this section, a person is  
29 conclusively presumed to be an independent contractor if:  
30  
31

1           1. The independent contractor provides the general  
2 contractor with an affidavit stating that he or she meets all  
3 the requirements of s. 440.02(15)~~(14)~~(d); and

4           2. The independent contractor provides the general  
5 contractor with a valid certificate of workers' compensation  
6 insurance or a valid certificate of exemption issued by the  
7 division.

8  
9 A sole proprietor, partner, or officer of a corporation who  
10 elects exemption from this chapter by filing a certificate of  
11 election under s. 440.05 may not recover benefits or  
12 compensation under this chapter. An independent contractor  
13 who provides the general contractor with both an affidavit  
14 stating that he or she meets the requirements of s.  
15 440.02(15)~~(14)~~(d) and a certificate of exemption is not an  
16 employee under s. 440.02(15)~~(14)~~(c) and may not recover  
17 benefits under this chapter. For purposes of determining the  
18 appropriate premium for workers' compensation coverage,  
19 carriers may not consider any person who meets the  
20 requirements of this paragraph to be an employee.

21           Section 39. Subsection (1) of section 440.104, Florida  
22 Statutes, is amended to read:

23           440.104 Competitive bidder; civil actions.--

24           (1) Any person engaged in the construction industry,  
25 as provided in s. 440.02~~(7)~~, who loses a competitive bid for a  
26 contract shall have a cause of action for damages against the  
27 person awarded the contract for which the bid was made, if the  
28 person making the losing bid establishes that the winning  
29 bidder knew or should have known that he or she was in  
30 violation of s. 440.10, s. 440.105, or s. 440.38 while  
31 performing the work under the contract.

1           Section 40. Subsection (4) of section 440.14, Florida  
2 Statutes, is amended to read:  
3           440.14 Determination of pay.--  
4           (4) Upon termination of the employee or upon  
5 termination of the payment of fringe benefits of any employee  
6 who is collecting indemnity benefits pursuant to s. 440.15(2)  
7 or (3)(b), the employer shall within 7 days of such  
8 termination file a corrected 13-week wage statement reflecting  
9 the wages paid and the fringe benefits that had been paid to  
10 the injured employee, as provided ~~defined~~ in s.  
11 440.02(28)~~(27)~~.

12           Section 41. Section 20.171, Florida Statutes, is  
13 repealed.

14           Section 42. If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 invalidity does not affect other provisions or applications of  
17 the act which can be given effect without the invalid  
18 provision or application, and to this end the provisions of  
19 this act are severable.

20           Section 43. This act shall take effect July 1, 2001.

21  
22           \*\*\*\*\*

23           HOUSE SUMMARY

24           Transfers various divisions, offices, and functions from  
25 the Department of Labor and Employment Security to the  
26 Department of Insurance, the Agency for Health Care  
27 Administration, the Department of Education, the  
28 Department of Business and Professional Regulation, the  
29 Department of Management Services, and the State  
30 Technology Office. Transfers the Unemployment Appeals  
31 Commission to the Agency for Workforce Innovation, the  
Public Employees Relations Commission to the Department  
of Management Services, and the Workers' Compensation  
Oversight Board to the Department of Insurance. Makes  
other revisions to conform. See bill for details.